



The translation of this document is outdated.

Translation validity: 01.08.2022.–02.11.2022.

Amendments not included: 06.10.2022., 15.06.2023.

Text consolidated by Valsts valodas centrs (State Language Centre) with amending laws of:

- 28 September 2005 [shall come into force on 1 October 2005];
- 19 January 2006 [shall come into force on 1 February 2006];
- 21 December 2006 [shall come into force on 1 January 2007];
- 17 May 2007 [shall come into force on 21 June 2007];
- 22 November 2007 [shall come into force on 1 January 2008];
- 19 June 2008 [shall come into force on 23 July 2008];
- 29 June 2008 [shall come into force on 29 July 2008];
- 12 March 2009 [shall come into force on 1 July 2009];
- 11 June 2009 [shall come into force on 14 July 2009];
- 16 June 2009 [shall come into force on 1 July 2009];
- 14 January 2010 [shall come into force on 4 February 2010];
- 21 October 2010 [shall come into force on 1 January 2011];
- 8 July 2011 [shall come into force on 11 August 2011];
- 24 May 2012 [shall come into force on 1 July 2012];
- 15 November 2012 [shall come into force on 14 December 2012];
- 20 December 2012 [shall come into force on 1 April 2013];
- 10 January 2013 [shall come into force on 13 February 2013];
- 14 March 2013 [shall come into force on 1 April 2013];
- 23 May 2013 [shall come into force on 27 October 2013];
- 5 September 2013 [shall come into force on 20 September 2013];
- 12 September 2013 [shall come into force on 1 January 2014];
- 19 December 2013 [shall come into force on 1 January 2014];
- 29 May 2014 [shall come into force on 25 June 2014];
- 16 October 2014 [shall come into force on 1 February 2015];
- 15 January 2015 [shall come into force on 1 February 2015];
- 29 January 2015 [shall come into force on 25 February 2015];
- 8 July 2015 [shall come into force on 1 November 2015];
- 12 November 2015 [shall come into force on 2 December 2015];
- 18 February 2016 [shall come into force on 23 March 2016];
- 23 November 2016 [shall come into force on 1 January 2017];
- 30 March 2017 [shall come into force on 26 April 2017];
- 22 June 2017 [shall come into force on 1 August 2017];
- 28 September 2017 [shall come into force on 1 January 2018];
- 14 June 2018 (Constitutional Court Judgment) [shall come into force on 15 June 2018];
- 20 June 2018 [shall come into force on 1 September 2018];
- 27 September 2018 [shall come into force on 25 October 2018];
- 21 November 2019 [shall come into force on 24 December 2019];
- 11 June 2020 [shall come into force on 6 July 2020];
- 19 November 2020 [shall come into force on 1 January 2021];
- 17 December 2020 [shall come into force on 12 January 2021];
- 7 January 2021 [shall come into force on 20 January 2021];
- 4 March 2021 [shall come into force on 6 March 2021];
- 7 October 2021 [shall come into force on 2 November 2021];
- 16 June 2022 [shall come into force on 23 June 2022];
- 16 June 2022 [shall come into force on 1 August 2022].

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.

# 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 such procedures for the criminal proceedings that ensure effective application of the norms of the Criminal Law and fair regulation of criminal legal relations without unjustified intervention in the life of a person.

[12 March 2009]

#### Section 2. Sources of the Rights of Criminal Procedure

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

(2) In the application of the legal norms of the European Union, the case law of the Court of Justice of the European Union 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 country may be applied only in international co-operation on the basis of a reasoned request from a foreign country, if such request is not in contradiction to the basic principles of the criminal procedure of Latvia.

[21 October 2010]

#### 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 conducted by persons authorised to conduct 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 performing of the procedural activity.

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

The legal norm of a foreign country indicated in a reasoned request from the foreign country may be applied in international co-operation without additional examining its validity.

### Chapter 2 Basic Principles of Criminal Proceedings

#### Section 6. Mandatory Nature of Criminal Proceedings

The official who is authorised to conduct criminal proceedings has an obligation within his or her competence 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.

[12 March 2009]

#### Section 7. Prosecution in Criminal Proceedings

(1) Criminal proceedings shall be conducted in the interests of society regardless of the will of the person upon whom the harm was inflicted, if this Law does not specify otherwise. The prosecution function in criminal proceedings on behalf of the State shall be implemented by a prosecutor.

(2) Criminal proceedings shall be initiated for the offence provided for in Section 130, Paragraph two, Sections 131, 132, 132.<sup>1</sup>, 157, 168, 169, and 180, Section 185, Paragraph one, Section 197, and Section 200, Paragraph one of the Criminal Law, if a request has been received from the person to whom harm has been inflicted. Criminal proceedings may also be initiated without the receipt of a request from the person to whom harm has been inflicted, if such person is not able to implement his or her rights himself or herself due to a physical or mental deficiency.

[21 October 2010; 14 March 2013; 18 February 2016; 30 March 2017; 11 June 2020]

### **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 the obligation to fulfil the requirements of an authorised official for conducting the 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 performed in accordance with the procedures laid down in this Law, yet such disputing does not remove the obligation 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 actions on the premises in the possession of such person.

### **Section 11. Language to be Used in the Criminal Proceedings**

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

(2) If the person who has the right to defence, a victim and his or her representative, a witness, specialist, expert, auditor, as well as other persons who the person directing the proceedings has involved in the 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 use the assistance of an interpreter free of charge, whose participation shall be ensured by the person directing the proceedings. In the 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.

(<sup>2</sup><sup>1</sup>) A person who has the right to defence, if he or she does not have the knowledge of the official language, may use the language the person has knowledge of and during the meeting with the defence counsel use, free of charge, the assistance of an interpreter whose participation shall be ensured by the person directing the proceedings, in the following cases:

- 1) to prepare for the interrogation within the pre-trial proceedings or for the trial at a court hearing;
- 2) to draw up a written complaint regarding the conduct of an official who handles the criminal proceedings or regarding the enforcement, amendment or revocation of a ruling and a procedural compulsory measure;
- 3) to draw up a document necessary for the trial of the case in the written procedure;
- 4) to draw up an appellate or cassation complaint.

(<sup>2</sup><sup>2</sup>) For a person who has the right to defence and who has been applied a security measure related to imprisonment, the participation of the interpreter for exercising of the rights referred to in Paragraph 2.<sup>1</sup> of this Section shall be ensured by the relevant prison.

(<sup>2</sup><sup>3</sup>) The Cabinet shall determine the procedures and scope of ensuring the assistance of the interpreter in the cases referred to in Paragraphs 2.<sup>1</sup> and 2.<sup>2</sup> of this Section.

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

(4) The official conducting criminal proceedings may perform a separate procedural action in another language by appending a translation of the procedural documents in the official language.

(5) In the criminal proceedings, 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. The person directing the proceedings shall ensure the translation into the official language of the appellate complaints and cassation complaints against court rulings received in another language.

(6) The provisions of this Section regarding the right of a person to use the language that the person has knowledge of and to use the assistance of an interpreter free of charge shall also apply to persons with hearing, speech or visual impairments. When issuing procedural documents to such persons in the cases provided for by the law, the availability of such documents in the language or the manner which such persons are able to perceive shall be ensured.

[19 January 2006; 23 May 2013; 18 February 2016]

## **Section 12. Guaranteeing of Civil Rights**

(1) Criminal proceedings shall be conducted in conformity with internationally recognised civil rights and without allowing for the imposition of unjustified criminal procedural obligations 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 security reasons, and only in accordance with the procedures laid down in this Law according to the nature and severity of the criminal offence.

(3) The application of security measures related to imprisonment, 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 or court.

(3<sup>1</sup>) A criminal proceeding involving a minor shall be conducted by taking into account the age, maturity and any special needs of the minor.

(4) An official who conducts the criminal proceedings has the obligation to protect the confidentiality of the private life of a person and the commercial confidentiality of a person. Information on such confidentiality shall be obtained and used only in the case where such information is necessary in order to clarify conditions that are to be proven. Within the meaning of this Law, the identifying data are the given name, surname, personal identity number or identification number of a person, but if there is none - the date and place of birth. Processing of personal data in criminal proceedings shall be determined by a special law.

(5) A natural person has the right to request that a criminal case does not include information on the private life, commercial activities, and financial situation of such person or the betrothed, spouse, parents, grandparents, children grandchildren, brothers or sisters of such person, as well as of the person with whom the relevant natural person is living together and with whom he or she has a common (joint) household (hereinafter - the immediate family), if such information is not necessary for the fair regulation of criminal legal relations.

[12 March 2009; 27 September 2018; 7 October 2021]

## **Section 13. Prohibition of Torture and Debasing**

(1) Debasing, 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 obligations, the security measures provided for in the Law for ensuring a specific procedural action may be applied to such person.

(3) In order to overcome the physical resistance of a person, the performer of the procedural action or, upon his or her invitation, employees of the State police may apply physical force in exceptional cases, without needlessly inflicting pain on such person or humiliating 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. The completion of criminal proceedings within a reasonable term is connected with the scope of a case, legal complexity, amount of procedural activities, attitude of persons involved in the proceedings towards fulfilment of duties and other objective conditions.

(2) The person directing the proceedings shall choose the simplest form of criminal proceedings that complies with the specific 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 imprisonment has been applied or a specially procedurally protected person is involved, or wherein a public official occupying a responsible position is accused, shall have preference, in comparison with other criminal proceedings, in the ensuring of a reasonable term.

(4) Criminal proceedings regarding a criminal offence which is related to violence committed by a person upon whom the minor victim is financially or otherwise dependent, or regarding a criminal offence against morals or sexual inviolability, wherein the victim is a minor, shall have preference, in comparison with similar criminal proceedings wherein victims are persons of legal age, in ensuring of a reasonable term. Criminal proceedings against a minor 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 grounds for termination of proceedings in accordance with the procedures laid down in this Law.

*[12 March 2009; 29 May 2014]*

### **Section 15. Rights to Examination of a Matter in Court**

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

### **Section 16. Rights to the Objective Progress of Criminal Proceedings**

(1) Officials who conduct 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 the persons involved in the criminal proceedings a reason to believe that such interest may exist.

(2) A person who conducts defence, a victim, the representative of the victim, the owner of property infringed during criminal proceedings and an official who is authorised to conduct 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) The 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.

*[22 June 2017]*

### **Section 17. Separation of Procedural Functions**

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

*[21 October 2010]*

### **Section 18. Equivalence of Procedural Authorisations**

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 laws and regulations.

*[12 March 2009]*

### **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 procedures laid down in this Law.

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

(3) All reasonable doubts regarding guilt which cannot be eliminated shall be evaluated as beneficial for the person who has the right to defence.

(4) If a public official who is not a person involved in criminal proceedings has made a public statement on the guilt of the person, thus violating the presumption of innocence, the person directing the proceedings shall, upon a motivated submission of the person, publicly inform of the violation of the principle of presumption of innocence, but the copy of the submission shall be sent for evaluation to the authority which can decide on the liability of the official.

*[27 September 2018]*

### **Section 20. Right to Defence**

(1) Each person regarding whom an assumption or allegation has been expressed that such person has committed a criminal offence has the right to defence, 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 defence by himself or herself, or retain 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 determined in this Law.

(4) If a person who has the right to defence has not entered into an agreement on defence, but wishes the participation of the defence counsel, the State shall provide defence thereto and decide on the remuneration of the defence counsel from the State funds by completely or partially exempting the person from this payment.

[27 September 2018]

### **Section 21. Rights to Co-operation**

(1) The person who has the right to defence may co-operate with an official authorised to conduct 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 form 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 for Inflicted Harm**

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

### **Section 23. Administration of Justice**

A court shall administer justice in criminal matters by examining and deciding the validity of charges brought against a person, acquitting persons who are not guilty, or finding persons guilty of committing a criminal offence in a court hearing and determining a regulation of criminal legal relations that must be enforced by State authorities and persons and the enforcement of which, if necessary, may be implemented by forced conveyance.

### **Section 24. Protection of a Person and Property in the Case of a Threat**

(1) A person who is threatened in connection to the fulfilment of his or her criminal procedural obligation has the right to request the person directing the proceedings to take the measures provided for by law for the protection of such person and his or her property, as well as for the protection of the immediate family of such person.

(2) When receiving the information referred to in Paragraph one of this Section, the person directing the proceedings shall, depending on the specific circumstances, decide on the necessity to take one or more of the following measures:

- 1) to initiate another criminal proceeding for the investigation of the threat;
- 2) to select a corresponding security measure for the person in the interest of whom the threat has taken place;
- 3) to institute determination of special procedural protection for the person who is being threatened;
- 4) to assign law enforcement institutions with the task of protecting the person or his or her property, as well as protecting the immediate family of such person.

(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, the person directing the proceedings shall refuse the use of the evidence that is the case of the threat.

[18 February 2016]

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

(1) Nobody shall be tried or punished again for an offence for which he or she has already been acquitted or punished in Latvia or in a foreign country by a ruling made in accordance with the procedures laid down in law and in



effect in a criminal case or an administrative offence case.

(2) Repeated trial or sentencing is not:

1) a trial de novo of a criminal case when newly discovered circumstances are established;

2) a trial of a criminal case or imposition of a sentence in such criminal proceedings in which a prosecutor's penal order has been revoked in the cases and in accordance with the procedures laid down in the law;

3) a trial de novo of a criminal case if a substantial violation of substantive or procedural legal norms has been admitted in the previous proceedings.

(3) Repeated trial or sentencing shall not be possible in cases when the ruling made in an administrative offence case ceases to be in effect in criminal proceedings upon the existence of the following circumstances:

1) knowingly false testimonies provided by a victim or witness, knowingly false expert opinion or a translation, forgery of the minutes of court operations or decisions, and also forgery of other evidence, which formed the grounds for making an unlawful ruling, have been recognised by a valid ruling;

2) an illegal action of an official, which formed the grounds for making an unlawful ruling, has been recognised by a valid ruling;

3) a circumstance has been established which was not known to the person making the ruling in making the ruling and which on its own or together with previously determined circumstances indicates that the person has committed a more serious offence than the offence for which an administrative penalty was applied to the person.

(4) If, upon taking a decision to hold a person criminally liable, the circumstances referred to in Paragraph three of this Section have been established and the ruling made in the administrative offence case has not been repealed, it shall cease to be in effect.

(5) In the cases referred to in Paragraphs two and three of this Section the criminal sentence served shall be included in the new sentence as defined in the Criminal Law, and the administrative penalty shall be taken into account upon determining the new sentence.

[18 February 2016]

## **Division One Persons Involved in Criminal Proceedings**

### **Chapter 3 Officials who Conduct Criminal Proceedings**

#### **Section 26. Authorisation to Conduct Criminal Proceedings**

(1) The authorisation to conduct criminal proceedings on behalf of the State shall be held only by officials of the institutions specified in this Law to whom such authorisation has been granted in connection with an office held by these persons, an order of the head of institution or a decision of the person directing the criminal proceedings.

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

1) the person directing the proceedings;

2) a member of the investigative group;

3) the supervising prosecutor;

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

8<sup>1</sup>) the chief prosecutor;

- 9) the higher-ranking prosecutor;
- 10) the investigating judge;
- 11) the counsel for the prosecution.

(3) A judge and prosecutor, as well as court, prosecutorial, and investigating 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 shall be authorised to conduct criminal proceedings in the cases determined in the legal norms of the European Union.

[12 March 2009; 27 October 2010; 7 October 2021]

## **Section 26.<sup>1</sup> Powers of the European Public Prosecutor's Office to Conduct Criminal Proceedings**

(1) The European Chief Prosecutor, Permanent Chambers of the European Public Prosecutor's Office, European Prosecutor, European Delegated Prosecutor, and assisting European Delegated Prosecutor shall be authorised to conduct criminal proceedings in accordance with Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (hereinafter - Regulation No 2017/1939) and this Law.

(2) In the criminal proceedings that are in the record-keeping of the European Public Prosecutor's Office, the European Prosecutor shall perform functions of a higher-ranking prosecutor and the chief prosecutor of the Criminal Justice Department of the Office of the Prosecutor General until the day when the final ruling comes into effect, insofar as it is not in contradiction with Regulation No 2017/1939 and this Law.

[7 January 2021]

## **Section 27. Person Directing the Proceedings**

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

- 1) organise the progress of criminal proceedings and the record-keeping therein;
- 2) take decision on 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) The person directing the proceedings shall be:

- 1) an investigator or in exceptional cases a prosecutor - in an investigation;
- 2) a prosecutor - in a criminal prosecution;
- 3) a judge who leads the trial - in preparing a case for trial, as well as from the moment when the ruling with which legal proceedings are completed in the court of the relevant instance is announced, until the transferral of the case to the next court instance or until execution of the ruling;
- 4) the composition of a court - during trial;
- 5) a judge - after entering into effect of a court ruling.

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

[12 March 2009]

## **Section 28. Investigator**

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

## **Section 29. Duties and Rights of an Investigator as the 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 for such offence, and to ascertain such person and acquire evidence that gives grounds for holding such person criminally liable;

2<sup>1</sup>) [*This Clause shall come into force concurrently with the regulatory enactment determining the competent authority which evaluates the risk and protection factors of the minor who has the right to defence, and shall be included on the day when the respective regulatory enactment comes into force. See Paragraph 68 of Transitional Provisions*];

3) to take all measures provided for in the Law for ensuring compensation for harm;

4) to select the simplest form of criminal proceedings corresponding to the specific circumstances, and also to select and perform such procedural actions that would ensure the achievement of the objective of criminal proceedings as quickly and economically as possible;

5) to fulfil the orders of the direct supervisor, supervising prosecutor, or higher-ranking prosecutor thereof or the penal orders of the investigating judge;

6) in the cases and in accordance with the procedures laid down in the law to suspend or terminate criminal proceedings.

(2) An investigator has the right:

1) to take any procedural decision in accordance with the procedures laid down in law and to perform any procedural action or assign the performance thereof to a member of an investigative group or the executor of procedural tasks;

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

3) to appeal the instructions of the direct supervisor thereof;

4) to appeal the decisions and instructions of the supervising prosecutor;

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

6) to appeal the decision of an investigating judge.

[28 September 2006; 19 January 2006; 12 March 2009; 20 June 2018]

### **Section 30. Member of an Investigative Group**

(1) A member of an investigative group shall be a prosecutor or an official of an investigating institution authorised to conduct criminal proceedings who has been included in the composition of the investigative group by a decision of the competent official of the investigating institution or a chief prosecutor.

(2) Upon an assignment of the person directing the criminal proceedings and within the framework specified thereby, a member of an investigative group has the right to perform procedural actions and take procedural decisions, except for decisions on the direction of criminal proceedings, on application, amending or revocation of security measures, on imposing or revocation of seizure of property, as well as on the status or change in status of such person who has the right to defence.

(3) A member of an investigative group may appeal an assignment of the person directing the proceedings 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 prosecutor, as well as shall raise objection, with the intermediation of the person directing the proceedings.

(5) [12 March 2009]

[12 March 2009; 18 February 2016; 7 January 2021]

### **Section 31. Direct Supervisor of an Investigator**

(1) The direct supervisor of an investigator shall be the head of an investigating institution or a division thereof, or

his or her deputy, who has been assigned, in accordance with the distribution of duties or an individual order, to control the conduct of specific 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 criminal proceedings take place in a targeted manner and without unjustified delay;
- 4) to give instructions regarding the direction of an investigation and the conduct of investigative actions, if the 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 within the competence thereof, and to assume leadership of criminal proceedings;
- 3) to participate in the procedural actions that are performed by the person directing the proceedings or a member of an investigative group;
- 4) to perform an investigative action by informing the person directing the proceedings beforehand regarding such carrying out of the investigative action;
- 5) to give instructions and to revoke the decisions taken unjustifiably and unlawfully by the officials subordinated thereto;
- 6) to appeal the decision of and instructions given by the prosecutor, returning the criminal case to the investigating institution for continuing the investigation.

[12 March 2009; 20 June 2018]

### **Section 32. Executor of Procedural Tasks**

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

(2) The executor of procedural tasks shall be liable for the qualitative execution of an assigned investigative action, and he or she has an obligation to inform the person directing the proceedings about all facts that may be significant to legal and fair completion of criminal proceedings. In order to ensure execution of the assigned investigative action, the executor of procedural tasks has the right to take the decision on conveyance by force.

[11 June 2020]

### **Section 33. Expert of an Expert-examination Institution**

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

(2) An expert on the assignment of the 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) use 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 himself or herself with the materials of the criminal case;
- 2) to request from the person directing the proceedings the additional information and materials necessary for the performance 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 ask questions within the limits of the subject of the expert-examination to persons which are being interrogated with a permit of or via the person directing the proceedings.

(4) An expert has the right to perform the expert-examination specified by the person directing the proceedings or a participant of the investigative group and to provide answers to questions posed. If an expert is of the conclusion that he or she may acquire information, using 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 fulfil his or her obligations:

- 1) on the basis of an instruction given by the 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 to determine an expert-examination.

[12 March 2009]

#### **Section 34. Invited Expert**

(1) The 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 expert-examination.

(2) An invited expert has the rights indicated in Section 33, Paragraphs three and four of this Law, as well as the rights to receive reimbursement for those expenses arisen due to arrival upon invitation of a person directing the criminal proceedings.

[12 March 2009]

#### **Section 35. Auditor**

(1) An auditor shall have the authorisation to conduct criminal proceedings if he or she has obtained the relevant qualification, obtained a certificate, in accordance with the procedures laid down in the law, for performing audits, and has received a specific task specified in a decision of the person directing the proceedings or recorded in the account of the investigative action.

(2) Upon an assignment of the 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 the person directing the proceedings;
- 7) familiarise interested persons with audit materials;
- 8) provide an auditor assessment on the objections of interested persons.

#### **Section 36. Prosecutor in Criminal Proceedings**

(1) A prosecutor in criminal proceedings shall perform investigation supervision, investigation, criminal prosecution, the maintenance of State prosecution and other functions specified in this Law.

(2) A prosecutor shall decide, in the cases determined by law, the question regarding the initiation of criminal proceedings, and shall conduct investigations himself or herself.

[19 January 2006]

### **Section 37. Prosecutor Supervising Investigation**

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

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

1) to give instructions regarding the selection of the form of proceedings, the direction of an investigation and the conduct of investigative actions, if the 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 the 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) [12 March 2009];

5) to examine complaints within the competence thereof;

6) to decide rejections within the competence thereof;

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 prosecutor supervising an investigation has the right to:

1) take a decision to initiate criminal proceedings and to transfer them to an investigating institution;

2) give instructions and request execution of the provided instructions;

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

4) familiarise himself or herself at any time with the materials of the criminal proceedings;

5) revoke the decisions of the person directing the proceedings and a member of the investigative group, and also the decisions of the direct supervisor of the investigator which are not related to organisational issues of significance to the proceedings;

6) submit a proposal to a chief prosecutor for the determination of the direct supervisor of another investigator in the specific criminal proceedings or the transfer of criminal proceedings to another investigating institution;

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

8) 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.

[28 September 2005; 12 March 2009; 20 June 2018; 7 January 2021]

### **Section 38. Prosecutor as the Person Directing the Proceedings**

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

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

2) upon an instruction of the chief prosecutor;

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

(2) A chief prosecutor may impose the duties of the person directing the proceedings on another prosecutor.

(3) In exceptional cases, the Prosecutor General, the chief prosecutor of the Criminal Justice Department of the Office of the Prosecutor General, or of a court district may determine a prosecutor as the person directing the

proceedings in the investigative stage.

[7 January 2021]

### **Section 39. Duties and Rights of a Prosecutor - Person Directing the Proceedings**

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

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

1<sup>1</sup>) to select the most simple form for the completion of pre-trial criminal proceedings corresponding to the specific circumstances, and also to select and carry out such procedural actions that would ensure the achievement of the objective of criminal proceedings as quickly and economically as possible;

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 set of materials of an archive file;

4) issue to a person who has the right to defence copies or true copies of the materials of the criminal case to be transferred to a court (hereinafter - the copies) or to acquaint such person according to the procedures laid down in 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 on submitted applications;

6<sup>1</sup>) request an evaluation report from the State Probation Service regarding a person who has been accused of committing a criminal offence directed against morality and gender inviolability;

6<sup>2</sup>) request from the State Probation Service an evaluation report on the minor who has been accused of committing a criminal offence;

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

8) take a decision to transfer a criminal case to a court, and submit the criminal case to the court;

9) terminate 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 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 laid down by the law and to perform any procedural action or assign the performance thereof to a member of an investigative group or the executor of procedural tasks;

3) to terminate criminal proceedings, applying the prosecutor's penal order;

4) to prepare an draft agreement;

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

6) if necessary, to request an evaluation report of a person from the State Probation Service.

(2<sup>1</sup>) Within the scope of the proceedings regarding the application of coercive measures on a legal person the prosecutor has the right terminate the proceedings by applying the injunction of a prosecutor regarding a coercive measure.

(3) If a preliminary ruling of the Court of Justice of the European Union on the interpretation or validity of the legal norms of the European Union is necessary for the acceptance of a procedural decision, a prosecutor may propose that the Prosecutor General sends the uncertain matter to the Court of Justice of the European Union.

[19 January 2006; 12 March 2009; 21 October 2010; 14 March 2013; 12 November 2015; 20 June 2018; 27 September 2018 / Clause 6.<sup>2</sup> of Paragraph one shall come into force on 1 January 2019. See Paragraph 69 of Transitional Provisions]

### **Section 39.<sup>1</sup> Duties and Rights of a Chief Prosecutor**

(1) A chief prosecutor has a duty:

1) to decide on the proposal of a supervising prosecutor to replace the direct supervisor of an investigator or an investigating institution;

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

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

4) to decide rejections within the competence thereof;

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

(2) A chief prosecutor has the right:

1) to familiarise himself or herself with all materials in criminal proceedings wherein he or she performs the functions of a chief prosecutor;

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

3) assign a prosecutor the execution of the functions of a supervising prosecutor or a prosecutor - person directing the proceedings, or undertake such functions himself or herself;

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

5) to assign another investigating institution to perform an investigation in criminal proceedings.

[7 January 2021]

#### **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 procedures laid down in the law, the control over the respect for 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 on the application of compulsory measures in the cases provided for by law;

2) to decide on 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 the person directing the proceedings;

4) to decide, in the cases provided for by law, on the performance of procedural actions;

5) [12 March 2009];

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

7) [12 March 2009];

8) [12 March 2009];

9) [12 March 2009];

10) to decide on the request of a person who has the right to defence on the exemption from payment for the assistance of an advocate.

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

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

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

3) the acquaintance of a person involved in criminal proceedings, who has the right to get acquainted with the materials of a criminal case, with special investigative actions that are not attached to a criminal case (primary documents).

(3) An investigating judge shall not be permitted to replace the person directing the proceedings and the supervising 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 himself or herself with all materials in a criminal proceeding wherein a proposal of the person directing the proceedings, a complaint or application of a person, or application for removal has been submitted;

2) to request additional information from the person directing the proceedings in criminal proceedings wherein special investigative actions are being performed or a security measure related to imprisonment is applied, as well as to determine terms for performance of special investigative actions;

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 conduct criminal proceedings are held liable for infringements of human 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; 12 March 2009; 14 January 2010; 21 October 2010]

#### **Section 42. Maintainer of State Prosecution**

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

(2) A state prosecution shall be maintained in an appellate court to the extent possible by the same prosecutor who maintained such prosecution in a court of first instance. A chief prosecutor may assign the maintenance of the state prosecution to another prosecutor.

(3) [12 March 2009]

[12 March 2009; 7 January 2021]

#### **Section 43. Authorisation of a Maintainer of State Prosecution in a Court of First Instance and Appellate Court**

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

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

2) to submit a recusation, if grounds specified by law exist;

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

4) to direct a verification of evidence of the prosecution, and to participate in a verification of other evidence;

5) to request an interval for the submission of additional evidence or for the drawing up of a new prosecution;

6) to submit requests;

7) to speak in court debates;

8) to familiarise himself or herself with the minutes of a court hearing, full text of a ruling, and complaints submitted by persons;

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

(2) A 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.

[12 March 2009; 21 October 2010]



### **Section 43.<sup>1</sup> Prosecutor in a Cassation Court**

(1) In a cassation court, a prosecutor shall express a position regarding the legality and justification of a court ruling.

(2) A prosecutor in a cassation court has the rights and duties specified in Chapter 54 of this Law.

[12 March 2009]

### **Section 44. Maintainer of Private Prosecution**

[21 October 2010]

### **Section 45. Higher-ranking Prosecutor in Criminal Proceedings**

(1) A higher-ranking prosecutor shall control, in accordance with the procedures laid down in the law, how a prosecutor implements his or her authorisation.

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

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

2) a prosecutor of the Office of the Prosecutor General if the functions of a prosecutor specified in this Law are performed by a prosecutor of the office of the prosecutor of a court district;

3) the chief prosecutor of the Office of the Prosecutor General if the functions of a prosecutor specified in this Law are performed by the chief prosecutor or a prosecutor of the Division of the Office of the Prosecutor General, a prosecutor of the Department of the Office of the Prosecutor General, or the chief prosecutor of a court district, as well as on the basis of the initiative thereof;

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

5) any prosecutor if he or she has been authorised in specific criminal proceedings by the Prosecutor General or the chief prosecutor of the Office of the Prosecutor General;

6) a European Delegated Prosecutor if the European Prosecutor has authorised him or her in criminal proceedings within the competence of the European Public Prosecutor's Office.

(3) [19 January 2006]

[19 January 2006; 7 January 2021]

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

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

1) to decide on complaints in relation to the decisions and actions of a supervising prosecutor and a prosecutor - person directing the proceedings;

2) to decide rejections within the competence thereof;

3) [7 January 2021];

4) [7 January 2021];

5) [7 January 2021];

6) [7 January 2021];

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

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

1) to familiarise himself or herself with all materials in a criminal proceeding wherein he or she performs the functions of a higher-ranking prosecutor;

2) [7 January 2021];

3) assign a prosecutor the performance of the functions of a prosecutor - person directing the proceedings, or undertake such functions himself or herself;

4) [7 January 2021];

5) [7 January 2021];

6) to give instructions to an investigator, a supervising prosecutor or a prosecutor - person directing the proceedings regarding the selection of the form of proceedings, the direction of pre-trial proceedings, and the performance of investigative actions;

7) to revoke the decisions of an investigator, a member of an investigative group, and a lower-ranking prosecutor;

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

9) to decide on the proposal of a maintainer of state prosecution to withdraw from the maintenance of prosecution in court, approving such decision, or to undertake such prosecution himself or herself.

[19 January 2006; 12 March 2009; 7 January 2021]

#### **Section 47. Judge as the 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 on the possibility for the trial of such case;
- 3) determine the time and place for the trial, and the form of the trial;
- 4) assign the Court Registry 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 on settlement of criminal legal relations.

#### **Section 48. Court as the Person Directing the Proceedings**

(1) In examining a criminal case, a court shall have the authorisation of the 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 each person to fulfil the criminal procedural obligation and follow the procedures during a court hearing;
- 2) to apply procedural sanctions;
- 3) to participate in a verification 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 ruling;
- 6) to take measures in order to hold liable officials who conduct criminal proceedings and implement the authorisation thereof fraudulently.

(3) [12 March 2009]

[12 March 2009]

#### **Section 49. Judge as the Person Directing the Proceedings after Trial of a Case and the Making of a Ruling**

After trial of a case and making of a ruling, and until the transferral of such ruling for execution or the sending thereof to a court of the next instance, a judge shall:

- 1) ensure the availability of the minutes of the court hearing and the ruling on the specified day 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 the unsatisfied objections attached to the minutes of the court hearing;

4) take the decision to transfer the ruling 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 court ruling.

## **Chapter 4 Conditions that Prohibit the Conduct of Criminal Proceedings**

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

(1) An official shall not be allowed to undertake authorisation to conduct 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 coincide with the objective of 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) [21 October 2010]

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

(4) Persons who conduct criminal proceedings have the obligation 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.

[21 October 2010; 20 June 2018]

### **Section 51. Conclusive Conditions of a Conflict of Interests**

The existence of a conflict of interests is recognised without any clarification of additional conditions if an official who conducts 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 conducts defence, or with the victim or representative thereof;

2) receives, or if the spouse, children, or parents thereof receive income from the person who conducts defence, or from the victim or representative thereof;

3) is related to a common household with the person who conducts defence, or with the victim or representative thereof;

4) has an explicit conflict of interests with the person who conducts defence, or with the victim or representative thereof;

5) is a witness, victim or representative thereof in such proceedings, or the person in such proceedings who conducts defence, or has conducted defence or representation of the victim.

[12 March 2009; 11 June 2009; 20 June 2018]

### **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 specific criminal proceedings:

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

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

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

(2) The person who has the right to decide on a recusation shall decide a matter on 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 prosecutor in the same criminal proceedings.

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

1) has participated in pre-trial criminal proceedings or proceedings of court of first instance or appellate court in any status;

2) is in kinship to the third degree, affinity to the second degree, or married to another judge involved in the trial,

the maintainer of prosecution, or the 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 prosecutor.

[27 September 2018]

### **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 fulfilment of the relevant obligations.

### **Section 54. Recusal of Oneself from Conducting the Criminal Proceedings**

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

- 1) a member of an investigative group, an expert, and an auditor - to the person directing the proceedings;
- 2) the person directing the proceedings in an investigation and the direct supervisor of an investigator - to a supervising prosecutor;
- 3) a supervising prosecutor, a prosecutor - a person directing the proceedings and a maintainer of state prosecution - to a chief prosecutor;
- 3<sup>1</sup>) a chief prosecutor - to a higher-ranking prosecutor;
- 4) a higher-ranking prosecutor - to a chief prosecutor;
- 5) an investigating judge - to the chief judge;
- 6) a judge until the initiation of trial or after the transfer of ruling for execution - to the chief judge;
- 7) a judge, in trying a criminal case - to the composition of the court;
- 8) the chief judge - to a chief judge of the court that is one level higher.

(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 to continue conducting of the criminal proceedings.

[12 March 2009; 7 January 2021]

### **Section 55. Submission of Recusation**

(1) A person who conducts defence, a victim, or a person authorised to conduct proceedings, if such person has certain conditions that prohibit an official from conducting the specific criminal proceedings, shall submit the recusation of such person to the persons referred to in Section 54, Paragraph one of this Law who have the right to decide on the recusation. If a recusation for a maintainer of a State prosecution is submitted during a court hearing, it shall be decided by the composition of the court. If a recusation for an investigating judge is submitted during a court hearing, it shall be decided by the investigating judge.

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

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

(4) A submitted recusation shall not be reasoned with the actions of a person in the specific criminal proceedings. Actions shall be appealed in accordance with the procedures laid down in the law.

[12 March 2009; 11 June 2020]

### **Section 56. Taking of a Decision on 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. Appealing the Decision on Recusation or a Refusal to Reject**

(1) A decision on recusation, or a refusal to reject, taken outside a court hearing may be appealed within 10 days:

- 1) a decision of the person directing the proceedings in an investigation - to the supervising prosecutor;
- 2) the decision of a supervising prosecutor or chief prosecutor - to a higher-ranking prosecutor;
- 3) a decision of a higher-ranking prosecutor - to the next higher-ranking prosecutor;
- 4) [12 March 2009];
- 5) [19 January 2006];
- 6) the decision of a European Delegated Prosecutor - to the European Prosecutor.

(2) The decision taken during a court hearing shall not be subject to appeal.

(3) A decision of the persons referred to in Paragraph one of this Section shall not be subject to appeal.

[19 January 2006; 12 March 2009; 7 January 2021]

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

(1) A person shall be held liable as specified by 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 Conduct Defence**

#### **Section 59. Grounds for Conducting Defence**

(1) Grounds for conducting defence shall be an assumption or allegation expressed in writing in accordance with the procedures laid down in this Law by an official authorised for the conduct of criminal proceedings that a person has committed a criminal offence.

(2) Depending on acquired evidence, assumptions 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 grounds to believe that the such person has committed the criminal offence (the person may be detained);

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

4) the totality of evidence provides grounds for the prosecutor - the person directing the proceedings to assume that precisely this person has committed the specific criminal offence (person may be prosecuted);

5) the 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 specific criminal offence.

(3) An assumption shall achieve the form of an allegation if:

1) a person who has the right to defence certifies, in accordance with the procedures laid down in the law, that the assumption of a prosecutor is correct, and both affirm that the person has committed a specific criminal offence;

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

(4) For a legal person, grounds for conducting defence shall be an assumption expressed by the person directing the proceedings in accordance with the procedures laid down in this Law that a natural person has committed a criminal offence in the interests or for the benefit of or as a result of insufficient supervision or control by the very legal person.

(5) [12 March 2009]

[12 March 2009; 14 March 2013]

#### **Section 60. Persons who Conduct Defence**

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

- 1) regarding whom the assumption or allegation 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.

(1<sup>1</sup>) The person who has performed an act conforming to the constituent elements of a criminal offence provided for in the Criminal Law, but cannot be held criminally liable due to his or her juvenility, also has the right to defence. This person has the same right to defence as the person against whom criminal proceedings have been initiated.

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

- 1) defence counsel;
- 2) a representative;
- 3) a person who makes a stand for the exoneration of a deceased person.

(3) If the assumption or allegation 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 right to defence with the assistance of a representative.

[12 March 2009; 27 September 2018]

#### **Section 60.<sup>1</sup> Obligation of a Person who has the Right to Defence to Notify Address for Receiving Consignments**

(1) A person who has the right to defence has an obligation to notify in writing a postal or electronic address of receipt of his or her consignments upon request of the person directing the criminal proceedings.

(2) By a notification referred to in Paragraph one of this Section a person shall undertake to receive consignments sent by an official conducting criminal proceedings within 24 hours and arrive without delay upon invitation of a person directing the criminal proceedings or to fulfil other referred to criminal procedural obligation.

(4) If a consignment is sent in an adequate manner to the notified address, it shall be considered that after expiration of the term referred to in Paragraph two of this Section has been received by an addressee.

(4) A person has a duty immediately, but not later than within one working day, to notify the person directing the criminal proceedings regarding the change of an address for receiving consignments indicating a new address.

[12 March 2009]

#### **Section 60.<sup>2</sup> Fundamental Rights of a Person who has the Right to Defence in Criminal Proceedings**

(1) A person who has the right to defence has the following rights:

1) to immediately retain a defence counsel and enter into an agreement with him or her or to use the legal assistance ensured by the State if the person is incapable of entering into an agreement with the defence counsel at the person's own expense;

2) to meet a defence counsel in circumstances that ensure confidentiality of the conversation without a special permit from the person directing the proceedings and without limitation of time;

3) to receive legal assistance from a defence counsel;

4) to request participation of an advocate for ensuring defence in a separate procedural action in the cases provided for by the law, if an agreement on defence has not been entered into yet with a particular advocate or this defence counsel has been unable to appear;

5) to receive from the person directing the proceedings a list of advocates who practice in the relevant court district, as well as to use telephone free of charge for retaining a defence counsel;

6) to be notified of what assumption has been made or what suspicion has arisen against the person or what prosecution has been brought against him or her;

7) to receive an oral or written translation in a language comprehensible to him or her in accordance with the

procedures and in the scope laid down in the law;

8) to stay silent, testify or refuse to testify;

9) to appeal the procedural decisions in the cases, within the terms and in accordance with the procedures laid down in the law;

10) to request information regarding the direction of the criminal proceedings, regarding officials who conduct or have conducted the particular criminal proceedings, regarding the restrictions of the rights applicable to a person and their time periods;

11) to request that a defence counsel be replaced, if the obstacles to his or her participation determined in the Law exist.

(2) Failure to testify shall not be judged as interference with divulging the truth in the case and evasion of the pre-trial proceedings and the trial.

(3) In addition to the rights laid down in Paragraph one of this Section the detained, and also the suspect or the accused, to whom the security measure related to the deprivation of liberty is applied, has the following rights:

1) to become familiar with those materials of the case which justify the proposal to apply a security measure related to the deprivation of liberty insofar as such access does not infringe the fundamental rights of other persons, the interests of the society and does not interfere with the achievement of the objective of criminal proceedings;

2) to request that his or her immediate family, educational institution, employer is notified of his or her detention or arrest, as well as to contact one of them, insofar as such contacting does not endanger the fundamental rights of other persons, public interests and does not hinder the achievement of the objective of criminal proceedings. A foreigner has the right to request that the diplomatic or consular mission of his or her country is notified of his or her detention or arrest, as well as to contact it;

3) to receive information regarding rights to emergency medical assistance and healthcare in accordance with the laws and regulations;

4) to receive information regarding the maximum number of hours or months for which the person's liberty may be restricted during pre-trial proceedings.

(3<sup>1</sup>) In addition to the rights laid down in Paragraphs one and three of this Section, a minor who has the right to defence has the following rights:

1) to participate in procedural actions together with a representative;

2) to participate in procedural actions together with a trusted person;

3) right to specific arrangements for the protection of private life;

4) to receive individual assessment;

5) right to have the procedural compulsory measures that are alternative to deprivation of liberty primarily applied;

6) right to special treatment during the application of the compulsory measure related to the deprivation of liberty.

(4) As soon as the person has acquired the right to defence, the information related to the rights laid down in Paragraphs one, three and 3.<sup>1</sup> of this Section shall be immediately issued in writing and, where necessary, explained to him or her. The person shall confirm with his or her signature that the information has been issued and, where necessary, the rights have been explained.

[23 May 2013; 29 May 2014; 18 February 2016; 20 June 2018; 27 September 2018]

## **Section 61. Person against whom Criminal Proceedings have been Initiated**

(1) If the actual possibility exists that a specific person has committed a criminal offence to be investigated, criminal proceedings shall be initiated against such person. If in initiating proceedings there is already grounds for the expression of the referred to assumption, then the specific person shall be indicated in the decision to initiate criminal proceedings.

(2) If in the initiated criminal proceedings information is obtained, that it is possible that the specific 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 right to defence.

(4) A person against whom criminal proceedings have been initiated has the fundamental rights laid down in Section 60.<sup>2</sup>, as well as the rights determined in Section 66, Paragraph one, Clauses 3, 9, 12, 13, 14, and 16 of this Law, and the obligations determined in Section 67, Paragraph one, Clauses 1, 1.<sup>1</sup>, 2, 5, and 6 of this Law. Security measures shall not be applied to such persons.

(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; 12 March 2009; 23 May 2013; 29 May 2014; 20 June 2018; 11 June 2020]*

### **Section 62. Detained Person**

(1) A detained person shall be a person who is temporarily detained, in accordance with the procedures laid down in the law, because separate facts provide grounds to believe that such person has committed a criminal offence.

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

(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 fundamental rights determined in Section 60.<sup>2</sup> of this Law, as well as the right:

1) to become familiar with the detention protocol and receive an excerpt from this Law regarding the rights and duties of a detained person;

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

3) to submit a recusation;

4) to submit complaints regarding the actions of officials;

5) to submit requests for the emergency conduct of investigative actions as a result of which evidence may be acquired for the approval of unjustified suspicions.

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

(3) *[23 May 2013]*

*[19 January 2006; 12 March 2009; 23 May 2013; 27 September 2018]*

### **Section 64. Duties of a Detained Person**

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

(1<sup>1</sup>) A detained person has a duty to provide true testimonies if he or she is exercising the right to testify.

(2) A detained person has the obligation to allow for himself or herself to be subjected to a study of an expert, and issue samples the creation of which does not depend on the will of the person for comparative study.

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

[27 September 2018; 11 June 2020]

### **Section 65. Suspects**

A suspect is such a person as regards whom the totality of evidence provides grounds for the person directing the proceedings to assume that the investigated criminal offence was most likely committed by the respective person. The person obtains the status of a suspect from the moment when the person directing the proceedings takes the relevant decision.

[20 June 2018]

### **Section 66. Rights of a Suspect**

(1) From the moment when a person is notified that he or she is recognised as a suspect, such person has the fundamental rights determined in Section 60.<sup>2</sup> of this Law, as well as the right:

1) to receive a copy of the decision by which such person has been recognised as a suspect, or a notification of the decision taken in accordance with urgent procedures, and an excerpt from this Law regarding the rights and obligations of a suspect;

2) [20 June 2018];

3) to submit a recusation;

4) to submit applications regarding the performance of investigative actions and participation thereof;

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

6) to receive a reasoned decision if the suspect has been refused participation in the investigative actions that are performed upon his or her request or upon request of his or her defence counsel;

7) to familiarise himself or herself with the decision to determine an expert-examination before transferring it for execution, if the expert-examination applies to such person, and to request the raising of additional questions regarding in relation to which the expert must give a conclusion, except in cases where an expert-examination has been determined during another investigative action;

8) to become familiar with the opinion of the expert-examination after receipt thereof, if the expert-examination has been performed subject to the application of the person;

9) to submit complaints, in accordance with the procedures laid down in the law, regarding action of an official authorised for the conduct of criminal proceedings;

10) [29 May 2014];

11) to express his or her attitude in oral or written form towards suspicions expressed;

12) to require that measures for regulation of criminal legal relations are taken with the consent of the person;

13) to settle with the victim;

14) to submit an application regarding termination of criminal proceedings;

15) to participate with the investigating judge in examination of proposals of the person directing the proceedings and the person's own and his or her defence counsel's complaints and applications, unless the Law determines other procedures for examination;

16) to express a wish to co-operate with the officials who are conducting the criminal proceedings.

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

(3) [23 May 2013]

[19 January 2006; 12 March 2009; 21 October 2010; 23 May 2013; 29 May 2014; 20 June 2018; 27 September 2018]

### **Section 67. Obligations 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 obligations:

1) to arrive for the conduct of the proceedings in a specific time at the place indicated by an authorised official, if the summons has been made in accordance with the procedures laid down in law;

1<sup>1</sup>) to provide true testimonies if he or she is exercising the right to testify;

2) to not delay and 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 allow for himself or herself to be subjected to a study of an expert, and issue samples the creation of which does not depend on the will of the person for comparative study;

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 - the 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 on the application of a stricter security measure, the determination of additional restrictions, or the application of procedural sanctions.

[27 September 2018; 11 June 2020]

#### **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 specific 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;

4) proceedings for determination of compulsory measure of medicinal nature have been initiated against him or her.

(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 assumption 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. If the decision is revoked, but criminal proceedings are not terminated against the relevant person, such person shall retain the status of the person against whom the criminal proceedings have been initiated.

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

[12 March 2009]

#### **Section 69. Accused Person**

(1) An accused person shall be the person who is held criminally liable, with a decision of the 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 completion of pre-trial criminal proceedings, to receive copies of all the materials of a criminal case to be transferred to a court, which relate to the accusation brought against him or her and his or her personality, if such materials have not been issued earlier or with the consent of a prosecutor to become acquainted with these materials;

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) after completion of pre-trial criminal proceedings, 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 attached 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 prosecutor's penal order;

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

6) to agree with the person directing the proceedings - prosecutor regarding the possibility for a criminal case in a prosecution wherein the accused is incriminated to be examined in court without verification of evidence;

7) to revoke the complaints of defence counsel.

(2) Separate rights may be restricted in accordance with the procedures laid down in the law, or implemented in a particular way, depending on the selected form of proceedings.

(3) [23 May 2013]

(4) Following the completion of the pre-trial criminal proceedings and receipt of a decision to transfer the case to a court the accused may submit to a court those requests which have arisen upon getting acquainted with the materials of the case.

[19 January 2006; 12 March 2009; 21 October 2010; 23 May 2013]

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

An accused in a court of first instance has the fundamental rights determined in Section 60.<sup>2</sup> of this Law, as well as the right:

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

2) to participate in person in the trial of the criminal case;

3) to submit a recusation;

4) [27 September 2018];

5) to agree to the non-performance of a verification of evidence in a court hearing;

6) to express his or her opinion regarding each matter to be discussed, if it applies to his or her prosecution or personal characterising data;

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

8) to submit to the court a reasoned request to express his or her opinion and participate in verification of evidence also in cases if the matter or evidence to be verified does not directly apply to his or her prosecution or personal characterising data;

9) to submit requests;

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

11) to say the last word;

12) to receive a copy of a court ruling and familiarise himself or herself with the minutes of a court hearing, as well as to submit notes thereon in writing, which shall be attached to the materials of the criminal case;

13) to appeal a court ruling in accordance with the procedures laid down in the law.

[23 May 2013; 27 September 2018]

### **Section 72. Rights of an Accused in an Appellate Court**

(1) In an appellate court, 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 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 hearing of an appellate court, 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 grounds for his or her participation in an appellate court;

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

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

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

(3) If a complaint is examined in a written procedure in an appellate court, an accused has the right:

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

2) to submit objections or explanations regarding the appellate complaints and protest, as well as submit objections against trial of the case in a written procedure;

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

4) to receive information regarding the procedures for the examination of the complaint and protest and the day of availability of the ruling;

5) to withdraw his or her complaint or a complaint of a defence counsel.

(4) An accused has the right, starting from the day specified by a court, to receive a copy of the ruling of an appellate court and submit a cassation complaint.

[12 March 2009]

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

(1) In a cassation court, 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 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, until trial of a case is commenced an accused has the fundamental rights determined in Section 60.<sup>2</sup> of this Law, as well as the right:

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

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

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

4) to retain a defence counsel.

(3) If a case is tried in the oral procedure in a court hearing, 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 grounds for the recognition of the status of an accused in a cassation court, as well as to submit a recusation.

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

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

2) to submit a recusation;

- 3) to submit written objections regarding the complaints of other persons;
- 4) to submit a reasoned request for the examination of a complaint in the oral procedure in a court hearing in his or her presence.

[12 March 2009; 23 May 2013]

#### **Section 74. Duties of an Accused**

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

#### **Section 74.1 Convicted Person**

An accused shall acquire the status of a convicted person from the date of the entering into effect of a judgment of conviction or a prosecutor's penal order.

[21 October 2010]

#### **Section 74.2 Rights of a Convicted Person**

(1) During the execution of a ruling, a convicted person has the right to the protection in the court of his or her lawful interests related to the transfer of the ruling for execution, that is, the right:

- 1) to retain a defence counsel;
- 2) to participate in court hearings and to testify;
- 3) to submit materials, which have been prepared in order to examine the matter regarding the execution of the ruling;
- 4) to submit complaints regarding decisions of the judge.

(2) Upon examining matters related to the execution of a ruling, the participation of a defence counsel in the cases determined in this Law is mandatory.

(3) During the execution of a prosecutor's penal order, a convicted person has the right to the protection of his or her rights to lawful interests in the Office of the Prosecutor, if they are related to the execution of the punishment determined in the penal order, but in matters related to the substitution of the punishment determined in the penal order or release from punishment in accordance with the procedures laid down in laws - in the court.

[21 October 2010]

#### **Section 74.3 Duties of a Convicted Person**

A convicted person has a duty:

- 1) to arrive for the conduct of the proceedings in a specific time at the place indicated by an authorised official, if the summoning has been made in accordance with the procedures laid down in law;
- 2) not to delay and hinder the process of examining the matters, which have arisen during the execution of a ruling;
- 3) to comply with the specified procedures during the performance of procedural actions;

[21 October 2010]

#### **Section 75. Rights of a Person against whom Proceedings is being Held for Determination of Compulsory Measures of a Medical Nature**

(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 compulsory 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 defence shall be implemented by a defence counsel and a representative.

[12 March 2009]

## **Section 76. Rights of a Person against whom Criminal Proceedings have been Terminated for Reasons Other Than Exoneration**

(1) If a person, against whom criminal proceedings have been terminated in connection to limitation period of criminal liability or act of amnesty, 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 an investigator or prosecutor on the termination of criminal proceedings in the court that has jurisdiction over examination of the relevant criminal offence in the first instance.

(2) 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 ruling.

[12 March 2009]

## **Section 77. Rights of a Person who Pleads Exoneration of a Deceased Person**

(1) If criminal proceedings are terminated with a decision of the person directing the proceedings for reasons other than exoneration, in substance finding a person guilty for the committing of a criminal offence, and the person dies after such termination, the legal representatives or the immediate family 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 conducts 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 compulsory measure of a medical nature, when the defendant cannot participate in proceedings.

[12 March 2009]

## **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 which has the signs of content of a criminal offence provided for in the Criminal Law without exceeding the limits of necessary self-defence, while conducting detention, in a state of extreme necessity, or as a result of justified professional risk, or has fulfilled a criminal command or criminal order, but such person disputes factual circumstances, such person has a right to submit a complaint regarding the decision of the investigator or the prosecutor in the court that has jurisdiction over examination of the relevant criminal offence in the first instance.

(2) 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 ruling.

[12 March 2009]

## **Section 79. Defence Counsel**

(1) A defence counsel shall be an advocate practicing in Latvia who implements 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 participate in a case from the moment of an agreement, if the defendant has obtained the right to defence in accordance with the procedures laid down in this Law. A defence counsel may not refuse the defence that he or she must conduct in accordance with an agreement without the consent of the defendant.



(4) A defence counsel provided by the State shall participate in a case from the moment of acceptance of a task until the termination of criminal proceedings, except in the cases when he or she is invited to ensure defence in a separate procedural action. Conduct of defence in a separate procedural action shall not impose the obligation to undertake defence in the entire criminal proceedings on an advocate.

(5) The rights of an advocate as a defence counsel to participate in criminal proceedings shall be attested by an order to be submitted to the person directing the proceedings without delay.

(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.

(8) If one person has several defence counsels and any of them has not arrived to a procedural action, it shall not be an obstacle for the performance of the procedural action.

[19 June 2008; 12 March 2009; 11 June 2020]

#### **Section 80. Retaining a Defence Counsel**

(1) An agreement with an advocate regarding defence shall be entered into by the person himself or herself or other persons in the interests thereof. Upon undertaking the provision of legal assistance, the advocate shall not delay conducting of a case within reasonable terms.

(2) The 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 ensure an interested person with the necessary information and provide such person with the opportunity to use means of communication for the retention of the defence counsel.

(3) If a person who has the right to defence or another person in his or her interests has not entered into an agreement on defence, but the participation of a defence counsel is mandatory or the person wishes for the participation of a defence counsel, the person directing the proceedings shall notify the senior of the sworn advocates of the territory of the relevant court process of the necessity to ensure the participation of a defence counsel in criminal proceedings.

(4) The senior of sworn advocates shall, not later than within three working days after receipt of the request of the person directing the proceedings, notify the person directing the proceedings regarding the participation of the relevant advocate in criminal proceedings.

[19 June 2008; 27 September 2018; 11 June 2020]

#### **Section 81. Retaining a Defence Counsel in a Separate Procedural Action**

(1) If an agreement on defence has not been concluded or a defence counsel with whom the agreement has been concluded may not be present for the performance of procedural action, the person directing the proceedings shall invite an advocate to ensure defence in the following separate procedural actions:

- 1) investigative actions in which the detained person is involved;
- 2) announcement of the decision on recognition as a suspect, and the first interrogation of the suspect;
- 3) examination by an investigating judge of a matter related to the application of a security measure.

(2) The person directing the proceedings for ensuring defence in a separate procedural action shall invite an advocate in conformity with the schedule of the advocates on duty compiled by the senior of the sworn advocates of the territory of the relevant court process.

(3) The person directing the proceedings shall invite a defence counsel in accordance with the procedures laid down in Paragraph two of this Section, if an investigative action with the participation of a minor needs to be performed and the defence counsel of the minor with whom the agreement has been entered into cannot arrive within the nearest four hours.

[19 June 2008; 27 September 2018]

#### **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 specific 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 completion of an operation and independent of the defendant, to use 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 use arises directly from the performed operation and complies with the co-ordinated defence position of the defendants.

(4) A defence counsel, using 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 or person with diminished mental capacity has the right to defence;

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 defence is held by a person who is not able to completely use his or her procedural rights due to a mental or other health impairment;

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

(2) [30 March 2017]

(3) During a trial the participation of a defence counsel is mandatory, if a case is examined while the accused is absent (in absentia) or without the participation of the accused, as well as if the trial is taking place under the proceedings regarding the application of coercive measures on a legal person, whereby such proceedings are isolated in separate records, and the representative of the legal person does not participate in the trial.

[12 March 2009; 21 October 2010; 14 March 2013; 23 May 2013; 30 March 2017]

### **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 retained the defence counsel and signed the agreement.

(2) The Cabinet shall determine the amount of payment and reimbursable expenses related to the provision of the ensured legal assistance, the amount and expenses thereof to an advocate for the provision of legal assistance, provided by the State, to a person who has not entered into an agreement regarding defence.

[19 June 2008]

### **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 whose representative must mandatory participate in criminal proceedings in accordance with Section 83, Paragraph one of this Law.

(2) A decision on 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 trial.

[30 March 2017]

### **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 and receive, in accordance with the procedures laid down in laws and regulations, information necessary for the defence of a person;

2) to participate, in accordance with the procedures corresponding to the form 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 himself or herself in criminal proceedings, in the cases of mandatory defence referred to in Section 83, Paragraph one of this Law, with all the materials of the case from the moment of the submission of the prosecution, and to receive copies of such materials;

4) to familiarise himself or herself, after completion of a pre-trial criminal proceedings, 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 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 himself 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;

2<sup>1</sup>) in the selection of simpler proceedings;

3) in the last word.

(3) A defence counsel has the right to meet with a defendant detained or arrested in conditions ensuring confidentiality, without restrictions on the number or duration of meeting times, and without the special permission of the 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.

(3<sup>1</sup>) A defence counsel, who participates in investigative actions, has the right:

1) to pose questions to a person who has the right to defence, witnesses, victims, their representatives, an expert, a specialist;

2) to familiarise himself or herself with the minutes of investigative actions and make written notes in such minutes regarding the correctness and completeness of records;

3) to ask that the questions rejected by the person directing the proceedings are registered in the minutes of investigative actions.

(4) If there is specific information on facts that testify that a defence counsel uses 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 the 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 Latvian Council of Sworn Advocates shall be notified regarding such decision.

(5) A defence counsel has an obligation to use 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 the justifying and mitigating circumstances are for a person who has the right to defence, and to provide such person with the necessary legal assistance.

(6) In appealing the ruling of a prosecutor on 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 conduct of defence without the consent of the defendant.

[12 March 2009]

#### **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) [12 March 2009];

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 conduct 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 conducts or has conducted the specific criminal proceedings;

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

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

[12 March 2009; 20 June 2018]

### **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 himself 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, it shall be explained to him or her that the person himself or herself will implement his or her defence henceforth. Refusal of a defence counsel shall be recorded in the minutes of the procedural action, and the person shall certify with his or her signature that the refusing of a defence counsel has taken place voluntarily and upon initiative of the person himself 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 persons referred to in Section 83, Paragraph one of this Law may not refuse the defence counsel.

[12 March 2009; 18 February 2016]

### **Section 89. Representative and Trusted Person 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.

(1<sup>1</sup>) When deciding on the recognition of a person as the representative, the person directing the proceedings shall take into account the ability and willingness of this person to genuinely protect interests of the minor and shall evaluate his or her suitability for the achievement of the objective of criminal proceedings. A person against whom criminal proceedings have been initiated, detained person, suspect or the accused may not be a representative.

(2) The following persons may be representatives:

1) one of the lawful representatives (mother, father, 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 member of the immediate family takes care of the minor;

3) [27 September 2018];

4) [27 September 2018].

(2<sup>1</sup>) If the person referred to in Paragraph two of this Section does not exist, cannot be reached or refuses to participate, or the person directing the proceedings has not recognised this person in accordance with Paragraph 1.1 of this Section, another person of legal age which shall be indicated by the minor may be recognised as the representative.

(2<sup>2</sup>) If the person referred to in Paragraph two of this Section or another person indicated by the minor is not recognised as the representative, a representative of an authority protecting the rights of children or such non-governmental organisation which fulfils the function of protecting the rights of children shall be recognised as the representative.

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

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

(5) A decision shall be taken without delay, but not later than within three working days.

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

(7) With the permission of the person directing the proceedings, a minor has the right to participate in procedural activities together with the trusted person, unless this person is involved in criminal proceedings.

[12 March 2009; 27 September 2018]

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

(1) If a minor person has the right to defence, 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 determining the status of the person to be represented, or a notification of the decisions taken in accordance with urgent procedures that includes their content, and information regarding his or her rights;

2<sup>1</sup>) to receive written information with an explanation of the rights of the person to be represented;

3) to submit a recusation to the official who conducts the criminal proceedings;

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) after completion of pre-trial criminal proceedings, if a security measure related to deprivation of liberty is applied to the minor, to receive copies of those materials of the criminal case to be submitted to the court, which apply to the accusation brought against the person to be represented and his or her personality, if such materials have not been issued earlier or with the consent of a prosecutor to become acquainted with these materials;

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 hearings;

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

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

11) to retain a defence counsel for the enforcement of the rights of defence.

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

[19 January 2006; 12 March 2009; 20 June 2018; 27 September 2018]

### **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, persons of legal age - a brother or sister, a son or daughter, or another member of the immediate family;

5) a representative of such non-governmental organisation that performs the function of protecting the rights of persons with mental disabilities;

6) a representative of the Orphan's and Custody Court.

(3) A representative shall be permitted to participate in criminal proceedings, or he or she shall be replaced upon a decision of the 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 specific persons to truly protect the interests of the person in a state of incapacity, as well as take into account the opinion of the person to be represented insofar as it is possible.

(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 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 on 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.

*[12 March 2009; 29 May 2014; 30 March 2017]*

### **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 submit a recusation to the official who conducts the criminal proceedings;

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) after completion of pre-trial criminal proceedings, to receive copies of those materials of the criminal case to be submitted to the court, which directly apply to a criminal offence committed by a person to be represented, if such materials have not been issued earlier or with the consent of a prosecutor to become acquainted with these materials of the criminal case;

5) *[19 January 2006]*;

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

7) to participate in closed court hearings;

8) to familiarise himself or herself with court rulings, and to appeal such rulings 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 committing of a criminal offence.

*[19 January 2006; 12 March 2009; 20 June 2018]*

### **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 governing the activities of the legal person;

2) a natural person, on the grounds 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 victim in the specific criminal proceedings, or the personal interests of whom or of the immediate family of whom are in conflict with the interests of the legal person to be represented.

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

(5) Failure of the representative to participate in the proceedings shall not be an obstacle for the continuation with the proceedings.

(6) If a person has been a witness earlier in the same proceedings, the person directing the proceedings shall assess the possibility of this person to be a representative.

[12 March 2009; 14 March 2013]

#### **Section 94. Rights of a Legal Person in Proceedings Regarding the Application of a Coercive Measure**

(1) The rights of a legal person shall be exercised by the representative thereof. From the time when a person is permitted to participate in the proceedings regarding the application of a coercive measure as the representative of a legal person according to the decision of the person directing the proceedings, such person has the right:

1) to receive a copy of such decision by which the proceedings regarding the application of a coercive measure have been initiated;

2) to retain a defence counsel at the expense of the legal person for full enforcement of rights;

3) [20 June 2018];

4) to submit a recusation to the official who conducts the criminal proceedings;

5) to file applications regarding the performance of investigative actions and participation therein;

6) to participate in the investigative actions that are performed subject to the application by the person or the defence counsel, unless such participation interferes with the performance of the investigative actions or infringes the rights of another person;

7) to receive a reasoned decision if the representative of the legal person is refused the participation in the investigative actions performed subject to his or his request of the request of the defence counsel;

8) to become familiar with the opinion of the expert-examination after receipt thereof, if the expert-examination has been performed subject to the application of the person;

9) to file complaints in the cases, within the terms and in accordance with the procedures laid down in the law regarding action of an official authorised for the conduct of proceedings;

10) to appeal the procedural decisions in the cases, within the terms and in accordance with the procedures laid down in the law;

11) to express his or her attitude with regard to an expressed assumption orally or in writing;

12) to testify or refuse to testify;

13) to require that measures for regulation of criminal legal relations are taken with the consent of the person;

14) to reach a settlement with the victim;

15) to file an application for termination of the proceedings;

16) to express a wish to co-operate with the officials who conduct the proceedings;

17) to receive copies of the materials of the criminal case to be handed over to the court after completion of pre-trial proceedings, which refer to the particular legal person, upon an application thereof, unless such copies have been issued earlier; or to become familiar with such materials subject to the consent by the prosecutor;

18) to withdraw the complaints of the defence counsel;

19) to agree or disagree to the termination of the proceedings by applying the prosecutor's penal order regarding a coercive measure.

(2) In the court, the representative of a legal person has the same rights as an accused.

[14 March 2013; 20 June 2018]

#### **Section 94.<sup>1</sup> Duties of the Representative of a Legal Person in Proceedings Regarding the Application of a Coercive Measure**



From the time when a person is permitted to participate in the proceedings regarding the application of a coercive measure as the representative of a legal person according to the decision of the person directing the proceedings, such person has a duty:

- 1) to arrive at the specified time at the place indicated by an official authorised to conduct the proceedings, if the summoning has been made in accordance with the procedures laid down in the law;
- 2) not to delay or interfere with the progress of the proceedings;
- 3) to conform to the specified procedures during the performance of procedural actions.

[14 March 2013]

## 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, one of the members of the immediate family of the deceased may be the victim in criminal proceedings.

[12 March 2009; 18 February 2016]

### Section 96. Recognition as a Victim

(1) A person shall be recognised as a victim by the person directing the proceedings, with his or her decision which may also be written in the form of a resolution.

(2) The 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 consent of such person or his or her representative. A person who does not want to be a victim shall obtain the status of a witness. If a person, due to physical or mental deficiencies, is not able to express his or her will to be a victim by himself or herself, the person shall be recognised as a victim without his or her consent.

(4) A court may recognise a person as a victim during the trial of a criminal case up to the commencement of a court investigation in a court of first instance, if such request is submitted to a court. A decision of the court shall be entered in the minutes and it shall not be subject to appeal.

(5) If a victim has died after commencement of a court investigation in a court of first instance or during examination of a case in an appellate court, and a request of a person referred to in Section 95, Paragraph three of this Law has been applied to a court, the court may recognise such person as a victim. A decision of a court shall be recorded in the minutes and it shall not be subject to appeal. In such case the trial shall not be commenced de novo, but a victim upon his or her application has the right to familiarise himself or herself with the materials of a criminal case and the minutes of a court hearing.

[12 March 2009; 14 January 2010; 18 February 2016]

### Section 96.<sup>1</sup> Specially Protected Victim

(1) The following victims shall be specially protected:

- 1) a minor;
- 2) a person who is not able to completely exercise his or her procedural rights due to a mental or other health deficiencies;
- 3) a person who has suffered from a criminal offence directed against the morality or sexual inviolability of a person, or from human trafficking;
- 4) a person who has suffered from a criminal offence related to violence or threat of violence and committed by a member of the immediate family, former spouse of the victim or by a person with whom the victim has been in a continuous intimate relationship;

5) a person who as a result of a criminal offence has been, possibly, inflicted serious bodily injuries or mental impairments;

6) a person who has suffered from a criminal offence, possibly, committed due to racial, national, ethnic, or religious reasons.

(2) By a decision of the person directing the proceedings also a victim who is not referred to in Paragraph one of this Section, but who, due to the harm inflicted as a result of a criminal offence, is particularly vulnerable and is not protected from repeated threat, intimidation, or revenge, shall be recognised as a specially protected victim.

(3) Information regarding the status of a specially protected victim shall be indicated in the decision to recognise a person as a victim. The decision taken shall be notified to the victim and his or her representative, if any. The court shall recognise a victim as specially protected in accordance with the procedures laid down in Section 96, Paragraph four of this Law.

(4) If the circumstances referred to in Paragraph one or two of this Section have become known after a decision has been taken to recognise a person as a victim, the person directing the proceedings may take a decision to determine the status of a specially protected victim as soon as he or she has become aware of such circumstances. The decision taken shall be notified to the victim and his or her representative, if any.

(5) A specially protected victim may participate in procedural activities, with a permission of the person directing the proceedings, together with the trusted person, unless it is a person against whom criminal proceedings have been initiated, a detained, a suspect, or an accused.

(6) A specially protected victim may request and receive information regarding release or escape of such arrested or convicted person from a place of imprisonment or a place of temporary detention who has inflicted harm to him or her, if there is a threat to the victim and there is not risk of harm to the arrested or convicted person. Such request may be notified until making of a final ruling in criminal proceedings.

*[18 February 2016; 27 September 2018]*

#### **Section 97. General Principles of the Rights of a Victim**

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

(2) A victim may enforce 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 harm was caused to him or her.

(3) *[18 February 2016]*

(3<sup>1</sup>) *[18 February 2016]*

(4) A victim - natural person may implement the rights thereof himself 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) *[18 February 2016]*

(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) *[18 February 2016]*

(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.

(10) Until ascertaining the age of a victim regarding whose legal age there are doubts, the victim shall have the rights of a minor victim.

(11) The representative of the victim or provider of legal aid ensured by the State shall participate in the case from the moment of accepting the task until the termination of criminal proceedings.

*[12 March 2009; 29 January 2015; 18 February 2016; 27 September 2018]*

#### **Section 97.<sup>1</sup> Fundamental Rights of a Victim in Criminal Proceedings**

(1) A victim has the following rights:

1) to receive information regarding the conditions for applying for and receipt of a compensation, including State compensation and to submit an application regarding compensation for the harm inflicted in accordance with the procedures laid down in this Law;

2) to participate in criminal proceedings, using the language in which he or she is fluent, if necessary, using the assistance of an interpreter without remuneration;

3) to not testify against himself or herself or against his or her immediate family;

4) to settle with a person who has inflicted harm to him or her, as well as to receive information regarding implementation of the settlement and its consequences;

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

6) to submit an application for taking measures in case of a threat to the person himself or herself, his or her immediate family or property;

7) in the cases provided for in this Law to submit an application regarding reimbursement of procedural expenses which have arisen during criminal proceedings;

8) to submit a complaint in the cases, within the terms and in accordance with the procedures laid down in this law regarding a procedural ruling or an action of an official authorised for the conduct of criminal proceedings;

9) to receive contact information for communication regarding the particular criminal proceedings;

10) to receive information regarding the support and medical assistance available;

11) to request information regarding the direction of the criminal proceedings, regarding the officials who conduct or have conducted criminal proceedings.

(1<sup>1</sup>) During testifying a victim shall have the same rights as a witness.

(2) A victim, his or her guardian or trustee has the right, in all stages of criminal proceedings and in all forms thereof, to request that a European protection order is issued, if the grounds for taking a European protection order laid down in this Law exist.

(3) As soon as the person is recognised a victim, he or she shall, without delay, be issued and, if necessary, explained the information regarding the fundamental rights of the victim. The victim shall confirm with his or her signature that the information has been issued and, if necessary, the rights have been explained.

*[18 February 2016; 30 March 2017; 20 June 2018; 11 June 2020]*

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

(1) A detained person has the fundamental rights laid down in Section 97.<sup>1</sup> of this Law in pre-trial criminal proceedings, as well as the right:

1) to submit a recusation to the official who conducts the criminal proceedings;

2) [12 March 2009];

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

4) to familiarise himself or herself with a decision to determine 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) [18 February 2016];

7) [18 February 2016];

8) after completion of pre-trial criminal proceedings, 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, if such materials have not been issued earlier, or with the consent of a prosecutor to become acquainted with these materials of a criminal case;

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 attached to the criminal case (primary documents);

11) to receive a written translation in the cases provided for in the law.

(1<sup>1</sup>) A victim in criminal proceedings regarding a criminal offence related to violence or directed against gender inviolability or morality has the right to request the person directing the proceedings to inform him or her regarding the progress of the criminal proceedings in the part regarding such criminal offence, by which he or she was caused harm.

(2) [11 June 2020]

[19 January 2006; 12 March 2009; 29 May 2014; 18 February 2016; 20 June 2018; 11 June 2020]

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

(1) A victim in a court of first instance has the fundamental rights laid down in Section 97.<sup>1</sup> of this Law, as well as the right:

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 himself or herself in 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 himself or herself with a court ruling and the minutes of a court hearing;

9) [18 February 2016].

(2) In addition to the rights laid down in Paragraph one of this Section a specially protected victim may request that his or her participation and hearing in a court hearing takes place using technical means.

[19 January 2006; 18 February 2016]

### **Section 100. Rights of a Victim in an Appellate Court**

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

(2) In a court hearing, 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.

(2<sup>1</sup>) If a decision has been taken to examine the case in a written procedure, a victim has the right to submit a recusation to the composition of the court, or an individual judge, as well as submit objections against trial of the case in a written procedure.

(3) A victim has the right to receive a ruling of an appellate court on the day specified by the court, and to submit a cassation complaint.

[12 March 2009]

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

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

(2) If a complaint is examined in a written procedure in a cassation court, 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 reasoned request for the examination of a complaint in the oral procedure in an open court hearing in his or her presence.

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

#### **Section 102. Victim in a Private Prosecution Case**

[21 October 2010]

#### **Section 103. Duties of a Victim**

(1) A victim has the obligation to arrive at the time and place indicated by an official authorised to conduct criminal proceedings, and to participate in an investigative action. During testifying a victim shall have the same duties as a witness.

(2) A victim does not have a duty to use 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.

(3) Upon a request of the person directing the proceedings, a victim has an obligation to immediately notify in writing the postal or electronic address for the receipt of his or her consignments. By this notification a victim undertakes to receive consignments within 24 hours sent by officials conducting criminal proceedings and to arrive without delay on the basis of a summon of the person directing the proceedings or perform other referred to criminal-procedural obligations.

[12 March 2009; 11 June 2020]

#### **Section 104. Persons who may be the Representative of a Victim - Natural Person**

(1) A victim - natural person of legal age may be represented by any natural person of legal age who is not subject to trusteeship, on the grounds of the authorisation of the victim, which is drawn up as a notarially certified power of attorney. If the victim has expressed the authorisation orally, the person directing the proceedings shall draw it up in writing. Such power of attorney shall be signed by the victim and the representative, and the person directing the proceedings shall certify the signatures of the parties. An oral authorisation expressed during a court hearing shall be recorded in the minutes of the court hearing. An order shall certify the right of an advocate to participate in the criminal proceedings as a representative.

(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, a brother or sister of legal age, if the minor has lived together with one of such persons and the relevant member of the immediate family takes care of the minor;

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

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

(2<sup>1</sup>) If harm has been caused to a minor who stays in the Republic of Latvia without the presence of the persons referred to in Paragraph two of this Section, the victim may be represented by such person of legal age who during the time of stay in the Republic of Latvia is responsible for the minor.

(3) If harm has been inflicted to a person who is subject to trusteeship due to mental or other health impairment, the victim shall be represented by his or her trustee, any of the persons referred to in Paragraph two of this Section, or a representative of such non-governmental organisation who carries out protection of the interests and rights of persons with mental impairments.

(3<sup>1</sup>) If harm has been inflicted to a person who due to physical or mental impairments has been recognised a victim without his or her consent, the victim shall be represented by any of his or her relatives.

(4) In the cases referred to in Paragraphs two, 2.<sup>1</sup>, three, and 3.<sup>1</sup> 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 reasoned request, the person directing the proceedings shall take a decision on retaining of an advocate as the representative of a minor victim. In exceptional

cases, the person directing the proceedings shall take a decision on retaining of the representative - advocate of a victim - a person in need or low-income person of legal age, if it is otherwise not possible to ensure the protection of the rights and interests of the person in criminal proceedings. The person directing the proceedings shall invite an advocate also in cases when any member of the immediate family is not able to represent the victim referred to in Paragraph 3.1 of this Section. In such cases, the Cabinet shall determine the amount of payment for the provision of legal assistance ensured by the State and reimbursable expenses related to the provision of legal assistance ensured by the State, the amount thereof and procedures for payment.

(6) In the cases provided for in Paragraph five of this Section, the person directing the proceedings shall notify the decision on necessity to ensure a representative in criminal proceedings to the senior of the sworn advocates of the territory of the relevant court process. Not later than within three working days after receipt of the request of the person directing the proceedings, the senior of the sworn advocates shall notify the person directing the proceedings regarding the participation of the relevant advocate in criminal proceedings. The person directing the procedures, which are to be carried out immediately and in which the victim has been involved, if necessary, shall retain an advocate for ensuring representation in conformity with the schedule of the advocates on duty compiled by the senior of the sworn advocates in the territory of the relevant court process.

(7) [21 October 2010]

(8) A representative of a minor person or a victim who is subject to trusteeship due to mental or other health impairment shall be permitted to participate in criminal proceedings with a decision by the person directing the proceedings, which may also be written in the manner of a resolution.

(9) In deciding a matter regarding permission for a person to participate in criminal proceedings as a representative of a minor victim or a victim who is subject to trusteeship due to mental or other health impairment, the person directing the proceedings shall observe the sequence specified in Paragraph two of this Section, and the possibilities and desire of the specific persons to truly protect the interests of the victim.

[19 June 2008; 12 March 2009; 21 October 2010; 23 May 2013; 18 February 2016]

#### **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 governing the activities of the legal person;
- 3) on the grounds of a power of attorney issued specially for such purpose.

(2) A representative shall be permitted to participate in criminal proceedings, after submission and examination of his or her power of attorney, upon a decision of the 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 conducts or has conducted the specific criminal proceedings may not be the representative of a 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.

[20 June 2018]

#### **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 fully enforce 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 use the rights of the victim upon request of such victim.

(4) The rights of an advocate to participate in the criminal proceedings as a provider of legal assistance shall be attested by an order.

(5) Provision of legal assistance to a minor victim and the representative of a minor victim is mandatory in criminal proceedings regarding a criminal offence related to violence committed by a person, upon whom the minor victim is financially or otherwise dependent, or regarding a criminal offence against morals or sexual inviolability.

(6) If a minor victim or his or her representative has not entered into an agreement with an advocate regarding provision of legal assistance, in the case provided for in Paragraph five of this Section the person directing the proceedings shall take a decision to retain an advocate as the provider of legal assistance in accordance with the procedures provided for in Section 104, Paragraph six of this Law. In such case payment to the advocate for the provision of State ensured legal assistance and the reimbursable expenses related to the provision thereof shall be covered in accordance with Cabinet regulations governing payment for the provision of State ensured legal assistance.

[12 March 2009; 27 October 2010; 29 May 2014]

## Chapter 7 Other Persons Involved in Criminal Proceedings

### Section 109. Witnesses

(1) A witness is a person who has been summoned, in accordance with the procedures laid down in 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 trial, a victim shall provide information only in an interrogation.

(3) The person directing the proceedings may also summon as a witness an official who is or was authorised to conduct proceedings in pre-trial proceedings, except for an investigating judge or prosecutor, if such person maintains State prosecution in the specific 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 summoned 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, using the services of an interpreter, if necessary.

(3) A witness has the right:

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

2) to not testify against himself or herself or against his or her immediate family;

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 withdraws a matter regarding a private secret, and to request that the request is entered in the minutes of the court hearing if such request is rejected;

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

(3<sup>1</sup>) In all stages of criminal proceedings and in all types thereof a witness may request that a European protection order is taken, if the grounds for taking a European protection order laid down in this Law exist.

(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.

[12 March 2009; 29 January 2015; 7 October 2021]



## **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 specific criminal offence. The right to not testify is held only by the persons to whom such procedural immunity has been granted by the Constitution, this Law, and international treaties binding to Latvia.

(2) A witness has an obligation, upon a request of the person directing the proceedings, to notify his or her postal or electronic mail address for receipt of consignments in writing, as well as to arrive at the time and place indicated by the official conducting criminal proceedings, and to participate in an investigative action, if the procedures for summoning 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.

[24 May 2012]

## **Section 111.<sup>1</sup> Rights and Duties of the Owner of Property Infringed during Criminal Proceedings**

(1) If the rights to take action with a property of owner or legal possessor have been limited or deprived as a result of procedural activities and if such person does not have the right to defence provided for in this Law, the owner or legal possessor of such property shall have the following rights in the pre-trial criminal proceedings personally or through the intermediation of a representative:

- 1) to express his or her attitude orally or in writing towards decisions taken in respect of the property;
- 2) to submit applications or complaints regarding conduct or decisions of officials in respect of the property;
- 3) to retain an advocate for the receipt of legal assistance.

(2) In addition to the rights laid down in Paragraph one of this Section the owner of property infringed during criminal proceedings whose property has been seized shall have 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 himself or herself in examination of a criminal case;
- 4) to express his or her views regarding origin of the property;
- 5) to participate in an verification performed directly and orally of each piece of evidence to be verified in court;
- 6) to submit applications in relation to the property;
- 7) to speak in court debates in relation to the property;
- 8) to familiarise himself or herself with a court ruling and the minutes of a court hearing;
- 9) to appeal a court ruling regarding a property in accordance with the procedures laid down in the law.

(3) If a ruling of a court of first instance is appealed in the part which affects the rights of the owner of property infringed during criminal proceedings whose property has been seized to act with the property, the court that made the ruling shall send him or her copies of received appellate complaints or protests, but an appellate court shall notify of the time, place, and procedures for the examination of complaints or protests. In an appellate court, the owner of property infringed during criminal proceedings whose property has been seized 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.

(4) If a ruling of an appellate court is appealed in the part which affects the rights of the owner of property infringed during criminal proceedings whose property has been seized to act with the property, an appellate court shall send him or her copies of received cassation complaints or protests, but a cassation court shall notify regarding the time, place, and procedures for examination of complaints or protests. In a cassation court, the owner of property infringed during criminal proceedings whose property has been seized has the same rights as in an appellate court, as well as the right to submit written objections or views regarding the complaints of other persons, insofar it applies to his or her property.

(5) The owner of a property infringed during criminal proceedings has the obligation to, upon a request of the person directing the proceedings, notify his or her postal or electronic mail address for the receipt of consignments in writing, as well as to inform regarding the change thereof. By this notification the owner of a property infringed during criminal proceedings pledges to receive the consignments sent by the official conducting criminal proceedings within

24 hours and to arrive without delay upon a summons of the person directing the proceedings or to fulfil other referred to criminal-procedural obligation.

[22 June 2017; 27 September 2018]

### **Section 112. Advocate 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 himself or herself, except 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 conducting criminal proceedings, on the basis of the invitation of such official, using 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 knowingly providing false information.

(3) A specialist has a duty:

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

2) to provide assistance, using 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 express notes in connection with the activities that he or she has performed or the explanations that he or she has provided.

[7 October 2021]

### **Section 114. Persons - Assistants of the Person Directing the Proceedings**

(1) The assistant of a judge, the assistant of a prosecutor, the secretary of a court hearing, or an employee of the secretariat staff of the relevant institution may perform, under the assignment of the 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 investigating institutions, the office of a prosecutor, a court, and prisons shall ensure the rights of a person to use the language that such person commands. The person directing the proceedings may assign to fulfil the duty of an interpreter to another person who commands the relevant language.

(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 hearing, and an interpreter shall inform the person directing the proceedings of the conditions that may provide grounds for doubting the objectivity of a procedural action performed by such persons. The person directing the proceedings shall decide on the summoning of such persons to participate in criminal proceedings, or the dismissal thereof from criminal proceedings.

(2) Grounds for the dismissal of an interpreter or a specialist may also be insufficient professional preparedness for the fulfilment 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 special legal status of a person, information or a place specified in the Constitution, this Law, other laws and international treaties, which 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) official secret;
- 2) professional secret protected by the law;
- 3) commercial secret protected by the law;
- 4) confidentiality of the private life protected by the 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 removal 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 being received for entry into, and the performance of investigative actions in, such premises;
- 3) restrict the objects to be viewed in and removal from 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 country, 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 country of dispatch.

(7) The Prosecutor General or European Chief Prosecutor 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.

[7 January 2021]

### **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 country of dispatch.

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

(6) The country 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.

(1<sup>1</sup>) A Justice of the Constitutional Court shall have the immunity from criminal proceedings specified in the Constitutional Court Law.

(2) Only the Prosecutor General shall initiate criminal proceedings against a judge or ombudsman. A judge or ombudsman may be held criminally liable or arrested only with the consent of the *Saeima*. A decision on placing under arrest of a judge or an ombudsman, conveyance by force, detention, or subjection to a search shall be taken by a specially authorised Supreme Court judge. If a judge or ombudsman has been apprehended in the committing of a serious or especially serious crime, a decision on 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 24 hours.

(3) [16 June 2009]

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

(5) An official of a State security institution, the Internal Security Bureau, and the Corruption Prevention and Combating Bureau may be detained, conveyed by force, 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 24 hours.

(6) In order to hold a person who has immunity from criminal proceedings criminally liable, a prosecutor shall submit a proposal to the 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; 22 November 2007; 12 March 2009; 16 June 2009; 8 July 2015; 11 June 2020]

## **Section 121. Professional Secrets Protected by Criminal Proceedings**

(1) The rights to not testify shall not be restricted, and personal notes shall not be removed, 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 invited by the person directing the proceedings or a person who has the right to defence, or an advocate for ensuring the right to defence, if they have notified the person directing the proceedings thereof in writing, indicating the following necessary information regarding the interpreter: the identifying data, the place of practice or the declared place of residence.

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

1) to interrogate a judge and to remove his or her personal notes regarding a secret of the deliberations room;

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

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

1) for the inspection and removal of secret or top secret documents containing an official secret;

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

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

(4) A medical treatment institution shall provide information regarding a patient and a psychologist shall provide information obtained upon fulfilment of the professional duties only on the basis of a written request of the person directing the proceedings.

(5) During the pre-trial proceedings, undisclosed information that is at the disposal of credit institutions or financial institutions or documents that contain such information may be requested therefrom or transactions in the accounts of the customers of credit institutions or financial institutions may be monitored for a definite period of time only by a decision of the person directing the proceedings which has been approved by the investigating judge. Transaction in the account of a client of a credit institution or financial institution may be monitored for a period of time up to three months, but, if necessary, the investigating judge may extend the time period for a period of time up to three months. The abovementioned decisions shall not be subject to appeal.

(5<sup>1</sup>) During the pre-trial proceedings, the information that is at the disposal of sworn auditors regarding the facts which have become known to them during the provision of professional services may be requested therefrom or they may be interrogated regarding such facts, or the inspection or removal of such documents which are at the disposal of the sworn auditor or commercial company of sworn auditors, except for the information referred to in Paragraph five of this Section, may be performed by an investigator with the consent of a supervising prosecutor or by a prosecutor.

(6) A mediator of the State Probation Service has the right not to testify regarding settlement proceedings, as well as regarding the behaviour of the parties involved and third parties during the settlement meeting, except in cases when information regarding another criminal offence is revealed during the settlement proceedings.

[19 January 2006; 14 January 2010; 23 May 2013; 19 December 2013; 29 May 2014; 27 September 2018; 11 June 2020; 19 November 2020; 7 October 2021]

## **Section 122. Immunity of an Advocate**

(1) The following shall not be permitted:

1) to interrogate 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 remove 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 remove 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 activity 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 evidence.

#### **Section 124. Objects of Evidence**

(1) Objects of evidence 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 specific criminal-legal relations.

(3) Related facts are not conditions to be proven in criminal proceedings, but are connected thereto, and provide grounds 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 use such evidence in proving, shall be justified with auxiliary facts.

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

(6) In criminal proceedings and in proceedings regarding criminally acquired property, the conditions included in an object of evidence in relation to the criminal origin of the property shall be considered proven if there are grounds to recognise during the course of proving that a property is, most likely, of criminal rather than lawful origin.

(7) In order to prove the laundering of proceeds from crime, there is no need to establish the specific predicate criminal offence.

*[22 June 2017; 20 June 2018; 21 November 2019]*

#### **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) generally known facts;

2) facts determined in another criminal proceedings with a court judgment or the prosecutor's penal order that has entered into effect;

3) the fact of an administrative offence recorded in accordance with the procedures laid down in the 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 laws and regulations;

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;

7) the fact established by a court ruling which has come into effect that the property is criminally acquired or related to a criminal offence.

(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.

(3) It shall be considered proven that the property with which laundering activities have been performed is criminally acquired if a person involved in criminal proceedings is not able to believably explain the legality of origin of



the relevant property and the totality of evidence provides grounds for the person directing the proceedings to assume that a property is, most likely, of criminal origin.

[12 March 2009; 21 November 2019]

### **Section 126. Subjects of Evidence and the Duty of Proving**

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

(2) The person directing the proceedings has the duty of proving in pre-trial criminal proceedings, and the 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-conformity with reality of such fact.

(3<sup>1</sup>) If a person involved in criminal proceedings affirms that the property is not considered as criminally acquired, such person shall have a duty to prove the legality of the origin of the relevant property. If the person does not provide credible information regarding the legality of the origin of the property within a specific time period, such person is forbidden to receive compensation for the harm caused thereto in relation to the restrictions imposed within the criminal proceedings to act with this property.

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

[22 June 2017; 21 November 2019]

### **Section 127. Evidence**

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

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

(3) Information regarding facts acquired in operational activities measures, including information which indicates the committing of a criminal offence committed by another person, also 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 laid down in this Law.

(4) If the information referred to in Paragraph three of this Section is used as evidence in criminal proceedings, a reference shall be attached thereto regarding which institution, when and for what time period has accepted the performance of operational activities measures. A reference shall be issued to the person directing the proceedings by the head of the institution which has accepted the performance of the operational activities measure or an official authorised by him or her.

[12 March 2009; 11 June 2020]

### **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 specific 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 laid down 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 specific 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 an interrogation or questioning by a person regarding the circumstances to be proven in the criminal proceedings, and the facts and auxiliary facts connected thereto.

(2) Testimony is also a report, submission or explanation regarding the criminal offence, specific facts and circumstances written and signed by the person himself or herself and addressed to an investigating institution, office of the prosecutor, or court.

(3) If a person had the right, in the cases determined in this Law, to refuse to provide testimony, and the person was informed regarding such right, but nevertheless did provide such testimony, then such testimony shall be assessed as evidence.

*[12 March 2009; 21 October 2010; 20 June 2018]*

### **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 specific 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 the 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 laws and regulations.

(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 the competent authority in criminal proceedings.

(3) A statement issued by the competent authority 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 the competent authority.

### **Section 134. Material Evidence**

(1) Material evidence in criminal proceedings may be anything that was used as an object 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. The same thing may be a material evidence in several criminal proceedings.

(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.

[12 March 2009; 22 June 2017]

#### **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 specific criminal proceedings.

(2) A person authorised to conduct 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 conducted without delay in cases where such investigative action is not deferrable because such course of action may lead to the loss of essential evidence, and jeopardises the achievement of the objective of criminal proceedings.

(2) At the beginning of an investigative action, the performer thereof shall inform a person involved in the specific proceedings of his or her rights and obligations, and shall notify of the liability for the failure to fulfil his or her obligations. 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 in cases where such information is necessary for proving.

(5) An investigative action may be performed by using technical means in accordance with the procedure specified in Section 140 of this Law, as well as if it is necessary by inviting an expert, auditor or specialist.

(6) The trial at which the special features of investigative actions are performed shall be determined by Divisions Eight through Eleven of this Law.

(7) In performing the procedural actions, communication between the victim and his or her immediate family with the person who has the right to representation shall be avoided as much as possible, unless such communication is necessary for achieving the objectives of criminal proceedings.

[12 March 2009; 18 February 2016]

#### **Section 140. Performance of an Investigative Action by Using Technical Means**

(1) The person directing the proceedings may perform an investigative action by using technical means (teleconference, videoconference) if the interests of criminal proceedings require such use.

(2) During the course of a procedural action using 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.

(2<sup>1</sup>) In the case referred to in Paragraph two of this Section the person directing the proceedings shall authorise or assign the head of the institution located in the second place of the occurrence of the procedural action to authorise a person who will ensure the course of the procedural action at his or her location (hereinafter - authorised person).

(3) In commencing a procedural action, the 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 authorised persons 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 using 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) The authorised person 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.

(6) The person directing the proceedings shall inform the persons who participate in procedural actions regarding the rights and duties thereof, and in the cases provided for by law shall notify of the liability for the non-execution of the duties thereof and initiate an investigative action.

(7) The authorised person 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 identifying data and address of each person present at the place of the occurrence of such procedural action, and also 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 the person directing the proceedings for attachment to the minutes of the procedural action.

(7<sup>1</sup>) That specified in Paragraphs 2.<sup>1</sup>, five, and seven of this Section need not be conformed to, if the person directing the proceedings has the possibility of ascertaining the identity of the person located in another room or building, using technical means. In pre-trial proceedings the procedural action shall be recorded in accordance with the procedures laid down in Section 143 of this Law.

(8) The investigative actions performed using technical means shall be recorded in pre-trial proceedings in accordance with the procedures laid down in Section 143 of this Law, and other procedural actions shall be recorded in accordance with the procedures laid down in Section 142 of this Law. During trial of a case, the procedural actions performed using technical means shall be recorded in the minutes of a court hearing.

*[21 October 2010; 11 June 2020; 7 October 2021]*

#### **Section 141. Recording of an Investigative Action**

(1) An investigative action shall be recorded in minutes, sound or sound and image recording.

(2) *[20 June 2018]*

(3) In the cases determined in this Law, the progress and results of an investigative action may be recorded only in a conclusion, report, or account.

*[20 June 2018]*

#### **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 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 or, due to physical deficiencies or other reasons, is not able to sign, an entry shall be made in the minutes regarding such refusal specifying the reasons and motives.

(5) Before signing, each person is entitled to request that corrections and additions be made in the minutes, or that such person make additions himself or herself.

[12 March 2009]

#### **Section 143. Use of a Sound, Sound and Image Recording**

(1) The performer of the investigative action, by recording the course of the investigative action in a sound or sound and image recording, shall notify the persons who participate in the investigative action of such recording before the commencement of the investigative action.

(1<sup>1</sup>) When commencing a sound or sound and image recording of the investigative action, the following shall be recorded therein:

1) the investigative action to be conducted;

2) the place and date of the occurrence of the action;

3) the time when the action was commenced;

4) the position, given name, and surname of the performer of the procedural action;

5) the identifying data of the person who participates in the investigative action, while for the advocate - the given name, surname, place of practice, and procedural status;

6) informing the person of his or her rights and obligations, in the cases provided for in the law - warning of liability for the failure to fulfil the obligations.

(2) The whole course of the investigative action, as well as the time when the action was completed shall be recorded in the recording. A partial recording shall not be allowed.

(2<sup>1</sup>) In investigative actions which cover a wide territory or premises or which are to be performed within an extended time period a recording may be made partly fixing only the information and facts possibly related with the criminal offence to be investigated.

(3) Information recorded in a sound or sound and image recording shall be recognised as more precise and more complete in comparison with information recorded in writing.

(4) A report shall be prepared on the investigative action recorded in the sound or sound and image recording where the most essential facts established during the investigative action shall be indicated. The report shall be prepared within seven days after completion of the investigative action.

(5) The sound or sound and image recording of an investigative action shall be stored together with the criminal case.

[12 March 2009; 20 June 2018; 7 October 2021]

#### **Section 144. Use of Scientific-technical Means in Investigative Actions**

(1) Scientific-technical means may be used in investigative actions.

(2) The use of scientific-technical means in investigative actions is prohibited, if such use 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 and the consequences of not attending.

(2) A person arrested shall be summoned to an interrogation through the intermediation of the institution in which such person is held. A person arrested 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 and Custody Court. If conditions exist that justifiably prohibit or hinder the use of such summoning procedure, the minor shall be summoned without using 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.

[12 March 2009; 30 March 2017]

#### **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 identifying data of the persons to be interrogated 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 attached 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 attached 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 testimonies in the relevant matter of a person being interrogated have been recorded in the minutes.

(6) The reading or playing back of prior testimony of the person being interrogated shall be allowed if:

1) there are substantial contradictions between prior testimony and current testimony;

2) the person being interrogated refuses to testify; or

3) the case is being examined in court in the absence of the person being interrogated.

(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 interrogation thereof.

[20 June 2018; 7 October 2021]

#### **Section 148. Length of an Interrogation**

(1) The length of an interrogation of a person of legal age without the consent of such person shall not exceed eight hours during a twenty-four-hour term, including an interruption.

(2) An interrogation of a minor shall be conducted in accordance with the provisions of Sections 152 and 153 of this Law.

#### **Section 149. Recording of an Interrogation**

(1) A testimony provided in an interrogation shall be recorded in minutes, sound or sound and image recording.

(2) If a testimony is recorded in the minutes, it shall be written in the first person. Upon a request of the person to be interrogated, he or she may write the testimony in the minutes by hand himself or herself.

[20 June 2018]

#### **Section 150. Interrogation of a Person which has the Right to Defence**

At the beginning of first interrogation of a person which has the right to defence:

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, unless such data have been already found out in the specific criminal proceedings;

2) the procedural situation of the person shall be explained to such person, and a copy of the document (if such document is provided for in the Law) that determines such procedural situation, or a notification in which the content of the document has been included shall be issued, if it has not already been issued to such person in the specific criminal proceedings;

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 specific criminal proceedings;

4) the rights of the person to not testify shall be explained to such person, such person shall be notified that everything that he or she says may be used against such person, as well as such person shall be informed of the consequences of knowingly giving false testimony.

[12 March 2009; 18 February 2016; 20 June 2018; 11 June 2020]

### **Section 151. Interrogation of Witness, Victim, Representative and Owner of Property Infringed during the Criminal Proceedings**

(1) Before an interrogation, the rights and duties of a witness, victim, a representative provided for in this Law and owner or legal possessor of property infringed during the criminal proceedings shall be explained to him or her and he or she shall be notified regarding the liability for refusing to testify or for knowingly giving false testimony.

(2) Witnesses and victims may be interrogated regarding all the circumstances and regarding any person involved in the criminal proceedings if the information provided is or may be significant in a case. If it is established during interrogation of a witness that there are grounds for changing the procedural status of the witness, determining that he or she is a person who has the right to defence, the interrogation of such person in the status of a witness shall be discontinued.

(2<sup>1</sup>) A submission expressed by a person in oral form regarding a criminal offence may be recorded in the protocol of interrogation.

(3) A representative and an owner of the property infringed during the criminal proceedings shall be interrogated, observing the provisions for interrogation of a witness, however, such persons shall not lose the status of the representative or the owner of the property infringed during the criminal proceedings.

(4) The interrogation of a victim is conducted as soon as possible. The number of interrogations is as small as possible. The interrogation of a victim shall be performed, as much as possible, by the same person.

[12 March 2009; 21 October 2010; 18 February 2016]

### **Section 151.<sup>1</sup> Special Features of Interrogation of a Specially Protected Victim in Pre-trial Criminal Proceedings**

(1) Interrogation of a specially protected victim is performed in a separate room appropriate for such purposes or without the presence of persons not related to the particular procedural action.

(2) Interrogation of such person who has been recognised as a victim of violence committed by a person upon whom the victim is dependent financially or otherwise, a victim of human trafficking, or a criminal offence directed against morality or sexual inviolability of the person, shall be conducted by a performer of an investigative action of the same gender. The abovementioned condition need not be conformed to, if the victim himself or herself or his or her representative agrees thereto. If the victim of a criminal offence directed against morality or sexual inviolability of a person and the person who has the right to defence is of the same gender and if it is requested by the victim or his or her representative, the interrogation shall be performed by a performer of an investigative action of the opposite gender.

[18 February 2016]

### **Section 152. Special Features of an Interrogation of a Minor**

(1) The course of interrogation of a minor shall be recorded in a sound and image recording, if it is in the best interests of the minor and if it is necessary for achieving the objective of criminal proceedings. The course of interrogation of a minor who has been recognised as a victim of violence committed by a person upon whom the victim is dependent financially or otherwise, a victim of human trafficking, or a criminal offence directed against morality or sexual inviolability of the person, shall be recorded in a sound and image recording, except when it is in contradiction with the best interests of the minor or hinders the achievement of the objective of criminal proceedings. The length of an interrogation of a minor without the consent of such minor may not exceed six hours, during a twenty-four-hour term, including an interruption.



(2) A minor shall be interrogated by a performer of an investigative action who has special knowledge regarding communication with a minor during criminal proceedings. If the performer of an investigative action has not acquired special knowledge regarding communication with a minor during criminal proceedings or if the performer of an investigative action deems it necessary, the minor shall be interrogated in the presence of a pedagogue or a psychologist. The representative of a minor has the right to participate in interrogation if the minor does not object thereto. 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 knowingly giving false testimony.

(4) If a psychologist indicates to the person directing the proceedings that the psyche of a person who has not reached 14 years of age or the psyche of a minor who has been recognised as a victim of violence committed by a person upon whom the victim is financially or otherwise dependent, a victim of human trafficking or criminal offence against morals or sexual inviolability, may be harmed by repeated direct interrogation, such direct interrogation shall be conducted only with the permission of the investigating judge, but in a court - with a court decision.

[12 March 2009; 20 December 2012; 29 May 2014; 18 February 2016; 27 September 2018 / See Paragraph 59 of Transitional Provisions]

### **Section 153. Interrogation 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 or the psyche of a minor who has been recognised as a victim of violence committed by a person upon whom the victim is financially or otherwise dependent, a victim of human trafficking or criminal offence against morals or sexual inviolability, may be harmed by a direct interrogation, it may be performed with the intermediation of technical means and a psychologist. If an investigator or prosecutor does not agree, the direct interrogation shall be performed only with the permission of the investigating judge, and in a court - with a court decision.

(2) The 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 specific 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 the person to be interrogated has reached 14 years of age, the 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 of the 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 interrogation shall be recorded in accordance with the requirements of Sections 141-143 of this Law. A person to be interrogated who has not reached the age of 14 shall not sign minutes.

[12 March 2009; 20 December 2012; 29 May 2014]

### **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 on the proposal of an investigator or prosecutor, having listened to the submitter of the proposal, or a mass-media journalist or editor, and having familiarised himself or herself with the materials.

(3) An investigating judge shall take a decision on 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 within 10 days by a higher-level court judge in a written procedure the decision of which shall not be subject to appeal.

[12 March 2009]



### **Section 155. Questioning**

(1) If the fact that a testimony has not been recorded in detail does not threaten the achievement of the objective of criminal proceedings, information regarding the facts included in the object of evidence may also be acquired in accordance with the questioning procedures. Such information (also clarifying information regarding the amount of the loss caused) which does not affect the legal qualification of the criminal offence may be recorded in the questioning.

(2) During a questioning, the performer of an investigative action shall ascertain the identity of the person to be questioned, explain his or her rights and obligations, and find out the information significant to the investigation known to such person, or the non-existence of such information.

(3) [12 March 2009]

(4) 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 of the questioning or the fact that the questioning takes place, using means of communication, and the date, 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 used scientific-technical means;

(5) Several testimonies may be reflected in one report.

(6) The report shall not be written, if the questioning has been performed, using electronic mail. Correspondence with the person shall be appended to the case materials.

[12 March 2009; 20 June 2018]

### **Section 156. Interrogation of an Expert and an Auditor**

(1) The 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 used 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 the criminal proceedings;

4) ascertain the qualification of the expert or auditor.

(2) An interrogation of an expert or an auditor shall be performed in conformity with the provisions of an interrogation of a witness, however such persons shall not lose their status of an expert or an auditor.

[12 March 2009]

### **Section 157. Confrontation**

(1) Confrontation is the simultaneous interrogation of two or more persons which is carried out if there are substantial contradictions in the previous testimonies of such persons.

(2) [20 June 2018]

[20 June 2018]

### **Section 158. Confrontation Procedure**

(1) Confrontation shall take place in conformity with the provisions of an interrogation, 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.

(5) The previous testimonies of a confronted person may be read only after testimony that he or she has provided during the confrontation has been recorded.

(6) Each confronted person shall sign his or her testimony, except when only a sound or sound and image recording has been made.

(7) If a person for whom special procedural protection has been specified participates in a confrontation, the confrontation shall be conducted in conformity with the provisions provided for in Division Four of this Law.

[20 June 2018]

### **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 specific 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 conformity 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 conduct criminal proceedings. Each official shall record the course of inspection separately, indicating the borders and inspection results of each specific inspected object.

(6) An inspection of automated data processing system (a part thereof) shall not be usually performed on site, but such system (a part thereof) shall be removed, ensuring retaining of data completeness in unmodified condition.

[12 March 2009]

### **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 its removal, 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) The 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, the person directing the proceedings may assign him to perform an inspection and remove 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 specific place and the objects located therein, if such inspection is performed after 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 conformity 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 investigative action 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 specific 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, may be performed only with the consent of the user of such terrain, premises, or vehicle, or a decision of an investigating judge.

(2<sup>1</sup>) In exceptional cases the inspection specified in Paragraph two of this Section, unless it is the inspection of the location of an event, may be performed by a decision of a person directing the proceedings. An investigator shall perform the inspection by a consent of a prosecutor. The person directing the proceedings shall, not later than on the next working day, notify the investigating judge of the inspection conducted by presenting the inspection protocol and materials justifying the necessity and emergency of the inspection.

(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.

[12 March 2009]

### **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 performance of a forensic-medicine expert-examination, if, during pre-trial proceedings, the consent of a prosecutor has been received, or if, during 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 member of the immediate family of the deceased person, or, during pre-trial proceedings, with a decision of the investigating judge, or, during trial, with a court decision.

[12 March 2009]

### **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 the 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 grounds 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 himself 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 the person directing the proceedings assigns another person to perform an examination, he or she shall take a decision on 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 conformity with the provisions of an inspection, except for the provisions of 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 the specific 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 achievement of the objective of criminal proceedings, such examination may be performed with the consent of a prosecutor, notifying the investigating judge of 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 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 on 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**

The on-site examination of testimonies is an investigative action the content of which is an interrogation of a person regarding a fact provided in earlier testimonies, 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.

[20 June 2018]

#### **Section 174. Procedures for Conducting an On-site Examination**

(1) the on-site examination of testimonies is conducted with the participation of the person who has previously provided a testimony.

(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 specific fact is determined, the performer of an investigative action shall summon the person being interrogated to explain the reason for such contradiction.

[20 June 2018]

#### **Section 175. Presentation for Identification**

(1) Presentation for identification is an investigative action whose content is the demonstration of an object to a victim, a person against whom the criminal proceedings have been commenced, a detained person, 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.

[12 March 2009]

#### **Section 176. Interrogation prior to Presentation for Identification**

Prior to the presentation of an object for identification, a person shall be interrogated 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 identify such object. The inability of the person being interrogated 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 himself 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 determined for an identifier, and such protection is necessary for the security thereof, identification shall be performed in conformity with the provisions of Division Four of this Law.

(9) The procedures laid down 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 relevant tending thereto.

(2) The clothing of a corpse shall be presented for identification separately in accordance with the procedures laid down 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 to believe 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 on 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 the person directing the proceedings and materials attached thereto.

(2) The decision on a search shall indicate who will search and removal, 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 search shall be performed with a decision of the person directing the proceedings. If a decision is taken by an investigator then a search shall be performed with the consent of a prosecutor.

(4) A decision on a search shall not be necessary in conducting a search of a person to be detained, as well as in the case determined in Section 182, Paragraph five of this Law.

(5) The person directing the proceedings shall inform an investigating judge of the search indicated in Paragraph three of this Section not later than on the next working day after 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 has been conducted illegally, the investigating judge shall recognise the obtained evidence as inadmissible in criminal proceedings, and shall decide on the actions with the removed objects.

[12 March 2009]

#### **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, or 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 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 on 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 issue a copy of the decision on a search to the person at whose site the search is taking place. Such person shall sign regarding such 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. A search of a vehicle may also include a search of the 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, a geographical territory, or a vehicle.

(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, as well as things (objects, documents) the nature, identification signs of which or traces present on such things indicate to connection with another criminal offence, 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 the person directing the proceedings has assigned an expert or auditor present at a search to remove the objects found during the search and to perform the necessary expert examination or audit, the minutes of the search shall indicate such objects, the location and identifying features thereof, the fact of withdrawal, and the expert-examination institution or auditor under the liability of which the removed objects have been transferred.

(10) After completion of a search, the location of the search shall be returned, insofar as possible, to the previous state thereof.

*[12 March 2009; 14 January 2010; 11 June 2020; 7 October 2021]*

### **Section 183. Search of a Person**

(1) If there are sufficient grounds to believe 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 Mission Offices**

(1) A search in the premises of a diplomatic or consular mission office, or in premises used by the parliamentary and governmental official delegations and missions of foreign countries, may be conducted only upon 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 mission offices of foreign countries and other institutions of foreign countries, as well as the members of the parliamentary and governmental official delegations and missions of foreign country 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 upon request thereof and with the consent thereof.

(3) The 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 mission 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 Section 181, Paragraphs one and two of this Law.

### **Section 186. Removal**

Removal 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 specific 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 on Removal**

(1) Removal shall be conducted with the decision of the person directing the proceedings. A decision shall not be subject to appeal.

(2) The decision on removal shall indicate who will perform removal of an object or document, where, with whom, in what case, and the objects and documents that will be withdrawn.

[11 June 2020]

#### **Section 188. Removal Procedures**

(1) Upon commencing a removal, the performer of the investigative action shall issue a copy of the decision on removal to the person at whose site the removal is being conducted. Such person shall sign regarding such decision. Then the performer of the investigative action shall invite the person to issue the object being removed without delay.

(2) Removed objects or documents shall be described in the minutes of the removal.

(3) A copy of the minutes of a seizure shall be issued, after completion of the investigative action, to the person at whose site the seizure was conducted.

(4) If a person refuses to issue the object to be removed, or if the object or document to be removed cannot be found in the indicated location and there are grounds to believe that such object or document is located elsewhere, the decision to conduct a search may be taken in accordance with the procedures laid down in Section 180 of this Law, and the search may be conducted in order to find such object or document.

[14 January 2010; 21 October 2010; 20 June 2018; 7 October 2021]

#### **Section 189. Submission of Objects and Documents on the basis of the Initiative of a Person**

(1) Persons are entitled to submit to the 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 the Person Directing the Proceedings**

(1) The person directing the proceedings, without conducting the removal provided for in Section 186 of this Law, is entitled to request from natural or legal persons, in writing, objects, documents and information regarding the facts that are significant to criminal proceedings, including in the form of electronic information and document that is processed, stored or transmitted using electronic information systems.

(2) If natural or legal persons do not submit the objects and documents requested by the person directing the proceedings during the time limit specified by such person directing the proceedings, the person directing the proceedings shall conduct a removal or search in accordance with the procedures laid down 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 upon a request of the 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]

(5) If a document or object significant to criminal proceedings is in any administrative case, administrative offence case, civil case or another criminal case, the person directing the proceedings shall request it from the holder of the relevant case. The original of a document or object shall be issued only temporarily for conducting of an expert-examination, but in other cases a certified copy of a document or image of an object shall be issued.

[19 January 2006; 12 March 2009; 14 January 2010; 19 November 2020]

#### **Section 191. Storage of Data Located in an Electronic Information System**

(1) The person directing the proceedings may assign, with a decision thereof, the owner, possessor or keeper of an electronic information system (that is, a natural or legal person who processes, stores or transmits data via electronic information systems, including a merchant of electronic communications) to immediately ensure the storage, in an unchanged state, of the totality of the specific data (the retention of which is not specified by law) necessary for the needs of criminal proceedings that is located in the possession 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.

[12 March 2009; 14 January 2010]

#### **Section 192. Disclosure and Issue of Data Stored in an Electronic Information System**

(1) During the pre-trial criminal proceedings an investigator with the consent of a prosecutor or a data subject and a prosecutor with the consent of a higher-ranking prosecutor or a data subject may request, that the merchant of an electronic information system disclose and issue the data to be stored in the information system in accordance with the procedures laid down in the Electronic Communications Law.

(2) During the pre-trial criminal proceedings the person directing the proceedings may request in writing, on the basis of a decision of an investigating judge or with the consent of a data subject, that the owner, possessor or keeper of an electronic information system disclose and issue the data stored in accordance with the procedures provided for in Section 191 of this Law.

(3) In trying a criminal case, a judge or the court panel may request that a merchant of electronic communications discloses and issues the data to be stored in accordance with the procedures laid down in the Electronic Communications Law or that the owner, possessor or keeper of an electronic information system disclose and issue the data stored in accordance with the procedures provided for in Section 191 of this Law.

[14 January 2010]

#### **Section 193. Expert-examination**

An expert-examination is an investigative action performed by one or several experts under the assignment of the 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**

(1) 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.

(2) An expert-examination shall be determined as soon as possible if the traces removed in the case are quick to vanish or unstable, or the object to be studied may perish or get damaged.

[20 June 2018]

#### **Section 195. Mandatory Expert-examinations**

[20 June 2018]

#### **Section 196. Additional Expert-examination**

(1) An additional expert-examination shall be determined if the 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 the 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 commission from experts who do not work in one expert-examination institution shall be established by the person directing the proceedings, with a decision thereof, or by the head of expert-examination institution, notifying thereof the person directing the proceedings.

(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.

[12 March 2009]

### **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 to Determine an Expert-examination**

(1) The person directing the proceedings shall take a decision to determine an expert-examination. A decision shall not be subject to appeal.

(2) A decision to determine 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 who has been assigned to perform the expert-examination if such expert does not work in the expert-examination institution;
- 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 the person directing the proceedings and removes objects subject 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.

[18 February 2016; 11 June 2020; 19 November 2020]

### **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 on determination thereof, the objects to be studied, and the necessary case materials shall be submitted to the head of such institution.

(2) The head of an expert-examination institution shall determine an expert who will perform the expert-examination, and shall inform the person directing the proceedings thereof.

(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 the person directing the proceedings.

[19 November 2020]

#### **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, the 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 to determine 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) The 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 the person directing the proceedings given to an expert shall simultaneously impose a duty on the employer of the expert to not create obstacles for conducting 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 used case materials, and the initial data of the object studied;
- 8) the methods used 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 attached 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 On 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 reasoned decision on such circumstances, which he or she shall transfer to the 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, the 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 person against whom criminal proceedings have been initiated, 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, interrogating such persons accordingly as victims or witnesses.

[24 May 2012]

#### **Section 208. Procedures for Taking Samples Necessary for a Comparative Study**

(1) The person directing the proceedings or an expert under the assignment thereof may take samples necessary for a comparative study.

(2) When commencing the taking of the samples necessary for the comparative study from a person, the performer of the investigative action shall ask him or her to voluntarily provide samples for the comparative study or let them be taken, and explain to the person that samples may be taken also by force. If samples necessary for a comparative study are taken from a person with the consent thereof, such taking shall be recorded in conformity 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.

[27 September 2018]

#### **Section 209. Taking of Samples by Force Necessary for a Comparative Study**

(1) The samples necessary for comparative study may be taken by force only from a person who has the right to defence.

(2) The samples necessary for comparative study may be taken from a witness or victim by force only based on a decision of the investigating judge. In emergency cases where samples necessary for a comparative study may be destroyed or damaged due to a delay, the person directing the proceedings may take such samples by force with the consent of a prosecutor. The person directing the proceedings shall notify the investigating judge of such taking by force not later than on the next working day after 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.

[27 September 2018]

## **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 use of the means and methods of an investigative action are necessary for the enforcement of such action, the performance of such operation shall be assigned only to State institutions specially authorised by law (hereinafter in this Chapter - the specialised State institution).

(3) The performance of a special investigative action shall be permitted only in investigating less serious, serious or especially serious crimes.

[12 March 2009]

#### **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 less serious, serious or especially 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 the prevention of immediate and significant threats to public security.

(2) The person directing the proceedings, his or her involved persons, a prosecutor, and the investigating judge who supervises special investigative actions shall implement all the necessary measures in order not to allow the gathering and use of information that is not in conformity with the purposes specified in Paragraph one of this Section.

[12 March 2009]

#### **Section 212. Permission for the Performance of Special Investigative Actions**

(1) Special investigative actions shall be performed on the basis of a decision of an investigating judge, except in cases determined in this Chapter.

(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, the person directing the proceedings may commence special investigative actions by receiving the consent of a prosecutor, and, not later than on the next working day, a decision of an investigating judge.

[12 March 2009]

#### **Section 213. Decision to Perform a Special Investigative Action**

(1) An investigating judge shall take the decision to perform a special investigative action after reasoned proposal of the person directing the proceedings, and the materials of the criminal case, have been examined.

(2) The decision shall indicate the special investigative action, the institutions or persons to which the conduct of such action has been assigned, the purpose and allowed duration for the conduct thereof, and all other conditions that have significance in ensuring of the action to be conducted, including the permit to imitate participation in committing a criminal offence or participation in the form of a supporter.

(3) The duration of a special investigative action to be performed in a publicly inaccessible location shall not exceed 30 days. An investigating judge may extend such term, if there are grounds for such extension.

[12 March 2009]

#### **Section 214. Consequences of Violating the Procedures for Receiving Permission**

(1) If the 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

Section 212, Paragraph four of this Law, an investigating judge shall decide on 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 on the admissibility of the acquired evidence, and on the actions with removed 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 automated data processing 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.

[12 March 2009]

### **Section 216. Recording of Special Investigative Actions**

(1) The person directing the proceedings shall write up minutes if he or she performs a special investigative action by himself or herself.

(2) If the 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 the person directing the proceedings.

(3) If another person performs a special investigative action under the assignment of the 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) The 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) The person directing the proceedings or a specialised institution shall immediately notify the State security institutions of the information necessary for the prevention of immediate and significant threats to public security.

### **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 to believe 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 persons who provide consignment delivery services shall inform the official referred to in a decision on 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 48 hours from the moment of the receipt of information, and shall decide on the removal 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 removed only if there are grounds to believe 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 removed or a removed consignment is transferred to the addressee or deliverer with a substantial delay, he or she shall be informed of the reasons for the delay of the consignment and the grounds 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, on the basis of a decision of an investigating judge, if there are grounds to believe 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 to believe that a criminal offence may be directed against such persons or the immediate family 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 Automated Data Processing System**

(1) The search of an automated data processing system (a part thereof), the data accumulated therein, the data environment, and the access thereto, as well as the its removal without the knowledge of the owner, possessor, or maintainer of such system or data shall be performed, on the basis of a decision of an investigating judge, if there are grounds to believe that the information in the specific system may contain information regarding facts included in circumstances to be proven.

(2) If there are grounds to believe 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) The person directing the proceedings may request, for the commencement of an investigative action, that the person who oversees the functioning of a system or fulfils duties related to data processing, storage or transmission provide the necessary information, ensure the completeness of the information and technical resources present in the system and make the data to be controlled unavailable to other users. The person directing the proceedings may prohibit such person to perform other actions with data subject to control, as well as shall notify such person of the non-disclosure of an investigative secret.

(4) In a decision on control of data in an automated data processing system, an investigating judge may allow the person directing the proceedings to remove or store otherwise the resources of an automated data processing system, as well as to make copies of these resources.

[12 March 2009]

#### **Section 220. Control of the Content of Transmitted Data**

The interception, collection and recording of data transmitted with the assistance of an automated data processing system using communication devices located in the territory of Latvia (hereinafter - the control of transmitted data) without the information of the owner, possessor, or maintainer of such system shall be performed, on the basis of a decision of an investigating judge, if there are grounds to believe that the information obtained from data transmission may contain information regarding facts included in circumstances to be proven.

[12 March 2009]

#### **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, on the basis of a decision of an investigating judge, if there are grounds to believe 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, on the basis of a decision of an investigating judge, if there are grounds to believe 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, on the basis of a decision of the person directing the proceedings, shall be performed if there are grounds to believe that a criminal offence may be directed against such person or the immediate family 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, on the basis of a decision of an investigating judge, if there are grounds to believe 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, for a term up to 30 days which an investigating judge may extend, if necessary.

(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.

[12 March 2009]

## **Section 224. Surveillance of an Object or a Site**

Surveillance of an object or a site shall be performed, on the basis of a decision of an investigating judge, if there are grounds to believe 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, on the basis of a decision of an investigating judge, if there are grounds to believe that:

1) a person has previously committed a criminal offence, and is preparing to commit, or has commenced, the same criminal activities;

2) a specific 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 use 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 removed publicly when the need to keep the fact of study secret has ceased to exist.

(3) Decision of the investigating judge shall not be required, if the comparable samples the creation of which does not depend on the will of the person are taken in a special way from a person who has the right to defence.

[27 September 2018]

## **Section 227. Control of Criminal Activity**

(1) If, on the basis of 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 deterrent 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 the 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. Measures 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 use 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. Use 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 removed 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 interrogated 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. Use 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 used as evidence in the relevant case only with the consent of the 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 use of supporting evidence within the framework of another criminal proceedings.

(2) A decision of an investigating judge or prosecutor shall not be necessary if information acquired as a result of special investigative actions is used in order to prevent an immediate and significant threat to public security.

### **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 proceedings.

(2) A person involved in criminal proceedings who has the right to familiarise himself or herself with the materials of a criminal case after completion of the pre-trial proceedings may submit a proposal to an investigating judge,

requesting that he or she be familiarised with the unattached materials.

(3) An 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) The person involved in criminal proceedings who has familiarised with materials unattached to a criminal case may submit a request to the 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 completion of the pre-trial proceedings.

(5) The same composition of a court shall decide on a request, submitted during a trial, to become familiar 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 prosecutor.

[12 March 2009; 21 October 2010]

### **Section 232. Actions with the Results of a Special Investigative Action that do not have the Significance of Evidence in Criminal Proceedings**

(1) The prosecutor or investigating judge who supervises special investigative actions in criminal proceedings shall decide on actions with accounts, audio-recordings and video-recordings, photographs, other materials that have been recorded using technical means, and removed objects and documents and the copies thereof, if the person directing the proceedings 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) The removed documents and objects shall, if possible, be returned to the owners, informing such owners of 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 completion of a special investigative action.

(5) In completed criminal proceedings, actions with such materials may be decided after completion of the term for appealing a decision.

(6) In criminal proceedings that have been transferred to a court for examination, actions with the referred to materials shall be decided after entering into effect of the court ruling.

### **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 himself 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) The 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 use of which in another criminal proceedings is not permitted, or which is not necessary for the prevention of an immediate and significant threat to public security, shall be a State or investigative secret, and persons shall be held liable for the disclosure thereof in accordance with the procedures laid down in the Criminal Law.

(2) The person directing the proceedings shall notify the persons who are involved in the performance of special investigative actions regarding of 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 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 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 Objects and Documents

[7 October 2021]

### Section 235. Attachment of Objects and Documents to a Criminal Case and the Storage Thereof

(1) The person directing the proceedings shall register the objects and documents obtained during the course of investigative actions in the list of objects and documents in the criminal case.

(2) The objects and documents obtained during the course of investigative actions shall be returned to the owner or lawful possessor thereof who shall sign for such objects or documents, making a note thereof in the list of objects and documents if one of the following conditions exists:

1) it has been established in subsequent proceedings that the relevant objects and documents do not have the significance of evidence in criminal proceedings; or

2) the necessary investigative actions involving the relevant objects and documents have been performed and the return thereof to the owner or lawful possessor does not harm subsequent criminal proceedings.

(2<sup>1</sup>) Actions with the seized property shall occur in accordance with the procedures laid down in Chapter 28 of this Law.

(3) In returning the objects or documents obtained during the course of investigative actions to the owner or lawful possessor after performance of the necessary investigative actions in criminal proceedings, where appropriate, the samples of the necessary objects or copies of documents shall be kept.

(4) If returning of the originals of documents to the owner or lawful possessor thereof may harm subsequent criminal proceedings or there are justified suspicions that, after return, they might be used for the achievement of unlawful objectives, the owner or legal possessor of the documents shall be given copies of the documents and the originals of documents shall be attached to the case materials and stored together with the case throughout the storage period thereof.

(5) The originals of documents permanently stored in the collections of the State Archives shall be removed 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 thereof shall be attached to the case materials.

(6) If the objects or documents obtained during the course of investigative actions have other significance in the criminal proceedings, the person directing the proceedings shall decide on actions involving the relevant objects and documents in conformity with the requirements of this Law. The materials, the circulation of which is prohibited by law, shall not be returned.

(7) The Cabinet shall determine the place and procedures for storage of such material evidence, which may not be returned to the owner or lawful possessor and which may not be stored with other materials of a criminal case.

(8) In transferring the materials of a criminal case to another person directing the proceedings, material evidence may be left in storage in the place for storage of the material evidence determined by the first person directing the proceedings. The person directing the proceedings shall, in pre-trial proceedings until completion of investigation, make a note in the list of objects and documents in the criminal case on the status in the criminal proceedings of the objects and documents obtained during the course of investigative actions.

[21 October 2010; 7 October 2021]

### Section 236. List of Objects and Documents

The person directing the proceedings shall indicate the following in the list of objects and documents:

1) the name of an object or a document, and also the status of the object and the change thereof in criminal proceedings;

- 2) the date and the investigative action wherein the object or document was obtained;
- 3) storage location;
- 4) the date and definitive action with the object or document.

[7 October 2021]

#### **Section 237. Storage of Material Evidence**

[21 October 2010]

#### **Section 238. Document Storage**

[21 October 2010]

#### **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 until which a decision to terminate criminal proceedings may be appealed ends unless any of the conditions referred to in Section 235, Paragraph two of this Law have been established.

(2) If there is a dispute regarding rights to a removed object to be settled in accordance with civil procedures, material evidence and documents shall be stored until a court judgment in a civil case enters into effect, or a limitation period for a claim sets in.

(3) Material evidence, the long-term storage of which is not possible or the long-term storage of which causes losses to the State, if they may not be returned to the owner or lawful possessor thereof, according to a decision of the person directing the proceedings, shall be:

- 1) disposed of or destroyed;
- 2) destroyed if they have been recognised as unfit for use or distribution.

(4) Material evidence, the circulation of which is prohibited by law or which endanger the environment, shall be transferred to the relevant institutions or destroyed according to a decision of the person directing the proceedings.

(5) The person directing the proceedings shall send a copy of the decision to dispose or destroy the material evidence to the owner or lawful possessor of the material evidence, informing him or her about the right to appeal against the decision in pre-trial criminal proceedings before the investigating judge. Execution of the decision shall be suspended until examination of the complaint. Suspending the execution of the decision shall not apply to objects, the long-term storage of which is not possible. The decision of the investigating judge shall not be subject to appeal.

(6) The Cabinet shall determine the procedures for the disposal and destruction of the material evidence referred to in Paragraphs three and four of this Section. Where appropriate, before the disposal or destruction of material evidence, samples of the relevant objects shall be kept.

[21 October 2010]

#### **Section 240. Final Actions with the Material Evidence, Documents, Property Related to Criminal Offence, as well as Other Removed Objects and Valuables**

(1) A decision to terminate criminal proceedings, prosecutor's penal order, or court ruling shall indicate what shall be done with material evidence, documents, property related to criminal offence and other removed objects and valuables, that is:

1) material evidence, documents, other removed objects and valuables shall be returned to the owners or lawful possessors thereof, but if it is not required to return them to the owner or lawful possessor, they shall be disposed of, or if they have no value, they shall be destroyed or issued to the interested authority upon its request;

2) confiscated objects for committing a criminal offence shall be transferred to the State Revenue Service, but if they have no value, they shall be destroyed;

3) confiscated objects the circulation of which is prohibited shall be transferred to the relevant institutions or destroyed;

4) confiscated animals and confiscated vehicles shall be transferred to the State Revenue Service;

5) confiscated property which should not be left in the ownership of the person due to the committed criminal offence shall be transferred to the State Revenue Service, but if it has no value, it shall be destroyed;



6) confiscated objects the origin or ownership of which has not been established in the respective criminal case shall be transferred to the State Revenue Service.

(2) In deciding on return of material evidence to the owner or lawful possessor thereof, action with the material evidence shall be determined concurrently in case the owner or lawful possessor will not have removed the relevant evidence within two months from the date when a notification was sent.

(3) If material evidence must be returned to the owner or lawful possessor thereof, the person directing the proceedings shall, not later than within 14 days after entering into effect of a judgment or decision to terminate the criminal proceedings, notify thereof the owner or lawful possessor of the material evidence and the institution, which ensures storage of the material evidence.

(4) If the owner or lawful possessor of the material evidence has not removed the relevant material evidence within two months from the date when a notification was sent, the material evidence shall be destroyed or disposed of according to that indicated in the judgment or decision.

(5) If material evidence must be returned to the owner or lawful possessor thereof, however, 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 time of compensation. It shall not apply to cases when material evidence has been destroyed or disposed of in accordance with the conditions of Paragraph four of this Section. The value of the material evidence to be compensated shall be determined according to the same procedures by which the value of the property subjected to seizure is determined.

(6) The Cabinet shall determine the procedures for the disposal or destruction of material evidence in the cases determined in Paragraphs one and four of this Section.

(7) [22 June 2017]

[21 October 2010; 20 December 2012; 22 June 2017; 11 June 2020]

## **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 achieving the objective of criminal proceedings in the specific proceedings or to carrying out a separate procedural action, or failure to fulfil or improper fulfilment of his or her procedural duties.

(2) A security measure shall be applied as a procedural security measure to a suspect or an accused if there are grounds to believe that the relevant person will continue criminal activities, or hinder pre-trial criminal proceedings or court or avoid such proceedings and court.

(3) In making a judgment, a court may apply a security measure to an accused if there are grounds to believe that he or she may avoid the execution of the judgment. In cases when a court has imposed a custodial sentence for serious or especially serious crime, a convicting judgement may be the grounds for selection of security measure - arrest.

[12 March 2009]

#### **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. Security Measures**



(1) The following are security measures:

- 1) [12 March 2009];
- 1<sup>1</sup>) notification of the change of the place of residence;
- 1<sup>2</sup>) reporting to the police authority at a specific time;
- 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;
- 6) personal guarantee;
- 7) bail;
- 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.<sup>1</sup>- 4 of this Section may also be applied additionally to any other security measure.

[12 March 2009; 24 May 2012]

#### **Section 244. Selection of Procedural Compulsory Measures**

(1) The 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, the 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.

(2<sup>1</sup>) Arrest shall be applied to a minor only in cases of absolute necessity after evaluation of the application of other security measures. When choosing a security measure related to the deprivation of liberty for a minor, in addition to the conditions referred to in Paragraphs one and two of this Section the age of the minor and possible risks in relation to the physical, mental and social development of the minor, and also his or her ability to integrate into the society shall be taken into account.

(3) A procedural compulsory measure may not be applied to a victim who is a minor which has suffered from violation committed by a person from whom the victim is materially or otherwise dependent, or sexual abuse, as well as to a victim who is a juvenile.

[12 March 2009; 27 September 2018]

#### **Section 245. Decision to Apply a Procedural Compulsory Measure**

(1) A procedural compulsory measure is applied by the person directing the proceedings or an investigating judge with a reasoned 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 to apply a security measure shall additionally indicate the criminal offence in connection with the committing of which the security measure is applied to a suspect or accused.

(3) An investigating judge shall take a decision, during pre-trial proceedings, regarding 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.

(4) A decision to detain a person shall not be taken.

[19 January 2006; 12 March 2009]

#### **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. These provisions shall not apply to conveyance by force.

(2) Prior to taking a decision to apply the security measure which is related to deprivation of liberty, the person directing the proceedings shall issue to the person who has the right to defence a copy of the proposal which contains a justification for the selection of the particular security measure with considerations based on the materials of the case.

[12 March 2009; 23 May 2013]

#### **Section 247. Informing Other Persons Regarding a Procedural Compulsory Measure**

(1) If a procedural compulsory measure is related to the deprivation of the liberty of a person, the person directing the proceedings shall, in conformity with the will and instructions of such person, immediately but not later than within 24 hours inform the family or other members of the immediate family 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, the 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 security measure. The person directing the procedures need not inform the abovementioned persons, if it is in contradiction with the interests of the minor. In such case the person directing the proceedings shall inform another person of legal age whom the minor has indicated, or a representative of an institution of protection of the rights of the child, or a representative of such non-governmental organisation who carries out the function of protection of the rights of the child, regarding application of the compulsory measure referred to in Paragraph one of this Section.

(3) The person directing the proceedings shall, in conformity with the will of the relevant person, inform the representative office of the country of a foreigner, with the intermediation of the Ministry of Foreign Affairs of the Republic of Latvia, regarding the application of the compulsory measure referred to in Paragraph one of this Section.

(4) If an application of a specially protected victim has been received in which it is requested to provide information regarding release or escape of such arrested person from a place of imprisonment or a place of temporary detention who has inflicted harm to him or her, the person directing the proceedings shall send the relevant information to the victim as soon as he or she has become aware of release or escape.

[12 March 2009; 18 February 2016]

#### **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, the person directing the proceedings shall provide such person with the opportunity to contact, with the intermediation of controlled communications, a member of the immediate family 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 and Custody Court.

(2) If, in applying to a person a procedural compulsory measure related to the deprivation of liberty, a property is left without supervision, the person directing the proceedings shall provide such person with the opportunity to contact, with the intermediation of controlled communications, a member of the immediate family or another person regarding the ensuring of the management of the property. If the person does not have such opportunity, upon request

of 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 the 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 member of the immediate family 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 laid down in laws and regulations.

(4) The person directing the proceedings shall inform the person to whom a compulsory measure has been applied regarding performed measures in writing.

[19 January 2006; 17 May 2007; 12 March 2009; 30 March 2017]

#### **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, the person directing the proceedings shall take a decision on modification or revocation of such procedural security measure.

(2) If a person violates the provision of an applied security measure or fails to fulfil his or her procedural duties, the person directing the proceedings is entitled to select and apply another more restricting security measure.

(3) A copy of a decision on modification or revocation of a compulsory measure shall be immediately delivered to the institution or official who ensures the execution thereof, and to the person to whom such compulsory measure has been applied, but, if a security measure related to the deprivation of liberty has been applied, also to an investigating judge.

(4) If a previously applied security measure is revoked as a result of examination of a complaint, a more restricting security measure shall be applied only if new circumstances exist.

[12 March 2009; 14 January 2010]

### **Chapter 14 Compulsory Measures not Related to Deprivation of Liberty**

#### **Section 250. Conveyance by Force**

(1) If a person does not arrive without a justified reason at a procedural action on the basis of a summons of the 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 person, against whom the criminal proceedings have been commenced, 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 a pre-trial criminal proceedings 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.

[12 March 2009]

#### **Section 251. Procedures for Conveyance by Force**

(1) Conveyance by force is applied with a decision of the 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 the person directing the proceedings.

## **Section 252. Report of the Address for the Receipt of Consignment**

[12 March 2009]

## **Section 252.<sup>1</sup> Notification of the Change of the Place of Residence**

Notification of the change of the place of residence is a written obligation of a suspect or accused to notify the person directing the proceedings without delay, but not later than within one working day regarding change of the place of residence, indicating the new address of the place of residence.

[24 May 2012]

## **Section 252.<sup>2</sup> Reporting to the Police Authority at a Specific Time**

Reporting to the police authority at a specific time is a duty imposed by a decision of the person directing the proceedings on a suspect or accused to report to the police authority according to his or her place of residence.

[24 May 2012]

## **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 the 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 the 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 Paragraphs one and two of this Section, if such approaching takes place within the framework of criminal proceedings, fulfilling the instructions of the 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 the person directing the proceedings, from performing a specific type of employment (activities) for a time, or from execution of the duties of a specific position (job).

(2) A decision on 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 three working days after the day of the receipt thereof. An official shall notify the person directing the proceedings regarding the commencement of the execution of a decision.

## **Section 255. Prohibition on Departure from a Country**

A prohibition on departure from a country is a restriction, specified by a decision of the person directing the proceedings, upon a suspect or accused to depart from a country without the permission of the person directing the proceedings.

[24 May 2012]

## **Section 256. Residence in a Specific Place**

Residence in a specific place is a written obligation of a suspect or accused to reside during the time indicated and at the place specified by the person directing the proceedings or to not leave the specifically indicated place of residence or temporary residence for longer than 24 hours without the permission of the 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.

[24 May 2012]

## **Section 257. Bail**

(1) A bail is a monetary sum, specified with a decision of the person directing the proceedings, that has been transferred to the depository (storage) of a credit institution specified by the person directing the proceedings in order to ensure the arrival of a suspect or accused on the basis of a summons of the person directing the proceedings, and

the execution of other procedural duties specified in the Law.

(2) The person directing the proceedings shall determine the amount of a bail, considering the nature of the criminal offence and the harm caused by such offence, the financial status of a person, as well as the type and measure of a punishment specified in the Law. If decision of the person directing the proceedings regarding a security measure is appealed, the amount of a bail may be determined by an investigating judge.

(3) A bail 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 bail is paid by another person, the person directing the proceedings shall inform such person regarding the essence of the specific 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) A person who has paid a bail shall submit a document certifying payment to the person directing the proceedings, as well as a written notice regarding origin of the bail containing information regarding the persons who have granted the resources for paying the bail, and the amount of the money granted. The documents submitted shall be appended to the criminal case.

(5) If a suspect or accused does not fulfil procedural duties or commits a new intentional criminal offence, a bail shall be paid to the State budget with a decision of the person directing the proceedings, but in other cases of the modification or revocation of a security measure, such bail shall be returned to the provider thereof.

[12 March 2009; 18 February 2016]

#### **Section 258. Personal Guarantee**

(1) A personal guarantee is a written obligation with which a natural person in accordance with the decision of the person directing the proceedings on application of a security measure guarantees that a suspect or accused will arrive on the basis of a summons of the person directing the proceedings, and will fulfil other procedural duties.

(2) As a personal guarantor may be a natural person who has expressed such desire and regarding which the person directing the proceedings is in confidence that he or she can ensure fulfilment of obligations. There shall be not less than two personal guarantors.

(3) In accepting a bail, the person directing the proceedings shall inform the guarantors regarding the essence of the specific 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 fine shall be applied on a guarantor, 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.

[12 March 2009]

#### **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 the 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 the 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, the person directing the proceedings shall inform him or her regarding the essence of the specific 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 apply a fine 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 the 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 the 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 himself or herself.

(3) In placing a minor under the supervision of parents or guardians, the person directing the proceedings shall inform such persons regarding the essence of the specific 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 apply a fine 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 the 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 himself 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 to apply 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 the person directing the proceedings regarding the taking of such person under supervision.

(4) In order to examine the conformity of a person with the restrictions on freedom of movement and discretionary power, police employees have the right to visit the person at the place of residence indicated in the decision at the front door of the place of residence. The person has an obligation to open the front door of the place of residence during the examination and to be at the front door within the view of the police employee until the end of the examination.

(5) In order to examine the conformity of a person with the restriction on freedom of movement - prohibition from meeting the persons referred to in the decision -, a police employee has the right to enter and the person has a duty to allow the police employee to enter his or her permanent or temporary place of residence (apartment, house).

[24 May 2012]

#### **Section 262. Appeal of a Decision to Apply a Security Measure not Related to Deprivation of Liberty**

(1) During pre-trial proceedings, a decision taken by the person directing the proceedings on 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 bail;
- 5) placement under police supervision, but only in relation to restrictions on movement and action indicated in the decision;
- 6) duty to report to the police authority at a specific time;
- 7) residence at a specific place.

(2) The decision referred to in Paragraph one of this Section may be appealed only then, if a person to whom a security measure has been applied may justify that the provisions of such security measure cannot be fulfilled. A complaint may be submitted to an investigating judge by the person himself or herself, the defence counsel or representative thereof, within seven days after receipt of a copy of the decision to apply the security measure.

(3) An investigating judge shall examine a complaint in a written procedure within three working days. If necessary, the judge shall request court materials, and explanations of the person directing the proceedings or the submitter of the complaint.



(4) An investigating judge may, with a decision thereof, reject a complaint or assign the person directing the proceedings to modify an applied security measure or the provisions thereof within three working days, or determine the amount of a bail.

(5) A copy of a decision taken by an investigating judge shall be sent to the 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 subject to appeal.

[12 March 2009; 24 May 2012]

## Chapter 15 Compulsory Measures Related to the Deprivation of Liberty

### Section 263. Detention

Detention is the deprivation of the liberty of a person, for a period of time of up to 48 hours, without a decision of an investigating judge, if conditions for detention exist.

### Section 264. Conditions of Detention

(1) A person may be detained only if there are grounds for the assumption regarding the committing of a criminal offence for which a custodial sentence may be imposed, and if one of the following provisions exists:

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 perpetrator 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 himself 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 conditions for detention exist, but a custodial sentence may not be imposed for the committed criminal offence, a person may be detained if there are reliable grounds to believe that the arrival thereof on the basis of a summons of the 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 to believe that a serious or especially 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 detained, if there are grounds to the assumption 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 detained only one time.

[17 May 2007; 20 December 2012]

### Section 265. Detention Procedures

(1) In detaining a person upon initiative of an employee of the State Police, an employee of an investigating institution, or a prosecutor, or under the assignment of the person directing the proceedings, such employee or prosecutor shall immediately inform such person regarding for what such person is being detained, 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 to believe that a person to be detained 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 detention may perform a search of the person to be detained in conformity with the provisions of Section 183, Paragraph two of this Law, indicating such search in the detention protocol of the person.



(3) If there is a clear connection between a person and a committed criminal offence for which a custodial sentence may be imposed, 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 detained by anyone and shall immediately be transferred to the nearest police employee.

(4) In detaining 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; 20 December 2012]

#### **Section 266. Procedural Drawing-Up of Detention**

(1) The official who has performed the detention of a person shall immediately write a detention protocol at the site of the detention of the person or after transfer of the detained person to detention premises. A protocol shall indicate:

- 1) who has performed detention, when, and where;
- 2) the criminal offence regarding which the detention has taken place;
- 3) who has been detained and why;
- 4) the condition of the detained 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 detained person.

(2) A detained person shall be familiarised with a protocol, the rights of a detained person shall be explained to him or her, and he or she shall sign regarding such explanation in the protocol.

(3) An investigating institution shall immediately transfer a detention protocol to the person directing the proceedings, and a copy of the detention protocol shall be sent to a prosecutor within 24 hours.

(4) [7 October 2021]

[28 September 2005; 7 October 2021]

#### **Section 267. Execution of Detention**

(1) Detention is the grounds for restricting the rights of a person and permits to hold a person in specially equipped premises of the police, determining restrictions on meeting and communication, except for meeting with a defence counsel with whom an agreement in the relevant criminal proceedings has been entered into or who is providing State-ensured legal aid in the particular criminal proceedings, or an advocate in order to enter into an agreement upon request of the detained person, but for a foreigner - also with a representative of the diplomatic or consular mission of his or her country. A decision of an investigating judge or of a court shall not be required for restricting the rights of a person.

(2) A special law shall determine the procedures for the holding of a detained person.

[18 February 2016; 11 June 2020]

#### **Section 268. Term of Detention**

(1) The person directing the proceedings shall without delay, but not later than within 48 hours, decide on the recognition of the detained person as a suspect or an accused and regarding the application of a security measure.

(2) After recognition of the detained person as a suspect or an accused and interrogation, if it is necessary, the person directing the proceedings shall without delay decide on 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 detained 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 detention.

(4) If the detained person is recognised as a suspect or an accused, then in order to ensure his or her conveyance to the prosecutor or to the court for the completion of criminal proceedings, the person may be located in a temporary

place of detention, taking into account the specified restriction of 48 hours from the moment of the actual detention.

[17 May 2007; 20 June 2018]

#### **Section 269. Release of a Detained Person**

(1) A detained 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 grounds and conditions for the detention did not exist;
- 3) the application of a security measure related to deprivation of liberty to the detained person is not necessary;
- 4) the term of detention specified by law has expired;
- 5) an investigating judge has not applied a security measure related to deprivation of liberty;

(2) A protocol regarding the release of a detained person in which the grounds for, date and time of release are indicated shall be prepared. Upon releasing the detained person, a copy of the detention and release protocol shall be issued to him or her.

[7 October 2021]

#### **Section 270. Detention 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 detained 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 for which a custodial punishment is provided, and a security measure related to imprisonment has not been applied to such person.

(2) In order to ensure that a suspected person, accused or person against whom the proceedings for the determination of compulsory measures of a medical nature are taking place is delivered to an investigating judge, the investigator or prosecutor may detain 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 on 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 detention 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 12 hours, ensure the delivery of the detained 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 24 hours from the moment of the actual detention.

(4) In the cases referred to in Paragraph two of this Section, the detained person shall be delivered to an investigating judge without delay, but not later than within 12 hours. For the person who is detained according to the procedures laid down in Paragraph two of this Section, during the detention investigative actions may not be performed, except interrogation regarding the circumstances, which are important in order to decide the issue of the application or modification of compulsory measures.

(5) Detention, which is performed in the cases determined in this Section, shall be completed in conformity with the requirements of Section 266 of this Law. If the detention is performed in the case provided for in Paragraph one of this Section, the detention protocol shall indicate also the fact who has proclaimed the search for the person.

(6) Detention in accordance with the procedures referred to in this Section is not a repeated detention in one criminal proceedings.

[17 May 2007; 20 December 2012; 7 October 2021]

#### **Section 271. Arrest**

(1) Arrest 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 ruling, before the entering into effect of a

final ruling in specific criminal proceedings, if there are grounds for placing under arrest.

(2) The application of arrest shall be the grounds for a restriction on the rights of a person, and shall allow the holding of the person in an investigation prison or in specially equipped police premises.

(3) A person arrested has the right, with a permission of the person directing the proceedings, to meet and communicate with other persons which shall be notified to the person arrested and the place of imprisonment where the person arrested has been placed. In pre-trial proceedings the decision of the person directing the proceedings on refusal for the person arrested to meet and communicate with other persons shall be subject to appeal to the investigating judge. A permission of the person directing the proceedings shall not be required in order to meet with a defence counsel with whom an agreement in the particular criminal proceedings has been entered into or who is providing State-ensured legal aid in the particular criminal proceedings, a representative of the diplomatic or consular mission of the country of the foreigner, or the persons specified in the special law that determines the procedures for holding under arrest. In order to achieve the objective of criminal proceedings, the person directing the proceedings may take the decision to restrict meetings and communication for the persons specified in the special law which determines the procedures for holding under arrest. The decision of the person directing the proceedings to restrict meetings and communication is subject to appeal to an investigating judge. Submitting of a complaint shall not suspend the execution of the decision.

(4) A special law shall determine the procedures for holding under arrest.

[12 March 2009; 18 February 2016; 11 June 2020; 7 October 2021]

### **Section 272. Grounds for Placing under Arrest**

(1) Arrest may be applied only if specific information, acquired in criminal proceedings, regarding facts causes justified suspicions that a person has committed a criminal offence for which a custodial punishment is provided in the law, and the application of another security measure may not ensure that the person will not commit another criminal offence, will not hinder or will not avoid the pre-trial criminal proceedings, court, or the execution of a judgement.

(2) Arrest may also be applied to a person being held on suspicion of or accused of committing of an especially serious crime if:

1) the crime was directed against a person's life or a minor, or a person who was or is financially 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, Clause 1 or 2 of this Law has been determined;

4) the person does not have a permanent place of residence in Latvia.

(3) Arrest may be applied to a person being held on suspicion of or accused of committing of an intentional crime within the probationary supervision period.

(4) Grounds for arrest may be a judgement of a court on the committing of a serious or especially serious crime for which a custodial sentence has been imposed.

[12 March 2009; 20 December 2012]

### **Section 273. Grounds for the Application of Arrest to Minors, Pregnant Women, and Women in the Post-natal Period**

(1) The provisions of Section 272 of this Law shall apply, with the exceptions stipulated in such Section, to minors, pregnant women, and women in the post-natal period up to one year, and, if a woman 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 criminal offence, arrest shall not be applied.

(3) If a person referred to in Paragraph one of this Section is held suspect or accused of committing a crime through negligence, arrest shall not be applied, except when such person has performed actions under the influence of intoxicating substances as a result of which the death of another person has occurred.

(4) If a person referred to in Paragraph one of this Section is held suspect or accused of committing of a less serious intentional crime, arrest shall be applied only if one of the following circumstances exists:

1) the relevant person has violated the provisions of another compulsory measure or a security measure of correctional nature - placement in a social correctional educational institution;

2) the person has committed a crime as a suspect or an accused in the committing of an especially serious crime.

[20 December 2012]

#### **Section 274. Procedures for the Application of Arrest**

(1) An investigating judge shall decide on the application of arrest in pre-trial proceedings and until commencement of trial in a court of first instance by examining a proposal of the person directing the proceedings, but until the commencement of a trial- a proposal of a prosecutor, hearing the views of the relevant person, as well as examining case materials and assessing the reasons and grounds for placing under arrest.

(2) A submitter of a proposal, the person whose arrest is being decided, the defence counsel and representative thereof shall participate in examination of a proposal. A supervising prosecutor may participate in examination of a proposal. The proposal may be examined without the presence of the person regarding whose arrest is being decided if in accordance with a physician's conclusion the participation thereof is not permissible and if the defence counsel of the person participates in the relevant procedural activity.

(3) If a submitter of a proposal may prove that the relevant person avoids and hides from an investigation, criminal prosecution or if a person is detained or arrested in a foreign country, 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 hearing, the course of which shall be recorded in minutes:

- 1) a refusal to apply arrest;
- 2) a refusal to apply arrest, but a decision to apply house arrest;
- 3) a refusal to apply arrest, but a decision to apply placement in a social correctional educational institution;
- 4) a decision to apply arrest;
- 5) a decision to apply arrest and to determine the search for a person.

(4<sup>1</sup>) If an investigating judge withdraws arrest applied earlier in cases provided for in Section 41, Paragraph two of this Law or refuses to apply arrest, he or she shall decide on the application of another security measure.

(5) An investigating judge shall justify arrest, or the application of another security measure, in a decision with specific considerations based on case materials.

(6) If an investigating judge does not agree to a proposal of the person directing the proceedings and refuses the application of arrest, his or her decision shall also indicate the motives for the refusal.

(7) After announcement of a decision of an investigating judge, the court shall immediately issue a copy of the complete decision or a copy of the introductory and operative part of the decision to the persons present at the court and within 24 hours - a copy of the complete decision. The court shall, without delay, provide a written translation of the complete decision to the suspect or the accused who does not know the language in which the decision has been written into the language that he or she understands. Upon application of a security measure related to deprivation of liberty the court shall immediately provide information on the maximum number of months for which the liberty of the person may be restricted during pre-trial proceedings.

[19 January 2006; 12 March 2009; 14 January 2010; 23 May 2013]

#### **Section 275. Substitution of Arrest with a Bail**

(1) If an investigating judge or a higher-level court judge determines that the grounds indicated in Section 272 of this Law exist for the application of arrest, yet there also exist conditions that testify regarding the possibility to apply a bail, and if a person who conducts defence so requests, the investigating judge may determine a term for arrest for one month, simultaneously determining that arrest may be revoked if the person pays the bail specified by the judge within such term. A higher-level court judge is entitled to replace arrest with a bail only then, if the defence has requested it to an investigating judge.

(2) If a bail is paid within one month, and if a document certifying payment, as well as a written notice regarding the origin of the bail paid containing information regarding the persons who have granted resources for payment of the bail, and the amount of the money granted is submitted to an investigating judge, the judge shall take a decision on change of security measure. On the basis of such decision, a person shall be immediately released from arrest.

(3) If a bail is not paid, the matter regarding an extension of the term of arrest shall be decided in accordance with the procedures laid down in Section 274 of this Law.

[12 March 2009; 18 February 2016]

## **Section 276. Application of Arrest after Commencement of a Trial**

After commencement of a trial, the court that examines the case shall apply arrest upon its initiative 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 Arrest**

(1) A person may be held under arrest 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 to recognise such person as a suspect or the holding of such person criminally liable.

(2) The total term of holding under arrest shall include the term that a person has spent in detention, under arrest, 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 under arrest in another country in connection with the transfer of criminal proceedings or the extradition of such person.

(3) The term of arrest during 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 Registry, but the term of arrest during a trial shall be counted from the drawing up of the full ruling of a court of first instance. If an appellate or cassation court has revoked a judgment of conviction and sent the case for an examination de novo in a court of first instance, the time period from pronouncement of a ruling of the appellate or cassation court until drawing up of a full ruling of the court of first instance shall also be included in the term of arrest.

(4) The term of arrest for a person who is suspected of, or accused of, the committing of a criminal violation shall not exceed 30 days, of which the person shall be permitted to be held under arrest during pre-trial proceedings not longer than 20 days.

(5) The term of arrest for a person who is suspected 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 under arrest during pre-trial proceedings not longer than four months.

(5<sup>1</sup>) The term of arrest for a person who is suspected of, or accused of, the committing of a less serious crime against sexual inviolability and morals, if it has been committed against a minor, shall not exceed 12 months, of which the person shall be permitted to be held under arrest during pre-trial proceedings not longer than six months. The investigating judge in pre-trial proceedings and a higher-level court judge during a trial may extend the term by one more month, if the person directing the proceedings has not allowed for unjustified delay, or if the person who conducts 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.

(6) The term of arrest for a person who is suspected 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 under arrest during 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 the term by three more months, if the person directing the proceedings has not allowed for unjustified delay, or if the person who conducts 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 arrest for a person who is suspected 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 under arrest during 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 the term by three more months, if the person directing the proceedings has not allowed for unjustified delay, or if the person who conducts 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 security may not be guaranteed with the application of another security measure.

(8) The issue of extending the term of arrest shall be examined by a judge of a higher level court in a closed court hearing, providing an opportunity for the person whose arrest is being decided, his or her defence counsel and representative, as well the prosecutor to express their views. The decision shall not be subject to appeal.

(9) If a person to whom a security measure related to deprivation of liberty commits a new criminal offence during criminal proceedings, for which a custodial punishment is provided in the law, arrest may be imposed on such person as a security measure. In such cases, the term of arrest shall be determined as for a new criminal offence.

(10) A person arrested shall be immediately released if the term of arrest exceeds the maximum term determined in the Criminal Law for a custodial sentence that a court may impose for the criminal offence regarding the committing of which such person has been accused, but after judgment of conviction - if the sentence imposed by the court has expired.

(11) If the procedural decision has an impact on the term of arrest, the person directing the proceedings shall notify thereof the institution in which a person is held under arrest and the person who has been applied the security measure related to deprivation of liberty.

[28 September 2005; 19 January 2006; 12 March 2009; 24 May 2012; 20 December 2012; 23 May 2013]

#### **Section 278. Terms of Arrest for Minors**

(1) The term of arrest for a minor who has been applied arrest in conformity with Section 273, Paragraph four of this Law shall not exceed 30 days, of which the minor shall be permitted to be held under arrest during pre-trial proceedings not longer than 20 days.

(2) The term of arrest for a minor who has been applied arrest in conformity with Section 273, Paragraph three of this Law shall not exceed three months, of which the minor shall be permitted to be held under arrest during pre-trial proceedings not longer than two months.

(3) The term of arrest for a minor who is suspected of, or accused of, the committing of a serious crime shall not exceed six months, of which the minor shall be permitted to be held under arrest during pre-trial proceedings not longer than three months. An investigating judge during pre-trial proceedings and a judge of a higher level court may each extend the term for one month during trial, if the 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.

(4) The term of arrest for a minor who is suspected of, or accused of, the committing of an especially serious crime shall not exceed 12 months, of which the minor shall be permitted to be held under arrest during pre-trial proceedings not longer than eight months. An investigating judge during pre-trial proceedings and a judge of a higher level court may each extend the term for three months during trial, if the person directing the proceedings has not allowed for an unjustified delay, or the person who conducts defence has not intentionally delayed the course of proceedings, or the faster completion of the proceedings has not been possible due to the particular complexity of such proceedings.

[20 December 2012]

#### **Section 279. Terms of Arrest for Suspects**

(1) A suspect shall be held under arrest until being held criminally liable for not longer than half of the term of arrest allowed for in pre-trial proceedings.

(2) A supervising prosecutor may permit an investigating institution to exceed the term referred to in Paragraph one of this Section, yet by not longer than half of the remaining term of arrest during pre-trial proceedings specified in Sections 277 and 278 of this Law.

[20 December 2012]

#### **Section 280. Repeated Proposal Regarding the Application of Arrest**

If an investigating judge has not applied arrest, the 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 a pre-trial criminal proceedings cause justified suspicions that a person has committed an intentional criminal offence, or intends to evade a pre-trial criminal proceedings or court.

[12 March 2009]

#### **Section 281. Control over the Application of Arrest**

(1) [19 January 2006]

(2) A person arrested, his or her representative or defence counsel may, at any time, submit an application to an investigating judge or - after commencement of a trial - to a court of first instance regarding an assessment of the necessity of a subsequent application of arrest. The application shall be examined, and a decision taken by the investigating judge in accordance with the procedures laid down in Section 274 of this Law, but by a court - in a court



hearing in accordance with the procedures by which the submitted requests are decided.

(3) An application for an assessment of the necessity of a subsequent application of arrest may be refused without an examination thereof in oral proceedings, if less than two months have passed since the last assessment of the necessity of the application of arrest, and the application is not justified with information on the facts that were not known to the investigating judge or court when deciding on the application of arrest or during the previous examination of the application. A court of first instance shall examine an application in a written procedure without participation of persons involved in the procedure.

(4) If, concerning the applied arrest, a person arrested, or his or her representative or defence counsel has not submitted, within two months, an application regarding an assessment of the necessity of a subsequent application of arrest, such assessment shall be performed by an investigating judge. A court of first instance shall, after commencement of trial of a case, perform the assessment when the trial is suspended or an interruption is announced for a term more than two months.

(5) An application regarding cancellation or amending of arrest, or an assessment of the necessity of a subsequent application of arrest after transfer of a case to the appellate court until the commencement of trial may be submitted only then if:

1) such health or family conditions have arisen which may be the grounds for cancellation or amending of arrest, and such facts are attested by documents;

2) the commencement of trial of a case is specified for a time, which is more than two months after receipt of the case in a court.

(5<sup>1</sup>) The application referred to in Paragraph five of this Section shall be examined by a judge of the court of appeals in a written procedure within three working days. Examination of the application shall not be the grounds for the submission of a recusation to a judge.

(5<sup>2</sup>) If, after commencement of the trial of a case, the trial of a case on the court of appeals is suspended or an interruption is announced for a term more than two months, the court of appeals shall concurrently assess the necessity of a subsequent application of arrest.

(6) The decisions provided for in this Section shall not be subject to appeal.

[19 January 2006; 12 March 2009; 24 May 2012; 20 June 2018]

### **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 ruling to a suspect or accused before the entering into effect of a final ruling in specific criminal proceedings, if there are grounds for the application of arrest, yet the holding under arrest of the person 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 arrest.

(4) An investigating judge or a court shall, after assessment of a proposal of the investigator or prosecutor and listening to the opinion of a person held under house arrest, as well as taking into account the nature of the criminal offence, the reasons for application of a security measure and special circumstances why house arrest has been applied, determine:

1) the address where a person shall reside during house arrest;

2) restrictions on meetings, except meetings with a defence counsel and persons living at the relevant address, and communication;

3) control of correspondence and conversations;

4) the necessity of guarding at the particular address, as well as during movement of a person to a place of occurrence of the procedural actions.

(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 arrest shall be applied to house arrest, and the time spent under house arrest shall be recognised as



time spent under arrest, in accordance with the determined in the Criminal Law.

[12 March 2009]

### **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, on the basis of a decision of an investigating judge or court decision, only if a decision has also been taken on 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 arrest. The participation of a person in the deciding of a matter related to a procedural compulsory measure shall be compulsory, except when according to 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 defence counsel of the person participates in the respective procedural action.

(4) The restrictions provided for in Section 271, Paragraph three of this Law may be applied to a person placed in a medical institution.

(5) It may be indicated in a decision on placement of a person in a medical institution, that a security measure selected previously shall remain in force after an expert-examination.

[12 March 2009; 29 May 2014]

### **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 arrest 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 arrest if arrest 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 ruling before the entering into effect of a final ruling in specific criminal proceedings, if the holding under arrest 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 arrest. The term spent in the social correctional educational institution shall be included as time spent under arrest, counting one day spent in the institution as one day spent under arrest.

### **Section 286. Appeal of an Application of a Compulsory Measure Related to Deprivation of Liberty**

(1) In pre-trial proceedings and until the commencement of trial in a court of first instance, a person on whom a compulsory measure, excluding detention, related to deprivation of liberty has been imposed, the representative or defence counsel thereof, and a prosecutor may submit a complaint regarding a decision of an investigating judge within seven days after receipt of a copy of a decision taken on the imposition of such compulsory measure or a refusal to apply such security 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 prosecutor.

(3) If a compulsory measure related to the deprivation of liberty is applied to a person after commencement of trial, and the next court hearing is not provided for during the next 14 days, such person, or the representative or defence counsel thereof, may appeal this decision to a higher-level court submitting a complaint to the court which took the decision.

(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 seven days from the moment when such person learned of the application of the compulsory measure.

(5) If a compulsory measure related to deprivation of liberty is applied to a person who does not know the official language, the term intended for appealing of the ruling shall be counted from the date on which the translation of the decision in a language comprehensible to such person was issued to him or her.

[12 March 2009; 23 May 2013]

### **Section 287. Procedures 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 the deprivation of liberty, or regarding a refusal to apply such security measure, in a closed court hearing within seven days from the day of the receipt of the relevant decision and complaint.

(2) A complaint shall be examined giving the person to whom a compulsory measure has been applied a possibility to express his or her opinion, as well as listening to the representative or defence counsel thereof. A judge may request the necessary case materials. 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 compulsory measure proposed by the person directing the proceedings 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 24 hours to the person to whom the security measure being decided has been applied, the person who submitted the complaint, the institution which fulfils the decision, as well as the investigating judge, if a decision taken by him or her has been appealed. The decision together with a complaint shall be sent to the person directing the proceedings.

(5) A decision shall not be subject to appeal.

[12 March 2009]

## **Chapter 16 Procedural Sanctions**

### **Section 288. Concept of Procedural Sanctions**

Procedural sanctions are compulsory measures that the 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 the person directing the proceedings;

2) disturbing the progress of a procedural action;

3) repeated failure to arrive, without a justified reason, on the basis of a summons of the person directing the proceedings;

4) failure to notify regarding inability to arrive on the basis of a summons of the 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 offence 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 laid down in the law:

- 1) a warning;
- 2) a fine;
- 3) expulsion from the court room;

(2) Expulsion from the court room may not be applied to an advocate and prosecutor. The Council of Sworn Advocates or the Office of the Prosecutor General shall be notified accordingly of their violation.

[19 November 2020]

#### **Section 291. Warning**

(1) The person directing the proceedings may issue a warning to a person who interferes with the procedures laid down 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. Fine**

A fine up to the amount of three minimal monthly wages specified in the Republic of Latvia may be applied upon a person who interferes with the procedures laid down in criminal proceedings or ignores the requirements of the person directing the proceedings, if this Law does not specify otherwise.

[11 June 2020]

#### **Section 293. Application of a Fine**

(1) An investigator or 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 to the investigating judge for the taking of a decision to apply a fine. If the fact of the violation is certified by the documents, they shall be attached to a protocol.

(2) After receipt of a protocol, the investigating judge shall take the decision not later than on the next working day and shall send its copy to the person on whom a fine has been imposed without delay, and also to the person directing the proceedings, if a fine has not been imposed.

(3) If a violation is found during a court hearing, the chairperson of the court hearing shall define the nature of the violation, which shall be entered in the minutes of the court hearing, notify the operative part of the decision to impose a procedural sanction, and explain to the punished person his or her right to receive a copy of the entire decision in court not later than on the next working day, as well as his or her right to submit a request, within 10 days, for the release from payment of the fine or reduction of its amount.

(4) A decision of the investigating judge and court shall not be subject to appeal.

[12 March 2009; 24 May 2012; 27 September 2018]

#### **Section 294. Examination of a Request Regarding Release from Payment of a Fine or Reduction of the Amount Thereof**

(1) A person upon whom a fine has been applied may, within 10 days after receipt of a copy of the decision to apply a fine, request that he or she is released from payment of the fine or the amount thereof is reduced. A request for the decision of the investigating judge shall be submitted to the chairperson of the district (city) court, and for a court decision - to the same court which imposed the fine.

(2) A request shall be examined within 10 days in a written procedure. The decision taken shall not be subject to appeal.

[24 May 2012]

#### **Section 295. Fulfilment of a Fine**

(1) If a person upon whom a fine has been applied has not submitted a request to release from payment of the fine or to reduce the amount thereof, or if the submitted request has been rejected, such person has a duty to voluntarily pay such money within 10 days after notification of the decision or rejection of the request.

(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 fine applied on an official shall be paid by him or her from his or her personal funds.

[24 May 2012]

#### **Section 296. Expulsion from a Court Room**

(1) The chairperson of a court hearing may expel from the court room a person who interferes with procedures during the court hearing and does not fulfil an order of the judge. A note regarding such expulsion shall be made in the minutes of the court hearing.

(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 hearing may be continued if a court decides that the participation of an accused in the court hearing is not compulsorily necessary, and, in addition, only so long as there are grounds to believe that the accused may continue to interfere with procedures in the court hearing.

(3) A fine may be applied to a person, except for an accused, simultaneously with expulsion from a court room.

[12 March 2009]

#### **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 hearing, the chairperson of the court hearing shall acquaint 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 court debates. In all cases, he or she shall be given the opportunity to say the last word.

(3) A decision on expulsion from a court room may be appealed only together with an appeal of a final ruling made by a court.

[12 March 2009; 21 October 2010]

#### **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 - the threatened person).

#### **Section 300. Reason and Grounds for Special Procedural Protection**

(1) The grounds 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 sufficient grounds for the person directing the proceedings to believe 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, if a threatened person agrees to it and a proposal of the person directing the proceedings shall be the grounds for the determination of special procedural protection.

[12 March 2009]

#### **Section 301. Procedures for Examination of a Submission Regarding Determination of Special Procedural Protection**

(1) A written submission regarding the necessity to determine special procedural protection shall be submitted to

the person directing the proceedings.

(2) The 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 on the necessity to determine special procedural protection, or regarding rejection of a received submission.

(3) If the 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 to determine special procedural protection.

(4) During trial 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 prosecutor to examine such submission.

### **Section 302. Proposal of the Person Directing the Proceedings Regarding the Determination of Special Procedural Protection**

A proposal of the person directing the proceedings regarding the determination of special procedural protection shall indicate:

- 1) the identifying data, citizenship, place of residence and employment, education, marital status, dependants, 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.

[12 March 2009; 7 October 2021]

### **Section 303. Recognition of a Person as Requiring Special Procedural Protection**

(1) Having become familiarised with a submission, a proposal of the person directing the proceedings, and materials of criminal case, and, if necessary, having listened to a threatened person, and the representative or defence counsel thereof, the Prosecutor General shall take a decision to determine 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 to determine such protection. The court may also take such decision upon its initiative, if the necessity has come about, during the process of 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, the 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 to determine special procedural protection, and only the persons directing the proceedings in such criminal proceedings and the prosecutor specially authorised by the Prosecutor General may familiarise themselves with such documents.

### **Section 304. Decision to Determine Special Procedural Protection or a Refusal to Determine such Protection**

(1) A decision to determine special procedural protection shall be taken immediately, insofar as possible, but not later than within 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 to refuse to recognise a person as requiring special procedural protection, the motivation for the refusal shall indicated.

### **Section 305. Execution of a Decision on Special Procedural Protection**

(1) After taking of a decision, the 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 use 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, the person directing the proceedings shall fulfil a decision in accordance with the procedures laid down in this Law.

(3) If measures referred to in a special law also ensure the special procedural protection of a person, the 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 laid down 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 to determine special procedural protection, the submission of a person, the examination materials thereof, a proposal of the 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 an official secret.

### **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 Course of Procedural Actions in Pre-trial Proceedings**

(1) A person for whom special procedural protection has been determined shall be summoned to an interrogation 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, the 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 used. Persons under protection have the right to not answer questions, if the answers may provide the opportunity to determine the identity thereof.

(3<sup>1</sup>) An official, who performs protection measures for a person involved in the criminal proceedings not exceeding his or her powers, has the right to be present in procedural actions which are performed with a person under special procedural protection.

(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) The address of a special protection institution shall be indicated instead of the address of a person under special procedural protection in the list of persons to be summoned to a court hearing. 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.

[12 March 2009]

### **Section 309. Special Features of Trial**

(1) A criminal case wherein a person has been recognised as requiring special procedural protection shall be examined in a closed court hearing.

(2) If necessary, a protected person may participate in a court hearing by using technical means, complying with the procedures laid down in Section 140 of this Law, if the person himself 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 to believe that the security 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 hearing, and such testimony may not be used 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 person whose identity is being hidden may be interrogated 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 person 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 hearing, the Prosecutor General shall assign, with a decision thereof, a special protection institution to take the protection measures of such person specified in a special law.

[12 March 2009]

### **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 grounds for protection have 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 the 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 to terminate 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 taken cannot guarantee the security of a protected person, the Prosecutor General, or the court that determined protection, shall take the decision, on the basis of a proposal of the person directing the proceedings, to not use 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 specific procedural right or duty shall be recognised as the moment of the establishment of criminal-procedural relations.

(4) A procedural term intended for appeal of rulings made shall be commenced to count from a day of availability of a ruling, but in cases when the day of availability is not determined, from the day when a person involved in proceedings has received a copy of the ruling or a notification regarding making of the ruling.

(5) In cases when a person involved in proceedings is notified regarding arising of procedural rights or obligations via post or messenger (courier), the commencement of a procedural term shall be established in accordance with what is specified in Chapter 22 of this Law.

[12 March 2009]

### **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 being held under arrest or in a medical institution has transferred the relevant document to the administration of the place of arrest or medical institution until the end of the specific term.

(3) The missing of the term determining the enforcement 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 laid down in the 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 decided not later than five days before the end of the relevant term in a written procedure, on the basis of the submission of a person directing the procedures or an interested person, and presented materials that have been submitted not later than seven days before the end of the term.

(3) In examining a submission regarding the extension of a term, a decision shall be taken to extend the term or to refuse to extend the term.

(4) A decision to extend a term or to refuse 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.

[12 March 2009]

#### **Section 317. Renewal of Delayed Procedural Term**

(1) An interested person who has missed the term specified for the enforcement of rights due to a justifying reason has the right to submit a submission for the renewal of such term. The submission shall indicate the reasons why the term was missed, and documents that certify the justification for the delay of the term shall be attached to such submission.

(2) The submission of an interested person regarding renewal of a delayed term, except for a request for the renewal of a term for submission of a complaint, shall be examined by the person directing the proceedings within the next three 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, the person directing the proceedings may take a decision on renewal of a delayed term, or regarding a refusal to renew a delayed term.

(4) A decision on renewal of a delayed term, or on refusal to renew a delayed term, shall be reasoned, and a submitter shall be immediately notified of such decision.

(5) Having received a submission regarding the renewal of a delayed term, the 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 himself or herself, and up to the deciding of the matter, the execution of a ruling the renewal of the appeal term of which has been requested.

(6) An investigating judge shall examine submissions regarding the renewal of delayed terms in connection with the taking of a decision, located in the competence of the investigating judge, during pre-trial proceedings.

[12 March 2009]

## **Chapter 18.<sup>1</sup> Special Features of Record-keeping in an Electronic Criminal Case**

*[7 October 2021 / Chapter shall come into force on 1 December 2021. See Paragraph 78 of Transitional Provisions]*

#### **Section 317.<sup>1</sup> Record-keeping in an Electronic Criminal Case**

(1) Record-keeping of criminal proceedings shall be kept and all the documents related to such proceedings shall be uploaded or created and stored in an electronic criminal case (hereinafter - the e-criminal case).

(2) The e-criminal case shall consist of the Information System of Criminal Proceedings the manager and holder of which is the Information Centre of the Ministry of the Interior, of the Information System of the Office of the Prosecutor the manager and holder of which is the Office of the Prosecutor of the Republic of Latvia, the Court Information System, and the E-case Portal the manager and holder of which is the Court Administration.

(3) The documents obtained or prepared in paper form in relation to these proceedings shall be converted into electronic form, certifying them with the electronic signature within the meaning of Article 3(10) of Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (hereinafter - Regulation No 910/2014) in conformity with the following provisions:

1) the depiction of the content of the original document and the conformity therewith during the specified data storage period have been ensured;

2) reading of the content electronically and, if necessary, creation of a derivative in paper form have been ensured;

3) the converted document is protected against supplementations, changes, or unauthorised access or destruction.

(4) The documents in paper form referred to in Paragraph three of this Section shall be handed over to the person directing the proceedings and they shall be stored until the day of entering into effect of the final ruling. The process of storage and destruction of a document shall take place according to the procedures stipulated by the head of the institution.

(5) The document converted into electronic form in accordance with the procedures laid down in Paragraph three of this Section shall have the same legal effect as the original document.

(6) Documents which have been created or uploaded in the e-criminal case may be deleted or changes may be made therein only on the basis of a decision and in accordance with the norms of this Law.

(7) The requirements laid down in this Law regarding signing of a document or making of a certification have been met if the documents or certifications have been created in the system of the e-criminal case and signed with the electronic signature within the meaning of Article 3(10) of Regulation No 910/2014 or the signature or certification made in the form of a paper document has been converted in accordance with the provisions of Paragraph three of this Section.

(8) Objects containing an official secret shall be compiled in a separate volume, without entering them in the e-criminal case. A note thereon shall be made in the e-criminal case.

*[7 October 2021 / Section shall come into force on 1 December 2021. See Paragraph 78 of Transitional Provisions]*

### **Section 317.<sup>2</sup> Certification of Procedural Actions**

(1) A person who participates in a procedural action, if it is intended to certify such procedural action with a signature, shall sign with the following according to the technical means at the disposal of the person directing the proceedings:

- 1) a secure electronic signature;
- 2) an electronic signature;
- 3) a one's own signature, an electronic signature, or a secure electronic signature on the certification.

(2) A person who is being warned about criminal liability or informed of his or her rights and obligations shall certify it with a signature after the procedural action.

(3) A certification of a procedural action or document may also be recorded in a sound or a sound and image recording.

*[7 October 2021 / Section shall come into force on 1 December 2021. See Paragraph 78 of Transitional Provisions]*

### **Section 317.<sup>3</sup> Familiarisation with the Materials of a Criminal Case in the E-criminal Case**

(1) Notification of a person regarding availability of a document in the e-case portal shall also be recognised as sending or issuing of a procedural document, and also familiarisation with the materials of a criminal case.

(2) Upon initiative of the person directing the proceedings or upon a motivated application of a person, copies of materials of the e-criminal case may be issued to the person.

*[7 October 2021 / Section shall come into force on 1 December 2021. See Paragraph 78 of Transitional Provisions]*

### **Section 317.<sup>4</sup> Availability of Procedural Documents in the E-criminal Case**

The day when a person is notified of availability of a document in the e-case portal shall be recognised as the day when the procedural document is available.

*[7 October 2021 / Section shall come into force on 1 December 2021. See Paragraph 78 of Transitional Provisions]*

## **Chapter 19 Rulings**

### **Section 318. Decisions in Pre-trial Proceedings**

(1) During pre-trial proceedings, the person directing the proceedings shall take, and draw up in writing, a reasoned decision on:

- 1) the subsequent direction of criminal proceedings;
- 2) the recognition of a person as a suspect;
- 3) [18 February 2016];
- 4) the holding of a person criminally liable;
- 5) the application of a compulsory measure;
- 6) the completion of pre-trial proceedings.

(2) The person directing the proceedings shall also take a reasoned decision in other case specified in this Law, and, if necessary, may take a decision on any matter significant in the proceedings.

(3) Officials who conduct criminal proceeding, but are not persons directing the proceedings, shall take a reasoned decision in matters within the competence thereof.

[18 February 2016]

### **Section 319. Court Rulings**

(1) Court rulings are court judgments and decisions.

(2) A court judgment is a court ruling on the guilt or innocence of an accused, the imposition or non-imposition of a sentence, and the acquittal or release from a sentence.

(3) A court shall take a decision on matters that must be decided in preparing a criminal case for examination in a court hearing, during the course of trial of a case, and in transferring a judgment for execution.

(3<sup>1</sup>) If this Law provides for taking of a decision in a written procedure, a judge may, upon his or her initiative, specify an oral procedure.

(4) Court judgments and, in the cases determined by law, decisions shall be drawn up in writing.

[11 June 2020]

### **Section 320. Structure of a Ruling**

(1) A ruling drawn up in writing shall consist of an introduction, a descriptive part, a reasoned part, and an operative part.

(2) The introduction of a ruling shall indicate the place and time of its making, the institution and the official who made the ruling, and the legal matter on which the ruling was made.

(3) The descriptive part shall indicate the essence of the circumstances ascertained in proceedings that is at the basis of the making of the ruling.

(4) The reasoned part shall indicate a reference to the law in accordance with which the ruling was made, and shall justify the conclusion made.

(5) The operative part shall indicate the conclusion regarding the matter being examined, the made ruling, and the procedures for and term of the appeal of such ruling.

(5<sup>1</sup>) A judgment shall not contain information, which is an object of official secret. If information, which is an object of official secret, is an evidence in criminal proceedings, it shall be indicated in the ruling that such information has been evaluated.

(6) In the cases provided for in this Law, the written decision of the person directing the proceedings may be written in the form of a resolution. In such cases the ruling made, the Section of the Law according to which it was made, the official who took the decision, and the date of taking of the decision shall be indicated.

(7) An official, who is authorised to conduct the criminal proceedings, shall draw up his or her decision in the form of a resolution by which he or she permits or agrees to perform a particular procedural action or approved performance thereof.

(8) [20 June 2018]

[12 March 2009; 21 October 2010; 18 February 2016; 20 June 2018]

### **Section 321. Familiarisation with a Judgment or Issue of a Copy**

(1) A person who is involved in criminal proceedings and whose rights and interests have been affected by a made ruling, 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 ruling has been made shall be familiarised with the ruling before the commencement of the execution thereof, if the execution takes place with the participation of the relevant person.

(2) In the cases determined by law, familiarisation with the decisions taken in pre-trial proceedings shall take place only after completion of a particular investigative action, or in completing pre-trial proceedings.

(3) A copy of a court judgment or decision by which proceedings are completed shall, not later than on the next day after preparation of the full text thereof, be sent to an accused, who is being held under arrest, house arrest or in a social correctional educational institution.

(4) In the cases determined by law, upon notifying a person of the ruling made, a copy thereof or a notification of the ruling made may be sent to the postal or electronic address indicated by the person for the receipt of consignments.

(5) If a copy of a ruling or a notification of the ruling made has been delivered to the person by post, it shall be deemed that the person has been notified of the ruling on the seventh day after handing over of the copy thereof or the notification to the post office. If a copy of a ruling or a notification of the ruling made has been delivered to the electronic mail address of the person, it shall be deemed that the person has been notified of the ruling on the second working day after its copy or the notification has been sent.

*[12 March 2009; 24 May 2012; 27 September 2018]*

### **Section 321.<sup>1</sup> Day of Availability of a Court Ruling**

(1) The day of availability of a court judgment or decision by which the proceedings are completed shall be the day on which the judgment or decision, or the translation of the judgment or decision may be received at the Court Registry.

(2) A court shall provide the victim with a possibility to become familiar with the ruling using the assistance of an interpreter. If a victim who does not know the official language and whose permanent place of residence is in a foreign country has applied a request to receive a written translation of the ruling, the person directing the proceedings shall send a written translation of the abovementioned ruling to the victim.

(3) The court shall provide the accused with a written translation of the ruling in a language comprehensible to him or her without delay. A written translation shall not be provided, if:

1) a judgment of conviction has been rendered in a case that has been examined in the court of first instance without verification of evidence;

2) a judgment of conviction has been rendered in the event of settlement between the victim and the accused;

3) a judgment of conviction has been rendered under the proceedings of agreement;

4) a decision by the cassation court has been rendered;

5) an abridged judgment has been rendered.

(4) The accused for whom a written translation of the ruling in a language comprehensible to him or her is not provided in the cases referred to in Paragraph three of this Section shall be provided by the court with a possibility to become familiar with the ruling using the assistance of an interpreter. Persons to whom a security measure related to deprivation of liberty has been applied shall be provided with a possibility to become familiar with the ruling using the assistance of an interpreter by the relevant place of imprisonment.

(5) The day of availability of a court ruling for an accused person who is being held under arrest, house arrest or in a social correctional educational institution shall be the day on which a copy of the ruling is issued to him or her in a language comprehensible to him or her or he or she is familiarised with the ruling in accordance with the procedures laid down in Paragraph four of this Section.

*[23 May 2013; 18 February 2016; 22 June 2017]*

### **Section 322. Procedures for Entering into Effect of a Ruling**

(1) All procedural decisions shall enter into effect immediately after 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 laid down in this Law.

(3) A ruling that has entered into effect is mandatory and shall be fulfilled by everybody.

## Chapter 20 Proposals

### Section 323. Proposals

The 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 objective of 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 himself or herself, or to allow another person to perform such operations with a decision on basis of the location where the criminal offence was committed or on the basis of the location of the investigation or prosecutor institutions thereof, in the record-keeping of which is the specific proceedings.

(2) If the law does not specify otherwise, a proposal shall be examined within 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 three days.

[19 January 2006]

## Chapter 21 Minutes

### Section 325. Minutes of a Procedural Action

(1) In pre-trial proceedings, the minutes of a procedural action shall record the course of an investigative action, and, in the cases specified in law, also the course of other procedural actions. If several procedural actions are conducted at the same time, they may be recorded in the same minutes of a procedural action.

(1<sup>1</sup>) The minutes of a procedural action may include a decision related to such action.

(2) The minutes of a court hearing shall record procedural actions performed in judicial proceedings.

[20 June 2018]

### 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 identifying data 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 used 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) Sections 482 and 484 of this Law shall determine the content of the minutes of a court hearing.

[7 October 2021]

### 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 or, due to physical

deficiencies or other reasons, is not able to sign, such refusal shall be noted in the minutes, indicating the reason and motives for the refusal.

[12 March 2009]

## Chapter 22 Summonses

### Section 328. Summons

A summons is a document with which the person directing the proceedings summons a person to an investigating institution, the Office of the Prosecutor, or the court, in order for such person to participate in criminal proceedings (hereinafter - the person being summoned). In case of necessity, other means of communication may be used 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 investigating institution, the Office of the Prosecutor, 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 in a pre-trial criminal proceedings 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 in a pre-trial criminal proceedings 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. A summons may be sent also to an electronic mail address of the person.

(3) A summons shall be sent as an ordinary postal item or, in the cases when it is possible, issue personally at the court in exchange for the signature. A summons may be sent also to an electronic mail address of the person. As regards the defence counsel, State and local government institutions, a summons shall be sent to the electronic mail address.

(4) If a person being summoned has indicated another mode of communication, or if a case is urgent, a person may also be summoned by using other modes of communication.

(5) A summons shall be sent to a person being summoned who lives in a foreign country, or whose legal address is in a foreign country, through the intermediation of the Ministry of Foreign Affairs of the Republic of Latvia or in accordance with the procedures laid down in an international agreement.

[23 November 2016; 27 September 2018]

### Section 331. Procedures for Issuing a Summons in Pre-trial Criminal Proceedings

(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 the person directing the proceedings.

[23 November 2016]

### **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 the 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 specific criminal proceedings has a duty to be accessible at such address.

(2) If a summons has been delivered in accordance with the procedures laid down 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 laid down in Section 330 of this Law by mail, 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 handing over of the summons to the post office.

(4) If a summons has been delivered to the electronic mail address of the person being summoned in accordance with the procedures laid down in Section 330 of this Law, it shall be deemed that the person being summoned has been notified of the time and place for the proceedings on the second working day after the summons has been sent.

[19 January 2006; 14 January 2010; 27 September 2018]

## **Chapter 23 Applications, Submissions and Requests**

[12 March 2009]

### **Section 333.<sup>1</sup> Submission of Applications, Submissions or Requests**

(1) A person involved in the proceedings may, for the ensuring of his or her or other person's rights and lawful interests, submit an application, submission or request to the person directing the proceedings or to another official in the cases determined in the Law who is authorised to perform criminal procedural action.

(2) An application, submission or request shall be examined regardless of the title of such document, if only the content thereof expresses a proposal related to particular criminal proceedings which is significant for achieving the objective of criminal proceedings or ensuring of the rights and lawful interests of a person.

[12 March 2009]

### **Section 334. Terms for Examination of Applications, Submissions and Requests**

(1) An application, submission or request shall be examined, and a decision on such application shall be taken, immediately after receipt thereof, if this Law does not specify otherwise.

(2) If the decision on an application, submission or request cannot be taken without delay, such decision shall be taken within seven days after receipt thereof.

(3) Applications, submissions or requests submitted to a court shall be examined and decided in a trial, unless they are to be decided earlier in order to prepare the case for trial.

[12 March 2009; 20 June 2018]

### **Section 335. Deciding of an Applications, Submissions and Requests**

(1) An application, submission or request is able to be satisfied, if it promotes the ascertaining of facts significant in criminal proceedings, and the ensuring of the rights and lawful interests of persons involved in the proceedings and other persons.

(2) If an application, submission or request has been satisfied, a written decision may be not drawn up, but the submitter shall be notified thereof in writing and the execution thereof shall be ensured.

(3) A reasoned decision on complete or partial rejection of an application, submission or request shall be taken which shall be notified to a submitter within three working days by sending or issuing to him or her a copy of thereof.

(4) A decision on rejection of an application, submission or request may be appealed in accordance with the procedures laid down in this Law.

(5) If the content of an application, submission or request in relation to legal or factual circumstances indicated in the application, submission or request already examined has not changed on its merits, the application, submission or request shall not be examined and the submitter shall be notified thereof.

[12 March 2009; 20 June 2018]

## Chapter 24 Complaints

### Section 336. Right to Submit a Complaint

(1) A complaint regarding the actions or ruling of an official conducting 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 specific actions or ruling.

(2) A complaint submitted by a prosecutor shall be called the protest of the prosecutor.

(3) A decision of the person directing the proceedings shall be subject to appeal, except in the cases determined in this Law.

### Section 337. Submission of a Complaint

(1) A complaint shall be addressed and submitted to an official or institution, that is entitled to decide on it. A complaint may be submitted also to an official the action or decision of which is appealed.

(2) A complaint shall be transferred for deciding:

1) to the 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 prosecutor regarding the actions or decision of an investigator or the direct supervisor of the investigator;

3) to a higher-ranking prosecutor regarding the actions or decision of a prosecutor.

4) to a higher-level court regarding the decision of the investigating judge;

5) to the chairperson of the court regarding the actions of a judge;

6) to a higher-level court regarding the ruling of a court or judge.

(3) The decision of the examiner of a complaint - higher-ranking prosecutor - referred to in Paragraph two, Clause 3 of this Section shall not be subject to appeal in pre-trial proceedings. If a person has appealed the actions or decision to terminate criminal proceedings of a person referred to in Paragraph two, Clause 2 or 3 of this Section, and does not agree with the decision taken by the examiner of a complaint - higher-ranking prosecutor, such person may appeal such decision to the next higher-ranking prosecutor whose decision shall not be subject to appeal in pre-trial criminal proceedings.

(4) A chairperson of a court shall, in examining a complaint, decide it on the basis of the essence thereof. The decision taken by the chairperson of a court shall not be subject to appeal.

(5) A person who has received a complaint regarding his or her actions or decision shall immediately transfer 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; 12 March 2009; 18 February 2016; 19 November 2020]

### **Section 338. Sending of Complaints of Detained Persons or Arrested Persons**

The administration of a place of detention or arrest shall immediately transfer the complaint of a detained person or a person arrested after 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 pre-trial proceedings may be submitted during the entire term of pre-trial proceedings, if other term has not been provided for in this Section.

(2) A decision of an investigator or prosecutor may be appealed within 10 days from the day of the receipt of a copy of the decision or a notification regarding the decision taken. A complaint regarding the action of an investigator or prosecutor may be submitted within 10 days from the day when the actual action was established.

(3) Complaints regarding rulings of a judge or court may be submitted within 10 days from the day of the availability of the ruling, if another term is not provided for in this Law. A complaint regarding the action of a judge may be submitted within 10 days from the day when the actual action was established.

(4) If the term for the submission of a complaint has been missed due to a justified reason, such term may be renewed upon request of the submitter by the authority or official who has the right to examine the complaint.

[19 January 2006; 12 March 2009; 21 October 2010; 24 May 2012; 11 June 2020]

### **Section 340. Revocation of Complaints**

(1) A person who has submitted a complaint is entitled to revoke such complaint.

(2) A complaint that has been submitted to a court may be revoked up until the moment when the court retires to deliberate the making of a ruling.

(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 a Ruling in Connection with the Submission of a Complaint**

In the cases determined in this Law, the submission of a complaint shall suspend the execution of an appealed ruling. 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 a Complaint**

(1) Having received a complaint, the recipient thereof shall decide on examination of such complaint, or send such complaint on the basis of the jurisdiction thereof, within three working days after the day of receipt thereof.

(2) The assigning of examination of a complaint to the same official whose actions or ruling are being appealed, or to the official who has approved the appealed ruling, 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 ruling 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 take 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.

(5<sup>1</sup>) If the content of a complaint in relation to legal or factual circumstances indicated in a complaint already examined has not changed on the basis of the essence thereof, the complaint shall not be examined and the submitter shall be notified thereof.

(6) If the law does not specify otherwise, a higher-level court judge shall examine the complaint in the written procedure. The decision shall not be subject to appeal.

(6<sup>1</sup>) A higher-level court judge shall examine the complaint regarding a decision of an investigating judge in a written procedure. If necessary, the judge shall request the case materials. The decision shall not be subject to appeal.

(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; 14 January 2010; 24 May 2012; 18 February 2016; 19 November 2020]

### **Section 343. Terms for Examination of a Complaint**

(1) Complaints, for which other terms for examination are not provided for in this Law, shall be examined within 10 days after receipt thereof.

(2) In cases where the obtaining of additional materials, or the taking of other measures, is necessary for the examination of a complaint, examination of the complaint shall be allowed within 30 days, notifying the submitter of the complaint of such examination.

(3) If the complaint has not been submitted in the official language, in respect of the beginning of the term of 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; 12 March 2009]

### **Section 344. Deciding a Complaint**

(1) A complaint may be satisfied or rejected.

(2) In satisfying a complaint:

- 1) the appealed ruling 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 make the ruling provided for in Paragraph two, Clauses 1 and 4 of this Section.

(4) A refusal to satisfy a complaint shall be reasoned.

(5) The official or court that decides a complaint may not revoke a previously made ruling, 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 on 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 ruling, 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 specific decision within 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 Supreme Court.

(2) Having received a complaint, the chairperson of the Department of Criminal Cases of the Supreme Court 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 examination of a complaint has been assigned shall request from the Prosecutor General the criminal case or other materials that were the grounds 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 examination of the complaint and regarding his or her rights, and the rights of his or her representative, to participate in the court hearing. The submitter of a complaint who is being held under arrest shall, on the basis of his or her request, be ensured participation in examination of the complaint.

[19 December 2013]

#### **Section 348. Examination of a Complaint**

(1) 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 justified 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 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 hearing.

(3) A court may take one of the following decisions:

1) to leave the decision of the Prosecutor General without unamended;

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 shall not be subject to appeal.

[12 March 2009; 19 December 2013]

#### **Section 349. Actions of a Court after Examination of a Complaint**

A court shall send a criminal case and other requested materials, together with a decision, to the Prosecutor General within three working days after taking of the decision.

## **Division Six Financial Matters in Criminal Proceedings**

### **Chapter 26 Compensation for Harm Caused by a Criminal Offence**

#### **Section 350. Compensation for Harm 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 which an accused pays voluntarily, or on the basis of a court ruling or a prosecutor's penal order.

(3) If a victim believes that the entire harm 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 laid down 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 ruling in criminal proceedings on the guilt of a person shall be binding in the judgment of a civil case.

[12 March 2009; 20 June 2018]

### **Section 351. Application for Compensation**

(1) A victim has the right to submit an application regarding compensation for a caused harm in any stage of criminal proceedings up to the commencement of a court investigation in a court of first instance. The application shall justify the amount of the requested compensation for financial losses, but the amount of compensation for moral injury and physical suffering - shall just be indicated. The account number of a credit institution or financial institution (if any) to which compensation for harm should be transferred shall be indicated in the application.

(2) An application may be submitted in writing or expressed orally. An oral application shall be recorded in the minutes by the person directing the proceedings.

(3) During pre-trial proceedings, a prosecutor shall indicate a submitted application and the amount of requested compensation, as well as his or her opinion thereon 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.

(4<sup>1</sup>) An application for compensation shall be examined regardless of the presence of a victim.

(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 render a judgment. The refusal of compensation of a victim may not be grounds for the revocation or modification of prosecution, or a justifying judgment.

[12 March 2009; 29 May 2014; 19 November 2020]

### **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, upon 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) The obligation to pay compensation may be imposed 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 committing a criminal offence, - subsidiary with the parents or persons who substitute for him or her, except in the cases when it is the duty of office of such persons;

2<sup>1</sup>) a person for whom a compulsory measure of medical nature is specified or who has been transferred into the charge of relatives or other persons;

3) a legal person who has been applied a coercive measure has been applied.

(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 harm shall be compensated from the State funds to victims, and the amount of harm to be compensated from such funds.

[12 March 2009; 14 March 2013; 20 June 2018]

#### **Section 354. Fee to the Victim Compensation Fund**

[12 March 2009]

### **Chapter 27 Actions with Criminally Acquired Property**

#### **Section 355. Criminally Acquired Property**

[22 June 2017]

#### **Section 356. Recognition of Property as Criminally Acquired**

(1) Property may be recognised as criminally acquired by a court ruling that has entered into effect, or by a decision of a prosecutor to terminate criminal proceedings.

(1<sup>1</sup>) If property has been recognised as criminally acquired, the seizure, burdens, prohibitions and pledge rights thereof, including all burdens and pledge notations entered in respect of property to be registered in the public register, shall be deleted.

(2) During pre-trial criminal proceedings, property may also be recognised as criminally acquired by:

1) a district (city) court decision in accordance with the procedures laid down in Chapter 59 of this Law;

2) a decision of the person directing the proceedings, if, during the pre-trial criminal proceedings, the property in relation to which its owner or lawful possessor had applied for the loss of property and right to which he or she has proven, by eliminating any doubts, after its finding has been found in the possession of the suspect, accused or third persons or it has been removed therefrom.

(3) After termination of criminal proceedings for reasons other than exoneration, property may be recognised as criminally acquired by a district (city) court ruling in accordance with the procedures laid down in Chapter 59 of this Law.

(4) During the pre-trial criminal proceedings or after termination of criminal proceedings for reasons other than exoneration of a person, the property, in the case referred to in Paragraph two, Clause 2 of this Section, for which the rights have been registered in the public register and the entry in this register has been amended after committing of the criminal offence may be recognised as criminally acquired only by a district (city) court ruling in accordance with the procedures laid down in Chapter 59 of this Law.

(5) If an assumption is expressed that the property is criminally acquired or related to a criminal offence, the person directing the proceedings shall notify the person that such person may, within 45 days from the moment of notification, submit information on the legality of the origin of the relevant property, and also shall inform the person of consequences for failure to submit such information.

[12 March 2009; 21 October 2010; 22 June 2017; 27 September 2018; 21 November 2019]

#### **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 the person directing the proceedings or court after storage of such property is no longer necessary for achieving the objective of criminal proceedings. Action with property which is not withdrawn by its owner or lawful possessor shall take place in accordance with the same procedures as action with property which has been seized.

(2) Property, the circulation of which 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 person directing the proceedings, or to a legal person that is entitled to obtain and use such property.

(3) Property the origin of which is the State resources used for disclosure of a criminal offence shall be returned to the legal possessor or recovered for the benefit of him or her. If such property is alienated, destroyed, concealed or disguised and it is not possible to return it, other property may be subjected for such recovering in the value of the property to be returned.

(4) If a criminally acquired property - immovable property - is returned, on the basis of ownership, to the owner or lawful possessor, lease or rental contracts of the residential premises entered into after committing of criminal offence shall not be in force.

[12 March 2009; 22 June 2017]



### **Section 358. Confiscation of Criminally Acquired Property for the Benefit of the State**

(1) Criminally acquired property shall be confiscated with a court ruling for the benefit of the State, if the further storage of such property is not necessary for achieving the objective 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) In the case referred to in Paragraph one of this Section a criminally acquired property may be confiscated for the benefit of the State also by a decision of a prosecutor to terminate criminal proceedings, except when a property the right to which are to be registered in the public register has been recognised as criminally acquired.

[22 June 2017]

### **Section 358.<sup>1</sup> Replacement of Criminally Acquired Property Upon Request of a Person**

(1) If the confiscation of criminally acquired property for the benefit of the State has been applied to a person, a prosecutor or a judge, in the case specified by the Criminal Law, may replace the confiscated property with financial resources in the value of such property, if the person to whom the confiscation has been applied has, within 3 working days after entering into effect of a ruling, submitted a justified request to replace the property and if the person has compensated the harm caused to a victim. The matter on replacement of property shall be decided in a written procedure by determining a time period of 30 working days for voluntary payment of the financial resources.

(2) A person shall submit a request to the Office of the Prosecutor where the decision to confiscate a criminally acquired property has been taken, or in a court of first instance.

(3) A complaint regarding a decision to reject the request to replace the property shall be examined by a higher-ranking prosecutor or a higher-level court judge in a written procedure. The decision shall not be subject to appeal.

(4) A prosecutor or a judge who took the decision on the replacement of property shall revoke the seizure of a criminally acquired property when the person has paid financial resources in the value of the replaced property. The value of the replaced property shall be determined according to the value it had at the time of seizure.

(5) If the financial resources are not paid in full within 30 working days after entering into effect of a decision on the replacement of property, the decision on the replacement of the confiscation of property shall cease to be in effect. A ruling on confiscation of a criminally acquired property for the benefit of the State shall be sent for execution in accordance with the procedures laid down in this Law.

(6) If within the period specified in Paragraph five of this Section the financial resources have been paid partly, a judge or a prosecutor after receipt of a notification regarding execution of confiscation of criminally acquired property shall take one of the following decisions in a written procedure:

1) regarding reimbursement of financial resources to a person to whom confiscation of criminally acquired property has been applied if the criminally acquired property is confiscated;

2) regarding transferring of financial resources to the State budget if the confiscation of criminally acquired property has not been possible.

[22 June 2017]

### **Section 359. Use of the Resources Acquired as a Result of the Confiscation of Criminally Acquired Property**

(1) After entering into effect of a final ruling in criminal proceedings, resources acquired as a result of the confiscation of criminally acquired property shall be used first for the ensuring and payment of the requested compensation. Actions with the acquired resources shall take place in accordance with the procedures laid down in the Law on Execution of Confiscation of Criminally Acquired Property.

(2) After receiving a notification from a bailiff regarding execution of confiscation of a criminally acquired property, including compensation for a caused harm to a victim and payment of immovable property tax debts to a local government, a judge shall take a decision regarding recovery of resources which are used for compensation for a caused harm to a victim and for covering immovable property tax debts from a convicted person for the benefit of the State in a written procedure. The decision shall not be subject to appeal. The court shall send the ruling together with a cover letter to a sworn bailiff for execution in accordance with the procedures laid down in this Law. A sworn bailiff shall perform the recovery in accordance with the procedures laid down in the Civil Procedure Law.

[22 June 2017]

### **Section 360. Rights of Third Persons**

(1) If a 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 a 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 the procedures laid down in the Civil Procedure Law, regarding compensation for the loss, including against an accused or convicted person.

(2<sup>1</sup>) If a criminally acquired property is an immovable property that escheats to the State, it shall be left in the ownership of a third person who acquired such property in good faith and its ownership rights have been corroborated in a public register. The value of such property shall be recovered, in accordance with the procedures laid down in the Civil Procedure Law, for the benefit of the State from the person who has committed a criminal offence.

(3) If a criminally acquired immovable property is confiscated (from a third person), the confiscation itself may not be grounds to request early fulfilment of obligations which are secured with the relevant immovable property or to believe that the abovementioned obligations are being violated.

[20 June 2018; 4 March 2021]

## Chapter 28 Ensuring of a Solution to Financial Matters

### Section 361. Seizure of a Property

(1) To ensure the recovery of procedural expenditures and compensation for a harm to a victim, possible return, on the basis of ownership, of a criminally acquired property to the owner or lawful possessor, possible confiscation of a criminally acquired property, resources that a person has acquired from the disposal of such property, the yield received as a result of the use of the criminally acquired property, or property related to a criminal offence, and also possible confiscation of property as an additional punishment, the property will be seized within criminal proceedings. A property may be seized to ensure possible replacement of the special confiscation of a property in the cases specified in the Criminal Law, as well as to ensure the recovery of such property the origin of which is the State resources used for disclosure of a criminal offence.

(1<sup>1</sup>) [22 June 2017]

(2) A property may also be seized in proceedings regarding the application of coercive measures to a legal person and regarding the determination of compulsory measures of a medical nature, if it is necessary to ensure a solution to financial matters in criminal proceedings, the possible liquidation, recovery of money, or confiscation of property.

(3) In pre-trial proceedings, property shall be seized with a decision of the person directing the proceedings that has been approved by an investigating judge, but during trial a court shall take a decision.

(4) In emergency cases when property may be alienated, destroyed, or hidden due to a delay, the person directing the proceedings may seize the property with the consent of a prosecutor. The person directing the proceedings shall notify an investigating judge of the seizure not later than on the next working day by presenting the protocol and other materials that justify the necessity and emergency of the seizure. If the investigating judge does not approve the decision of the person directing the proceedings on the seizure of a property, the seizure of the property must be revoked.

(5) The decision on the seizure of a property shall indicate the purpose of the seizure and the person who owns the property upon which shall be seized, and, if the amount of the financial matter to be solved is known, the necessary ensuring sum shall also be indicated.

(6) [22 June 2017]

(7) If a mortgage pledge or other pledge, which has been specified by law and should be registered, was registered in relation to property before its seizure, actions with the pledged property may take place only after co-ordination with the person directing the proceedings. If such property has been recognised by a court decision as criminally acquired, the seizure of the property has priority in relation to the pledge.

(7<sup>1</sup>) If in relation to property which is being seized a mortgage or commercial pledge has been registered, the person directing the proceedings shall inform the mortgage creditor or commercial pledgee about the taken decision. Upon receipt of information regarding the seizure of a property, a mortgage creditor or commercial pledgee has the right to submit documents regarding the origin of property.

(8) It shall not be allowed to seize basic necessity objects used by the person whose property is being seized, or by the family members of such person and the persons dependent on such person. Annex 1 to this Law shall determine the list of such objects. A prohibition specified in this Paragraph shall not apply to criminally acquired property or other property related to a criminal offence.

(9) A copy of the decision shall be sent or issued to a person whose property is being seized.

(10) The person directing the proceedings shall register the seized property in the list of objects and documents in the criminal case.

[12 March 2009; 14 January 2010; 14 March 2013; 18 February 2016; 22 June 2017; 27 September 2018; 7 October 2021]

### **Section 361.<sup>1</sup> Sending for Execution of the Decision on the Seizure of a Property**

(1) The execution of the seizure may be assigned, by sending the extract of the decision, to:

1) the State Police;

2) the public register in which the rights to the seized property are registered so that it would register the prohibition to alienate and to burden such property with other property or obligation rights;

3) capital company or co-operative society whose capital shares (stocks) or co-operative shares are seized so that it would transfer all the money which is due to the relevant person from a capital company or co-operative society into the bank account indicated by the person directing the proceedings (account of an institution, account of the Treasury, or account of the person which has been seized), as well as would comply with the prohibition to alienate and burden such capital shares (stocks) and co-operative shares with other property or obligation rights;

4) credit institution or investment brokerage company in which the seized monetary deposits, financial instruments and capital shares (stocks) are stored so that withdrawal operations with them would be discontinued.

(2) Upon seizing the property, the owner, possessor, user, or holder of such property shall be notified of the prohibition to act with or use such property, as well as of the rights of the owner of property infringed during criminal proceedings. If necessary, a tangible property shall be removed and placed in storage.

(3) Upon seizing capital shares (stocks) or co-operative shares, the person directing the proceedings may impose a duty on a person to notify if he or she is due any payments or money from these capital shares (stocks) or co-operative shares, including from third persons.

(4) Upon seizing capital shares (stocks) or co-operative shares, the person directing the proceedings may impose a duty on a capital company or co-operative society whose capital shares (stocks) or co-operative shares are seized to transfer all the money which is due to the person from a capital company or co-operative society into the bank account indicated by the person directing the proceedings (account of an institution, account of the Treasury, or account of the person subject to seizure).

(5) Upon seizing money of members of a partnership, the person directing the proceedings may impose a duty on a partnership to transfer all the money which is due to the person from a partnership into the bank account indicated by the person directing the proceedings (account of an institution, account of the Treasury, or account of the person subject to seizure).

[22 June 2017]

### **Section 362. Protocol on the Seizure of a Property**

(1) A protocol shall be written on the seizure of a property. A protocol regarding the seizure of property need not be written if the decision on the seizure of property, by sending an extract of the decision, has been assigned for execution in accordance with Section 361.<sup>1</sup>, Paragraph one, Clauses 2, 3, and 4 of this Law and it is not necessary to describe individual features of the property or if the seizure is imposed on virtual currency.

(2) A protocol shall record the following:

1) each object upon which has been seized, indicating the name, label, weight, level of wear, and other individual features;

2) the objects which have not been seized, if the entire property is being seized;

3) the application that a third person has submitted regarding ownership of the property.

(3) [22 June 2017]

(3<sup>1</sup>) In seizing the property, also all the civil yield arising or due from the seized property shall be considered seized.

(4) If property has been removed, the protocol shall indicate precisely what has been removed, 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 seizure, an entry on such

attempt shall be made in the protocol.

[12 March 2009; 18 February 2016; 22 June 2017; 7 October 2021]

### **Section 363. Issuance of Copies of a Protocol on the Seizure of a Property**

(1) A copy of the protocol on the seizure of a 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 property was seized.

(2) If such property is being seized which is located in the territory of a legal person, a copy of the protocol on the seizure of 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 Seizure**

(1) Property which is being seized shall be assessed in accordance with the prices prevalent in the area, taking into account the degree of wear and tear of such property. The immovable property which is being seized shall be assessed in accordance with the market value. If necessary, a specialist shall be invited for the determination of the value of the property.

(2) The value of the property shall be determined at the time of seizure. If it is not possible, the value of the property shall be determined not later than until completion of the pre-trial proceedings during the pre-trial proceedings, but during trial - until the retiring of the court to the deliberation room.

(3) Money, financial instruments, stocks and shares of the equity capital shall be registered on the basis of the nominal value thereof.

(4) If only a part of the property must be seized 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 seizure.

[22 June 2017]

### **Section 364.<sup>1</sup> Permission for the Disposal of Seized Property**

(1) If the person directing the proceedings, when seizing the property, finds that in relation to the same property there is a registered note of a sworn bailiff on directed recovery, the person directing the proceedings shall inform the sworn bailiff that the property is being seized.

(2) If it is necessary for a sworn bailiff in accordance with the procedures laid down in the Civil Procedure Law, in executing the ruling, to direct the recovery against the seized property, he or she shall submit an application to the person directing the proceedings. The person directing the proceedings shall, after assessment of the conditions of the criminal proceedings and the essence of that claim for the satisfaction of which a note is registered regarding bringing of collection, take a decision on permission or prohibition for the bailiff to bring a collection in respect of such property. If the person directing the proceedings is a judge or a court, the application shall be examined and the decision shall be taken in a written procedure. An amount to be retained for the ensuring of property matters in the criminal proceedings shall be indicated in a decision on permission to direct recovery against the seized property. The decision taken by the person directing the procedures shall not be subject to appeal.

(2<sup>1</sup>) If the person directing the proceedings has received an information from an institution regarding the alienation of immovable property for public needs, he or she shall notify the institution about an amount to be retained for the ensuring of property matters in the criminal proceedings.

(3) If the conditions of criminal proceedings based on the evaluation of which the person directing the proceedings has given the permission to a bailiff to direct recovery against a seized property have significantly changed, the person directing the proceedings may take the decision to prohibit directing the recovery against the seized property notifying such decision to the bailiff until the closing date of auction indicated in the advertisement regarding auction or until sale of movable property without auction.

(4) After the disposal of the seized property in accordance with the procedures laid down in the Civil Procedure Law or after alienation of immovable property for public needs in case a contract regarding voluntary alienation of immovable property has been entered into or the law on alienation of the respective property has come into effect, but before the reimbursement of compensation, a sworn bailiff or an institution shall respectively notify the person directing the proceedings thereof, asking to revoke the seizure of the disposed property, and shall transfer the amount indicated by the person directing the proceedings into the deposited funds account indicated by him or her. The person directing the proceedings shall decide on the seizure of these financial resources. The confirmation of an investigating judge is not necessary for such decision.

[12 March 2009; 22 June 2017; 11 June 2020]

### **Section 365. Storage of a Seized Property**

(1) Property which has been seized 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) [12 March 2009]

(2<sup>1</sup>) Property which has been seized but which is not possible to leave in storage with the persons specified in Paragraph one of this Section shall be handed over for storage to the institutions specified by the Cabinet with the decision of the person directing the proceedings. The Cabinet shall determine the procedures for storage of such property. Property the long-term storage of which is not possible or the long-term storage of which causes losses for the State shall be handed over for disposal or destruction in accordance with the procedures laid down by the Cabinet with the decision of the person directing the proceedings. If virtual currency is seized, it shall be handed over for disposal by a decision of the person directing the proceedings. The Cabinet shall determine the procedures for the disposal of virtual currency.

(2<sup>2</sup>) The person directing the proceedings shall send a copy of the decision to sell or dispose of the seized property to the owner or lawful possessor of the seized property, informing him or her of the right to appeal against the decision in pre-trial criminal proceedings before the investigating judge. Execution of the decision shall be suspended until examination of the complaint. Suspending the execution of the decision shall not apply to the property the long-term storage of which is not possible. The decision of the investigating judge shall not be subject to appeal.

(3) If such objects are being seized the circulation of which has been prohibited by law, as well money, currency, materialised financial instruments, bills of exchange, registered shares in printed form and other monetary documents, articles made from precious metals or precious stones, as well as precious metals and precious stones, the place of storage and the procedures for storage thereof shall be determined by the Cabinet.

(4) Monetary deposits, financial instruments and capital shares (stocks) stored in credit institutions or investment brokerage companies shall not be removed, but, after receipt of the decision on the seizure of a property, withdrawal operations with them shall be discontinued.

*[12 March 2009; 14 January 2010; 22 June 2017; 11 June 2020 / Amendment to Paragraph 2.<sup>1</sup> shall come into force on 1 January 2021. See Paragraph 72 of Transitional Provisions]*

### **Section 366. Revocation of the Seizure of Property**

(1) The person directing the proceedings shall take the decision to revoke the seizure of property, and shall immediately notify the persons whose property has been seized, or in the storage of whom the seized property was placed, of such revocation. During an investigation, until the completion thereof, the investigator shall take the decision with the consent of the supervising prosecutor. The decision to revoke the seizure of a property shall be taken, if:

1) a court takes a judgment of acquittal;

2) [22 June 2017];

3) the 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;

5<sup>1</sup>) a bailiff has sold attached property with a permission of a person directing the proceedings in accordance with the procedures laid down in the Civil Procedure Law, in order to execute the judgment;

6) any other reason for the ensuring of a solution to financial matters has ceased.

(2) The person directing the proceedings may retain the seizure of only such part of property that may be necessary for the covering of procedural expenditures.

(3) After entering into effect of a ruling, the person directing the proceedings shall immediately notify the person, mortgage creditor, commercial pledgee, public register, capital company, credit institution or investment brokerage company which ensured the seizure of the property.

(4) If, within a month after the day when a notification regarding revocation of the seizure of property was sent, a person whose property was seized and whose property was transferred in storage in accordance with Section 365, Paragraph 2.<sup>1</sup> of this Law has not removed the property belonging thereto, a person directing the proceedings or - after

entering into effect of the final judgment in the criminal proceedings - a judge, prosecutor of the institution, which sent the notification, or the head of an investigating institution or a unit thereof shall take a decision to put up for sale or to destroy the property. The decision shall not be subject to appeal. The Cabinet shall determine the procedures for the disposal and destruction of the property.

[12 March 2009; 21 October 2010; 22 June 2017; 7 October 2021]

## 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 investigating 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 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, disposal 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;

7<sup>1</sup>) expenditures that have been occasioned in an administrative offence case in which a decision to terminate administrative offence proceedings is taken by transferring the materials to an investigating institution, or the ruling given is revoked in relation to the initiation of criminal proceedings or it has become invalid in relation to holding a person criminally liable;

7<sup>2</sup>) expenditures which are related to examinations carried out for detection of the influence of alcohol concentration, narcotic, psychotropic or other intoxicating substances;

7<sup>3</sup>) expenditures related to the takeover of a person extradited by a foreign country;

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; 30 March 2017; 27 September 2018; 19 November 2020]

### Section 368. Recovery of Procedural Expenditures

(1) Procedural expenditures shall be recovered from convicted persons under a court ruling, except in the cases referred to in Paragraphs three, four, five, and six of this Section. The duty of recovery of procedural expenditures shall also fall upon parents or guardians of a convicted minor.

(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 the State funds, if the person from whom such expenditures are to be recovered is low-income person or a person in need. 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 the person directing the proceedings has released a person, in accordance with the procedures laid down in the law, from payment for legal assistance.

(6) Procedural expenditures that are related to the postponement of an investigative action or court hearing, if such operation or session has been postponed in connection with the non-appearance, without a justified reason, of persons summonsed in accordance with the procedures laid down in the law, may be recovered from such persons during pre-trial proceedings, during trial and by a final ruling of a court or a prosecutor in criminal proceedings in accordance with the procedures laid down in this Law.

(6<sup>1</sup>) If after the completion of criminal proceedings information is received on the procedural expenditures that are related to the takeover of a person extradited by a foreign country or have arisen until the day when the final ruling comes into effect, and that were not known on the day when the final ruling was made, a judge of a court of first instance shall decide the matter of such procedural expenditures in the written procedure. If procedural expenditures are recovered, a time period of 30 days shall be determined in the decision for voluntary execution thereof. A copy of the decision shall be sent to a person, against whom criminal proceedings have been terminated due to non-exonerating circumstances, and to a prosecutor. The person or the prosecutor may appeal the decision within 10 days after the date when a copy thereof was received. A higher-level court judge shall examine a complaint in the written procedure, and his or her decision shall not be subject to appeal.

(7) Also a 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 a penal order or a penal order regarding a coercive measure, or if criminal proceedings are terminated by conditionally releasing from criminal liability or on the basis of other circumstances that do not exonerate the accused. If a prosecutor takes a decision on the recovery of procedural expenditures after the date of the entering into effect of the final ruling, a copy of the decision shall be sent to a person, against whom criminal proceedings have been terminated. The person may appeal the decision within 10 days after the date of receipt of a copy thereof to a higher-ranking prosecutor whose decision shall not be subject to appeal.

(7<sup>1</sup>) In accordance with the procedures provided for in this Section the recovery of procedural expenditures is determined also by the investigator if the criminal procedures against a person have been terminated due to circumstances non-exonerating the person. If an investigator takes the decision to recover procedural expenditures after the date of the entering into effect of the final ruling, a copy of the decision shall be sent to the person against whom criminal proceedings have been terminated. The person may appeal the decision within 10 days after the date of receipt of a copy thereof to a prosecutor, and the decision of the prosecutor shall not be subject to appeal.

(8) When recovering procedural expenditures, the decision shall determine a time period of 30 days for its voluntary execution. The part of the extract of the decision on recovery of procedural expenditures shall be sent for execution after the end of the term for voluntary execution of the decision.

(9) Payment of procedural expenditures may be suspended or divided in instalments payable over a time period up to one year from the day when a ruling has entered into effect, if procedural expenditures exceed one minimal monthly wage specified in the Republic of Latvia and the person has submitted a motivated request for suspension of payment or division thereof in instalments. The request shall be examined in writing. The decision shall not be subject to appeal.

*[12 March 2009; 21 October 2010; 24 May 2012; 14 March 2013; 27 September 2018; 11 June 2020]*

### **Section 368.<sup>1</sup> Recovery of Procedural Expenditures Related to the Postponement of Investigative Actions or Court Hearings**

(1) The person directing the proceedings, having established during the pre-trial proceedings the procedural expenditures referred to in Section 368, Paragraph six of this Law, may propose to an investigating judge to decide on recovery thereof from persons because of whom investigative actions were postponed. The person directing the proceedings shall append documents to the proposal, confirming the postponement of investigative actions and the amount of procedural expenditures.

(2) The investigating judge shall notify the person directing the proceedings and the person because of whom investigative actions were postponed regarding the decision taken, sending a copy thereof.

(3) During trial a decision on recovery of such procedural expenditures, which are related to the postponement of court hearings, shall be taken by a court.

(4) The person may appeal the decision of the investigating judge and court on recovery of procedural expenditures in a higher-level court. A complaint may contain a request to repeal the decision in general, release the person from payment of procedural expenditure or reduce the amount thereof.

(5) A higher-level court judge shall examine the complaint in a written procedure. The decision shall not be subject



to appeal.

(6) The matter on recovery of procedural expenditures from the persons referred to in Section 368, Paragraph one of this Law shall be settled in accordance with the procedures laid down in Section 368 of this Law by a final ruling of a court or prosecutor in criminal proceedings.

[24 May 2012]

### **Section 368.<sup>2</sup> Execution of Recovery of Procedural Expenditures Related to the Postponement of Investigative Actions or Court Hearings**

(1) If a person has not appealed the decision taken in accordance with the procedures of Section 368.<sup>1</sup> of this Law on recovery of the procedural expenditures or the submitted complaint has been rejected, the person has a duty to voluntarily pay such expenditures within 30 days after notification of the decision or rejection of the complaint.

(2) If a decision is not executed voluntarily, a writ of execution on recovery of procedural expenditures shall be sent to a sworn bailiff for execution.

[24 May 2012]

## **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 investigating institution, Office of the Prosecutor, or court (hereinafter - the 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 laws and regulations governing 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 conducting 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 Investigating 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.

(2) A prosecutor may send materials for examination to an investigating 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.

(3) A decision of a prosecutor to initiate criminal proceedings, and the materials related to such decision, shall immediately be sent to an investigating institution, except in the cases referred to in Section 38, Paragraph three of this Law.

(4) [21 October 2010]

(5) A judge or court shall send, without deciding, an application, materials, or information acquired in trial to an investigating institution or, in the cases determined by law, to the Office of the Prosecutor.

[19 January 2006; 21 October 2010]

### **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 specific person to whom the conducting of the proceedings has been assigned.

(2) A decision may also be written in the manner of a resolution. Also the institution or person to whom the management of the proceedings has been assigned may be indicated in such decision.

(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 to initiate criminal proceedings shall not be subject to appeal.

(5) Information regarding the initiation of criminal proceedings shall be sent within 24 hours to the prosecutorial institution which is responsible for the supervision of the investigation. Information regarding commencement of criminal proceedings shall be sent to the person who submitted information regarding the criminal offence, except for medical practitioners, an institution or a person who has been informed of the commencement of criminal proceedings as a result of investigative actions, within three working days.

(6) A prosecutorial institution shall notify the person directing the proceedings regarding the data of the supervising prosecutor within 24 hours after receipt of information.

(6<sup>1</sup>) If the criminal proceedings have been initiated regarding a criminal offence which can affect the determination of the amount of taxes, a person directing the proceedings shall notify thereof the State Revenue Service.

(7) Information regarding initiated criminal proceedings, determined criminal offences, persons directing the proceedings, persons who have the right to defence and victims shall be registered in the information system. The amount of information to be included in the information system, the procedures for entering, use and deletion of information, terms for storage of information, as well as the institutions to which the access to the information system is to be granted, shall be determined by the Cabinet.

[12 March 2009; 21 October 2010; 20 June 2018]

### **Section 373. Refusal to Initiate Proceedings**

(1) If a procedurally authorised official determines that there are no grounds for the commencement of criminal proceedings, such official shall take a decision which may be written also 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. If a reasoned written decision has been taken, a copy of the decision shall be sent to the person.

(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.

(2<sup>1</sup>) An investigator with a consent of a prosecutor or a prosecutor may refuse to initiate criminal proceedings, if a misdemeanour has been committed.

(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 authority for the performance of a departmental examination. By a departmental examination within the meaning of this Law shall be meant an examination performed by the State authority and officials thereof in respect of possible violation of the law using powers, which are not criminal procedural powers, specified in the law governing the operation of such authority.

(4) [30 March 2017]

(5) The persons referred to in Section 369, Paragraph two, Clauses 1, 2, and 4 of this Law may appeal a decision, within 10 days after receipt of a report, on refusal to initiate criminal proceedings to a prosecutor, if the decision has been taken by an investigator, or, if the decision has been taken by a prosecutor, to a higher-ranking prosecutor.

(6) A complaint to a prosecutor regarding the non-initiation of criminal proceedings shall be examined within 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 examination of the complaint, it is permissible that it be examined within 30 days, notifying the submitter of the complaint thereof.

(7) In satisfying a complaint regarding a decision to refuse the initiation of criminal proceedings, a prosecutor may fully or partially revoke or amend the appealed decision. The ruling of the prosecutor, by which the complaint is refused or satisfied, shall not be subject to appeal. Information regarding deciding on the complaint shall be sent to the person who submitted the complaint.

[28 September 2005; 19 January 2006; 12 March 2009; 21 October 2010; 29 May 2014; 30 March 2017; 11 June 2020]

#### **Section 374. Record-keeping of Criminal Proceedings**

(1) 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.

(2) Objects containing an official secret shall be compiled in a separate volume.

[12 March 2009]

#### **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 conduct 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 entering into effect of the final ruling, employees of courts, the Office of the Prosecutor, investigating institutions and institutions executing criminal sentences, and persons whose rights were infringed in the specific criminal proceedings, as well as persons who perform scientific activities are allowed to become acquainted with the materials of the criminal case. All final rulings 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 conduct the criminal proceedings may familiarise themselves with such reference.

(3<sup>1</sup>) Documents which are related to informing of a victim regarding release of such arrested or convicted person or escape of the latter from a place of imprisonment who has caused harm to the former, shall be kept with the reference referred to in Paragraph three of this Section, and only the officials performing criminal proceedings may become acquainted with them.

(4) Persons involved in the criminal proceedings and which have the right to familiarise with the materials of a criminal case shall be notified in writing regarding the duty to keep an official secret and regarding the liability which is intended for disclosure of the official secret. Making of copies of the documents containing the official secret is not permissible.

[12 March 2009; 18 February 2016; 27 September 2018]

### **Section 375.<sup>1</sup> Rights of Journalists to Acquaint Themselves with Materials of a Criminal Case**

(1) After completion of criminal proceedings and coming into effect of the final ruling, journalists (within the meaning of the law On the Press and Other Mass Media) may submit a reasoned request to the institution which took the decision to complete criminal proceedings for becoming acquainted with materials of a criminal case if this is necessary for informing the public in order to promote the protection of significant State and public interests.

(2) Access to materials of a criminal case shall be refused if:

1) the objective indicated in the request can be achieved by becoming acquainted with the final ruling taken in the criminal proceedings;

2) criminal proceedings were completed on the basis of exoneration of the person;

3) criminal proceedings were examined in a closed court hearing;

4) criminal proceedings were initiated regarding a criminal offence against morals and sexual inviolability;

5) a State or adoption secret needs to be protected;

6) a minor or person who has helped to disclose a criminal offence committed by another person or for whom special procedural protection has been determined is involved in the criminal proceedings.

(3) Access to materials of a criminal case or their part may be refused also due to the following:

1) in order not to disclose special categories of personal data of the persons involved in the criminal proceedings;

2) in order to protect a professional secret or commercial secret;

3) in order to ensure the protection of fundamental rights of the persons involved in criminal proceedings;

4) if the pre-trial criminal proceedings might be renewed;

5) if the work resources of the institution that must be invested in executing the request are incommensurably high.

(4) The decision on allowing to become acquainted with materials of a criminal case or their part or on the refusal to become acquainted with materials of a criminal case shall be taken within 30 days by:

1) the head of the investigating institution or a person authorised by him or her - when the criminal proceedings have been completed in an investigating institution;

2) chief prosecutor or the European Prosecutor - when the criminal proceedings have been completed in an Office of the Prosecutor;

3) a judge - when the criminal proceedings have been completed in a court.

(5) The decision on allowing to become acquainted with materials of a criminal case or their part may be drawn up in the form of a resolution. When refusing to become acquainted with materials of a criminal case or their part, a reasoned decision shall be taken.

(6) The decision referred to in Paragraph four of this Section may be appealed within 10 days. A complaint shall be examined in written procedure within 30 days by:

1) the chief prosecutor of the Office of the Prosecutor whose prosecutor monitored the investigation - when the decision has been taken in an investigating institution;

2) a higher-ranking prosecutor - when the decision has been taken in an Office of the Prosecutor;

3) a judge of a higher level court - when the decision has been taken in a court.

(6<sup>1</sup>) The decision of the European Prosecutor to allow to become acquainted with materials of a criminal case or their part or to refuse to become acquainted with materials of a criminal case shall not be subject to appeal.

(7) When allowing to become acquainted with materials of a criminal case, a journalist shall be warned in writing of the prohibition to make copies or transcripts of the materials of the criminal case or to reproduce them in any other manner, to transfer to third persons or otherwise disseminate the information contained in the materials of the criminal case that is not subject to publishing, and also of the liability for violating this prohibition. Journalists may be allowed to copy separate materials of a criminal case if they do not contain special categories of personal data, professional

or commercial secrets, or any other information related to the protection of fundamental rights of persons.

[27 September 2018; 7 January 2021]

### **Section 376. Criminal Proceedings Register**

[20 June 2018]

### **Section 377. Circumstances that Exclude 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 entered into effect;
- 4) an accepted act of amnesty that prevents the imposition of a punishment for the relevant criminal offence;
- 5) a person who is to be held or is held criminally liable has died, except where proceedings are necessary in order to exonerate a deceased person;
- 6) a judgment, or a decision of the person directing the proceedings, on termination of criminal proceedings in the same prosecution against a person who has previously been held criminally liable regarding the same criminal offence has entered into effect;
- 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 and the harm inflicted by the criminal offence has been completely eliminated or reimbursed;
- 10) the circumstances that exclude criminal liability referred to in the Criminal Law have been determined.

[21 October 2010; 18 February 2016]

### **Section 378. Suspension and Renewal of Criminal Proceedings**

(1) The 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 authority;
- 5) other cases determined in this Law exist.

(1<sup>1</sup>) If for a correct decision on criminal proceedings an essential evidence is a court judgment in some other incomplete proceedings, a person directing the proceedings may suspend the criminal proceedings up to the time when the judgment in such proceedings has entered into effect.

(1<sup>2</sup>) If it is necessary to receive in criminal proceedings a decision of the Permanent Chambers of the European Public Prosecutor's Office, a person directing the proceedings may suspend the criminal proceedings up to the time when the decision of the Permanent Chambers of the European Public Prosecutor's Office has been received.

(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 laid down 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 decision to suspend criminal proceedings, as well as to renew them may be written also in the manner of a resolution. The decision to suspend criminal proceedings or the decision to renew criminal proceedings shall not be subject to appeal.

(5) If a suspect or accused is hiding and the whereabouts thereof are unknown, the person directing the proceedings shall take a decision on a search for the referred to person and transfer for execution to persons performing investigative field work within the competence thereof.

(6) In case of suspension of the criminal proceedings procedural activities may be performed with a purpose to find out the place of location of a person announced for a search.

*[28 September 2005; 12 March 2009; 20 June 2018; 11 June 2020; 7 January 2021]*

### **Section 379. Termination of Criminal Proceedings, Releasing a Person from Criminal Liability**

(1) An investigator with a consent of a supervising prosecutor, prosecutor or a court may terminate criminal proceedings, if:

1) a misdemeanour has been committed;

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 in the cases determined in the Criminal Law;

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;

4) it is not possible to complete the criminal proceedings within reasonable term;

5) the person committed the criminal offence during the time period when he or she was subject to human trafficking and was forced to commit the offence.

(2) An investigator, with the consent of a supervising prosecutor, or a prosecutor may terminate criminal proceedings, and send materials regarding a minor for the application of a compulsory measure of a correctional nature.

(3) A prosecutor may terminate 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 use 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.

*[12 March 2009; 20 December 2012; 11 June 2020]*

### **Section 380. Circumstances that do not Exonerate Persons**

A person shall not be exonerated if criminal proceedings have been terminated by a decision that is provided for in Section 377, Clauses 3, 4, 5 and 9, Section 379, Paragraphs one and two, Section 410, Paragraph one, Section 415, Section 415.<sup>1</sup>, Paragraph one, Section 421, Section 605, Paragraph one, or Section 615, Paragraph three of this Law, or in the case of a judgment of conviction.

*[12 March 2009; 19 November 2020]*

### **Section 381. Actualisation of a Settlement**

(1) In the case of a settlement, an intermediary trained by the State Probation Service may facilitate the conciliation of a victim and the person who has the right to defence.

(2) In determining that a settlement is possible in criminal proceedings, and that the involvement of an intermediary is useful, the person directing the proceedings may inform the State Probation Service of such possibility or usefulness, but if the criminal offence was committed by a minor, then the State Probation Service shall be informed in any case, except when the settlement has already been entered into.



(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 hearing, a settlement may be announced orally, and such announcement shall be entered in the minutes of the court hearing.

(5) A settlement shall be signed by both parties - the victim and the person who has the right to defence - in the presence of the 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.

[20 December 2012; 14 March 2013]

#### **Section 382. Procedures for Performing Procedural Actions**

(1) Within the framework of criminal proceedings, the person directing the proceedings shall select and perform procedural actions in order to ensure the achievement of the objective 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 laid down in Section 140 of this Law.

#### **Section 382.<sup>1</sup> Distribution of Information via the Integrated Information System of the Internal Affairs**

(1) If it is necessary to find out the location of a person, property or document in the criminal proceedings and in relation thereto it is not assigned to take measures of operational activities, the person directing the proceedings may decide on inclusion of the information in the Integrated Information System of the Internal Affairs for finding out the location of a person, property or document.

(2) If during criminal proceedings the necessity has disappeared or the grounds to find out the location of a person, property or document have disappeared, the person directing the proceedings shall decide on deletion of the information from the Integrated Information System of the Internal Affairs, but, if in relation to this it is assigned to take the measures of operational activities - inform the persons performing investigative field work.

(3) The amount of information to be included in the Integrated Information System of the Interior Affairs, the grounds for inclusion of information and the purpose, the procedures for inclusion, use and deletion of information, the institutions to which the access to the information included in such system is to be granted, as well as the action in determining a person, property or document regarding which the information is included in the Integrated Information System of the Internal Affairs, shall be determined by the Cabinet.

[12 March 2009]

#### **Section 383. Renewal of a Lost Criminal Case**

(1) If a criminal case has been lost, a prosecutor or court shall take a decision on renewal thereof and, if necessary, transfer such case to an 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.

[21 October 2010]

## **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. Forms of Pre-trial Criminal Proceedings**

(1) During the course of criminal proceedings, the person directing the proceedings shall select one of the following forms 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 a prosecutor's penal order;
- 3) to direct criminal proceedings in accordance with urgent procedures;
- 4) [20 June 2018];
- 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) [20 June 2018]

[20 June 2018]

### **Section 386. Investigating Institutions**

The following institutions shall perform an investigation within the framework of the competence thereof:

- 1) the State Police;
- 2) the State Security Service;
- 3) Internal Security Department of the State Revenue Service;
- 4) the Military Police;
- 5) the Latvian Prison Administration;
- 6) the Corruption Prevention and Combating Bureau;
- 7) the Tax and Customs Police of the State Revenue Service;
- 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 country;
- 11) the Internal Security Bureau.

[21 October 2010; 8 July 2015; 28 September 2017; 11 June 2020]

### **Section 387. Institutional Jurisdiction**

(1) Officials authorised by the State Police shall investigate any criminal offence, except in the cases laid down in Paragraphs two to 10.<sup>1</sup> of this Section, unless the Prosecutor General has assigned the performance thereof.

(2) Officials authorised by the State Security Service shall investigate criminal offences that have been made 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 Internal Security Department of the State Revenue Service shall investigate criminal offences which have been found in the actions of officials and employees of the State Revenue Service and are related to the fulfilment of the official duties.

(4) Officials authorised by the Military Police shall investigate criminal offences in the military service, as well as criminal offences which have been committed in military units, in the places of deployment thereof, or in the objects in possession or holding of the Ministry of Defence, as well as criminal offences committed by soldiers, national guardsmen, or civilians working in military units or in the objects in possession or holding of the Ministry of Defence in relation to execution of their service (work) duties.

(5) Officials authorised by the Latvian Prison Administration shall investigate criminal offences committed by detained or convicted persons, or by employees of the Latvian Prison 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 the Tax and Customs Police of the State Revenue Service shall investigate criminal offences in the field of State revenue and customs matters.

(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 which are not related to violence.

(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 investigating institutions of the foreign country are not investigating such offences.

(10<sup>1</sup>) Officials authorised by the Internal Security Bureau shall investigate criminal offences committed by the officials and employees of institutions subordinate to the Ministry of the Interior, except for the State Security Service, as well as criminal offences related to violence which, upon performing of service duties, have been committed by officials of the Latvian Prison Administration with special service ranks, employees of the municipality police, and employees of the port police.

(11) The Prosecutor General shall determine the institutional jurisdiction of specific criminal offences.

(12) If the investigation of a specific criminal offence is under the jurisdiction of more than one investigating institutions, the institution that initiated criminal proceedings first shall investigate such criminal offence.

(13) If an investigating institution receives information regarding a criminal offence that is taking place or has taken place and the investigation of such offence is not included in the competence thereof, and the conduct of emergency investigative actions is necessary for the detention of the perpetrator of the offence or for recording evidence, such institution shall initiate criminal proceedings, inform the relevant competent investigating institution of such initiation of proceedings, conduct 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 investigating institutions regarding the jurisdiction of criminal offences and also the disputes of investigating institutions and the European Public Prosecutor's Office regarding the jurisdiction of criminal offences in the cases specified in Regulation No 2017/1939.

*[28 September 2005; 12 March 2009; 8 July 2015; 28 September 2017; 20 June 2018; 11 June 2020; 7 January 2021; 7 October 2021]*

### **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 such place cannot be determined, the place where a criminal offence was detected or established, except in the cases determined in this Section.

(2) In order to ensure faster and more economical pre-trial criminal proceedings, such proceedings may also be initiated and conducted at the place where the criminal offence has been disclosed, or where the consequences of such offence have entered 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 investigating institution, or 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 investigating institution shall initiate criminal proceedings, conduct the emergency investigative actions, and transfer the materials of the initiated criminal proceedings on the basis of jurisdiction.

(5<sup>1</sup>) The manager of the investigating institution or his or her deputy is entitled within the competence thereof to remove any criminal proceedings from one structural unit and transfer to another structural unit of the institution with

an order written in the manner of a resolution.

(6) The Prosecutor General or a chief prosecutor may remove, within the framework of the competence thereof, any criminal case from one investigating or prosecutorial institution and, with an order written in the manner of a resolution, transfer such case to another investigating or prosecutorial institution, or transfer such case from one prosecutor or investigator to another prosecutor or investigator regardless of the place of the committing of the criminal offence.

(7) The chief prosecutor of a court district, the chief prosecutor of the Criminal Justice 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.

[12 March 2009]

### **Section 389. Time Period for the Restriction of Rights of a Person in Pre-trial Criminal Proceedings**

(1) From the moment when a person who has the right to defence is involved in pre-trial criminal proceedings, the pre-trial criminal proceedings against this person must be completed or all security measures must be revoked within the following time periods:

- 1) regarding a criminal violation - within six months;
- 2) regarding a less serious crime - within nine months;
- 3) regarding a serious crime - within twelve months;
- 4) regarding an especially serious crime - within twenty two months;

(1<sup>1</sup>) From the moment when the property of a person in pre-trial criminal proceedings is seized, such seizure must be revoked within the time period referred to in Paragraph one of this Section.

(2) In criminal proceedings regarding several less serious crimes, as well as in criminal proceedings regarding a serious or especially serious crime, the investigating judge may extend the time period specified in Paragraph 1.<sup>1</sup> of this Section by six more months, but by not more than three months in one extension, if the person directing the proceedings has not allowed for a delay, or the proceedings could not be completed faster due to the particular complexity of such proceedings. In criminal proceedings regarding a serious or especially serious crime which in its nature is focused on the gaining of financial or other kind of benefit or which is related to terrorism, or which has been committed in an organised group, the investigating judge may extend the time period for the restriction of rights by three more months in relation to, possibly, criminally acquired property, resources that a person has gained from disposal of such property, as well as the yield received as a result of the use of the criminally acquired property. A copy of a decision shall be sent to the person referred to in Paragraph one of this Section.

(2<sup>1</sup>) If a person is suspected in one criminal proceedings or accused of a criminal offence which is involved with more serious crime committed by another person to be investigated in the same criminal proceedings, an investigating judge may extend the term for restriction of rights for such person according to the crime in involvement.

(3) The time periods referred to in Paragraph one or 1.<sup>1</sup> of this Section shall be suspended, if the criminal proceedings are suspended.

(4) From the day when the person directing the proceedings has transferred to the district (city) Court Registry a decision to initiate proceedings regarding criminally acquired property and the materials attached to such decision until the day when a court ruling regarding criminally acquired property has entered into effect the time period for restriction of the right in relation to the property regarding which proceedings as for criminally acquired property have been initiated shall be suspended.

(5) The time periods for restricting the rights of persons with regard to a property which has been seized within the proceedings regarding the application of a coercive measure to a legal person shall be suspended from the moment when the prosecutor has submitted to the district (city) Court Registry the decision to transfer the proceedings regarding the application of a coercive measure to a legal person to the court until the date on which the ruling on the application of a coercive measure to a legal person enters into effect.

[2 September 2005; 12 March 2009; 24 May 2012; 20 December 2012; 14 March 2013; 22 June 2017; 27 September 2018]

### **Section 390. Merger of Pre-trial Criminal Proceedings**

(1) Several criminal proceedings may be merged in one record, 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 merger 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 merged in one record.

(3) The chief prosecutor of a district (city), court district, or of the Criminal Justice Department of the Office of the Prosecutor General, or the Prosecutor General shall take the decision, on the basis of a proposal of the person directing the proceedings and within the scope of the competence thereof, on the merger of criminal proceedings in one proceeding. The decision may be written also in the manner of a resolution and it shall not be subject to appeal.

(4) Merging the criminal proceedings the term for restriction of the rights of a person shall be calculated from the beginning of the onflow of the first term for restriction of the rights of a person taking into account the more serious criminal offence in the merged criminal proceedings.

*[28 September 2005; 12 March 2009; 20 June 2018]*

### **Section 391. Division of Pre-trial Criminal Proceedings**

(1) The 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) The person directing the proceedings may separate criminal proceedings in 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 a suspect or an accused that has become known during pre-trial proceedings;

4) a person for whom special procedural protection has been specified;

5) a person who has significantly helped to discover serious or especially serious crime.

(3) An investigator with the consent of a supervising prosecutor or a prosecutor may also divide criminal proceedings:

1) because of the large volume of such proceedings;

2) if it concerns several criminal offences;

3) if it causes an impediment to the governing of the relations of the criminal proceedings within reasonable terms.

(4) The person directing the proceedings shall take a decision on 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.

(4<sup>1</sup>) In the cases specified in Paragraph one and Paragraph two, Clause 3 of this Section, the time period for the restriction of rights of a person in the separated criminal proceedings shall be counted from the moment when the person directing the proceedings has involved a person who has the right to defence in procedural activity in relation to this criminal offence or has seized the property. In other cases the term shall not be counted anew.

(5) The person directing the proceedings shall indicate the following in a decision on the 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 on division of criminal proceedings.

(7) A decision on division of criminal proceedings shall not be subject to appeal. The person directing the proceedings shall notify the person who has the right to defence in the proceedings divided of the decision taken.

[28 September 2005; 12 March 2009; 20 December 2012; 18 February 2016; 27 September 2018; 19 November 2020]

### **Section 392. Termination of Pre-trial Criminal Proceedings and Criminal Prosecution**

(1) The person directing the proceedings shall terminate pre-trial criminal proceedings and criminal prosecution, if the circumstances referred to in Section 377 of this Law have been ascertained.

(2) If the proving of the guilt of a specific 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, the investigator, with a consent of the supervising prosecutor, or the higher-level prosecutor shall take a decision to terminate the criminal proceedings or part thereof against a person. If the criminal proceedings are terminated in the part against person, the pre-trial proceedings shall be continued.

(2<sup>1</sup>) The investigator may, with a consent of the supervising prosecutor, terminate criminal proceedings for a misdemeanour, if it was not possible to determine the person who committed it.

(2<sup>2</sup>) An investigator with the consent of a supervising prosecutor or a prosecutor with the consent of a higher-ranking prosecutor may take the decision in criminal proceedings regarding money laundering to terminate the criminal proceedings or part thereof if fair regulation of property relations has been achieved, the guilt of a person in the committing of a criminal offence has not been proved in pre-trial criminal proceedings, and the obtaining of additional evidence will not ensure economical pre-trial criminal proceedings or will cause incommensurably high expenditures. If the circumstances for terminating criminal proceedings have changed, the criminal proceedings shall be renewed by taking a decision that is not subject to appeal.

(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 prosecutor shall take a decision on such termination.

(4) If criminal proceedings are terminated in the part in relation to one or several accused, a prosecutor shall, if necessary, decide the matter regarding the division of the criminal proceedings.

(5) [21 October 2010]

[12 March 2009; 21 October 2010; 30 March 2017; 11 June 2020; 19 November 2020]

### **Section 392.<sup>1</sup> Decision to Terminate 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 release of a person from criminal liability, or if guilt of the suspect or accused has not been proven and the gathering of additional evidence is not possible, the person directing the proceedings shall take a decision to terminate 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 the personality of a suspect or accused;
- 3) when the prosecution was pursued and issued, and the 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;
- 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 operative part of a decision shall indicate the following:

1) the taken decision to terminate criminal proceedings or a part thereof;

2) the revocation of a security measure;

3) the revocation of the seizure of property, except when the proceedings regarding criminally acquired property are transferred to a court;

4) a decision regarding confiscation of object for committing a criminal offence, property related to a criminal offence, and criminally acquired property;

4<sup>1</sup>) actions with the material evidence, property related to criminal offence, criminally acquired property, as well as other removed objects, documents, and valuables;

5) the procedures for the appeal of the decision.

(4<sup>1</sup>) If criminal proceedings and proceedings regarding application of a coercive measure to a legal person are terminated concurrently, the person directing the proceedings shall draw up one decision and, in addition to the information specified in this Section, shall also include the information specified in Section 441.4, Paragraph one of this Law in the decision.

(4<sup>2</sup>) If during the criminal proceedings it was not possible to determine the person who committed the criminal offence and the limitation period of criminal liability has entered into effect, the decision on termination of criminal proceedings may be written in the form of a resolution, indicating the justification for entering into effect of the limitation period, the official who took the decision, and the date of taking of the decision.

(5) A taken decision shall be immediately notified to the person or institution on the basis of a submission of which criminal proceedings were initiated. A copy of the decision to terminate criminal proceedings shall be immediately sent to the supervising prosecutor, but to a victim and person who has the right to defence a copy of the decision to terminate criminal proceedings shall be sent or issued explaining the right to familiarise with the materials of the criminal case within 10 days from the day of receipt of the decision. If criminal proceedings have been terminated in any part thereof, then a victim has the right to familiarise with those materials of the criminal case which directly apply to him or her, but a person who had the right to defence may familiarise with materials of the criminal case after termination of all pre-trial criminal proceedings.

(5<sup>1</sup>) A person directing the proceedings shall send a copy of a decision to terminate criminal proceedings to the persons referred to in Section 369, Paragraph two, Clauses 2 and 4 of this Law and to such persons whose rights were infringed in the particular criminal proceedings, or issue upon their request.

(5<sup>2</sup>) When taking the decision on termination of criminal proceedings in the form of a resolution, a notification of the decision taken where its content is included by explaining the rights to become acquainted with the materials of the criminal case within 10 days after the day of receipt of the notification, shall be sent to the persons referred to in Paragraph five of this Section.

(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, the person directing the proceedings shall send the necessary materials to the competent authority 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.

(8) If a victim who is not fluent in the official language and whose permanent place of residence is in a foreign country, has applied a request to receive a written translation of the decision on termination of proceedings, the person directing the proceedings shall send a written translation of the abovementioned decision to the victim.

(9) If criminal proceedings are terminated based on reasons other than exoneration of a person, the person directing the proceedings shall, in the cases laid down in this Law, decide on sending the materials to a court for taking a decision in accordance with the procedures laid down in Chapter 59 of this Law.

(10) If a decision regarding the confiscation of criminally acquired property has been previously taken in accordance with the procedures laid down in Chapter 59 of this Law and transferred to a sworn bailiff for execution, the person directing the proceedings shall inform a sworn bailiff regarding the termination of criminal proceedings, assigning him to transfer into the State budget the confiscated resources or resources acquired as a result of execution of confiscation that are deposited in a deposit account of a sworn bailiff.

[12 March 2009; 21 October 2010; 24 May 2012; 29 May 2014; 18 February 2016; 22 June 2017; 20 June 2018; 27 September 2018]

### **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 on 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 the person directing the proceedings at the moment of the taking of the decision, and which have substantial significance in the taking of the decision. The decision shall not be subject to appeal.

(2) Pre-trial criminal proceedings and criminal prosecution may be renewed, if the limitation period for criminal liability has not entered into effect.

[11 June 2020]

### **Section 394. Tasks in Pre-trial Criminal Proceedings**

(1) An investigator or prosecutor may assign the performance of separate procedural actions or tasks to another investigating institution or an official authorised to conduct 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 investigating institutions, such assignment may be expressed orally.

(3) An assignment shall be executed not later than within 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 prosecutor, the head of the investigating institution or a competent official of the investigating institution shall take a decision on investigation of a criminal offence in a group, indicating the specific persons who will participate in the investigation and criminal prosecution and appointing the person directing the criminal proceedings as the head of the investigative group. Such decision shall not be subject to appeal.

(2) [20 June 2018]

(3) The head of an investigative group shall organise the work of the group and take all decisions on direction of the criminal proceedings the application of security measures, and the extension of the application term.

[12 March 2009; 20 June 2018; 7 January 2021]

### **Section 396. Prohibition on the Divulging of Information Acquired during Pre-trial Criminal Proceedings**

(1) Information acquired in the pre-trial criminal proceedings until the completion thereof shall be divulged only with the permission of an investigator or a prosecutor and in the amount specified by him or her. The investigator or prosecutor shall notify in writing a person regarding the criminal liability for divulgement of such information.

(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.

[12 March 2009]

### **Section 396.<sup>1</sup> Correction of Clerical Errors and Mathematical Miscalculations**

(1) The person directing the proceedings may correct clerical errors or mathematical miscalculations in a ruling. Clerical errors or mathematical miscalculations shall be corrected by taking a decision, which shall be notified to the persons involved in the proceedings to whom it applies.

(2) Persons involved in the proceedings may appeal the decision on correcting clerical errors or mathematical miscalculations within 10 days after receipt of a copy thereof to the supervising prosecutor if the decision has been taken by an investigator, or to a higher-ranking prosecutor if the decision has been taken by a prosecutor. The decision of the supervising prosecutor and the higher-ranking prosecutor, in examining a complaint, shall not be subject to appeal.

[21 October 2010]

## Chapter 32 Investigation

### Section 397. Commencement of an Investigation

(1) After a decision has been taken to initiate criminal proceedings, the 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 prosecutor for the initiation 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 belonging to the object of the group of criminal offences.

(2) When sufficient evidence has been acquired, the offence shall be qualified on the basis of a specific Section of the Criminal Law, and a decision thereon shall be taken in the form of a resolution. The decision shall not be subject to appeal.

(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 specific Section of the Criminal Law.

[20 June 2018]

### Section 398.<sup>1</sup> Decision to Recognise a Person as a Suspect

(1) The person directing the proceedings shall indicate the following in a decision to recognise a person as a suspect:

- 1) factual circumstances of the criminal offence to be investigated which determine legal classification;
- 2) legal classification of the criminal offence;
- 3) the grounds for assumption that a criminal offence to be investigated is likely to have been committed by the certain person;
- 4) the identifying data, notified place of residence, and place of employment of the suspected person.

(2) A decision to recognise a person as a suspect shall not be subject to appeal.

(3) If during the investigation additional evidence is obtained or the factual circumstances of the criminal offence have changed as a result of which the taken decision needs to be changed, the person directing the proceedings shall take a new decision to recognise the relevant person as suspect and inform thereon in conformity with the requirements of Section 66, Paragraph one, Clause 1 of this Law.

[12 March 2009; 21 October 2010; 20 June 2018; 7 October 2021]

### 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 Country

(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 country 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 investigating institutions or the Office of the Prosecutor 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 necessary criminal procedural actions have been taken in criminal proceedings and ascertaining of the person who has committed the criminal offence has not been successful, an investigator may, with the consent of the supervising prosecutor, take a decision in the form of a resolution on suspension of criminal proceedings. The

decision shall not be subject to appeal.

(2) After suspension of criminal proceedings, investigative actions may be performed only when such criminal proceedings have been renewed. If the grounds for suspending criminal proceedings has ceased to exist, criminal proceedings shall be renewed by a decision of the person directing the proceedings, taken in the form of a resolution. The decision shall not be subject to appeal.

[20 June 2018; 11 June 2020]

#### **Section 401. Completion of an Investigation**

(1) An investigator shall complete an investigation:

1) by proposing the commencement of criminal prosecution with a decision in writing, and transferring the materials of the criminal case to a prosecutor;

2) by transferring the materials of a criminal case to a prosecutor for the commencement of criminal prosecution on the basis of his or her initiative;

3) by taking a decision to terminate criminal proceedings;

4) by proposing to continue proceedings with a decision in writing for the determination of compulsory measure of medical nature and transferring the materials of the criminal case to a prosecutor.

(2) An investigator shall indicate the following in a decision:

1) [20 June 2018];

2) the qualification of the criminal offence;

3) the identifying data and notified place of residence of the person to be held criminally liable;

4) the list of evidence;

5) procedural expenditures.

(3) [12 March 2009]

(4) The decisions referred to in Paragraph one, Clauses 1, 2 and 4 of this Section shall not be subject to appeal.

[12 March 2009; 21 October 2010; 20 June 2018; 7 October 2021]

## **Chapter 33 Criminal Prosecution**

#### **Section 402. Grounds for Holding a Person Criminally Liable**

A person shall be held criminally liable, if the evidence gathered in an investigation indicates the guilt of such person in the criminal offence being investigated, and the prosecutor is convinced that the evidence confirms such guilt.

[21 October 2010]

#### **Section 403. Commencement of Criminal Prosecution**

(1) A prosecutor - person directing the proceedings may commence criminal prosecution:

1) if he or she has received a decision 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 prosecutor shall commence criminal prosecution, by taking a decision to hold a person criminally liable, within 10 days after he or she has received the materials of the criminal case from an investigating 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) withdraw a decision and return the criminal case to an investigating institution for the continuation of an investigation, indicating the necessity for conducting specific procedural actions;

2) take a decision to terminate criminal proceedings against the specific person, and send the criminal case to an

investigating institution in order to ascertain the guilty person;

3) take a decision to terminate criminal proceedings, determining the circumstances indicated in Section 377 or 379 of this Law.

(4) [20 June 2018]

[12 March 2009; 29 May 2014; 20 June 2018]

#### **Section 404. Revocation of Procedural Immunity for the Commencement of Criminal Prosecution**

If this Law does not specify otherwise, a prosecutor, 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. A reference regarding evidence that justifies the guilt of a person the immunity of which is asked to be revoked, shall be attached to the proposal.

[12 March 2009]

#### **Section 405. Decision to Hold a Person Criminally Liable (Prosecution)**

(1) The following shall be indicated in a decision to hold a person criminally liable (hereinafter also - the prosecution):

1) the identifying data of the person to be held criminally liable;

2) the factual 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 to hold a person criminally liable shall not be subject to appeal.

[20 June 2018; 7 October 2021]

#### **Section 405.<sup>1</sup> Issues to be Decided if the Ruling Made in an Administrative Offence Case Ceases to be in Effect due to Holding of a Person Criminally Liable**

(1) If a ruling made in an administrative offence case or a part thereof ceases to be in effect due to a decision to hold a person criminally liable, the prosecutor shall take a decision on the action with the property removed or confiscated in the administrative offence case and other restrictions of the rights.

(2) The sums of money collected and paid shall not be reimbursed, however, a decision shall be taken to reimburse them or take them into account when determining the sentence, upon preparation of a final ruling.

(3) The prosecutor shall notify the institution which made the initial ruling, and the person whose interests and rights are affected by the ruling, regarding the ceasing to be in effect of the ruling made in an administrative offence case.

[18 February 2016]

#### **Section 406. Issuance of Prosecution**

(1) After a decision has been taken to hold a person criminally liable, a 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 State, 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, concurrently indicating the date of receipt.

(3) If an accused refuses to sign, a 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 that a copy of the decision to hold such person criminally liable has been received.

(5) If an accused may not appear before a prosecutor due to a justified reason, the 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 prosecutor, a copy of the prosecution shall be issued to the accused after 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 receipt of a written report regarding the detention or placing under arrest of the accused.

(8) The accused who does not understand the language in which a prosecution has been written shall be provided with a translation of the prosecution in a language comprehensible to him or her. A written translation of the prosecution shall be provided before completion of pre-trial criminal proceedings.

(9) If an accused is hiding in another country 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.

[23 May 2013; 7 October 2021]

#### **Section 407. Interrogation of an Accused**

A prosecutor may interrogate an accused immediately after 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 prosecutor, after he or she has issued a decision to an accused on holding of the person criminally liable, has new grounds to supplement such decision or he or she has obtained additional evidence, or if the factual circumstances of the criminal offence have changed and, as a result thereof, the modification of the decision is necessary, the prosecutor shall write a new decision to hold 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 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.

[21 October 2010]

#### **Section 409. Search for an Accused**

(1) In suspending criminal proceedings in accordance with Section 378, Paragraph one, Clause 2 of this Law, a prosecutor shall immediately take a decision on a search for an accused. If necessary, a prosecutor may take a decision to apply a security measure to an accused, or regarding the modification of such decision.

(2) A prosecutor shall send a copy of a decision on a search for an accused and a decision to apply a security measure for execution to the body performing operational activities according to the competence thereof.

[12 March 2009]

#### **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 terminate 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 himself or herself.



(2) The specified in Paragraph one 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 provided for in Sections 116, 117, 118, 125, 159, 160, 176, 190.<sup>1</sup>, 251, 252, and 253.<sup>1</sup> of the Criminal Law or who him or herself has established or led an organised group or gang.

(3) An action with the criminally acquired property shall be indicated and the issue regarding the compensation for harm to a victim shall be decided in a decision to terminate criminal proceedings.

[12 March 2009]

#### **Section 411. Forms for the Completion of Pre-trial Criminal Proceedings**

A prosecutor may complete pre-trial criminal proceedings:

1) by taking the decision to transfer the criminal case to a court and submitting the criminal case to the court on the basis of jurisdiction;

2) by taking the decision to transfer the criminal case to a court in accordance with urgent procedures;

3) [20 June 2018];

4) by entering into an agreement with the accused and transferring the criminal case to a court;

5) by applying to the accused a penal order;

6) by terminated criminal proceedings, conditionally releasing from criminal liability;

7) by taking a decision to terminate 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.

[20 June 2018]

#### **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 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 prosecutor shall include materials that are applicable to a specific criminal offence, and that will be used 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 prosecutor shall:

1) issue to the accused or his or her defence counsel copies of the materials of the criminal case to be transferred to the court, which apply to the prosecution indicted for him or her or his or her personality, if such materials have not already been issued, or acquaint with these materials with the consent of a prosecutor;

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 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 wishes for the participation of a defence counsel in the trial of a case and regarding whether the accused agrees to the possibility that the criminal case is tried in prosecution, or in the permanent part thereof, without a verification 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 examined in prosecution, or in the permanent part thereof, without a verification of evidence, a prosecutor shall write up a protocol regarding such consent, indicating therein whether the accused has agreed to the non-performance of a verification of evidence in the entire amount of the prosecution or in a specific part thereof, and shall explain to the accused the procedural essence and consequences of such consent.

(5) A 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 or acquaint with these materials of the criminal case with the consent of a prosecutor.

(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 in the presence of the person directing the proceedings or an authorised person 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 abovementioned findings.

(6<sup>1</sup>) Copies of sound and image recordings in which testimonies of a minor who has the right to defence, victims or witnesses are recorded shall not be issued, however, a possibility to become acquainted with them in the presence of the person directing the proceedings or an authorised person shall be ensured.

(7) In familiarising himself or herself with copies of received materials of the criminal case, an accused has the right to use 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 or receives copies thereof, as well as if an accused refuses the right to become acquainted with the materials of the criminal case or to receive copies thereof, a prosecutor shall write a protocol regarding this.

(9) [19 January 2006]

(10) After 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 referred to in Paragraph three, Clause 4 of this Section from the accused, a prosecutor shall take a decision to transfer the criminal case to a court.

(11) Upon the application of an accused, defence counsel, victim or representative a prosecutor shall ensure the possibility for him or her to become acquainted with the materials of the archives file and receive the copies of necessary materials making a note thereof in the archives file and notifying a court thereof.

[19 January 2006; 12 March 2009; 14 January 2010; 21 October 2010; 18 February 2016; 27 September 2018; 11 June 2020; 7 October 2021]

#### **Section 413. Decision to Transfer a Criminal Case to a Court**

(1) A prosecutor shall indicate the following in a decision to transfer a criminal case to a court:

- 1) information regarding the accused person, his or her declared place of residence and place of employment;
- 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) [12 March 2009];
- 5) the testimony of the accused person;
- 6) the listing of evidence to be used in court regarding each accused and each criminal offence;
- 7) the applied security measure and the end time thereof;
- 8) the amount of victims and compensation;
- 9) the seizure of the property;
- 10) the aggravating and mitigating circumstances of the liability of the accused;
- 11) the number of pages in the criminal case;
- 12) procedural expenditures.

(2) A list of material evidence and documents as well as a list of the persons whose testimonies have been included in the listing of evidence to be used in court shall be appended to a decision. Only the list that is sent to the court shall indicate the addresses of the persons.

(3) A prosecutor shall immediately send a decision together with the materials of a criminal case to a court.

(4) A prosecutor shall inform an accused and victim or its representatives of the taking of the decision and the transfer of a criminal case to a court, by sending to such persons a copy of the decision, a copy of the list of the material evidence and documents, and also a copy of the list of the persons whose testimonies have been included in the listing of evidence to be used in court, and information regarding the rights and obligations thereof in court, and also by indicating the court to which the criminal case has been transferred. The prosecutor shall inform the owner of property affected during criminal proceedings whose property has been seized of taking the decision and sending the criminal case to a court. If the accused does not know the official language in which a decision has been written, the prosecutor shall ensure a translation of the decision in a language understood by such accused. Concurrently with

sending of the abovementioned documents a specially protected victim shall also be informed of the right to submit a request to the court within 10 days after receipt of the documents that his or her participation or hearing in a court hearing would take place, using technical means.

(5) A decision to transfer a criminal case to a court shall not be subject to appeal.

(6) The submitted requests and complaints, which a prosecutor has received after completion of a pre-trial criminal proceedings, shall be sent to a court.

[12 March 2009; 21 October 2010; 23 May 2013; 18 February 2016; 22 June 2017; 20 June 2018; 27 September 2018; 11 June 2020; 19 November 2020]

#### **Section 414. Decision to Terminate Criminal Proceedings**

[12 March 2009]

### **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 prosecutor, taking into account the nature of and harm 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 terminate criminal proceedings, conditionally releasing from criminal liability.

(2) In order to obtain personal characterising data, a 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 punished regarding an intentional criminal offence;

3) criminal proceedings have not been terminated against a person, conditionally releasing from criminal liability, within the last five years;

4) a higher-ranking prosecutor agrees to the termination of such proceedings.

(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 prosecutor shall determine a probationary supervision period in accordance with that specified in the Criminal Law.

(6) In terminating criminal proceedings, conditionally releasing from criminal liability, the person directing the proceedings may impose on the accused the obligations provided for in the Criminal Law.

[19 January 2006; 12 March 2009; 20 June 2018]

#### **Section 415.<sup>1</sup> Termination of Criminal Proceedings, Conditionally Releasing from Criminal Liability for a Serious Crime**

(1) If the circumstances referred to in Section 415 of this Law exist, the chief prosecutor may, based on a consent of a higher-level prosecutor, terminate criminal proceedings by conditionally releasing the person who has been accused of committing a serious crime and who has substantially assisted in the disclosure of a serious or especially serious crime that is more serious or dangerous than the criminal offence committed by such person from criminal liability.

(2) The specified in Paragraph one 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 provided for in Sections 125, 159, 160, 176, 190.<sup>1</sup>, 251, 252 and 253.<sup>1</sup> of the Criminal Law or who him or herself has organised a crime.

[12 March 2009]

#### **Section 416. Decision to Terminate Criminal Proceedings, Conditionally Releasing from Criminal Liability**

A prosecutor shall indicate the following in a decision to terminate criminal proceedings, conditionally releasing from criminal liability:

- 1) the criminal offence regarding the committing of which a person has been prosecuted;
- 2) the justification for termination of criminal proceedings;
- 3) the probationary supervision period;
- 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 and he or she shall be notified regarding his or her rights to familiarise with the materials of the criminal case. 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 prosecutor shall send to a victim a copy of a decision to terminate criminal proceedings, conditionally releasing from criminal liability, and notify regarding his or her rights to familiarise himself or herself with the materials of the criminal case and appeal the taken decision to the next higher-ranking prosecutor.

(3) A decision shall enter into effect, if a victim has not appealed a report within 10 days after receipt thereof, or his or her complaint has been rejected. A decision of a higher-ranking prosecutor shall not be subject to appeal.

(4) After coming into force of a decision a copy thereof shall, within three working days, be sent to the institution which is performing the execution of such decision.

[12 March 2009]

#### **Section 418. Consequences of the Termination of Criminal Proceedings, Conditionally Releasing from Criminal Liability**

(1) A decision to terminate criminal proceedings in full amount shall enter into effect after termination of the probationary supervision period and the execution of specific duties.

(2) If a person fulfils imposed duties and does not commit a new intentional criminal offence during the probationary supervision period, 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 in 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 probationary supervision period;
- 3) a 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 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) [7 October 2021]

[20 December 2012; 7 October 2021]

#### **Section 419. Supervision of the Termination of Criminal Proceedings, Conditionally Releasing from Criminal Liability**

(1) A prosecutor who has taken a decision to terminate criminal proceedings, conditionally releasing from criminal liability, shall make a note in the decision, after termination of the probationary period and on the basis of 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 Law have been determined, a prosecutor shall revoke a decision, renew criminal proceedings, and direct such proceedings in conformity with the conditions of this Law regarding pre-trial criminal proceedings.

[20 December 2012]

## **Chapter 35 Special Features of Pre-trial Criminal Proceedings, Applying the Prosecutor's Penal Order**

### **Section 420. Admissibility of the Application of a Prosecutor's Penal Order**

(1) If a person has committed a criminal violation, a less serious crime or a serious crime for which the punishment of deprivation of liberty up to five years is provided for, and a prosecutor, taking into account the nature of and harm caused by the committed criminal offence, the personal characterising data, and other circumstances of the case, has reached the conviction that a custodial sentence should not be imposed on such person, yet such person may not be left without a punishment, he or she may end the criminal proceedings, drawing up a penal order. A penal order of the prosecutor, if the person has committed a serious crime for which the punishment of deprivation of liberty of up to five years is provided, may be drawn up, if a higher-ranking prosecutor agrees thereto.

(2) In order to obtain personal characterising data, a prosecutor may request an evaluation report from the State Probation Service.

(3) If one person has committed several criminal offences, a penal order may be applied only regarding all of the criminal offences thereof.

(4) If several persons have been prosecuted regarding one criminal offence, a penal order may be applied to a person for whom such application is possible in accordance with this Law.

(5) A prosecutor shall draw up a penal order, if an accused admits his or her guilt, has compensated the harm caused to a victim, as well as has reimbursed the compensation disbursed by the State and agrees to the completion of criminal proceedings by imposing a punishment thereon. If the accused has not compensated the harm caused to the victim and it does not exceed the amount of three minimal monthly wages specified in the Republic of Latvia, the prosecutor may draw up a penal order, if the accused agrees with the claimed amount of compensation.

[19 January 2006; 12 March 2009; 20 December 2012; 18 February 2016; 20 June 2018; 11 June 2020]

### **Section 421. Prosecutor' Penal Order**

(1) If a prosecutor has found that criminal proceedings may be completed by imposing a punishment on a person, he or she shall draw up a penal order of the prosecutor which shall include the decision to terminate criminal proceedings and the operative part of which shall indicate the punishment, the decision on the compensation for harm to the victim and its recovery, specifying a time period for the voluntary payment of the compensation for harm - 30 days from the day of entering into effect of the penal order.

(2) The prosecutor may impose the community service, fine, or probationary supervision on the accused in his or her penal order, and also additional punishments - community service, fine, or restriction of rights - as defined in the Criminal Law.

(2<sup>1</sup>) The prosecutor shall additionally indicate information regarding the institution executing the punishment and arrival deadline in its penal order.

(3) [18 February 2016]

[19 January 2006; 12 March 2009; 8 July 2011; 18 February 2016; 20 June 2018; 27 September 2018; 17 December 2020 / The new wording of Paragraph two shall come into force on 1 January 2022. See Paragraph 76 of Transitional Provisions]

### **Section 422. Familiarisation with the Materials of a Criminal Case**

(1) Copy of a penal order shall be issued to the person against whom criminal proceedings are being completed by such prosecutor's penal order, and the consequences of the completion 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 punishment determined in the penal order. The accused may express his or her consent immediately or within five working days from the day of the receipt of the copies. A consent may not be revoked.

(2) The person directing the proceedings shall send to a victim a copy of a penal order, and shall inform such victim regarding his or her rights to familiarise himself or herself with the materials of the criminal case, as well as to appeal a taken decision within 10 days after receipt of the report. If a victim who is not fluent in the official language

and whose permanent place of residence is in a foreign country has applied a request to receive a written translation of the penal order, the person directing the proceedings shall send a written translation of the abovementioned order to the victim.

[12 March 2009; 18 February 2016]

#### **Section 423. Consequences of a Prosecutor's Penal Order**

(1) [12 March 2009]

(2) If a person has agreed to a penal order, yet does not execute such punishment, the authority responsible for the execution of the punishment shall propose, in accordance with the procedures laid down in this Law, a matter regarding the replacement of the punishment in accordance with procedures provided for by law.

[28 September 2005; 12 March 2009]

## **Chapter 36 Special Features of Pre-trial Criminal Proceedings in Accordance with Urgent Procedures**

[20 June 2018]

#### **Section 424. Admissibility of the Application of Urgent Procedures**

The person directing the proceedings may apply urgent procedures if:

- 1) the person who committed the criminal offence has been ascertained;
- 2) the person has committed a criminal violation, a less serious crime, or a serious crime;
- 3) the investigation may be completed within the time period and in the amount provided for urgent procedures.

[20 June 2018]

#### **Section 425. Progress of an Investigation in Accordance with Urgent Procedures**

(1) The person directing the proceedings shall do the following after 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 harm caused by the criminal offence;
- 4) recognise the person as a suspect;
- 5) acquire testimonies;
- 6) if necessary, conduct other procedural actions.

(2) The person directing the proceedings shall, without delay, but not later than within 10 days or, in cases when an expert-examination must be conducted, not later than within 30 days from initiation of criminal proceedings, shall submit the case materials with a cover letter to the prosecutor.

(3) If criminal proceedings are not transferred to the prosecutor within the time period specified in this Section, the investigation is continued in accordance with general procedures.

[20 June 2018]

#### **Section 425.1 Minutes of an Urgent Procedure**

(1) When applying the urgent procedure, the person directing the proceedings may include the procedural actions and the established information in one procedural document - minutes of an urgent procedure.

(2) The following shall be indicated in the minutes:

- 1) information regarding the person directing the proceedings or, if the procedural action is performed by another official, he or she shall be indicated in the minutes next to the relevant action;
- 2) the decision in the form of a resolution on initiation of criminal proceedings;
- 3) information regarding the circumstances of the criminal offence, the nature and amount of the harm caused as a



result of the criminal offence, and the qualification of the criminal offence;

4) the decision in the form of a resolution on the recognition of the person as a suspect, including the information indicated in Section 398. 1, Paragraph one of this Law, insofar as such information has not already been included in the minutes of an urgent procedure, as well as decisions in the form of a resolution which are related to the representation of the detained person;

5) information regarding the notification of the decision taken, issuance of written information regarding the rights and obligations, as well as explanation of the rights to the suspect in the cases provided for in the law;

6) postal or electronic address of the suspect for the receipt of registered consignments;

7) consent of the person to be recognised as a victim, the decision in the form of a resolution on the recognition of the person as a victim, decisions in the form of a resolution which are related to the representation of the victim, issuance of written information regarding the rights and obligations, as well as explanation of the rights to the victim in the cases provided for in the law;

8) the amount of the compensation for harm claimed by the victim;

9) testimonies given by persons;

10) other information acquired during procedural actions regarding the facts which are of significance for taking a decision in the case.

(3) The involved person shall be made acquainted with the section of the minutes which is applicable to the procedural action related to this person, and he or she shall sign the relevant section of the minutes.

(4) The procedural action shall be recorded in accordance with general procedures, if its recording in accordance with urgent procedures in the minutes is impossible or hindered.

[20 June 2018]

#### **Section 426. Activities of the Prosecutor upon Receipt of Criminal Proceedings in Accordance with Urgent Procedures**

(1) Upon receipt of criminal proceedings in accordance with urgent procedures, the prosecutor shall decide on the manner in which the pre-trial criminal proceedings will be completed.

(2) Upon continuing the criminal proceedings in accordance with urgent procedures, the prosecutor shall, without delay, but not later than within 10 days after receipt of the materials of criminal proceedings, take the decision to transfer the case to a court.

(3) If the prosecutor believes that the investigation has not collected sufficient evidence for the person to be held criminally liable, he or she shall return the materials with a cover note to the investigating institution for the continuation of investigation by indicating the necessity to take specific procedural actions.

[20 June 2018]

#### **Section 427. Decision to Transfer a Criminal Case to a Court in Accordance with Urgent Procedures**

(1) A prosecutor shall indicate the following in a decision to transfer a criminal case to a court in accordance with urgent procedures:

1) the person who has the right to defence (identifying data, 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 circumstances aggravating and mitigating the liability;

6) the applied security measure;

7) the amount of victims and compensation;

8) the place and time of the trial of the case.

(2) A prosecutor shall determine the time for the trial of the case by co-ordinating such time with the court, however, the time period until the court hearing may not exceed 10 days, counting from the day when a copy of the

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 hearing on the basis of the views of the prosecution and the defence. Concurrently the prosecutor shall invite the persons to be summonsed to the court hearing.

(4) A taken decision to transfer a criminal case to a court shall simultaneously be recognised also as a decision to hold a person criminally liable.

(5) A copy of the decision together with copies of the case materials shall be issued, without delay, to the accused or he or she shall be made acquainted with such materials with the consent of the prosecutor. If the accused does not know the language in which the decision has been written, such person shall be provided with a written translation of the decision in a language comprehensible to him or her. A copy of the decision shall also be issued to the victim.

(6) After issuance of a copy of the decision to the accused, a prosecutor shall record information, in writing, regarding the attitude of the accused towards the prosecution, the fact whether the accused wishes that a defence counsel or interpreter participates in the trial of the case and whether he or she agrees to the possibility that the criminal case is examined without the verification of evidence.

(7) After issuance of a copy of a decision, a prosecutor shall send the taken decision and materials of the criminal case to a court.

(8) The decision to transfer a criminal case to a court in accordance with urgent procedures shall not be subject to appeal.

(9) After sending of a case to a court all requests and complaints shall be sent directly to the court.

[20 June 2018; 7 October 2021]

## **Chapter 37 Special Features of Pre-trial Criminal Proceedings in Accordance with Summary Procedures**

[20 June 2018]

### **Section 428. Admissibility of the Application of Summary Procedures**

[20 June 2018]

### **Section 429. Direction of an Investigation in Accordance with Summary Procedures**

[20 June 2018]

### **Section 430. Operations of a Prosecutor in Pre-trial Summary Proceedings**

[20 June 2018]

### **Section 431. Decision to Transfer a Criminal Case to a Court in Accordance with Summary Procedures**

[20 June 2018]

### **Section 432. Familiarisation with Case Materials in Summary Proceedings**

[20 June 2018]

## **Chapter 38 Application of an Agreement in Pre-trial Criminal Proceedings**

### **Section 433. Grounds for the Application of an Agreement**

(1) A 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 punishment, if circumstances have been ascertained that apply to an object of evidence, and the accused agrees to the amount and qualification of his or her incriminating offence, an assessment of the harm 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 punishment may not be imposed on all of the accused persons.

#### **Section 434. Negotiations regarding the Entering into of an Agreement**

(1) If, in pursuing a prosecution or continuing criminal prosecution, a prosecutor considers as possible the entering into an agreement, he or she shall explain to an accused and the representative of an accused who is a minor the possibility to regulate criminal-legal relations by entering into an agreement, the consequences thereof, and the rights of the accused in the 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 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 harm caused by such offence, negotiations shall be commenced for the type and amount of a sentence, which a prosecutor will request for a court to impose.

[11 June 2020]

#### **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 for the type and amount of the sentence;
- 4) to receive copies of the materials of the criminal case after entering into an agreement;
- 5) to be informed of the criminal offence for the committing of which he or she will be prosecuted in court, and the type and amount of sentence that the prosecutor will request for the court to impose;
- 6) to participate in examination of the agreement in court;
- 7) to provide explanation regarding the course of the agreement;
- 7<sup>1</sup>) to submit objections against trial of a case in a written procedure;
- 8) to refuse the entered into agreement up to the moment where the court retires to the deliberation room in order to make a ruling;
- 9) to appeal the ruling;
- 10) to acquaint himself or herself with the minutes of the court hearing;
- 11) to receive the legal assistance of a defence counsel.

[24 May 2012]

#### **Section 436. Rights of a Victim in Agreement Proceedings**

(1) If criminal proceedings are continued as agreement proceedings, the person directing the proceedings - prosecutor - shall issue to a victim a copy of the minutes of agreement and the information regarding the rights during agreement proceedings.

(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 examination of the agreement in court;
- 4) to express his or her objections to the approval of the agreement;
- 4<sup>1</sup>) to submit objections against trial of a case in a written procedure;
- 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 examination of a case in a cassation court in accordance with the procedures laid down in

Section 101 of this Law.

[24 May 2012; 11 June 2020]

### **Section 437. Minutes of Agreement**

(1) The minutes of 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 identifying data of an accused or the representative of an accused - minor person, and also 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 sentence that a prosecutor will request for the court to impose;
- 10) the inclusion of the term of a security measure related to deprivation of liberty imposed on an accused, as well as of the term of detention in the term of a sentence.

(2) If an accused has committed several criminal offences, a prosecutor shall indicate the sentence that he or she will request to be imposed for each of the criminal offences, and the final sentence. Such provision shall also be complied with in cases where a sentence is determined for an accused based on several judgments.

(3) An agreement shall be signed by an accused, a defence counsel, the representative of an accused - minor person, and a prosecutor, and a copy of such agreement shall be issued to the accused or his or her representative.

[11 June 2020; 7 October 2021]

### **Section 438. Sending of a Criminal Case to a Court**

(1) After entering into an agreement, a prosecutor shall send the materials of a criminal case together with the minutes of agreement to a court, proposing for such court to approve the entered into agreement.

(2) In a proposal to a court, a 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;
- 4<sup>1</sup>) inform regarding the seizure of the property;
- 4<sup>2</sup>) indicate the property to be recognised as criminally acquired and the possible action with it;
- 5) inform regarding the procedural expenditures;
- 6) refer to material evidence, documents, property related to criminal offence, other objects and valuables removed during the proceedings, the location thereof, and the possible actions with them;
- 7) request for the court to approve the entered into agreement and impose the punishment provided for in such agreement.

(3) A 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. A copy of the proposal shall be sent to the accused or his or her defence counsel.

(4) After sending of a case to a court, all requests and complaints shall be sent directly to the court.

[11 June 2020]

## **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, most likely, there are grounds for the application of a coercive measure, the person directing the proceedings shall take a reasoned decision that proceedings are initiated for the application of a coercive measure to a legal person. The person directing the proceedings shall notify the relevant legal person by sending a copy of the decision, as well as informing regarding the rights and duties thereof.

(2) Proceedings for the application of a coercive measure to a legal person shall take place within the framework of the criminal proceedings initiated in accordance with the procedures laid down in this Law.

(3) The person directing the proceedings may, by means of a decision, isolate the proceedings regarding the application of a coercive measure to a legal person in separate records in the following cases:

- 1) the criminal proceedings against a natural person are terminated on the basis of reasons other than exoneration;
- 2) circumstances have been established that prevent clarifying whether a particular natural person should be held criminally liable, or transfer of the criminal case to the court is not possible in the nearest future (within a reasonable period of time) due to objective reasons;
- 3) in order to settle criminal legal relations in a timely manner with a natural person who has the right to defence;
- 4) it is requested by the representative of the legal person.

(3<sup>1</sup>) A procedurally authorised official may initiate proceedings for the application of a coercive measure to a legal person also in cases when the grounds for initiating the proceedings against a legal person laid down in Paragraph one of this Section have been ascertained and any of the following conditions exists:

- 1) initiation of criminal proceedings has been refused or criminal proceedings have been terminated on the basis of non-exonerating circumstances;
- 2) there is an actual possibility that a criminal offence has been committed outside the territory of Latvia in the interests or for the benefit of a legal person established in the Republic of Latvia or as a result of improper supervision or control thereof.

(4) The decision by means the proceedings regarding the application of a coercive measure to a legal person are isolated in separate records shall be attached the copies of the materials of the separated criminal case and their list.

(5) The decision by means of which the proceedings regarding the application of a coercive measure to a legal person are isolated in separate records shall not be subject to appeal.

(6) Proceedings isolated in separate records regarding the application of a coercive measure to a legal person or proceedings regarding the application of a coercive measure to a legal person in the cases laid down in Paragraph 3.<sup>1</sup> of this Section shall take place in conformity with the general procedures laid down in this Law, unless it has been laid down otherwise in this Law.

[14 March 2013; 29 May 2014; 18 February 2016; 11 June 2020]

### **Section 439.<sup>1</sup> Decision to Initiate the Proceedings Regarding the Application of a Coercive Measure to a Legal Person**

(1) The person directing the proceedings shall indicate the following in the decision to initiate the proceedings regarding the application of a coercive measure to a legal person:

- 1) the circumstances of committing the criminal offence;
- 2) the legal qualification of the criminal offence;
- 3) the justification for the assumption that the criminal offence under investigation has been, most likely, committed in the interests for the benefit of, or due to insufficient monitoring or control by, the legal person;
- 4) the name, registration number and legal address of the legal person.

(2) The decision to initiate the proceedings regarding the application of a coercive measure to a legal person shall not be subject to appeal.

(3) If any of the circumstances referred to in Paragraph one, Clauses 1, 2 and 3 of this Section have changed during the investigation, the person directing the proceedings shall take a decision. The legal person shall be notified regarding taking of such decision. The decision on changes in the circumstances established during the proceedings regarding the application of a coercive measure shall not be subject to appeal.

[14 March 2013]

#### **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, if such is known, 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 taken 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.

[14 March 2013]

#### **Section 440.<sup>1</sup> Completion of an Investigation if Proceedings Regarding the Application of a Coercive Measure are Initiated**

(1) Upon recommending the initiation of criminal prosecution or continuation of the proceedings regarding the application of a coercive measure (if the proceedings against a legal person have been isolated in separate records or initiated on the basis of Section 439, Paragraph 3.<sup>1</sup> of this Law) and transferring the materials of the criminal case to the prosecutor, the investigator shall indicate in the relevant decision the circumstances referred to in Section 440 of this Law in addition to the general requirements, and the justification for the application of a coercive measure to a legal person, as well as the name, registration number and legal address of the legal person.

(2) The decision of the investigator to continue the proceedings regarding the application of a coercive measure to a legal person shall not be subject to appeal.

[14 March 2013; 18 February 2016]

#### **Section 441. Completion of Pre-trial Criminal Proceedings**

(1) In completing pre-trial proceedings and taking a decision to transfer a criminal case to a court, a prosecutor shall indicate, in addition to general requirements, the circumstances referred to in Section 440 of this Law that have been ascertained in the pre-trial proceedings, and the grounds for the application of coercive measures to a legal person.

(2) If the proceedings against a legal person are isolated in separate records or initiated on the basis of Section 439, Paragraph 3.<sup>1</sup> of this Law, the prosecutor shall, after receipt and assessment of a decision of the investigator to continue the proceedings regarding the imposition of a coercive measure to a legal person and the materials of the proceedings, perform one of the following actions:

1) revoke the decision of the investigator to continue the proceedings regarding the application of a coercive measure to a legal person and return the materials of the proceedings to the investigating institution for performance of particular procedural actions;

2) revoke decisions of the investigator to isolate the criminal proceedings in separate records and to continue the proceedings regarding the application of a coercive measure to a legal person and return the materials of the proceedings to the investigating institution for the continuation of the investigation, if the prosecutor does not agree to the continuation of the proceedings since circumstances preventing it have been established, or considers that there are no grounds for the continuation of the proceedings regarding the application of a coercive measure;

3) take a decision to transfer the proceedings regarding the application of a coercive measure to a legal person to the court, which shall not be subject to appeal;

4) draw up a penal order of a prosecutor regarding a coercive measure.



(2<sup>1</sup>) The prosecutor shall take the decisions referred to in Paragraph two, Clauses 1 and 2 of this Section within 10 days after receipt of the materials of the proceedings.

(3) By isolating the proceedings regarding the application of a coercive measure to a legal person in separate records the prosecutor may terminate them by taking the decision referred to in Paragraph two, Clause 2 of this Section or the decision to terminate the proceedings regarding the application of a coercive measure to a legal person or by drawing up a penal order of a prosecutor regarding a coercive measure.

(4) A list of material evidence and documents and a list of the persons to be summoned to the court hearing shall be attached to the decision to transfer to the court the proceedings regarding the application of a coercive measure. The addresses of the persons to be summoned to the court hearing shall be indicated only in the list to be sent to the court.

(5) After taking of the decision to transfer to the court the proceedings regarding the application of a coercive measure to a legal person the prosecutor shall send a copy of the decision to the legal person and the victim, explaining the right to receive copies of the materials of the proceedings or to become familiar with these materials with the consent of the prosecutor within 10 days after the date of receipt of the decision.

(6) After performing the actions determined in Paragraphs four and five of this Section the prosecutor shall send the decision and the materials of the proceedings to the court. The decision and the materials of the proceedings shall also be sent to the court in case if the legal person or the victim has not expressed a wish to receive copies of the materials of the proceedings or to become familiar with them.

*[14 March 2013; 18 February 2016; 19 November 2020]*

#### **Section 441.<sup>1</sup> Peculiarities of the Proceedings Regarding the Application of a Coercive Measure to a Legal Person upon Application of a Prosecutor's Penal Order**

(1) If a criminal offence, a less serious crime or a serious crime for which the sentence of deprivation of liberty up to five years is provided for, has been committed and the representative of the legal person recognises the fact of committing of the criminal offence, the damage caused to the victim has been compensated for and the representative agrees to the termination of the proceedings by the application of a coercive measure to the legal person, the prosecutor may terminate the proceedings by drawing up a penal order on a coercive measure. The prosecutor's penal order on a coercive measure, if a serious crime has been committed for which the sentence of the deprivation of liberty for up to five years is provided, may be drawn up, if a higher-ranking prosecutor agrees thereto.

(2) In the penal order regarding a coercive measure the prosecutor shall include the general requirements related to the termination of criminal proceedings, indicate the circumstances referred to in Section 440 of this Law and the grounds for the application of a coercive measure to the legal person, indicating the type of the coercive measure in the operative part.

(3) In the penal order regarding a coercive measure the prosecutor may determine restriction of the rights or recovery of money in accordance with the Criminal Law.

(4) A copy of a penal order of a prosecutor regarding a coercive measure shall be issued to the legal person the proceedings against whom are terminated by the penal order, the person shall be informed regarding the right to become familiar with the materials of the criminal case or the isolated proceedings and the consequences of termination of the proceedings shall be explained to the person. The representative of the legal person shall confirm with his or her signature that he or she agrees with the qualification of the criminal offence. The representative of the legal person may express his or her agreement either without delay or within five working days after the date of receipt of the copies. Such agreement may not be withdrawn.

(5) The prosecutor shall send a copy of the penal order regarding a coercive measure to the victim and notify of his or her right to become familiar with the materials of the criminal case or the isolated proceedings, as well as the right to appeal the decision within 10 days after the date of receipt of the notice.

*[14 March 2013; 18 February 2016; 20 June 2018]*

#### **Section 441.<sup>2</sup> Decision to Transfer the Proceedings Regarding the Application of a Coercive Measure to a Legal Person to the Court**

In the decision to transfer the proceedings regarding a coercive measure to a legal person to the court the prosecutor shall, in addition to the general requirements, indicate the circumstances referred to in Section 440 of this Law and the justification for the application of a coercive measure, as well as the name, registration number and legal address of the legal person.

*[14 March 2013]*

**Section 441.<sup>3</sup> Termination of Pre-trial Proceedings Regarding the Application of a Coercive Measure to a Legal Person**

(1) The person directing the proceedings may take a decision to terminate the application of a coercive measure to a legal person, if the circumstances referred to in Section 377, Clause 1, 2, 3, 8 or 10 of this Law have been ascertained.

(2) An investigator with the consent of the supervising prosecutor or a prosecutor may take a decision to terminate the application of a coercive measure to a legal person, if attempts to prove that the criminal offence was committed in the interests, for the benefit or as a result of insufficient supervision or control of the legal person and it is not possible to collect additional evidence, have failed in pre-trial proceedings.

[29 May 2014]

**Section 441.<sup>4</sup> Decision to Terminate Pre-trial Proceedings Regarding the Application of a Coercive Measure to a Legal Person**

(1) The following shall be indicated in a decision to terminate pre-trial proceedings regarding the application of a coercive measure to a legal person:

- 1) the grounds for initiating the proceedings;
- 2) when and in relation to what criminal offence the proceedings were initiated;
- 3) the reason and grounds for terminating the proceedings;
- 4) the revocation of the seizure of the property;
- 5) actions with removed objects and valuables;
- 6) the procedures for the appeal of the decision.

(2) If criminal proceedings and pre-trial proceedings regarding application of a coercive measure are terminated concurrently, the decision shall be drawn up in accordance with that laid down in Section 392.<sup>1</sup>, Paragraph 4.<sup>1</sup> of this Law.

(3) A copy of the decision to terminate pre-trial proceedings shall be sent to the supervising prosecutor without delay. A copy of the decision to terminate proceedings shall be sent or issued to the victim and the legal person.

[29 May 2014]

**Section 441.<sup>5</sup> Renewal of the Terminated Pre-trial Proceedings Regarding the Application of a Coercive Measure to a Legal Person**

(1) A procedurally authorised person may renew terminated pre-trial proceedings regarding the application of a coercive measure to a legal person, by revoking the decision on 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 the person directing the proceedings at the moment of taking the decision, and which have substantial significance in taking of the decision.

(2) Pre-trial proceedings regarding the application of a coercive measure to a legal person may be renewed, if limitation period of criminal liability has not set in.

[29 May 2014]

**Section 441.<sup>6</sup> Agreement in the Proceedings Regarding the Application of a Coercive Measure to a Legal Person**

(1) An agreement regarding a coercive measure may be entered into in the proceedings regarding the application of a coercive measure to a legal person upon initiative of the prosecutor or legal person, if:

- 1) the circumstances, which relate to the object of evidence, are ascertained;
- 2) the legal person recognises the fact of committing a criminal offence;
- 3) the legal person agrees to the amount, qualification of the offence, in relation to which the coercive measure is applied, evaluation of the harm caused and application of the agreement.

(2) If a prosecutor considers as possible the entering into an agreement, he or she shall perform the following actions:

1) explain to the legal person the possibility to regulate criminal-legal relations by entering into an agreement, the rights of the person in entering into an agreement, and the consequences of the agreement;

2) [11 June 2020].

(3) Having received a consent of the legal person to enter in an agreement, the prosecutor shall prepare a draft agreement and initiate negotiations with the legal person regarding elements of the agreement.

(4) If the legal person agrees to the qualification of the criminal offence, in relation to which a coercive measure is applied, and evaluation of the harm caused, negotiations regarding the type and extent of the coercive measure, the imposition of which by the court will be requested by the prosecutor, shall commence.

(5) A legal person has the following rights in the agreement process:

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 the coercive measure;

4) after entering into an agreement receive copies of the case materials, which are related to the proceedings regarding the application of a coercive measure;

5) to be informed of the criminal offence for the committing of which a coercive measure will be applied, and the type and amount of the coercive measure, the imposition of which by the court will be requested by the prosecutor;

6) to participate in examination of the agreement in court;

7) to provide explanation regarding the course of the agreement;

8) to submit objections against trial of a case in a written procedure;

9) to refuse the entered into agreement up to the moment where the court retires to the deliberation room in order to make a ruling;

10) to appeal the ruling;

11) to acquaint himself or herself with the minutes of the court hearing;

12) to receive the legal assistance of a defence counsel.

(6) A victim in the agreement process regarding the application of a coercive measure to a legal person shall have the rights laid down in Section 436 of this Law.

[29 May 2014; 11 June 2020]

#### **Section 441.<sup>7</sup> Minutes of Agreement Regarding the Application of a Coercive Measure to a Legal Person**

(1) The following shall be indicated in the minutes of agreement regarding a coercive measure:

1) the place and date of the occurrence of the action;

2) the position, given name, and surname of the performer of the procedural action;

3) the name, address, registration number of the legal person, the given name and surname of the representative thereof, the given name, surname and location of the practice of the defence counsel;

4) the circumstances of committing the criminal 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 coercive measure, the imposition of which by the court will be requested by the prosecutor.

(2) If a coercive measure is applied in relation to several criminal offences, the prosecutor shall indicate, the imposition of which by the court will be requested by the prosecutor for each criminal offence and the final aggregate of the coercive measures to be applied.

(3) The agreement shall be signed by the representative of the legal person and the prosecutor, and a copy thereof shall be issued to the legal person or the representative thereof.

[29 May 2014]

**Section 441.<sup>8</sup> Transfer of the Proceedings, in which an Agreement Regarding the Application of a Coercive Measure has been Entered into, to the Court**

(1) After entering into an agreement, a prosecutor shall send the materials of a case together with the minutes of agreement to the court, proposing for such court to approve the entered into agreement.

(2) In a proposal to a court, a prosecutor shall:

1) inform regarding an entered into agreement;

2) mention the evidence confirming that the criminal offence was committed in the interests or for the benefit of, or as a result of insufficient supervision or control by the legal person;

3) indicate the amount of the harm caused by the criminal offence committed in the interests or for the benefit of, or as a result of insufficient supervision or control by the legal person;

4) inform regarding the expenditures of pre-trial proceedings;

5) 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;

6) request the court to approve the entered into agreement and impose the coercive measure provided for in such agreement.

(3) If the agreement regarding the application of a coercive measure is entered into concurrently with the agreement specified in Section 433 of this Law, the prosecutor shall draw up one proposal.

(4) The prosecutor shall inform the legal person, the victim, and the representatives thereof in writing regarding the court to which the case has been sent.

(5) After sending of a case to a court, all requests and complaints shall be sent directly to the court.

[29 May 2014]

## **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. Criminal cases the materials of which include objects containing official secret shall be within the jurisdiction of the Riga City Court as the court of first instance. The Economic Court shall examine criminal cases regarding criminal offences provided for in Section 73.<sup>1</sup>, Paragraph two, Section 79.<sup>2</sup>, Paragraph two, Section 195, Section 198, Paragraph two, three or four, Section 199, Paragraph two, Section 320, Paragraph three or four, Section 321, Paragraph two, three or four, Section 322, Paragraph two, Section 323, Paragraph two or three, Section 326.<sup>1</sup>, Paragraph two, Section 326.<sup>2</sup>, Paragraph two or Section 326.<sup>3</sup>, Paragraph two of the Criminal Law. The Economic Court shall examine a criminal case if the person is being held criminally liable for several criminal offences and the most serious or one of the most serious criminal offences is within the jurisdiction of the Economic Court.

(2) A regional court shall examine as an appellate court a ruling of a district (city) court appealed in accordance with appellate procedures. Riga Regional Court shall examine a ruling of the Economic Court appealed in accordance with appellate procedures.

(3) The Supreme Court shall examine as a cassation court a ruling of any court appealed in accordance with cassation procedures.

[24 May 2012; 19 December 2013; 19 November 2020; 16 June 2022]

**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 entering 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 participation or co-participation of several persons in committing one or several criminal offences; 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. If the cases referred to in Paragraph one, Clause 2 of this Section are located in different court regions, the matter shall be decided by the chief judge of such regional court, in the territory of operation of which the court initiating the transfer of the case to another court is located. The decision shall be taken in the manner of a resolution.

*[19 January 2006; 12 March 2009]*

#### **Section 446. Inadmissibility of Disputes regarding Jurisdiction**

(1) A criminal case transferred from one court to another in accordance with the procedures laid down 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. Trial of a Criminal Case Singly and Collegially**

(1) In a court of first instance, a judge shall singly try a criminal case.

(2) *[16 June 2009]*

(3) *[11 June 2020]*

(4) In appellate or cassation courts criminal cases shall be tried collegially.

*[12 March 2009; 16 June 2009; 11 June 2020]*

#### **Section 448. Deciding of Matters in Court**

(1) Matters that arise in the collegial trial of a case shall be decided by a court by a majority vote.

(2) [16 June 2009]

(3) No member of the composition of a court is entitled to abstain from voting.

[12 March 2009; 16 June 2009]

## 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 hearing.

(3) Written evidence and other documents, which are related to the object of evidence, shall be read or played in a court hearing fully or partially, if the person who conducts defence, a prosecutor, a victim or his or her representative, and the owner of the property affected during criminal proceedings whose property has been seized has applied such request. The written evidence and documents indicated in a decision to transfer a criminal case to a court shall be examined in a court hearing only when the person who conducts defence, a prosecutor, a victim or his or her representative and the owner of property infringed during criminal proceedings whose property has been seized has submitted such a request, however, it is not read or played in a court hearing.

(4) If a request is justified, a court shall decide on an inspection of material evidence.

(5) A verification of evidence during trial of a case may not take place only in the cases and in accordance with the procedures laid down in this Law.

[24 May 2012; 16 October 2014; 30 March 2017; 22 June 2017; 11 June 2020]

### Section 450. Openness of the Trial of a Criminal Case

(1) A criminal case shall be tried in an open court hearing.

(2) A criminal case regarding a criminal offence against the morality and sexual inviolability, and regarding a criminal offence committed by a minor or against a minor, and also a criminal case in which the protection of a State or adoption secret is necessary shall be tried in a closed court hearing.

(3) A court may determine a closed court hearing with a reasoned decision:

1) [27 September 2018];

2) [18 February 2016];

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;

6) [27 September 2018].

(4) Persons involved in criminal proceedings shall participate in a closed court hearing.

(5) A court ruling shall be announced publicly. In a criminal case that has been tried in a closed court hearing, the introductory part and operative part of the court ruling shall be announced publicly, without disclosing information identifying the victims.

[29 May 2014; 18 February 2016; 27 September 2018]

### Section 451. Right to Become Acquainted with the Materials of a Case

(1) An accused, his or her defence counsel, a representative of a legal person, a 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 receipt thereof in a court, make extracts and true copies from such materials, and request the preparation of copies of those case materials, which infringe the interests and rights of this person, except in 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 those case materials, which infringe the interests and rights of this person. If, in completing the pre-trial criminal proceedings, a person has refused to

familiarise himself or herself with materials of a case or to receive copies from such materials, it may be the grounds for recusal of the request.

(2) After completion of a case in a court of first instance or an appellate court the persons involved in the proceedings whose interests are infringed by a particular criminal proceedings have the rights to familiarise themselves with those case materials which have come up in a case during examination thereof in the relevant instance of courts, or to receive copies of these materials.

(3) A representative or defence counsel, who has not participated in the relevant criminal proceedings previously, has the right to familiarise with the materials of a criminal case which refer to a person to be represented or defended by him or her, or to request to make copies of these materials.

[12 March 2009; 29 May 2014]

#### **Section 452. Unchangeability of the Composition of a Court**

(1) A court hearing 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 trial of the criminal case shall be commenced de novo.

#### **Section 453. Reserve Judge**

(1) A reserve judge may participate in a criminal case for the trial of which a long term is necessary, and he or she shall be located in the courtroom during the trial of the case. A note shall be made in the minutes of the court hearing thereon.

(2) If a judge is substituted by a reserve judge during the trial process of a criminal case, the trial of the case shall continue. In such case, the trial of the case shall be completed by the court in the new composition thereof.

[16 June 2009]

#### **Section 454. Chairperson of a Court Hearing**

(1) A court hearing shall be led by one of the judges who participates in the trial of the criminal case (hereinafter - the chairperson of a court hearing).

(2) The chairperson of a court hearing shall lead the trial of a case in such a way that equal opportunity is ensured for the person who conducts defence, a prosecutor, and a victim to participate in the investigation of the circumstances of the case.

[12 March 2009]

#### **Section 455. Procedural Rights in Trial**

(1) In a court hearing, an accused, his or her representative and defence counsel, a victim and his or her representative, as well as the owner of property affected during criminal proceedings whose property has been seized, and a prosecutor have equal rights to submit recusals, submit requests, submit evidence, indicating why they had not been submitted to a court hitherto, participate in verification of evidence, submit written explanations to the court, participate in court debates, and to participate in the trial of other matters that have arisen during the course of a criminal case.

(1<sup>1</sup>) In order to submit additional evidence a defence counsel and a prosecutor has the right to request documents of importance to the criminal proceedings and information regarding facts from natural persons and legal persons, except for that provided for in Section 121, Paragraph five and Section 192 of this Law.

(2) A court is entitled to acquire evidence on the basis of the initiative thereof, and to examine such evidence in a court hearing, only in the case where the accused conducts defence himself or herself, and justified doubts arise for the court regarding his or her mental capacity or possible guilt in the prosecution.

(3) A court may recognise as proved factual circumstances of a criminal case which are different from prosecution, if thereby the state of an accused is not deteriorated and his or her rights to defence are not infringed.

[12 March 2009; 10 January 2013; 22 June 2017]

#### **Section 456. Participation of a Prosecutor in the Trial of a Case**

(1) The participation of a prosecutor in the trial of a criminal case is mandatory.

(2) A 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 debates.



Several prosecutors may also maintain State prosecution in a single criminal proceedings.

(3) A prosecutor may submit and maintain an application regarding a recovery of compensation in the interests of the State or local government.

[21 October 2010; 18 February 2016]

#### **Section 457. Consequences of the Non-arrival of a Prosecutor**

(1) If a prosecutor does not arrive for a court hearing, the trial of the criminal case shall be deferred. If several prosecutors are participating in the trial of the criminal case and any of them has not arrived, the trial of the case may be continued. The trial of the case may also be continued if any of the prosecutors has not arrived to the court debates by a consent of a chief prosecutor.

(2) If the reasons for the non-arrival of a prosecutor are unknown, a chief prosecutor shall be notified of the non-attendance thereof.

[24 May 2012; 7 January 2021]

#### **Section 458. Replacement of a Prosecutor during the Trial of a Criminal Case**

(1) If the subsequent participation of a prosecutor in the trial of a case is not possible, he or she may be replaced.

(2) In the case of a change of prosecutor, a court shall continue the trial of the case.

(3) A court shall give a prosecutor who has newly entered a criminal case time to prepare for the trial of the criminal case.

(4) A prosecutor who has newly entered a criminal case may ask the court to repeatedly hear the testimony of a witness or victim, as well as the owner of property infringed during criminal proceedings whose property has been seized, or the findings of an expert, as well as perform other procedural actions.

[22 June 2017]

#### **Section 459. Duty of a Prosecutor to Withdraw from Prosecution**

(1) If a 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 prosecutor.

(2) A prosecutor may be 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 prosecutor withdraws from a prosecution without complying with the procedures laid down in Section 459, Paragraph one of this Law, the court shall announce an interruption in the court hearing. If the higher-ranking prosecutor does not change the maintainer of the prosecution, and does not renew the maintenance of prosecution, within three working days up to the recommencement of the court hearing, a court shall take the decision to terminate the criminal proceedings in connection with the withdrawal from prosecution of the prosecutor.

(2) In a criminal case in which a decision has been taken on termination of the criminal proceedings in connection with a withdrawal from prosecution of a prosecutor, the renewal of the proceedings shall be allowed if new circumstances have been disclosed.

(3) The withdrawal from prosecution of a prosecutor shall not be an impediment to the requesting of consideration for harm in accordance with the procedures laid down in the Civil Procedure Law.

[12 March 2009]

#### **Section 461. Duty of a Prosecutor to Modify a Prosecution**

(1) If a prosecutor admits, during the course of the trial of a criminal case, that the pursued and issued prosecution should be modified to a lighter or more serious prosecution or also the prosecution should be modified due to a change in the factual circumstances of the criminal offence without any changes in the qualification of the offence, he or she has a duty to modify the prosecution, substantiating such modification.

(2) A prosecutor may modify a prosecution to a lighter prosecution, if the factual 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.

[21 October 2010]

### **Section 462. Modification of a Prosecution during the Course of a Trial**

(1) If a prosecutor modifies a prosecution to a lighter prosecution without the factual circumstances of the criminal offence changing, the new prosecution shall be recorded in the minutes of the court hearing.

(2) If a prosecutor modifies a prosecution to a lighter prosecution due to a change in the factual circumstances of the criminal offence, or to a more serious prosecution, if the factual circumstances of the criminal offence remain unchanged, or due to a change in the factual circumstances of the criminal offence, if the qualification of the offence remains unchanged, the new prosecution may be recorded in the minutes of the court hearing. The prosecutor shall submit the new prosecution in writing upon request of the court, the accused, or his or her defence counsel. If a time period is necessary for the modification of the prosecution, the court shall announce an interruption in the court hearing if the defence needs time to prepare for the new prosecution.

(3) If a prosecutor admits in a court of first instance that a prosecution is modifiable to a more serious prosecution because other factual circumstances of the criminal offence have been determined in a court hearing, the court shall announce, upon request of the prosecutor, an interruption for the performance of necessary investigative actions and for the drawing up of a new prosecution.

(4) A prosecutor shall, within a month, submit a new prosecution to a court, which the court shall send to an accused, victim his or her representative and notify the time of trial of a criminal case.

(5) In case of amending of a prosecution, the composition of a court and jurisdiction shall remain unchanged.

*[12 March 2009; 21 October 2010]*

### **Section 463. Participation of an Accused in the Trial of a Criminal Case**

(1) The participation of an accused in the trial of criminal proceedings is mandatory.

(2) If the accused does not arrive for a court hearing, the trial of the criminal case shall be deferred.

(3) If an accused does not arrive for a court hearing due to an unjustified reason, or he or she has not notified of the reasons for non-arrival, a court may decide to impose a fine or on his or her conveyance by force to the court, and regarding the modification or application of a security measure.

*[24 May 2012]*

### **Section 464. Trial of a Criminal Case without the Participation of an Accused**

(1) A court may try a criminal case regarding a criminal violation, a less serious crime, and a serious crime for which the sentence of deprivation of liberty up to five years is provided for, without the participation of the accused, if the accused repeatedly does not arrive to a court hearing without a justified reason or has submitted to the court a request for the trial of the criminal case without his or her participation.

(2) A criminal case may be tried without the participation of the accused if the accused has fallen ill with a serious illness that excludes the possibility for him or her to participate in the trial of the criminal case.

(3) A criminal case with several accused may be tried without the participation of some accused if the prosecution is being tried at a court hearing in the part brought against other accused, if the participation of such accused in a court hearing is not necessary and he or she has notified the court regarding his or her unwillingness to participate in the relevant court hearing.

*[21 October 2010; 24 May 2012; 27 September 2018; 11 June 2020]*

### **Section 465. Trial of a Criminal Case in the Absence of the Accused (in absentia)**

(1) A court may try a criminal case in the absence of the accused (in absentia) in one of the following cases:

- 1) whereabouts of the accused are unknown and it is indicated in information regarding the search results;
- 2) the accused is located in a foreign country and the ensuring of his or her arrival in court is not possible.

(1<sup>1</sup>) In the cases specified in Paragraph one of this Section the court may try a criminal case in the absence of the accused (in absentia) also if during trial the prosecutor recognises that the prosecution should be amended.

(2) A court ruling that has been made by trying a case in the absence of the accused (in absentia) shall enter into effect in accordance with general procedures. Nevertheless, the convicted person may appeal the ruling in accordance with appellate or cassation procedure within 30 days from the day when a copy of the ruling has been received.

(3) From the moment when a court has received an appeal or cassation complaint, the convicted person shall

obtain the status and all rights of an accused. A judge of a court of first instance, but when a ruling of appellate court is being appealed - a judge of appellate court shall take the decision to suspend the execution of judgment and apply a security measure.

(3<sup>1</sup>) If an appeal or cassation complaint is submitted by a person who is being extradited by a foreign country to Latvia for execution of a custodial sentence, then the decision to accept the complaint shall be taken and the person shall obtain the status of an accused from the moment when he or she has been actually transferred to Latvia.

(4) If a case has been tried in a court of first instance in the absence of the accused (in absentia), the convicted person may appeal the ruling in accordance with appellate procedures.

(5) If a case has been tried both in a court of first instance and appellate court in the absence of the accused (in absentia), the convicted person may appeal the ruling in accordance with appellate procedures. After receipt of an appellate complaint, a judge of the appellate court shall send the criminal case to a cassation court and request it to revoke the ruling made by the appellate court. A cassation court shall immediately decide the request of a judge of appellate court in written procedure without informing the persons involved in the proceedings, and revoke the ruling made by the appellate court.

(6) If a case has been tried only in an appellate court in the absence of the accused (in absentia), the convicted person may appeal the ruling in accordance with cassation procedures.

(7) If in a case which has been examined both in the court of first instance and appellate court in the absence of the accused (in absentia) a ruling of a cassation court has been made or the examination of the legality of a ruling has been refused, the convicted person may appeal the ruling in accordance with appellate procedures. After receipt of an appellate complaint, a judge of the appellate court shall send the criminal case to a cassation court and request it to revoke the decision taken by a cassation court (judge). A cassation court shall immediately decide the request of a judge of appellate court in written procedure without informing the persons involved in the proceedings, and revoke the decision taken by the cassation court (judge) and the ruling made by the appellate court.

[12 March 2009; 24 May 2012; 29 May 2014; 27 September 2018; 11 June 2020]

#### **Section 466. Participation of a Defence Counsel in the Trial of a Case**

(1) The participation of a defence counsel in the trial 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. If the defence counsel with whom the client has entered into an agreement or who has been appointed by the senior of the sworn advocates cannot participate in a court hearing, he or she shall ensure that another advocate arrives in his or her place, agreeing with the client thereupon or informing the senior of the sworn advocates thereof in advance.

(2) A defence counsel shall implement the rights of a person to defence, express his or her views regarding the circumstances determined during the course of the trial of a case, and participate in court debates. Several defence counsels may also conduct defence in a single criminal proceedings.

[11 June 2020]

#### **Section 467. Consequences of the Non-arrival of a Defence Counsel**

(1) If a defence counsel does not arrive for a court hearing, the trial of a criminal case shall be deferred. The court shall notify the Latvian Council of Sworn Advocates of the non-arrival of the defence counsel for a court hearing.

(2) If several defence counsels of the accused participate in the trial of a criminal case and any of them has not arrived, the trial of the case may be continued.

[24 May 2012; 11 June 2020]

#### **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 trial 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 trial of a case.

(3) A court shall give a defence counsel who has newly entered a criminal case time to prepare for conducting defence.

(4) A defence counsel who has newly entered a criminal case may ask the court to repeatedly hear the testimony of a witness and victim, as well as the owner of property affected during criminal proceedings whose property has been seized, or the findings of an expert, as well as perform other procedural actions.

[12 March 2009; 27 September 2018]

### **Section 469. Participation of a Victim in the Trial of a Criminal Case**

(1) A criminal case shall be tried with the participation of a victim or his or her representative.

(2) If a victim does not arrive for a court hearing, a criminal case shall be tried without the presence thereof, except in cases where the court admits that the participation of the victim in the trial of a criminal case is mandatory, or the victim has requested, due to a justified reason, for the court hearing to be deferred.

### **Section 470. Consequences of the Non-arrival of a Witness, Expert or Owner of Property Infringed During Criminal Proceedings**

(1) If a witness or expert does not arrive for a court hearing, the court shall commence the trial of the case, if, in accordance with this Law, grounds to defer such court hearing 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 hearing due to an unjustified reason. A witness may also be applied conveyance by force.

(3) Non-arrival to the court hearing of an owner of property infringed during criminal proceedings whose property has been seized shall not be an impediment to examination of a case if the procedures for the summoning of this person have been complied with.

*[24 May 2012; 22 June 2017]*

### **Section 471. Procedures during Court Hearings**

(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 hearing shall behave so as not to disturb the course of the court hearing.

(4) The persons present in a court hearing shall submit without objections to the instructions of the chairperson of the court hearing, 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 hearing 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 immediate family of an accused or victim, or other persons invited by such accused or victim, have priority rights to be present in the trial 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.

*[12 March 2009]*

### **Section 473. Decisions Taken in a Court Hearing**

(1) Matters that have arisen during the trial of a case shall be resolved by a court by taking decisions.

(2) The following decisions shall be taken by a court in the deliberation room:

1) to terminate proceedings;

2) regarding a security measure;

3) regarding a recusal;

4) to determine 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 hearing.

(5) A court decision taken during a trial shall be announced immediately.

(6) A decision to determine a knowingly false testimony or findings shall be taken by a court simultaneously with a judgment. The decision shall be sent to an investigating institution.

(7) Decisions taken during a trial may be appealed only simultaneously with an appeal of a final ruling made by a court, if this Law does not specify otherwise.

[11 June 2020]

#### **Section 474. Correction of Clerical Errors and Mathematical Miscalculations**

(1) A court may correct clerical errors or mathematical miscalculations in a ruling 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 a written procedure.

(2) Clerical errors or mathematical miscalculations shall be corrected by taking a decision, which shall be announced to the persons involved in proceedings and to the institution which executes the sentence, if such correction applies to execution of the sentence.

(3) Persons involved in proceedings may submit a complaint, or a protest to a higher level court within 10 days, regarding correction of an error made by a court in a ruling. Such complaint or protest shall be examined by a judge of a higher level court in a written procedure without participation of the persons involved in the procedure. The decision shall not be subject to appeal.

[12 March 2009; 21 October 2010]

### **Chapter 43 Merger, Division, Deferral, Suspension, or Termination of Criminal Proceedings**

#### **Section 475. Merger 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 merged, except where the merger of criminal proceedings would substantially complicate examination of the criminal case.

(2) Criminal proceedings may be merged up to the commencement of a court investigation with a decision of a judge or court and such decision shall not be subject to appeal.

(2<sup>1</sup>) During a court investigation in a court of first instance the criminal cases regarding participation or co-participation of several persons in one or several criminal offences may be merged in one criminal proceedings, if it has come out during the trial in a court of first instance.

(3) In merging 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; 12 March 2009]

#### **Section 476. Division of Criminal Proceedings**

(1) Criminal proceedings in which several persons, or one person, are prosecuted for 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 objective of criminal proceedings.

(2) A court shall take a decision on division of criminal proceedings that shall also simultaneously be recognised as a decision to initiate 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.

(2<sup>1</sup>) Taking of a decision on division of criminal proceedings shall not be the grounds for submission of recusation in the criminal proceedings divided out to a judge.

(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 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 the 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 on division of criminal proceedings, on suspension of the trial of a criminal case in the separated criminal proceedings. In resuming the trial in the criminal proceedings divided out if the composition of a court has not changed, the procedural actions previously performed in a court, in which the accused participated, need not be repeated.

(6) A decision on division of proceedings shall be sent to a prosecutor, accused, and victim.

[12 March 2009; 21 October 2010; 24 May 2012]

#### **Section 477. Deferral of a Trial**

(1) If the trial of a criminal case is not possible in connection with the fact that one of the persons summonsed to the court hearing has not arrived at such hearing, a court shall take the decision to defer the trial for a specific term.

(2) In deferring trial, a court shall decide on the conveyance by force to a court hearing of a person who has not arrived for such court hearing, or regarding the application of procedural sanctions.

(3) In recommencing trial after 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 specific 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 a ruling of the Constitutional Court enters into effect.

(2) If a preliminary ruling of the Court of Justice of the European Union on the interpretation and the validity of a legal provision of the European Union is necessary for the trial of a specific case, a court shall send the ambiguous matter to the Court of Justice of the European Union in the manner of a reasoned decision, simultaneously suspending criminal proceedings in the criminal case until the day of coming into force of the preliminary ruling.

(3) In suspending court proceedings due to the ambiguity of an interpretation of a legal provision, a court shall decide on the determination of the necessary compulsory measure or seizure of property, yet without violating the procedural term specified by law.

[12 March 2009; 21 October 2010]

#### **Section 479. Suspension of Criminal Proceedings due to the Illness of an Accused**

(1) If an accused has fallen ill with mental disorder or another serious illness, and will not be able to participate in a court hearing for a long period of time, a court can suspend the 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 trial 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 imposition of a criminal sentence, proceedings for the determination of compulsory measures of a medical nature shall be continued.

(5) If the mental disorder or another serious illness has been confirmed as untreatable and the accused cannot participate in the court hearing, the court shall renew the criminal proceedings and continue trial by ensuring participation of a defence council.

[12 March 2009; 27 September 2018]

#### **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 on a search for the accused and regarding the suspension of criminal proceedings until the time when the accused is found.

(2) The decision on a search for an accused shall be transferred for execution to the body performing operational activities according to the competence thereof.

(3) After finding of an accused or after receipt of information regarding the location of an accused in a foreign



country, a judge shall renew trial by writing up a decision in the manner of a resolution. The judge may renew trial, if he or she has received information that the whereabouts of the accused are unknown.

[12 March 2009; 21 October 2010; 29 May 2014]

#### **Section 481. Termination of Criminal Proceedings in a Court Hearing**

(1) A court shall terminate criminal proceedings or a part thereof in the following cases:

1) if such court determines, during a trial, the circumstances indicated in Section 377, Clauses 3-10 of this Law that do not allow for criminal proceedings;

2) if a prosecutor has withdrawn from prosecution;

3) [12 March 2009].

(1<sup>1</sup>) If the accused has died during examination in the court of first instance, examination of a case shall be continued only if an application of a relative of the deceased regarding continuation of criminal proceedings for exoneration of the deceased has been received within a month after death of the accused. Examination of the case shall be continued in accordance with general procedures. The person who has requested continuation of the proceedings has the right to appeal a decision of a court of first instance and appellate court.

(2) A court may terminate criminal proceedings, releasing a person from criminal liability, in the cases determined in Section 379 of this Law.

(3) It shall be decided in a decision on termination of criminal proceedings on the security measure applied, the measures for ensuring of compensation for losses and a possible confiscation of property, other procedural compulsory measures, as well as material evidence.

(4) If criminal proceedings are being 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, the court shall send the necessary materials to the competent authority or official.

(5) If the court, upon terminating criminal proceedings or a part thereof against a person, establishes that a criminal offence has occurred and it is necessary to ascertain the person who committed the offence, the criminal case thereof or a part of the criminal case shall be sent to the Office of the Prosecutor.

[12 March 2009; 21 October 2010; 24 May 2012]

## **Chapter 44 Recording of the Course of a Court Hearing**

#### **Section 482. Minutes of a Court Hearing**

(1) The minutes of a court hearing is a procedural document in which the course of the trial of a case and the decisions taken in the court hearing shall be recorded. The court hearing shall be recorded in full amount using sound or sound and image recording or other technical means, but if it is not possible, the court hearing shall be recorded in writing.

(1<sup>1</sup>) Upon commencing the trial of a case, the following shall be indicated in the minutes of the court hearing:

1) the time and place of the court hearing (also the beginning and end of the court hearing);

2) the composition of the court, the secretary of the court hearing, as well as the interpreter, if he or she participates in the court hearing;

3) the given name and surname of the accused;

4) the criminal offence according to the prosecution;

5) the name and registration number of such legal person against which proceedings regarding application of coercive measures have been commenced;

6) the given name and surname of the prosecutor and defence counsel, if such persons participate in the court hearing;

7) the given name and surname of the victim and his or her representative, if such persons participate in the court hearing;

8) 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.

(2) [7 October 2021]

(2<sup>1</sup>) The minutes of the court hearing shall be stored together with the criminal case and inserted and stored in the Court Information System.

(3) In the cases provided for in this Law, minutes shall also be prepared regarding procedural actions performed outside the courtroom.

(4) [7 October 2021]

[12 March 2009; 7 October 2021]

#### **Section 483. Recording of the Course of a Court Hearing with Technical Means**

[7 October 2021]

#### **Section 484. Recording of the Course of a Court Hearing in Writing**

(1) The secretary of a court hearing shall write the minutes of the court hearing, and such minutes shall be signed by the chairperson of the court hearing and the secretary.

(2) [7 October 2021]

(3) The following shall be additionally recorded in minutes after 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;

3<sup>1</sup>) objections against action of the chairperson of the court hearing;

4) information regarding an examination of material evidence or documents;

5) [30 March 2017];

6) the day of availability of the minutes.

(4) The testimonies provided by the accused, victim, witness, expert, owner of property infringed during criminal proceedings whose property has been seized, and explanations of other persons involved in proceedings, speeches of court debates, replies, and the last word of the accused are recorded in the minutes of the court hearing.

(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 hearing. 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 hearing shall be drawn up within three working days after day of the announcement of a court judgment. If an interruption is announced which is longer than 14 days, the minutes of a court hearing shall be drawn up within three working days after day of the court hearing. A prosecutor, persons who conduct defence, a victim, and an owner of property infringed during criminal proceedings whose property has been seized may familiarise themselves with the minutes, if necessary, receive a copy of the minutes and, within three working days from the day of availability of the minutes, submit notes regarding such minutes.

(9) If the chief of a court hearing does not agree with the submitted notes fully or in any part thereof, such notes shall be examined by a court composition and a decision shall be taken. The decision shall not be subject to appeal.

[12 March 2009; 24 May 2012; 29 May 2014; 30 March 2017; 22 June 2017; 7 October 2021]

#### **Section 484.<sup>1</sup> Rights of Journalists to Record the Course of a Court Hearing**

(1) Journalists (within the meaning of the law On the Press and Other Mass Media) may make a sound recording during a court hearing, informing the court thereof and without interfering with the procedure of the court.

(2) An image as well as a sound and image recording may be made if the court permits such recording. Prior to deciding on such issue, the court shall hear the opinion of the accused, his or her defence counsel, a prosecutor, a victim or his or her representative, and a witness.

[11 June 2020]

#### **Section 485. Rights of Other Person to Record the Course of a Court Hearing**

Other persons who are not employees of a court may make a sound and image recording during a court hearing without interfering with the procedure of the court, if the court permits such recording and the accused, his or her defence counsel, a prosecutor, victim, and witnesses agree to such recording.

## **Division Nine Examination 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 Receipt of a Criminal Case**

(1) After receipt of a criminal case in court, it shall be verified not later than within three working days 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 himself or herself with case materials.

(2) If it is determined that a criminal case is under the jurisdiction of another court, a judge shall send the criminal case together with a cover letter 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 have not been complied with, a judge may send the criminal case together with a cover letter to a chief prosecutor for the elimination of deficiencies.

[12 March 2009; 19 November 2020; 7 October 2021]

#### **Section 487. Preparation of a Case for Trial in Accordance with Urgent Procedures**

(1) Upon receipt of a criminal case that has been transferred to a court for examination in accordance with urgent procedures, the judge shall examine, in addition to that indicated in Section 486 of this Law, whether the time and place for the trial indicated in the decision of a prosecutor on transfer of the criminal case to the court has been coordinated 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.

[20 June 2018]

#### **Section 488. Time of the Trial of a Criminal Case**

(1) After receipt of a criminal case in his or her court proceedings, a judge shall decide on the time and place of the trial of a criminal case, except for the case specified in Section 489 of this Law. The decision shall be written in the manner of a resolution.

(2) The trial 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 trial of a criminal case shall be commenced not later than within four weeks after receipt thereof.

(4) If a security measure related to a deprivation of liberty has been applied to an accused who is a minor, the trial of a criminal case shall be commenced not later than within four weeks after receipt thereof.

(5) If conformity 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.

(6) [20 June 2018]

[12 March 2009; 20 June 2018; 19 November 2020]

### **Section 489. Notifying Summoned Persons, a Prosecutor, and a Defence Counsel Regarding a Court Hearing**

(1) After receipt of a criminal case in his or her court proceedings, a judge shall send a summons to the defence to submit a notification on the interrogated persons to court within 10 working days. If the defence indicates in the notification that a person who has been previously interrogated in criminal proceedings and whose testimonies have been included in the listing of evidence to be used in court need not be summonsed, the defence agrees that the participants to the case will be able to use information recorded in the testimony during court debates and the court will be able to use it in a ruling to substantiate its conclusions. The judge shall concurrently notify of the right to submit the list of those persons who have not been previously interrogated and who, based on the views of the defence, should be summonsed to a court hearing with a reference to the condition for the ascertaining of which they must be summonsed.

(2) The court shall summon all persons whose testimonies have been included in the listing of evidence to be used in court if no notification has been received from the defence.

(3) Upon receipt of notification from the defence, the judge shall, not later than within three working days, decide on the time and place of the trial of a criminal case. If no notification has been received from the defence, the judge shall decide on the time and place of the trial of a criminal case. The decision shall be written in the manner of a resolution.

(4) After determination of the time of a court hearing, a judge shall immediately give an order for the Court Registry to summon the persons to be summonsed to a court hearing and to notify a prosecutor and defence counsel of the time of the court hearing.

(5) If the trial 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 hearing.

[19 November 2020]

### **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 hearing due to a justified 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 Hearing**

In preparing a criminal case for trial in a court hearing, a judge shall decide the following matters:

- 1) regarding the retaining of a defence counsel;
- 2) regarding the summoning of an interpreter;
- 3) [21 October 2010];
- 4) regarding the examination of the matter in an open or closed court hearing;
- 5) whether the matter shall be examined with or without the verification of evidence in a court hearing;
- 6) regarding the ensuring of compensation or the possible confiscation of property, if there is a relevant application;

6<sup>1</sup>) regarding adding of materials of an archives file or source documents to a case according to the submitted request;

7) other matters regarding which a request of an accused, defence counsel, prosecutor, victim or his or her representative, or owner of property infringed during criminal proceedings whose property has been seized has been submitted;

8) regarding the requesting of an assessment report from the State Probation Service;

9) regarding the use of technical means in a court hearing.

[12 March 2009; 21 October 2010; 22 June 2017]

### **Section 492. Execution 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 laid down in the law.

## Chapter 46 Trials

### Section 493. Opening of a Court Hearing

The chairman of a court hearing shall open the court hearing by notifying which case will be in trial, and by announcing the composition of the court.

### Section 494. Verification of the Attendance of Summoned Persons

(1) The chairperson of a court hearing shall notify which of the persons summonsed to case have arrived, whether the persons who have not arrived have been notified of the court hearing, 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 hearing.

### Section 495. Exclusion of Witnesses from a Courtroom

A witness shall not be present in a courtroom until the commencement of an interrogation thereof.

### Section 496. Deciding of Submitted Requests

(1) A prosecutor, victim, accused or his or her representative, and owner of property infringed during criminal proceedings whose property has been seized 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 hearing, a person may repeatedly submit rejected requests, if new circumstances, which were not known before, have been indicated.

(4) Persons who participate in the trial of the case have the right to express objections against action of the chairperson of the court hearing.

[24 May 2012; 22 June 2017; 7 October 2021]

### Section 497. Maintenance of Prosecution

A court investigation shall begin with the maintenance of prosecution by a prosecutor briefly outlining the essence of the prosecution.

### Section 498. Attitude of an Accused toward Prosecution

(1) After hearing the prosecution, the chairperson of a court hearing shall ascertain whether the accused understands for the commission of which criminal offence he or she is accused, and whether he or she admits his or her guilt.

(2) The attitude of an accused toward the prosecution shall be recorded in the minutes of a court hearing, and the accused shall sign such minutes.

### Section 499. Non-Conducting of a Verification of Evidence

(1) A court may take a decision on non-conducting of a verification of evidence in relation to an entire prosecution or the independent part thereof only provided 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 a verification of evidence, a court shall ascertain the views of the prosecutor, the person who conducts defence, a victim and his or her representative, and an owner of property infringed during criminal proceedings whose property has been seized regarding such non-conducting of the verification, and shall explain to such persons the procedural essence and consequences of the non-conducting of the

verification of evidence. If an accused does not agree only with the amount of compensation for harm and if such amount does not affect the legal classification of the criminal offence, a court may perform verification of evidence only in the matter regarding the amount of compensation.

(2<sup>1</sup>) If an owner of property infringed during criminal proceedings whose property has been seized does not agree with the assumption regarding the criminal origin of property and it does not affect the legal classification of a criminal offence, a court may perform verification of evidence only in the matter regarding the action with the property.

(3) After a decision has been taken on non-conducting of a verification of evidence, a court shall examine the personal characterising data of the accused and take up court debates.

(4) After court debates, 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 sentence, compensation imposed by the court, action with the property, or in connection with the allowed violations of the proceedings.

[12 March 2009; 20 December 2012; 22 June 2017]

### **Section 500. Procedures for the Verification of Evidence**

(1) A court shall commence verification of evidence by summoning an accused, his or her defence counsel, a victim and his or her representative to ask questions to the persons who have been interrogated during pre-trial proceedings and who were summonsed by the court. The person who is giving testimony in court may afterwards be questioned by the prosecutor. The court shall reject questions that do not apply to the case. An owner of property infringed during criminal proceedings whose property has been seized has the right to ask the persons who are giving testimony in court questions in relation to property with the permission of the court. Upon a request of the prosecutor, the prosecutor shall be the first to question the summonsed persons. Other evidence submitted by the prosecutor shall be verified afterwards.

(2) After verification of the evidence indicated by the prosecutor, a court shall hear the witnesses indicated by the owners of property infringed during criminal proceedings whose property has been seized, accused or his or her defence counsel who have not been interrogated during pre-trial proceedings, and verify other evidence submitted by him or her.

(3) An accused and his or her defence counsel, other accused and the defence counsel thereof shall be the first to ask questions to the persons summoned by the accused or his or her defence counsel and owner of property infringed during criminal proceedings whose property has been seized.

(4) A court may ask questions at any moment during the trial of a case.

(5) A court may determine another procedure for the verification of evidence upon request of the prosecutor, victim, or accused or his or her defence counsel.

(6) If the information obtained in operational activity measures is used in a criminal case as evidence, only the court upon a reasoned request of the prosecutor, victim, accused or his or her defence counsel may become acquainted with such materials of operational activities which are not appended to the criminal case and are related to the object of evidence, indicating in the case materials and ruling that such materials have been evaluated.

(7) If a criminal case is received for examination *de novo* from an appellate or cassation court or trial of a criminal case is commenced *de novo*, the witnesses, victims, experts and specialists previously interrogated in court shall be summoned upon request of the prosecutor, victim, accused or his or her defence counsel.

[19 November 2020]

### **Section 501. Reading or Playing of Testimony**

Testimony previously given by any person in specific 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 hearing 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 person who has not attained 14 years of age or a minor victim may not be interrogated in a court hearing or with the intermediation of a psychologist;
- 6) a testimony is provided by a person who has the right to not testify.

[12 March 2009; 18 February 2016]

### **Section 502. Procedures for the Asking of Questions**

[19 November 2020]

### **Section 503. Testimony of an Accused**

(1) After verifying the evidence referred to in Section 500 of this Law, the chairpersons of a court hearing 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 in the case specified in Section 449, Paragraph three of this Law.

(4) If an accused uses his or her right to not to provide testimony but he or she has testified as a person who has the right to defence, the testimonies present in a criminal case may be examined by reading them.

[12 March 2009]

### **Section 504. Completion of a Court Investigation**

(1) After completion of a verification of evidence, if additional requests have not been expressed, a court shall announce the court investigation as finished and transport to court debates.

(2) If the time is necessary for participants to proceedings to prepare for court debates, a court shall take a decision on duration of this time period and shall enter it in the minutes of the court hearing

(3) After completion of a court investigation, a court may take the decision on the conveyance of the accused by force, the storer of the seized property or material evidence, and also request an opinion from the State Centre for Forensic Medical Examination on whether the accused may participate in a court hearing based on his or her state of health. If it is necessary, the State Centre for Forensic Medical Examination may invite a specialist.

[12 March 2009; 11 June 2020]

### **Section 505. Court Debates**

(1) A prosecutor shall be the first to speak in court debates, then a victim, his or her representative, an owner of property infringed during criminal proceedings whose property has been seized, and an accused or his or her defence counsel.

(2) If several victims or the representatives thereof, owners of property infringed during criminal proceedings whose property has been seized, or several accused or the defence counsels thereof, participate in court debates, the order of speeches shall be determined by the court after hearing of the views of persons involved in proceedings.

(3) After hearing of the views of persons involved in proceedings the court may determine the length of court debates.

(4) A participant in a court debate may submit his or her speech to the court in writing, and such speech shall be attached to a case.

[12 March 2009; 22 June 2017; 11 June 2020]

### **Section 506. Content of Court Debates**

(1) A prosecutor shall substantiate his or her views regarding the guilt or innocence of an accused in a prosecution speech during court debates, and shall express his or her views regarding the type and amount of the sentence to be imposed on the accused. The prosecutor shall also express his or her views regarding other issues to be decided in a court debate.

(2) During court debates, a victim may express himself or herself regarding consideration for harm and the sentence to be imposed on the accused.

(2<sup>1</sup>) An owner of property infringed during criminal proceedings whose property has been seized may express himself or herself regarding the origin of property.

(3) An accused or his or her defence counsel shall give a defence speech during court debates.

(4) Members of court debates may reason their conclusions only with evidence examined in a court investigation

and written evidence and documents, which have been indicated in the decision to transfer a criminal case to a court and which in accordance with Section 449, Paragraph three of this Law were not examined in a court hearing. Members of court debates may also reason their conclusions with information recorded in testimonies that have been previously given in the specific criminal proceedings, provided that the defence has agreed to the use of these testimonies. Their conclusions may also be reasoned with the testimonies that have been previously given in the specific criminal proceedings by a person who gave testimony in a court hearing. If an examination of new evidence is necessary, a member of court debates may request for the court to recommence the court investigation.

(5) In a case during the trial of which a verification of evidence has not been performed, members of court debates shall express themselves only regarding the sentence to be imposed, and the type and amount thereof, as well as the amount of compensation if it does not affect the legal classification of a criminal offence, and the origin of property.

(6) The chairperson of the court hearing may interrupt the speech of a member of court debates if he or she is talking about circumstances which have nothing to do with the case, repeats the same arguments for the justification of the same facts, delays trying of the case, or does not show respect to the court or participants in the case.

[12 March 2009; 14 January 2010; 21 October 2010; 24 May 2012; 22 June 2017; 11 June 2020; 19 November 2020]

### **Section 507. Rights to Reply**

(1) After court debates, each of the members thereof has the right to one reply regarding the content of the speeches. After hearing of the views of persons involved in proceedings the court may determine the length of the reply. The chairperson of the court hearing may interrupt the reply if the participant in the case does not talk about the speech of debates in his or her reply, repeats the same arguments regarding the same facts, delays trying of the case, or does not show respect to the court or participants in the case.

(2) A defence counsel has the right to the last reply. If the defence counsel does not participate in a court hearing, the accused has the right to the last reply.

[11 June 2020]

### **Section 508. Last Word of an Accused**

(1) After completion of court debates, the chairperson of the court hearing shall invite the accused to say the last word.

(2) An accused shall be permitted to refuse the last word.

(3) After hearing of the views of persons involved in proceedings the court may determine the length of the last word of the accused. The chairperson of the court hearing may interrupt the last word of the accused if he or she is talking about circumstances which have nothing to do with the case, repeats the same arguments regarding the same facts, delays trying of the case, or does not show respect to the court or participants in the case.

(4) During the last word, the asking of questions of an accused shall not be permitted.

[11 June 2020]

### **Section 509. Recommencement of a Court Investigation**

(1) If, during court debates, 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 hearing but that apply to the case, a court, upon a request of a member of the discussions or on the basis of the initiative of such court, shall take the decision to recommence court investigation, and shall conduct the court investigation.

(2) After completion of a recommenced court investigation, a court shall re-open court debates 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 hearing shall notify the persons present in the court hearing of such judgment, determining the time of the announcement of the judgment within the next 14 days and place of the announcement thereof.

(2) [24 May 2012]

[12 March 2009; 24 May 2012]



### **Section 511. General Provisions for the Rendering of a Judgment**

(1) A court ruling by which a case is tried on the merits shall be rendered in the form of a court judgment and announced in the name of the State.

(2) A judgment shall be lawful and justified.

### **Section 512. Legality and Justification of a Judgment**

(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 judgement:

1) with the evidence that has been examined in a court hearing;

2) with the evidence that need not be examined in accordance with the provisions of Section 125 of this Law;

3) with the written evidence and documents which have been indicated in the decision to transfer a criminal case to a court;

4) with the information recorded in testimonies that have been previously given in the specific criminal proceedings, provided that the defence has agreed to the use of these testimonies;

5) with the information that has been previously provided in the specific criminal proceedings by a person who gave testimony in a court hearing.

[24 May 2012; 19 November 2020]

### **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 trying 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 on the case being considered, or disclosing views expressed during deliberations, as well as the content of the made rulings.

### **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 sentence that shall be imposed on an accused, and whether he or she shall serve such sentence;

7) whether an additional sentence is to be imposed on the accused, and what sentence 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 application 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) regarding confiscation of object for committing a criminal offence and property related to a criminal offence;

11<sup>1</sup>) actions with material evidence, documents, property related to criminal offence, other objects and valuables removed during the proceedings, and property that has been seized;

12) regarding confiscation or recovery of criminally acquired property;

13) from whom procedural 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.

[12 March 2009; 21 October 2010; 22 June 2017]

#### **Section 515. Procedures for Court Deliberations**

(1) The chairperson of a court hearing shall lead court deliberations.

(2) The chairperson of a court hearing 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 hearing shall express his or her views and vote last.

#### **Section 516. Dissenting Conclusions of a Judge**

(1) The chairperson of a court hearing, or a judge, who has a dissenting conclusion shall express such conclusion in writing.

(2) A dissenting conclusion shall be attached to a case, and only a court of higher instance may become acquainted with such conclusion in the case of an appeal of such court ruling. In announcing a judgment, a dissenting conclusion shall not be announced.

[16 June 2009; 7 October 2021]

#### **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 completion of a court investigation, a court shall reopen court debates, 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 acquitting or convicting.

#### **Section 519. Grounds for the Rendering of a Judgment of Acquittal**

A court shall render a judgment of acquittal, if:

1) a criminal offence has not occurred or the criminal offence committed by an accused does not have the content of the criminal offence;

2) the participation of the accused in the criminal offence has not been proven.

[30 March 2017]

#### **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 Punishment**

A court may render a judgment of conviction without imposing a punishment, if the circumstances referred to in Section 379, Paragraph one, Clauses 1 and 3 of this Law have been established.

#### **Section 522. Application of Compulsory Measures of a Correctional Nature to Minors**

(1) If a court recognises that an accused who is a minor has committed a criminal offence, the court, taking into account 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 sentence 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 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.

(1<sup>1</sup>) The court may write an abridged judgment. If the criminal case has been tried without participation of the accused because the accused has repeatedly failed arrive to a court hearing without a justified reason, or in the absence of the accused (in absentia), the court may write an abridged judgment, preparing the full court ruling within 14 days and notifying the date of availability thereof.

(2) A judgment shall be signed by all the judges who participated in trial. 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.

[30 March 2017; 20 June 2018]

### **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 prosecutor and defence counsel;
- 6) the identifying data of the accused;
- 7) The section, paragraph, and clause of the Criminal Law on the basis of which the person was prosecuted.

[7 October 2021]

### **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, to the Office of the Prosecutor, if a criminal offence has taken place but the participation of an accused has not been proven in the criminal case.

(2) If a court renders a judgment of acquittal, such court shall leave without examination an application regarding the consideration of harm caused as a result of an offence. The leaving of an application without examination shall not be an impediment to the raising of a claim for compensation for harm in accordance with the procedures laid down in the Civil Procedure Law.

(3) If a court renders a judgment of acquittal and takes a decision to send a part of the case to the Office of the Prosecutor, it shall concurrently indicate the decision of the court to divide the criminal proceedings in the operative part of the judgment.

[12 March 2009; 21 October 2010; 29 May 2014]

#### **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 justified;
- 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 imposition of a specific sentence;
- 7) the deciding of the matters related to the execution of the judgment, if necessary;

(3) If, on the basis of a taken decision, a verification of evidence has not been performed in a court hearing, 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 on:

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 sentence imposed on an accused for 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 inclusion of the term of security measures related to the deprivation of liberty imposed on the accused in the term of the sentence;

6) the probationary supervision period in 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 harm, including the amount of compensation disbursed by the State, determining a term for voluntary execution of the judgment - 30 days from the date of the entering into effect of the judgment -, and an obligation to submit documents to a court regarding compensation for harm;

10) ensuring of compensation for harm or a confiscation of property, if such compensation or confiscation has not

be previously performed;

11) confiscation or recovery of criminally acquired property;

12) recovery of the work remuneration of an advocate from an accused or regarding the releasing of him or her from such recovery;

13) [12 March 2009];

14) the releasing of an accused from arrest, house arrest, or a social correctional educational institution in a courtroom, if a non-custodial sentence has been imposed thereon.

(2) In applying a suspended sentence, a court shall decide on the probationary supervision period and to whom supervision of the person is to be assigned.

(3) A court may, with the consent of the accused, apply 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; 12 March 2009; 21 October 2010; 18 February 2016; 22 June 2017]

### **Section 529. Additional Matters of the Operative Part of a Judgment of Conviction or Acquittal**

(1) The operative part of a judgment shall additionally indicate a court decision on:

1) confiscation of object for committing a criminal offence and property related to a criminal offence, as well as actions with the material evidence, documents, property related to criminal offence, and other objects and valuables removed during the proceedings;

2) consideration for procedural expenditures, determining a term for voluntary execution of the judgment - 30 days from the date of the entering into effect of the judgment;

3) the procedures and terms for the appeal of the judgment;

3<sup>1</sup>) extension of the term for the appeal for 10 days more due to especial complexity and amount of the criminal proceedings;

4) [30 March 2017];

5) the date when the full court ruling will be available, if the criminal case has been tried without participation of the accused, because the accused has repeatedly failed to arrive to a court hearing without a justified reason, or in the absence of the accused (in absentia).

(2) In the operative part of a judgment, a court shall additionally indicate information regarding the sentence execution institution and arrival deadline.

[12 March 2009; 21 October 2010; 30 March 2017; 22 June 2017; 20 June 2018; 27 September 2018]

### **Section 530. Abridged Judgments**

(1) An abridged judgment shall consist of an introductory part, a descriptive part and an operative part.

(2) After declaration of the abridged judgment, a court shall issue an extract of the abridged judgment.

(3) A prosecutor, accused, victim, defence counsel or representative, as well as owner of property infringed during criminal proceedings whose property has been seized, may, within 10 days from the day of declaration of the abridged judgment, submit a written request to the court regarding drawing up a full judgment. After the end of the time period for submitting the request, if the request is received regarding drawing up a full judgment, the court shall draw up the full judgment within 14 days by notifying the date of its availability.

(4) If due to the amount, legal complexity of a case or other objective circumstances a full court judgment is not drawn up in a laid down time, a judge shall notify a prosecutor, accused, victim, defence counsel and representative, as well as owner of property infringed during criminal proceedings whose property has been seized when a full court judgment will be available. Drawing up of a full court judgment may be postponed only once.

(5) An abridged judgment shall not be subject to appeal.

[30 March 2017; 22 June 2017]

### **Section 531. Pronouncement of a Judgment**

(1) A court shall pronounce a judgment by reading its introductory and operative part.

(2) [12 March 2009]

[19 January 2006; 12 March 2009; 30 March 2017]

#### **Section 532. Release of an Accused in a Courtroom**

(1) After pronouncement of a judgment, a court shall immediately release the following from arrest, house arrest, or a social correctional educational institution:

1) an acquitted person;

2) an accused on whom a criminal sentence has not been imposed;

3) an accused who has been released from a criminal sentence;

4) an accused to whom a custodial sentence has been imposed and for whom the time spent under arrest, 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 on whom a custodial sentence has been imposed conditionally;

6) an accused on whom a non-custodial sentence has been imposed.

(2) If a court releases from arrest a person who is a third-country national who does not have the right to reside in Latvia, the court shall, without delay, notify the competent authority thereof, which has the right to detain the third-country national.

[21 October 2010; 20 December 2012]

#### **Section 533. Ancillary Court Decision**

(1) A court may take an ancillary decision, simultaneously with a final ruling, in which violations of legal norms determined in a criminal case shall be indicated for the 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, on the basis of materials of the trial of a criminal case, on 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 take the necessary measures and notify the court of its results not later than within one month.

(4) An ancillary court decision shall enter into effect simultaneously with a judgment.

#### **Section 534. Protection of the Property and Dependents 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**

[12 March 2009]

## **Chapter 48 Special Features of Court Proceedings in the Case of a Settlement between a Victim and an Accused**

#### **Section 536. Report on 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 Law up to the retiring 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 or certified by an intermediary trained by the State Probation Service.

(4) If a victim and an accused notify orally of a settlement during a court hearing, an entry on the settlement shall be made in the minutes of the court hearing, and the victim and the accused shall sign regarding such settlement.

(5) Before the signing of a settlement or after 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.

[12 March 2009]

#### **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 hearing 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 may interrupt the investigation and transport to court debates.

(2) If a victim and an accused notify regarding a settlement in a case provided for in Section 377, Clause 9 of this Law during court debates or after discussions, the court shall interrupt the discussion, find out whether a settlement is of his or her own free will, explain the consequences thereof and take a decision.

(3) [12 March 2009]

[12 March 2009]

#### **Section 538. Consequences of a Settlement**

If a victim and an accused notify regarding a settlement up to the retiring of a court to the deliberation room, the court may take a decision, without examining court materials, on 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 Trial in a Court Hearing in Agreement Proceedings**

(1) After 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 laid down in this Law, and that a violation of the norms of the Criminal Law has not been allowed. A judge shall evaluate the type of a punishment provided for in the agreement entered into only in case if it is established that the selected type of punishment is not commensurate with the nature of the criminal offence committed and the harm caused. In determining a violation, the judge may take a decision and send the case to the prosecutor for elimination of the violation. A prosecutor may, within 10 days, submit a protest regarding a decision to a higher-level court the judge of which shall examine such protests in a written procedure and his or her decision shall not be subject to appeal.

(1<sup>1</sup>) If it is established during an examination that the agreement was not entered into in pre-trial proceedings in accordance with the procedures laid down in this Law or a violation of the norms of the Criminal Law has been allowed, the judge may take a decision to try the case in accordance with general procedures. The decision shall not be subject to appeal.

(2) Examination of a criminal case in agreement proceedings shall commence within 21 days from the day when such case was received in the court proceedings of a judge.

[12 March 2009; 24 May 2012; 11 June 2020]

#### **Section 540. Composition of a Court**

A judge shall try a criminal case in agreement proceedings sitting alone.

[12 March 2009]

#### **Section 540.<sup>1</sup> Trial of a Criminal Case in Writing in Agreement Proceedings**

(1) A judge may take a decision to try a case in a written procedure.

(2) The following shall be indicated in a decision on accepting a case for trial in a written procedure:

1) the right for a prosecutor, an accused, a defence counsel and a victim to submit recusation of the court composition within 10 days and to submit objections against trial of the case in a written procedure;



2) the day of availability of the ruling.

(3) A case shall be examined in a written procedure according to the materials in the case.

(4) If a prosecutor, an accused, a defence counsel or a victim has submitted objections against the trial of the case in written procedure or an accused refuses an agreement, a court shall take the decision to try the case in oral procedure. A court may take a decision to try a case in an oral procedure upon its own initiative.

(5) A court, upon having examined a case in the written procedure, shall make one of the following rulings:

1) a decision to terminate the case if such circumstances are established, which do not allow criminal proceedings;

2) [11 June 2020];

3) a judgment of conviction;

4) [27 September 2018].

(6) A court shall render a judgment of conviction, complying with the conditions for rendering a judgment, which have been specified for the trial of a case in oral form in agreement proceedings.

(7) The ruling of a court made in accordance with the procedures of Paragraph five of this Section may be appealed only according to cassation procedures.

[24 May 2012; 27 September 2018; 11 June 2020]

#### **Section 541. Court Investigation**

(1) A court shall commence an investigation by becoming acquainted with an agreement, which shall be read by a 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 himself 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.

(2<sup>1</sup>) If an accused refuses an agreement, a court continues the trial of the case in accordance with general procedures.

(2<sup>2</sup>) In establishing during an examination that the agreement was not entered into in pre-trial proceedings in accordance with the procedures laid down in this Law or a violation of the norms of the Criminal Law has been allowed, a court shall continue the trial of the case in accordance with general procedures.

(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 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 hearing to express requests, and shall decide on the satisfying or rejection of such requests.

(7) After deciding of a submitted request, a court shall retire to the deliberation room to render a judgment, notifying the persons present at the court hearing of such judgment.

[27 September 2018; 11 June 2020]

#### **Section 542. Rulings of a Court in Agreement Proceedings**

(1) A court shall make one of the following rulings in the deliberation room:

1) a decision to terminate a case, if circumstances have been determined that do not allow for criminal proceedings;

2) [11 June 2020];

3) a judgment of conviction;

4) [27 September 2018].

(2) A court ruling shall be appealed only in accordance with cassation procedures.

[12 March 2009; 24 May 2012; 27 September 2018; 11 June 2020]

### **Section 543. Court Judgment 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. The court may write an abridged judgment.

(2) A court shall outline the essence of an entered into agreement, which a prosecutor, accused, and his or her defence counsel have confirmed in a court hearing, 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 on:

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 punishment provided for in such agreement;

3) the releasing of an accused from arrest, house arrest, or a social correctional educational institution in a courtroom, if a non-custodial sentence has been imposed thereon.

4) the inclusion of the term of a security measure related to deprivation of liberty applied on an accused in the term of a sentence;

5) the probationary supervision period in the case of a suspended sentence;

6) the security measure;

7) compensation for harm, including the amount of compensation disbursed by the State;

8) ensuring of compensation for harm 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) [12 March 2009];

13) the opportunity to appeal the judgment in accordance with cassation procedures, and the term thereof.

(3<sup>1</sup>) In the operative part of a judgment, a court shall additionally indicate information regarding the sentence execution institution and arrival deadline.

(4) When rendering a judgment, a court may impose the sentence provided for in the minutes of agreement, if a mistake has been made in determining the final sentence, or if it is connected with time on flow from the day of entering into agreement until the day of the trial. The correction may not deteriorate the state of the accused.

[12 March 2009; 30 March 2017; 27 September 2018]

## **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 prosecutor and an accused have the right to mutually agree, up to the completion of a court investigation, regarding the completion of criminal proceedings by entering into an agreement on the admission of guilt and sentence.

(2) The entering into of an agreement in trial proceedings shall be allowed, if:

1) [12 March 2009];

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.

[12 March 2009; 30 March 2017]

#### **Section 545. Actions of a Court after Receipt of an Application**

In receiving the oral or written application of a 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 specific proceedings;

2) explain to the accused the consequences of the agreement;

3) ascertain whether the 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 hearing 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 hearing break, the trial of the case with the same composition and in accordance with the procedures laid down in Chapter 49 of this Law.

(2) If a prosecutor and accused notify, after break in the court hearing, that an agreement has not been entered into, the court shall continue the trial of the case in accordance with general procedures.

(3) If an agreement entered into during the interruption of the court hearing fails to comply with the rules of the Criminal Law, a court shall not approve it and the case shall be examined in accordance with general procedures.

[12 March 2009]

## **Chapter 51 Special Features of Court Proceedings in Proceedings regarding the Application of Coercive Measures on Legal Persons**

#### **Section 547. Deciding a Criminal Case in a Court**

[14 March 2013]

#### **Section 547.<sup>1</sup> Court Proceedings in the Proceedings Regarding Application of a Coercive Measure to a Legal Person**

(1) If the proceedings regarding the application of a coercive measure are isolated in separate records or initiated on the basis of Section 439, Paragraph 3.<sup>1</sup> of this Law, the court proceedings shall be carried out in conformity with the procedures for examination of a case in the court of first instance, unless it has been laid down otherwise in Chapter 51 of this Law.

(2) If a legal person does not have a representative or it is not possible to ensure the appearance of the representative in the court, the trial may take place without the representative of the legal person. The court may try a criminal case if the defence counsel participates in the court hearing.

[14 March 2013; 18 February 2016]

#### **Section 548. Court Ruling**

(1) In examining the materials of the proceedings regarding the application of a coercive measure to a legal person the court must decide:

1) whether a criminal offence has taken place;

2) whether the circumstances referred to in Section 440 of this Law have been ascertained;

3) whether the criminal offence was committed in the interests or for the benefit of, or due to insufficient monitoring or control by the legal person;

4) which coercive measure shall be applied.

(2) Having recognised that the facts referred to in Paragraph one of this Section have not been proved, a court shall terminate the criminal proceedings in the part regarding the application of a coercive measure to a legal person.

(3) If the proceedings regarding the application of a coercive measure to a legal person are isolated in separate records and the court recognises that the facts referred to in Paragraph one of this Section have not been proved, the court shall terminate the proceedings.

[14 March 2013]

**Section 548.<sup>1</sup> Examination in the Court of a Criminal Case, in which an Agreement Regarding the Application of a Coercive Measure to a Legal Person has been Entered into**

(1) After receipt of a case, in which an agreement has been entered into, the judge shall verify whether the agreement was entered into in accordance with the procedures laid down in this Law and whether a violation of the norms of the Criminal Law has not been committed. The judge shall evaluate the type of a coercive measure provided for in the agreement entered into only in case if it is established that the selected type of coercive measure is not commensurate with the nature of the criminal offence committed and the harm caused. In determining a violation, the judge shall take a decision and send the case to the prosecutor for elimination of the violation. The prosecutor may, within 10 days, submit a protest regarding a decision to a higher-level court the judge of which shall examine such protests in the written procedure and his or her decision shall not be subject to appeal.

(2) The case shall be tried by a judge sitting alone. Examination of the case shall commence within 21 days from the day when such case was received in the court proceedings of the judge.

(3) The court shall commence examination of the case by becoming acquainted with an agreement, which shall be read by a prosecutor. After hearing the agreement the court shall ascertain whether the legal person admits to the fact committing a criminal offence and agrees to the amount, qualification of the offence, in relation to which a coercive measure is applied, evaluation of the harm caused and application of the agreement procedure, whether he or she signed the agreement intentionally and voluntarily, whether he or she is aware of its consequences and agrees that the agreement entered into will be conformed to.

(4) The court shall ascertain the attitude of the legal person and prosecutor towards the agreement, as well as hear other persons summoned in this case.

(5) The court shall invite the members of the court hearing to express requests, and shall decide on the satisfying or rejection of such requests.

(6) After deciding of a submitted request, a court shall retire to the deliberation room to make a ruling by notifying the persons present at the court hearing of such ruling.

[29 May 2014; 30 March 2017]

**Section 548.<sup>2</sup> Court Rulings in Cases, in which an Agreement Regarding the Application of a Coercive Measure to a Legal Person has been Entered into**

(1) A court shall make one of the following rulings in the deliberation room:

1) a decision to terminate proceedings regarding the application of a coercive measure to a legal person, if such circumstances are established, which preclude the application of the proceedings regarding a coercive measure;

2) a decision to send the case to a prosecutor for elimination of violations;

3) a decision to apply a coercive measure to a legal person;

4) a decision to try the case in accordance with general procedures, if a legal person refuses the agreement.

(2) Court ruling shall be appealed only in accordance with cassation procedures.

[29 May 2014]

**Section 548.<sup>3</sup> Trial in a Written Procedure of a Criminal Case, in which an Agreement Regarding the Application of a Coercive Measure to a Legal Person has been Entered into**

(1) A judge may take a decision to try a case in a written procedure.

(2) The following shall be indicated in a decision on accepting a case for trial in a written procedure:

1) the right for a prosecutor, a legal person, and a victim to submit recusation of the court composition within 10

days and to submit objections against trial of the case in a written procedure;

2) the day of availability of the ruling.

(3) A case shall be examined in a written procedure according to the materials in the case.

(4) If a prosecutor, a legal person or a victim has submitted objections against trial of the case in a written procedure, the court shall take a decision to try the case in an oral procedure. A court may take a decision to try a case in an oral procedure upon its own initiative.

(5) The court, having examined the case in a written procedure, shall take one of the judgments specified in Section 548.<sup>2</sup>, Paragraph one of this Law.

(6) The ruling of a court made in accordance with the procedures of Paragraph five of this Section may be appealed only according to cassation procedures.

[29 May 2014]

## **Division Ten Examination of a Case in an Appellate Court and a Cassation Court**

### **Chapter 52 Preparation of a Case for Trial in an Appellate Court**

[12 March 2009]

#### **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 full court ruling 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.

[30 March 2017]

#### **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 10 days or, if the court has extended the term for appeal, not later than within 20 days after the day when a full court ruling 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 submitter shall be notified of the taken decision, but the submitted complaint or protest shall be attached to the case. In requesting to renew the missed term, the requirements of Section 317, Paragraph one of this Law shall be complied with and the complaint shall be attached.

(3) A decision of a judge with which the acceptance of an appellate complaint or protest has been refused may be appealed within 10 days in an appellate court, whose decision shall not be subject to appeal.

[12 March 2009]

#### **Section 551. Content of an Appellate Complaint and Protest**

(1) The following shall be indicated in an appellate complaint or protest:

1) the court ruling regarding which the complaint or protest is being submitted;

2) the amount in which the ruling is being appealed or protested;

3) the way in which the error in the ruling has been expressed;

4) evidence that must be examined in an appellate court;

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 interrogation of whom in an appellate court the submitter of the complaint or protest requests, as well as whether a defence counsel will be necessary in the appellate court, and whether or not the court must invite 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 trial in a court of first instance.

(5) A prosecutor has a duty to submit a protest regarding an unlawful or unjustified court ruling. However, a 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 trial of the case, or also has allowed violations that he or she was unable to prevent in the course of the trial of the case. Such restrictions do not apply to higher-ranking prosecutors.

[12 March 2009]

#### **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 - an appellate court.

(2) An appellate complaint or protest shall be submitted to the court that made the ruling.

#### **Section 553. Leaving an Appellate Complaint and Protest without Advancement or Examination**

(1) If an appellate complaint or protest does not comply with the requirements of Section 551, Paragraphs one, two and three of this Law, a judge shall take a decision to leave an appellate complaint or protest without advancement, indicating the deficiencies of the complaint or protest, and shall determine 10 days for the submitter to eliminate the deficiencies. The decision shall not be subject to appeal.

(2) If a submitter does not eliminate deficiencies within the specified term, a judge shall take a decision to leave the appellate complaint or protest without examination notifying the recipient thereof.

(3) A judge shall take a decision to leave the appellate complaint or protest without examination even then, if the conditions of Section 499, Paragraph four of this Law are not observed in cases when a case is examined without verification of evidence, as well as if the conditions of Section 111.<sup>1</sup>, Paragraph two, Clause 9 or Section 551, Paragraphs four and five of this Law are not observed therein.

(4) A decision which is taken in cases provided for in Paragraph two and three of this Section may be appealed within 10 days in an appellate court the decision of which shall not be subject to appeal.

[12 March 2009; 24 May 2012; 11 June 2020]

#### **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 arrest, house arrest, or a social correctional educational institution.

(3) [21 October 2010]

[12 March 2009; 21 October 2010]

#### **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 an appellate court, 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 appellate court.

(2) Persons whose interests and rights have been infringed upon by an appellate complaint or protest have the right, until the day when the case will be examined in an appellate court, 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 (3) complaint or protest are entitled to submit additions to the complaint or protest to an appellate court not later than within 10 days after the end of the appeal term, yet such persons shall not be permitted to modify the essence of the initial request.

[12 March 2009]

### **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 an appellate court retires to deliberate for the making a ruling.

(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 - n 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;
- 4) a prosecutor - his or her appellate protest, and a higher-ranking prosecutor - an appellate protest of a lower-ranking 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) an appellate court determines a clear violation of the Criminal Law or this Law on account of which the appealed ruling is to be revoked or modified in order to reduce the size of the prosecution, reduce the sentence, or terminate the case.

(6) The court of first instance together with a criminal case the received withdrawal of an appellate complaint shall send to an appellate court. If a withdrawal of an appellate protest is received, a court of first instance may take a decision to terminate court proceedings.

(7) The appellate court or the judge of the appellate court shall, upon the receipt of withdrawal of an appellate complaint or protest, take a decision to terminate court proceedings. If the court proceedings are terminated, the submitter of a complaint or protest, as well as the persons whose interests or rights the withdrawn complaint or protest has infringed shall be notified thereof. The court shall notify regarding the taken decision the persons who submitted the appellate complaint or protest. If a complaint or protest is withdrawn in writing, a decision may be taken in a manner of resolution.

(8) The decision to terminate court proceedings shall not be subject to appeal.

[12 March 2009]

### **Section 557. Examination 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 examined, if such complaint has not been withdrawn, also if the person being defended has reached legal age at the moment of examination of the case.

(2) If such complaint of the former representative of an accused or minor has been submitted after reaching of legal age of the minor, such complaint shall be left without examination.

### **Section 558. Circumstances that shall be Ascertained Before the Acceptance of a Case for Trial**

(1) In deciding a matter regarding acceptance of a case for examination, a judge shall ascertain whether circumstances exist that prohibit the possibility to examine the case according to 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 Chapter 52 of this Law, he or she shall take a decision on 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.



The decision shall not be subject to appeal.

(3) If a case is received with a complaint or protest regarding a decision provided for in Section 550, Paragraph three, Section 553, Paragraph two or three of this Law, a judge shall take a decision on satisfaction or refusal of such complaint or protest and notify thereof the submitter of the complaint or protest. If the complaint or protest is satisfied, a copy of the accepted appellate or protest shall be sent to persons the interest of which such complaint or protest infringes. The decision on refusal of a complaint or protest shall not be subject to appeal.

[12 March 2009; 21 October 2010]

#### **Section 559. Acceptance of a Case for Trial**

(1) If circumstances do not exist that prohibit examination of a case according appellate procedures, a judge shall take a decision on trial of the case in a written or oral procedure.

(2) A decision on acceptance of a case for trial shall indicate:

1) the place and time of the trial of the case;

2) the persons that are to be summoned to the court hearing;

3) how the submitted requests have been decided, and the additional materials that are required in connection with the submitted requests.

(3) A prosecutor and persons whose interests and rights are infringed upon by a submitted appellate complaint or protest shall be notified regarding the time and place of the trial of a case.

(4) A case may be tried in a written procedure if:

1) only the request for the mitigation of the imposed sentence is expressed in the appellate complaint or protest and if a prosecutor or a person whose interests and rights are infringed by the complaint or protest does not object against it;

2) the conditions due to which the ruling of a court of first instance should be repealed at any rate are indicated in the appellate complaint or protest and if a prosecutor or a person whose interests and rights are infringed by the complaint or protest does not object against it;

2<sup>1</sup>) the appellate complaint or protest contains a request only regarding compensation for harm and if the prosecutor or the person whose interests and rights are infringed by the complaint or protest does not object against it;

3) only the request for the mitigation of the imposed sentence is expressed in the appellate complaint or protest and if the case has been examined in a court of first instance without verification of evidence and the imposed sentence is not related to the deprivation of liberty exceeding a term of five years;

4) such circumstances are indicated in the appellate complaint or protest, due to which a ruling of a court of first instance should be repealed at any rate, and if the case has been examined in a court of first instance without verification of evidence and the imposed sentence is not related to the deprivation of liberty exceeding a term of five years;

5) a request only regarding procedural expenses or material evidence is expressed in the appellate complaint or protest;

6) the appellate complaint contains a request only regarding confiscation or recovery of criminally acquired property.

(5) The following shall be indicated in a decision on acceptance of a case for trial in a written procedure:

1) the composition of a court by which the case will be tried;

2) the rights of a prosecutor or a person, whose interests are infringed by the complaint or protest to be examined, to submit a recusation within 10 days to a composition of a court or a particular judge, to submit objections against the trial of a case in a written procedure, to submit an opinion regarding the appellate complaint or protest;

3) the day of availability of the ruling.

[12 March 2009; 14 January 2010; 21 October 2010; 24 May 2012; 18 February 2016; 22 June 2017]

## **Chapter 53 Trial of a Case in Accordance with Appellate Procedures**

[12 March 2009]

## **Section 560. Persons who Participate in the Trial of a Case in a Hearing of an Appellate Court**

(1) A prosecutor, 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 hearing of an appellate court.

(2) Other persons may be summoned to a court hearing if such request has been expressed in an appellate complaint or protest, and if such persons have not been interrogated in the examination of the case in a court of first instance. A court may summon, on the basis of the initiative thereof, persons who have been interrogated 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 hearing without a justified reason, his or her complaint or protest may be left without examination. If an accused does not arrive at a court hearing without a justified reason, an appellate complaint which has been submitted by his or her defence counsel may be also left without examination. If a defence counsel does not arrive at a court hearing without a justified reason, his or her complaint shall be examined, if it is maintained by the accused. A decision to leave a complaint or protest without examination may be appealed within 10 days to the Supreme Court, the decision of which shall not be subject to appeal.

(3<sup>1</sup>) An appellate complaint of a victim or his or her representative shall be examined also in the absence of a victim, if he or she has submitted the relevant request to a court thereon.

(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 factual circumstances of an offence has died, his or her complaint must be examined.

*[12 March 2009; 14 January 2010; 21 October 2010; 19 December 2013; 18 February 2016]*

## **Section 561. Trial of a Case in a Hearing of an Appellate Court**

(1) A case shall be tried in a court of first instance by a panel of three judges, of whom one is the chairperson of the court hearing. A case shall be tried in accordance with the procedures laid down for the trial of a criminal case in a court of first instance, except 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.

(3) The minutes of a court of first instance and written evidence and documents indicated in the minutes shall be examined in a court hearing only when the person who conducts defence, a prosecutor, and a victim or his or her representative, as well as owner of property infringed during criminal proceedings whose property has been seized has submitted such a request.

*[28 September 2005; 12 March 2009; 23 May 2013; 30 March 2017; 22 June 2017]*

## **Section 561.<sup>1</sup> Examination of an Appellate Complaint and Protest in a Written Procedure**

(1) A case shall be examined in a written procedure according to materials present in the case, taking into account the competence of an appellate court.

(2) A judge who has been assigned the duty of reporting shall notify regarding the circumstance of a case.

(3) A court may take a decision in a written procedure on trial of a case in a written procedure in cases when objections have been submitted by a prosecutor or a person whose interests and rights are infringed by a complaint or protest.

(4) A court may take a decision to try a case in a written procedure also upon the initiative thereof.

*[12 March 2009; 21 October 2010]*

## **Section 562. Amount and Framework within which a Case shall be Tried in an Appellate Court**

(1) A court investigation, and court debates, in an appellate court 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 where an appellate court 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) An appellate court 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 prosecutor in his or her protest, or by a victim in his or her complaint who is supported by a 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 where a prosecutor modified the prosecution in a hearing of a court of first instance to a more serious prosecution.

(3) The imposition of a more serious sentence for an accused shall be allowed if the protest of a prosecutor or the complaint of a victim has been submitted for such reason, as well as then, if upon a protest of a prosecutor or a complaint of a victim the prosecution has been amended to a more serious prosecution.

(4) The finding of an acquitted person guilty, and the imposition of a sentence on such person, shall be allowed only in cases where a protest of a prosecutor, or a complaint of a victim, supported by a prosecutor, has been submitted for such reason.

[12 March 2009; 21 October 2010]

### **Section 563. Rulings of an Appellate Court**

(1) In the oral procedure an appellate court shall make one of the following rulings:

1) to leave the ruling of the court of first instance unamended;

2) to revoke the ruling of the court of first instance and render a new ruling;

3) to revoke the ruling of the court of first instance in a part thereof and render a new ruling in such part;

4) to revoke the ruling of the court of first instance and terminate criminal proceedings in the cases provided for in this Law;

5) to revoke the ruling of the court of first instance completely or in a part thereof, and send the criminal case to the court of first instance for examination de novo.

(1<sup>1</sup>) In a written procedure a court of appeals shall take one of the following judgments:

1) to leave the judgment of the court of first instance unamended;

2) to revoke the judgment of the court of first instance in a part regarding the sentence and render a new judgment in such part;

3) to revoke the ruling of the court of first instance completely or in a part, and send the criminal case to the court of first instance for examination de novo;

4) to revoke the judgment of the court of first instance in a part regarding the applied compensation for harm, confiscation or recovery of criminally acquired property, procedural expenses, or material evidence and render a new judgment in such part or send the case to the court of first instance for examination de novo.

(2) A court of appeals shall take a decision in the cases provided for in Paragraph one, Clauses 1, 4, and 5 and Paragraph 1.<sup>1</sup>, Clauses 1 and 3 of this Section.

[12 March 2009; 18 February 2016; 30 March 2017; 22 June 2017]

### **Section 564. Content of a Ruling of an Appellate Court**

(1) A ruling of an appellate court shall consist of an introductory part, a descriptive part, a reasoned part and an operative part.

(2) The introductory part of a ruling shall indicate the time and place of the acceptance thereof, the name and composition of the court, the prosecutor, the person who submitted the appellate complaint or protest, and the judgment that was appealed or protested.

(3) The descriptive part of a ruling 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 a ruling shall indicate the findings of the appellate court regarding the validity of the appellate complaint or protest, the circumstances ascertained by the appellate court, the evidence that confirms the findings of the appellate court, the motives why the appellate court rejects some pieces of evidence, and the laws on the basis of which such court conducts itself.

(5) If an appellate court 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 an appellate court 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 a ruling shall indicate one of the rulings provided for in Section 563 of this Law. If a court takes the decision provided for in Section 563, Paragraph one, Clause 5 or Paragraph 1.<sup>1</sup>, Clause 3 of this Law, it shall also take a decision on a security measure. A court may take a decision to extend a term for appeal for 10 days due to special complexity and amount of criminal proceedings.

(8) If an appellate court 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.

[12 March 2009; 24 May 2012]

#### **Section 565. Competence of an Appellate Court in the Rendering of a New Judgment**

(1) An appellate court may do the following as a result of examination 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 sentence or without changing the imposed sentence;

2) find an accused guilty of committing a criminal offence that is less serious than that recognised by a court of first instance, determining a lighter sentence or without changing the imposed sentence;

3) exclude from prosecution a separate independent part thereof, determining a lighter sentence or without changing the imposed sentence;

4) revoke the judgment of a court of first instance in the part regarding the imposed sentence, and determine a lighter sentence 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, an appellate court 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) On the basis of the protest of a prosecutor, or the complaint of a victim, supported by a prosecutor, an appellate court may:

1) find the accused guilty of committing a criminal offence that is more serious than recognised by a court of first instance, determining a heavier sentence or without changing the sentence;

2) revoke the judgment of acquittal of the court of first instance, and render a judgment of conviction;

3) find the accused guilty of committing separate criminal offences, which a court of first instance excluded from prosecution, determining a heavier sentence or without changing the sentence;

4) [12 March 2009].

(4) On the basis of a protest of a prosecutor or a complaint of a victim, an appellate court may revoke the judgment of a court of first instance in the part regarding the sentence punishment, determining a heavier sentence.

[12 March 2009; 21 October 2010; 20 December 2012]

#### **Section 566. Competence of an Appellate Court in the Sending of a Criminal Case to a Court of First Instance for Examination De novo**

If, in examination of a case, an appellate court determines violations of this Law that bring about the revocation of the judgment or another significant violation of this Law, which it cannot eliminate by itself without infringing the right to defence of the accused, such court shall, at any time of trial of the case by having heard opinions of the participants to the case, take a decision to revoke the judgment of a court of first instance completely or in a part thereof, and to send the case to a court of first instance for examination de novo.

[12 March 2009; 19 December 2013; 30 March 2017]

#### **Section 567. Termination of Appellate Court Proceedings**

(1) If, in examination of a case, an appellate court determines violations of the requirements of Section 550 of this

Law, such court shall take a decision to terminate the appellate court proceedings.

(2) If, in examination of a case in relation to an appellate complaint of a victim regarding a judgment of acquittal or a request of the victim to apply the law for a more serious criminal offence than recognised by the court, the prosecutor does not support the complaint, the court shall discontinue court investigation and take a decision to terminate court proceedings of appeal.

[18 February 2016]

#### **Section 568. Pronouncement of a Ruling of an Appellate Court**

(1) An appellate court shall pronounce the introductory part and operative part of a ruling.

(2) A court shall determine a time within the next 14 days when the full court ruling will be available, indicating it in the operative part of the ruling.

(3) If due to the amount, legal complexity of a case or other objective circumstances a full court ruling is not drawn up in a specified time, a judge shall notify a prosecutor, accused, victim, defence counsel and representative, as well as owner of property infringed during criminal proceedings whose property has been seized when a full court ruling will be available. Drawing up of a full court ruling may be postponed only once.

[12 March 2009; 29 May 2014; 22 June 2017; 20 June 2018]

## **Chapter 54 Examination of a Case According to 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 Supreme Court regarding the legality of a ruling of an appellate court, which 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) A ruling of a court of first instance that was made 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 cassation court shall not evaluate evidence in a case de novo.

[19 December 2013]

#### **Section 570. Terms for the Submission of a Cassation Complaint and Protest**

(1) A cassation complaint or protest shall be submitted not later than within 10 days or, if a court has extended the term for appeal, not later than within 20 days after the day when a full court ruling 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 of the taken decision, and the submitted complaint or protest shall be attached to the case. In requesting to renew the missed term, the requirements of Section 317, Paragraph one of this Law shall be complied with and the complaint shall be attached.

(3) A decision of a judge, with which the acceptance of a cassation complaint or protest has been refused, may be appealed within 10 days in the Supreme Court, whose decision shall not be subject to appeal.

(4) A complaint or protest submitted in accordance with the procedures laid down in Paragraph one of this Section shall suspend the execution of a judgment or the entering into effect of a decision.

[12 March 2009; 19 December 2013]

#### **Section 571. Persons who have the Right to Submit a Cassation Complaint or Protest**

(1) A cassation complaint may be submitted by an accused, his or her defence counsel, a victim, his or her representative and lawful representative, as well as owner of property infringed during criminal proceedings whose property has been seized.

(2) An accused may submit a complaint regarding an infringement of his or her rights, and a victim and owner of property infringed during criminal proceedings whose property has been seized may submit a complaint in the part that infringes upon his or her rights and interests.

(3) A prosecutor may submit a cassation protest.

[22 June 2017]

### **Section 572. Content of a 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 examination of a case in oral proceedings in a court hearing, if the submitter of the complaint or protest so wishes.

[27 September 2018]

### **Section 573. Procedures for Initiating Cassation Proceedings**

(1) The legality of a ruling 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.

(2) The matter of examining a ruling in accordance with cassation procedures shall be decided by the court in the composition of three judges. The composition of the court and time when the matter of initiating cassation proceedings will be decided shall be notified to the person who submitted the complaint or protest, and also to the person whose rights and interests have been affected by the complaint or protest, explaining the right to raise an objection within seven days.

(3) Initiation of cassation proceedings shall be rejected by taking an unanimous decision in the form of a resolution where the reasons for the rejection shall be indicated.

(4) If the opinion of judges on the initiation of cassation proceedings differ or all judges believe that the matter should be examined in accordance with cassation procedures, the decision on the initiation of cassation proceedings shall be taken in the form of a resolution.

(5) The decision referred to in Paragraphs three and four of this Section shall not be subject to appeal.

[27 September 2018]

### **Section 573.<sup>1</sup> Grounds for the Refusal to Initiate Cassation Proceedings**

(1) A court refuses to initiate cassation proceedings if the cassation complaint or protest does not meet the requirements laid down in Sections 569, 571, 572 and Section 573, Paragraph one of this Law or the cassation complaint or protest has been submitted regarding a court ruling which shall not be subject to appeal in accordance with the Law.

(2) A court may refuse to initiate cassation proceedings in the following cases:

1) case law of the Supreme Court has been established in the issues of application of legal norms indicated in the cassation complaint or protest, and the appealed ruling conforms to it;

2) after evaluation of the arguments included in the cassation complaint or protest, no concerns on the legality of the appealed ruling have arisen and the matter to be examined is not relevant for the formation of case law.

[27 September 2018]

### **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 imposition on the accused of a type or amount of sentence 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 ruling:

1) a court has examined a case in an unlawful composition;

2) circumstances have not been complied with that exclude the participation of a judge in examination of a criminal case;



3) a case has been examined 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 use 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 hearing, if such minutes are mandatory;

7) in rendering a judgment, a secret of court deliberations has been violated;

8) a case has been examined without verification of evidence not taking into account the conditions of Section 499 of this Law.

(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 ruling.

(3) Other violations of this Law that led to an unlawful ruling may also be recognised as substantial violations of this Law.

[19 January 2006; 12 March 2009]

#### **Section 576. Procedures for the Submission of a Cassation Complaint and Protest**

A cassation complaint or protest shall be submitted to the court that made the ruling.

#### **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 a ruling 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 - arrest, house arrest, or placement in a social correctional educational institution.

(3) With the termination of the term for the appeal of a ruling, the court that made the ruling shall send the case together with the cassation complaint or protest to the Supreme Court.

[19 December 2013]

#### **Section 578. Report on the Submission of a Cassation Complaint or Protest**

(1) The court that made the ruling shall notify the prosecutor of the submitted cassation complaint and protest, as well as notify the persons whose interests and rights are infringed upon by such complaint or protest, as well as inform the accused who is held under arrest regarding his or her rights to request that he or she is provided with an opportunity of participating in examination of a matter, and simultaneously send a copy of the submitted complaint or protest to the prosecutor and such persons.

(2) The persons referred to in Paragraph one of this Section may submit written objections or explanations within 10 days after receipt of a copy of a complaint or protest, as well as a written request to provide them with an opportunity of participating in the trial of a case, to be sent to the Supreme Court.

[21 October 2010; 19 December 2013]

#### **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 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 10 days after the end of the term for appeal. The Supreme Court shall immediately send copies thereof to the other persons referred to in Section 578, Paragraph one of this Law who have the right within 10 days from the day of the receipt of copies of supplements and amendments to submit objections or explanations thereon in writing.



[12 March 2009; 19 December 2013]

#### **Section 580. Withdrawal of Cassation Complaints or Protests**

A cassation complaint or protest may be withdrawn in accordance with the procedures laid down in Section 556 of this Law.

#### **Section 581. Examination 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 examined if the defendant has reached legal age at the moment of examination of the case.

(2) If such complaint of the former representative of an accused or minor has been submitted after reaching of legal age of the minor, such complaint shall be left without examination.

#### **Section 582. Composition of a Cassation Court**

(1) A panel of three judges of the Supreme Court, of whom one is the chairperson of the hearing, shall examine judgments and decisions in accordance with cassation procedures.

(2) A complaint or protest regarding decisions adopted in cases provided for in Section 560, Paragraph three, Section 567 and Section 570, Paragraph two of this Law shall be decided by a judge of a cassation court.

[12 March 2009; 19 December 2013]

#### **Section 583. Determination of Examination of a Case**

(1) In initiating cassation proceedings, a court shall determine that the case should be examined in a written procedure or examined in a court hearing.

(2) Examination of a case in a written procedure 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 Supreme Court, the relevant case may have special significance in the interpretation of the norms of the law, examination of the case in a court hearing 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 examined in a written procedure or a court hearing, indicating where and when such case will be examined.

(4) If examination of a case has been specified in a written procedure, 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 seven days shall be explained to such persons.

(5) In examining a case in a court hearing, an accused who is being held under arrest shall be ensured the opportunity to participate in examination of the case, if he or she has requested such participation in the term indicated in Section 578, Paragraph two of this Law.

[19 December 2013; 11 June 2020]

#### **Section 584. Boundaries of Examination of a Case in a Cassation Court**

(1) Examination of the legality of court rulings shall take place in the amount of, and within the framework of, the requirements expressed in a cassation complaint or protest.

(2) A cassation court 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 Sections 574 and 575 of this Law, and such violations have not been indicated in the complaint or protest.

#### **Section 585. Examination of a Case in a Written Procedure**

(1) A case shall be examined in a written procedure on the basis of the materials in the case, in conformity with the competence of the cassation court.

(2) If necessary, a court shall request the submission of the views of the prosecutor within 10 days.

(3) A judge who has been assigned the duty of reporting shall notify regarding the circumstance of a case.

(4) A cassation complaint or protests shall be decided by taking a decision.

(5) A decision to transfer a case for examination in a court hearing may also be taken in a written procedure.

(6) [12 March 2009]

[12 March 2009; 19 December 2013]

#### **Section 586. Examination of a Case in Oral Proceedings in a Hearing of a Cassation Court**

(1) The chairperson of a court hearing shall open the hearing, announce which case is to be examined, ascertain who has arrived for the court hearing, and decide the matter regarding the possibility of examining 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 hearing of the cassation court, shall not be an impediment to examination of a case.

(2) The chairperson of a hearing shall announce the composition of the court, the surname of the interpreter, prosecutor, and advocate, and ascertain whether there are recusals. If there are such recusals, a court shall take a decision on such recusals.

(3) Examination of a case shall commence with an account of the judge 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 ruling regarding which the cassation complaint or protest has been submitted, the reasons due to which the action has been submitted to revoke or modify the ruling.

(4) After account of the judge, the chairperson shall summon the submitter of the complaint, his or her defence counsel or representative, to provide explanations for the justification of the complaint. If the case is examined in connection with a protest, the prosecutor shall be given the first word for the justification of the protest.

(5) In cases where the submitter of a complaint, his defence counsel or representative has not arrived, the judge shall notify regarding the justification for the complaint.

(6) Afterward, the court may hear other persons who have been notified regarding the court hearing and whose rights and interests are infringed upon by the cassation complaint or protest.

(7) After hearing of explanations, the 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.

[19 December 2013; 22 June 2017]

#### **Section 587. Court Decisions of a Cassation Court**

(1) A cassation court shall take one of the following decisions:

- 1) to leave a ruling unamended, and reject a cassation complaint or protest;
- 2) to revoke a ruling completely or in a part thereof, and send a case for examination de novo;
- 3) to revoke a ruling completely or in a part thereof, and terminate criminal proceedings;
- 4) to modify a ruling;
- 5) to terminate cassation court proceedings.

(2) If a cassation court determines a significant violation of this Law which an appellate court cannot eliminate, it shall repeal the rulings of courts of both instances and send the case for examination de novo in a court of first instance.

[12 March 2009]

#### **Section 588. Content of a Decision of a Cassation Court**

(1) The following shall be indicated in a decision of a cassation court:

- 1) the time and place of the taking of the decision;
- 2) the name and composition of the court, and the prosecutor and other persons who participated in examination of the case;
- 3) the person who submitted the cassation complaint or protest;
- 4) the contents of the operative part of the appealed ruling;
- 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 prosecutor;

6) the decision of the cassation court on 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 a ruling, a cassation court shall indicate the law, and the section thereof, that has been violated, and how such violation was made manifest.

(3<sup>1</sup>) If a court of cassation takes the decision provided for in Section 587, Paragraph one, Clause 2 of this Law, it shall also decide on a security measure.

(4) If a case is examined in oral procedure in a court hearing, 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) Decision of a cassation court shall not be subject to appeal, except for the case provided for in Section 465, Paragraph seven of this Law. Such decision shall enter into effect at the moment of the pronouncement thereof.

[24 May 2012; 27 September 2018]

#### **Section 589. Compulsory Nature of an Instruction of a Cassation Court**

(1) The translation of a law expressed in a decision of a cassation court shall be compulsory for the court that examines such case de novo.

(2) A cassation court shall not indicate in a decision thereof what ruling must be made in examining the case de novo.

#### **Section 590. Transfer for Execution of a Decision of a Cassation Court**

(1) A reasoned decision of a cassation court shall be signed by the entire composition of the court not later than within five working days after 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 ruling has been revoked, if a cassation court has taken a decision to send a case for examination de novo.

(1<sup>1</sup>) A copy of a decision of a court of cassation shall be sent to the submitter of a complaint and a prosecutor. The result of examination shall be notified to the other persons referred to in Section 583, Paragraph three of this Law.

(2) A decision on basis of which a security measure related to deprivation of liberty has been revoked shall be executed immediately. In such case, a cassation court shall send an extract of the decision for execution.

[12 March 2009]

#### **Section 591. Examination of a Case after Revocation of a Judgment or Decision**

(1) A case in which a made ruling has been revoked shall be sent for examination de novo to the court that made such ruling. Such case shall be examined in accordance with general procedures, but in a different composition of court.

(2) The intensification of a sentence, or the application of a law, for a more serious criminal offence in examining a case de novo shall be allowed only if a judgment has been revoked due to the lightness of the sentence or in connection with the fact that, on the basis of the protest of a prosecutor or the complaint of a victim, the application of a law regarding a more serious criminal offence was necessary.

(3) A ruling made in examining a case de novo may be appealed, and a protest regarding such ruling 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 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 condition, is not dangerous to society, but has fallen ill with mental disturbances, the person directing the proceedings may terminate criminal proceedings by placing the respective person under the care of the immediate family or other persons who perform nursing of patients.

[12 March 2009; 29 May 2014]

### **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 accordance with the general procedures laid down in this Law, as well as the provisions of this Chapter.

(2) If, during the course of criminal proceedings commenced in accordance with general procedures, 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 prosecutor shall take a reasoned decision within 10 days to continue proceedings for determination of compulsory measures of a medical nature. If necessary, the materials of a criminal case regarding the specific person shall be distributed in separate records. From this time on, a person which is held criminally liable shall lose the status of the accused person.

[12 March 2009]

### **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 prosecutor 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 prosecutor shall inform the defence counsel of such person regarding such non-participation, and shall take a decision on participation of a representative in criminal proceedings.

[12 March 2009]

### **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 imposition of a punishment, 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 harm 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) The 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. The person directing the proceedings shall notify the suspect or accused, as well as the representative and defence counsel regarding the time and place of expert examination, if they have already previously participated in the proceedings due to other reasons.

(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 specific questions to the expert, shall be necessary, including a question regarding whether the person may participate in pre-trial proceedings and examination of the case in the court.

(3) A court psychiatric expert-examination is mandatory in proceedings for the determination of compulsory measures of a medical nature.

(4) If one year has passed since performance of expert-examination or if doubts regarding the health condition of the person arise, the court shall determine a court psychiatric expert-examination for the person.

[12 March 2009; 29 May 2014]

### **Section 597. Suspension of Criminal Proceedings in Relation to the Placement of a Person in a Medical Treatment Institution**

(1) If a person who has fallen ill with mental disturbances after committing a criminal offence may not participate in criminal proceedings on the basis of the findings of an expert, and medical treatment is necessary for such person, such person may be placed in a medical treatment institution by a court decision. The court shall take the decision during pre-trial proceedings, on the basis of a proposal of the person directing the proceedings. During trial the court shall take decision upon its initiative. After taking of the decision the person directing the proceedings shall suspend the criminal proceedings.

(1<sup>1</sup>) If a person has been cured or it is detected that he or she cannot be cured, the medical treatment institution, in which the person was placed, shall provide its findings to the person directing the proceedings within six months.

(2) Having received findings from a medical treatment institution that a person has been cured and that the continuation of an investigation is possible, the person directing the proceedings shall renew and continue criminal 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, the person directing the proceedings shall complete the proceedings for the determination of compulsory measures of a medical nature.

[12 March 2009; 29 May 2014]

### **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 himself 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 on the further participation of the representative in proceedings, but the defence counsel shall continue to participate in proceedings.

### **Section 599. Revocation of a Security Measure**

(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 the person directing the proceedings, to place such person in a psychiatric hospital for a time period up to six months until the court takes a decision to determine compulsory measures of a medical nature. Placing in a psychiatric hospital shall be applied and complaints about it shall be examined according to the same procedures as about arrest. The investigating judge may extend the specified time period for not more than six months in one extension, if the person is still dangerous to the society due to his or her

illness.

(3) If during the trial a court decides to continue the proceedings for the determination of compulsory measures of a medical nature and if a person is dangerous to society due to his or her illness, a court may decide on the placement of such person in a psychiatric hospital for a time period up to six months. The judge may extend the specified time period for not more than six months in one extension, if the person is still dangerous to the society due to his or her illness. The person in relation to whom the proceedings for determination of compulsory measures of a medical nature is taking place, his or her defence counsel and representative, as well as the person directing the proceedings may appeal the decision of the judge in a higher-level court within seven days after receipt of the copy of the decision. The decision to examine a complaint shall not be subject to appeal.

[12 March 2009; 29 May 2014]

#### **Section 600. Completion of Pre-trial Proceedings**

(1) A prosecutor shall complete pre-trial proceedings for the determination of compulsory measures of a medical nature by taking a decision to send 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 prosecutor takes a decision for one or more of such accused to send the case to court for determination of compulsory measures of a medical nature, the 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 examination in single proceedings.

#### **Section 601. Decision to Send a Criminal Case to a Court**

A decision to send a criminal case to a court for the determination of compulsory measures of a medical nature shall, in addition 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 Hearing**

(1) In preparing a case for examination, the judge shall decide the matter regarding which persons are to be summoned to a court hearing.

(2) If a person against whom the proceedings for the imposition of compulsory measures of a medical nature are taking place, is located in a medical treatment institution, the judge shall give an order to convey such a person to the court hearing, except when according to the findings of the physician (expert) it is not permissible or recommended due to the health condition of the person.

[29 May 2014]

#### **Section 603. Examination of a Criminal Case in a Court Hearing**

(1) A criminal case regarding imposition of compulsory measures of a medical nature shall be examined in a closed court hearing with the participation of a prosecutor, defence counsel, the representative of a person, as well as the person on whom the compulsory measure of a medical nature is imposed, except when according to the findings of the physician (expert) it is not permissible or recommended due to the health condition of the person.

(2) A court investigation shall commence with the prosecutor reading the descriptive part of the decision to send the criminal case to court for the determination of compulsory measures of a medical nature.

(3) A court hearing shall examine evidence 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.

(3<sup>1</sup>) If a person, on the basis of the nature of a committed offence and his or her mental condition, is not dangerous to society, in deciding the issue on transfer of the person under the care of relatives or other persons who perform nursing of patients, the court must receive consent of such persons.

(4) A court shall summon an expert psychiatrist at its own discretion.

[29 May 2014; 11 June 2020]

#### **Section 604. Deciding a Criminal Case in a Court**

In examining 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 committing of the criminal offence, and whether such illness is temporary, and therefore examination 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
- 7) whether an application for a compensation of harm is to be satisfied, for whom and in what amount such compensation is to be collected;
- 8) how to handle material evidence and other things removed during proceedings, and property which has been seized;
- 9) from whom procedural expenses are to be collected.

[12 March 2009]

#### **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 the decision, in accordance that laid down in the Criminal Law, on the release of such person from criminal liability or sentence, and shall determine one of the compulsory measures of a medical nature provided for in 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, the court may place him or her under the care of such immediate family or other persons who perform nursing of patients.

(3) Having found that a person has full mental capacity, a court shall, with a decision thereof, transfer a criminal case to a 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 to terminate 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 terminate criminal proceedings against the person being examined, and send the criminal case to a 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 harm, actions with property which has been seized, recovery of procedural expenditures, and shall explain the procedures and time persons for the appeal of a court decision.

(7) If a person against whom proceedings are taking place for the determination of compulsory measures of a medical nature has not participated in a court hearing due to the nature of his or her illness, a court shall send a copy of the court decision to such person.

[12 March 2009; 21 October 2010; 29 May 2014; 30 March 2017]

#### **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.

[12 March 2009; 29 May 2014]

#### **Section 607. Grounds for the Revocation or Modification of Compulsory Measures of a Medical Nature**

(1) If the person for whom compulsory measure of a medical nature has been specified has been cured or his or her health condition has improved, or it is detected that the health condition of such person has changed otherwise



insofar that the person is no longer dangerous to the society, the head of the medical treatment institution, in which the relevant person is being treated, shall, on the basis of the findings of a physician - specialist or a committee of physicians, propose for the court to decide the matter regarding the revocation of the specified compulsory measure of a medical nature or modification thereof to a less restricting measure.

(2) If a person does not carry out the compulsory measure of a medical nature specified for him or her, the head of the medical treatment institution, in which the relevant person is being treated, shall, on the basis of the findings of a physician - specialist or a committee of physicians, propose for the court to decide the matter regarding modification of the specified compulsory measure of a medical nature to a more restricting measure.

(3) A person for whom compulsory measures of a medical nature have been specified, as well as the lawful representative or other member of the immediate family of such person may submit to a court a request to revoke or modify the specified compulsory measure of medical nature. In such cases, the court shall request from the relevant medical treatment institutions findings regarding the health condition of such person in regard to whom the request has been submitted.

(4) A 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.

(5) Having received a proposal of the head of the medical treatment institution regarding modification of the specified compulsory measure of a medical nature to a more restricting measure, the court may determine a court psychiatric expert-examination for the person.

(6) The court of first instance that controls the execution of the decision shall, upon its initiative, examine the matter regarding the revocation or modification of such decision, if, within one year after determination of the compulsory measure of a medical nature or the last examination of the matter regarding revocation or modification thereof, a request or proposal to revoke or modify the specified compulsory measure of a medical nature has not been submitted.

[29 May 2014]

#### **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 of first instance, which controls the execution of the decision, within 14 days from the day of receipt of the findings of a physician - specialist or a commission of physicians, or a court psychiatry expert.

(2) A prosecutor, defence counsel, and the representative of the person, as well as person himself or herself for whom a compulsory measure of a medical nature has been determined shall participate in a court hearing, unless according to the findings of a physician (expert) it should not be permitted or is not recommended due to the health condition of the person. The person who initiated examination of the matter and also, at the discretion of the court, a representative of the relevant medical treatment institution shall be summoned to the court hearing.

(3) If a court has doubts regarding the findings of a physician - specialist or a commission of physicians, such court may determine a court psychiatric expert-examination, additionally request documents of a medical nature or other documents, as well as perform other operations.

(4) After examination of the circumstances, the court shall hear the conclusion of the prosecutor, the views of the defence counsel and representative, as well as of person who have been imposed compulsory measure of a medical nature, except when on the basis of the findings of a physician (expert) the person does not participate in the court hearing.

(5) A court shall take a decision to revoke or modify 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 a regional court. The complaint shall be examined in accordance with the procedures laid down in Section 342, Paragraph 6.<sup>1</sup> of this Law. Submission of a complaint or protest regarding a court decision by which a compulsory measure of a medical nature is modified to a lighter one or revoked shall not suspend the execution of such decision. In taking a decision on modification of a compulsory measure of a medical nature to a more serious one, the court may decide on the matter of placement of a person in a psychiatric hospital in accordance with that specified in Section 599, Paragraph three of this Law.

(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.

[21 October 2010; 29 May 2014; 30 March 2017; 11 June 2020]

#### **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 laid down in Section 608 of this Law, take a decision to revoke compulsory measures of a medical nature and send the case to the prosecutor for the completion of pre-trial proceedings.

(2) The time spent in a medical treatment institution shall be conformed to the time spent under arrest.

## **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 the person directing the proceedings has, with a decision thereof, terminated criminal proceedings in due to 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 has died after such guilty finding, the lawful representative and the immediate family 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 one year after 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.

[12 March 2009]

### **Section 611. Decision to Continue Criminal Proceedings for the Exoneration of a Deceased Person**

(1) The person directing the proceedings shall examine 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 10 days after receipt of the application:

1) to revoke the decision to terminate criminal proceedings and continue criminal proceedings for the exoneration of the deceased person;

2) reject the application.

(2) The 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 laid down 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 on continuation of criminal proceedings for the exoneration of a deceased person, pre-trial proceedings shall take place in accordance with the general procedures laid down in this Law, as well as with the provisions of this Chapter.

(2) The person directing the proceedings shall take a decision on 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) The 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 prosecutor, or a prosecutor may, with a decision to terminate 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) The 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 himself or herself with the materials of the case and to appeal, within 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 person directing the pre-trial proceedings;
- 2) determine the time and place of a court hearing;
- 3) summon the necessary person to the court hearing.

(2) A criminal case for exoneration of a deceased person shall be examined in a court hearing with the participation of a prosecutor, the submitter of the application, and the defence counsel, if such defence counsel exists.

(3) A court hearing shall hear the complaint of the submitter of an application or a defence counsel, the report of a prosecutor regarding the essence of the case, and examine submitted evidence.

#### **Section 615. Deciding of a Criminal Case**

(1) In examining a criminal case regarding exoneration of a deceased person, a court shall decide whether a criminal offence has taken 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 to terminate 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 to terminate criminal proceedings without exonerating the relevant person.

(4) Having recognised that a deceased person has not committed a criminal offence, but such offence was committed by another person, a court shall terminate 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 an appellate court as an accused.

## **Chapter 57 Special Features of Court Proceedings in Examining 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, may submit a complaint regarding a decision of an investigator or prosecutor to terminate 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 conditions that exclude criminal liability, but the relevant person disputes the factual circumstances.

[12 March 2009]

#### **Section 618. Procedures and Terms for the Submission of a Complaint**

(1) [12 March 2009]

(2) A decision may be appealed within one month of the day of the receipt of a copy of the decision.

(3) A complaint shall be submitted to the person directing the proceedings, who shall submit such complaint, together with materials, to the court that has jurisdiction over examination of the relevant criminal offence.

(4) If a decision to terminate 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 examined by a court simultaneously with the trial of the criminal case. The person directing the proceedings shall inform the submitter of the complaint regarding such actions.

[12 March 2009]

#### **Section 619. Procedures for Examination of a Complaint**

(1) A judge shall examine a complaint regarding the justification for the termination of criminal proceedings in a court hearing within one month after receipt thereof. A person against whom the criminal proceedings have been terminated, representative or defence counsel thereof and receiver of the appealed decision shall be summoned to a court hearing.

(2) If the submitter of a complaint does not arrive at a court hearing without a justified reason, examination of his or her submitted complaint shall be terminated.

(3) A judge shall hear in a court hearing the submitter of a complaint, the acceptor of the appealed decision, and other persons summoned to the court, examine evidence obtained in criminal proceedings and related to examination of the complaint, and take a decision.

[12 March 2009]

#### **Section 620. Deciding of a Complaint in Court**

(1) A complaint shall be satisfied or recused. In satisfying the complaint, a judge shall repeal the decision of the person directing the proceedings and take a new decision instead of it, terminating the criminal proceedings on the basis of exoneration.

(2) A decision of a court may be appealed within 10 days only for non-observance of the procedural requirements specified in this Chapter. A complaint shall be examined by a judge of a higher-level court in the written procedure, and the decision of the judge shall not be subject to appeal.

[12 March 2009]

## **Chapter 58 Criminal Proceedings in Private Prosecution Cases**

[21 October 2010]

#### **Section 621. Initiation of Criminal Proceedings in Private Prosecution Cases**

[21 October 2010]

#### **Section 622. Actions of a Court after Initiation of Criminal Proceedings**

[21 October 2010]

#### **Section 623. Preparation of a Private Prosecution Case for Trial**

[21 October 2010]

#### **Section 624. Procedures for the Trial of a Private Prosecution Case**

[21 October 2010]

#### **Section 625. Termination of Criminal Proceedings in a Private Prosecution Case at a Court Hearing**

[21 October 2010]

## **Chapter 59 Proceedings Regarding Criminally Acquired Property**

#### **Section 626. Reasons for Initiating Proceedings regarding Criminally Acquired Property**

(1) An investigator with the consent of the supervising prosecutor or a prosecutor has the right, in the interests of solving the financial matters which have come about in pre-trial criminal proceedings, in timely manner and in the interests of the economy of proceedings, to separate the materials from a criminal case regarding criminally acquired

property and to initiate proceedings if the following conditions exist:

1) the totality of evidence provides grounds to believe that the property that has been removed or seized is criminally acquired or related to a criminal offence;

2) due to objective reasons, the transferral of the criminal case to court is not possible in the near future (in a reasonable term), or such transferral may cause substantial unjustified expenses.

(2) With a permission from the supervising prosecutor, the investigator, upon terminating criminal proceedings for reasons other than exoneration of a person, has the right to separate from a criminal case materials on criminally acquired property and initiate proceedings.

(3) A prosecutor has the right, upon terminating criminal proceedings for reasons other than exoneration of a person, to separate the materials from a criminal case regarding recognition of property as criminally acquired for which the rights have been registered in the public register and the entry in this register has been amended after committing of the criminal offence, and to initiate proceedings.

[22 June 2017; 27 September 2018]

### **Section 627. Procedures for the Initiation of Proceedings Regarding Criminally Acquired Property**

(1) If the conditions referred to in Section 626 of this Law exist, the person directing the proceedings shall take a decision to initiate proceedings regarding criminally acquired property and transfer the materials regarding the criminally acquired property to a court.

(2) The person directing the proceedings shall indicate the following in a decision:

1) information regarding facts justifying the relation of the property to a criminal offence or the criminal origin of the property, as well as regarding 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 specific property;

3) the actions with the criminally acquired property that he or she proposes;

4) the victim, if any.

(3) A decision and the materials attached to such decision shall be sent to a district (city) court.

(4) The case materials in proceedings regarding criminally acquired property shall be an investigative secret, and the person directing the proceedings, a prosecutor and a court examining the case may get acquainted with the case. The persons referred to in Section 628 of this Law may become acquainted with the case materials with the permission of the person directing the proceedings and in the amount specified thereby.

(5) The decision of the person directing the proceedings on rejecting a request to become acquainted with the case materials may be appealed to the district (city) court which examines proceedings regarding criminally acquired property. The court shall take the decision to fully or partially satisfy the complaint, or to dismiss it. The decision shall not be subject to appeal. For the court to decide whether becoming acquainted with the case materials endangers the fundamental rights of other persons, the public interests or interferes with the achievement of the objective of criminal proceedings, the court may request the materials of the criminal case and become acquainted with them.

[8 July 2011; 22 June 2017; 20 June 2018]

### **Section 628. Informing of Persons Related to Property**

The person directing the proceedings shall immediately send a copy of the decision referred to in Section 627 of this Law to the person at whom the property has been removed or seized, if such persons exist in the relevant criminal proceedings, or to another person who has the right to the specific 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;

3) submit applications to the court.

[7 October 2021]

### **Section 629. Court Proceedings Regarding Criminally Acquired Property**

(1) Having received a decision to initiate proceedings regarding criminally acquired property, a judge shall:

1) determine the time and place of the court hearing;

2) summon the person directing the proceedings and a prosecutor, if a decision has been taken by an investigator, as well as the persons referred to in Section 628 of this Law to the court hearing.

(2) A court hearing shall take place within 10 days after receipt of a decision of the person directing the proceedings to a court. Non-arrival of the summoned persons shall not be an obstacle for taking a decision on criminally acquired property, if the procedures for summoning such persons have been complied with.

(3) The person directing the proceedings, a prosecutor, other summoned and arrived persons, their representatives or defence counsels shall be heard in a closed court hearing.

(4) During a court hearing the persons involved in court proceedings have equal rights to submit recusations or requests, to submit evidence, to submit written explanations to the court, as well as to participate in examination of other matters, which have arisen during the court proceedings.

(5) [20 June 2018]

(6) The court shall take a decision after hearing the explanations of the participants to the case. If the court recognises that a judgment cannot be given in the specific court hearing, it shall determine a date when the judgment will be drawn up and available in the Court Registry. A decision shall be drawn up not later than within 10 days.

[12 March 2009; 21 October 2010; 8 July 2011; 24 May 2012; judgment of the Constitutional Court of 23 May 2017; 20 June 2018; 27 September 2018; 19 November 2020]

### **Section 630. Court Decision on Criminally Acquired Property**

(1) In examining materials regarding criminally acquired property, a court shall decide:

1) whether the property is criminally acquired or 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 or the property is not of criminal origin, such court shall take a decision to terminate proceedings regarding the criminally acquired property.

(3) If a court takes a decision to terminate proceedings regarding criminally acquired property in the criminal proceedings terminated for reasons other than exoneration of a person, it shall, in addition to that referred to in Paragraph one of this Section, decide also upon revoking the seizure of the property.

[12 March 2009; 21 October 2010; 22 June 2017]

### **Section 631. Court Decision on an Appeal in respect of Criminally Acquired Property**

(1) A court decision may be appealed within 10 days in a regional court submitting a complaint or protest to a district (city) court.

(2) A complaint or protest shall be examined by a court in the composition of three judges within a term and in accordance with the procedures laid down in Section 629 of this Law, first hearing a submitter of a complaint or protest.

(3) In examining a complaint or protest, a court may repeal a decision of a district (city) court and take a decision referred to in Section 630 of this Law. The decision shall not be subject to appeal.

[12 March 2009; 8 July 2011]

## **Division Twelve**

### **Entering into Effect of a Ruling and Examination of Matters Related to Rulings**

#### **Chapter 60 Entering into Effect, Transferring for Execution and Procedures for Execution of Judgments, Decisions and Penal Orders of a Prosecutor**

[22 June 2017]



### **Section 632. Entering into Effect of a Judgment**

(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. An abridged judgment shall come into force after the time period for submission of the request regarding drawing up a full judgment has terminated and such request has not been submitted.

(2) A judgment of an appellate court 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 cassation court examined the case, if such court has not revoked the ruling or has refused to examine the legality of a ruling.

(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) A court decision on a security measure and regarding the ensuring of compensation for harm or confiscation of property included in a judgment of conviction shall enter into effect immediately after pronouncement of the judgment.

(5) If an owner of property infringed during criminal proceedings has appealed a judgment of a court of first instance or appellate court in the part regarding property or a protest of a prosecutor in the part regarding the action with criminally acquired property has been submitted, in the remaining part the judgment shall enter into effect.

[22 June 2017]

### **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 an appellate court 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 to terminate 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 cassation court shall enter into effect on the day of the proclamation thereof, and shall not be subject to appeal.

(5) A decision with which a convicted person is conditionally released prior to term from the serving a sentence shall not be subject to appeal and shall enter into effect without delay. The court shall send the decision to the State Probation Service not later than on the following day.

[22 June 2017]

### **Section 633.<sup>1</sup> Entering into Effect of a Prosecutor's Penal Order**

A prosecutor's penal order and a prosecutor's penal order regarding the application of a coercive measure to a legal person shall enter into effect when the term for the appeal thereof has terminated and it has not been appealed or if a complaint has been rejected.

[22 June 2017]

### **Section 634. Transfer for Execution of a Judgment, Decision and Prosecutor's Penal Order of a Prosecutor**

(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, within seven days following the entering into effect thereof or the receipt of the case from an appellate or cassation court.

(2) A prosecutor's penal order shall be transferred for execution by the Office of the Prosecutor that rendered it within 7 days after entering into effect of such penal order.

(3) A judgment, decision and prosecutor's penal order shall be sent for execution together with a cover letter. If the matter has been examined in accordance with appellate or cassation procedures, copies of the rulings of the appellate or cassation courts, accordingly, shall also be sent. If an application of a specially protected victim has been received containing a request to provide information regarding release or escape of such convicted person from the place of imprisonment who has inflicted harm to him or her, information regarding the application shall be sent to the Latvian Prison Administration.

(4) A ruling or a prosecutor's penal order shall be sent to:

1) the Latvian Prison Administration - if a temporary deprivation of liberty has been adjudged by a court judgment



and a person is not in prison;

2) the place of imprisonment - if a custodial sentence or temporary custodial sentence has been imposed and the person is in prison;

3) the State Probation Service - if the custodial sentence is applied conditionally or if community service or probationary supervision is adjudged;

4) the institution which is competent to supervise the conformity with the relevant limitation of rights (if any) - if limitation of rights is applied;

5) the court on the basis of jurisdiction for initiating the insolvency proceedings - if a liquidation has been applied for a legal person;

6) the State Police - for the detention of a person and sending him or her to the prison if community service or fine has been replaced with a temporary deprivation of liberty, probationary supervision has been replaced with deprivation of liberty, or a custodial sentence has been imposed and the person is not in prison.

(5) A judgment of conviction of an accused, a judgment releasing from a sentence, and a judgment regarding a suspended sentence in the part regarding the releasing of the accused from a security measure related to deprivation of liberty shall be executed immediately after pronouncement of the judgment.

(6) If a decision regarding the confiscation of criminally acquired property that has been taken in accordance with the procedures laid down in Chapter 59 of this Law is transferred to a sworn bailiff for execution and if the application for compensation regarding a harm caused to a victim has not been submitted or satisfied, the court or prosecutor shall inform a sworn bailiff regarding the final decision taken, assigning him or her to transfer into the State budget the confiscated resources or resources acquired as a result of execution of confiscation that are deposited in a deposit account of a sworn bailiff.

*[22 June 2017; 17 December 2020 / Amendment to Paragraph four, Clause 3 and the new wording of Paragraph four, Clause 6 shall come into force on 1 January 2022. See Paragraph 76 of Transitional Provisions]*

### **Section 634.<sup>1</sup> Transfer for Execution of Rulings of Financial Nature**

(1) Sworn bailiffs shall execute rulings on:

1) confiscation of property as an additional punishment;

2) coercive measures applied to a legal person - confiscation of property or recovery of money;

3) recovery of value of object for committing a criminal offence;

4) recovery of procedural expenditures;

5) recovery of compensation regarding a harm caused to a victim;

6) execution of confiscation of a criminally acquired property, except in the cases determined in this Section;

7) recovery of value of criminally acquired property;

8) confiscation of third person property if a criminally acquired property is alienated, destroyed, concealed or disguised and it is not possible to confiscate it.

(2) To execute rulings referred to in Paragraph one of this Section, except the case determined in this Paragraph, a court shall send a writ of execution or a prosecutor shall send an extract of a decision or penal order (hereinafter - the enforcement document) to a sworn bailiff for execution on the basis of the place of residence (for a legal person - its legal address) of a person (a convicted person) or on the basis of the location of his or her property. If a ruling on the confiscation of a criminally acquired property has not been made in criminal proceedings, the enforcement document regarding the recovery of compensation for harm caused to a victim - legal person - shall be issued to the victim on the basis of his or her request.

(3) If the place of residence (for a legal person - legal address) of a person and the location of property are located in the territory of operation of different regional courts, the enforcement document shall be sent to a sworn bailiff for execution on the basis of the location of property. If the property is located in the territory of operation of several regional courts, as many enforcement documents as is the number of regional courts in the territory of operation of which the property is located shall be prepared and sent to sworn bailiffs for execution on the basis of the location of property.

(4) If a confiscation of criminally acquired property is applied, the enforcement document shall be sent to a sworn bailiff for execution on the basis of the location of property. If both movable and immovable property, intangible property or financial resources are confiscated within one ruling, the enforcement document shall be sent to a sworn

bailiff for execution on the basis of the location of movable or immovable property.

(5) The enforcement document in a part regarding the confiscation of a criminally acquired property shall be sent to the State Revenue Service if:

1) criminal proceedings are completed and the application for compensation regarding a harm caused to a victim has not been submitted or satisfied within it;

2) criminal proceedings are completed and only an application for compensation regarding a harm caused to a State as a victim has been satisfied;

3) a decision regarding the confiscation of criminally acquired property has been taken in accordance with the procedures laid down in Chapter 59 of this Law and a victim in criminal proceedings has not requested a compensation for harm or the only requester of a compensation for harm caused to a victim is the State.

(6) If a decision on the confiscation of criminally acquired property that has been taken in accordance with the procedures laid down in Chapter 59 of this Law is transferred to a sworn bailiff for execution and if an application for compensation regarding a harm caused to a victim has been satisfied in the final ruling, the court shall send a writ of execution in a part regarding the recovery of a compensation for harm caused to a victim to a sworn bailiff to whom the decision on the confiscation of criminally acquired property has been transferred.

(7) A writ of execution shall be written out by a regional (city) court which has made ruling in accordance with the procedures laid down in Chapter 59 of this Law or by a court of first instance. The writ of execution shall be sent for execution together with an extract of a decision or protocol on the seizure of a property, if such protocol has been drawn up. The following shall be indicated in a writ of execution:

1) the name of the court which has issued the writ of execution;

2) the case in which the writ of execution has been issued;

3) the time when the ruling was rendered;

4) the operative part of the ruling;

5) the time when the ruling enters into effect, or an indication that the ruling shall be enforced without a delay;

6) in which part a ruling shall be executed;

7) the identifying data of such person against whom recovery is to be directed or whose property is to be confiscated, the address of the place of residence of such person, but for a legal person - its name, registration number, and legal address;

8) the identifying data and the address of the place of residence, and also the account number and details of a credit institution (financial institution) of a victim whose compensation for harm is satisfied, but for a legal person - its name, registration number, and legal address, and also the account number and details of a credit institution (financial institution) indicated by it;

9) information regarding a victim's application for compensation of harm in criminal proceedings that are not completed;

10) information regarding transferring of a ruling to several sworn bailiffs for execution concurrently;

11) time of issuing the writ of execution.

(8) If several rulings referred to in Paragraph one of this Section are included in one judgment, a court shall write out a separate writ of execution for execution of each ruling.

(9) An extract of a prosecutor's decision or penal order shall be sent for execution together with a cover letter and an extract of a decision or protocol on the seizure of a property, if such protocol has been drawn up. The following shall be indicated in a cover letter:

1) the identifying data and the address of the place of residence of such person against whom recovery is to be directed or whose property is to be confiscated, but for a legal person - its name, registration number, and legal address;

2) information regarding transferring of a ruling to several sworn bailiffs for execution concurrently;

3) time when the decision or penal order of a prosecutor shall enter into effect.

(10) By sending a writ of execution regarding the recovery of compensation for harm for the benefit of the victim to a sworn court bailiff for execution in the cases determined in this Section, the court shall inform the victim thereof.

(11) Ruling on the confiscation of property as an additional punishment or as a coercive measure, as well as ruling on the compensation for harm to be recovered for the benefit of the victim or on the recovery of value of object for committing a criminal offence shall be executed in accordance with the procedures laid down in the Civil Procedure Law.

(12) Ruling on the confiscation of criminally acquired property shall be executed in accordance with the procedures laid down in the Law on Execution of Confiscation of Criminally Acquired Property or laws and regulations governing actions with the property under the State jurisdiction. Ruling on the recovery of value of criminally acquired property or on the confiscation of the property of third person, if the criminally acquired property is alienated, destroyed, concealed or disguised and it is not possible to confiscate it, shall be executed in accordance with the procedures laid down in the Civil Procedure Law.

(13) If this Law provides for a time period for voluntary execution of the ruling, it shall be sent for execution after the term for voluntary execution has expired.

[22 June 2017; 7 October 2021]

### **Section 634.<sup>2</sup> Search for the Convicted Person**

(1) If a convicted person is hiding and the whereabouts thereof are unknown or if the convicted person does not arrive to serve temporary deprivation of liberty, a judge of the court which controls the complete execution of a judgment or decision, or a court which decides on the replacement of punishment with deprivation of liberty shall take the decision to search for the convicted person. A decision on search for the convicted person shall be taken in a written procedure. Such decision shall not be subject to appeal.

(2) The decision on a search for a convicted person shall be transferred for execution to the body performing operational activities according to the competence thereof.

[22 June 2017; 11 June 2020]

### **Section 635. Procedures for the Execution of a Decision to Determine Compulsory Measures of a Medical Nature**

(1) A court decision to determine compulsory measures of a medical nature shall be sent for execution to the medical treatment institution together with a copy of the findings of the expert-examination. The decision to determine compulsory measures of a medical nature shall be executed immediately after entering into effect thereof.

(2) If six months have passed since the day when a decision to determine the 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 respective person shall be deferred without the consent thereof until receipt of the findings of the physician - specialist.

(3) If six months have passed since the day when a decision to determine the 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 respective person may be placed in a hospital, but treatment without the consent thereof shall be deferred until receipt of the findings of the physician - specialist.

(4) The treatment of a person may be commenced if a physician - specialist or a commission of physicians provides findings that the person has not been cured, the health condition thereof has not substantially changed, and the determination of compulsory treatment is necessary.

(5) If a physician - specialist or a commission of physicians finds that the person has been cured or that his or her health condition 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 outpatient treatment may be performed, the matter regarding revocation or modification of a specified compulsory measure of a medical nature shall be examined in accordance with the procedures laid down in Section 607 of this Law.

(6) If a person for whom a compulsory measure of a medical nature has been specified does not arrive at a medical treatment institution or his or her location is not known, the judge of the court which controls execution of the decision shall take a decision on search for the person for whom a compulsory measure of a medical nature has been specified. The decision on search for the person for whom a compulsory measure of a medical nature has been specified shall be taken in the written procedure and shall be transferred for execution to the body performing operational activities according to the competence thereof. The decision shall not be subject to appeal.

[22 June 2017; 11 June 2020]

### **Section 636. Procedures for Execution of a Prosecutor's Penal Order**

(1) The prosecutor may postpone the payment for the recovery of fine or money or divide it in instalments in

accordance with that specified in the Criminal Law, if the person who has been applied the fine or coercive measure by a prosecutor's penal order is unable to pay it within 30 days and has submitted a reasoned request for postponing the payment for the recovery of fine or money or division thereof in instalments.

(2) If a fine or recovery of money is not paid within 30 days after entering into effect of a prosecutor's penal order or if payment for the recovery of fine or money has not been made in the term which had been specified by dividing or suspending the payment of the fine or recovery of money, a prosecutor shall initiate to the district (city) court, in the territory of operation of which the Office of the Prosecutor is located, to decide the matter regarding substitution of a fine in accordance with that specified in the Criminal Law, and shall send the unpaid recovery of money for compulsory execution.

[22 June 2017]

### **Section 637. Notification to the Immediate Family of a Convicted Person of the Place of the Serving the Sentence**

After a judgment has entered into effect with which deprivation of liberty has been imposed on a convicted person, the administration of the prison shall ensure the possibility to immediately inform the immediate family thereof or other persons on the basis of the choice of the convicted person of the place of the serving the sentence.

[22 June 2017]

### **Section 638. Deferral of Enforcement of a Court Ruling**

(1) If deprivation of liberty has been imposed, a judge of the court in which the case is examined in the first instance may, upon a submission of an accused, 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 a 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) If deprivation of liberty has been applied, the execution of a judgment may not be deferred for persons who have been convicted for a serious or especially serious crime.

(3) Payment of the fine or recovery of money may be postponed or divided in instalments payable over a time period of up to one year, if the person on whom the fine or coercive measure has been imposed is unable to pay it within 30 days and he or she has submitted a reasoned request for postponing the payment for the fine or recovery of money or division thereof in instalments.

(4) The payment of the compensation disbursed by the State may be deferred, or divided into periods, for a period of up to one year, if the convicted person cannot pay it within 30 days and he or she has submitted a reasoned request for deferring the payment of the compensation disbursed by the State or division thereof into periods.

(5) A judge of the court of first instance shall examine the matter on deferring the execution of a judgment in a written procedure. A decision may be appealed within 10 days. A judge of a higher level court shall examine the complaint in the written procedure, and his or her decision shall not be subject to appeal.

[22 June 2017; 27 September 2018; 11 June 2020; 19 November 2020]

### **Section 639. Control of Enforcement of a Ruling and Prosecutor's Penal Order**

(1) Complete execution of a ruling shall be controlled by the court of first instance. Institution that executes a ruling shall immediately notify the court of the execution of the ruling.

(2) Enforcement of a prosecutor's penal order shall be controlled by the office of the prosecutor. The institution that executed the sentence or coercive measure determined in the prosecutor's penal order shall immediately inform the Office of the Prosecutor that issued the penal order regarding the execution thereof.

(3) If the execution of ruling in part regarding the compensation for harm to be recovered for the benefit of the victim is not possible, the sworn bailiff shall notify the court and victim thereof.

[22 June 2017]

## Chapter 61 Examination of Matters that have Arisen during the Execution of Judgments and Decisions

### Section 640. Release from Serving of Sentence Due to Illness

(1) If a convicted person has fallen ill with mental disturbances and therefore he or she may not be located in a place of imprisonment and medical treatment is necessary for him or her, a judge may, on the basis of the findings of an expert-examination, release the convicted person from the serving the sentence, determining treatment for such person.

(2) If the 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 member of the immediate family 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 on whom a non-custodial sentence has been imposed falls ill with mental disturbances, a judge may take the decision to release him or her from serving the sentence.

(4) If a convicted person falls ill with a serious illness that is not mental disturbances, a judge may take the decision to release him or her from serving 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 serving the sentence in connection with an illness, a court may release him or her not only from the basic sentence, but also from an additional punishment, indicating such release in the decision.

[12 March 2009; 11 June 2020]

### Section 641. Revocation of a Suspended Sentence or Extending of a Probationary Supervision Period

The judge of a district (city) court according to the place of residence of a convicted person, on the basis of a submission of the State Probation Service, in the cases specified in the Criminal Law may take the decision to execute the sentence imposed under the judgment for a person who has been convicted conditionally, or to extend the term of probation up to one year. The submission shall be examined without requesting the criminal case file.

[16 October 2014; 19 November 2020]

### Section 642. Reduction of Sentence in Exceptional Cases

If a convicted person has assisted in the disclosure of a crime that is the same seriousness, 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 sentence of such convicted person in accordance with the provisions of Section 60 of the Criminal Law. If the submission is examined in the oral procedure, it shall be examined in a closed court hearing.

[12 March 2009; 19 November 2020]

### Section 643. Conditional Early Release from Serving a Sentence

(1) In accordance with Section 61 or Section 65, Paragraph three or Paragraph 3.<sup>1</sup> of the Criminal Law, a convicted person shall be conditionally released early from serving a custodial sentence by a judge of the district (city) court according to the place where the sentence is served, if a submission of the prison has been received.

(2) The submission shall be examined without requesting the criminal case file.

(3) If a judge rejects a submission, it may be resubmitted after four months. If the request indicated in the application is satisfied, a judge shall additionally indicate information regarding the sentence execution institution and arrival deadline in the ruling.

(4) If a person who has been conditionally released early from serving the sentence does not fulfil the obligations laid down in the law governing the execution of criminal sentences or stipulated by the State Probation Service without a justified reason, the judge of the district (city) court according to the place of residence of the convicted person may, on the basis of a submission of the State Probation Service, take the decision to execute the part of unserved sentence.

(5) If a person who has been conditionally released early from serving the sentence and who has been applied electronic monitoring does not fulfil the obligations related to electronic monitoring laid down in the law governing the

execution of criminal sentences without a justified reason, revokes his or her consent to electronic monitoring or implementation of electronic monitoring is not possible anymore in the conditions in which he or she lives, the judge of the district (city) court according to the place of residence of the convicted person may, on the basis of a submission of the State Probation Service, take the decision to execute the part of unserved sentence.

(6) If a person who has been conditionally released early from serving a sentence and who has been applied electronic monitoring, has, in exemplary manner, fulfilled the obligations provided for in the law governing the execution of criminal sentences or stipulated by the State Probation Service and the term laid down in Section 61, Paragraph three of this Law has set in, according to which conditional early release from serving the sentence is possible without determination of electronic monitoring, the judge of the district (city) court according to the place of residence of the convicted person may, on the basis of a submission of the State Probation Service, take the decision to revoke electronic monitoring.

[16 October 2014; 27 September 2018; 19 November 2020]

#### **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 judge of 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 the Criminal Law, substitute the term of the sentence not served with imprisonment.

(2) In accordance with that specified in the Criminal Law, a judge of the district (city) court according to the place of residence of the convicted person may reduce the term of police supervision or revoke such supervision, if a justified submission of a police institution has been received.

(3) [12 March 2009]

[12 March 2009; 16 June 2009; 16 October 2014; 27 September 2018]

#### **Section 644.<sup>1</sup> Substitution or Revocation of Probationary Supervision**

(1) If a person upon whom probationary supervision has been imposed by a court judgment or prosecutor's penal order does not fulfil the obligations provided for in the law governing the execution of criminal punishments or stipulated by the sentence execution institution without a justified reason, a judge of a district (city) court according to the place of residence of such person may, on the basis of a submission of the State Probation Service, substitute the unserved term of sentence with deprivation of liberty in accordance with that laid down in the Criminal Law.

(2) If a submission of the State Probation Service has been received, a judge of a district (city) court according to the place of residence of such person on whom probationary supervision has been imposed by a court judgment or prosecutor's penal order may reduce the probationary supervision period or revoke probationary supervision in accordance with that laid down in the Criminal Law.

(3) If probationary supervision has been imposed on a minor by a court judgment or prosecutor's penal order, a judge of a district (city) court according to the place of residence of the minor may, on the basis of a submission of the State Probation Service, take the decision to place the minor in a social correctional educational institution in accordance with that laid down in the Criminal Law.

(4) If a minor upon whom probationary supervision has been imposed by a court judgment or prosecutor's penal order or for whom community service has been substituted with probationary supervision does not fulfil the obligations provided for in the law governing the execution of criminal punishments or stipulated by the sentence execution institution without a justified reason, a judge of a district (city) court according to the place of residence of the minor may, on the basis of a submission of the State Probation Service, substitute the unserved term of sentence with deprivation of liberty in accordance with that laid down in the Criminal Law.

[8 July 2011; 17 December 2020 / Amendments to the Section regarding probationary supervision as a basic punishment and the replacement of the term "community service" with the term "community service (compulsory measure)" shall come into force on 1 January 2022. See Paragraph 76 of Transitional Provisions]

#### **Section 645. Issues Related to Execution of a Fine and Money Recovery**

(1) If a fine or recovery of money is not paid within 30 days after entering into effect of a ruling or if payment for the fine or recovery of money has not been made by the deadline which had been specified by dividing or suspending the payment of the fine or recovery of money, a judge shall substitute the fine with that specified in accordance with the Criminal Law, or, if the recovery of money is imposed on a legal person - the court shall send the ruling on a coercive measure for compulsory execution.

(2) If a fine is paid while a convicted person serves a custodial sentence in place thereof, he or she shall be released immediately.



(3) If, during the term when a convicted person serves a custodial sentence, in place of a fine, part of the fine is paid, a judge shall reduce the duration of imprisonment in accordance with the paid part of the fine.

(4) [16 June 2009]

[29 June 2008; 16 June 2009; 20 December 2012; 22 June 2017; 19 November 2020]

#### **Section 646. Substitution of Community Service**

(1) If a person who has been convicted with community service or for whom community service has been imposed by the prosecutor's penal order does not fulfil it without a justified reason, the judge shall substitute the community service with temporary deprivation of liberty in accordance with that laid down in the Criminal Law.

(2) If a minor who has been convicted with community service or for whom community service has been imposed by the prosecutor's penal order does not fulfil it without a justified reason, the judge shall substitute the community service with probationary supervision in accordance with that laid down in the Criminal Law.

[17 December 2020 / Amendments to the Section regarding probationary supervision as a basic punishment and the replacement of the term "community service" with the term "community service (compulsory measure)" shall come into force on 1 January 2022. See Paragraph 76 of Transitional Provisions]

#### **Section 647. Execution of a Sentence after Application of Compulsory Measures of a Correctional Nature**

(1) If a minor who has been released from an imposed sentence and on whom a compulsory measure of a correctional nature has been imposed does not fulfil the duties imposed by a court, the sentence imposed on such minor shall be executed.

(2) A matter regarding the execution of a sentence shall be decided by the district (city) court judge according to the place of residence of the minor.

[12 March 2009]

#### **Section 648. Inclusion of Time Spent in a Medical Treatment Institution in the Term of Sentence**

If a convicted person who is serving a custodial sentence is placed in a medical treatment institution, the time spent in such institution shall be included in the term of the sentence.

[20 December 2012]

#### **Section 649. Execution of a Judgment or Penal Order of the Prosecutor, if Several Judgments or Penal Orders of the Prosecutor Exist**

(1) If several judgments or penal orders of the prosecutor exist in relation to a convicted person, a judge of the court that rendered the last judgment in the first instance or a judge of a district (city) court according to the place of the execution of the penal order of the prosecutor, shall, on the basis of a submission of the institution or prosecutor that executed the judgment, take a decision in accordance with that laid down in the Criminal Law in the written procedure, to determine a final sentence on the basis of the totality of such judgments or penal orders of the prosecutor.

(2) Having received the submission referred to in Paragraph one of this Section, the judge shall inform the convicted person and the prosecutor regarding the right to apply an objection to the judge within 10 days from the day of receipt of a notification, to submit an opinion on the sentence to be determined, and also the day of availability of the decision.

(3) A decision may be appealed within 10 days. Submitting of a complaint shall not suspend the execution of the decision. A judge of higher-level court shall examine a complaint in a written procedure according to the materials present in the case, and a decision thereof shall not be subject to appeal.

[8 July 2011; 30 March 2017; 27 September 2018; 11 June 2020]

#### **Section 649.<sup>1</sup> Execution of a Ruling on the Determination of Compulsory Measures of a Medical Nature in Case of Several Rulings**

(1) If there are several rulings on the determination of compulsory measures of a medical nature in relation to a person, the court, which rendered the last ruling in the first instance, shall take a decision to determine the final compulsory measure of a medical nature in accordance with the laid down in the Criminal Law.

(2) Issues, which are related to execution and control of the compulsory measures of a medical nature specified in the ruling, as well as uncertainties arising upon executing a court decision, shall be decided by the judge of such court of first instance, which made the ruling on determination of the final compulsory measure of a medical nature, upon a submission of the executing authority or prosecutor.



[22 June 2017]

### **Section 650. Courts that Decide Matters Related to the Execution of a Judgment and Decision**

(1) Matters that are related to the execution of a sentence determined in a judgment, as well as doubts and uncertainties that arise in the execution of a court ruling, shall be decided, on the basis of a submission of the executing authority or prosecutor, by a judge of the court of first instance that has made the ruling, except the cases referred to in Sections 638, 642, and 647 of this Law.

(2) If a ruling is being executed outside of the region of operation of the court that has made the ruling, the matters referred to in Paragraph one of this Law shall be decided, by a judge of a court of the same level in the region of operation of which the convicted person is serving the sentence.

[12 March 2009; 29 May 2014]

### **Section 651. Procedures for the Deciding of Matters Related to the Execution of a Judgment and a Decision**

(1) Matters related to the execution of a ruling shall, as soon as possible, be decided by a judge in a written procedure.

(1<sup>1</sup>) A judge shall indicate in the notification regarding examination of the matter in a written procedure the right of a prosecutor, the convicted person, and the representative of such institution which is responsible for the execution of the ruling to request removal of a judge within 10 days, to submit objections against deciding of the matter in a written procedure, to submit a view regarding the matter to be decided, as well as indicate the day when the decision will be available. If the matter is examined in a written procedure, the prosecutor and the convicted person for whom the rights provided for in Section 74.<sup>2</sup> of this Law are ensured, as well as the representative of such institution which is responsible for the execution of the ruling shall participated in the court hearing. In the case of the unjustified non-attendance of the convicted person the matter may be decided upon without his or her presence.

(2) If a judge examines a matter regarding the releasing of a convicted person from the serving a sentence due to illness or disability, as well as 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 must participate in the court hearing.

(3) If a judge examines matters related to the execution of a sentence, a representative of the institution that supervises the execution of the sentence, or controls the behaviour of a person who has been convicted conditionally, shall be summoned to the court hearing. In deciding a matter regarding suspending of the execution of the judgment, only a convicted person shall be summoned.

(4) If persons who have sent a submission or expressed a request do not arrive to a court hearing, without a justified reason, examination of the case shall be deferred.

(5) A judge shall open a court hearing and notify what case is being examined, and then examine whether the summoned persons have arrived for the court hearing, and decide the matter regarding recusal of a judge, prosecutor and regarding the possibility to examine a case in the absence of persons summoned to the court hearing.

(6) Examination of a case shall commence with the reading of a submission or request, which shall be performed by the submitter. After such reading, the court shall hear the views of the 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 decisions that have been taken in the matters in accordance with the procedures laid down in this Section, except in the case provided for in Section 633, Paragraph five of this Law, may be appealed within 10 days. The decisions provided for in Section 643 of this Law may be appealed only for non-observance of the procedural requirements specified in this Section. The submission of a complaint shall not suspend the execution of the decision. A judge of higher-level court shall examine a complaint in the written procedure according to the materials present in the case, and a decision thereof shall not be subject to appeal.

(8) Having received withdrawal of a submission or expressed request, a judge shall decide on termination of the case. If the case is terminated, it shall be notified to the submitter of the submission or request. If the submission is withdrawn in writing, a decision may be taken in a manner of resolution. A decision shall not be subject to appeal.

[12 March 2009; 21 October 2010; 8 July 2011; 29 May 2014; 16 October 2014; 30 March 2017; 11 June 2020]

### **Section 652. Procedures for the Deciding of Matters Related to the Execution of a Punishment Imposed in the Penal Order of a Prosecutor**

(1) Matters that are related to the execution of a punishment imposed in the prosecutor's penal order, as well as uncertainties that arise in executing such punishment, shall be decided, in accordance with the procedures laid down

in this Chapter, by a chief prosecutor, but matters regarding the issue of replacement of a sentence, reduction of the probationary supervision period or revocation of probationary supervision, or release from serving a sentence in cases provided for in the law - by the judge of a district (city) court according to the place of residence of the convicted person.

(2) A decision of a chief prosecutor shall not be subject to appeal.

[19 January 2006; 12 March 2009; 21 October 2010; 8 July 2011; 29 May 2014; 18 February 2016; 7 January 2021]

#### **Section 653. Procedures for the Removal of a Conviction**

(1) Matters regarding the removal of a conviction shall be examined 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 prosecutor regarding a received request.

(3) If the matter is examined in the oral procedure, the participation in a court hearing of the person in relation to whom a request regarding removal of conviction is being examined is mandatory. Such person has the right to defence. The non-arrival of the prosecutor to the court hearing shall not be an impediment to examination of the matter regarding removal of conviction. Examination of a matter regarding removal of 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.

(4) [19 November 2020]

(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 on rejection of such request.

(6) A court decision in a matter on removal of a conviction may be appealed on regarding the non-observance of the procedural requirements specified in this Section.

[19 November 2020]

#### **Section 654. Appeal of Decisions of Administrative Commissions of Prisons**

[16 October 2014]

### **Division Thirteen Examination De novo of Valid Rulings**

#### **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, or prosecutor's penal order, 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 grounds for the making of an unlawful ruling has been recognised by a valid court judgment or prosecutor's penal order;

2) criminal maliciousness by a judge, prosecutor, or investigator that has been the grounds for the making of an unlawful ruling has been recognised by a valid court judgment or prosecutor's penal order;

3) other circumstances that were not known to a court or prosecutor in making a ruling, and which, on their own or together with previously established circumstances, indicate that a 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 he or she has been applied a prosecutor's penal order, or which testify regarding the guilt of an acquitted person or a person in relation to whom criminal proceedings have been terminated;

4) findings of the Constitutional Court regarding the non-conformity of legal norms, or an interpretation thereof, to

the Constitution, on the basis of which a ruling has entered into effect;

5) the findings of an international judicial authority regarding the fact that a ruling of Latvia that has entered into effect does not comply with the international laws and regulations binding to Latvia.

(3) If the rendering of a judgment is not possible due to the fact that a limitation period has entered 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.

[21 October 2010; 20 December 2012]

#### **Section 656. Terms for the Renewal of Criminal Proceedings in connection with Newly Disclosed Circumstances**

(1) Examination de novo of a judgment of acquittal or a decision to terminate 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 specific person has committed 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) Examination de novo 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 ruling entered into effect, in the cases determined in Section 655, Paragraph two, Clauses 1 and 2 of this Law;

2) the day when the prosecutor took a decision to commence proceedings for investigation of the newly disclosed circumstances, in the cases provided for in Section 655, Paragraph two, Clause 3 of this Law.

[20 December 2012; 30 March 2017]

#### **Section 657. Proceedings for Investigation of Newly Disclosed Circumstances**

(1) A reason for commencement of investigation of newly disclosed circumstances shall be an application of the person involved in the criminal proceedings, whose rights or lawful interests were infringed in the criminal proceedings, or of his or her representative, and also the information obtained in the course of other criminal proceedings provided that there are grounds laid down in Section 655, Paragraph two of this Law. The application shall be submitted to an Office of the Prosecutor according to the location of examination of the initial criminal proceedings.

(2) Proceedings for investigation of newly disclosed circumstances may not be carried out by a prosecutor who has carried out investigative actions, investigatory supervision, criminal prosecution or has participated in examination of a criminal case in a court of any instance.

(3) The following shall be indicated in an application regarding newly disclosed circumstances:

1) the number of the criminal proceedings in respect of which the application is submitted;

2) the circumstance provided for in Section 655, Paragraph two of this Law and the essence thereof;

3) the information on which newly disclosed circumstances are based on;

4) the reason why evidence was not submitted or examined in criminal proceedings;

5) what decisive significance has newly disclosed circumstances in respect of the valid ruling in the criminal proceedings;

6) the request of the applicant.

(4) If the information specified in Paragraph three of this Section is not included in the application or the content of the application in respect of newly disclosed circumstances indicated in the application already examined has not changed on the merits, a prosecutor shall take a decision to leave the application without examination and notify the

applicant thereof. The decision shall not be subject to appeal.

(5) If the information indicated in Paragraph three of this Section is included in the application or the information is obtained in the course of other criminal proceedings, a prosecutor shall take a decision to commence proceedings for examination of newly disclosed circumstances by writing it in the form of resolution, and perform investigation by complying with the provisions of this Law regarding pre-trial criminal proceedings, and notify the applicant thereof. The decision shall not be subject to appeal.

(6) If after completion of investigation of newly disclosed circumstances a prosecutor recognises that there are grounds to decide on the revocation of the valid ruling in criminal proceedings, he or she shall take a decision to transfer the application together with the criminal case and materials obtained when investigating newly disclosed circumstances for examination to the Supreme Court, but if a prosecutor's penal order has been applied to the person - to the Office of the Prosecutor General. The decision shall not be subject to appeal.

(7) If following an investigation of newly disclosed circumstances a prosecutor does not find grounds for revocation of a ruling due to such circumstances, he or she shall take a reasoned decision to refuse the application. The prosecutor shall send a copy of the decision to the applicant explaining his or her rights to appeal the decision to the district (city) court within 10 days from the day of receipt thereof, but if a prosecutor's penal order has been applied to the person - to a higher-ranking prosecutor.

(8) A judge shall examine the complaint in a written procedure and take a decision to transfer the application together with the criminal case and materials obtained when investigating newly disclosed circumstances for examination to the Supreme Court, but if there are grounds to decide to revoke the valid ruling in criminal proceedings, or to refuse the complaint if there are no grounds to decide to revoke such ruling. The decision of the judge shall not be subject to appeal.

(9) If a higher-ranking prosecutor, when examining the complaint, detects that there are grounds to revoke a prosecutor's penal order which has come into effect in criminal proceedings, he or she shall take a decision to transfer the application together with the criminal case and materials obtained when investigating newly disclosed circumstances for examination to the Office of the Prosecutor General. If a higher-ranking prosecutor does not detect such grounds, he or she shall take a decision to refuse the complaint. The decision of a higher-ranking prosecutor shall not be subject to appeal.

[30 March 2017]

#### **Section 658. Actions of a Prosecutor following the Completion of an Investigation of Newly Disclosed Circumstances**

[30 March 2017]

#### **Section 658.<sup>1</sup> Procedures for Examination of Cases by the Office of the Prosecutor General in Relation to Newly Disclosed Circumstances**

(1) An application, a decision of a prosecutor and the submitted materials shall be examined by the chief prosecutor of the Criminal Justice Department of the Office of the Prosecutor General or the Prosecutor General and one of the following decisions shall be taken:

- 1) to revoke the prosecutor's penal order and to fully or in any party renew the criminal proceedings in relation to newly disclosed circumstances;
- 2) to revoke the prosecutor's penal order and to revoke the criminal proceedings;
- 3) to refuse the application.

(2) A decision of the chief prosecutor of the Criminal Justice Department of the Office of the Prosecutor General or the Prosecutor General shall not be subject to appeal.

(3) After renewal of the criminal proceedings they shall be continued in conformity with the conditions of this Law regarding pre-trial criminal proceedings.

[20 December 2012; 30 March 2017]

#### **Section 659. Composition of the Supreme Court that Examines a Case in Relation to Newly Disclosed Circumstances**

An application and a decision of the judge and prosecutor, and also the submitted materials shall be examined:

- 1) regarding a case in which a ruling has been made by a court of first instance or an appellate court - by the judge of the Supreme Court;
- 2) regarding a case in which a decision has been taken by the cassation court - five judges of the Supreme Court

who have not previously participated in examination of such criminal case.

[30 March 2017]

#### **Section 660. Procedures by which the Supreme Court Examines a Case in Relation to Newly Disclosed Circumstances**

(1) Upon receipt of an application and decision of the judge or prosecutor, and also a criminal case and materials obtained when investigating newly disclosed circumstances, the judge of the Supreme Court shall determine the time and place for examination of the case. The persons whose rights or lawful interests are infringed by the application shall be notified thereof by explaining their rights to participate in the court hearing. A convicted person who is in a place of deprivation of liberty, if he or she is not the submitter of the application, shall be sent a copy of the application or decision of the judge or prosecutor by informing the convicted person regarding his or her right to request that he or she is provided with an opportunity to participate in the court hearing.

(2) The participation of a prosecutor in the court hearing is mandatory.

(3) The non-attendance of a person whose rights or lawful interests are infringed by the application and decision of the judge or prosecutor, shall not be an impediment to examination of the case.

(4) Examination of the case shall take place according to the procedures laid down for examination of cases in a cassation court in oral procedure, except that laid down in this Paragraph:

1) a judge shall present an account outlining the circumstances of the case which relate to the application and decision of the judge or prosecutor;

2) after the report of the judge the prosecutor shall justify the decision or express an opinion on the application;

3) after the report of the judge the applicant or representative of the applicant shall justify the application if he or she participates in the court hearing.

(5) The court shall take one of the following decisions:

1) to revoke the court ruling completely or in part thereof, renew criminal proceedings according to the revoked extent in relation to newly disclosed circumstances and send the case to the Office of the Prosecutor;

2) to revoke the court ruling completely or in part thereof, renew criminal proceedings according to the revoked extent in relation to newly disclosed circumstances and send the case to the court of the relevant instance for examination de novo;

3) to refuse the application;

4) terminate court proceedings.

[30 March 2017; 27 September 2018]

#### **Section 661. Procedures if Criminal Proceedings have been Renewed in Relation to Newly Disclosed Circumstances**

(1) Following renewal of criminal proceedings in connection with newly disclosed circumstances, pre-trial proceedings, examination of the case, and appeal of a court ruling shall take place in accordance with general procedures.

(2) In examining 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 imposed in the revoked judgment.

[21 October 2010]

### **Chapter 63 Examination De Novo of Valid Rulings in Relation to a Substantial Violation of the Norms of a Material or Procedural Law**

#### **Section 662. Rulings that may be Examined De Novo**

(1) A valid court ruling may be examined de novo, if such ruling has not been examined in accordance with cassation procedures or a court has not previously refused to initiate cassation proceedings, on the basis of an application or protest of the persons referred to in Section 663 of this Law.

(2) A valid ruling may be examined de novo in criminal proceedings wherein a special law regarding the exoneration of a person is to be applied.

(3) A valid prosecutor's penal order may be examined de novo, if a proposal of a higher-ranking prosecutor or an application of the convicted person or upon assignment of a person for whom a coercive measure has been applied - of an advocate has been submitted in accordance with the procedures laid down in Section 671.<sup>1</sup> of this Law.

[11 June 2020]

### **Section 663. Persons who have the Right to Submit an Application or Protest**

(1) An advocate may submit an application regarding examination of a court ruling de novo 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 upon initiative thereof or upon request of the persons referred to in Paragraph one of this Section.

(3) An application or protest shall be submitted to the Supreme Court.

[12 March 2009; 21 October 2010; 19 December 2013]

### **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 trial 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) a ruling has been made by an unlawful composition of the court;

2) a service investigation has determined that one of the judges did not sign the ruling because he or she did not participate in the making of the ruling in accordance with the procedures laid down in the law;

3) the violations referred to in Section 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 a ruling 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 a Criminal Case for Inspection**

(1) A judge of the Supreme Court may request a criminal case for any court in order to decide the matter regarding examination of an application or examination of a protest of a prosecutor.

(2) The Prosecutor General or the chief prosecutor of the Criminal Justice Department of the Office of the Prosecutor General may request a criminal case for any court in order to decide the matter regarding examination 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.

[12 March 2009; 21 October 2010; 19 December 2013]

### **Section 669. Suspension of the Execution of Rulings**

If the Supreme Court has accepted for examination an application or protest, it may defer or suspend execution of



a judgment or decision until examination de novo.

[19 December 2013]

#### **Section 670. Examination De novo of a Ruling in Court**

(1) The Supreme Court shall examine de novo, in accordance with the procedures laid down in Sections 582-586 of this Law, applications and protests regarding judgments and decisions that have entered into effect.

(2) Before commencing examination of a case in court a copy of the submitted application or protest shall be sent to the persons whose rights or lawful interests have been infringed by the application or protest submitted.

[21 October 2010; 19 December 2013]

#### **Section 671. Extent of Examination De novo of Rulings**

(1) In examining 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 extent and in relation to all convicted persons, if there are grounds for the revocation of a ruling regarding violations of the law that have led to the incorrect deliberation of a case.

#### **Section 671.<sup>1</sup> Examination of a Valid Prosecutor's Penal Order De Novo**

(1) A proposal or an application regarding examination of a valid prosecutor's penal order de novo may be submitted if violations of the norms of the Criminal Law or this Law which have led to the unlawful deterioration of the condition of the person have been established therein.

(2) The proposal or application shall be submitted in writing, indicating and motivating the justification for examination of the penal order *de novo*. The submitter of the proposal or application has the right to revoke it until the day when one of the decisions indicated in Paragraph three of this Section is taken.

(3) The proposal or application shall be examined by the chief prosecutor of the Criminal Justice Department of the Office of the Prosecutor General or the Prosecutor General and one of the following decisions which is not subject to appeal shall be taken:

- 1) to completely or partially amend the prosecutor's penal order;
- 2) to revoke the prosecutor's penal order and to renew the proceedings;
- 3) to reject the proposal or application;
- 4) to revoke the prosecutor's penal order and to terminate the criminal proceedings.

(4) Upon accepting the proposal or application for examination, a decision to suspend the execution of the sentence or of the coercive measure imposed on a legal person may be taken.

(5) After renewal of the criminal proceedings they shall be continued in conformity with the conditions of this Law regarding pre-trial criminal proceedings.

[11 June 2020]

#### **Section 672. Decisions Taken as a Result of Examination of Applications or Protests**

(1) One of the decisions indicated in Section 587 of this Law may be taken as a result of examination 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 country (hereinafter also - the criminal-legal co-operation), and shall ensure such co-operation:

- 1) in the extradition of a person for criminal prosecution, trial, 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) [24 May 2012];
- 4) in the execution of procedural actions;
- 4<sup>1</sup>) in the execution of a security measure not related to deprivation of liberty;
- 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 - the international court) shall provide for the transfer of persons to international courts, for procedural assistance for such courts, and for the execution of the rulings of international courts.

(3) Information regarding receipt, sending, course of execution of international criminal-legal co-operation requests and persons concerned by the international criminal-legal co-operation request shall be registered in the information system. The Cabinet shall determine the procedures for maintaining and using the information system, the amount of information to be included therein, the procedures for including, using and deleting information, the time periods for storing information, as well as the institutions, which shall be granted access to the information included in the information system, and the amount of information to be accessible to such institutions.

[24 May 2012; 5 September 2013]

#### **Section 674. Legal Grounds for 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 country 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 country, 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 Authorities**

(1) The competent authorities that are specified in laws and regulations 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 authority may agree, in criminal-legal co-operation, with a foreign competent authority regarding the direct communication between courts, Offices of the Prosecutor, and investigating institutions.

(3) If an agreement with a foreign country 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 country a request for criminal-legal co-operation, or to receive a request from the foreign country for criminal-legal co-operation.

(4) The officials referred to in Paragraph three of this Section may request from, or submit to, a foreign country a confirmation that reciprocity will be observed in criminal-legal co-operation, that is, that the co-operation partner will hereinafter provide assistance, observing the same principles.

(5) Latvian competent authorities are entitled, in criminal-legal co-operation, to co-operate with contact persons of Eurojust (European Judicial Cooperation Unit) and the European Judicial Network in Criminal Matters.

(6) The European Public Prosecutor's Office shall perform the functions of the competent authority in cases when it has been notified as the competent authority within the scope of an international agreement in accordance with that laid down in Regulation No 2017/1939.

[18 February 2016; 7 January 2021]

#### **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 country 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 detained or placed under arrest, 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;

3) to receive the data necessary for the provision of legal aid in accordance with the procedures laid down in laws and regulations.

(4) The participation of an advocate is mandatory in the cases determined 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 laid down in laws and regulations. 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.

[12 March 2009]

### **Section 678. Form and Content of Criminal Proceedings Co-operation Document**

(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 to identify a person.

(3) A request shall also indicate other information that is necessary for the execution thereof.

(4) If in co-operation of criminal proceedings with the Member States of the European Union a special document is provided for, the form and content thereof shall be defined by the Cabinet.

(5) The competent authority, in sending a request for criminal-legal co-operation, may request a foreign country to ensure the confidentiality of the information contained in the request.

[22 November 2007; 14 January 2010]

### **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 countries 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 country without attaching a translation.

(4) If an international agreement does not regulate criminal-legal co-operation with a foreign country, a translation in the language of the relevant country shall be attached to a request.

(5) The competent authority may come to an agreement with the competent authority of a foreign country regarding a different procedure for language use.

### **Section 679.<sup>1</sup> Exchange of Information Regarding Criminal Proceedings Taking Place in Latvia for the**

## **Same Criminal Offence**

(1) If there is a justified reason to believe that criminal proceedings for the same criminal offence are taking place in another country concurrently with the criminal proceedings taking place in Latvia and sufficient confirmation has not been obtained beforehand as a result of international co-operation, the person directing the proceedings shall, with the intermediation of the competent authority, request the foreign country to provide information regarding it. The person directing the proceedings shall indicate the information referred to in Section 678 of this Law in the request. If the request is submitted to a European Union Member State, it shall be translated into the official language of the respective European Union Member State or into the language, which was indicated by the state for communication to the General Secretariat of the Council of the European Union.

(2) Having received a request of a foreign country to provide information regarding whether criminal proceedings for the same criminal offence are taking place in Latvia, the competent authority shall provide information to the foreign country within the time period indicated in the request, but if a time period has not been indicated information shall be provided as soon after receipt of the request as possible.

(3) The following shall be indicated in the information to a foreign country regarding whether criminal proceedings for the same criminal offence are taking place in Latvia:

1) contact information of the person directing the proceedings;

2) information regarding whether criminal proceedings for the same criminal offence are taking place or have taken place and whether the same person is related thereto;

3) if criminal proceedings for the same criminal offence are taking place in Latvia - the criminal procedural stage and, if a final ruling has been made, the essence of the ruling.

(4) The Office of the Prosecutor General shall be the competent authority in exchange of information in pre-trial proceedings, and the State Police - for the commencement of criminal prosecution. After transfer of a case to a court the Ministry of Justice shall be the competent authority for exchange of information.

[24 May 2012; 29 May 2014]

### **Section 680. Expenditures**

(1) 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 country, if this Part of this Law, another laws and regulations, or the mutual agreement of the countries does not specify otherwise.

(2) Latvia shall cover expenditures that come about in performing temporary acceptance of a person or his or her transfer upon the request of Latvia.

[30 March 2017]

### **Section 681. Transit of Persons**

(1) If criminal-legal co-operation is related to the transportation of a person from a foreign country to Latvia through the territory of a third country, the competent authority of Latvia shall, if necessary, issue a transit request to such third country.

(2) If a person is transported with air transport, and landing in the territory of a third country is not planned, the competent authority of Latvia shall not issue a transit request, and, in the cases provided for in international agreements, the third country shall only be inform regarding such transportation.

(3) The competent authority of Latvia may allow, upon request of a foreign country, 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 U.S.S.R. who do not have Latvian Citizenship or the Citizenship of Another Country (hereinafter - the Latvian citizen) is requested.

(4) A transit request shall be written the same as a request for a specific 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 to believe that the following is located in a foreign country:

1) a person who is a suspect or accused in the committing of a criminal offence that may be punished on the basis of the Criminal Law, and regarding which deprivation of liberty is intended with a maximum limit of not less than one year, if an international agreement does not provide for another term; or

2) a person who has been convicted in Latvia with deprivation of liberty 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 sentence.

(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.

[20 December 2012]

### **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, the person directing the proceedings or the court which controls complete execution of a judgment or decision, or the court which decides on the replacement of a punishment with imprisonment shall turn to the Office of the Prosecutor General with a written proposal to request the extradition of a person from a foreign country.

(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 examined within 10 days, but in emergency cases - immediately after receipt thereof in the Office of the Prosecutor General, and the person directing the proceedings or the court which applied with a proposal to request the foreign country the extradition of a person shall be informed regarding the results. The Prosecutor General may extend the term of examination, and the person directing the proceedings or a court, which applied with a proposal to request the extradition of a person from the foreign country, 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 country.

(5) The Office of the Prosecutor General also may submit to a foreign country a request for the extradition of a person on the basis of the initiative thereof.

(6) Upon receiving information from a European Union Member State regarding the request of a third country to extradite a Latvian citizen, the Office of the Prosecutor General shall decide on the possibility to initiate criminal proceedings and to take the decision to issue a European arrest warrant if the conditions for taking such decision have been established.

[11 June 2009; 20 December 2012; 7 January 2021]

### **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 certified copy of a decision to apply a security measure - arrest, or of a court judgment of conviction that has entered into effect;

2) a certified copy of a decision to recognise a person as a suspect or on holding of a person criminally liable;

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) a certified copy of an order regarding the execution of a judgment;

5) information that may help to identify a person;

6) other documents, if such documents have been requested by a foreign country.

(2) True copies, copies and extracts of the documents attached to an extradition request shall be prepared and certified in accordance with the procedures laid down in the laws and regulations regarding preparation and drawing up of documents.

[17 May 2007; 24 May 2012]

#### **Section 685. Grounds and Procedures for the Announcement of an International Search for a Person**

(1) If the conditions referred to in Section 682, Paragraph one of this Law have been determined, and there are grounds to believe that a person has left the territory of Latvia but the whereabouts of such person are unknown, the person directing the proceedings or the court, which controls the complete execution of a judgment or decision, or the court, which decides on the replacement of a punishment with imprisonment, shall request the Office of the Prosecutor General to take a decision on 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 on announcement of an international search for the person, send such decision for execution, and inform the person directing the proceedings regarding such decision.

[11 June 2009; 20 December 2012]

#### **Section 686. Request for Temporary Arrest**

(1) Before sending an extradition request, the Office of the Prosecutor General may request for a foreign country to apply temporary arrest to the person to be extradited.

(2) A request regarding temporary arrest shall be written in conformity with the requirements of Section 678 of this Law. Such request shall also indicate a decision to apply a security measure - arrest, 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 arrest of a person has been submitted, an extradition request shall be sent as soon as possible, taking into account the term for temporary arrest specified in international agreements.

#### **Section 687. Takeover of a Person Extradited by a Foreign Country**

(1) The takeover of a person extradited by a foreign country shall be performed by the State Police in the terms laid down in international agreements. The Office of the Prosecutor General shall be informed within 24 hours regarding the conveyance of a person to Latvia.

(2) If a suspect has been extradited during pre-trial proceedings, a prosecutor or higher-ranking prosecutor shall submit a prosecution to this person within 10 days after taking of the person to Latvia. If the prosecuted person is extradited - the prosecution shall be submitted within 72 hours, but if the prosecution has been issued before - the rights to submit recusals and requests, submit complaints shall be explained to the person.

(3) If a person has been extradited during a trial, the Office of the Prosecutor General shall notify the person directing the proceedings within 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, the State Police shall turn to the Office of the Prosecutor General with a request to receive permission from a third country for the transit of the extradited person.

[29 June 2008; 18 February 2016]

#### **Section 688. Transfer of a Person from Foreign Country for a Term**

(1) If a foreign country has deferred the transfer 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 country to transfer such person for a term.

(2) Transfer of a person for a term shall take place upon mutual written agreement of the competent authorities.

[29 June 2008]

#### **Section 689. Frameworks of the Criminal Liability and of the Execution of a Sentence of a Person Extradited by a Foreign Country**

(1) A person may be held criminally liable, tried and a sentence may be executed only for 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 country has been received for criminal prosecution, and trial, 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 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 country only with the consent of the extraditing country.

(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 sentence has been determined for a person on the basis of a totality of criminal offences or on the basis of several judgments, but such sentence has been issued only regarding part of such offences or judgments, the court that determined the final sentence shall determine the executable part of the sentence in accordance with the procedures provided for in Division Sixteen of this Law.

[29 June 2008]

#### **Section 690. Inclusion of the Time Spent under Arrest in a Foreign Country**

(1) The term of arrest 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, upon request of Latvia, under arrest in a foreign country shall be included in the term of a sentence.

#### **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 on the basis of a decision taken by the Office of the Prosecutor General on issuance of a European arrest warrant (hereinafter - the European arrest warrant).

(2) A European arrest warrant is a ruling of a judicial authority of a European Union Member State that has been made in order for another Member State to extradite a person for the commencement or performance of criminal prosecution or for the execution of a sentence related to imprisonment.

[21 October 2010]

#### **Section 692. Procedures for the Taking of a European Arrest Warrant**

(1) If the conditions referred to in Section 682 of this Law have been established, the person directing the proceedings or the court, which controls the execution of a judgment or decision to full extent, or the court, which decides on the substitution of punishment with imprisonment, shall turn to the Office of the Prosecutor General with a written proposal to take a European arrest warrant.

(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) The Office of the Prosecutor General shall examine a proposal within 10 days, and inform the submitter of the proposal regarding the decision taken. If a person has been detained in a European Union Member State, the proposal shall be reviewed within 24 hours.

(4) [21 October 2010]

(5) [21 October 2010]

(5<sup>1</sup>) [21 October 2010]

(6) If grounds for taking a European arrest warrant have been established, the Office of the Prosecutor General shall take a European arrest warrant, which shall not be subject to appeal.

[29 June 2008; 12 March 2009; 11 June 2009; 21 October 2010; 20 December 2012]

#### **Section 693. European Arrest Warrant**

[22 November 2007]

#### **Section 694. Execution of a European Arrest Warrant**

(1) If the whereabouts of a requested person are known, the Office of the Prosecutor General shall send a European arrest warrant to the competent authority 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 warrant has been taken for the criminal prosecution of a person, the Office of the



Prosecutor General may, on the basis of a proposal of the person directing the proceedings and up to the time when a Member State takes a decision on extradition or non-extradition of a person, request that the competent judicial authority of the Member State:

- 1) interrogate the person, with the participation of the person directing the proceedings;
- 2) transfer the person for a term, agreeing regarding the time of return.

(3) If the whereabouts of a requested person are unknown, the Office of the Prosecutor General shall send a copy of a European arrest warrant to the State Police for ensuring of the international search.

(3<sup>1</sup>) If a Member State requests to guarantee that a person extradited by a Member State after conviction in Latvia will be returned for serving a custodial sentence, such guarantee shall be issued by the Prosecutor General's Office.

(4) The State Police shall take over a person within 10 days from the day when a decision was taken on 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 24 hours regarding the conveyance of a person to Latvia. The takeover of a person shall take place in accordance with the procedures laid down in Section 687, Paragraphs two, three and four of this Law.

[11 June 2009; 18 February 2016]

#### **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 referred to in Paragraph one of this Section, a person may also be held criminally liable, tried and a sentence may be executed for 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 sentence that is not related to the imprisonment;

2<sup>1</sup>) a person in the Member State of the European Union has agreed with it;

3) the person has agreed thereto after takeover of such person in Latvia, and such consent was accepted by a prosecutor in the presence of an advocate, entering such acceptance in the minutes;

4) within 45 days after release, the person has not left Latvia even though there was such an opportunity;

5) the person has left Latvia after release and has returned there.

[29 June 2008; 11 June 2009; 30 March 2017]

## **Chapter 66 Extradition of a Person to a Foreign Country**

#### **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, trial, or the execution of a judgment, if a request has been received for temporary arrest or from a foreign country to extradite such person regarding an offence that, in accordance with the law of Latvia and the foreign country, is criminal.

(2) A person may be extradited for criminal prosecution, or trial, regarding an offence the committing of which provides for a custodial sentence the maximum limit of which is not less than one year, or a more serious sentence, if the international agreement does not provide otherwise.

(3) A person may be extradited for the execution of a judgment by the country that rendered the judgment and convicted the person with a custodial sentence for a term of not less than four months, if the international agreement does not provide otherwise.

(4) If extradition has been requested for several criminal offences, but extradition may not be applied for one of such offences because such offence does not comply with the conditions for the possible or imposed sentence, the person may also be extradited for such criminal offence.

[11 June 2009; 24 May 2012]



### **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 country requests the extradition of a person for the execution of a sentence imposed in a judgment by default, and a sufficient guarantee has not been received that the extradited person will have the right to request the re-trial of the case;
- 6) extradition has been requested by a foreign country 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 purpose 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 to believe that the rights of the person may be violated due to the referred to reasons;
- 3) a court ruling 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 for the same criminal offence, be held criminally liable, tried, or execute a sentence in connection with a limitation period, amnesty, or another legal basis;
- 5) the person has been granted clemency, in accordance with the procedures laid down in law, regarding the same criminal offence;
- 6) the foreign country does not provide a sufficient bail that such country will not impose the death sentence on such person and execute such sentence;
- 7) the person may be threatened with torture in the foreign country;
- 8) the execution of the request to extradite a person may harm the sovereignty, security, social order, or other substantial interests of the State of Latvia.

(3) An international agreement may provide for other reasons for a refusal of extradition.

[18 February 2016]

### **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 detained or placed under arrest for the purpose of extradition.

(2) A person to be extradited has the following rights:

- 1) to know who and regarding what has requested his or her extradition;
- 2) to use a language that he or she understands in the extradition proceedings;
- 3) to provide explanations in connection with extradition and agree or disagree with extradition;
- 4) to submit requests, also requests regarding a simplified extradition;
- 5) to familiarise himself or herself with all materials of the examination;
- 6) to retain an advocate for the receipt of legal assistance and to meet the advocate in circumstances that ensure confidentiality of conversations;
- 7) to receive the list of advocates who practice in the relevant court district, as well as to use telephone free of charge to retain the advocate;

8) to request that his or her immediate family, educational institution or employer is notified regarding his or her detention;

9) to apply a request that an advocate is appointed in the country which rendered the European arrest warrant.

(3) A foreigner may request that the diplomatic or consular mission of his or her country is notified regarding his or her detention.

[23 May 2013; 18 February 2016]

#### **Section 699. Detention of a Person for the Purpose of Extradition**

(1) An investigator or prosecutor may detain a person for up to 72 hours for the purpose of extradition, if there are sufficient grounds to believe that such person has committed a criminal offence in the territory of another country regarding which extradition has been provided for, or if the a foreign country has announced a search for such person and issued a request for temporary arrest or extradition.

(2) An investigator or prosecutor shall write a protocol regarding the detention of a person for the purpose of extradition, indicating therein the given name, surname, and other necessary personal data of the detained person, the reason for the detention, as well as when such person was detained and who detained such person. The detaining person and the person to be extradited shall sign the detention protocol.

(3) A detaining person shall inform a person to be extradited and issue to him or her an excerpt from Section 698 of this Law regarding the rights determined for such person, and an entry regarding it shall be made in the detention protocol.

(4) The Office of the Prosecutor General shall be informed immediately, but not later than within 24 hours, regarding the detention of a person by sending to such Office the detention documents of such person. The Office of the Prosecutor General shall inform the country that announced a search for the person.

(5) If temporary or extradition arrest has not been applied within 72 hours from the moment of the detention of a person, the detained person shall be released or another security measure shall be applied.

[23 May 2013]

#### **Section 699.<sup>1</sup> Application of a Security Measure not Related to Deprivation of Liberty to a Person to be Extradited**

(1) A prosecutor by taking into account the nature and harmfulness of such criminal offence for which extradition of a person is requested, the personality, health of the person to be extradited, and other significant circumstances, may apply the security measures not related to deprivation of liberty referred to in Section 243 of this Law until transfer of the person to be extradited to a foreign country.

(2) A prosecutor shall apply a security measure not related to deprivation of liberty by a reasoned written decision in accordance with the procedures laid down in Section 245 of this Law. A decision to apply such security measure shall not be subject to appeal.

(3) If a person to be extradited violates the provisions of the security measure applied or there are grounds for assuming that he or she may hinder the course of extradition proceedings, the prosecutor is entitled, until the transfer of the person to be extradited to a foreign country, to choose and apply another, more restrictive security measure or to address an investigating judge with a proposal regarding application of temporary arrest or extradition arrest.

(4) In order to ensure that a person to be extradited in the case referred to in Paragraph three of this Section is delivered to the investigating judge, the prosecutor or investigator upon assignment of the prosecutor may detain the person to be extradited in accordance with the procedures laid down in Section 699 of this Law.

[18 February 2016]

#### **Section 700. Grounds for the Application of Temporary Arrest**

(1) Temporary arrest may be applied to a person to be extradited upon request of a foreign country regarding temporary arrest and up to the receipt of an extradition request.

(2) If a request regarding temporary arrest indicates a decision of a foreign country on arrest of the person or a valid judgment in relation to such person, or indicates that the foreign country 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 prosecutor shall submit a proposal regarding the application of temporary arrest and materials justifying such proposal to the investigating judge in whose territory of operation the person has been detained or the Office of the Prosecutor General is located.

### **Section 701. Application of Temporary Arrest**

(1) A judge shall decide on the application of temporary arrest in a court hearing, with the participation of a prosecutor and the person to be extradited.

(2) Having heard a 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 arrest shall be applied for 40 days from the day of the detention of a person, if an international agreement does not specify otherwise.

(4) A prosecutor may release a person from temporary arrest, if a request of a foreign country regarding the extradition of such person, or a report regarding justified reasons for the delay of such request, has not been received within 18 days after detention.

(5) A prosecutor shall release a person from temporary arrest, if:

- 1) an extradition request is not received within 40 days;
- 2) an extradition arrest is not applied within 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 placing under arrest or extradition of such person, if a request regarding extradition is received later.

### **Section 702. Extradition Arrest**

(1) An extradition arrest may be applied after a request regarding the extradition of a person has been received along with the following:

- 1) a request of a foreign country regarding the arrest of such person or a judgment that has entered into effect in relation to the specific person;
- 2) a description of a criminal offence or a decision to hold 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 text 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 an application for an extradition arrest and the materials that justify such application to an investigating judge in whose territory of operation the person was detained or the Office of the Prosecutor General is located.

(3) An application for an extradition arrest shall be examined in accordance with the same procedures as a request regarding temporary arrest.

(4) If a person to be extradited is placed under arrest in Latvia or serving a sentence in Latvia imposed for the committing of another criminal offence, the term of the extradition arrest shall be counted from the moment of the releasing of the person.

(5) The term of the arrest 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 country, if such term is less than one year, counting from the moment of the application of the detention or arrest.

[18 February 2016]

### **Section 702.<sup>1</sup> Control of Application of an Extradition Arrest**

(1) A person to be extradited, his or her representative or defence counsel may, at any time, submit an application to an investigating judge regarding an assessment of the necessity of a subsequent application of extradition arrest.

(2) An application regarding an assessment of the necessity of a subsequent application of extradition arrest may be refused without an examination thereof in oral procedure, if less than two months have passed since the last assessment of the necessity of the application of extradition arrest, and the proposal is not justified with information regarding facts that were not known to an investigating judge in deciding regarding the application of extradition arrest or during the previous examination of the application. An investigating judge shall examine such application in a written procedure without participation of persons involved in the procedure.

(3) If an application regarding an assessment of the necessity of a subsequent application of extradition arrest is

examined in the oral procedure, the prosecutor, the person to be extradited, his or her representative and advocate shall participate in the court hearing.

(4) If the person to be extradited, his or her representative or advocate has not, within two months, submitted an application regarding an assessment of the necessity of a subsequent application of extradition arrest, such assessment shall be performed by an investigating judge.

(5) The decisions provided for in this Section shall not be subject to appeal.

[18 February 2016]

### **Section 703. Informing a Foreign Country Regarding Arrest**

The Office of the Prosecutor General shall inform the country that submitted a request regarding the arrest, or release from arrest, of a person to be extradited.

### **Section 704. Examination of an Extradition Request**

(1) Having received a request of a foreign country regarding the extradition of a person, the Office of the Prosecutor General shall commence an examination of such request. A 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 country the necessary additional information for determining the term for the submission of information.

(2<sup>1</sup>) In performing an examination of an extradition request, the Prosecutor General's Office may send to the Ministry of Foreign Affairs and State security institutions a request to provide an opinion in order to ascertain whether extradition is requested due to a political criminal offence or the extradition request of a person is related to the purpose of commencing criminal prosecution of such person or of punishing such person due to his or her political beliefs. The term for submitting information shall be indicated in the request.

(2<sup>2</sup>) When examining the extradition request and finding that the foreign country has submitted a request for the extradition of a citizen of the European Union Member State, a prosecutor shall send information to the country of citizenship of the person regarding the possibility for the submission of the European arrest warrant and specify a deadline for the submission of the European arrest warrant.

(3) An examination shall be completed within 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 prosecutor shall acquaint a person to be extradited with the extradition request within 48 hours from the moment of the receipt thereof, and provide the relevant person with the opportunity to provide explanations. If the person to be extradited has not been detained or placed under arrest and within 48 hours from the moment of the receipt of an extradition request a prosecutor has encountered the conditions referred to in Section 697, Paragraph two of this Law, the extradition request shall be presented to the person within 20 days.

(5) During extradition process until transfer of the person to be extradited to the foreign country the prosecutor may perform all investigative actions provided for in criminal proceedings and take procedural decisions, unless it has been laid down otherwise in this Law.

[29 June 2008; 18 February 2016; 27 September 2018]

### **Section 705. Completion of an Examination**

(1) Having assessed the grounds and admissibility for the extradition of a person, a prosecutor shall take a reasoned decision on following:

- 1) the admissibility of the extradition of the person;
- 2) a refusal to extradite the person.

(2) If a decision has been taken on admissibility of the extradition of a person, a copy of the decision shall be issued to such person.

(3) The decision on admissibility of the extradition shall not be subject to appeal.

(3<sup>1</sup>) A prosecutor shall submit the decision on admissibility of the extradition to the Prosecutor General together with examination materials.

(4) The Office of the Prosecutor General shall notify the relevant person and foreign country regarding a decision on refusal to extradite a person. The prosecutor shall release such person, without delay, from temporary or extradition arrest, but if the person has been applied a security measure not related to deprivation of liberty - it shall be revoked.

(5) If a decision to refuse to extradite a person has been taken on the basis of the fact that the person is a citizen of Latvia, a prosecutor shall transfer the extradition request to a competent investigating institution for initiating criminal proceedings.

[18 February 2016]

#### **Section 705.<sup>1</sup> Decision to Extradite a Person to a Foreign Country**

(1) After receipt of the decision of a prosecutor on admissibility of the extradition and examination materials the Prosecutor General shall take one of the following decisions:

1) to extradite a person to a foreign country;

2) to refuse to extradite a person;

3) to revoke the decision of the prosecutor on admissibility of the extradition and to transfer the extradition request for additional examination.

(2) A person to be extradited may appeal the Prosecutor General's decision on admissibility of the extradition to a foreign country to the Supreme Court within 10 days from the day of receipt thereof. If the decision is not appealed, it shall enter into effect.

(3) A decision of the Prosecutor General to refuse to extradite a person or a decision of the Prosecutor General to extradite a person to a foreign country which has entered into effect, shall be notified by the Office of the Prosecutor General to the relevant person and foreign country without delay.

(4) As soon as a decision to refuse to extradite a person is taken, the Office of the Prosecutor General shall release the person from arrest without delay or revoke another security measure not related to deprivation of liberty.

(5) A decision of the Prosecutor General to extradite a person to a foreign country which has entered into effect shall be handed over by the Office of the Prosecutor General to the State Police for execution.

[18 February 2016]

#### **Section 706. Examination of a Complaint Regarding a Decision to Extradite a Person**

(1) A panel of three judges of the Supreme Court shall examine a complaint regarding a decision to extradite a person to a foreign country.

(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 examination 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 examination of the complaint and the right to participate in the court hearing. 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 examination of the complaint.

(5) If the advocate of a person to be extradited has not arrived, without a justified reason, another advocate shall be summoned for the provision of legal assistance, if the person wishes to receive legal assistance.

[11 June 2009; 19 December 2013; 18 February 2016]

#### **Section 707. Court Decisions**

(1) Having heard the submitter of a complaint, his or her advocate, and a prosecutor, a court shall retire to deliberate, and take one of the following decisions:

1) to leave a decision to extradite a person to a foreign country unamended;

2) to revoke a decision to extradite a person to a foreign country;

3) to transfer the extradition request for additional examination.

(2) A court decision shall not be subject to appeal.

(3) A court shall send the decision and materials to the Office of the Prosecutor General, as well as inform the relevant person regarding the decision taken.

(4) If a court revokes a decision to extradite a person to a foreign country, the relevant person shall be, without delay, released from arrest, but if another security measure not related to deprivation of liberty has been applied to the person - it shall be revoked.

(5) The Office of the Prosecutor General shall inform the foreign country regarding the court decision.

(6) If a court decides to leave a decision to extradite a person to a foreign country unamended, the Office of the Prosecutor General shall transfer the relevant decision to the State Police for execution.

[18 February 2016]

#### **Section 708. Decision to Extradite a Person to a Foreign Country**

[18 February 2016]

#### **Section 709. Extradition upon Request of Several Countries**

(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 merged in one proceedings, if a decision on 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 to extradite a person has been taken, a request received later shall not be satisfied. The country that submitted the request shall be notified thereof.

(3) If a decision on admissibility of extradition has entered into effect at the moment of the receipt of a request of another foreign country, such decision shall not be advanced for taking of a decision to extradite a person to a foreign country until completion of examination of a request received later.

(4) If several foreign countries have requested extradition, the Prosecutor General shall, taking into account the nature of the offence, the place of the committing thereof, and the order of receipt of the requests, determine the country to which the person shall be extradited.

[18 February 2016]

#### **Section 710. Transfer of a Person being Extradited**

(1) The State Police shall inform a foreign country regarding the time and place of the transfer of a person being extradited, and also regarding the term during which the person was being held under arrest.

(2) The State Police shall agree with a foreign country regarding another transfer date, if transfer may not take place on the previously laid down date due to reasons that are independent of the will of the countries.

(2<sup>1</sup>) In order to ensure transfer of such person to be extradited to whom extradition arrest has not been applied, the investigator with a consent of a prosecutor shall detain the person to be extradited in accordance with the procedures laid down in Section 699 of this Law.

(2<sup>2</sup>) If transfer of a person to be extradited may not take place within 72 hours from the moment of detaining the person, a prosecutor shall submit a proposal regarding application of extradition arrest to the investigating judge in whose territory of operation the person has been detained or the Prosecutor General's Office is located.

(3) If a foreign country does not take over a person being extradited within 30 days from the specific date of extradition, a prosecutor shall release such person from arrest.

[18 February 2016]

#### **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 sentence imposed on such person must be executed, in Latvia after a decision has been taken on extradition of the person, the Prosecutor General may, in accordance with this Paragraph of the Law, defer the transfer of the requested person to the foreign country.

(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 country, and such transfer does not interfere with the conduct of court proceedings in Latvia, the Prosecutor General may transfer a person to a foreign country for a term, determining the term for return transfer.

[18 February 2016]

#### **Section 712. Repeated Extradition**

If an extradited person evades criminal prosecution or a punishment in a foreign country and has returned to Latvia, such person may be repeatedly extradited upon request of the foreign country and on the basis of a previously taken decision on extradition.

#### **Section 713. Simplified Extradition**

(1) A person may be extradited to a foreign country 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) [29 June 2008].

(1<sup>1</sup>) A person being extradited has the right to waive his or her rights to be held criminally liable and tried only for the criminal offences regarding which he or she is being extradited.

(2) A person being extradited shall certify his or her consent for extradition in accordance with simplified procedures and waiving of his or her rights to be held criminally liable and tried only for the criminal offences regarding which he or she is being extradited, to a prosecutor in the presence of an advocate before a decision is taken on admissibility of extradition.

(3) After receipt of consent, a 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.

(3<sup>1</sup>) A person being extradited may withdraw his or her consent for extradition in accordance with simplified procedures in accordance with Paragraph four of this Section and waiving of his or her rights to be held criminally liable and tried only for the criminal offences regarding which he or she is being extradited, - until transfer of the person being extradited.

(4) The Prosecutor General shall take one of the following decisions:

1) on extradition of a person;

2) on refusal to extradite a person;

3) on non-application of simplified extradition.

(5) A decision taken by the Prosecutor General shall not be subject to appeal.

(6) A foreign country 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 State Police for execution.

[29 June 2008; 24 May 2012; 18 February 2016]

#### **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, trial, and the execution of a judgment, if the foreign country has taken a European arrest warrant 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 to this Law, and if, regarding the committing of such offence, a custodial sentence is provided for in the country that took the European arrest warrant the maximum limit of which 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 warrant has been taken in a foreign country 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 conviction thereof, for the serving of a custodial sentence imposed on such person. Execution of the imposed sentence shall take place in accordance with the procedures laid down 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 for the same criminal offence, be held criminally liable, tried, or have a sentence executed due to a limitation period;

3) the offence has been committed outside of the territory of the country that has taken a European arrest warrant, 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 criminally liable, tried, or punished in connection with amnesty;

2) the person has been convicted for the same criminal offence and has served or is serving a sentence in one of the European Union Member State, or such sentence 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 sentence imposed by a European Union Member State.

#### **Section 715. Conditions Related to the Extradition of a Person to a European Union Member State**

(1) The person being extradited has the rights determined in Sections 60.<sup>2</sup> and 698 of this Law and an extract regarding them shall be issued to such person in accordance with Section 699, Paragraph three of this Law, as well as the right to be held criminally liable and be tried only for criminal offences regarding which he or she is being extradited, except for the cases provided for in Section 695, Paragraph two of this Law. Before completing verification of the request for extradition the person being extradited shall be provided with a written translation of the European arrest warrant in the language comprehensible to him or her.

(1<sup>1</sup>) If the person being extradited submits a request that an advocate is appointed in the country that rendered the European arrest warrant, the Prosecutor General's Office shall inform the relevant country of such request without delay.

(2) A person being extradited shall certify his or her consent for extradition and waiving of his or her rights to be held criminally liable and tried only regarding the criminal offences regarding which he or she is being extradited, to a prosecutor in the presence of an advocate, and a protocol shall be written regarding such certification.

(3) If a person being extradited is a Latvian citizen, such person has the right to waive the rights that guarantee that the Latvian citizen, after conviction thereof in a European Union Member State, be transferred back to Latvia for the serving of an imposed sentence. If a citizen of Latvia does not waive such rights, the Office of the Prosecutor General shall request the referred to guarantee to the country which has taken a European arrest warrant.

(3<sup>1</sup>) If a person being extradited was not informed beforehand that criminal proceedings have been initiated against him or her in a European Union Member State and a judgment was taken in his or her absence (in absentia), such person may request that a copy of the judgment is issued to him or her. Upon request of the person being extradited the Office of the Prosecutor General shall request the relevant European Union Member State to ensure the availability of the judgment. Such request of the person being extradited shall not delay his or her extradition.

(4) The course of the term of the execution of a European arrest warrant in relation to a person who has immunity from criminal proceedings shall commence from the moment when such person loses the immunity in accordance with the procedures laid down in law. The proposal to revoke immunity from criminal proceedings shall be submitted to the competent authority by the Office of the Prosecutor General.

(5) Latvia shall accept European arrest warrants for execution in the Latvian or English language.

[29 June 2008; 11 June 2009; 24 May 2012; 23 May 2013; 18 February 2016; 27 September 2018]

#### **Section 716. Examination in Relation to the Extradition of a Person to a European Union Member State**

(1) Having received a European arrest warrant, the Office of the Prosecutor General shall organise an examination thereof.

(2) A prosecutor shall conduct an examination in accordance with the procedures laid down in Section 704 of this Law by ascertaining whether grounds exist for the extradition of a person and whether the reasons specified in Section 714 of this Law exist for a refusal of the extradition of the person.

(2<sup>1</sup>) If a person agrees to the extradition, an examination shall be completed within 10 days from the day of receipt of a European arrest warrant.

(3) If the Office of the Prosecutor General has simultaneously received extradition requests from the third countries and a European arrest warrant from European Union Member States in relation to one and the same person, the examination of such decision shall be merged in a single proceeding, if a decision has not been taken on extradition of the person or on refusal to extradite the person. In examining simultaneously received requests regarding the extradition of a person, and in deciding a matter regarding which country 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.

[11 June 2009]

#### **Section 717. Detention and Placing under Arrest of a Person to be Extradited to a European Union Member State**

(1) The detention of a person for the purpose of extradition shall take place in accordance with the procedures laid down in Section 699 of this Law, if there is sufficient grounds to believe that he or she has committed a criminal offence in the territory of another country regarding which extradition is provided for or, if a European arrest warrant 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 arrest and a European arrest warrant to the district (city) court in the territory of operation of which the person was detained or the Office of the Prosecutor General is located.

(3) An extradition arrest shall be applied in accordance with the procedures laid down in Section 701 of this Law for 80 days from the day of the detention of a person taking into account the provisions of Section 702, Paragraph four of this Law. 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 authority of the country that took a European arrest warrant regarding the reason for the delay in the execution of the decision.

[29 June 2008; 11 June 2020]

#### **Section 718. Temporary Operations up to the Taking of a Decision**

If a European Union Member State has taken a European arrest warrant in order to ensure the criminal prosecution of a person, the Office of the Prosecutor General shall, before a decision is taken on extradition or non-extradition of the person and upon request of the competent judicial authority of the Member State, interrogate 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 Country**

(1) An extradited person may be transferred further to another European Union Member State in cases where the country, in extraditing the person, had agreed to the further extradition of such person.

(2) If a European arrest warrant has been received in relation to a person who has been extradited to Latvia by another country without giving consent for the further extradition of the person, the Office of the Prosecutor General shall turn to the country 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 to Extradite a Person to a European Union Member State**

(1) The Office of the Prosecutor General shall take a decision on extradition or non-extradition of a person to a foreign country. The decision to extradite 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 on extradition to the Supreme Court within 10 days from the day of the receipt thereof.

(3) The Supreme Court shall examine a complaint regarding a decision of the Office of the Prosecutor General in accordance with the procedures laid down in Sections 706 and 707 of this Law, and send the taken decision to the Office of the Prosecutor General within 20 days from the day of the receipt of the complaint.

[29 June 2008; 11 June 2009; 19 December 2013]

#### **Section 720.<sup>1</sup> Consent of the Competent Authority of Latvia for Further Extradition, Criminal Prosecution and Trial of a Person**

The competent authority shall, within 20 days after receipt of a request of a European Union Member State, decide on a consent for further extradition of an extradited person to a European Union Member State, as well as for criminal prosecution, trial and execution of a sentence for other offences committed before extradition.

[11 June 2009]

#### **Section 721. Execution of a Decision to Extradite a Person to a European Union Member State**

(1) The Office of the Prosecutor General shall, without delay, send to the State Police for execution a decision that has entered into effect to extradite a person.

(2) The execution of a decision for the extradition of a person shall take place in conformity with the conditions provided for in Section 710, Paragraphs one and two of this Law.

(3) After taking the decision to extradite 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 specific 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 transfer of the person. Upon mutual agreement with the Member State which takes the European arrest warrant, the Office of the Prosecutor General may temporarily transfer the person.

(4) If a person has not been taken over within 10 days from the day when a decision to extradite him or her was taken, 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 arrest.

(5) If a decision has been taken on non-extradition of a person, the Office of the Prosecutor General shall inform the competent judicial authority of a Member State regarding such decision.

[29 June 2008; 18 February 2016]

#### **Section 722. Transfer of Objects to a European Union Member State**

(1) The Office of the Prosecutor General shall withdraw and transfer the following objects to a European Union Member State upon request of the Member State or upon 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 or which a suspected person has obtained as a result of offence shall be transferred even if a European arrest warrant 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.

[11 June 2009]

## **Division Fifteen Takeover of Criminal Proceedings**

### **Chapter 67 Takeover in Latvia of Criminal Proceedings Commenced in a Foreign Country**

#### **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 country, upon request of the foreign country or with the consent thereof, if such continuation is required by procedural interests and the offence is punishable in accordance with the Criminal Law.

#### **Section 724. Competent Authority in the Takeover of Criminal Proceedings**

(1) In the pre-trial criminal proceedings, the Office of the Prosecutor General shall examine and decide requests regarding the takeover of criminal proceedings.

(2) In the trial of a criminal case, the Ministry of Justice shall examine and decide requests regarding the takeover of criminal proceedings.

[12 March 2009; 29 May 2014]

#### **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 country regarding the takeover of criminal proceedings (hereinafter also - the 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 - the request for the transfer of criminal proceedings), and the consent of a foreign country 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 - the 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 grounds for the continuation of proceedings in accordance with the procedures provide for in Latvian law.

(3) If extradition of a person is refused on the basis of Section 697, Paragraph two, Clause 1 of this Law, the request of taking over criminal proceedings or the request to transfer criminal proceedings shall be executed as defined in this Chapter.

[18 February 2016]

#### **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;

2) a limitation period of criminal liability has entered 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 grounds for holding a person suspect or accusing a person in the committing of an offence;

4) a final ruling has been made 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 country with which Latvia does not have an agreement on the mutual recognition and execution of court judgments rendered in criminal proceedings, and, in addition, such country has the opportunity to execute an imposed sentence 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 to believe 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 country that submitted the request;

5) the takeover of criminal proceedings would be in contradiction to the international obligations of Latvia toward another country;

6) the continuation of proceedings does not comply with the principles of the judicial system of Latvia;

7) Latvia does not have an agreement regarding the takeover of criminal proceedings with the country of the submitter of the request.

#### **Section 727. Terms for Examination of a Request for the Takeover of Criminal Proceedings**

(1) A request for the takeover of criminal proceedings shall be decided within 10 days, and, if the amount of material is particularly large, such request shall be decided within 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 receipt of the translation within the terms provided for in Paragraph one of this Section.

(3) If additional information is necessary for deciding, competent authorities shall request such additional information from the country of the submitter of the request. After receipt of additional information, a matter shall be decided within the terms provided for in Paragraph one of this Section.

(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, the competent authority shall immediately inform the victim and take a decision after receipt of the consent or refusal of the victim. If the victim has not provided an answer within 30 days, proceedings may be terminated.

#### **Section 728. Deciding of a Request for the Takeover of Criminal Proceedings**

(1) Having examined a request of a foreign country, necessary documents, and additional information, if such information was requested, the competent authority shall take one of the following decisions:

- 1) on takeover of criminal proceedings and the transfer thereof for the conduct of proceedings;
- 2) on rejection of a request for the takeover of criminal proceedings.

(2) The decision referred to in Paragraph one of this Section shall be immediately sent, together with a translation thereof, to the country that submitted the request.

#### **Section 729. Request of Latvia Regarding the Transfer of Criminal Proceedings**

(1) If criminal proceedings are taking place in another country simultaneously with criminal proceedings in Latvia regarding the same offence, competent authorities may submit to the foreign country 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 country, and the relevant person has been transferred to a court or convicted, the competent authority 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 prosecutor shall decide, within 10 days, whether evidence is sufficient for the holding of a person criminally liable in accordance with the Criminal Law, and shall pursue prosecution or transfer criminal proceedings for the investigation.

(3) If a prosecution has not been pursued in another country against a person, criminal proceedings shall be transferred for the investigation.

(4) Subsequent criminal proceedings shall take place in accordance with general procedures.

[12 March 2009]

#### **Section 731. Withdrawal of a Takeover of Criminal Proceedings**

(1) The person directing the proceedings shall submit a reasoned proposal regarding a withdrawal of the takeover of criminal proceedings to the same competent authority that took a decision on the takeover of criminal proceedings, if reasons are discerned that exclude a takeover of criminal proceedings.

(2) The competent authority shall decide within 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 the takeover of criminal proceedings, the competent authority shall inform the person directing the proceedings thereof and assign him or her to revoke all applied compulsory measures, and to decide actions with material evidence.

(4) The competent authority shall immediately inform the country that submitted a request for the withdrawal of a takeover of criminal proceedings, and shall send materials of criminal case to such country.

(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 country that submitted a request. In other cases, evidence shall not be transferred if investigative actions are not able to be

performed upon request of a foreign country regarding assistance in criminal proceedings.

### **Section 732. Temporary Arrest before the Receipt of a Request for a Takeover of Criminal Proceedings**

(1) If a foreign country notifies regarding the intention thereof to submit a request for taking over criminal proceedings, and requests the application of temporary arrest before the receipt thereof, the competent authority shall turn to the investigating judge with a proposal to place a person under arrest 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 country on application of arrest;
- 2) The Criminal Law provides a custodial sentence for the relevant offence;
- 3) there are grounds to believe that the suspect or the accused will evade participation in criminal proceedings or will hide evidence.

(2) A person placed under arrest in accordance with the procedures laid down in Paragraph one of this Section may be released, if:

- 1) a request for a takeover of criminal proceedings has not been received within 18 days from the day of the application of detention or temporary arrest;
- 2) documents to be attached have not been received within 15 days from the day of the receipt of the request;
- 3) a decision has not been taken on application of a security measure - arrest in the taken-over criminal proceedings within 40 days from the day of the application of detention or temporary arrest;
- 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 under arrest.

### **Section 733. Temporary Arrest after 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 grounds to believe that the person who is suspected, or is accused, in the committing of an offence will evade pre-trial criminal proceedings or court, or will hinder the ascertaining of the truth in the case, the competent authority shall request the investigating judge to apply temporary arrest.

(2) A person who has been placed under arrest in accordance with this Section may be released from temporary arrest, if:

- 1) a request to takeover criminal proceedings has not been decided within 40 days from the day of the application of detention or temporary arrest;
- 2) a decision has not been taken on application of a security measure - arrest in the taken-over criminal proceedings within 40 days from the day of the application of detention or temporary arrest;
- 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 under arrest.

[12 March 2009]

### **Section 734. Detention in order to Decide a Matter Regarding Temporary Arrest**

(1) If the competent authority considers the application of temporary arrest as necessary, such institution may assign the police to detain 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 detention of a person, which shall indicate the precise time and place of the detention, as well as reflect the explaining of the rights of the detained person. The detaining person and the detained person, as well as an advocate, if he or she participates, shall sign the protocol.

(3) If temporary arrest is not applied to a detained person at the time indicated in Paragraph one of this Section, such person may be released.

### **Section 735. Procedures for the Application of Temporary Arrest**



(1) The competent authority shall submit a proposal regarding temporary arrest 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 detained.

(2) A judge shall decide on the application of temporary arrest in a court hearing in which a representative of the competent authority, a prosecutor, and the person to be placed under arrest participate.

(3) Having heard a representative of the competent authority, a prosecutor, a person to be placed under arrest and his or her advocate, if he or she participates, a judge shall take a reasoned decision.

(4) The competent authority shall inform the submitter of a request regarding the application of temporary arrest and regarding release from temporary arrest.

#### **Section 736. Rights of a Person Suspected or Accused of an Offence**

(1) If a person who is suspected or accused in a foreign country regarding the committing of an offence resides in Latvia, and such offence is under the criminal jurisdiction of Latvia only because the foreign country requests a takeover of criminal proceedings, the competent authority 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 country 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 acquire 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, the competent authority may apply any procedural compulsory measure as such institution would be permitted to use also without the receipt of a request of a foreign country, if the offence were under the jurisdiction of Latvia.

(2) All compulsory measures may be revoked, if a decision is taken on rejection of a request for a takeover of criminal proceedings, or if a takeover is withdrawn.

#### **Section 738. Inclusion of Time Spent under Arrest**

(1) The term of temporary arrest shall be counted from the moment of detention.

(2) The term that a person has spent under arrest during criminal proceedings taking place in another country shall not be included in the term of arrest in Latvia, but shall be included in the term of a sentence.

(3) If a person is held under arrest during the takeover of criminal proceedings, the term of arrest 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 under temporary arrest in Latvia shall be included in the term of a security measure.

#### **Section 739. Limit of Criminal Liability and Sentence in Taken-over Criminal Proceedings**

(1) Only the activities that are criminal in accordance with the laws of both countries shall be incriminated to an accused.

(2) An imposed sentence shall not be greater than the sentence provided for in the law of the country 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. Obligation to Inform the Country that Submitted a Request**

(1) The person directing the proceedings shall inform the competent authority that decided on the request for the 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) The competent authority shall inform the country that submitted a request for the taken final decision, as well as for 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 country, if there are grounds for holding a person suspect, or prosecuting a person, for the committing of an offence, but the successful and timely conduct of the criminal proceedings in Latvia is not possible or hindered, and, in addition, transfer to the foreign country 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 country in which the convicted person resides does not accept a judgment of another country for execution.

#### **Section 742. Competent Authorities**

(1) The Office of the Prosecutor General shall submit a request to a foreign country regarding the transfer of criminal proceedings during pre-trial proceedings.

(2) The Ministry of Justice shall submit a request to a foreign country regarding the transfer of criminal proceeding during a trial or after 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 country:

1) a request submitted by Latvia for taking over criminal proceedings, and the consent of a foreign country to takeover such criminal proceedings;

2) a request submitted by a foreign country 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 country.

#### **Section 744. Reasons for a Transfer of Criminal Proceedings**

(1) The person directing the proceedings shall consider the matter regarding the initiation of the transfer of criminal proceedings, if the conditions referred to in Section 741 of this Law exist, and:

1) the suspect, accused, or convicted person is a foreigner and permanently lives or resides in his or her country of citizenship;

2) the suspect, accused, or convicted person is located in a foreign country and his or her extradition is not possible or has been refused;

3) criminal proceedings are being conducted in a foreign country 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 country;

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, the person directing the proceedings shall submit to the competent authority a proposal to send a request for the takeover of criminal proceedings.

[18 February 2016]

#### **Section 745. Request for a Takeover of Criminal Proceedings**

(1) In addition to that which is indicated in Section 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 to hold 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 authorities.

(3) If a temporary arrest request has been submitted in a foreign country, a request for a takeover of criminal proceedings shall be submitted in as short a time as possible, but not later than on the fifteenth day after placing of a person under arrest.

(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 arrest has been applied to a person, such materials shall be submitted not later than on the twelfth day after submission of the request.

#### **Section 746. Consequences of the Submission of a Request for a Takeover of Criminal Proceedings**

(1) The competent authority shall inform the competent authority of a foreign country regarding each procedural action performed after submitting 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 country has been received regarding a takeover of criminal proceedings;
- 2) Latvia has given consent for a transfer to a foreign country 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 country have been terminated.

#### **Section 747. Arrest**

(1) If there are grounds to believe that a person will attempt to evade criminal proceedings in the country that received a request, the competent authority shall send a request for temporary arrest up to the submission of a request for a takeover of criminal proceedings.

(2) If a security measure - arrest - 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, the person directing the proceedings shall continue the necessary procedural actions up to the receipt of an answer of the country that received the request.

(3) If criminal proceedings have been renewed after transfer thereof, the term of arrest shall only include the term that a person spent under arrest in Latvia, and the entire term of arrest related to such offence shall be included in the term of a sentence.

#### **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 suspected 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 country regarding a transfer of criminal proceedings;

3) a foreign country with which a treaty for the transfer of criminal proceedings does not exist has provided a sufficient guarantee that the limits of a sentence and criminal liability specified in Section 739 of this Law will be complied with.

### **Division Sixteen**

## **Recognition of Judgments of a Foreign Country and Execution of Sentences**

[24 May 2012]

### **Chapter 69 General Provisions for the Execution in Latvia of a Sentence Imposed in a Foreign Country**

#### **Section 749. Content of the Execution of a Sentence Imposed in a Foreign Country**

(1) Execution of a sentence imposed in a foreign country shall be the recognition of the validity and legality of such sentence on an undisputed basis and execution according to the same procedures as in case where the sentence would have been specified in criminal proceedings taking place in Latvia.

(2) Recognition of the validity and legality of a sentence imposed in a foreign country shall not preclude its coordination with the sanction provided for in the Criminal Law for the same offence.

#### **Section 750. Conditions for the Execution of a Sentence Imposed in a Foreign Country**

(1) Execution of a sentence imposed in a foreign country shall be possible if:

- 1) the foreign country has submitted a request for the execution of the sentence imposed therein;
  - 2) the sentence in the foreign country has been specified by a valid ruling in terminated criminal proceedings;
  - 3) the limitation period has not set it for the execution of the sentence in the foreign country or Latvia;
  - 4) the person convicted in the foreign country is a Latvian citizen or his or her permanent place of residence is in Latvia, or he or she is serving a sentence related to imprisonment in Latvia and has been convicted with imprisonment or arrest in a foreign country, which could be executed right after serving of the sentence imposed in Latvia;
  - 5) the foreign country would not be able to execute the sentence, even by requesting extradition of the person;
  - 6) execution of the sentence of Latvia would promote resocialization of the person convicted in the foreign country.
- (2) Execution of a fine or confiscation of property applied in a foreign country shall be possible also if the person convicted in the foreign country owns a property or has other income in Latvia.

#### **Section 751. Reasons for Refusal of the Execution in Latvia of a Sentence Imposed in a Foreign Country**

The request for the execution of a sentence imposed in a foreign country may be refused if:

- 1) there is a reason to believe that the sentence has been imposed because of race, religious affiliation, nationality, gender or political views of the person, or if the offence may be deemed political or military;
- 2) execution of the sentence would be in contradiction with international commitments of Latvia to another country;
- 3) execution of the sentence may harm the sovereignty, security, public order or other essential interests of the State of Latvia;
- 4) a person convicted in a foreign country for the same offence could not be punished in accordance with the Criminal Law;
- 5) execution of the sentence would be in contradiction with the basic principles of the legal system of Latvia;
- 6) criminal proceedings for the same offence, for which a sentence has been imposed in a foreign country, are taking place in Latvia;
- 7) the sentence cannot be executed in Latvia;
- 8) the offence has not been committed in the foreign country, which imposed the sentence to be executed;
- 9) expenditure for the execution of the sentence are not commensurate with the seriousness of and harm caused by the criminal offence;
- 10) the foreign country itself is able to execute the judgment;
- 11) Latvia does not have a contract with the foreign country for the execution of sentences imposed in another country.

#### **Section 752. Time Limitations for the Execution of a Sentence**

(1) Execution of a sentence imposed in a foreign country shall be limited by both the time limitations for the execution of a sentence provided for in the Criminal Law and the time limitations for the execution of a sentence provided for in laws of the relevant foreign country.

(2) Circumstances affecting the running of limitation periods in a foreign country shall also affect it to the same extent in Latvia.

#### **Section 753. Inadmissibility of Double Trial**

A sentence imposed in a foreign country shall not be executed in Latvia, if a person convicted in the foreign country has served a sentence imposed in Latvia or a third country for the same offence, has been convicted without determination of a sentence, has been released by amnesty or clemency or has been acquitted for the same offence.

#### **Section 754. Procedures for Examination of a Request for the Execution of a Sentence Imposed in a Foreign Country**

(1) Having received a request of a foreign country for the execution of a sentence imposed therein, the Ministry of Justice shall, within 10 days, but if the amount of materials is particularly large within 30 days, verify whether all the necessary materials have been received.

(2) If translation of documents is necessary, verification of a request of a foreign country shall take place within

the time periods referred to in Paragraph one of this Section after receipt of translation.

(3) If several requests of foreign countries for the execution of a sentence imposed in such foreign countries in relation to the same person or property have been received concurrently, the Ministry of Justice shall combine the verification of such requests in one process.

(4) Upon a request verification materials shall be sent to a district (city) court for taking a decision to recognise the judgment of a foreign country and execution of a sentence in Latvia. The request shall be examined by a judge according to the place of residence of a convicted person in a foreign country. If the place of residence of the person is unknown, the request of the foreign country shall be examined by a judge of a district (city) court according to the location of the Ministry of Justice.

(5) If information provided by the foreign country is insufficient, the Ministry of Justice or a court with the intermediation of the Ministry of Justice may request additional information or documents, specifying a deadline for the submission thereof.

#### **Section 755. Examination of a Request Regarding Execution of a Sentence Imposed in a Foreign Country in the Absence of a Person (in absentia)**

(1) If a judgment has been rendered in a foreign country, except for a European Union Member State, in the absence of a person (in absentia) and Latvia has a contract with the foreign country regarding the execution of a sentence imposed in the absence of a person (in absentia), prior to taking a decision to recognise a judgment of a foreign country and execution of a sentence in Latvia a court shall issue a notification to the person convicted in the relevant foreign country, indicating that:

1) the request regarding the execution of a sentence has been submitted by a foreign country, with which Latvia has a contract on the execution of a sentence imposed in the absence of a person (in absentia);

2) the person convicted in the foreign country has the right, within 30 days from the day of receipt of the notification, to submit an application for examination in his or her presence in the relevant foreign country or Latvia of the case tried in his or her absence (in absentia);

3) the sentence will be conformed and executed in accordance with general procedures, if examination of the case in the presence of the person convicted in the foreign country or Latvia is not requested within 30 days or if the application is rejected due to non-arrival of the person.

(2) The person shall submit the application provided for in Paragraph one of this Section to a court. If the country of examination has not been indicated in the application, it shall be examined in Latvia.

(3) The Ministry of Justice shall send a copy of the notification to the relevant country with a note regarding issuance of the notification to the person convicted in the foreign country.

#### **Section 756. Submission of an Application of a Person Convicted in a Foreign Country in his or her Absence (in absentia) to the Relevant Foreign Country**

(1) If a person convicted in a foreign country in his or her absence (in absentia) submits an application within the specified deadline, requesting re-examination of the case in his or her presence in the foreign country, which imposed the sentence, a court shall postpone examination of the request of such country regarding execution of a sentence.

(2) If the application referred to in Paragraph one of this Section has been cancelled, recognised invalid or unacceptable, a court shall, after receipt of information, examine the request for the execution of a sentence imposed in the relevant foreign country according to the same procedures as if the case was examined in the presence of the person.

(3) If as a result of examining the application a judgment of conviction is repealed, a court with the intermediation of the Ministry of Justice shall send the request of the foreign country for the execution of a sentence undecided to the requesting country.

(4) If the person convicted in a foreign country in his or her absence (in absentia) is under temporary arrest upon request of the foreign country, such person shall be transferred to the relevant foreign country for examination of an application in his or her presence. In such case the country which imposed the sentence shall decide on the matter of further holding under arrest of such person.

(5) If the person convicted in a foreign country in his or her absence (in absentia) who has submitted an application to the country which imposed the sentence has been placed under arrest due to other criminal proceedings or is serving a sentence for other offence, a court with the intermediation of the Ministry of Justice shall inform the foreign country thereof and assign the State Police to co-ordinate the time when the person may be transferred to the relevant foreign country for participation in examination of the application.

(6) If the law of the foreign country allows it, the person convicted in such foreign country in his or her absence (in

absentia) may participate in examination of the application, using technical means. Participation, using technical means, shall not affect the procedural rights of the person convicted in the foreign country in the process taking place in such foreign country. If the person has retained an advocate of the foreign country for receipt of legal assistance, the advocate has the right to meet with the person in confidential conditions in Latvia and to participate in examination of the application, using technical means, together with the client.

(7) Retaining an advocate of the foreign country shall not affect the right of the person convicted in such foreign country in his or her absence (in absentia) to legal assistance in Latvia.

#### **Section 757. Submission of an Application of a Person Convicted in a Foreign Country in his or her Absence (in absentia) to Latvia and Procedures for Examination Thereof**

(1) If a person convicted in a foreign country in his or her absence (in absentia) requests examination of an application in a court of Latvia, the Ministry of Justice shall, without delay after receipt of information from the court, inform the relevant foreign country thereof.

(2) A summons to a court in a foreign country shall be issued to the person convicted in the foreign state in his or her absence (in absentia) not more than 21 days prior to the day of examination of the application, unless such person has expressed an explicit consent for the application of a shorter period of time.

(3) As a result of examination a court shall take one of the following decisions:

1) on rejection of the application due to non-arrival of the person and recognition of the judgment of the foreign country and execution of the sentence in Latvia;

2) on allowing the application of the person convicted in the foreign country in his or her absence (in absentia).

(4) Having taken the decision referred to in Paragraph three, Clause 2 of this Section, a court shall send it to the Ministry of Justice, which shall request the foreign country to send the necessary materials related to trial of the offence at the disposal of the foreign country, specifying the deadline by which materials should be sent. Having received the materials of the foreign country, the Ministry of Justice shall ensure their translation and assess them in accordance with the conditions and procedures referred to in Chapter 67 of this Law. If the person is placed under temporary arrest, the procedural time periods referred to in Section 732 of this Law shall be applied.

(5) The evidence obtained in accordance with the procedures laid down in the foreign country shall be assessed in the same way as the evidence obtained in Latvia.

#### **Section 758. Procedures for Examination of a Request for the Execution of a Sentence (ordonnance penale) Imposed in a Foreign Country According to Extrajudicial Procedures**

(1) In the cases provided for in international agreements, the sentence imposed in a foreign country in accordance with extrajudicial procedures shall be executed according to the same procedures as the sentence imposed as a result of trial.

(2) Having received a request for the execution in Latvia of the sentence imposed in accordance with extrajudicial procedures, a court shall issue a notification to the person upon whom a sentence has been imposed in a foreign country, indicating therein:

1) the request for the execution of a sentence imposed in a foreign country has been submitted by the foreign country, with which Latvia has a contract for the execution of the sentence imposed in other country in accordance with extrajudicial procedures;

2) within 30 days, the person may request examination of the case in a court in a foreign country or Latvia by submitting an application to the competent authority of Latvia;

3) the sentence will be conformed to and executed in accordance with general procedures, if examination of the case in the presence of the person is not requested within 30 days or the application is rejected due to non-arrival of the person.

(3) An application for the execution of a sentence imposed in accordance with extrajudicial procedures shall have the same consequences and subsequent procedures for examination as for an application if the sentence has been imposed in the absence of the person convicted in a foreign country (in absentia).

#### **Section 759. Recognition and Execution of a Sentence Imposed in a Foreign Country**

(1) A judge of a district (city) court shall, within 30 days, examine a request of a foreign country for the execution of a sentence imposed in the foreign country in a written procedure and, after evaluating the conditions and reasons for refusal, take one of the following decisions:

1) on consent to recognise the judgment and execute the sentence imposed in the foreign country;

2) on refusal to recognise the judgment and execute the sentence imposed in the foreign country.

(2) If a ruling of a foreign country applies to two or more offences, not all of which are offences for which the sentence can be executed in Latvia, a judge shall request to specify more precisely which part of the sentence applies to offences conforming to such requirements.

(3) The decision referred to in Paragraph one of this Section shall not be subject to appeal, and a judge shall notify the decision taken to the person convicted in the foreign country and with the intermediation of the Ministry of Justice - to the foreign country and the person convicted therein, if he or she is in the foreign country.

#### **Section 760. Determination of a Sentence to be Executed in Latvia**

(1) After taking of the decision referred to in Section 759, Paragraph one, Clause 1 of this Law a judge shall determine the sentence to be executed in Latvia in a written procedure, if a person convicted in a foreign country and a prosecutor does not object thereto.

(2) The factual circumstances established in a court ruling of a foreign country and the guilt of a person shall be binding to a court of Latvia.

(3) The sentence imposed in Latvia shall not deteriorate the condition of a person convicted in a foreign country, however, it shall conform to the sentence determined in the relevant foreign country as much as possible.

(4) Concurrently with the notification of the decision referred to in Section 759, Paragraph one, Clause 1 of this Law, a judge shall inform a person convicted in a foreign country and a prosecutor of the right, within 10 days from the day of receipt of the notification, to submit objections against the determination of the sentence to be executed in Latvia in a written procedure, to submit recusation for a judge, to submit an opinion on the sentence to be executed in Latvia, as well as on the day of availability of the decision.

(5) If a person convicted in a foreign country is serving a custodial sentence in the country that submitted the request, the relevant person shall be informed of the right referred to in Paragraph four of this Section immediately after transfer thereof to Latvia.

(6) If a person convicted in a foreign country or a prosecutor has submitted objections against the determination of the sentence to be executed in Latvia in a written procedure, a judge shall take a decision in accordance with the procedures of Section 651 of this Law. If a person convicted in a foreign country is under arrest in the foreign country or is serving a custodial sentence in the relevant foreign country, and the matter on determination of the sentence to be executed in Latvia which is not related to imprisonment, is being decided, technical means shall be used for ensuring the participation or temporary transfer of the person to Latvia shall be requested.

(7) A person convicted in a foreign country or a prosecutor may appeal a decision of a judge on the imposition of the sentence to be executed in Latvia to a regional court within 10 days from the day of availability of the decision by submitting a complaint to the court which took the decision.

(8) The complaint shall be examined in accordance with the procedures laid down in Section 342, Paragraph 6.<sup>1</sup> of this Law and to the extent which is permitted by the international agreements binding on Latvia and this Chapter.

(9) If a decision of a judge on determination of the sentence to be executed in Latvia has not been appealed within the time period specified in the law or a decision has been appealed and the regional court has left it in effect, the decision shall be executed in accordance with the procedures referred to in Section 634 of this Law. The request of a foreign country shall be attached to the decision.

[19 December 2013; 11 June 2020]

#### **Section 761. Conformity with a Foreign Country Judgment in Criminal Proceedings Taking Place in Latvia**

(1) In determining a sentence in criminal proceedings taking place in Latvia to a person, in relation to whom a foreign country has requested to execute the sentence in Latvia, the sentence to be executed in Latvia shall be added to the sentence imposed in the foreign country according to the norms of the Criminal Law regarding determination of a sentence after several rulings.

(2) When classifying offences according to the Criminal Law, an offence, for which the sentence imposed in the foreign country is being executed, shall have the same significance as an offence examined in criminal proceedings taking place in Latvia.

#### **Section 762. Legal Consequences Caused by the Execution in Latvia of a Sentence Imposed in a Foreign Country**

(1) Execution of a sentence which has been imposed in a foreign country, determined for execution in Latvia shall take place according to the same procedures as execution of a sentence imposed in criminal proceedings that have taken place in Latvia.



(2) Clemency and amnesty acts adopted in Latvia and conditions of early conditional release, as well as decisions of the relevant foreign country on reduction of the sentence, amnesty or clemency shall apply to a person.

(3) Only the country in which the judgment was rendered has the right to re-examine the judgment.

(4) Execution of a sentence shall be discontinued and a request of a foreign country for the execution of a sentence shall be cancelled by a decision taken in the relevant foreign country on revocation of a judgment of conviction.

(5) A notification of a foreign country on the legal facts provided for in Paragraphs two and four of this Section shall be received and its execution shall be organised by the Ministry of Justice. If a decision of a foreign country contains an unequivocal information regarding immediate termination of the execution of a sentence or the final date, it shall be transferred to the institution executing the sentence and in other cases - for examination in a court, which shall take a decision on matters related to execution of the judgment.

(6) A person who is serving a sentence related to imprisonment shall be released without delay as soon as information regarding revocation of the judgment of conviction is received, if concurrently a request of a foreign country for application of temporary arrest has not been received in the cases provided for in this Section.

### **Section 763. Notifications of the Ministry of Justice to a Foreign Country**

(1) The Ministry of Justice shall notify a foreign country that a request thereof for the execution of a sentence imposed in the foreign country has been forwarded to a district (city) court.

(2) After receipt of a notification of a court the Ministry of Justice shall notify the relevant foreign country regarding:

- 1) a decision to recognise the judgment and to execute the sentence imposed in the foreign country;
- 2) a refusal to recognise the judgment and to execute the sentence imposed in the foreign country;
- 3) a decision to determine the sentence to be executed in Latvia;
- 4) an amnesty and clemency decision;
- 5) completion of execution of the sentence;
- 6) if the foreign country has requested a special report.

(3) In relation to a ruling made in the foreign country, by which the custodial sentence has been imposed, the Ministry of Justice shall, in addition to the notifications referred to in Paragraphs one and two of this Section, also inform the relevant foreign country regarding:

- 1) the beginning and the end of the early conditional release term, if the country that rendered the judgment has requested it;
- 2) regarding the escape of the convicted person from prison.

(4) In relation to a ruling made in the foreign country, by which a fine has been imposed, the Ministry of Justice shall, in addition to the notifications referred to in Paragraphs one and two of this Section, also inform the relevant foreign country regarding:

- 1) substitution of the fine;
- 2) inability to execute the ruling.

(5) In relation to a ruling made in the foreign country, by which confiscation of property has been applied, the Ministry of Justice shall, in addition to the notifications referred to in Paragraphs one and two of this Section, also inform the relevant foreign country regarding:

- 1) a decision on impossibility of execution of the confiscation of property;
- 2) a decision on complete or partial non-execution of the confiscation of property.

(6) In relation to a ruling made in the foreign country, by which an alternative sanction has been applied, the Ministry of Justice shall, in addition to the notifications referred to in Paragraphs one and two of this Section, also inform the relevant European Union Member State regarding determination of an alternative sanction, if it does not conform to the alternative sanction specified in the relevant European Union Member State.

## **Chapter 70 Execution in Latvia of a Sentence Related to Imprisonment Imposed in a Foreign Country**



#### **Section 764. Grounds for the Execution in Latvia of a Sentence related to Imprisonment in a Foreign Country**

(1) The grounds for the execution in Latvia of a sentence related to imprisonment in a foreign country (hereinafter - the custodial sentence) shall be as follows:

1) a request of the Ministry of Justice to transfer the execution of a custodial sentence to Latvia and the consent of the foreign country for such transfer;

2) a request of the foreign country to take over the custodial sentence imposed in the foreign country and the consent of the Ministry of Justice for such takeover.

(2) The provisions of this Chapter shall be applicable regardless of whether the person convicted in the foreign country is in the foreign country or in Latvia.

#### **Section 765. Verification of the Possibility to Execute in Latvia a Custodial Sentence Imposed in a Foreign Country**

(1) The Ministry of Justice shall, in conformity with the procedures laid down in Section 754 of this Law, perform the activities provided for in this Chapter, if information or request of a foreign country has been received, or upon its own initiative.

(2) If a request of a person convicted in a foreign country or his or her representative has been received, the Ministry of Justice shall verify the request within 20 days, if necessary, requesting additional information with the purpose of evaluating the possibility of submitting a request to the relevant foreign country for the execution of a custodial sentence imposed in the foreign country in Latvia.

#### **Section 766. Conditions for the Execution of a Custodial Sentence Imposed in a Foreign Country in Latvia**

In addition to the conditions referred to in Section 750 of this Law, the execution of a custodial sentence imposed in a foreign country in Latvia shall be possible, if at the time of receipt of the request the person convicted in the relevant foreign country has at least six months remaining until the end of serving the custodial sentence. As an exception, the person may be taken over for serving the sentence also if the time period of serving the sentence is less than six months.

#### **Section 767. Consent of a Person Convicted in a Foreign Country for his or her Takeover for Serving the Custodial Sentence in Latvia**

(1) A person convicted in a foreign country who is serving the custodial sentence in the foreign country may be taken over for serving the sentence in Latvia, if the person agrees thereto.

(2) A person convicted in a foreign country may be taken over for serving of the sentence in Latvia without a consent of the relevant person if:

1) the person is in Latvia;

2) the person has escaped from serving the sentence in the foreign country and has entered Latvia and the relevant foreign country has requested to ensure the serving of the sentence in Latvia;

3) the judgment or administrative decision contains an order regarding removal or deportation of the person from the foreign country after release of the relevant person from prison;

4) there are grounds to believe that, taking into account the age or physical or mental state of the person, taking over for serving the sentence is necessary, and if the representative of the person convicted in the foreign country agrees thereto.

(3) A person convicted in a foreign country subjected to removal or deportation shall be taken over without a consent of the person, if an opinion of the relevant person on transfer thereof, a copy of the removal or deportation order has been attached to the request of the foreign country and other conditions of Section 766 of this Law exist.

#### **Section 768. Takeover of a Person Convicted in a Foreign Country**

(1) Having taken the decision referred to in Section 759, Paragraph one, Clause 1 of this Law and received a consent of the foreign country to transfer the person convicted in the foreign country for serving of the custodial sentence in Latvia, a court shall assign the State Police to take over the person, agreeing thereupon with the relevant foreign country. After delivery of the person convicted in the foreign country to Latvia, a court shall be notified thereof without delay, and the person shall be placed in investigation prison until a decision to determine the sentence to be executed in Latvia is taken.

(2) The person convicted in the foreign country who is requested by the foreign country to be applied a compulsory

measure of a medical nature shall be taken over after a decision is taken on determination of compulsory measure of a medical nature in accordance with Section 769, Paragraph five of this Law.

#### **Section 769. Determination of the Conditional Sentence to be Executed in Latvia**

(1) The conditional sentence to be executed in Latvia shall be determined in accordance with the procedures laid down in Section 760 of this Law.

(2) If the type and level of sentence specified in a court of the foreign country does not conform to the sentence specified in the Criminal Law for the same offence, a court shall amend it according to the sentence which is provided for in the Criminal Law for the same criminal offence, complying with the following conditions:

1) the type and level of the sentence shall not exceed the maximum sentence specified in the Criminal Law for the same offence;

2) the type and level of the sentence shall conform as much as possible to that specified in the judgment;

3) the minimal limit of the sentence specified in the Criminal Law shall not have any significance.

(3) A court decision to determine the custodial sentence to be executed in Latvia shall determine:

1) the continuation of serving the sentence and the sentence to be served;

2) the inclusion of the time spent under arrest and in prison, which has not been taken into account in the judgment of the foreign country;

3) the part of additional punishment to be executed, if the Criminal Law does not provide for such additional punishment.

(4) The custodial sentence imposed in a foreign country shall not be substituted with a fine.

(5) If a person has not been punished with a criminal sentence in a foreign country due to mental disorders or mental disability, however, other measures related to imprisonment, a court shall decide on determination of compulsory measures of a medical nature to such person, complying with that specified in Section 603, Paragraph one of this Law.

#### **Section 770. Detaining of a Person Convicted in a Foreign Country**

(1) The Ministry of Justice may assign the police to detain a person convicted in a foreign country, for a time period up to 72 hours, who has been convicted of such offence, for which arrest within the scope of proceedings taking place in Latvia would be admissible if:

1) the foreign country notifies of its intent to request execution of the custodial sentence imposed therein and requests to arrest the person due to his or her evasion from the sentence;

2) the Ministry of Justice foresees that the person convicted in the foreign country, regarding whom the foreign country has submitted a request for the execution of the custodial sentence imposed therein, will evade the participation in a court hearing regarding determination of the sentence to be executed in Latvia;

3) the Ministry of Justice is of opinion that the person convicted in absence (in absentia) will hinder the criminal proceedings while being free;

4) the foreign country requests to execute the custodial sentence imposed therein and to arrest the person due to his or her evasion from the sentence.

(2) The detained person shall be released, if temporary arrest has not been applied thereto within the time period referred to in Paragraph one of this Section.

(3) If a person has been detained in the case referred to in Paragraph one, Clause 1 of this Section, the Ministry of Justice shall, without delay, inform the foreign country thereof and request to send a request for the execution of the custodial sentence imposed therein within 18 days after the day when the person was detained.

#### **Section 771. Temporary Arrest of a Person Convicted in a Foreign Country**

(1) If a person has been detained in the cases determined in Section 770 of this Law, the Ministry of Justice shall submit a proposal to the investigating judge to apply temporary arrest.

(2) A judge shall examine a proposal regarding application of temporary arrest in accordance with the procedures laid down in Section 735 of this Law. Temporary arrest shall not exceed one year from the time of detaining.

(3) Temporary arrest may also be applied by the judge who examines a request for the execution of the custodial

sentence imposed in a foreign country, if there are grounds to believe that the person convicted therein will evade the court.

(4) A person shall be released from temporary arrest if:

1) the foreign country has not submitted a request for the execution of the custodial sentence imposed therein together with the necessary annexes within 18 days from the day of detaining;

2) a court has established that sentence cannot be executed in Latvia;

3) a court, in determining the sentence to be executed in Latvia, has not applied arrest as the security measure;

4) conditions, which preclude holding of the person under arrest, have been established.

#### **Section 772. Application of a Security Measure**

In determining the sentence to be executed in Latvia, a court may, until the time when a decision enters into effect and an order on the execution of the sentence is issued, apply any security measure according to the same procedures as in criminal proceedings taking place in Latvia.

#### **Section 773. Legal Consequences of Taking over a Person Subjected to Removal**

(1) A person subjected to removal who has been taken over for serving the sentence in Latvia without his or her consent shall not be held criminally liable, tried or transferred to serving the sentence for other offences committed before taking over of the person, except for such offences regarding which the judgment to be executed has been rendered.

(2) The conditions of Paragraph one of this Section shall not apply to cases when:

1) a permit of the foreign country, which imposed the sentence, for criminal prosecution, trial or execution of the sentence has been received;

2) the person has not left Latvia within 45 days after release;

3) the person has left Latvia and returned again.

## **Chapter 71 Execution in Latvia of a Ruling Made in a European Union Member State by which a Custodial Sentence**

#### **Section 774. Grounds for the Execution of a Ruling Made in a European Union Member State by which a Custodial Sentence has been Imposed**

The grounds for the recognition and execution of a ruling made in a European Union Member State, by which a custodial sentence has been imposed, (hereinafter - the ruling on the custodial sentence) is a ruling of the competent authority of the European Union Member State, which has entered into effect, on the custodial sentence and a certification of a special form, as well as decision of a court of Latvia on the recognition and execution of a ruling on the custodial sentence.

#### **Section 775. Conditions for the Execution of a Ruling on the Custodial Sentence Made in a European Union Member State**

(1) A ruling made in a European Union Member State on the custodial sentence may be executed in Latvia to any person regardless of his or her legal status in Latvia, if Latvia agrees thereto.

(2) A consent of Latvia shall not be necessary if:

1) a person convicted in the European Union Member State is a Latvian citizen and resides in Latvia;

2) a person convicted in the European Union Member State is a Latvian citizen and the judgment or administrative decision contains an order regarding his or her removal or deportation to Latvia.

(3) The custodial sentence imposed on a person convicted in the European Union Member State may be executed only with a consent of the person, except cases where:

1) the person is a Latvian citizen and resides in Latvia;

2) the judgment or administrative decision contains an order regarding removal or deportation of the person to Latvia;

3) the person has fled to Latvia or returned to Latvia because criminal proceedings have been initiated or a

judgment of conviction has been rendered in relation to the person.

(4) If extradition of a person is refused on the basis of Section 714, Paragraph five, Clause 4 of this Law, the sentence shall be executed as defined in this Chapter.

[18 February 2016]

#### **Section 776. Reasons for the Refusal of Recognition and Execution of a Ruling on the Custodial Sentence Rendered in a European Union Member State**

(1) Recognition and execution of a ruling on the custodial sentence may be refused if:

- 1) a certification of a special form has not been sent or it is incomplete or does not conform to the content of the ruling, to which it has been attached;
- 2) the conditions referred to in Section 775 of this Law have not been complied with;
- 3) in executing the sentence, the principle of inadmissibility of double jeopardy (ne bis in idem) will be violated;
- 4) the person convicted in a European Union Member State could not be punished for the same offence according to the Criminal Law;
- 5) a limitation period for execution of the sentence has set in;
- 6) the immunity from criminal proceedings referred to in Chapter 8 of this Law exists;
- 7) the person convicted in a European Union Member State has not reached the age from which criminal liability applies;
- 8) at the time of receipt of the request the person convicted in a European Union Member State has less than six months remaining until the end of serving the sentence;
- 9) prior to taking of a decision on the recognition and execution of a ruling on a custodial sentence, Latvia has requested, in accordance with the procedures referred to in Section 782, Paragraph three of this Law, the European Union Member State to provide a consent to the criminal prosecution, trial or execution of the sentence of the person convicted in the country for a criminal offence in Latvia, which has been committed before the transfer of such person and which is not the offence, in relation to which the person will be transferred, however, the European Union Member State has not provided a consent;
- 10) the sentence includes a measure related to psychiatric or health care or other measure related to imprisonment which cannot be executed in Latvia;
- 11) the sentence cannot be executed because the person convicted in a European Union Member State is not in Latvia.

(2) Recognition and execution of a judgment on the recognition of the custodial sentence may be refused also if it has been taken in the absence of the person (in absentia), except when the relevant person:

- 1) had received summons or had been otherwise informed that the ruling may be made without his or her presence;
- 2) has been informed of the proceedings and his or her defence counsel has participated in a court hearing;
- 3) has received the ruling and informed that he or she does not dispute or has not appealed the ruling.

#### **Section 777. Provision of an Opinion of Latvia Prior to Receipt of a Ruling and Certification of a Special Form**

(1) Having received information of a European Union Member State regarding a wish to request that Latvia agrees to the execution of a ruling on the custodial sentence in Latvia, the Ministry of Justice shall check whether the person convicted in the relevant European Union Member State has a permanent place of residence in Latvia, family, social or professional, or other ties to Latvia, which will promote the resocialization of such person. If necessary, the Ministry of Justice may assign the State Police to perform such check.

(2) The Ministry of Justice shall send the prepared opinion to the European Union Member State.

(3) In cases, which are not referred to in Section 775, Paragraph two of this Law, the Ministry of Justice shall take a decision on agreement or non-agreement to forwarding of the ruling and certification of a special form to Latvia.

#### **Section 778. Procedures for Examination of a Ruling of a European Union Member State and Certification of a Special Form**

Having received a ruling on the custodial sentence and a certification of a special form, the Ministry of Justice

shall examine them in accordance with the procedures laid down in Section 754 of this Law and shall send the materials to a court, notifying the European Union Member State thereof.

#### **Section 779. Recognition and Execution of a Ruling on the Custodial Sentence Rendered in a European Union Member State**

(1) A judge of a district (city) court shall take the decision on recognition and execution of a ruling on the custodial sentence in accordance with the procedures referred to in Section 759 of this Law and the sentence to be executed in Latvia shall be determined in accordance with the procedures referred to in Section 760 of this Law.

(2) A court may suspend taking of a decision on the recognition and execution of a ruling on the custodial sentence if the certification of a special form is incomplete or does not conform to the judgment, and to specify a time period, by which the certification should be updated by the European Union Member State. A court may suspend taking of a decision on recognition and execution of a ruling on the custodial sentence also in the case referred to in Section 742 of this Law, if it is necessary to request a consent of the European Union Member State.

(3) Takeover of a person convicted in the European Union Member State shall take place in accordance with the procedures laid down in Section 768 of this Law.

#### **Section 780. Detention of a Person Convicted in a European Union Member State, Application of Temporary Arrest and Security Measure**

If a person convicted in a European Union Member State is in Latvia, such person shall be detained, temporary arrest and security measure shall be applied thereto in accordance with the procedures and within the time period specified in Sections 770, 771 and 772 of this Law.

#### **Section 781. Legal Consequences Caused by the Execution in Latvia of a Custodial Sentence Imposed in a European Union Member State**

Execution of a custodial sentence imposed in a European Union Member State shall take place in accordance with that referred to in Section 762 of this Law.

#### **Section 782. Frameworks for Criminal Liability of a Person Taken over from a European Union Member State and Execution of a Sentence**

(1) A person convicted in a European Union Member State who has been taken over for serving custodial sentence in Latvia may not be held criminally liable, tried, or sentence for a criminal offence, which has been committed prior to transfer of such person and which is not an offence, in relation to which such person was transferred, may not be executed in relation to such person.

(2) Paragraph one of this Section shall not be applied if:

- 1) the person has not left Latvia within 45 days after release although he or she had such opportunity, or has returned to Latvia after leaving it;
- 2) a custodial sentence is not provided for such offence;
- 3) the criminal proceedings do not provide for application of measures, which restrict the freedom of the person;
- 4) the person could be imposed a sentence or measure, which is not related to imprisonment;
- 5) a consent of the person for transfer has been received;
- 6) after transfer the person has refused the right to apply the provisions of Paragraph one of this Section;
- 7) a consent of the European Union Member State, which imposed the custodial sentence, for criminal prosecution, trial or execution of the sentence has been received.

(3) The consent referred to in Paragraph two, Clause 7 of this Section shall be requested according to the same procedures as extradition to a European Union Member State.

## **Chapter 72 Execution in Latvia of a Fine Imposed in a Foreign Country**

#### **Section 783. Principles for the Assessment of a Request of a Foreign Country Regarding Execution of a Fine Imposed**

The procedures referred to in Chapter 69 of this Law shall be applied to the evaluation, recognition and execution of a request of a foreign country regarding the execution of a fine imposed, if it has not been specified otherwise in this Chapter.

#### **Section 784. Determination of a Fine to be Executed in Latvia**

(1) A court shall determine a fine to be executed in Latvia, if a fine has been imposed in a foreign country and the Criminal Law also provides for a fine or a more severe sentence as a basic punishment for the same offence, or also if a fine is provided for as an additional punishment.

(2) The amount of a fine imposed in a foreign country shall be calculated in euros on the basis of the currency exchange rate used in accounting, which was in effect on the day of the pronouncement of the convicting judgment.

(3) A fine to be executed in Latvia shall not exceed the maximum limit of a fine provided for in the Criminal Law regarding such offence, except where only a more severe type of sentence is provided for in Latvia regarding such offence. In such case, the fine to be executed in Latvia shall not exceed the maximum limit of a fine provided for in the Criminal Law at the time of taking of the decision.

(4) A court may divide the payment of a fine 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. The division into terms, or deferral, of payment specified in a foreign country shall be binding to a court of Latvia, however, a court may additionally specify exemptions on execution, without exceeding the limits specified in this Paragraph.

(5) If a fine to be executed in Latvia is not paid within 30 days, such fine may be substituted with a punishment that is related to imprisonment, if such substitution is allowed in the laws of the foreign country that rendered the judgment. In such case, the substitution of a sentence shall take place in accordance with the procedures provided for in the laws of Latvia.

(6) The substitution of a fine shall not be allowed if the foreign country, in submitting a request for the execution of the sentence, has specially justified such non-substitution. In such case a court, with the intermediation of the Ministry of Justice, shall inform the foreign country of the inability to execute the request for the execution of the sentence and shall request to revoke the request.

[12 September 2013]

### **Chapter 73 Execution of the Ruling Made in a European Union Member State on the Recovery of a Financial Nature in Latvia**

#### **Section 785. Grounds for the Execution of the Ruling on the Recovery of a Financial Nature**

(1) The grounds for the execution of the ruling made in a European Union Member State on a fine (for legal persons - recovery of money), and also the ruling by which compensation to the victim, the reimbursement of procedural expenditure and the payment to a foundation or organisation for the support of victims (hereinafter - the ruling on the recovery of a financial nature) is determined, shall be:

1) the ruling of the competent authority of a European Union Member State on the recovery of a financial nature or a certified copy thereof and a certification of a special form;

2) a fact that a person, to whom recovery of a financial nature applies to, has a place of residence in Latvia (to a legal person - a registered legal address) or he or she owns property or has other income;

3) a ruling of the court of Latvia on the determination of recovery of a financial nature to be executed in Latvia;

4) a writ of execution issued by the court of Latvia regarding the transfer of the ruling on the recovery of a financial nature for execution in Latvia.

(2) The court shall send a writ of execution regarding transfer of the ruling on the recovery of a financial nature for execution (the recovery of money from legal persons, the compensation to the victim, the reimbursement of procedural expenditure and the payment to a foundation or organisation for the support of victims), specifying there the information referred to in Section 634.<sup>1</sup>, Paragraph three of this Law, to a sworn bailiff for execution.

[22 June 2017; 7 January 2021]

#### **Section 786. Reasons for the Refusal to Execute the Ruling on the Recovery of a Financial Nature**

(1) Execution of the ruling on the recovery of a financial nature may be refused, if:

1) a certification of a special form has not been sent or it is incomplete, or does not conform to the content of the ruling;

2) the principle of inadmissibility of double jeopardy (ne bis in idem) will be violated when executing the judgment regarding recovery of a financial nature;



3) there are grounds to believe that the sentence has been imposed on the basis of the race, religious affiliation, nationality, sex or political views;

4) the ruling on the recovery of a financial nature applies to an offence that is not subject to punishment in accordance with the laws and regulations of Latvia;

5) the immunity from criminal proceedings referred to in Chapter 8 of this Law exists;

6) the sentence cannot be executed in Latvia;

7) the limitation period has set it for execution of the sentence and the ruling on the recovery of a financial nature pertains to an offence that is in the jurisdiction of Latvia;

8) the person convicted in a European Union Member State has not reached the age from which criminal liability applies;

9) the ruling on the recovery of a financial nature has been made in a written procedure and the person convicted in a European Union Member State has not been informed in person or with the intermediation of a representative regarding the right to appeal the ruling in accordance with the procedures laid down in legal acts of the issuing country thereof;

10) the determined recovery of a financial nature does not exceed 70 euros (if necessary, recalculating according to the currency exchange rate used in accounting, which was in effect on the date when the judgment was proclaimed).

(2) Execution of a judgment on the recovery of a financial nature may also be refused, if it has been taken in the absence of the person convicted in a European Union Member State (in absentia) or without the participation of the person, except in cases where he or she:

1) had received summons or had been otherwise informed that the ruling may be made without his or her presence;

2) has been informed of the proceedings and his or her defence counsel has participated in a court hearing;

3) had received the ruling on the recovery of a financial nature and informed that he or she does not dispute the ruling or has not appealed it;

4) having been informed regarding examination of the case and a possibility of participation in examination of the case, had refused from his or her right to be heard and unequivocally notified that he or she does not dispute the ruling.

(3) If the ruling on the recovery of a financial nature has been made regarding an offence specified in Annex 3 to this Law, the examination in relation to whether this offence may be considered as criminal also according to the laws of Latvia shall not be carried out.

[12 March 2009; 19 November 2020]

#### **Section 787. Procedures for the Examination of the Ruling on the Recovery of a Financial Nature**

(1) Upon the receipt of the ruling on the recovery of a financial nature, the Ministry of Justice shall examine it in accordance with the procedures laid down in Section 754 of this Law and send the materials to a court, informing a European Union Member State thereof.

(2) Having received the ruling on the recovery of a financial nature and the assessed materials attached thereto, a court shall ascertain whether the reasons for refusal referred to in Section 786 of this Law are present, and shall decide on the recovery of a financial nature to be executed in Latvia or on the refusal to execute the relevant ruling.

#### **Section 788. Recognition and Determination of Recovery of a Financial Nature to be Executed in Latvia**

(1) In Latvia, the execution of recovery of a financial nature specified in a ruling shall be determined by a chief judge of a district (city) court according to the place of residence of the person or the location of the property thereof, complying with the conditions and procedures referred to in Sections 759, 760 and 784 of this Law.

(2) The factual circumstances and the guilt of the person established in the ruling on the recovery of a financial nature shall be binding to a court of Latvia.

(3) If the laws of a European Union Member State do not allow the substitution of the fine determined in the ruling on the recovery of a financial nature and the person does not execute the fine voluntarily, a court with the intermediation of the Ministry of Justice shall inform the relevant European Union Member State and request to revoke the execution of the ruling on the recovery of a financial nature.

(4) If a European Union Member State has indicated in the certification of a special form that the laws thereof allow

the substitution of the fine determined in the ruling on the recovery of a financial nature, the substitution of the fine shall take place in accordance with the procedures laid down in Section 645 of this Law.

(5) If the person, in relation to whom the ruling on the recovery of a financial nature has been made in a European Union Member State, submits evidence regarding complete or partial execution of the ruling on the recovery of a financial nature, the court shall communicate with the European Union Member State, which issued the ruling, with the intermediation of the Ministry of Justice or directly for the receipt of an approval thereof.

#### **Section 789. Termination of the Execution of Recovery of a Financial Nature**

(1) Execution of the recovery of a financial nature shall be terminated, if the ruling of conviction on the recovery of a financial nature has been revoked in the European Union Member State.

(2) The decisions of the relevant European Union Member State on reduction of the sentence, issue of an amnesty or clemency act shall be binding to Latvia.

(3) The notification received from the European Union Member State regarding the legal facts provided for in Paragraphs one and two of this Section, shall be sent by the Ministry of Justice to a court which previously has decided on issues related to the execution of recovery of a financial nature.

## **Chapter 74 Execution in Latvia of a Confiscation of Property Applied in a Foreign Country**

#### **Section 790. Principles for the Assessment of a Confiscation of Property Applied in a Foreign Country**

The procedures referred to in Chapter 69 of this Law shall be applied to the assessment of a request of a foreign country regarding the execution of a confiscation of property, if it has not been specified otherwise in this Chapter.

#### **Section 791. Determination of a Confiscation of Property to be Executed in Latvia**

(1) Confiscation of property to be executed in Latvia shall be determined if it has been imposed in a foreign country and if property should be confiscated in Latvia. Confiscation of property provided for in a ruling of a foreign country shall be executed regardless of in which proceedings it was applied in the foreign country.

(2) [7 January 2021]

(2<sup>1</sup>) A court shall indicate in a ruling whether the property shall be returned, on the basis of ownership, to the owner or lawful possessor thereof, or shall indicate the type of confiscation of property and the property to be confiscated.

(2<sup>2</sup>) The court shall send the ruling for execution according to Section 634.<sup>1</sup> of this Law. If a foreign ruling provides that criminally acquired property, material evidence, documents, property related to criminal offence, and also other objects and valuables removed during the proceedings are intended to be returned, on the basis of ownership, to the owner or lawful possessor thereof, the court shall indicate an action with such property according to Section 240 or 357 of this Law. The court shall send to the Ministry of Justice the copy of the decision taken and information on the executing authority to which the decision has been sent for execution.

(2<sup>3</sup>) The executing authority shall inform the court and the Ministry of Justice of the result of the execution of confiscation of property.

(3) The amount of a confiscation of property imposed in a foreign country, if a ruling has been made regarding a certain amount of money, shall be calculated in euros according to the currency exchange rate used in accounting, which was in force on the day of proclamation of the ruling of conviction.

(4) If several rulings on the confiscation of property in respect of an amount of money have been received concurrently and these rulings have been issued in respect of one person who does not have sufficient resources in Latvia to execute all the rulings, or several rulings on the confiscation of property in respect of a certain part of property have been received concurrently, a court shall take a decision on which of the rulings will be executed, taking into account:

- 1) the severity of a criminal offence;
- 2) the seizure of the property;
- 3) succession in which rulings on the confiscation of property have been received in Latvia.

[12 September 2013; 18 February 2016; 22 June 2017; 7 January 2021]

#### **Section 792. Conditions for the Division of Money Acquired as a Result of the Execution of Confiscation of**

## **Property with Foreign Countries**

(1) A request for the division of money acquired as a result of the execution of confiscation of property shall be decided by the Ministry of Justice in each particular case.

(2) In examining a request for the division of money acquired as a result of the execution of confiscation of property, the amount of money acquired, the harm caused by a criminal offence and location of victims shall be taken into account.

(3) If the money acquired as a result of the execution of confiscation of property does not exceed EUR 10 000 (recalculating according to the currency exchange rate used in accounting which was in effect on the day of the proclamation of the ruling), the Ministry of Justice shall take the decision to refuse to transfer the money to a foreign country. If the money acquired as a result of the execution of confiscation of property exceeds EUR 10 000 (recalculating according to the currency exchange rate used in accounting which was in effect on the day of the proclamation of the ruling), the Ministry of Justice shall, upon consulting with the foreign country, take the decision to transfer to the foreign country not more than half of the money or the amounts specified in the request of the foreign country.

(4) The Ministry of Justice, upon consulting with a foreign country, may take a decision on different division of the money, which has not been referred to in Paragraph three of this Section and which does not harm the financial interests of Latvia. The conditions of Paragraph two of this Section shall be taken into account in consultations.

(5) Upon a request of a foreign country, the Ministry of Justice may take the decision to return the money acquired as a result of the execution of confiscation of property to such foreign country.

(6) The Ministry of Justice shall refuse a request for the division of money acquired as a result of the execution of confiscation of property if the request is received after one year from the day of sending the notification on the execution of the ruling on the confiscation of property.

(7) The Cabinet shall determine the procedures by which the money acquired as a result of the execution of confiscation of property shall be divided with foreign countries and the procedures by which money shall be transferred, and also the criteria for the division of money.

[12 March 2009; 7 January 2021]

## **Chapter 75 Execution of a Confiscation of Property Applied in a European Union Member State**

### **Section 793. Grounds for the Execution of the Ruling of a European Union Member State on the Confiscation of Property**

(1) The ruling of a European Union Member State on the return, on the basis of ownership, of property to the owner or lawful possessor or on the confiscation of property (hereinafter in this Chapter - the ruling on the confiscation of property) shall be executed in accordance with Regulation (EU) 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders (hereinafter - Regulation No 2018/1805). The procedures laid down in this Chapter shall be applicable to the European Union Member States that are not bound by Regulation No 2018/1805.

(2) Grounds for the execution of the ruling of a European Union Member State on the confiscation of property in Latvia is:

1) the ruling on the confiscation of property or a certified copy thereof and a certification of a special form;

2) the fact that a person to whom the ruling on the confiscation of property applies to has a place of residence (to a legal person - a registered legal address) or he or she owns property or has other income in Latvia;

3) a decision of a court of Latvia on the confiscation of property to be executed in Latvia.

[7 January 2021]

### **Section 794. Reasons for the Refusal to Execute the Ruling on the Confiscation of Property**

(1) Execution of the ruling on the confiscation of property may be refused, if:

1) a certification of a special form has not been sent or it is incomplete, or does not conform to the content of the ruling to which it is attached;

2) an offence to which the ruling applies is not included in Annex 2 to this Law and is not criminal in accordance with the laws of Latvia;

- 3) the principle of inadmissibility of double jeopardy (*ne bis in idem*) will be violated when executing the judgment;
- 4) the immunity from criminal proceedings referred to in Chapter 8 of this Law exists;
- 5) the execution of the ruling is not possible in Latvia;
- 6) the limitation period for execution has set in and the ruling pertains to an offence that is in the jurisdiction of Latvia;
- 7) the person convicted in a European Union Member State has not reached the age from which criminal liability applies;
- 8) there are grounds to believe that the sentence has been imposed on the basis of the person's sex, race, religious affiliation, ethnic origin, nationality, language or political views;
- 9) the execution of the ruling would be in contradiction to the basic principles of the legal system of Latvia.

(2) Execution of the judgment on the confiscation of property may also be refused, if it has been taken in the absence of the person convicted in a European Union Member State (*in absentia*), except where the person:

- 1) had received summons or had been otherwise informed that the ruling may be made without his or her presence;
- 2) has been informed of the proceedings and his or her defence counsel has participated in a court hearing;
- 3) had received the ruling on the confiscation of property and informed that he or she does not dispute the ruling or has not appealed it.

(3) If the ruling on the confiscation of property has been made regarding an offence specified in Annex 2 to this Law, the examination in relation to whether this offence may be considered as criminal also to the laws of Latvia, shall not be carried out.

#### **Section 795. Deferral of the Execution of the Ruling on the Confiscation of Property**

(1) A court may defer the execution of the ruling on the confiscation of property, if:

- 1) the total value which will be obtained as a result of execution of the ruling may exceed the amount specified in the ruling because such ruling is concurrently implemented in several European Union Member States;
- 2) the execution thereof may cause harm to criminal proceedings in Latvia;
- 3) the person convicted in a European Union Member State has applied to a court in Latvia disputing the procedures of execution;
- 4) the confiscation of property is commenced in Latvia within another proceedings.

(2) Having established the reasons referred to in Paragraph one of this Section, the court shall defer the execution of the ruling on the confiscation of property. The court shall notify the Ministry of Justice of deferring the execution of the decision.

(2<sup>1</sup>) If the reason due to which the execution of the ruling on the confiscation of property was deferred has ceased to exist, the court shall renew the execution of the ruling on the confiscation of property and notify the Ministry of Justice.

(3) The Ministry of Justice shall inform the issuing Member State of the ruling of the deferral or renewal of the execution of the ruling on the confiscation of property.

[7 January 2021]

#### **Section 796. Procedures for Examination of the Ruling on the Confiscation of Property**

The Ministry of Justice shall, upon receipt of the ruling on the confiscation of property, examine it in accordance with the procedures laid down in Section 754 of this Law and send the materials to a court, informing a European Union Member State thereof.

#### **Section 797. Recognition and Execution of the Ruling on the Confiscation of Property**

(1) The recognition and execution of the ruling on the confiscation of property shall be determined by a district (city) court according to the place of residence of the person (for a legal person - according to a registered legal address) or the location of the property thereof, complying with the conditions and procedures referred to in Sections 759 and 760 of this Law.

(1<sup>1</sup>) A court shall indicate in the decision whether the property shall be returned, on the basis of ownership, to the owner or lawful possessor thereof, or shall indicate the type of confiscation of property and the property to be confiscated.

(2) The court shall send the decision for execution according to Section 634.<sup>1</sup> of this Law. If it is provided in the ruling on the confiscation of property that criminally acquired property, material evidence, documents, property related to criminal offence, and also other objects and valuables removed during the proceedings are intended to be returned, on the basis of ownership, to the owner or lawful possessor thereof, the court shall indicate an action with such property according to Section 240 or 357 of this Law. The court shall send to the Ministry of Justice the copy of the decision taken and information on the executing authority to which the decision has been sent for execution.

(3) If the ruling on the confiscation of property is given for a certain amount of money, a district (city) court shall indicate in a decision the amount of money to be confiscated in euros. If necessary, the amount shall be recalculated according to the currency exchange rate used in accounting which was in effect on the day of proclamation of the ruling.

(4) If a person in relation to whom the decision to recognise the ruling on the confiscation of property has been made submits evidence regarding complete or partial execution of the ruling on the confiscation of property, a district (city) court shall, with the intermediation of the Ministry of Justice, communicate with the European Union Member State which gave the ruling to receive its approval. If a confirmation on full execution of the ruling on the confiscation of property has been received, the court shall revoke the decision on the confiscation of property to be executed in Latvia and inform the executing authority. If the confirmation is on partial execution of the ruling on the confiscation of property, the court shall amend the decision according to the confirmation received and inform the executing authority.

(5) The executing authority shall inform the court and the Ministry of Justice of the result of the execution of confiscation of property.

[12 March 2009; 22 June 2017; 7 January 2021]

#### **Section 798. Procedures for the Execution of the Ruling on the Confiscation of Property**

(1) If several rulings on the confiscation of property have been received concurrently, which have been made in respect of one person, and the relevant person does not have sufficient resources in Latvia to execute all the rulings, or several rulings on the confiscation of property in respect of one property, a court shall take a decision on which ruling or which rulings will be executed, taking into account:

- 1) the severity of a criminal offence;
- 2) the seizure of the property;
- 3) the dates when the rulings on the confiscation of property have been made and the dates when the rulings have been received in Latvia;
- 4) the location of victims and their claims.

(1<sup>1</sup>) If a ruling issued by a court of Latvia providing for the confiscation of property and a court ruling issued by another European Union Member State is concurrently in effect in relation to the same property and if the circumstances are the same, the execution of the ruling of a court of Latvia shall have preference.

(2) The decisions of the relevant European Union Member State for the reduction of a sentence, issue of an amnesty or clemency act are binding to Latvia.

(3) The execution of a decision on the confiscation of property shall be terminated, if a European Union Member State has revoked a ruling on the confiscation of property.

(4) The Ministry of Justice shall send a notification received from a European Union Member State regarding the legal facts provided for in Paragraphs two and three of this Section to the court which transferred the decision for execution. The court shall send the decision to the executing authority.

[7 January 2021]

#### **Section 799. Submission of a Complaint Regarding Execution of the Ruling on the Confiscation of Property**

(1) [7 January 2021]

(2) A complaint regarding the reasons for making the ruling on the confiscation of property shall be submitted to a court of a European Union Member State.

(3) If a complaint regarding the reasons for making the ruling on the confiscation of property is received, the

Ministry of Justice shall, after receipt of information from a court, inform a European Union Member State thereof.

[7 January 2021]

#### **Section 800. Conditions for the Division of Money Acquired as a Result of the Execution of Confiscation of Property with a European Union Member State**

(1) Upon a request of a European Union Member State, the Ministry of Justice shall decide a matter on division of money acquired as a result of the execution of confiscation of property with this Member State.

(2) If the money acquired as a result of the execution of confiscation of property does not exceed EUR 10 000 (recalculating according to the currency exchange rate used in accounting which was in effect on the day of the proclamation of the ruling), the Ministry of Justice shall take the decision to refuse to transfer the money to a European Union Member State. If the money acquired as a result of the execution of confiscation of property exceeds EUR 10 000 (recalculating according to the currency exchange rate used in accounting which was in effect on the day of the proclamation of the ruling), the Ministry of Justice shall take the decision to transfer half of the money to the respective European Union Member State.

(3) Upon consulting with the relevant European Union Member State, the Ministry of Justice may take a decision on different division of the money, which has not been referred to in Paragraph two of this Section and which does not harm the financial interests of Latvia. The harm caused by criminal offences and the location of victims shall be taken into account in consultations.

(4) Upon a request of a European Union Member State, the Ministry of Justice may take a decision to return the money acquired as a result of the execution of confiscation of property to such Member State.

(5) The Ministry of Justice shall refuse a request of a European Union Member State regarding the division of money acquired as a result of the execution of confiscation of property if the request is received after one year from the day of sending the notification regarding the execution of the ruling on the confiscation of property.

(6) The Cabinet shall determine the procedures by which the money acquired as a result of the execution of confiscation of property shall be divided with European Union Member States and the procedures by which money shall be transferred, and also the criteria for the division of money.

[12 March 2009; 7 January 2021]

### **Chapter 76 Execution in Latvia of a Sentence of Restriction on Rights Determined in a Foreign Country and the Ruling Made in a European Union Member State on an Alternative Sanction**

#### **Section 801. Determination of Restrictions on Rights to be Executed in Latvia**

(1) A court shall examine a request of a foreign country for the recognition and execution of a sentence imposed in the foreign country, as well as imposition of a sentence in accordance with the procedures referred to in Sections 759 and 760 of this Law.

(2) All the sentences of restrictions on rights, or deprivation of rights imposed in a foreign country that comply with the criteria for the imposition of such additional sentences specified in the Criminal Law shall be executed in Latvia.

(3) Restrictions on rights shall be determined for a time period from one year up to five years, if a shorter time period has not been specified in a judgment of a foreign country.

(4) The court that imposes the sentence to be executed in Latvia may not apply restrictions on rights, if such court does not see the usefulness of such application in the its country.

(5) Latvia may also specify restrictions on rights, which by their content apply to execution in all countries, also if such sentence is being concurrently executed in a foreign country.

#### **Section 802. Grounds for the Execution of the Ruling on an Alternative Sanction**

(1) The grounds for the execution of a court ruling of a European Union Member State, which imposes a sentence that is not related either to the deprivation of liberty or recovery of a financial nature or confiscation of property, or for the execution of such ruling of a court or the competent authority, by which a probationary measure is applied (hereinafter - the ruling on an alternative sanction), shall be as follows:

1) the ruling issued by the competent authority of the European Union Member State on an alternative sanction or a certified copy thereof and a certification of a special form;

2) the fact that the person to whom the alternative sanction applies has a permanent place of residence in Latvia



and the person is in Latvia;

3) a decision of a court of Latvia on determination of an alternative sanction to be executed in Latvia.

(2) The ruling on an alternative sanction shall be recognised and executed in Latvia also if a person to whom the alternative sanction applies does not reside permanently in Latvia, but has indicated a place of residence in Latvia where he or she will be reachable if:

1) the person has employment legal relationship in Latvia;

2) the person has family relationship in Latvia;

3) the person is acquiring education in Latvia.

(3) A probationary measure is an obligation imposed on a person in relation to a suspended sentence, conditional deferral of determination of a punishment or early conditional release from the sentence.

(4) Conditional deferral of imposition of a sentence is a court judgment, by which imposition of a sentence is conditionally deferred, applying one or several probationary measures, or in which one or several probationary measures are applied instead of the custodial sentence.

### **Section 803. Reasons for the Refusal to Execute the Ruling on an Alternative Sanction**

(1) Execution of the ruling on an alternative sanction may be refused, if:

1) a certification of a special form has not been sent or it is incomplete, or does not conform to the content of the ruling;

2) an offence to which the ruling on an alternative sanction applies is not included in Annex 2 to this Law and is not criminal according to the laws of Latvia;

3) the person does not have a permanent place of residence in Latvia or such person cannot be reached in Latvia;

4) the principle of inadmissibility of double jeopardy (*ne bis in idem*) will be violated when executing the judgment regarding an alternative sanction;

5) the ruling on an alternative sanction applies to an offence which is not criminal according to the laws of Latvia;

6) the immunity from criminal proceedings referred to in Chapter 8 of this Law exists;

7) the limitation period for the execution of the ruling has set in and the ruling on an alternative sanction pertains to an offence that is in the jurisdiction of Latvia;

8) the person has not reached the age from which criminal liability applies;

9) the alternative sanction applied does not exceed six months;

10) the ruling on an alternative sanction provides for medical treatment, execution of which is not possible in Latvia.

(2) Execution of a judgment on the enforcement of an alternative sanction may also be refused, if it has been taken in the absence of a person (*in absentia*), except where the person:

1) had received summons or had been otherwise informed that the ruling may be made without his or her presence;

2) has been informed of the proceedings and his or her defence counsel has participated in a court hearing;

3) had received the ruling on an alternative sanction and informed that he or she does not dispute the ruling or has not appealed it.

(3) If the ruling on an alternative sanction has been made regarding an offence specified in Annex 2 to this Law, the examination in relation to whether this offence may be considered as criminal also according to the laws of Latvia, shall not be carried out.

### **Section 804. Procedures for Examination of the Ruling on an Alternative Sanction**

(1) The Ministry of Justice shall, upon receipt of the ruling on an alternative sanction, examine it in accordance with the procedures laid down in Section 754 of this Law and send the materials to a court without delay, informing a European Union Member State thereof.

(2) If a certification of a special form has not been sent or it is incomplete or does not conform to the content of the ruling, the Ministry of Justice may defer sending of the ruling on an alternative sanction to a court, informing the

relevant European Union Member State thereof.

#### **Section 805. Determination of an Alternative Sanction to be Executed in Latvia**

(1) A judge of a district (city) court shall take a decision on the recognition and execution of the ruling on an alternative sanction, complying with the conditions and procedures referred to in Sections 759 and 760 of this Law.

(2) The factual circumstances established in the ruling on an alternative sanction, and the guilt of a person, shall be binding to a court of Latvia.

(3) The alternative sanction applied in a European Union Member State, which conforms to the alternative sanction specified in the Criminal Law, shall be determined without the modification of the type and amount of the sentence or probation.

(4) If the type and amount of an alternative sanction applied in a European Union Member State does not comply with the alternative sanction specified in the Criminal Law, a court shall determine it, modifying in accordance with the sentence or probationary measure that is provided for by the Criminal Law for the same criminal offence, complying with the following conditions:

1) the alternative sanction shall comply as much as possible with that which is determined in the ruling on an alternative sanction;

2) the duration of the alternative sanction and the restrictions on rights shall not exceed the maximum sentence specified in the Criminal Law or probationary measure for the same offence, as well as shall not be harsher or more severe than the alternative sanction specified in the ruling;

3) the minimal limit of the sentence specified in the Criminal Law shall not have any significance.

(4<sup>1</sup>) If the length of the community service (compulsory measure) imposed in a European Union Member State is expressed in months, the court shall determine it in hours taking into account that one month equals 20 community service (compulsory measure) hours.

(5) A court with the intermediation of the Ministry of Justice shall inform the relevant European Union Member State regarding the decision taken in Paragraph four of this Section.

[17 December 2020]

#### **Section 806. Decision to Terminate the Execution of an Alternative Sanction**

(1) Decisions of the relevant European Union Member State on reduction of an alternative sanction or sentence, issuance of an amnesty or clemency act are binding to Latvia.

(2) Execution of an alternative sanction may be terminated if;

1) a person does not have a permanent place of residence in Latvia anymore or the person cannot be reached in Latvia;

2) a person is evading the execution of an alternative sanction and there are grounds to believe that he or she is not in Latvia anymore;

3) new criminal proceedings have been initiated in the relevant European Union Member State against a person and the Member State is requesting to transfer back the execution of the alternative sanction.

(3) In the cases referred to in Paragraph two of this Section a court shall take a decision to terminate the execution of an alternative sanction and a copy of the decision shall be sent to the institution, which executes the alternative sanction applied. A court shall send a decision to terminate the execution of an alternative sanction to the Ministry of Justice together with materials for sending to the relevant European Union Member State.

(4) The Ministry of Justice, having received a court decision to terminate the execution of an alternative sanction, shall notify the relevant European Union Member State thereof, sending the decision and materials thereto.

#### **Section 807. Imposition of a Sentence to be Executed in Latvia in Case of Non-conformity with a Decision on an Alternative Sanction**

(1) If a person evades the execution of a sentence not related to imprisonment or does not fulfil the probationary measures applied by a court without a justified reason, a court shall, on the basis of a submission of the institution which is assigned to control the execution of the alternative sanction, take a decision on the execution or substitution of the sentence applied in the ruling on an alternative sanction.

(2) The issues that have arisen during supervision of the execution of an alternative sanction shall be examined in accordance with the procedures provided for in Chapter 61 of this Law.

(3) In the cases provided for in Paragraph one of this Section a court shall not take a decision on execution of the sentence if the ruling on an alternative sanction is related to conditional deferral of the imposition of a sentence or the ruling on an alternative sanction does not provide for the custodial sentence to be applied in case of non-conformity with the alternative sanction. A court shall send the materials to the Ministry of Justice for forwarding to the relevant European Union Member State for taking of a subsequent decision.

(4) Having received the materials referred to in Paragraph three of this Section, the Ministry of Justice shall notify the relevant European Union Member State thereof and send the materials thereto.

## **Division Seventeen**

### **Execution in a Foreign Country of a Sentence Imposed in Latvia**

[24 May 2012]

## **Chapter 77 General Provisions in Relation to Execution in a Foreign Country of a Sentence Imposed in Latvia**

### **Section 808. Conditions for the Submission of a Request for the Execution of a Sentence**

(1) Submission of a request to a foreign country for the execution of a sentence imposed in Latvia shall be possible if a ruling of a court has entered into effect and the execution of the sentence in the foreign country would promote resocialization of the convicted person.

(2) Latvia may request a foreign country to execute a sentence imposed in Latvia, if in addition to the conditions referred to in Paragraph one of this Section one or more of the following conditions exist:

1) the foreign country is the country of citizenship of the convicted person or his or her permanent place of residence is located in the foreign country;

2) a property of the convicted person is located in the foreign country or he or she has income there;

3) the foreign country is the country of citizenship of the convicted person, and the country has expressed a readiness to facilitate resocialization of the person;

4) Latvia would not be capable of executing the sentence, even by requesting extradition of the person.

(3) Prior to sending a request the Ministry of Justice may request an opinion of the foreign country on whether the offence for which the sentence has been imposed is criminal also in accordance with the laws of the foreign country.

### **Section 809. Procedures for Sending of a Request for the Execution of a Sentence**

(1) If the conditions referred to in Section 808 of this Law exist, a court controlling complete execution of a judgment or decision shall turn to the Ministry of Justice with a written proposal to request that the foreign country executes the sentence.

(2) The information referred to in Section 678 of this Law shall be indicated in the proposal and the following shall be attached thereto:

1) a certified copy of a valid court ruling;

2) a certified copy of an order regarding the execution of a judgment or a certified copy of the writ of execution;

3) the text of the section of the law according to which the person has been convicted;

4) the text of the sections of the law, which regulate the running of the limitation period.

(3) The Ministry of Justice shall examine the proposals within 10 days and notify a court, which had turned to the Ministry with the proposal, regarding the results. If there are grounds for requesting the execution in a foreign country of a sentence imposed in Latvia, the Ministry of Justice shall prepare a request, ensure the translation of the request and send it to the foreign country.

(4) Upon request of a foreign country the Ministry of Justice shall send it the criminal case or certified copies of the documents in the criminal case.

(5) If a sentence has been imposed for several offences or on the basis of several judgments, but not all the offences allow for the execution in a foreign country of the imposed sentence, the Ministry of Justice shall propose for a court to determine a punishment that would have to be served for the offences regarding which the execution of the

sentence in the foreign country is possible. The court shall determine the sentence in accordance with the procedures provided for in Division Thirteen of this Law.

#### **Section 810. Examination of a Complaint Regarding Execution in a Foreign Country of a Sentence Imposed in Latvia in the Absence of a Person (in absentia)**

(1) If a convicted person has appealed a ruling within the time period specified in Section 465 of this Law, a court shall issue a court summons not more than 21 days prior to the day of examination of the complaint.

(2) A court with the intermediation of the Ministry of Justice shall inform a foreign country if the complaint has been recognised as unacceptable or the person does not arrive to a court hearing.

(3) If the complaint has been accepted for examination, a court with the intermediation of the Ministry of Justice shall revoke a request for the execution of a sentence imposed in Latvia.

#### **Section 811. Consequences of Submission of a Request for the Execution of a Sentence**

(1) After a request for the execution of a sentence has been submitted to a foreign country, institutions of Latvia shall not perform any activities related to the execution of the sentence.

(2) The restrictions specified in Paragraph one of this Section shall not apply to a case when a person, prior to submission of a request, is serving a custodial sentence in Latvia or a security measure - arrest - has been imposed thereon.

(3) Confiscation of property or restriction on rights specified as an additional sentence in Latvia may be executed regardless of the submission of a request for the execution of a sentence to a foreign country.

#### **Section 812. Information to be Provided by the Ministry of Justice**

(1) If a request for the execution of a sentence in a foreign country has been sent and a consent of the foreign country has been received, the Ministry of Justice shall inform the submitter of the submission and a court controlling complete execution of a judgment, the convicted person, as well as his or her representative in cases when the representative has submitted a request.

(2) After receipt of information of a foreign country regarding the end of serving the sentence, the Ministry of Justice shall inform a court and the institution executing the sentence thereof.

#### **Section 813. Rights of Latvia during the Execution of a Sentence in a Foreign Country**

(1) A court ruling, by which a sentence executed in a foreign country has been imposed, may be re-examined only by a court of Latvia.

(2) If a court ruling is repealed, the Ministry of Justice shall inform a foreign country thereof without delay. Such information shall cancel the previously submitted request for the execution of a sentence.

(3) If as a result re-examination a court ruling is amended in the part relating to the type, amount of the sentence or the conditions for execution thereof, the Ministry of Justice shall submit a supplement to the request regarding the execution of a sentence.

(4) Amnesty acts adopted in Latvia shall also apply to persons who have been imposed a sentence in Latvia, however, it is executed in a foreign country, therefore the Ministry of Justice shall send them without delay to foreign countries to which requests for the execution of a sentence have been submitted, but from which information for the termination of the execution thereof has not been received.

(5) A convicted person to whom a sentence is executed in a foreign country may be pardoned in accordance with the procedures provided for in laws. The Ministry of Justice shall inform a foreign country regarding adopting of a clemency act without delay.

#### **Section 814. Recovery of the Right to Execute a Sentence**

(1) Latvia shall recover the right to execute a sentence if:

1) a request for the execution of a sentence has been revoked before a foreign country has notified its intent to execute the sentence;

2) a foreign country has notified regarding rejection of a request;

3) a foreign country unequivocally does not implement its right to execute a sentence, although it has notified its intent to do so;

4) as a result of hesitation of a foreign country execution of a sentence therein is not possible anymore.

(2) If a request for the execution of a sentence has been cancelled due to revocation of a court ruling, criminal proceedings in Latvia shall take place in accordance with general procedures.

(3) Regardless of the place of execution of a sentence anything that has been executed in Latvia and in a foreign country shall be included in the part of the sentence served.

(4) Execution of a sentence in Latvia shall not be possible if a foreign country has notified of the termination of the execution of the sentence or it has become known that a person has been acquitted for the same offence, has served the sentence, convicted without determination of a punishment, pardoned or amnestied in another foreign country, with which Latvia has entered into an agreement on the mutual recognition of judgments.

#### **Section 815. Limitation Periods**

(1) The Ministry of Justice shall inform a foreign country regarding setting in of the limitation period provided for in the Criminal Law and all circumstances affecting the running of the limitation period.

(2) The term of limitation period provided for in laws of a foreign country shall not be an obstacle for the execution of a sentence in Latvia after recovery of the right to execute.

### **Chapter 78 Execution in a Foreign Country of a Custodial Sentence Imposed in Latvia**

#### **Section 816. Grounds for the Execution in a Foreign Country of a Custodial Sentence Imposed in Latvia**

(1) The grounds for the execution in a foreign country of a custodial sentence imposed in Latvia shall be as follows:

1) a request of the Ministry of Justice to execute in a foreign country a custodial sentence imposed in Latvia and a consent of the foreign country thereto;

2) a request of a foreign country to transfer the execution of a custodial sentence imposed in Latvia to the foreign country and a consent of the Ministry of Justice thereto.

(2) The Ministry of Justice shall perform the activities provided for in this Chapter if a court proposal, a request of the convicted person or his or her representative, information of a foreign country or a request has been received, or upon its own initiative.

(3) The provisions of this Chapter shall be applicable regardless of whether the person convicted in Latvia is located in a foreign country or in Latvia.

#### **Section 817. Conditions in Relation to Sending of a Request for the Execution in a Foreign Country of a Custodial Sentence Imposed in Latvia to the Relevant Foreign Country**

(1) In addition to the conditions referred to in Section 808 of this Law sending a request regarding the execution in a foreign country of a custodial sentence imposed in Latvia shall be possible if at the time when such request or proposal is received the convicted person has at least six months remaining until the end of serving of the sentence. In an exceptional case a request may be submitted if the term of serving the sentence is lesser.

(2) The Ministry of Justice may request a foreign country to take over for the execution of a custodial sentence imposed in Latvia a person who has been prescribed medical treatment in a specialised guarded psychiatric hospital due to mental dysfunctions or mental disability or medical treatment in places of deprivation of liberty suitable thereto, for the application of equivalent medical treatment measures.

#### **Section 818. Consent of a Convicted Person to the Execution in a Foreign Country of a Custodial Sentence**

(1) If a convicted person is serving a custodial sentence in Latvia, a foreign country may be requested to execute the custodial sentence if the convicted person agrees thereto.

(2) If a request of a representative of the convicted person or a foreign country regarding transfer of the execution of a custodial sentence to the foreign country has been received and a wish of the convicted person to serve the sentence in the foreign country has not been attached to the request in writing, the Ministry of Justice shall, within 10 days, acquaint the convicted person with the request, explain the legal consequences of the transfer to him or her and invite to express his or her attitude towards the request received. A consent or refusal of the person shall be drawn up in writing, and the convicted person shall confirm it with his or her signature.

(3) If a foreign country has expressed such wish, the Ministry of Justice shall ensure an opportunity for the representative of the foreign country, regarding whom both countries have agreed, to examine the circumstances in which the convicted person gave his or her consent.

(4) If a convicted person is serving a custodial sentence in Latvia, Latvia and the foreign country may agree on the transfer of the convicted person without his or her consent if there is a reason to believe that, taking into account the age or physical or mental condition of the person, transfer for the execution of the sentence is necessary and the representative of the convicted person agrees thereto.

(5) The consent of a person convicted under a custodial sentence shall not be necessary if he or she has escaped from serving the sentence to the country of his or her citizenship.

(6) The consent of a person convicted with a custodial sentence shall not be necessary if removal from Latvia has been determined as an additional punishment in the judgment or there is another decision binding to the convicted person, as a result of which he or she is not allowed to stay in Latvia after serving the sentence. A copy of the judgment or decision on removal of the convicted person and his or her opinion on the transfer shall be attached to the request.

#### **Section 819. Informing a Convicted Person**

(1) The administration of a prison shall, within 10 days after it has received an order of a judge on the execution of the judgment, inform a foreigner convicted in Latvia or a person whose permanent place of residence is not in Latvia, on the right of the person to express his or her wish to serve the sentence in the country of his or her citizenship or permanent place of residence. The convicted person shall be explained what are the legal consequences of the transfer of a person for serving of a sentence.

(2) The convicted person shall submit his or her request for the execution in a foreign country of a custodial sentence imposed in Latvia to the Ministry of Justice, which shall, without delay, inform the convicted person in writing of sending a notification to the foreign country and regarding the results of examination of the request.

(3) The following shall be indicated in a notification to a foreign country:

- 1) the given name, surname, place and date of birth of the convicted person;
- 2) the address of the convicted person in the foreign country, if such address exists;
- 3) the offence, for which the sentence has been imposed;
- 4) the type and amount of the sentence, as well as the time when serving of the sentence was commenced.

[18 February 2016]

#### **Section 820. Examination of a Request for the Execution in a Foreign Country of a Custodial Sentence**

(1) If a person has been convicted in Latvia with a custodial sentence and is located in a foreign country, a request shall be prepared and sent in accordance with the procedures laid down in Section 809 of this Law.

(2) If a person is serving a custodial sentence in Latvia and a request of the person or of a foreign country for the execution of a custodial sentence in the relevant foreign country has been received, the Ministry of Justice shall, within 10 days or after receipt of the requested additional information, examine whether the conditions referred to in Sections 817 and 818 of this Law exist. If the information in the materials received is insufficient, the Ministry of Justice may additionally request the following to the foreign country:

- 1) a document or notification that the convicted person is a citizen of the country or he or she has a permanent place of residence in the country;
- 2) the text of the law, according to which the offence for which the person has been convicted is deemed criminal in the country;
- 3) information regarding what procedure for the imposition of the sentence - continuation or changing - will be applied by the foreign country.

(3) In the case referred to in Paragraph two of this Section the Ministry of Justice shall take one of the following decisions after examination of the request:

- 1) to submit a request regarding the execution of a custodial sentence in a foreign country;
- 2) to agree to the execution of a custodial sentence in a foreign country;
- 3) to reject a request regarding the execution of a custodial sentence in a foreign country.

(4) Concurrently with the notification referred to in Section 819 of this Law, the Ministry of Justice may send a request to the foreign country for the takeover of the execution of a custodial sentence in the foreign country, if no facts preventing it have been established in the initial materials. In such case it shall be indicated in the request that it is in effect provided that such facts have not been established also in the relevant foreign country.



(5) In addition to the documents referred to in Section 809 of this Law the Ministry of Justice shall append to the request:

1) information regarding any time period of the sentence already served, the time period of pre-trial arrest, reduction of the sentence or any other condition important for serving of the sentence;

2) a consent of the convicted person to serving of the sentence in a foreign country;

3) data of medical or social nature on the convicted person, information regarding medical treatment of the person in Latvia and, if necessary, recommendations for his or her further medical treatment in a foreign country.

#### **Section 821. Transfer of a Convicted Person and Legal Consequences Thereof**

(1) If Latvia has agreed to the execution of a custodial sentence in a foreign country or a foreign country has agreed to the execution thereof, the Ministry of Justice shall assign the State Police to co-ordinate the transfer of the person with the foreign country and transfer him or her to the relevant foreign country.

(2) In conformity with Section 813 of this Law, execution of a sentence in Latvia shall be suspended if the convicted person is moved across the State border of the Republic of Latvia. Execution of a sentence shall not be renewed if a foreign country has notified that serving of the sentence has been terminated.

(3) In addition to the conditions referred to in Section 814 of this Law execution of the sentence shall be renewed if a foreign country notifies that:

1) the person has escaped from the deprivation of liberty institution;

2) execution of the sentence has not been completed and the person has returned to Latvia.

#### **Section 822. Placing under Arrest of a Person Convicted in Latvia**

(1) If a convicted person has escaped from serving a sentence in Latvia and there is justified suspicion that he or she might evade serving of a custodial sentence in a foreign country, a court may, in accordance with Section 808 of this Law, propose the Ministry of Justice to request the foreign country that it places the person under arrest until submission of and deciding on a request regarding the execution of the sentence imposed in Latvia.

(2) If a person has been placed under arrest in a foreign country 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 period of time as possible, but not later than on the fifteenth day after placing under arrest of the person.

(3) A person placed under arrest in Latvia shall be transferred to a foreign country for participation in proceedings regarding determination of the sentence to be executed. If a court of a foreign country establishes that execution of a sentence imposed in Latvia is not possible in the country, Latvia shall take over the person placed under arrest and decide on his or her holding under arrest or release in accordance with general procedures.

(4) If the laws of a foreign country allow it, a person placed under arrest in Latvia may participate in the proceedings for determination of the sentence, using technical means.

(5) If a judgment is revoked in Latvia, on the grounds of which a foreign country executes the custodial sentence, and the case is transferred for examination de novo, a court with the intermediation of the Ministry of Justice shall inform the relevant foreign country without delay and may submit a request thereto regarding application of temporary arrest in the cases provided for in this Section.

## **Chapter 79 Execution in a European Union Member State of a Custodial Sentence Imposed in Latvia**

#### **Section 823. Conditions in Relation to Sending of a Request for the Execution in a European Union Member State of a Custodial Sentence Imposed in Latvia to the Relevant European Union Member State**

(1) Submission of a request to a European Union Member State for the execution of a custodial sentence imposed in Latvia in the relevant European Union Member State shall be possible if the conditions of Section 808, Paragraph one of this Law exist and the convicted person and the European Union Member State agree thereto.

(2) A consent of a convicted person shall not be necessary if:

1) the person is a citizen of a European Union Member State and resides in the European Union Member State;

2) removal from Latvia has been determined as an additional punishment in the judgment or there is another decision binding to the person, as a result of which the person is not allowed to stay in Latvia after serving of the sentence;

3) the convicted person has escaped or returned to a European Union Member State because criminal proceedings have been initiated or a judgment of conviction has been rendered against him or her in Latvia.

(3) A consent of a European Union Member State shall not be necessary if:

1) the convicted person is a citizen of a European Union Member State and resides in the European Union Member State;

2) the convicted person is a citizen of a European Union Member State and removal from Latvia has been determined as an additional punishment in the judgment or there is another decision binding to the person, as a result of which the person is not allowed to stay in Latvia after serving of the sentence.

[See Paragraph 35 of Transitional Provisions]

#### **Section 824. Opinion of a Convicted Person**

(1) If a convicted person is serving a custodial sentence in Latvia and a request to execute the sentence in a European Union Member State has been received, however, a wish of the convicted person expressed in writing to serve the sentence in the relevant European Union Member State has not been attached to the request, the Ministry of Justice shall, in accordance with the procedures and time periods referred to in Section 818 of this Law, acquaint the convicted person with the request, explaining the legal consequences of the transfer to him or her. A consent or refusal of the person shall be drawn up in writing, and the convicted person shall confirm it with his or her signature.

(2) The opinion referred to in Paragraph one of this Section shall be provided by a representative of the convicted person, taking into account the age or physical or mental state of the convicted person.

#### **Section 825. Procedures for Examination of a Request Regarding the Execution of a Sentence Imposed in Latvia and Sending to a European Union Member State**

(1) The Ministry of Justice shall commence an examination in relation to the possibility of requesting a European Union Member State that it executes a custodial sentence imposed in Latvia, if a court proposal, a request of a convicted person or his or her representative, information of a European Union Member State has been received, as well as upon the initiative of a prison.

(2) If the conditions referred to in Section 823 of this Law exist, a court controlling complete execution of a judgment or decision shall turn to the Ministry of Justice with a written proposal to request the European Union Member State to execute the sentence. The information referred to in Sections 678 and 808 of this Law shall be indicated in the proposal. The Ministry of Justice shall examine the proposal in accordance with the procedures provided for in Section 809 of this Law. If conditions exist for requesting that a sentence imposed in Latvia is executed in a European Union Member State, the Ministry of Justice shall fill in a certification of a special form.

(3) If information from a deprivation of liberty institution or a European Union Member State, a request of a convicted person or his or her representative has been received and the Ministry of Justice considers that the conditions referred to in Section 823 of this Law exist, it shall prepare a certification of a special form in accordance with the procedures and within the time period referred to in Section 809, Paragraph three of this Law.

(4) If the Ministry of Justice considers that the information provided is insufficient, it shall request additional information or documents and determine the deadline for the submission thereof. The deadline for deciding specified in Section 809 of this Law shall be counted from the day when the requested materials are received.

(5) The Ministry of Justice shall ensure the translation of judgments and a certification of a special form in the official language of the relevant European Union Member State or the language, which has been indicated for the receipt of the judgment and certification by the Member State to the General Secretariat of the Council of the European Union.

(6) A certification of a special form shall be sent to a European Union Member State together with a judgment and an opinion of a convicted person. The Ministry of Justice shall notify the submitter of the proposal or request regarding sending of the judgment and certification to the European Union Member State. If a person is serving a custodial sentence in Latvia, he or she shall be issued a document of a special form regarding informing of the convicted person of sending the judgment and certification to the relevant European Union Member State. If a person is located in a European Union Member State, a document of a special form regarding informing of the convicted person regarding sending of the judgment and certification to the European Union Member State shall be attached to the certification.

(7) After information has been received from a European Union Member State regarding a decision taken thereby in relation to the judgment and certification of a special form sent to such country, the Ministry of Justice shall notify thereof the submitter of the request, a court controlling complete execution of the judgment, the convicted person, as well as his or her representative in cases where the request was submitted by the representative.

### **Section 826. Request of the Necessary Information in Order to Decide on an Issue Regarding Sending of a Judgment and Certification of a Special Form**

(1) If the Ministry of Justice considers that resocialization of a convicted person will be promoted in a European Union Member State, prior to sending of a judgment and certification of a special form it may request that the European Union Member State provides an opinion on whether the execution of a sentence will promote resocialization of the convicted person in the country, as well as the necessary additional information. An opinion of a European Union Member State shall not suspend sending of the certification to the Member State.

(2) In cases not referred to in Section 823, Paragraph three of this Law the Ministry of Justice shall request a European Union Member State to notify regarding a decision to agree or not agree to sending of a judgment and certification of a special form.

### **Section 827. Revocation of a Certification of a Special Form**

Until execution of a sentence in a European Union Member State has not been commenced, the Ministry of Justice may revoke a certification of a special form, providing a justification.

### **Section 828. Placing under Arrest of a Convicted Person in a European Union Member State**

The Ministry of Justice may, in the cases and according to the procedures referred to in Section 822 of this Law, request that a European Union Member State places a convicted person under arrest.

### **Section 829. Transfer of a Convicted Person**

(1) If a European Union Member State has agreed to the execution of a sentence, the Ministry of Justice shall assign the State Police, upon an agreement with the relevant European Union Member State, transfer the person thereto not more than 30 days from the day when the Member State took the final decision to recognise the judgment and execution of the sentence.

(2) If unforeseen circumstances exist, which hinder or preclude the transfer of a person, the State Police shall contact the European Union Member State. Transfer of the convicted person shall take place when the unforeseen circumstances do not exist anymore, but not more than within 10 days from the day when a new agreement has been reached.

### **Section 830. Rights of Latvia during the Execution of a Sentence in a European Union Member State**

The rights of Latvia during the execution of a sentence in a European Union Member State shall be determined by Section 813 of this Law.

### **Section 831. Legal Consequences of Transfer of a Convicted Person**

Serving of a sentence in Latvia shall be suspended when a convicted person is moved across the State border of the Republic of Latvia. Execution of a sentence may not be renewed if a European Union Member State notifies that the person has escaped from the prison. Execution of a sentence shall be renewed, if the respective foreign country notifies that the person has escaped from the prison.

## **Chapter 80 Execution in a Foreign Country of a Confiscation of Property Applied in Latvia**

### **Section 832. Sending of the Ruling on the Confiscation of Property for the Execution in a Foreign Country**

(1) In compliance with the conditions and procedures referred to in Chapter 77 of this Law, the Ministry of Justice may request that the return, on the basis of ownership, of property to the owner or lawful possessor or the confiscation of property, which has been imposed as an additional punishment or coercive measure, or special confiscation of property imposed in Latvia (hereinafter in this Chapter - the ruling on the confiscation of property) be executed.

(2) The ruling made in Latvia on the confiscation of property may be sent concurrently to several foreign countries, if property is located in a different foreign country or confiscation is related to activities in several foreign countries. When sending several rulings on the confiscation of property, the Ministry of Justice shall inform all foreign countries involved in the execution of the ruling thereon.

[29 January 2015; 7 January 2021]

### **Section 833. Consequences of the Execution of a Confiscation of Property**

(1) Having received information from a foreign country regarding the execution of the ruling on the confiscation of property, the Ministry of Justice may request that the foreign country decides on the division of the money or property acquired as a result of the confiscation of property.

(2) In conformity with the harm caused as a result of a criminal offence, the number of victims and the costs of criminal proceedings in Latvia, the Ministry of Justice may request that the money acquired as a result of the confiscation of property is returned in full or partial amount.

(3) Having received information from a foreign country on a property, which was confiscated as a historical, artistic or scientific value or the disposal of which was not desirable, the Ministry of Justice shall agree with the foreign country on taking over of such property.

## **Chapter 81 Execution of the Ruling Made in Latvia on the Recovery of a Financial Nature, on the Confiscation of Property and on an Alternative Sanction in a European Union Member State**

### **Section 834. Sending of the Ruling on the Recovery of a Financial Nature for the Execution to a European Union Member State**

(1) If it is not possible to execute the ruling made in Latvia on the recovery of a financial nature because the place of residence of a convicted person (for a legal person - a registered legal address), the property belonging thereto or his or her income is in another European Union Member State, a court or a prosecutor shall send the ruling on the recovery of a financial nature together with a certification of a special form to the Ministry of Justice.

(2) The Ministry of Justice shall ensure the translation of a certification of a special form, prepare information regarding the running of the limitation period specified in the Criminal Law and send the referred to documents to the relevant European Union Member State.

(3) The Ministry of Justice shall send all materials concurrently to only one European Union Member State.

### **Section 835. Consequences of the Execution of the Ruling on the Recovery of a Financial Nature**

After the ruling made in Latvia on the recovery of a financial nature has been sent for execution to a European Union Member State and the relevant Member State has taken a decision to accept it for execution, the Latvian authorities shall not perform any activities related to the execution of the recovery of a financial nature.

### **Section 836. Recovery of the Right to Execute the Ruling on the Recovery of a Financial Nature**

Latvia shall recover the right to execute the ruling on the recovery of a financial nature if:

- 1) it revokes the execution of the ruling on the recovery of a financial nature in a European Union Member State;
- 2) a Member State informs regarding complete or partial non-execution of the ruling on the recovery of a financial nature.

### **Section 837. Sending of the Ruling on the Confiscation of Property for the Execution to a European Union Member State**

(1) If the ruling given in Latvia on the confiscation of property cannot be executed due to the place of residence of a convicted person (for a legal person - a registered legal address), the property belonging thereto or his or her income is in another European Union Member State, the ruling on the confiscation of property together with the confiscation certificate shall be sent to the Ministry of Justice which will send the abovementioned documents for execution in accordance with the procedures specified in Regulation No 2018/1805. If the ruling on the confiscation of property must be sent to a European Union Member State that is not bound by Regulation No 2018/1805, the court shall, in accordance with the procedures specified in this Chapter, send the ruling on the confiscation of property together with a certification of a special form to the Ministry of Justice.

(2) The Ministry of Justice shall ensure the translation of a certification of a special form in the official language of the relevant European Union Member State or the language, which has been indicated for the receipt of the certification by the Member State to the General Secretariat of the Council of the European Union, as well as prepare information regarding the running of the limitation period specified in the Criminal Law and send the referred to documents to the relevant European Union Member State.

(3) The ruling made in Latvia on the confiscation of property may be sent concurrently to several European Union Member States, if properties are located in different Member States thereof or confiscation is related to activities in several Member States.

(4) If a property, to which the ruling on the confiscation of property applies, has a historical, artistic or scientific value or the disposal of which is not desirable, a relevant note shall be made in the certification of a special form.

[7 January 2021]

### **Section 838. Consequences of Sending of the Ruling on the Confiscation of Property**

Sending of the ruling made in Latvia on the confiscation of property to several European Union Member States concurrently shall not limit Latvia in the execution of the ruling.

### **Section 839. Termination of the Execution of the Ruling Made in Latvia on the Confiscation of Property**

(1) If a court revokes the ruling made in Latvia on the confiscation of property, it shall inform the Ministry of Justice, which shall, without delay, inform the relevant European Union Member State regarding revocation of the court ruling made in Latvia on the confiscation of property.

(2) The Ministry of Justice shall, without delay, inform the relevant European Union Member State regarding amnesty and clemency acts adopted in Latvia.

### **Section 840. Request in Relation to the Division of the Money or Property Acquired as a Result of a Confiscation of Property**

(1) Having received information from a European Union Member State regarding the execution of the ruling on the confiscation of property, the Ministry of Justice shall, within 30 days, request the Member State to decide on the division of money or property acquired as a result of the confiscation of property.

(2) Having received information from a European Union Member State regarding the execution of a judgment regarding a confiscation of property, if the money acquired as a result of the confiscation of property exceeds EUR 10 000 (recalculating according to the currency exchange rate used in accounting, which was in effect on the day of receipt of the information), the Ministry of Justice shall request the Member State to transfer half of the money to the account of the State budget of Latvia.

(3) Taking into account the harm caused as a result of a criminal offence, the number of victims and the costs of criminal proceedings in Latvia, the Ministry of Justice may request that the relevant European Union Member State return more than half of the money acquired as a result of a confiscation of property.

(4) Having received information from a European Union Member State regarding a property which has been confiscated and has a historical, artistic or scientific value or the disposal of which was not desirable, the Ministry of Justice shall agree with the Member State regarding the takeover of such property.

[12 September 2013]

### **Section 841. Sending of the Ruling Made in Latvia on an Alternative Sanction for the Execution to a European Union Member State where the Permanent Place of Residence of a Convicted Person is Located**

(1) If it is not possible to execute the ruling made in Latvia on an alternative sanction because a convicted person has returned or submitted a submission that he or she wishes to return to the permanent place of residence in another European Union Member State, the court that rendered the judgment in first instance shall send the ruling together with a certification of a special form to the Ministry of Justice.

(2) An issue regarding sending of the ruling on an alternative sanction, the execution of which should be commenced after sentence related to deprivation of liberty has been served, to a European Union Member State during the serving of a sentence related to deprivation of liberty upon a submission of a prison shall be examined in accordance with the procedures laid down in Section 651 of this Law. The ruling together with a certification of a special form shall be sent to the Ministry of Justice.

(3) An issue regarding sending of the ruling on an alternative sanction to a European Union Member State during the execution of the sanction upon a submission of the institution, which is assigned to control the execution of the alternative sanction, shall be examined in accordance with the procedures laid down in Section 651 of this Law. The ruling together with a certification of a special form shall be sent to the Ministry of Justice.

(3<sup>1</sup>) The court shall additionally indicate in the ruling the maximum period for fulfilling the community service (compulsory measure) imposed in Latvia that shall not be shorter than six months and longer than 24 months.

(4) In the case referred to in Paragraph three of this Section the ruling made in Latvia on an alternative sanction may be sent for the execution to the relevant European Union Member State, if the remaining time period of the applied probationary measure that was not executed does not exceed six months.

(5) Having received the ruling referred to in Paragraph one, two, or three of this Section together with a certification of a special form, the Ministry of Justice shall ensure the translation of the certification, prepare information regarding the limitation period for execution of a judgment of conviction specified by the Criminal Law and send these documents to the relevant European Union Member State. The Ministry of Justice shall send all materials concurrently only to one European Union Member State.

[17 December 2020]

#### **Section 842. Sending of the Ruling Made in Latvia on an Alternative Sanction for the Execution to a European Union Member State which is not the Permanent Place of Residence of a Convicted Person**

(1) A convicted person has the right to submit a submission for sending the ruling made in Latvia on an alternative sanction for the execution to a European Union Member State which is not the permanent place of residence of a convicted person, if the remaining term of the sentence not served or probationary measure applied that has not been executed is not less than six months.

(2) A convicted person shall, until the commencement of the execution of the ruling made in Latvia on an alternative sanction, submit the submission specified in Paragraph one of this Section to the court, which rendered the judgment in first instance, but during the execution of the ruling - to the court of first instance, which controls the execution of a judgment or decision. Submitting a submission to a court shall not suspend the execution of an alternative sanction in Latvia.

(3) Having received a submission, a judge of a court of first instance with the intermediation of the Ministry of Justice shall ascertain the criteria specified by the relevant European Union Member State for the execution of an alternative sanction.

(4) In conformity with the conditions of Paragraph three of this Section, an issue regarding sending of a judgment regarding an alternative sanction for the execution to a European Union Member State shall be decided by a judge of a court of first instance in accordance with the procedures laid down in Section 651 of this Law. A judge, in conformity with Section 841, Paragraphs one and four of this Law, shall send the ruling together with a certification of a special form to the Ministry of Justice.

(4<sup>1</sup>) The court shall additionally indicate in the ruling the maximum period for fulfilling the community service (compulsory measure) imposed in Latvia that shall not be shorter than six months and longer than 24 months.

(5) Having received the ruling together with a certification of a special form from a court, the Ministry of Justice shall ensure the translation of the certification, prepare information regarding the limitation period for execution of a judgment of conviction specified by the Criminal Law and send these documents to the relevant European Union Member State in accordance with the procedures laid down in Section 841 of this Law.

[17 December 2020]

#### **Section 843. Consequences of Sending for the Execution of the Ruling Made in Latvia on an Alternative Sanction**

After sending for the execution of the ruling made in Latvia on an alternative sanction to a European Union Member State and for the execution of a decision of the relevant Member State on accepting it, the Latvian authorities shall not perform activities related to the execution and supervision of the alternative sanction.

#### **Section 844. Recovery of the Right to Execute the Ruling Made in Latvia on an Alternative Sanction**

(1) Latvia shall recover the right to execute the ruling on an alternative sanction if:

1) it revokes the ruling and the certification of a special form attached thereto regarding the execution of an alternative sanction in a European Union Member State;

2) the relevant European Union Member State has returned the execution of an alternative sanction to Latvia for further taking of a decision;

3) the relevant European Union Member State has returned the execution of an alternative sanction to Latvia if a convicted person does not have a permanent place of residence in the European Union Member State anymore;

4) the relevant European Union Member State has returned the execution of an alternative sanction to Latvia if a convicted person is evading the execution of the alternative sanction and is not in the European Union Member State.

(2) If new criminal proceedings are initiated against a convicted person in Latvia after the ruling on an alternative sanction has been sent for execution to a European Union Member State, a court, which sent the ruling, may request the European Union Member State to return the supervision of the alternative sanction.

### **Division Eighteen**

#### **Assistance in the Performance of Procedural Actions**

#### **Chapter 82 Assistance to a Foreign Country in the Performance of Procedural Actions**



[24 May 2012]

#### **Section 845. Grounds for the Assistance to a Foreign Country in the Performance of Procedural Actions**

The grounds for procedural assistance are the following:

1) a request of a foreign country regarding the provision of assistance in the performance of a procedural action (hereinafter in this Chapter also - the request of a foreign country);

2) a decision of the competent authority of Latvia on admissibility of a procedural action.

[24 May 2012]

#### **Section 846. Competent Authorities in Examination of the Request of a Foreign Country**

(1) In the pre-trial proceedings, the Office of the Prosecutor General shall examine and decide the request of a foreign country, and up to the commencement of criminal prosecution the State Police shall also examine and decide such request.

(2) After transfer of a case to a court, the Ministry of Justice shall examine and decide the request of a foreign country.

(3) If countries or their competent authorities have come to an agreement regarding direct contact, the relevant institutions shall examine and decide requests.

[12 March 2009; 14 January 2010; 24 May 2012]

#### **Section 847. Procedures for the Fulfilment of the Request of a Foreign Country**

(1) The request of a foreign country regarding the provision of assistance in the performance of a procedural action shall be fulfilled in accordance with the procedures laid down in this Law.

(2) A request may be fulfilled in accordance with other procedures if so requested by a foreign country and if such execution is not in contradiction with the basic principles of the criminal procedure of Latvia.

(3) Upon the request of a foreign country, the competent authority may permit a representative of a foreign country to participate in the performance of procedural action, or to personally perform such operation in the presence of a representative of the institution fulfilling the request.

(4) A request regarding the provision of assistance in the performance of a procedural action in proceedings against a legal person, if the request is submitted regarding the offence which is criminally punishable in a foreign country, shall be executed regardless of the proceedings in which it is requested in the foreign country.

[24 May 2012; 30 March 2017]

#### **Section 848. Deciding on the Request of a Foreign Country**

(1) The request of a foreign country regarding the provision of assistance in the performance of a procedural action shall be decided immediately, but not later than within 10 days after receipt thereof. If additional information is necessary for deciding of a request, such information shall be requested from the country that submitted the request.

(2) In examining the request of a foreign country, the competent authority shall take one of the following decisions:

1) on possibility of the execution of the request, determining the institution that will fulfil the request, terms, and other conditions;

2) on refusal to fulfil the request or a part thereof, substantiating the refusal.

(2<sup>1</sup>) The decision on the possibility to execute the request of a foreign country for legal assistance may also be taken in the form of a resolution.

(3) The country that submitted the request shall be, without delay, informed regarding the decision taken, if the execution of the request or a part thereof has been rejected or if a foreign country has so requested.

[24 May 2012; 27 September 2018]

#### **Section 849. Execution of the Request of a Foreign Country**

(1) An investigating institution, the Office of the Prosecutor or a court shall execute the request of a foreign country under the assignment of the competent authority.

(2) The institution executing the request of a foreign country shall, in a timely manner, inform the foreign country,

on the basis of an order of the competent authority, regarding the time and place of the performance of a procedural action. The competent authority shall send to the foreign country 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 country shall be notified regarding the reasons for the non-execution of a request.

(4) If, in executing the request of a foreign country, facts are acquired for the further examination of which the conduct of other emergency procedural actions is necessary, the executor of the request is entitled, in accordance with the procedures laid down in this Law, to perform such activities, notifying the initiator of the request thereof.

(5) The executor of the request of a foreign country, having determined during the execution of the request objects and documents, the circulation is prohibited by law and removal of which is not justified in the request, shall remove such objects and documents, and write a separate protocol on such removal.

[24 May 2012]

### **Section 850. Reasons for the Refusal of the Execution of the Request of a Foreign Country**

The execution of the request of a foreign country may be refused, if:

1) the request is related to a political offence, except when the request applies to terrorism or financing of terrorism;

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.

[14 January 2010; 24 May 2012]

### **Section 851. Performance of an Investigative Action by Using Technical Means**

(1) A procedural action may be performed by using technical means upon the request of a foreign country or upon a proposal of the institution fulfilling the request and with the consent of a foreign country. A person who has the right to defence may be examined by using technical means provided that the person agrees to it.

(2) A competent official of the country that submitted a request shall perform, in accordance with the procedures of such country, a procedural action using technical means. If necessary, an interpreter shall participate in the performance of such procedural action in Latvia or a foreign country.

(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 conformity 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 take 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 country that submitted the request.

[24 May 2012; 30 March 2017]

### **Section 852. 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 country that submitted the request;

2) such treaty exists, but the foreign country has undertaken to apply compulsory measures in such country only regarding offences that are criminally punishable in such country.

[24 May 2012]

### **Section 853. Performance of Special Investigative Actions**

A special investigative action shall be performed upon the request of a foreign country only in a case where such operation would be admissible in criminal proceedings taking place in Latvia regarding the same offence.

[24 May 2012]

#### **Section 854. Temporary Transfer of a Person**

(1) Upon a request of a foreign country, a person who has been detained in Latvia, is being held under arrest in Latvia or is serving a sentence related to deprivation of liberty in Latvia may be transferred for a specific term to the foreign country for the provision or confronting of testimony provided that such person will be immediately transferred back to Latvia after 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 person detained, arrested, or convicted 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 extends the time period of arrest or prohibits the possibility to complete criminal proceedings in Latvia in reasonable time periods;

4) other substantial reasons exist.

(3) The term that a person has spent, upon the request of a foreign country, under arrest in the foreign country shall be included in the term of the security measure and the served sentence.

[24 May 2012; 30 March 2017]

#### **Section 855. Temporary Acceptance of a Person**

(1) If a foreign country requests that a person who is being held under arrest, or is serving a sentence related to deprivation of liberty, in such foreign country be located in Latvia during a procedural action, the competent authority may permit the acceptance of such person during the performance of the procedural action.

(2) A person who has been conveyed to Latvia upon the request of a foreign country shall be held under arrest on the grounds of the documents referred to in Section 702, Paragraph one, Clause 1 of this Law. After execution of the request, such persons shall be immediately transferred back to the foreign country, but not later than the last day of the term of transfer.

[24 May 2012]

#### **Section 856. Execution of the Temporary Transfer or Acceptance of a Person**

The competent authority shall assign the country Police to co-ordinate with a foreign country and perform the transfer or acceptance of a person for a term.

[24 May 2012; 18 February 2016]

#### **Section 857. 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 the request of a foreign country.

(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.

[24 May 2012]

#### **Section 858. Transfer of an Object to a Foreign Country**

An object necessary as material evidence may be transferred to a foreign country upon request of such foreign country. If necessary, the competent authority of Latvia shall request guarantees that the object will be returned.

[24 May 2012]

#### **Section 859. Procedures for the Issuance of Procedural Documents of a Foreign Country**

Upon the request of a foreign country, the competent authority shall organise the issuance of the procedural documents of a foreign country to a person in Latvia. A protocol shall be written regarding such issuance in accordance with the requirements of Section 326 of this Law.

[24 May 2012]

## **Section 860. Execution of a Procedural Ruling of a European Union Member State Regarding Provision of Property for Confiscation or Securing of Obtaining Evidence in Latvia**

(1) Seizure of a property requested by a European Union Member State in Latvia shall be carried out in accordance with the procedures specified in Regulation No 2018/1805. If the seizure of a property or search is requested by a European Union Member State that is not bound by Regulation No 2018/1805, the seizure of a property or search in Latvia shall be carried out in accordance with the procedures specified in this Chapter on the basis of a procedural ruling on the provision of property for confiscation or on the securing of obtaining evidence issued by the competent authority of the European Union Member State to which a certification is attached.

(2) The Office of the Prosecutor General upon receiving procedural ruling on the provision of property for confiscation or on the securing of obtaining evidence if possible without delay but not later than within 24 hours upon the receipt thereof shall:

1) evaluate the possibility for carrying out of procedural ruling on the provision of property for confiscation or securing of obtaining evidence. If the execution of ruling is possible it shall point the executing authority for such ruling and shall perform the necessary action for execution thereof.

2) notify the relevant competent authority of the European Union Member State regarding the receipt for execution of the ruling on the provision of property for confiscation or securing of obtaining evidence or on the refusal of execution thereof by substantiating the refusal.

(3) Procedural ruling on the provision of property for confiscation in Latvia shall be carried out in accordance with the procedures laid down in Chapter 28 of this Law, but the procedural ruling on the securing of obtaining evidence in Latvia - in accordance with the procedures laid down in Chapter 10 of this Law. For the seizure of a property or search the permission of an investigating judge shall not be necessary.

(4) Execution conditions of procedural ruling on the provision of property for confiscation or securing of obtaining evidence specified by a European Union Member State shall be followed insofar as they do not contradict to the basic principles of this Law.

(5) If upon execution of procedural ruling on the provision of property for confiscation or securing of obtaining evidence it is necessary to perform procedural actions additionally indicated in this ruling, they shall be carried out in accordance with the procedures laid down in this Law.

(6) If the procedural ruling on the provision of property for confiscation or securing of obtaining evidence has been issued according to an offence referred to in Annex 2 to this Law, and if such custodial sentence the maximum limit of which is not less than three years is provided for commitment of the crime in the country, which issued the ruling, a verification of whether such offence is criminal also according to the Law of Latvia shall not be performed.

*[22 November 2007; 24 May 2012; 7 January 2021]*

## **Section 861. Reasons for Refusal of the Execution of a Procedural Ruling of a European Union Member State on the Provision of Property for Confiscation or Securing of Obtaining Evidence**

(1) The procedural ruling on the provision of property for confiscation or securing of obtaining evidence shall be refused to be executed if:

1) a certification has not been sent, is incomplete or is not related to the procedural ruling on the provision of property for confiscation or securing of obtaining evidence to which it has been attached;

2) the immunity from criminal proceedings referred to in Chapter 8 of this Law exists;

3) upon execution of procedural ruling on the provision of property for confiscation or securing of obtaining evidence a principle of inadmissibility of double jeopardy (*ne bis in idem*) is violated;

4) the offence to which the procedural ruling on the provision of property for confiscation or securing of obtaining evidence applies is not included in Annex 2 to this Law and is not criminal according to the Law of Latvia with exception of cases when the procedural ruling on the provision of property for confiscation or securing of obtaining evidence refers to evasion of such taxes and fees that are not provided for in the laws and regulations of Latvia or are provided for but the regulation thereof specified in laws and regulations of Latvia is different from the regulation specified laws and regulations of the country that issued the ruling.

(2) The Office of the Prosecutor General, within a framework of the case referred to in Paragraph one, Clause 1 of this Section is allowed to:

1) declare a term for submission or clarification of certification;

2) in exceptional cases, accept for examination an equivalent document if it contains information that shall be indicated in the certification; and

3) release the competent authority of the issuing country of the ruling from the obligation to submit or clarify the certification, if it considers that the submitted information is complete.

(3) The Office of the Prosecutor General shall, without delay, notify the competent authority of the issuing country of the ruling that the procedural ruling on the provision of property for confiscation or securing of obtaining evidence cannot be executed due to the documents, items or property not being present in the location indicated in the certification or the indicated location thereof is not indicated precisely enough, and its determination is also not possible after communication in writing with the competent authority of the issuing country of the ruling.

[22 November 2007; 24 May 2012]

#### **Section 862. Reasons for Deferral of the Execution of a Procedural Ruling on the Provision of Property for Confiscation or Securing of Obtaining Evidence of a European Union Member State**

(1) Execution of a procedural ruling on the provision of property for confiscation or securing of obtaining evidence may be delayed if:

1) execution thereof may be harmful to a criminal proceeding initiated in Latvia;

2) the property indicated in the ruling is seized or the indicated items or documents are removed for another criminal proceedings in which the procedural ruling on the provision of property for confiscation or securing of obtaining evidence is made - until the moment of revoking the decision or the entry into effect of the final ruling in the criminal proceedings;

3) to the property indicated in the ruling on the seizure of a property, a burden is applied according to other procedures - until the repeal of the burden or until the moment when the final ruling enters into effect.

(2) Regarding deferral of execution of a procedural ruling on the provision of property for confiscation or securing of obtaining evidence and the reasons thereof, the competent authority of the issuing country of the ruling shall be notified, without delay, if possible indicating the time to which the execution of deferral is postponed.

(3) A procedural ruling on the provision of property for confiscation or securing of obtaining evidence shall be executed immediately after elimination of the reasons for its execution informing, without delay, the competent authority of the issuing country of the ruling.

(4) The Office of the Prosecutor General shall inform the competent authority of the issuing country of the ruling on the any burden or restriction referring to the property that is indicated in the ruling on the seizure of the property.

[22 November 2007; 24 May 2012]

#### **Section 863. Storage of Removed Documents or Items and Seized Property in Latvia**

(1) Removed documents or items or seized property shall be stored insofar until the request of legal assistance for the transfer of documents and items or confiscation of property from the competent authority of the issuing country of the ruling is received.

(2) A limited period for the storage of the removed documents or items and seized property may be indicated taking into consideration an opinion of the issuing country that is expressed in writing. If the length of storage of the removed documents or items and seized property is incommensurate with the infringement of the right to property caused to the person, the competent authority shall request the issuing country to provide an opinion on further activities with the removed documents or items and seized property and shall concurrently inform that the storage of property in Latvia may be discontinued if the issuing country fails to provide an opinion within six months after requesting the opinion.

(3) If the competent authority of the issuing country of the ruling notifies of the revocation of a procedural ruling on the provision of property for confiscation or securing of obtaining evidence, the removed documents or items, or the seized property shall be returned to the owner, lawful possessor, user or holder, but the seizure of the property shall be revoked.

[22 November 2007; 24 May 2012; 7 January 2021]

#### **Section 864. Further Activities in Latvia with Removed Documents or Items and Seized Property**

(1) If to the procedural ruling on the provision of property for confiscation or securing of obtaining evidence a request for criminal-legal assistance is not attached, but in the certification sending date thereof, until which documents and items or property to be confiscated shall be stored, is indicated, the Office of the Prosecutor General may ask the competent authority of the relevant European Union Member State to alter such term, as well as to inform of the time up to which the storage of a document, item or property in Latvia shall be suspended.

(2) A request for criminal-legal assistance regarding submission of documents and items attached to the

procedural ruling on the provision of property for confiscation or securing of obtaining evidence shall be fulfilled in accordance with the procedures laid down in Chapter 82 of this Law, but the request of criminal-legal assistance regarding confiscation of property - in accordance with the procedures laid down in Chapter 74 or 75 of this Law.

(3) If the request of criminal-legal assistance regarding submission of documents and items is applicable to the judgment referred to in Annex 2 to this Law and if regarding commitment thereof in the country of issuing of request for criminal-legal assistance a custodial sentence is provided for, the maximum limit of which is not smaller than three years, a verification of whether this offence is criminal also according to the law of Latvia shall not be performed.

[22 November 2007; 24 May 2012]

#### **Section 865. Submission of Complaints Regarding the Execution of a Procedural Ruling on the Provision of Property for Confiscation or Securing of Obtaining Evidence of a European Union Member State**

(1) An activity related to execution of a procedural ruling on the provision of property for confiscation or securing of obtaining evidence shall be appealed in accordance with the procedures laid down in this Law.

(2) Submission of the complaint shall not suspend execution of a procedural ruling on the provision of property for confiscation or securing of obtaining evidence.

(3) A complaint regarding reasons for issuing a procedural ruling on the provision of property for confiscation or securing of obtaining evidence shall be submitted only to the court of the issuing country of the ruling.

(4) If a complaint regarding activity related to execution of a procedural ruling on the provision of property for confiscation or securing of obtaining evidence has been received, the Office of the Prosecutor General shall inform the competent authority of the issuing country of the ruling regarding submission of the complaint and the justification thereof, as well as regarding the result of examination of the complaint.

[22 November 2007; 24 May 2012]

#### **Section 866. Grounds for the Execution of a Decision Determining the Application of a Security Measure not Related to Deprivation of Liberty**

The grounds for the execution of a decision of a European Union Member State determining the application of a security measure not related to deprivation of liberty shall be:

1) a decision taken by the competent authority of the European Union Member State determining the application of a security measure not related to deprivation of liberty or a certified copy thereof and a certification of a special form;

2) a decision of the Office of the Prosecutor General to recognise and execute in Latvia the decision of the European Union Member State determining the application of a security measure not related to deprivation of liberty.

[24 May 2012 / Section shall come into force on 1 December 2012. See Paragraph 39 of the Transitional Provisions]

#### **Section 867. Conditions for the Execution of a Decision Determining the Application of a Security Measure not Related to Deprivation of Liberty**

(1) A decision determining the application of a security measure not related to deprivation of liberty shall be executed if a person has a permanent place of residence in Latvia and the person has agreed to return to Latvia and if any of the following prohibitions or duties has been indicated in a certification of a special form:

1) a duty to inform the competent authority of Latvia regarding change of the place of residence;

2) a prohibition to visit certain areas, places or territories in the European Union Member State, in which the decision determining the application of a security measure not related to deprivation of liberty was taken, or in Latvia;

3) a duty to be in a specific place at a specific time;

4) a prohibition to leave Latvia;

5) a duty to report to the indicated authority at a specific time;

6) a prohibition to contact specific persons in relation to a potential offence;

7) a prohibition to perform certain activities that are related to a potential offence and that may concern work in a specific profession or field of employment;

8) a prohibition to drive a vehicle.

(2) A decision determining the application of a security measure not related to deprivation of liberty may be executed also if a person does not reside permanently in Latvia, however, has expressed a request to execute the



security measure not related to deprivation of liberty applied thereto in Latvia and if one of the following conditions is present:

- 1) the person has employment legal relationship in Latvia;
- 2) the person has family relationship in Latvia;
- 3) the person is acquiring education in Latvia.

*[24 May 2012 / Section shall come into force on 1 December 2012. See Paragraph 39 of the Transitional Provisions]*

#### **Section 868. Reasons for the Refusal to Execute a Decision Determining the Application of a Security Measure not Related to Deprivation of Liberty**

Execution of a decision determining the application of a security measure not related to deprivation of liberty may be refused, if:

- 1) a certification of a special form is incomplete or does not conform to the decision determining the application of a security measure not related to deprivation of liberty and it has not been updated in the specified period of time;
- 2) an offence to which the decision imposing a security measure not related to deprivation of liberty applies is not included in Annex 2 to this Law and is not criminal according to the laws of Latvia, except where such decision applies to evasion of payment of such taxes and fees or conformity with the customs and currency exchange regulations, which are not provided for in laws and regulations of Latvia or are provided for, however, their regulation specified in laws and regulations of Latvia differs from the regulation specified in the laws and regulations of the European Union Member State, which took the decision;
- 3) a certification of a special form contains a prohibition or duty, which is not included in Section 867, Paragraph one of this Law;
- 4) the conditions specified in Section 867 of this Law for the execution of a security measure not related to deprivation of liberty do not exist;
- 5) the principle of inadmissibility of double jeopardy (*ne bis in idem*) will be violated when executing the decision determining the application of a security measure not related to deprivation of liberty;
- 6) the immunity from criminal proceedings referred to in Chapter 8 of this Law exists;
- 7) the limitation period for criminal liability has set in and the decision determining the application of a security measure not related to deprivation of liberty pertains to an offence that is in the jurisdiction of Latvia;
- 8) the person has not reached the age from which criminal liability applies;
- 9) in case if a security measure is violated Latvia cannot extradite the person to a European Union Member State according to Section 66 of this Law.

*[24 May 2012 / Section shall come into force on 1 December 2012. See Paragraph 39 of the Transitional Provisions]*

#### **Section 869. Deferral of Recognition of a Decision Determining the Application of a Security Measure not Related to Deprivation of Liberty**

(1) If a certification of a special form is incomplete or does not conform to the content of a decision determining the application of a security measure not related to deprivation of liberty, the Office of the Prosecutor General may defer the recognition thereof, informing the relevant European Union Member State regarding a necessity of updating it within a specific period of time.

(2) If the reasons for refusal specified in Section 868, Paragraph one, Clause 1, 3, 4 or 5 of this Law exist, the Office of the Prosecutor General may defer the recognition of a decision of a European Union Member State, informing the relevant European Union Member State regarding a necessity of submitting additional information within a specific period of time.

*[24 May 2012 / Section shall come into force on 1 December 2012. See Paragraph 39 of the Transitional Provisions]*

#### **Section 870. Recognition of a Decision Determining the Application of a Security Measure not Related to Deprivation of Liberty and Determination of a Security Measure**

(1) Having received a decision determining the application of a security measure not related to deprivation of liberty and a certification of a special form, the Office of the Prosecutor General shall, within 20 working days, examine the

documents and take one of the following decisions:

1) on consent to recognise and execute the decision determining the application of a security measure not related to deprivation of liberty;

2) on refusal to recognise and execute the decision determining the application of a security measure not related to deprivation of liberty.

(2) If a person has appealed a decision determining the application of a security measure not related to deprivation of liberty in a European Union Member State, the decision referred to in Paragraph one of this Section shall be taken within 40 working days from the day when the decision determining the application of a security measure not related to deprivation of liberty and a certification of a special form was received.

(3) If the reasons for refusal specified in Section 869 of this Law exist, the Office of the Prosecutor General shall take the decision referred to in Paragraph one of this Section within 20 working days from the day when additional information was received from a European Union Member State or the time period for the provision or updating of information specified by the Office of the Prosecutor General has expired.

(4) If the Office of the Prosecutor General cannot conform to the time period specified in Paragraphs one and two of this Section, it shall inform the relevant European Union Member State, indicating the reasons for delay and the time period necessary for taking of a decision on recognition and execution in Latvia of a decision of a European Union Member State determining the application of a security measure not related to deprivation of liberty.

(5) In taking the decision specified in Paragraph one, Clause 1 of this Section, the Office of the Prosecutor General shall determine a security measure not related to deprivation of liberty to be executed in Latvia and the particular prohibition or duty provided for within the scope of the security measure.

(6) The security measure not related to deprivation of liberty determined in Latvia shall not deteriorate the condition of the person to whom the security measure not related to deprivation of liberty has been applied in a European Union Member State, and it shall, as much as possible, conform to the security measure not related to deprivation of liberty applied in the relevant European Union Member State.

(7) The decision of the Office of the Prosecutor General shall not be subject to appeal.

*[24 May 2012 / Section shall come into force on 1 December 2012. See Paragraph 39 of the Transitional Provisions]*

#### **Section 871. Execution of a Decision Determining the Application of a Security Measure not Related to Deprivation of Liberty**

(1) The Office of the Prosecutor General shall send a decision on consent to recognise and execute a decision determining the application of a security measure not related to deprivation of liberty to a European Union Member State, concurrently requesting to inform it regarding the specific date when a person must report to the State Police of Latvia. After receipt of information the Office of the Prosecutor General shall send the decision and information of the relevant European Union Member State to the police authority according to the place of residence of the person.

(2) Execution of a security measure in Latvia shall be commenced from the time when a person had to report to the police authority according to his or her place of residence.

(3) The security measure indicated in the decision determining application of a security measure not related to the deprivation of liberty shall be executed in accordance with the procedures laid down in this Law. In pre-trial proceedings, the time period for the application of a security measure may not exceed the time period specified in Section 389 of this Law.

(4) Execution of a decision determining the application of a security measure not related to deprivation of liberty shall not restrict the right to hold the relevant person criminally liable, to try or to execute a sentence to him or her for a criminal offence committed in the territory of Latvia.

*[24 May 2012; 27 September 2018]*

#### **Section 872. Submission of Complaints Regarding a Decision Determining the Application of a Security Measure not Related to Deprivation of Liberty**

A complaint regarding the reasons for taking a decision determining the application of a security measure not related to deprivation of liberty shall be submitted only to the competent authority of the European Union Member State, which took the decision.

*[24 May 2012 / Section shall come into force on 1 December 2012. See Paragraph 39 of the Transitional Provisions]*

#### **Section 873. Termination of the Execution of a Decision Determining the Application of a Security Measure**

## **not Related to Deprivation of Liberty**

(1) Execution of a decision determining the application of a security measure not related to deprivation of liberty shall be terminated if:

- 1) the person does not have a permanent place of residence in Latvia;
- 2) a European Union Member State has revoked a decision determining the application of a security measure not related to deprivation of liberty, and a certification of a special form;
- 3) a European Union Member State has taken a decision to amend a security measure and Latvia refuses to execute the amended security measure in accordance with Section 868, Clause 3 of this Law;
- 4) the maximum time period for the application of a security measure indicated in a certification of a special form has expired;
- 5) Latvia has taken a decision to terminate the execution of a decision determining the application of a security measure not related to deprivation of liberty because the Office of the Prosecutor General has several times informed a European Union Member State regarding the violations of the security measure or provided information, which could be the reason for amending the security measure, but the relevant European Union Member State has not taken such decision within the time period specified by the Office of the Prosecutor General.

(2) Upon request of a European Union Member State the Office of the Prosecutor General shall take a decision to extend the time period for execution of a security measure. If the request refers to pre-trial proceedings, the time period for the application of a security measure may not exceed the time period specified in Section 389 of this Law.

(3) If a European Union Member State has taken a decision to amend a security measure and to apply such security measure, which is related to deprivation of liberty, Latvia shall terminate the execution of a decision determining the application of a security measure not related to deprivation of liberty. Extradition of a person to a European Union Member State shall be performed in accordance with Chapter 66 of this Law.

*[24 May 2012; 27 September 2018]*

### **Section 874. Decisions Taken by a European Union Member State Binding to Latvia in Relation to a Decision Determining the Application of a Security Measure not Related to Deprivation of Liberty**

(1) Decisions of a European Union Member State determining the amending or revocation of a security measure not related to deprivation of liberty shall be binding to Latvia.

(2) If a European Union Member State takes a decision to amend a decision determining the application of a security measure not related to deprivation of liberty, the Office of the Prosecutor General shall recognise the decision and determine a security measure in accordance with Section 870 of this Law. If the decision taken is not recognised and the prohibition or duty does not conform to Section 867, Paragraph one of this Law, the Office of the Prosecutor General shall refuse to apply the amended security measure.

(3) In deciding an issue regarding recognition of a decision amending a security measure, the Office of the Prosecutor General shall evaluate only the reason for refusal specified in Section 868, Clause 3 of this Law.

*[24 May 2012 / Section shall come into force on 1 December 2012. See Paragraph 39 of the Transitional Provisions]*

### **Section 875. Notifications to a European Union Member State**

(1) In executing the security measure applied, the State Police shall inform the Office of the Prosecutor General regarding:

- 1) the change in the place of residence of a person;
- 2) violations of the security measure, as well as other facts, which could be the reason for taking a subsequent decision to amend the security measure;
- 3) inability to execute a security measure not related to deprivation of liberty, if a person is not reachable;
- 4) threat that a person may cause to the victim and the society.

(2) The Office of the Prosecutor General shall inform a European Union Member State:

- 1) regarding a decision on refusal to recognise and execute the decision determining the application of a security measure not related to deprivation of liberty;
- 2) regarding the conditions indicated in Paragraph one of this Section, as well as the facts, which could be the

reason for amending the security measure, determining a time period during which the European Union Member State should take a decision. The Office of the Prosecutor General shall prepare a report on violations of the prohibitions or duties imposed, as well as other facts, which may be the grounds for taking a subsequent decision, filling in the relevant special document provided for in criminal legal co-operation with European Union Member States.

(3) The Office of the Prosecutor General shall inform a European Union Member State and the police authority according to the place of residence of a person regarding the decision taken by the Office of the Prosecutor General to terminate the execution of a security measure because the conditions of Section 873, Paragraph one, Clause 5 of this Law have set it, and for the time period the execution of a security measure shall be taken over by the relevant European Union Member State.

*[24 May 2012 / Section shall come into force on 1 December 2012. See Paragraph 39 of the Transitional Provisions]*

## **Chapter 82.<sup>1</sup> Recognition and Execution of a European Investigation Order**

*[30 March 2017]*

### **Section 875.<sup>1</sup> European Investigation Order**

A European Investigation Order is a request by a competent authority of the European Union Member State to perform a procedural action to obtain evidence in the territory of other European Union Member State or a request regarding receipt of the evidence which is already at the disposal of competent authorities of the European Union Member State. The European Investigation Order shall be taken by filling in a document of a special sample.

*[30 March 2017]*

### **Section 875.<sup>2</sup> Competent Authorities and Executing Authorities of Latvia for Examination, Verification, Recognition and Execution of a European Investigation Order**

(1) In the pre-trial proceedings, the Office of the Prosecutor General shall examine and recognise a European Investigation Order, and up to the commencement of criminal prosecution - also the State Police.

(2) After transfer of a case to the court a European Investigation Order shall be examined and verified by the Ministry of Justice, whereas the decision regarding recognition and execution shall be taken by the court.

(3) In the cases and in accordance with the procedures laid down in this Law the direct communication between an executing and issuing authority of a European Investigation Order is permissible. An executing authority shall be any investigating institution, a unit of the Office of the Prosecutor or court to which a competent authority of Latvia has assigned to execute a European Investigation Order.

*[30 March 2017]*

### **Section 875.<sup>3</sup> Verification, Recognition and Execution of a European Investigation Order in Pre-trial Proceedings**

(1) A competent authority of Latvia, after having received a European Investigation Order, shall immediately, however not later than within seven days, notify a competent authority of the European Union Member State thereof by completing an approval of receipt of the European Investigation Order, and verify whether there are grounds for refusal of recognition and execution provided for in this Law.

(2) Before taking a decision to recognise and execute a European Investigation Order a competent authority of Latvia shall assess whether the result indicated in the European Investigation Order can be achieved by procedural actions which require less intervention in the life of a person. The competent authority of Latvia shall inform the competent authority of the European Union Member State regarding all considerations and, where possible, agree on the performance of another procedural action which requires less intervention in the life of a person.

(3) Having not established the grounds for recognition and execution, a competent authority of Latvia shall take a decision to recognise a European Investigation order and transfer it for execution by determining an executing authority. A decision may also be taken in the manner of a resolution. The decision shall not be subject to appeal.

(4) A competent authority of Latvia, according to institutional jurisdiction, shall execute a European Investigation Order itself or transfer it to an executing authority.

(5) A competent authority of Latvia shall inform a competent authority of the European Union Member State regarding execution results by sending the materials obtained in the result of execution. In order to ensure faster and more efficient transfer of the materials obtained in the result of execution, the executing authority may transfer them directly to the competent authority of the European Union Member State by informing the competent authority of

Latvia thereof.

[30 March 2017]

#### **Section 875.<sup>4</sup> Verification, Recognition and Execution of a European Investigation Order After Transfer of a Case to the Court**

(1) Having received a European Investigation Order, the Ministry of Justice shall immediately, however not later than within seven days, notify a competent authority of the European Union Member State thereof by completing an approval of receipt of the European Investigation Order.

(2) The Ministry of Justice shall, within 10 days from the day of receipt of a European Investigation Order (if the amount of materials is extremely large - within 30 days), verify whether all necessary materials are received, and send the materials after the verification to the district (city) court for taking a decision to recognise and execute the European Investigation Order in Latvia.

(3) If translation of documents is necessary, verification of materials shall take place within the time periods referred to in Paragraph two of this Section after receipt of the translation.

(4) Before execution of a European Investigation Order, the court shall assess whether the result to be achieved indicated in the European Investigation Order can be achieved by procedural actions which require less intervention in the life of a person. The court which executes the European Investigation Order shall inform the competent authority of the European Union Member State regarding all considerations and, where possible, agree on the performance of another investigative action which requires less intervention in the life of a person.

(5) The Ministry of Justice shall inform a competent authority of the European Union Member State regarding the results of execution by sending the materials obtained in the result of execution. In order to ensure faster and more efficient transfer of the materials obtained in the result of execution, the court may transfer them directly to the competent authority of the European Union Member State by informing the Ministry of Justice thereof.

[30 March 2017]

#### **Section 875.<sup>5</sup> Time Periods for Recognition and Execution of a European Investigation Order**

(1) A competent authority of Latvia shall take a decision to recognise and execute a European Investigation Order as soon as possible, however not later than within 30 days after receipt of the European Investigation Order. Where translation of the documents is required, the decision shall be taken as soon as possible, however not later than within 30 days from the day of receipt of the translation.

(2) If in a European Investigation Order it is requested to perform a procedural action in order to prevent destruction, hiding or damaging of such items which could be used as evidence (temporary measure), a competent authority of Latvia shall assess it and, where possible, immediately, however not later than within 24 hours from the moment of receipt of such order, take a decision to take a temporary measure for ensuring the evidence.

(3) If a justification for performance of a procedural action is indicated in a European Investigation Order or a certain day is specified when the procedural action is to be performed, a competent authority of Latvia shall comply with it, as far as possible, when taking a decision on recognition and execution, and when determining an executing authority.

(4) If it is not possible to take a decision to recognise and execute a European Investigation Order within the time period laid down in Paragraph one of this Section or it is not possible to perform a procedural action on the day specified in a European Investigation Order, a competent authority of Latvia shall immediately inform a competent authority of the European Union Member State thereof by using any available means of communication and specifying the reasons for delay and the estimated time when the European Investigation Order could be recognised and executed. In such case the time period laid down in Paragraph one of this Section within which a decision to recognise a European Investigation Order should be taken may be extended for a time period no longer than 30 days.

(5) An executing authority shall execute the procedural action indicated in a European Investigation Order as soon as possible, however not later than within 90 days after taking the decision referred to in Paragraph one of this Section, unless there are other reasons for postponing execution. The European Investigation Order shall be immediately executed if the evidence is already at the disposal of the executing authority.

(6) If an executing authority detects that it will not be possible to perform the procedural action provided for in the European Investigation Order within the time period laid down in Paragraph five of this Section, it shall inform a competent authority of the European Union Member State by using any available means of communication regarding the reasons for delay and agree regarding further action. The executing authority shall inform the competent authority of Latvia regarding communication with the competent authority of the European Union Member State.

[30 March 2017]

## **Section 875.<sup>6</sup> Reasons for Refusal of Recognition and Execution of a European Investigation Order**

(1) Recognition and execution of a European Investigation Order may be refused if:

1) the immunity from criminal proceedings referred to in Chapter 8 of this Law or the criminal procedural procedures in relation to freedom of press and expression exist that make execution of the European Investigation Order impossible;

2) the execution in a particular case would harm substantial national security interests, jeopardise a source of information or would be related with disclosure of such information which substantially harms criminal proceedings or operational activities;

3) it has been issued for the offence which in accordance with the Criminal Law is not criminal, except for the cases when it is included in Annex 2 to this Law and in the European Union Member State which has issued the European Investigation Order, for which the custodial sentence the maximum limit of which is not less than three years is provided for;

4) the principle of inadmissibility of double jeopardy (*ne bis in idem*) would be infringed;

5) there are significant reasons that cause basis for assumption that excessive intervention in the life of a person would occur;

6) the procedural action would not be admissible in criminal proceedings taking place in Latvia regarding the same offence.

(2) Paragraph one, Clauses 3 and 6 of this Section shall not apply to procedural actions which are provided for in Section 875.<sup>10</sup>, Paragraph two of this Law.

(3) If the reasons for refusal of recognition and execution of a European Investigation Order indicated in Paragraph one of this Section exist, or if a competent authority of Latvia has grounds to consider that recognition of such order could incommensurably infringe the rights of the person who has the right to defence, a competent authority of Latvia shall, prior to take a decision to partly or fully recognise and execute the European Investigation or to refuse to recognise and execute such order, communicate with a competent authority of the European Union Member State by using any available means of communication, and, where necessary, ask it to immediately provide the necessary information.

(4) The fact, that a European Investigation Order applies to offences which are related to avoiding from payment of such taxes and duties which are not provided in the laws and regulations of Latvia or are provided therein, but the regulation thereof which is laid down in the laws and regulation of Latvia is different, may not be the reason for refusal of recognition and execution.

(5) After receipt of a European Investigation Order from a competent authority of Latvia, an executing authority shall, in order to perform a procedural action provided therein, perform the necessary actions in order to revoke the immunity laid down in Paragraph one, Clause 1 of this Section or comply with special procedural procedures. If revocation of the immunity or complying with special procedural procedures is within a competence of other State or international organisation, the executing authority shall inform the competent authority of the European Union Member State thereof.

[30 March 2017]

## **Section 875.<sup>7</sup> Reasons and Time Periods for Postponing Execution of a European Investigation Order**

(1) Execution of a European Investigation Order may be postponed if:

1) execution thereof may harm criminal proceedings commenced in Latvia - for a time period which is to be considered as substantiated;

2) items, documents or data which are requested in this order are used in other proceedings - until the time when they are not necessary for such purpose.

(2) Having established the reasons for postponing the execution provided for in Paragraph one of this Section, an executing authority shall inform the competent authority of the European Union Member State and Latvia.

(3) As soon as the reasons for postponing the execution of the European Investigation Order provided for in Paragraph one of this Law do not exist, an executing authority shall inform the competent authority of the European Union Member State and Latvia and immediately take the measures necessary for the execution of this order.

[30 March 2017]

## **Section 875.<sup>8</sup> Execution of Procedural Action Requested in a European Investigation Order**



Execution of a procedural action requested in a European Investigation Order shall take place by complying with the procedures laid down in this Law regarding performance of procedural actions and international co-operation in the field of criminal law.

[30 March 2017]

#### **Section 875.<sup>9</sup> Action After Receipt of a Notification Regarding Control of Means of Communication in the Territory of Latvia without Technical Assistance of Latvia**

If a notification regarding control of the means of communication in the territory of Latvia without technical assistance of Latvia is received from a competent authority of the European Union Member State, a competent authority of Latvia shall assess the received notification and whether the control of the means of communication would be permissible in criminal proceedings occurring in Latvia for the same offence, and not later than within 96 hours inform the competent authority of the European Union Member State if::

1) the control of the means of communication may not be carried out, whereas the commenced control of the means of communication must be discontinued;

2) the information obtained in the result of the control of the means of communication carried out in the territory of Latvia may not be used in proving by indicating reasons which substantiate such prohibition.

[30 March 2017]

#### **Section 875.<sup>10</sup> Replacement of a Procedural Action Requested in a European Investigation Order with Equal Procedural Action**

(1) If a procedural action requested in a European Investigation Order is not provided for in this Law or it would not be permissible in criminal proceedings occurring in Latvia for the same offence, an executing authority shall perform other equal procedural action in order to achieve the result indicated in the European Investigation Order.

(2) The provisions of Paragraph one of this Section shall not apply to:

1) acquiring such evidence which already is at the disposal of the executing authority;

2) acquiring such information which is located in the information system available for an executing authority and executing authority could obtain it through criminal proceedings occurring in Latvia;

3) examining a witness, expert, victim and person who has the right to defence;

4) acquiring such data to be stored which enable to identify the user or subscriber of a particular phone number or Internet protocol (IP) address.

(3) If a procedural action requested in a European Investigation Order is not intended in this Law or it could not be permissible in criminal proceedings occurring in Latvia for the same offence and it is not possible to perform other procedural action in order to achieve the result indicated in the European Investigation Order, a competent authority of Latvia shall inform the competent authority of the European Union Member State regarding impossibility of execution of the European Investigation Order.

[30 March 2017]

#### **Section 875.<sup>11</sup> Transfer of Evidence**

(1) An executing authority shall transfer the evidence obtained in the result of execution of the European Investigation Order to a competent authority of the European Union Member State. The executing authority shall indicate whether evidence is to be transferred back to the executing authority after it is not necessary anymore in criminal proceedings occurring in the European Union Member State.

(2) If a person has disputed the European Investigation Order taken by a competent authority of the European Union Member State or procedures for the execution of the European Investigation Order and permissibility of evidence obtained in the result thereof, an executing authority may postpone transfer of evidence until the time when a claim is decided.

[30 March 2017]

#### **Section 875.<sup>12</sup> Submitting a Claim Regarding Execution of a European Investigation Order**

(1) Action related to execution of a European Investigation order shall be appealed in accordance with the procedures laid down in this Law.

(2) Submission of a claim regarding substantiation for taking a European Investigation Order and procedural action requested shall not suspend the execution thereof, except for the case when the consequences of submission of such claim are provided for in accordance with the national regulation of the European Union Member State which has taken the European Investigation Order, and a competent authority of the European Union Member State has informed the executing authority thereof.

(3) A claim regarding substantiation for taking a European Investigation Order shall be submitted to a competent authority of the European Union Member State which has taken the European Investigation Order and it shall examine and decide regarding such claim.

(4) If a claim is received regarding the action related with execution of a European Investigation Order, a competent authority of Latvia shall inform a competent authority of the European Union Member State regarding the receipt and substantiation of the claim, and also regarding the results of examination of the claim.

[30 March 2017]

## **Chapter 83 Request to a Foreign Country Regarding the Performance of Procedural Actions**

[24 May 2012]

### **Section 876. Procedures for the Submission of a Request**

(1) If the performance of a procedural action in a foreign country is necessary in criminal proceedings, the person directing the proceedings shall turn to the competent authority with a written proposal to request that the foreign country performs the procedural action. The request and other documents provided for in Section 877, Paragraph one of this Law shall be attached to the proposal.

(2) The proposal shall be examined within 10 days, and the submitter shall be informed regarding the results.

(2<sup>1</sup>) The proposal may be refused if severity and nature of the criminal offence is not commensurable with expenses associated with sending the request, or the objective of criminal proceedings may be achieved by other means.

(3) If the proposal is found to be justified, the competent authority shall send a request to a foreign country.

[12 March 2009; 24 May 2012; 20 December 2012; 30 March 2017]

### **Section 877. Request Regarding the Performance of a Procedural Action in a Foreign Country**

(1) A request regarding the performance of a procedural action in a foreign country shall be written in accordance with Section 678 of this Law, and such documents shall be attached to the request, which 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 country:

- 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 using technical means.

(3) If a foreign country requests additional information, it shall be provided by the competent authority by consulting with the submitter of a request in case of necessity.

[14 January 2010; 24 May 2012]

### **Section 878. Request Regarding the Temporary Transfer of a Person**

(1) The competent authority may request, on the basis of a written proposal of the person directing the proceedings, that a person who has been detained in a foreign country, is being held under arrest in a foreign country, or is serving a sentence related to deprivation of liberty in a foreign country be transferred for a specific term for the performance of procedural actions.

(1<sup>1</sup>) A person who has been conveyed to Latvia upon request of Latvia shall be held under arrest on the grounds of the document referred to in Section 702, Paragraph one, Clause 1 of this Law. After execution of the request, such persons shall be immediately transferred back to the foreign country, but not later than the last day of the term of transfer.

(2) The competent authority may request, on the basis of a proposal of the person directing the proceedings, a foreign country to accept for a term a person who is being held under arrest, 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 country.

[24 May 2012; 30 March 2017]

#### **Section 879. 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.

[24 May 2012]

#### **Section 880. Taking of the Decision on the Seizure of a Property or the Decision on a Search and Sending to a European Union Member State**

(1) Seizure of a property in another European Union Member State shall take place on the basis of a decision on the seizure of a property taken by the person directing the proceedings in pre-trial proceedings and approved by the investigating judge. Search in another European Union Member State shall be performed on the basis of the decision on a search taken by the investigating judge.

(2) The information referred to in Section 180, Paragraph two of this Law shall be indicated in the decision on a search, but in the decision on the seizure of a property - information referred to in Section 361, Paragraph five of this Law.

(2<sup>1</sup>) The decision to seize a property together with the freezing certificate shall be sent to the Office of the Prosecutor General which will send the abovementioned documents to a European Union Member State in accordance with the procedures specified in Regulation No 2018/1805. If the decision to seize a property must be sent to a European Union Member State that is not bound by Regulation No 2018/1805, the sending shall take place in accordance with the procedures specified in this Chapter.

(3) The investigating judge, upon approval of the decision on the seizure of a property taken by the person directing the proceedings or upon taking of the decision on a search, shall, without delay but not later than within three working days, complete a certification of a special form, informing the person directing the proceedings thereof. The person directing the proceedings shall provide the translation of the certification in the official language of the relevant European Union Member State or in the language which has been indicated by the relevant European Union Member State for the receipt of certification to the General Secretariat of the Council of the European Union.

(4) In the stage of trial the decision on the seizure of a property or the decision on a search shall be taken, certification shall be completed and the translation thereof shall be provided by a court in the proceedings of which the criminal case is located.

(5) The person directing the proceedings shall submit the decision on the seizure of a property or the decision on a search, the certification and the translation thereof, to the Office of the Prosecutor General which shall, without delay but not later than within three working days, send it to the competent authority of the relevant European Union Member State.

[22 November 2007; 24 May 2012; 24 May 2012; 7 January 2021]

#### **Section 881. Requesting of Submission of Documents and Items and Confiscation of Property**

(1) In order to request the submission of the removed documents and items or to confiscate the property which is seized, a relevant request for criminal-legal assistance shall be attached to the decision on a search or to the decision on the seizure of a property.

(2) Upon the receipt of a request for the criminal-legal assistance referred to in Paragraph one of this Section from the person directing the proceedings or court, the Office of the Prosecutor General or, if the request refers to the confiscation of property - the Ministry of Justice, shall send it together with the decision referred to in Section 880, Paragraph one of this Law and the certification.

(3) If it is not possible to send the request for criminal-legal assistance referred to in Paragraph one of this Section concurrently with the decision on the seizure of a property or with the decision on a search, a term for sending the request for criminal-legal assistance until which the documents, items or seized property shall be stored shall be indicated in the certification.

[22 November 2007; 24 May 2012]

**Section 882. Consequences of Submitting a Complaint Regarding the Execution of the Decision, Taken in Latvia, on the Seizure of a Property or of the Decision on a Search**

(1) If information from the competent authority of the executing country has been received that a complaint regarding execution of the decision, taken in Latvia, on the seizure of a property or of a decision on a search has been received, the Office of the Prosecutor General may send to the competent authority of the executing country arguments which are necessary for the examination of the complaint.

(2) An appeal of the decision on the seizure of a property or of decision on a search in Latvia shall not suspend its execution in the executing country.

[22 November 2007; 24 May 2012]

**Section 883. Conditions for Sending a Decision, Taken in Latvia, Determining the Application of a Security Measure not Related to Deprivation of Liberty for the Execution to a European Union Member State**

(1) A decision, taken in Latvia, determining the application of a security measure not related to deprivation of liberty may be executed in a European Union Member State, if a person has a permanent place of residence therein and the relevant person has agreed to return to the European Union Member State.

(2) Upon request of a person a decision, taken in Latvia, determining the application of a security measure not related to deprivation of liberty may be sent for execution to a European Union Member State also if the person does not reside permanently in the relevant European Union Member State, however, he or she has indicated a place of residence in the European Union Member State where he or she will be reachable, and the relevant European Union Member State has declared such condition.

[24 May 2012 / Section shall come into force on 1 December 2012. See Paragraph 39 of the Transitional Provisions]

**Section 884. Sending of a Decision, Taken in Latvia, Determining the Application of a Security Measure not Related to Deprivation of Liberty for the Execution to a European Union Member State**

(1) If the conditions referred to in Section 883 of this Law have been established, the person directing the proceedings may turn to the Office of the Prosecutor General with a written proposal to request a European Union Member State to execute a decision determining the application of a security measure not related to deprivation of liberty.

(2) The information referred to in Section 678 of this Law shall be indicated in the proposal and the following shall be attached thereto:

1) a certified copy of a decision determining the application of a security measure not related to deprivation of liberty;

2) a certified copy of a decision to recognise a person as a suspect or on holding of a person criminally liable;

3) the text of the section of the law on the basis of which a person is held suspect or held criminally liable, as well as the texts of the sections of the law that regulate the limitation period and the classification of a criminal offence;

4) a written consent of a person to execution of a security measure in a European Union Member State or a written request of the person to allow that he or she returns to the relevant European Union Member State;

5) other information, which may be necessary for completing a certification of a special form.

(3) The proposal shall be examined within 10 days after receipt thereof at the Office of the Prosecutor General and the person directing the proceedings shall be informed regarding the results.

(4) If there are grounds for the execution of a decision determining the application of a security measure not related to deprivation of liberty, the Office of the Prosecutor General shall complete a certification of a special form and shall send it together with the decision determining the application of a security measure not related to deprivation of liberty to a European Union Member State. The Office of the Prosecutor General shall ensure the translation of the certification of a special form and the decision determining the application of a security measure not related to deprivation of liberty in the language indicated in the declaration of the relevant European Union Member State. The certification of a special form together with the decision shall be sent concurrently only to one European Union Member State.

(5) If a decision determining the application of a security measure not related to deprivation of liberty has been appealed, the person directing the proceedings shall inform a European Union Member State thereof with the intermediation of the Office of the Prosecutor General.

[24 May 2012 / Section shall come into force on 1 December 2012. See Paragraph 39 of the Transitional Provisions]

### **Section 885. Recovery of the Right to Execute a Decision, Taken in Latvia, Determining the Application of a Security Measure not Related to Deprivation of Liberty**

(1) Latvia shall execute a decision determining the application of a security measure not related to deprivation of liberty until the time when a European Union Member State informs that it recognises the decision. The Office of the Prosecutor General shall send a notification of the relevant European Union Member State to the person directing the proceedings who shall acquaint the person therewith to whom the security measure not related to deprivation of liberty has been applied and explain his or her duty to arrive to the European Union Member State for the execution of the security measure.

(2) The Office of the Prosecutor General, upon a request of the person directing the proceedings, may revoke a certification of a special form and a decision determining the application of a security measure not related to deprivation of liberty, if the security measure applied in the relevant European Union Member State does not conform to the security measure applied in Latvia or an insufficient maximum period of time for the execution of the security measure has been specified.

(3) Latvia shall recover the right to execute a security measure not related to deprivation of liberty, if:

1) the Office of the Prosecutor General, upon a request of the person directing the proceedings, revokes a certification of a special form and a decision determining the execution of a security measure not related to deprivation of liberty in the relevant European Union Member State;

2) a European Union Member State has returned the execution of a security measure not related to deprivation of liberty to Latvia because the person does not have a permanent place of residence in the relevant European Union Member State anymore or the person cannot be reached in the country;

3) Latvia takes a decision to amend a security measure and a European Union Member State refuses to oversee the amended security measure;

4) the maximum period of time for the application of a security measure specified in a European Union Member State has expired;

5) a European Union Member State has taken a decision to terminate the execution of a security measure.

(4) If the maximum period of time indicated in Paragraph three, Clause 4 of this Law for the application of a security measure specified in a European Union Member State has expired, the Office of the Prosecutor General, upon a request of the person directing the proceedings, may request the competent authority of the Member State to extend the application of a security measure, indicating the time period for extension.

[24 May 2012 / Section shall come into force on 1 December 2012. See Paragraph 39 of the Transitional Provisions]

### **Section 886. Right to Amend and Revoke Decisions**

During the time period when a European Union Member State executes the security measure not related to deprivation of liberty applied in Latvia, the person directing the proceedings has the right to amend or revoke the decision to apply a security measure in accordance with the procedures laid down in this Law.

[24 May 2012 / Section shall come into force on 1 December 2012. See Paragraph 39 of the Transitional Provisions]

### **Section 887. Action of Latvia during the Execution of a Security Measure not Related to Deprivation of Liberty in a European Union Member State**

(1) Having received a request from a European Union Member State to provide information regarding the necessity of continuing the execution of the applied security measure not related to deprivation of liberty, the Office of the Prosecutor General shall send it to the person directing the proceedings.

(2) The person directing the proceedings shall assess the request received and:

1) if during the application of a security measure the grounds for the application thereof have not ceased to exist or changed, inform a European Union Member State thereof without delay with the intermediation of the Office of the Prosecutor General, indicating the necessary time period for the application of the security measure;

2) if during the application of a security measure the grounds for the application thereof have ceased to exist or changed, take a decision to amend or revoke the security measure, informing a European Union Member State thereof without delay with the intermediation of the Office of the Prosecutor General, sending a copy of the decision thereto

and revoking a certification of a special form.

(3) The person directing the proceedings with the intermediation of the Office of the Prosecutor General shall, without delay, inform a European Union Member State regarding all decisions taken, which amend or otherwise concern the decision taken on application of a security measure, as well as regarding the fact that a person has appealed the decision taken, and provide the necessary information in order to avoid discontinuation of the execution of a security measure.

(4) If a person has appealed the decision determining the execution of a security measure not related to deprivation of liberty and the person directing the proceedings has taken the decision to amend the security measure and to impose another security measure not related to the deprivation of liberty, sending of the decision for the execution to a European Union Member State shall be performed in accordance with Section 884 of this Law. In such case the decision to amend a security measure shall enter into effect from the time when the European Union Member State informs that it recognises the decision.

(5) If necessary, the person directing the proceedings with the intermediation of the Office of the Prosecutor General shall consult with the competent authority of a European Union Member State and, upon taking a decision to amend or revoke a security measure, shall take into account the information provided by the relevant European Union Member State regarding the threat, which the person may cause to the victim and the society.

[24 May 2012 / Section shall come into force on 1 December 2012. See Paragraph 39 of the Transitional Provisions]

## **Chapter 83.<sup>1</sup> Taking a European Investigation Order and Transfer for Execution Thereof**

[30 March 2017]

### **Section 887.<sup>1</sup> Taking a European Investigation Order Up to Commencing a Criminal Prosecution**

(1) If a procedural action is required to be carried out in criminal proceedings up to commencing a criminal prosecution in the territory of other European Union member State, the person directing the proceedings shall, by assessing its necessity and proportionality in respect to a criminal offence to be investigated, prepare a European Investigation Order by completing a document of a special form. Prior to preparing the European Investigation order the person directing the proceedings shall, by complying with the procedures laid down in this Law, perform all actions which would be necessary if a procedural action would be performed in Latvia in accordance with this Law.

(2) The person directing the proceedings shall send the prepared European Investigation Order together with the materials of the criminal case to the supervising prosecutor for approval.

(3) A supervising prosecutor shall, within five working days from the day of receipt of the European Investigation Order, verify the conformity of the procedural action requested from the European Union Member State with the requirements of this Law and assess the necessity and proportionality thereof in respect of the criminal offence to be investigated. The person directing the proceedings shall send the European Investigation Order approved by the supervising prosecutor to the competent authority of Latvia.

(4) The person directing the proceedings shall provide the translation of the certification in the official language of the relevant European Union Member State or in the language which has been indicated by the relevant European Union Member State for the receipt of certification to the General Secretariat of the Council of the European Union.

(5) Within the meaning of this Law, the competent authority of Latvia shall be the State Police, if the person directing the proceedings is an investigator of the State police, or the Office of the Prosecutor General, if the person directing the proceedings is an investigator of other investigating institution.

(6) A competent authority of Latvia shall send the received European Investigation Order to a competent authority of the relevant European Union Member State.

(7) The person directing the proceedings may amend or withdraw the taken European Investigation Order if it is no longer necessary to perform the requested procedural action or the information is received from a competent authority of the European Union Member State that the procedural action indicated in the European Investigation Order would not be permissible in criminal proceedings occurring in this Member State for the same offence, or the recognition thereof would be incommensurate and the rights of the person who has the right to defence would be incommensurably infringed. The person directing the proceedings shall inform the competent authority of Latvia regarding a decision to amend or withdraw the European Investigation Order.

(8) If by complying with the procedures laid down in this Law a prosecutor is determined as the person directing the proceedings up to commencing a criminal prosecution, the provisions of Section 887.<sup>2</sup> of this Law shall be applied until



a European Investigation Order is taken.

(9) The person directing the proceedings, when participating in execution of a European Investigation Order in a European Union Member State, where necessary, may ask to perform another procedural action without taking a new European Investigation Order. A decision regarding other procedural action shall be taken in accordance with the procedures laid down in this Law. The person directing the proceedings shall inform the supervising prosecutor and competent authority of Latvia of the request to perform another procedural action.

[30 March 2017]

### **Section 887.<sup>2</sup> Taking a European Investigation Order in a Criminal Prosecution**

(1) If it is necessary to perform a procedural action in the territory of other European Union Member State before transfer of the case to the court, a prosecutor shall, having assessed its necessity and proportionality in respect of the criminal offence to be investigated, prepare a European Investigation order by completing a document of a special sample, approve it and send to the Office of the Prosecutor General. Prior to preparing the European Investigation Order a prosecutor shall, by complying with the procedures laid down in this Law, perform all actions which would be necessary if the procedural action would be performed in Latvia in accordance with this Law. When approving a European Investigation Order, a prosecutor shall certify the conformity of the requested investigative or procedural action with the requirements of this Law to the European Union Member State.

(2) The Office of the Prosecutor General shall send the received European Investigation Order to a competent authority of the European Union Member State. The Office of the Prosecutor General shall ensure the translation of the European Investigation Order in the official language of the relevant European Union Member State or the language which has been indicated for the receipt of the European Investigation Order by the Member State to the General Secretariat of the Council of the European Union.

(3) A prosecutor may amend or withdraw the taken European Investigation Order if it is no longer necessary to perform the requested procedural action or the information is received that the procedural action indicated in the European Investigation Order would not be permissible in criminal proceedings occurring in this Member State for the same offence, or recognition thereof would be incommensurate and the rights of the person who has the right to defence would be incommensurably infringed. The prosecutor shall inform the Office of the Prosecutor General regarding a decision to amend or withdraw the European Investigation Order.

(4) When participating in execution of a European Investigation Order, a prosecutor may, where necessary, request to perform another procedural action without taking a new European Investigation Order. A decision regarding other procedural action shall be taken in accordance with the procedures laid down in this Law. The prosecutor shall inform the Office of the Prosecutor General regarding a request to perform another procedural action.

[30 March 2017]

### **Section 887.<sup>3</sup> Taking a European Investigation Order in Trial**

(1) If during a trial it is necessary to perform a procedural action in the territory of other European Union Member State, the court, having assessed the necessity and proportionality in respect to the criminal offence to be investigated, shall prepare a European Investigation Order by completing a document of a special sample. Prior to completing the European Investigation Order the court shall carry out all actions which would be necessary if the procedural action would be performed in Latvia in accordance with this Law. When approving the European Investigation Order, the court shall certify the conformity of the requested investigation or procedural action with the requirements of this Law to the European Union Member State.

(2) By using the website of the European Judicial Network, the court shall find out a competent authority or executing authority of the European Union Member State to which the European Investigation Order is addressed, and send the taken European Investigation Order to it.

(3) If the court by using the website of the European Judicial Network cannot find out a competent authority or executing authority of the European Union Member State, it shall send the taken European Investigation order to the Ministry of Justice for sending to the competent authority of the relevant European Union Member State.

(4) The Court Administration shall ensure the translation of the European Investigation Order in the official language of the relevant European Union Member State or the language which has been indicated for the receipt of the European protection order by the Member State to the General Secretariat of the Council of the European Union in the cases referred to in Paragraph two of this Section, whereas in the cases referred to in Paragraph three - the Ministry of Justice.

(5) The court may amend or withdraw the taken European Investigation Order if it is no longer necessary to perform the requested procedural action or the information is received from a competent authority of the European Union Member State that the procedural action indicated in the European Investigation Order would not be permissible in criminal proceedings occurring in this Member State for the same offence, or recognition thereof would be

incommensurate and the rights of the person who has the right to defence would be incommensurably infringed. The Ministry of Justice shall be informed regarding a decision to amend or withdraw the European Investigation Order in the cases provided for in Paragraph three of this Section.

[30 March 2017]

#### **Section 887.<sup>4</sup> Notification Regarding Control of Means of Communication without Technical Assistance of a European Union Member State**

(1) If it is necessary to carry out the control of means of communications in the territory of one or several European Union Member States, but technical assistance of the relevant European Union Member States is not necessary, the person directing the proceedings shall complete a notification of a special form by informing on carrying out the control of means of communication in the territory of the European Union Member State and send it to such Member State by intermediation of the competent authority of Latvia.

(2) If the information is received from a European Union Member State that the control of means of communication would not be permissible for the same offence in this Member State, the person directing the proceedings shall not commence or terminate the control of means of communication, and also assess the use of the information obtained in the territory of the relevant European Union Member State in proving.

[30 March 2017]

## **Division Nineteen Specific Questions of International Co-operation**

### **Chapter 84 Joint Investigative Teams**

[24 May 2012]

#### **Section 888. Joint Investigative Teams and the Conditions of the Establishment Thereof**

(1) A joint investigative team is officials of Latvia and one foreign country or several foreign countries authorised to conduct pre-trial proceedings who operate jointly within the framework of criminal proceedings taking place in one country.

(2) A joint investigative team shall be established for the conduct of specific criminal proceedings, with the countries involved mutually agreeing regarding the leader, composition, and term of operation thereof.

(3) A joint investigative team shall be established for the purpose of eliminating unjustified delays of proceedings that are related to the necessity to perform investigative actions in several countries, particularly in cases where several countries have commenced criminal proceedings regarding the same offence or a significant amount of the investigation is to be performed outside of the territory of the country in which the criminal proceedings are taking place.

[24 May 2012]

#### **Section 889. Competent Officials**

The Prosecutor General, or, for the entering into of a specific agreement, a person authorised by him or her, shall sign agreements on behalf of Latvia regarding the establishment of a joint investigative team.

[24 May 2012]

#### **Section 890. Grounds for the Operations of a Joint Investigative Team in Latvia**

Grounds for the operation of a joint investigative team in Latvia are an agreement, signed by the official provided for in Section 889 of this Law, regarding the participation of Latvia in the establishment of such group.

[24 May 2012; 24 May 2012]

#### **Section 891. Leader of a Joint Investigative Team and His or Her Authorisations**

(1) The leader of a joint investigative team (hereinafter in this Chapter - the leader) is a representative of the country 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 country 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 authorisation of a leader.

[24 May 2012]

#### **Section 892. Member Attached by a Foreign Country in a Joint Investigative Team**

(1) In criminal proceedings taking place in Latvia, the attached member of a joint investigative team 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 team, 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 country which 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 country is necessary in the part of criminal proceedings the conduct of which has been assigned to an attached member, such member shall submit requests for legal assistance in accordance with the procedures laid down in his or her country.

[24 May 2012]

#### **Section 893. Latvian Member in a Joint Investigative Team**

(1) The agreement regarding the establishment of a joint investigative team shall determine the procedural authorisation of the Latvian attached member in the country in which criminal proceedings are taking place.

(2) In criminal proceedings taking place in a foreign country, 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 team 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 team 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 conducted only in an investigative group established in Latvia.

[24 May 2012]

#### **Section 894. 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 laid down in Latvia.

(2) Attached members shall perform procedural actions in the country thereof in accordance with the procedures laid down in such country, if the leader has not requested the application of procedures laid down in Latvia and such application is allowed by the legal system of the foreign country.

(3) All of the procedural actions performed in Latvia shall be subject to appeal in accordance with the procedures laid down in Latvian law.

(4) The head of an investigating institution and a prosecutor shall perform control and supervision in accordance with general procedures, if an agreement does not specify otherwise.

[24 May 2012]

#### **Section 895. Transfer of Criminal Proceedings to Another Country**

(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 countries 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 the leader, or if reasons exist for the transfer of criminal proceedings to a third country, the operations of the joint investigative team shall be interrupted and shall hereinafter comply with the procedures laid down in Chapter 43 of this Law.

(3) If a Member State does not agree to the transfer of proceedings to a third country, the materials submitted by such country shall be returned upon request.

[24 May 2012]

#### **Section 896. 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 country.

[24 May 2012]

## **Chapter 85 Criminal-legal Co-operation with International Courts**

[24 May 2012]

#### **Section 897. 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 laws and regulations, 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.

[24 May 2012]

#### **Section 898. Competent Authority in Co-operation with International Courts**

(1) The Ministry of Justice is the competent authority in criminal-legal co-operation with international courts.

(2) If necessary, the use of the intermediation of the international criminal-police organisation (Interpol) shall be admissible.

[24 May 2012]

#### **Section 899. 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 trial on the basis of the request of such court.

(2) A person who is a Latvian citizen may be transferred for criminal prosecution and trial 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 custodial sentence 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.

[24 May 2012]

#### **Section 900. 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.

[24 May 2012]

#### **Section 901. 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 detained, arrested, and all the matters related to the request shall be decided and fulfilled in accordance with the

procedures laid down 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 country. If an international court has not itself specified with a decision that a specific case is only under the jurisdiction of the international court, the order of competing requests shall be determined by the competent authority, in conformity with the provisions of Section 709 of this Law.

[24 May 2012]

#### **Section 902. Assistance to an International Court in the Performance of Procedural Actions**

(1) The competent authority shall, upon 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 executed in accordance with the procedures laid down in Sections 847-849, 851-854, 858, and 859 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 country, 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 the competent authority of Latvia, may perform such activities without the presence of a representative of the competent authority.

[24 May 2012; 24 May 2012]

#### **Section 903. Execution of Rulings of Financial Nature of an International Court**

(1) The competent authority shall take the measures provided for in this Law in order to ensure that a decision of an international court is fulfilled on consideration for victims, restitution, compensation, and exoneration.

(2) The execution of a fine, or confiscation of criminally acquired property, determined by an international court shall take place in accordance with the procedures provided for in the laws and regulations of Latvia, without harming the bona fide rights of third persons.

(3) The competent authority shall take 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.

[24 May 2012; 22 June 2017]

#### **Section 904. Execution of a Convicting Judgment of an International Court**

(1) If an international court has determined that a custodial sentence of the convicted person is to be executed in Latvia, the competent authority shall immediately inform the international court of the possibility of the execution of the sentence or also of circumstances that might substantially influence the execution of the sentence in Latvia.

(2) A sentence shall be executed in accordance with the same procedures as the execution of a sentence 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 sentence determined by such court.

(4) During the execution of a sentence, the competent authority shall inform an international court at least 45 days in advance of the fulfilment of previously specified conditions and any circumstances that may substantially influence the provisions or period of imprisonment.

(5) If, after serving a sentence, a person does not have rights or is not given permission to remain in Latvia, such person shall be transported to another country that must accept such person or that agrees to accept such person, respecting the choice of the person.

(6) The criminal prosecution, punishing, or extradition to another country of a convicted person regarding an offence that such person committed before being conveyed for serving a sentence in Latvia may take place only with the consent of an international court, except where the person voluntarily remains in Latvia after serving the sentence for more than 30 days, or has left Latvia and then returned to Latvia.

[24 May 2012]

### **Section 905. Confidentiality of Information**

(1) Requests of an international court for co-operation and the documents attached to such request shall be held in secrecy, except where the disclosure thereof is necessary for the execution of a request.

(2) In providing legal assistance, the competent authority may request for an international court to take measures in order not to allow the disclosure of information that might harm the interests of national security, in order to protect Latvian officials, or also to protect other restricted-access information.

(3) The competent authority shall be permitted to provide to international court information provided confidentially by another country only if the country that provided the information has agreed to such provision.

[24 May 2012]

## **Chapter 86 Recognition, Execution, and Taking of a European Protection Order**

[29 January 2015]

### **Section 906. European Protection Order**

(1) A European protection order is a decision taken by a competent authority of a European Union Member State to take a protection measure in order to ensure the protection of a victim or witness against a criminal act of a suspect, accused, or convicted person which may endanger his or her life, physical or psychological integrity, dignity, personal liberty or sexual integrity, regardless of the location of the victim or witness (hereinafter - the protected person) in the European Union.

(2) Within the meaning of this Chapter a protection measure is such security measure applied to a suspect, accused, or convicted person which is not related to the deprivation of liberty or an alternative sanction or alternative sanction which provides for a prohibition to visit a certain area, place, or territory, a prohibition to contact the protected person, or a prohibition to approach the protected person.

### **Section 907. Grounds for Executing a European Protection Order**

The grounds for executing a European protection order received from another European Union Member State are as follows:

- 1) a decision of the State Police to recognise and execute a European protection order;
- 2) the fact that the protected person plans to live or lives in Latvia or plans to stay or stays in Latvia for not less than three months.

### **Section 908. Reasons for Refusing Execution of a European Protection Order**

(1) Execution of a European protection order may be refused if:

- 1) the European protection order is incomplete and additionally requested necessary information has not been submitted within the laid down term;
- 2) the security measure laid down in the European protection order is not related to a prohibition to visit a certain area, place, or territory in which the protected person lives or is visited by, or a prohibition to contact the protected person in any way, or a prohibition to approach the protected person under a certain distance;
- 3) protection is laid down for such offence which is not criminal in accordance with the Criminal Law;
- 4) the principle of inadmissibility of double jeopardy (ne bis in idem) would be violated in recognising the European protection order;
- 5) the immunity from criminal proceedings referred to in Chapter 8 of this Law exists;
- 6) the limitation period has set in for an offence in relation to which the European protection order was taken;
- 7) an amnesty act has been adopted which prevents the imposition of a punishment for the relevant criminal offence in relation to which the European protection order was taken;
- 8) the person to whom a protection measures has been applied has not attained the age at which criminal liability sets in;



9) the protection measure is related to such criminal offence which has been completely or partially committed in the territory of Latvia;

10) the grounds for executing the European protection order laid down in Section 907, Clause 2 of this Law do not exist.

(2) If execution of the European protection order has been refused on the basis of Paragraph one, Clause 3 of this Section, the protected person has the right to request the State Police that it informs the competent authority of the European Union Member State which took the European protection order, regarding violations of the measure laid down in the European protection order.

#### **Section 909. Recognition and Execution of a European Protection Order**

(1) The State Police, having received a European protection order from another Member State, shall check whether any of the reasons for refusing execution referred to in Section 908 of this Law exist, and, within 15 days from the day of receipt of the European protection order, take one of the following decisions:

1) to recognise and execute the European protection order;

2) to refuse to recognise the European protection order.

(2) The State Police, in taking a decision to recognise and execute a European protection order, shall determine such protection measure which conforms the most to that laid down in the European protection order. The applicable protection measure shall be determined for a time period provided for in the ruling made in the European Union Member State regarding determination of a protection measure.

(3) If a European protection order is incomplete, the State Police may suspend its recognition, informing the relevant European Union Member State regarding the necessity to provide additional information within a laid down time period.

(4) The State Police shall inform, in writing, the protected person and the relevant suspect, accused, or convicted person regarding the recognised European protection order, as well as the competent authority of the European Union Member State which took the European protection order. The suspect, accused, or convicted person shall also be informed regarding the potential legal consequences in case of violating the protection measure determined.

(5) If a decision to refuse to recognise a European protection order has been taken, the State Police shall inform the protected person and the competent authority of the European Union Member State which took the European protection order about it by sending a copy of the decision. The protected person may dispute a decision to refuse to recognise a European protection order by submitting a relevant submission to the Chief of the State Police. The decision taken by the Chief of the State Police shall not be subject to appeal.

(6) The decision to recognise a European protection order shall be sent for execution according to the place of residence of the protected person.

#### **Section 910. Notification Regarding Violation of the Protection Measure Determined in a European Protection Order**

Having established that a suspect, accused, or convicted person has violated the protection measure determined, the State Police shall, without delay, notify the competent authority of the relevant European Union Member State thereof, using a document of a special sample. The State Police shall provide the translation of the information in the official language of the relevant European Union Member State or in the language which has been indicated by the relevant Member State for the receipt of a European protection order to the General Secretariat of the Council of the European Union.

#### **Section 911. Decisions of a European Union Member State and Latvia in Relation to the Protection Measure Determined in a European Protection Order and Execution Thereof**

(1) Decisions of a European Union Member State to amend, revoke, or withdraw such protection measure which was the grounds for taking a European protection order, shall be binding to Latvia.

(2) The State Police, having received a decision of the European Union Member State to amend the protection measure determined in a European protection order, shall take one of the following decisions:

1) to amend the measure determined;

2) to refuse to implement the amendment protection measure, if it is not related to a prohibition to visit a certain area, place, or territory, a prohibition to contact the protected person, or a prohibition to approach the protected persons.

(3) Execution of a European protection order shall be terminated and a decision in relation thereto shall be taken in the form of a resolution, if:

- 1) information has been received that the protected person does not live or stay in the territory of Latvia anymore;
  - 2) the maximum term for which application of a protection measure is possible, has expired in Latvia;
  - 3) a decision to revoke or withdraw the protection measure applied has been taken in the relevant European Union Member State.
- (4) The State Police shall inform the competent authority of the relevant European Union Member State and, if possible, the protected person in writing regarding the decision taken in the cases provided for in Paragraph two and Paragraph three, Clauses 1 and 2 of this Section.

#### **Section 912. Grounds for Taking a European Protection Order**

(1) The grounds for taking a European protection order shall be as follows:

- 1) a written request of the protected person or his or her guardian or trustee to the State police to take a European protection order in which the information at the disposal of the person regarding criminal proceedings is also indicated;
- 2) a decision taken by the person directing the proceedings regarding application of such security measure not related to deprivation of liberty or alternative sanction which is related to a prohibition to visit a certain area, place, or territory, a prohibition to contact the protected person, or a prohibition to approach the protected persons;

3) the fact that the protected person plans to live or lives or plans to stay or stays in any other European Union Member State for not less than three months.

(2) The protected person or his or her guardian or trustee may also submit a request to take a European protection order to the person directing the proceedings who shall forward it without delay to the State Police together with information regarding criminal proceedings, classification of the criminal offence, and the decision referred to in Paragraph one, Clause 2 of this Section.

(3) If, having received a request of the protected person or his or her guardian or trustee to take a European protection order to the person directing the proceedings, the State Police establishes that a protection measure has been applied in another European Union Member State, it shall forward such application without delay to the competent authority of the relevant Member State in order to decide on the issue of taking a European protection order.

(4) In order to take a European protection order, the State Police shall request the necessary information from the person directing the proceedings or the institution which controls execution of the ruling.

(5) The State Police, having received a request of the protected person or his or her guardian or trustee to take a European protection order, shall examine it within 15 days and take a decision:

- 1) to take a European protection order, filling in a document of a special sample;
- 2) to refuse to take a European protection order.

(6) Taking a European protection order may be refused, if the time period for which the protected person is planning to leave the territory of Latvia, is less than three months.

(7) In taking a European protection order, the State Police shall send it to the person directing the proceedings and the competent authority of such European Union Member State in which the protected person is planning to live or lives, or is planning to stay or stays. The State Police shall ensure the translation of the European protection order in the official language of the relevant European Union Member State or the language which has been indicated for the receipt of the European protection order by the Member State to the General Secretariat of the Council of the European Union.

(8) The protected person may dispute a decision to refuse to take a European protection order by submitting a relevant submission to the Chief of the State Police. The decision taken by the Chief of the State Police shall not be subject to appeal.

(9) A decision to refuse to take a European protection order shall not be an obstacle for repeat submission of a request.

#### **Section 913. Action of the State Police in Case of Violating the Protection Measure Determined in the European Protection Order**

The State Police, having received information from the competent authority of the European Union Member State regarding a violation of the protection measure specified in a European protection order, shall notify the person directing the proceedings or the institution controlling the execution of the ruling thereof without delay.

## **Section 914. Amending, Revocation, and Withdrawal of a European Protection Order Taken**

(1) The person directing the proceedings or the institution controlling the execution of the ruling shall, without delay, inform the State Police of the decision to amend or revoke the protection measure applied.

(2) After information has been received from the person directing the proceedings or the institution controlling the execution of the ruling on amending or revoking the imposed protection measure, the State Police shall take the decision to amend, revoke, or withdraw a European protection order.

(3) The State Police shall inform the competent authority of such European Union Member State in which the protected person lives or stays, regarding any rulings by which such determined protection measure is amended, revoked, or terminated which had been the grounds for taking a European protection order.

(4) If a protection measure has been determined by a ruling which has been transferred for execution in another European Union Member State that is not the same Member State in which the protected person plans to live or is living, or plans to stay or is staying, or which is transferred after a European protection order has been taken, and if the competent authority of the relevant European Union Member State has taken subsequent decisions concerning the duties or orders included in the protection measure, the State Police shall, without delay, withdraw or revoke the European protection order.

(5) The State Police shall take a decision to revoke or withdraw a European protection order, if:

1) information has been received that the protected person does not live or is not planning to live, or does not stay or is not planning to stay in the territory of such European Union Member State to which the European protection order has been sent;

2) the term determined in the law or ruling for which a protection measure was applied, has expired;

3) a decision to revoke the protection measure applied has been taken.

## **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 for restriction of rights of a person in the pre-trial proceedings shall begin to be counted from the day of the coming into force of this Law.

[12 March 2009]

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 specific 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, the person directing the proceedings shall take a decision, within one month after the day of the coming into force of this Law, on 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, the person directing the proceedings shall decide, within 10 days after the day of the coming into force of this Law, on 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 examined in accordance with the procedures laid down in the Civil Procedure Law, and the person directing the proceedings shall notify such persons thereof within 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 laws and

regulations up to the gradual updating of the editing of such enactments shall hereinafter be understood as the terms "izmeklēšanas iestāde" (investigating institution) and "izmeklētājs" (investigator).

10. [12 March 2009]

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 the 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) prosecutors specially authorised by the Prosecutor General - for the 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 the control of criminal activity.

[28 September 2005]

14. [19 June 2008 / See Transitional Provision of the Law of 19 June 2008]

15. The Offices of the Prosecutor and investigating institutions shall decide, within one month after coming into force of this Law, the matter regarding the initiation of criminal proceedings or a refusal to initiate criminal proceedings in connection with received application regarding prepared or committed criminal offences in relation to which an examination had been initiated in accordance with the procedures laid down in Section 109 of the Criminal Procedure Code of Latvia.

[28 September 2005]

16. Complaints, examination 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 laid down 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 under arrest, but not later than by 1 April 2006, Cabinet Regulations No. 211 of 29 April 2003, Internal Procedure Regulations of Investigative Prisons, shall be in effect insofar as this Regulation is 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]

19. Until the date of the coming into force of Cabinet regulations referred to in Section 84, Paragraph two and Section 104, Paragraph five, but not later than until 1 January 2009, Cabinet Regulation No. 920 of 6 November 2006, Regulations regarding Types of Legal Assistance Ensured by the State, Maximum Amount of Hours, Amount and Procedures for Payment, shall be in force insofar as they are not in contradiction with this Law.

[19 June 2008]

20. The cases, which have been transferred for examination to a district court in accordance with the specified jurisdiction until 1 July 2009, shall be examined in the same court where they have been submitted.

[12 March 2009]

21. The cases in the materials of which objects containing the official secret are included and which have been transferred for examination to a court until 1 July 2009, shall be examined in the same court where they have been submitted.

[12 March 2009]

22. The State Probation Service shall not perform the control of behaviour of those persons regarding which a decision to terminate criminal proceedings, conditionally releasing from criminal liability, has been taken until 31 December 2012. The control of behaviour of those persons regarding which a decision to terminate criminal proceedings, conditionally releasing from criminal liability, has been taken until 1 July 2009 shall, within a time period specified in a decision, be continued and completed by the institution to which it has been assigned in the decision to

terminate criminal proceedings, conditionally releasing from criminal liability.

[16 June 2009]

23. The institution to which it has been assigned to control the behaviour of the relevant person shall not be indicated in a decision to terminate criminal proceedings, conditionally releasing from criminal liability, until 31 December 2012, but the time until which a person shall notify a prosecutor regarding the fulfilment of duties imposed by a decision and shall submit the documents which attest fulfilment of the duties imposed by the decision shall be indicated. A prosecutor shall, after the end of a control period, upon assessment of information provided and documents submitted by a person, make a note in the decision on fulfilment of the provisions.

[16 June 2009]

24. A prosecutor and a court shall, from 1 July 2009 until 28 February 2013, request and the State Revenue Service shall provide an assessment report only regarding those persons which have been accused for commission of criminal offence against sexual inviolability and morals, as well as regarding the accused persons who were under-age at the time of commission of a criminal offence.

[16 June 2009; 15 November 2012]

25. In criminal cases, in which a trial in the collegial composition has been commenced in a court of first instance until 1 July 2009, a trial shall be continued in the collegial composition until rendering of a judgment or termination of criminal proceedings in a court hearing. If it is not possible, a judge shall, upon assessment of the complexity of the case, decide singly regarding continuing of the trial. A lay judge may not be held criminally liable during the fulfilment of duties related to administering the law and may not be arrested without a consent of the chief judge of the court in which he or she is fulfilling the duties. A decision on placing under arrest, conveyance by force, detention, or subjection to a search of a lay judge shall be taken by a judge of the Supreme Court specially authorised for that. If a lay judge has been caught of committing a serious or especially serious crime, the decision on conveyance by force, detention or subjection to a search is not necessary, but a specially authorised judge of the Supreme Court and a chief judge of the court in which the lay judge is fulfilling the duties must be informed within 24 hours. If the powers of the lay judge expire during a trial of the case, they shall be retained until the end of the trial of such case.

[16 June 2009]

26. A trained intermediary of the State Probation Service shall, from 1 July 2009 until 31 December 2012 in the case provided for in Section 381, Paragraphs one and two of this Law, be involved only during the pre-trial criminal proceedings. A trained intermediary of the State Probation Service shall participate during a trial by 1 August 2009 in the cases of settlement initiated until 1 July 2009.

[16 June 2009]

27. Criminal proceedings in private prosecution cases in the record-keeping regarding criminal offences, which are qualified on the basis of Section 130, Paragraph two, Sections 157 and 158 of the Criminal Law in relation to bringing into disrepute in mass media, shall be terminated according to the procedures for examination of private prosecution criminal proceedings, which was determined until 31 December 2010.

[21 October 2010]

28. A judge shall send a complaint submitted for the initiation of private prosecution criminal proceedings, regarding which a decision has not been taken until 31 December 2010, to the investigating institution. A higher-level court judge shall examine a complaint received, but not examined until 31 December 2010 regarding the decision of a judge to refuse the commencement of private prosecution criminal proceedings, in accordance with the procedures for examination of complaints laid down in this Law.

[21 October 2010]

29. Until the day of the coming into force of the Cabinet regulations referred to in Section 235, Paragraph seven, Section 239, Paragraph six, Section 240, Paragraph six and Section 366, Paragraph four of this Law, but not later than 1 January 2012, the Cabinet Regulation No. 726 of 27 September 2005, Regulations Regarding Actions with Material Evidence and Attached Property, shall be in force, insofar as they are not in contradiction with this Law.

[21 October 2010; 8 July 2011]

30. Such cases regarding criminal offences that are qualified on the basis of Section 253.<sup>1</sup>, 348, and 349 of the Criminal Law, which have been transferred for examination to a district court in accordance with the specified jurisdiction until 31 December 2010, shall be examined in the same court where they have been submitted.

[21 October 2010]

31. Proposals regarding taking of a European arrest warrant, which have been submitted to a court until 31

December 2010, shall be examined and the European arrest warrants shall be taken in accordance with the procedures, which were in force until the referred to date.

[21 October 2010]

32. Amendments to Section 421, Paragraph three and Section 652, Paragraph one of this Law regarding probationary supervision, as well as Section 644.<sup>1</sup> shall come into force on 1 October 2011.

[8 July 2011]

33. The cases, which have been transferred for examination to a district court in accordance with the specified jurisdiction until 30 June 2012, shall be examined in the same court where they have been submitted.

[24 May 2012]

34. A ruling appealed according to appellate procedures in the cases, which have been transferred for judgment to a district court as a court of first instance in accordance with the specified jurisdiction until 30 June 2012, shall be examined by the Department of Criminal Cases of the Supreme Court as an appellate court.

[24 May 2012]

35. The condition referred to Section 775, Paragraph two, Clause 1 and Section 823, Paragraph two, Clause 1 of this Law shall not be applied in international co-operation with Poland until 5 December 2016. In such cases Chapters 70 and 78 of this Law shall be applied.

[24 May 2012]

36. Requests of foreign countries for the transfer or takeover of convicted persons for serving a sentence, which the Office of the Prosecutor General has received until 30 June 2012 and in relation to which examination has been completed and one of the decisions referred to in Section 753 (in the revision in force until 30 June 2012) or Section 770 of this Law (in the revision in force until 30 June 2012) has been taken, shall be examined according to the procedures, which were in force until the referred to date. Requests regarding transfer or takeover of convicted persons for serving a sentence, in relation to whom examination has not been completed until 30 June 2012, shall be sent to the Ministry of Justice for examination.

[24 May 2012]

37. Requests of foreign countries for the execution in Latvia of a sentence imposed in a foreign country, which the Ministry of Justice has received by 30 June 2012 and in relation to which the decision referred to in Section 779 of this Law (in the revision in force until 30 June 2012) has been taken, shall be examined according to the procedures, which were in force until the referred to date. Requests regarding execution in Latvia of a sentence imposed in a foreign country, in relation to whom examination has not been completed until 30 June 2012, shall be sent to a court for examination.

[24 May 2012]

38. If a request of a European Union Member State to recognise and execute a judgment, which has been taken until 27 November 2011, has been received, it shall be examined according to the procedures, which were in force until 30 June 2012. A request of Latvia to a European Union Member State to execute a ruling made in Latvia, which entered into effect until 27 November 2011, shall be sent according to the procedures, which were in force until 30 June 2012.

[24 May 2012]

39. Sections 866-875 and Sections 883-887 of this Law shall come into force on 1 December 2012.

[24 May 2012]

40. If due to amendments to the Criminal Law, which come into force on 1 April 2013, the classification of a criminal offence changes from a more serious to a lesser, the procedural terms in criminal proceedings, which are managed by investigating institutions, the Office of the Prosecutor and courts and which have been initiated in relation to such criminal offences until 31 March 2013, shall be determined according to such classification of the criminal offence, which was in force until 31 March 2013.

[20 December 2012]

41. A judge shall examine a submission of a sentence execution institution or a prosecutor regarding release of a person from serving a sentence or regarding amending of ruling, which has been submitted to a court due to amendments to the Criminal Law which come into force on 1 April 2013, in a written procedure within three months. The submission shall be examined by a judge of such court which rendered the last ruling in the first instance or a prosecutor of the institution of the Office of the Prosecutor in the territory of operation of which drew up a prosecutor's



penal order. The court shall send a copy of the decision taken to the institution executing the ruling, the prosecutor and the convicted person. The prosecutor and the convicted person may appeal the decision within 10 days from receipt of the copy thereof. Submitting of a complaint shall not suspend the execution of the decision. A judge of a higher level court shall examine the complaint in the written procedure, and his or her decision shall not be subject to appeal.

[20 December 2012]

42. A judge of such court which controls execution of a ruling on the imposition of a fine shall decide the matter regarding release of a person from serving a sentence or regarding amending of a ruling, which has been submitted to a court due to amendments to the Criminal Law which come into force on 1 April 2013, in a written procedure within one month. The court shall send a copy of the decision taken to the prosecutor and the convicted person. The prosecutor and the convicted person may appeal the decision within 10 days from receipt of the copy thereof. Submitting of a complaint shall not suspend the execution of the decision. A judge of a higher level court shall examine the complaint in the written procedure, and his or her decision shall not be subject to appeal.

[20 December 2012]

43. If due to amendments to the Criminal Law, which come into force on 1 April 2013, it is necessary to amend accusation, the prosecutor shall amend it in accordance with the procedures laid down in Section 408 of this Law in pre-trial proceedings and in accordance with the procedures laid down in Section 462, Paragraph one - during trial.

[20 December 2012]

44. Section 439, Paragraph three, Clause 3 of this Law shall come into force on 1 January 2014.

[14 March 2013]

45. The amounts of money indicated in the judgments referred to in Section 784, Paragraph two, Section 786, Paragraph one, Clause 10, Section 791, Paragraph three, Section 792, Paragraph three, Section 797, Paragraph three, Section 800, Paragraph two, and Section 840, Paragraph two, which have been received from a foreign country or such European Union Member State, which is not in the euro zone, and which have been accepted up to 31 December 2013, shall be recalculated in euros according to the currency exchange rate specified by the Bank of Latvia, which was in effect on the day of proclamation of the judgment.

[12 September 2013]

46. In cases, which were examined in a district court as in a court of first instance, a ruling appealed according to the appeal procedures after 1 January 2014 shall be examined by the same regional court as the appellate court.

[19 December 2013]

47. Cases, which have been transferred for examination to the Department of Criminal Cases of the Supreme Court until 31 December 2013, but in which court investigation has not been commenced until 30 June 2014, shall be transferred for examination to the regional court as the appellate court.

[19 December 2013]

48. Cases, in which a court investigation has been commenced in the Department of Criminal Cases of the Supreme Court, but which have not been examined until 30 June 2014, shall be transferred for examination to the regional court as the appellate court.

[19 December 2013]

49. Cases, which have been transferred for examination to the district court as the court of first instance and in which by 31 December 2014 a decision has been taken to suspend criminal proceedings, shall be transferred to the district (city) court as the court of first instance after 1 January 2015.

[19 December 2013]

50. Cases, which have been transferred for examination to the Department of Criminal Cases of the Supreme Court and in which a decision has been taken to suspend criminal proceedings, shall be transferred to the regional court as the appellate court after 1 January 2015.

[19 December 2013]

51. The cases examined in the Department of Criminal Cases of the Supreme Court, in which the cassation instance has revoked the ruling after 1 January 2014, shall be sent for examination de novo to the regional court as the appellate court.

[19 December 2013]

52. If after 1 January 2014 in a case, which has been examined in the regional court as the court of first instance, issues related to execution of the ruling or compulsory measures of a medical nature are to be decided, they shall be sent for making of a decision in the district (city) court as the court of first instance.

*[19 December 2013; 30 March 2017]*

53. Until 1 January 2015 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 interrogated 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.

*[29 May 2014]*

54. Regulation of the Law regarding the procedures, by which the obligations imposed by the court are completely or partially revoked for a convicted person or a decision to enforce the sentence specified in the judgment for a conditionally convicted person or to extend the probationary period, which was in effect until 31 January 2015, shall be taken, is applied in relation to a person who has been conditionally convicted until 31 January 2015.

*[16 October 2014]*

55. Regulation of the Law regarding the procedures, by which a convicted person is conditionally early released from serving the sentence, which were in force until 31 January 2015, is applied, if a submission regarding conditional early release of a convicted person has been received from the administrative commission of the prison.

*[16 October 2014]*

56. Regulation of the Law regarding execution of the unserved part of the sentence for a person who has been conditionally released before term, which was in force until 31 January 2015, is applied in relation to a convicted person who has been conditionally released before term on the basis of the submission of the administrative commission of the prison.

*[16 October 2014]*

57. Regulation of Section 643 of this Law in relation to conditional early release from serving the sentence with determination of electronic monitoring shall be applied from 1 July 2015.

*[15 January 2015]*

58. Such institutions which until 1 November 2015 performed investigation of criminal offences within the competence of the Internal Security Office, shall continue investigation in the criminal proceedings initiated until their transfer to the Internal Security Office. The abovementioned institutions shall transfer the relevant criminal proceedings to the Internal Security Office by 30 November 2015.

*[8 July 2015]*

59. The condition of Section 152, Paragraph one of this Law regarding recording of the course of interrogation of minors in a sound and image recording in the cases laid down in the Section shall be mandatory for the person directing the proceedings from 1 January 2019. Until then, recording of the course of interrogation of minors in a sound and image recording is performed only in such cases when corresponding technical means are at the disposal of the person directing the proceedings.

*[18 February 2016; 23 November 2016]*

60. Amendments to Section 420, Paragraph one and Section 441.<sup>1</sup>, Paragraph one of this Law in relation to the right of a prosecutor to draw up a penal order if a serious crime has been committed for which the sentence of deprivation of liberty up to five years is provided for, shall come into force concurrently with the relevant amendments to the Criminal Law.

*[18 February 2016]*

61. Amendment to Section 7, Paragraph two of this Law in respect of replacement of the number "136" with the number "132.<sup>1</sup>" shall come into force concurrently with the relevant amendments to the Criminal Law.

*[30 March 2017]*

62. In cooperation with those Member States of the European Union on which Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters is not binding, Latvia shall not use a European Investigation Order.

*[30 March 2017]*

63. Procedural actions which are performed in accordance with the wording of the Criminal Procedure Law that was in force until 31 July 2017 and the materials obtained as a result thereof shall preserve the legal status thereof.

[22 June 2017]

64. Section 634.<sup>1</sup>, Paragraph two of this Law shall come into force on 1 January 2019.

[22 June 2017]

65. To execute rulings referred to in Section 634.<sup>1</sup>, Paragraph one of this Law (except for the ruling on the recovery of a compensation for harm caused to a victim), the enforcement document shall be sent to a sworn bailiff for execution on the basis of the place of residence (for a legal person - its legal address) of a person (a convicted person) or on the basis of the location of his or her property by 31 December 2018.

[22 June 2017]

66. To execute a court ruling in part on the recovery of a compensation for harm caused to a victim, the court shall issue, by 31 December 2018, a writ of execution to a victim on the basis of his or her request, except when the confiscation of criminally acquired property is imposed and an application for the compensation of harm caused to a victim is satisfied within one ruling. If the confiscation of criminally acquired property is imposed and an application for the compensation of harm caused to a victim is satisfied within one ruling, the court shall send the writs of execution to a sworn bailiff in accordance with that laid down in Section 634.<sup>1</sup>, Paragraph four of this Law.

[22 June 2017]

67. Criminal proceedings which take place in accordance with emergency proceedings or abridged proceedings are completed in accordance with the procedures for the examination of criminal proceedings as was specified until 31 August 2018.

[20 June 2018]

68. Section 29, Paragraph one, Clause 2.<sup>1</sup> of this Law shall come into force concurrently with the regulatory enactment determining the competent authority which performs the risk and protection factor assessment for the minor who has the right to defence. Until the aforementioned regulatory enactment comes into force, the person directing the proceedings requests the respective local government to prepare the evaluation of the minor within the scope of the social behaviour correctional programme based on Section 58 of the Law on the Protection of the Children's Rights, if the information which is necessary for the evaluation of minor's behaviour is not available in the sub-system Information System for the Support of Minor of the Integrated Information System of the Interior.

[27 September 2018 / The abovementioned amendment will be included in the wording of the Law as of the day of coming into force of the relevant regulatory enactment]

69. Section 39, Paragraph one, Clause 6.<sup>2</sup> of this Law shall come into force on 1 January 2019.

[27 September 2018]

70. Section 375.<sup>1</sup> of this Law shall come into force concurrently with the respective amendments to the Criminal Law providing for liability for the failure to comply with the prohibition to disseminate contents of the materials of a criminal case.

[27 September 2018]

71. In criminal cases in which a trial in the collegial composition has been commenced in a court of first instance, the trial shall be continued in the collegial composition until rendering of a final ruling. In criminal cases in which the continuation of a trial collegially is not possible due to objective reasons, a judge shall continue the trial by sitting alone. Another judge may continue participation in examination of the criminal case as a reserve judge.

[11 June 2020]

72. The fourth and fifth sentences of Section 365, Paragraph 2.<sup>1</sup> of this Law shall come into force on 1 January 2021.

[11 June 2020]

73. Cases regarding criminal offences that are qualified on the basis of Section 73.<sup>1</sup>, Paragraph two, Section 79.<sup>2</sup>, Paragraph two, Section 195, Section 198, Paragraph two, three or four, Section 199, Paragraph two, Section 320, Paragraph three or four, Section 321, Paragraph two, three or four, Section 322, Paragraph two, Section 323, Paragraph two or three, Section 326.<sup>1</sup>, Paragraph two, Section 326.<sup>2</sup>, Paragraph two or Section 326.<sup>3</sup>, Paragraph two of the Criminal Law which have been transferred for examination to the relevant court in accordance with the specified

jurisdiction until 31 December 2020 shall be examined in the same court to which they have been transferred. Riga Regional Court shall examine a ruling that has been appealed in these cases in accordance with appellate procedures.

[19 November 2020]

74. The case regarding a criminal offence that is qualified on the basis of Section 73.<sup>1</sup>, Paragraph two, Section 79.<sup>2</sup>, Paragraph two, Section 195, Section 198, Paragraph two, three or four, Section 199, Paragraph two, Section 320, Paragraph three or four, Section 321, Paragraph two, three or four, Section 322, Paragraph two, Section 323, Paragraph two or three, Section 326.<sup>1</sup>, Paragraph two, Section 326.<sup>2</sup>, Paragraph two or Section 326.<sup>3</sup>, Paragraph two of the Criminal Law shall be sent to the Economic Court as a court of first instance in the case when, after 1 January 2021, the appellate court has decided to revoke the ruling completely or in a part thereof and to send the criminal case to the court of first instance for examination de novo.

[19 November 2020]

75. The case regarding a criminal offence that is qualified on the basis of Section 73.<sup>1</sup>, Paragraph two, Section 79.<sup>2</sup>, Paragraph two, Section 195, Section 198, Paragraph two, three or four, Section 199, Paragraph two, Section 320, Paragraph three or four, Section 321, Paragraph two, three or four, Section 322, Paragraph two, Section 323, Paragraph two or three, Section 326.<sup>1</sup>, Paragraph two, Section 326.<sup>2</sup>, Paragraph two, or Section 326.<sup>3</sup>, Paragraph two of the Criminal Law shall be sent for examination to the Riga Regional Court as an appellate court in the case when, after 1 January 2021, the cassation court has decided to revoke the ruling completely or in a part and to transfer the criminal case for examination de novo.

[19 November 2020]

76. Amendments to Section 421, Paragraph two, Section 634, Paragraph four, Clauses 3 and 6, Sections 644.<sup>1</sup> and 646 of this Law regarding probationary supervision as a basic punishment and the replacement of the term "community service" with the term "community service (compulsory measure)" shall come into force on 1 January 2022.

[17 December 2020]

77. The person directing the proceedings shall, in accordance with the procedures specified in this Law, continue the criminal proceedings that have been initiated during the period from 20 November 2017 until the day when the European Public Prosecutor's Office commences its operation for the criminal offences that in accordance with Regulation No 2017/1939 are within the competence of the European Public Prosecutor's Office, unless the European Public Prosecutor's Office exercises the right of evocation.

[7 January 2021]

78. Chapter 18.<sup>1</sup> of this Law shall come into force on 1 December 2021. Until 30 November 2023, Chapter 18.<sup>1</sup> of this Law shall be applied according to the technical possibilities. In the time period from 1 December 2021 to 30 November 2023, an investigator, upon completing an investigation and handing over the materials to the Office of the Prosecutor, shall scan the materials of the criminal case obtained or prepared in paper form and append also in the Information System of Criminal Proceedings. Upon receipt of a criminal case in paper form, a court may review it, without converting it into the e-criminal case.

[7 October 2021]

79. Upon ensuring a possibility to familiarise with the materials of the criminal case for a person who is in a prison, the person directing the proceedings shall take into account the technical provision of the prison.

[7 October 2021]

80. The security measure - placement in a social correctional educational institution - shall not be applied to the minor from 1 July 2022 to 31 December 2024.

[16 June 2022]

81. The security measure - placement in a social correctional educational institution - applied shall be revoked on 1 July 2022. In accordance with the procedures laid down in this Law, the person directing the proceedings is entitled to decide on the application of another security measure to the minor.

[16 June 2022]

## Informative Reference to European Union Directives

[23 May 2013; 29 May 2014; 29 January 2015; 18 February 2016; 30 March 2017; 22 June 2017; 27 September 2018]

This Law contains legal norms arising from:

- 1) Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA;
- 2) Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings;
- 3) Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings;
- 4) Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA;
- 5) Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order;
- 6) Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA;
- 7) Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty;
- 8) Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters;
- 9) Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union;
- 10) Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings;
- 11) Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings;
- 12) Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings.

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

Criminal Procedure Law  
**Annex 1**

## **Property which shall not be Seized**

[12 March 2009; 29 May 2014]

The following property in the property of persons shall not be subject to seizure:

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 the total sum of which does not exceed one minimum monthly wage for an accused and each of his or

her family members, if he or she has been dependent of the accused and he or she has no other income.

4. Heating fuel, which is necessary for the family for cooking and heating of residential premises.

5. Equipment and tools that are necessary for the accused for the continuation of business or professional activities, except 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.

Criminal Procedure Law  
**Annex 2**

### **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.

Criminal Procedure Law  
**Annex 3**

[29 June 2008]

**Offences regarding which the Ruling on the Recovery of a Financial Nature Made by a European Union Member State shall be Executed without Examining whether such Offences are Criminal in Accordance with the Laws of Latvia:**

- 1) criminal offences referred to in Annex 2 to this Law;
- 2) smuggling;
- 3) violations of intellectual property rights;
- 4) threats and violence against people;
- 5) criminal offence causing losses;
- 6) theft.

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<sup>1</sup> The Parliament of the Republic of Latvia

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