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

The *Saeima*<sup>1</sup> has adopted and the President has proclaimed the following law:

## Criminal Procedure Law

### Part A General Provisions

#### Chapter 1

## Basic Provisions of Criminal Procedure

### Section 1. Purpose of the Criminal Procedure Law

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

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

*[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 performed by persons authorised to perform such proceedings for criminal offences existing within the jurisdiction of Latvia.

### Section 4. Power of the Criminal Procedure Law in Time

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

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

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

## Chapter 2 Basic Principles of Criminal Proceedings

### Section 6. Mandatory Nature of Criminal Proceedings

The official who is authorised to perform 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 performed in the interests of society regardless of the will of the person to 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 public 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, Section 200, Paragraph one, and Section 260, 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 / Amendment to Paragraph two regarding the replacement of number "136." with the number "132.1" shall come into force on 1 January 2018. See Paragraph 61 of Transitional Provisions]*

## **Section 8. Principle of Equality**

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

## **Section 9. Criminal Procedural Duty**

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

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

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

## **Section 10. Immunity from Criminal Proceedings**

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

(2<sup>1</sup>) The 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.

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

(2<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 performing 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 performed in conformity with internationally recognised civil rights and without allowing for the imposition of unjustified criminal procedural duties or excessive intervention in the life of a person.

(2) Civil rights may be restricted only in cases where such restriction is required for public 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 the deprivation of liberty, the infringement of the immunity of publicly inaccessible places, and the confidentiality of correspondence and means of communication shall be permitted only with the consent of the investigating judge or court.

(4) An official, who performs the criminal proceedings, has an 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.

(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]*

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

(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 duties, the security measures provided for in the Law for ensuring of a concrete procedural action may be applied to such person.

(3) In order to overcome the physical resistance of a person, the performer of procedural actions or, on the basis of 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 type of criminal proceedings that complies with the concrete conditions, and shall not allow for unjustified intervention in the life of a person and unfounded expenditures.

(3) Criminal proceedings wherein a security measure related to the deprivation of liberty has been applied 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 perform criminal proceedings, interpreters, and specialists shall withdraw from participation in criminal proceedings if such persons are personally interested in the result, or if conditions exist that justifiably give the persons involved in the criminal proceedings a reason to believe that such interest may exist.

(2) A person who performs defence, a victim, the representative of the victim, the owner of property infringed during criminal proceedings and an official who is authorised to perform criminal proceedings but is not the person directing the proceedings has the right to raise an objection if the conditions referred to in Paragraph one of this Section exist.

(3) 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.

### **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 invite as a defence counsel, at his or her own choice, a person who may be a defence counsel in accordance with this Law.

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

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

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

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

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

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

2) in the promotion of the progress of proceedings;

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

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

## **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. Court Adjudication**

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

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

(1) A person who is threatened in connection to the execution of his or her criminal procedural duty has the right to request that the person directing the proceedings carry out the measures provided for by law for the defence of such person and his or her property, as well as for the defence 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 concrete circumstances, decide on the necessity to perform one or more of the following measures:

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

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

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

4) the assigning of law enforcement institutions the task of performing defence of the person or his or her property, as well as defence of 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 state by a ruling made in accordance with the procedures laid down in law and in effect in a criminal case or a case of administrative violation.

(2) Repeated adjudication or punishment 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 determination of a punishment in such criminal proceedings in which a public 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 adjudication or punishment shall not be possible in cases when the ruling made in an administrative violation 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 punishment 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 violation 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 punishment served shall be included in the new punishment as defined in The Criminal Law, and the administrative punishment shall be taken into account upon determining the new punishment.

*[18 February 2016]*

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

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

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

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

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

1) the person directing the proceedings;

2) a member of the investigative group;

3) the supervising public prosecutor;

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

9) the senior public prosecutor;

10) the investigating judge;

11) the counsel for the prosecution.

(3) A judge and public 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 perform criminal proceedings in the cases determined in the legal norms of the European Union.

*[12 March 2009; 21 October 2010]*

#### **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 concrete 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 public prosecutor - in an investigation;
- 2) a public 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 the performing of 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 regarding such offence, and to ascertain such person and acquire evidence that gives grounds for holding such person criminally liable;
- 3) to perform all measures provided for in the Law for ensuring compensation for harm;
- 4) to select a type of criminal proceedings that ensures a fair regulation of criminal legal relations without unjustified intervention in the life of a person and unjustified expenditures;
- 5) to fulfil the orders of the direct supervisor, supervising public prosecutor, or higher-ranking public prosecutor thereof or the penal orders of the investigating judge.

(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 public 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 public prosecutor;
- 5) to appeal the instructions of a higher-ranking public prosecutor;
- 6) to appeal the decision of an investigating judge.

*[28 September 2005; 19 January 2006; 12 March 2009]*

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

(1) A member of an investigative group shall be a public prosecutor or an official of an investigating institution

authorised to perform criminal proceedings who has been included in the composition of the investigative group with a decision of the competent official of an investigating institution or a higher-ranking public 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 arrest on 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 public 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]

### **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 performance of concrete criminal proceedings during an investigation.

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

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

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

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

4) to give instructions regarding the direction of an investigation and the performance of an investigative action, if 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 carried out by a performer of activities or a member of an investigative group;

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

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

[12 March 2009]

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

(1) The executor of procedural tasks shall be an official of an investigating institution, or a public 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.

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

(1) An expert of an expert-examination institution has authorisation to perform criminal proceedings if he or she has acquired the right to perform a 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 perform his or her duties:

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 perform 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 concrete 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. Public Prosecutor in Criminal Proceedings**

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

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

*[19 January 2006]*

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

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

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

1) to give instructions regarding the selection of the type of proceedings, the direction of an investigation and the performance of investigative actions, if 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 public 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) request the execution of 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;

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

7) participate in a meeting wherein the investigating judge decides on the granting of 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]*

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

(1) A supervising public 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) on the basis of an instruction of a higher-ranking public prosecutor;
- 3) on the basis of his or her own initiative.

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

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

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

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

- 1) to not permit unjustified delay and to initiate criminal prosecution in the term specified in the Law;
- 2) withdraw from criminal prosecution and termination criminal proceedings if the prerequisites provided for such withdrawal or termination exist in the Law;
- 3) determine the criminal cases to be transferred to a court, and the 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 sexual inviolability;
- 7) submit to a court an agreement that was entered into with the accused regarding the admission of guilt and a punishment;
- 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 public prosecutor has the following rights in criminal prosecution:

- 1) to terminate criminal prosecution and to determine additional investigation;
- 2) to take any procedural decision in accordance with the procedures 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 public 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 public prosecutor has the right terminate the proceedings by applying the penal order of a public 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 public 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]

#### **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 of the observance of human rights in criminal proceedings.

#### **Section 41. Duties and Rights of an Investigating Judge**

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

- 1) to decide 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 public 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 public prosecutor in pre-trial criminal proceedings by giving instructions regarding the direction of an investigation and the performance of investigative actions.

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

- 1) to familiarise 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 conducted or a security measure related to a deprivation of liberty 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 perform 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 public prosecutor who has transferred the criminal case to the court. A higher-ranking public prosecutor may assign the maintenance of prosecution to another public prosecutor.

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

(3) [12 March 2009]

*[12 March 2009]*

#### **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 public prosecutor has the following duties and rights:

1) to refuse the maintenance of prosecution with the consent of a higher-ranking public prosecutor, if 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 session, the complete text of a ruling, and complaints submitted by persons;

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

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

*[12 March 2009; 21 October 2010]*

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

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

(2) A public 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 Public Prosecutor in Criminal Proceedings**

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

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

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

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

3) the Chief Public Prosecutor of the Prosecutor General's Office, if the functions of a public prosecutor specified in

this Law are performed by the Chief Public Prosecutor or a public prosecutor of the Division of the Prosecutor General's Office, a public prosecutor of the Department of the Prosecutor General's Office, or the Chief Public Prosecutor of a court district, as well as on the basis of the initiative thereof;

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

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

(3) [19 January 2006]

[19 January 2006]

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

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

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

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

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

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

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

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

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

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

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

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

3) assign a public prosecutor the execution of the functions of a supervising public prosecutor or a public prosecutor - person directing the proceedings, or undertake such functions 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 concrete criminal proceedings determine another supervisor in such proceedings;

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

6) to give instructions to an investigator, a supervising public prosecutor or a public prosecutor - person directing the proceedings regarding the selection of the type of proceedings, the direction of 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 less senior public 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 assigning another public prosecutor subordinated thereto to maintain the state prosecution, or to undertake such prosecution himself or herself.

[19 January 2006; 12 March 2009]

#### **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 type of the trial;
- 4) assign the court chancellery to perform preparatory activities.

(2) During preparation, a judge shall not evaluate evidence and the legal qualification of an offence, and shall not take decisions 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 that each person fulfil a criminal procedural duty and comply with procedures during a court session;
- 2) to apply procedural sanctions;
- 3) to participate in 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 perform measures in order to hold liable officials who perform 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 on the specified day of the minutes of the court hearing and the ruling to all persons provided for in the Law;
- 2) assign the sending of the criminal case together with submitted complaints to a court of the next instance;
- 3) convene the composition of the court in order to decide on unsatisfied objections attached to the minutes of the court session;
- 4) take a 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 Performance of Criminal Proceedings**

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

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

(2) [21 October 2010]

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

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

*[21 October 2010]*

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

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

- 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 performs defence, or with the victim or representative thereof;
- 2) receives, or if the spouse, children, or parents thereof receive income from the person who performs defence, or from the victim or representative thereof;
- 3) is related to a common household with the person who performs defence, or with the victim or representative thereof;
- 4) has an explicit conflict of interests with the person who performs 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 performs defence, or has performed defence or representation of the victim.

*[12 March 2009; 11 June 2009]*

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

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

- 1) the supervising public prosecutor or the person directing the proceedings in an investigation;
- 2) the higher-ranking public prosecutor, person directing the proceedings, or supervising public prosecutor;
- 3) the investigating judge, person directing the proceedings, or supervising or higher-ranking public prosecutor;

(2) The person who has the right to 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 public 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 the criminal proceedings in any status;
- 2) is in kinship to the third degree, affinity to the second degree, or married to another judge involved in the trial, the maintainer of prosecution, or the public prosecutor who has transferred the criminal case for trial, or if he or she has a common household with the referred to judge, maintainer of prosecution, or public prosecutor.

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

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

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

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

- 1) a member of an investigative group, an expert, and an auditor - to the person directing the proceedings;
- 2) the person directing the proceedings in an investigation and the direct supervisor of an investigator - to a supervising public prosecutor;
- 3) a supervising public prosecutor, person directing the proceedings in criminal proceedings, or a maintainer of state prosecution - to a higher-ranking public prosecutor;

- 4) a more public senior prosecutor - to the next higher-ranking public prosecutor;
- 5) an investigating judge - to the chief judge;
- 6) a judge until the initiation of 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 the continuation of the performance of criminal proceedings.

*[12 March 2009]*

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

(1) A person who performs defence, a victim, or a person authorised to perform proceedings, if such person has certain conditions that prohibit an official from performance of the concrete criminal proceedings, shall submit the recusation of such person to the persons referred to in 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 the sitting of a court, it shall be decided by the composition of the court.

(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 session, recording such recusation in the minutes of the session.

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

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

*[12 March 2009]*

#### **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. Decision on Recusation or a Refusal to Reject an Appeal**

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

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

(2) A decision taken during a court session 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]*

#### **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.

## Persons who Perform Defence

### Section 59. Grounds for Performing Defence

(1) Grounds for performing 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 performance 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 public prosecutor - perform of proceedings to believe that precisely such person has committed a concrete criminal offence (person may be prosecuted);

5) the public prosecutor - person directing the proceedings does not doubt that he or she will be able to convince the court with the existing evidence that reasonable doubts do not exist regarding the fact that precisely such person has committed a concrete criminal offence.

(3) An 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 public prosecutor is correct, and both affirm that the person has committed a concrete criminal offence;

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

(4) For a legal person, grounds for performing defence shall be an 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 Perform Defence

(1) A person who has the right to defence shall perform 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.

(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]

### 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 performing 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 duties.

(3) 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 invite 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 inviting 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 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.

(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 reaching of the objective of the 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 representation of his or her state is notified of his or her detention or arrest, as well as to contact it;

3) to receive information regarding the right to emergency medical assistance;

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.

(4) As soon as the person has acquired the right to defence, the information related to the rights determined in Paragraphs one and three of this Section shall be immediately issued 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]*

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

(1) If the actual possibility exists that a concrete person has committed a criminal offence to be investigated, criminal proceedings shall be initiated against such person. If in initiating proceedings there is already grounds for the expression of the referred to assumption, then the concrete 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 concrete person has committed the criminal offence under investigation, such person shall acquire the status of a person against whom criminal proceedings have been initiated.

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

(4) A person against whom criminal proceedings have been initiated has the fundamental rights determined in Section 60.<sup>2</sup>, as well as the rights determined in Section 66, Paragraph one, Clauses 2, 3, 9, 12, 13, 14, and 16 of this Law, and the duties determined in Section 67, Paragraph one, Clauses 1, 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]*

#### **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 regarding the emergency performance of investigative actions as a result of which evidence may be acquired for approval of unjustified suspicions.

(2) An image of a detained person recorded as a photograph, video, or by other types of technical means shall not

be published in the mass media during procedural actions without the consent of such detained person if such publication is not necessary for the disclosure of a criminal offence.

(3) [23 May 2013]

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

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

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

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

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

#### **Section 65. Suspects**

If the totality of evidence provides grounds for the assumption of the person directing the proceedings that the investigated criminal offence was most likely committed by a concrete person, he or she shall take a written decision that such person is recognised as a suspect.

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

(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, as well as an excerpt from this Law regarding the rights and duties of a suspect;

2) to familiarise himself or herself with the Criminal Proceedings Register;

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 motivated 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 a 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 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 performance 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 performing the criminal proceedings.

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

necessary for the disclosure of a criminal offence.

(3) [23 May 2013]

[19 January 2006; 12 March 2009; 21 October 2010; 23 May 2013; 29 May 2014]

### **Section 67. Duties of a Suspect**

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

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

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

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

6) to indicate the fact that during the commitment of the criminal offence, such person was in another place (hereinafter - 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.

### **Section 68. Termination of the Status of a Suspect**

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

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

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

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

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 public 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 public prosecutor's penal order;

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

6) to agree with the person directing the proceedings - public 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 type 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) to request that a defence counsel be replaced, if the obstacles to his or her participation determined in the Law exist;

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

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 substantiated 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 session, 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]

### **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 public prosecutor or victim has submitted an appellate protest or complaint;
- 3) whose interests are directly infringed upon with an appellate complaint in the part regarding the prosecution of another accused; and
- 4) if a judge - person directing the proceedings has recognised such rights as necessary.

(2) In a session of 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 public prosecutor or victim has submitted a cassation protest or complaint;
- 3) whose interests are directly infringed upon with a cassation complaint in the part regarding the prosecution of another accused; and
- 4) if a judge - person directing the proceedings has recognised such rights as necessary.

(2) In a cassation court, an accused has the fundamental rights determined in Section 60.<sup>2</sup> of this Law until trial of a case is commenced, 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 invite a defence counsel.

(3) If a case is tried in an oral procedure in a court session, an accused has the right to maintain or withdraw his or her complaint or a complaint of a defence counsel, and to express his or her view regarding other complaints that have been the 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 substantiated request regarding examination of a complaint in an oral procedure in a court session 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.<sup>1</sup> 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 public prosecutor's penal order.

*[21 October 2010]*

#### **Section 74.<sup>2</sup> 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 invite a defence counsel;

2) to participate in court sessions 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 public prosecutor's penal order, a convicted person has the right to the protection of his or her rights to lawful interests in the Prosecutor's Office, 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.<sup>3</sup> Duties of a Convicted Person**

A convicted person has a duty:

1) to arrive for the performance of the proceedings in a specific time at the place indicated by an authorised official, if the invitation 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 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 Non-exonerating Reasons**

(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 public 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 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 non-exonerating reasons, in substance finding a person guilty for the committing of a criminal offence, and the person dies after such termination, the legal representatives or 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 the right to the last word in court.

(4) In pre-trial proceedings and in court, the advocate who performs 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 public 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 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 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 perform 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 the cases when he or she is invited to ensure defence in a separate procedural action. Performance of defence in a separate procedural action shall not impose on an advocate a duty to undertake defence in the entire criminal proceedings.

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

(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.

*[19 June 2008; 12 March 2009]*

#### **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.

(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 has not entered into an agreement regarding defence, but the participation of a defence counsel is mandatory or the person wants that the defence counsel participated, the person directing the proceedings shall notify the senior of the sworn advocates of the territory of the relevant court process regarding 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]*

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

(1) If an agreement regarding 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.

*[19 June 2008]*

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

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

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

(3) A defence counsel has also the right, after 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 invited 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 type and stage of proceedings, in an interrogation of the defendant, to participate in other investigative actions regarding the performance of which a person

who has the right to defence or the defence counsel has submitted a request, and to participate in the investigative actions wherein the defendant would be entitled to participate, but does not do so;

3) to familiarise 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 concrete 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 public 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 performance 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 perform criminal proceedings;

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

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

(2) If an advocate continues to operate in a conflict of interest situation, 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]*

#### **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 of a Minor**

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

(2) The following may be a representative:

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

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

(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 concrete persons to truly protect the interests of the minor.

(4) A representative shall be permitted to participate in criminal proceedings from the moment when a minor has acquired the right to 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.

*[12 March 2009]*

#### **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 that determine the status of the person to be represented, and information regarding his or her own rights and the rights of the person to be represented;
- 3) to familiarise himself or herself with the Criminal Proceedings Register and submit recusations to the officials entered therein;
- 4) to submit complaints regarding the actions and decisions of officials, to submit requests in accordance with the same procedures as the person to be represented;
- 5) 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 public 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 sessions;
- 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 invite 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]*

#### **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 concrete 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 procedure.

*[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 familiarise himself or herself with the Criminal Proceedings Register and submit recusations to the officials entered therein;
- 3) to submit complaints regarding the actions and decisions of officials, to submit requests in accordance with the same procedures as the person to be represented;
- 4) 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 public 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 sessions;
- 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]*

### **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 invite a defence counsel at the expense of the legal person for full enforcement of rights;
- 3) to become familiar with the criminal proceedings register not later than within three days after filing of the statement;
- 4) to apply a recusation with regard to the officials listed in the register;
- 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 motivated 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 performance 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 perform 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 public prosecutor;
- 18) to withdraw the complaints of the defence counsel;
- 19) to agree or disagree to the termination of the proceedings by applying the penal order of a public prosecutor regarding a coercive measure.

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

*[14 March 2013]*

#### **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 perform the proceedings, if the invitation was 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 session.

*[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 was in unregistered spousal 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]*

#### **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.

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

#### **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 invite 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 performance 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.

(2) A victim, his or her guardian or trustee has the right, in all stages of criminal proceedings and in all types 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]*

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

(1) A victim 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 familiarise himself or herself with the Criminal Proceedings Register, and to submit a recusation to officials entered therein;

2) [12 March 2009];

3) to submit applications regarding 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 public 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 sexual 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) In questioning and interrogation, a victim also has all the rights and duties of a witness.

*[19 January 2006; 12 March 2009; 29 May 2014; 18 February 2016]*

### **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 session;
- 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 session 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 session, a victim has the same rights as in a court of first instance, as well as the right to maintain and justify his or her complaint, or withdraw such complaint.

(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 substantiated request regarding examination of a complaint in an oral procedure in an open court session in his or her presence.

(3) In examining a case in a court session in proceedings taking place orally, a victim has the right to submit recusations, maintain or 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 a duty to arrive for the performing of criminal proceedings at the time and place indicated by an authorised official, and to participate in an investigative action.

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

[12 March 2009]

#### **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 session shall be recorded in the minutes of the court session. 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 deficiencies, has been recognised as a victim without his or her consent, the victim shall be represented by any of his or her immediate family.

(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 enforce such rights, except the rights of a minor to provide testimony and express his or her view.

(5) If the rights of a minor and the protection of the interests thereof are encumbered or otherwise not ensured, or the representatives referred to in Paragraph two of this Section submit a substantiated request, 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 - poor 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.<sup>1</sup> 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 elder 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 elder 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 elder 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 concrete 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 has been entered into the Criminal Proceedings Register may not be the representative of the victim.

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

#### **Section 107. Rights of the Representative of a Victim**

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

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

#### **Section 108. Provision of Legal Assistance to a Victim**

(1) A victim or the representative thereof may retain an advocate for the provision of legal assistance in order to 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 invite 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; 21 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 invited, 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 invite as a witness an official who is or was authorised to perform proceedings in pre-trial proceedings, except an investigating judge or public prosecutor, if such person maintains State prosecution in a concrete criminal proceedings.

### **Section 110. Rights of a Witness**

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

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

(3) A witness has the right:

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

2) to not testify against 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 withdraw a matter regarding a private secret, and to request that the request be entered in the minutes of the session if such request is rejected;

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

(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]*

### **Section 111. Duties of Witnesses**

(1) In answering posed questions, a victim shall provide only true information, and shall testify regarding everything that is known to him or her in connection with a concrete criminal offence. The right to not testify is held only by 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 performing criminal proceedings, and to participate in an investigative action, if the procedures for invitation have been complied with.

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

*[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 invite 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 on whose property an attachment is imposed 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 examination performed directly and orally of each piece of evidence to be examined 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 session;

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 on whose property an attachment is imposed 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 on whose property an attachment is imposed 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 on whose property an attachment is imposed 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 on whose property an attachment is imposed 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 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 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 performing 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 duties.

*[22 June 2017]*

### **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 performing 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 performing criminal proceedings, and to participate in an investigative action, if the procedures for invitation 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 make notes, in connection with the activities that he or she has performed or the explanations that he or she has provided, in the document wherein an investigative action is recorded.

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

(1) The assistant of a judge, the assistant of a public prosecutor, the secretary of a court session, or an employee of the secretariat staff of the relevant institution may perform, under the assignment of 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 public 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 perform 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 session, and an interpreter shall inform the person directing the proceedings regarding conditions that may provide grounds for the doubting of the objectivity of a procedural action performed by such persons. The person directing the proceedings shall decide on the invitation 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 performance of the duties thereof.

## **Chapter 8 Immunity from Criminal Proceedings**

#### **Section 116. Grounds for Immunity from Criminal Proceedings**

(1) The grounds for immunity from criminal proceedings are the 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) State secret protected by the law;

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 restricts the application of compulsory measures to a person, or determines special procedures in relation to such person;

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

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

6) determines special procedures for the withdrawal of documents.

(2) The special legal status of premises shall:

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

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

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

#### **Section 118. Diplomatic Immunity**

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

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

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

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

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

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

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

#### **Section 119. Consular Immunity**

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

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

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

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

(5) The archives, documents, and official correspondence of a consular representation office shall be inviolable

regardless of the location thereof.

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

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

(1) The State President and a member of the *Saeima* shall have the immunity from criminal proceedings specified in the Constitution.

(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 public 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 public 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]

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

(1) The rights to not testify shall not be restricted, and personal notes shall not be seized, 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 given name, surname, personal identity number, 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 withdraw his or her personal notes regarding a secret of the deliberations room;

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

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

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

2) the inspection and withdrawal of an unopened will, and the 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 institution shall provide information on a patient only on the basis of a written request of the person

directing the proceedings.

(5) Undisclosed information or documents, which contain such information and are at the disposal of credit institutions or financial institutions, shall be requested in pre-trial proceedings only with the decision of an investigating judge. Transactions in the accounts of clients of credit institutions or financial institutions shall be monitored in pre-trial proceedings for a certain time period only with the permission of an 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.

(6) An 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 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]*

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

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

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

## **Division Two Evidence and Investigative Actions**

### **Chapter 9 Proving and Evidence**

#### **Section 123. Proving**

Proving is an 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 concrete 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) The conditions included in an object of evidence in relation to the criminal origins 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.

*[22 June 2017]*

## **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 public prosecutor's penal order that has entered into effect;
- 3) the fact of an administrative violation 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.

(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.

*[12 March 2009]*

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

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

(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]*

## **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, and information that has been recorded with the assistance of technical means, shall be used as evidence only if it is possible to examine such information in accordance with the procedures 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]*

### **Section 128. Reliability of Evidence**

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

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

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

### **Section 129. Relevance of Evidence**

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

### **Section 130. Admissibility of Evidence**

(1) It shall be admissible to use information regarding facts acquired during criminal proceedings, if such information was obtained and procedurally fixed in accordance with the procedures 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 concrete piece of evidence;

4) violating the fundamental principles of criminal proceedings.

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

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

### **Section 131. Testimony**

(1) Evidence in criminal proceedings may be information regarding facts provided in a testimony during 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 an explanation regarding concrete facts and circumstances written and signed by a person himself or herself and addressed to a court, an investigating institution or a public prosecutor's office.

(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]*

### **Section 132. Conclusion of an Expert or Auditor**

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

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

### **Section 133. Conclusion of 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 any thing 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 concrete criminal proceedings.

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

#### **Section 139. General Provisions for the Performance of Investigative Actions**

(1) Investigative actions to be previously planned shall usually be performed in the hours from 8:00 to 20:00. An investigative action shall be performed without delay in cases where such investigative action is not deferrable because such operation may lead to a loss of essential evidence, and jeopardises the reaching of the purpose of the criminal proceedings.

(2) At the beginning of an investigative action, the performer thereof shall inform a person involved in the concrete proceedings regarding the rights and duties thereof, and shall notify regarding liability for the non-execution of the duties thereof. A person whose procedural duties are also simultaneously the professional work duties thereof shall not be informed and notified.

(3) It is prohibited to use violence, threats, or lies against a person who participates in an investigative action, as well as other illegal actions, actions that do not comply with moral norms, or actions that endanger the life or health of the person or that injure the dignity of the person. A person of the opposite sex, with the exception of medical practitioners, is prohibited from participating in or performing investigative actions that are related to the denuding of the body of a person.

(4) The disclosure of information regarding the private life of a person who participates in an investigative action is prohibited, as is the disclosure of information that contains a professional secret or commercial secret, except 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 the performance of 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 - the 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 given name, surname, personal identity number, and address of each person present at the place of the occurrence of such procedural action, as well as the announced report, if the Law provides for liability for the non-execution of the duty thereof. Notified persons shall sign regarding such report. The certification shall also indicate interruptions in the course of the procedural action, and the end time of the procedural action. The certification shall be signed by all the persons present at the place of the occurrence of the procedural action, and such certification shall be sent to the person directing the proceedings for attachment to the minutes of the procedural action.

(8) The investigative actions performed using technical means shall be recorded in pre-trial proceedings in accordance with the procedures 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 session.

*[21 October 2010]*

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

(1) An investigative action shall usually be recorded in minutes.

(2) The progress and results of an investigative action may be recorded in a sound and image recording.

(3) In the cases determined in this Law, the progress and results of an investigative action may be recorded only in

a conclusion, report, or account.

#### **Section 142. Minutes of an Investigative Action**

(1) The minutes of an investigative action shall be written during the course of the investigative actions or immediately after 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 and Image Recording**

(1) During the course of the occurrence of an investigative action, the performer of the investigative action may record sound and image in a recording, notifying persons who participate in the investigative action regarding such recording before the commencement of the investigative action.

(2) A recording shall record the entire course of an investigative action. A partial recording shall not be allowed.

(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 and image recording shall be recognised as more precise and more complete in comparison with information recorded in writing.

(4) In writing the minutes of an investigative action, the requirement of Section 142 of this Law shall be observed, yet only the most essential facts from the course of the investigative action and from the disclosed facts shall be referred to in the minutes. All the course of investigative action and the disclosed conditions shall be fixed in the minutes of an investigative action for a time period when investigative actions are not fixed in a recording.

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

*[12 March 2009]*

#### **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 endangers 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 data of a person to be interrogated - his or her given name, surname, and personal identity number - are a component of a testimony.

(4) If a testimony is related to numbers, dates, and other information that is difficult to remember, a person being interrogated has the right to use his or her documents and notes, as well as to read such documents and notes. The notes of the person being interrogated may be 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 of prior testimony of a 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.

#### **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**

A provided testimony shall be recorded in the minutes of an interrogation, and written in the first person. Upon request of a person to be interrogated, such person may write the testimony thereof by hand himself or herself in the minutes of the interrogation.

#### **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 concrete criminal proceedings;

2) the procedural situation of the person shall be explained to such person, and a copy of the document that determines such procedural situation shall be issued, if such document is provided for in the Law;

3) an extract from the Law shall be issued to the person wherein the procedural rights and duties thereof are specified, if such extract has not yet been issued to such person in the concrete criminal proceedings;

4) the rights of the person to not testify shall be explained to such person, and such person shall be notified that everything that he or she says may be used against such person.

*[12 March 2009; 18 February 2016]*

## **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 victim and witness shall be recorded in an audio and video 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 an audio and video recording, except cases 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. One of the lawful representatives of the minor, an adult member of the immediate family of the minor, or a trustee has the right to participate in an interrogation, if he or she is not the person against whom the criminal proceedings have been initiated, a detained person, a suspect, or an accused, and if the minor does not object to such participation. The referred to person may ask the person being interrogated questions, with the permission of the performer of the investigative action.

(3) A minor who has not reached 14 years of age shall not be notified regarding liability for refusal to testify and for 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 / 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 public 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 concrete conditions, shall explain to the minor the necessity of the operations taking place and the meaning of the information provided by such minor, ascertain personal data, ask the questions of the person directing the proceedings in a form that corresponds with the psyche of the minor, and, if necessary, inform regarding a break in the investigative action and the resuming thereof.

(4) If 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 public 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 reaching of the purpose of criminal proceedings, information regarding the facts included in the object of evidence may also be acquired in accordance with the procedures of a questioning.

(2) In conducting a questioning, a performer of an investigative action shall personally meet with a witness, explain his or her rights and duties, and ascertain the information significant to the investigation known to such witness, or the non-existence of such information.

(3) *[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 and date of the questioning, and the start and end time thereof;

- 2) the position, given name, and surname of the person who performed the questioning;
  - 3) the given name, surname, and address of the questioned persons;
  - 4) the testimony provided by each person; if the testimonies of several persons are the same, such information shall be referred to only one time;
  - 5) the used scientific-technical means;
- (5) Several testimonies may be reflected in one report.

*[12 March 2009]*

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

- (1) The person directing the proceedings may (1) 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 who have been previously interrogated and which is performed if there are substantial contradictions in the previous testimonies of such persons.
- (2) Any persons previously interrogated may be confronted, regardless of the procedural status of such persons.

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

- (1) Confrontation shall take place in conformity with the provisions of an interrogation, except the provision indicated in this Section.
- (2) Confrontation shall be commenced with a question regarding whether the confronted persons know each other, and regarding the nature of the mutual relations of such persons.
- (3) During the course of a confrontation, the confronted persons shall be asked questions in succession regarding the circumstances wherein there exist contradictions in the previous testimonies thereof, and regarding the reasons for such contradictions.
- (4) Confronted persons may ask one another questions with the permission of the performer of the investigative action. The performer of the investigative action is entitled to reject questions that are not essential or do not apply to the case. All asked questions and answers shall be recorded in the minutes.
- (5) The previous testimonies of a confronted person may be read only after testimony that he or she has provided during the confrontation has been recorded.
- (6) Each confronted person shall sign his or her testimony.

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

#### **Section 159. Inspection**

- (1) An inspection is an investigative action during the course of which the performer of the investigative action directly detects, determines, and records the features of an object, if the possibility exists that such object is related to the criminal offence being investigated.
- (2) In order to find traces of a criminal offence, and to ascertain other significant conditions, a visual inspection may

be performed of the site of the event, the terrain, the premises, vehicle, item, document, corpse, animal, or another object.

#### **Section 160. General Provisions of an Inspection**

(1) The performer of an investigative action may invite any person involved in concrete criminal proceedings to participate in an inspection.

(2) In order to ensure the preservation of the object of an inspection, the guarding thereof may be organised.

(3) If, during the course of an inspection, it becomes necessary to conduct a search, perform presentation for recognition, or perform other investigative actions, such operations shall be performed in 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 perform criminal proceedings. Each official shall record the course of inspection separately, indicating the borders and inspection results of each concretely 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 seized, 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 seized during an inspection wherein an expert participates, the location and features of such traces or objects, the fact of the removal thereof, and the persons under the liability of whom such objects or traces have been transferred shall be indicated in the minutes of the inspection. In such cases, the inspection of the removed traces and things shall take place during the course of an expert-examination.

(2) 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 removal of the documents necessary for an audit or inventory. The minutes of an inspection shall only indicate such documents, the location thereof, the fact of removal, and the auditor under the liability of whom the documents seized for the performance of the audit or inventory were transferred. The inspection of documents shall take place in the course of the audit or inventory.

#### **Section 162. Inspection of the Location of an Event**

(1) An inspection of the location of an event is an inspection of a concrete place and the objects located therein, if such inspection is performed after 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 seized regardless of the connection of such objects or documents with the concrete criminal proceedings. The removal of objects and documents shall be a component of an inspection of the location of an event.

#### **Section 163. Inspection of terrain, Premises, Vehicle, or Object**

(1) If terrain, premises, vehicle, or object is related to a committed criminal offence, an inspection of such terrain, premises, vehicle, or object may be performed.

(2) An inspection of a publicly inaccessible terrain or premises, the objects located in such terrain or premises, as well as a vehicle, 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 the person directing the proceedings. An investigator shall perform the inspection by a consent of a public prosecutor. The person directing the proceedings shall, not later than on the next working day, notify the investigating judge of the inspection performed by presenting the inspection protocol and materials justifying the necessity and urgency 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 public 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 that which is indicated in this Section.

(2) If an examination is related to the denuding of the body of the person to be examined, but the executor of the investigative action is a person of the opposite sex, the performer of the investigative action shall assign a medical specialist to perform such operation. Minutes shall be written by the performer of the investigative action with the participation of the medical specialist who performed the examination.

#### **Section 170. Examination by Force**

(1) If a person does not agree to an examination, such examination shall be conducted by force.

(2) The examination by force of a person who is not a detained person, suspect, or accused in a concrete criminal proceedings may be performed only on the basis of a decision of an investigating judge.

(3) If the performance of an examination is an emergency, and if delay may lead to the loss of evidence or jeopardise the reaching of the purpose of criminal proceedings, such examination may be performed with the consent of a public prosecutor, notifying the investigating judge regarding such examination, and presenting the minutes and materials of the investigative action that justified the necessity and emergency of the investigative action, not later than the next working day after 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**

An on-site examination of testimonies is an investigative action whose content is a repeated interrogation of a person regarding a fact provided in earlier testimony, and an examination of such fact on site, as well as a comparison of acquired results for the purpose of acquiring new information, or of examining previously acquired information, regarding the conditions of a case.

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

(1) An on-site examination of testimony shall be conducted with the participation of a previously interrogated person.

(2) During an on-site examination of testimony, a person shall testify in sequence regarding a fact characterised in his or her previous testimony, and such testimony shall be followed by an examination of such fact and an inspection of the location.

(3) If a contradiction between a testimony and a concrete fact is determined, the performer of an investigative action shall summon the person being interrogated to explain the reason for such contradiction.

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

(1) Presentation for identification is an investigative action whose content is the demonstration of an object to a victim, 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) A decision on a search shall indicate who will search and remove, where, with whom, in what case, and the objects and documents that will be sought and seized.

(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 public 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 regarding the search indicated in Paragraph three of this Section not later than 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 was conducted illegally, the investigating judge shall recognise the acquired evidence as inadmissible in criminal proceedings, and shall decide on the actions with the seized 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 the case where it is not possible due to objective reasons.

(4) In order to identify the objects being sought, a victim or witness may also be invited to a search.

(5) The rights of persons located at the site of a search to be present during the entire term of the operations of the performer of the investigative action, and to express the remarks thereof regarding such operations, shall be explained to such persons.

*[19 January 2006]*

### **Section 182. Procedures for Conducting a Search**

(1) A performer of an investigative action, together with the persons present during the investigative action, is entitled to enter into the premises or geographical territory indicated in a decision 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 acquainting in the decision. Then the performer of the investigative action shall summon such person to voluntarily issue the object being sought.

(3) If the person by whom a search is taking place refuses to open up the premises or storage facilities located at the site of the search, the performer of the investigative action is entitled to open such premises or storage facilities without causing unnecessary damage.

(4) Persons located at the site of a search may be prohibited from leaving such site, moving, or talking among themselves until the end of the investigative action. If such persons impede the conducting of the search with the actions thereof, such persons may be transported to other premises.

(5) A search of premises or a geographical territory may also include a search of the vehicles and persons located therein. If necessary, a search of a person may be conducted at the beginning and at the end of a search of premises or a geographical territory.

(6) During a search, the objects and documents referred to in a decision, as well as other objects and documents that may be significant in the case, shall be seized. 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 seized, 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 seized 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 seize 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 seizure, and the expert-examination institution or auditor under the liability of which the seized 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]*

### **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 Representative Offices**

(1) A search in the premises of a diplomatic or consular representative office, or in premises used by the parliamentary and governmental official delegations and missions of foreign states, may be conducted only 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 representative offices of foreign states and other institutions of foreign states, as well as the members of the parliamentary and governmental official delegations and missions of foreign states who enjoy diplomatic immunity in accordance with the international agreements binding on Latvia, and the family members thereof, and a search of such employees, members, and the family members thereof, may be conducted only 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 representative office.

### **Section 185. Issuance of a Copy of the Minutes of a Search**

A copy of the minutes of a search shall be issued to the person at whose site such investigative action was conducted, or to another person referred to in Section 181, Paragraphs one and two of this Law.

### **Section 186. Seizure**

Seizure is an investigative action whose content is the removal of objects or documents significant to a case, if the performer of the investigative action knows where or by whom the concrete object or document is located and a search for such object or document is not necessary, or such object or document is located in a publicly accessible place.

### **Section 187. Decision on Seizure**

(1) A seizure shall be conducted with the decision of the person directing the proceedings.

(2) A decision on a seizure shall indicate who will seize an object or document, where, with whom, in what case, and the objects and documents that will be seized.

### **Section 188. Seizure Procedures**

(1) In commencing a seizure, the performer of the investigative action shall issue a copy of the decision on seizure to the person at whose site the seizure is taking place. The person shall sign therefor in the decision. Then the performer of the investigative action shall invite the person to issue the object being seized without delay.

(2) Seized objects or documents shall be described in the minutes of the seizure.

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

(4) If a person refuses to issue an object to be seized, or if the object or document to be seized cannot be found in the indicated location and there are grounds to believe that such object or document is located elsewhere, a decision on conducting of 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]*

### **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 seizure 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 term specified by such person directing the proceedings, the person directing the proceedings shall conduct a seizure 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 located in any administrative 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]

#### **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 public prosecutor or a data subject and a public 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**

An expert-examination shall be determined in cases where the conducting of a study is necessary wherein special knowledge in a sector of science, technology, art, or craftsmanship is to be used in order to ascertain matters significant to criminal proceedings.

#### **Section 195. Mandatory Expert-examinations**

An expert-examination is mandatory in order to determine:

- 1) the cause of death, or the seriousness and nature of bodily injuries;
- 2) pregnancy or the fact of the artificial termination thereof;
- 3) features that indicate the committing of a sexual offence;
- 4) the age of a person, if age is significant in criminal proceedings but the relevant documents do not exist;
- 5) the mental state of a suspect or accused, or the mental state of a person regarding whom legal proceedings are taking place for the determination of compulsory measures of a medical nature, if the person directing the proceedings has justified doubts regarding the mental capacity of the relevant persons;
- 6) the ability of a person to adequately perceive and comprehend the facts significant in a case, and to testify regarding such facts, and the ability of such person to independently implement his or her rights and lawful interests in criminal proceedings, if justified doubts have arisen to the person directing the proceedings regarding such ability;
- 7) authenticity of materialized financial instruments, letters of credit issued by a bank, bills of exchange and registered shares in printed form;
- 8) narcotic substances, psychotropic substances, and precursor substances;
- 9) the identity of a deceased person, if the exhumation of the corpse has taken place;
- 10) a weapon, ammunition, or explosives.

*[12 March 2009; 18 February 2016; 22 June 2017]*

#### **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.

(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 of such institution, who has been assigned the performing of the expert-examination;

4) the assignment put forth for the expert, and the questions to be solved;

5) the materials transferred to the expert;

(3) In subjecting a living person to an expert-examination, a decision shall indicate his or her personal data.

(4) If an expert of an expert-examination institution conducts or participates in an investigative action under the assignment of the person directing the proceedings and removes objects subjected to further research, the person directing the proceedings may assign the same expert or the same expert-examination institution to conduct the expert-examination of such objects, recording such assignment and questions to be solved in the minutes of the investigative action. If necessary, the person directing the proceedings may assign additional questions to the expert-examination, and submit additional materials.

*[18 February 2016]*

#### **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) If a decision does not indicate a concrete expert to whom the conducting of an expert-examination is to be assigned, or if an expert-examination institution whose expert participated in or conducted an investigative action conducts an expert-examination under the assignment of the person directing the proceedings, the head of the expert-examination institution shall determine the expert, and notify the person directing the proceedings regarding such expert.

(3) The head of an expert-examination institution is not entitled to give an expert binding instructions that may influence the results of research and the essence of a conclusion, or to independently request additional materials, except medical documents, necessary for an examination without co-ordination with the person directing the proceedings.

#### **Section 202. Executor of an Expert-examination - Invited Expert**

(1) In assigning the conducting of an expert-examination to an expert who does not work at an expert-examination institution, 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 motivated 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) 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.

### **Section 209. Taking of Samples by Force Necessary for a Comparative Study**

(1) A detained person, a suspect and an accused have a duty to allow the taking of samples from him or her for comparative study, but from persons against whom criminal proceedings have been commenced, and from a witness and victim the samples necessary for a comparative study may be taken by force only with a decision of an investigating judge.

(2) In emergency cases where samples necessary for a comparative study may be destroyed or damaged due to a delay, the person directing the proceedings may take such samples forcibly with the consent of a public prosecutor. The person directing the proceedings shall notify the investigating judge regarding such taking by force not later than the next working day after conducting of the investigative action, presenting the materials that justified the necessity and emergency thereof, as well as the minutes of the investigative action. The judge shall examine the legality and validity of the investigative action.

*[17 May 2007]*

## **Chapter 11 Special Investigative Actions**

### **Section 210. Provisions for Performing Special Investigative Actions**

(1) The special investigative actions provided for in this Chapter shall be performed if, in order to ascertain conditions to be proven in criminal proceedings, the acquisition of information regarding facts is necessary without informing the person involved in the criminal proceedings and the persons who could provide such information.

(2) Persons directing the proceedings, or the institutions and persons under the assignment thereof, shall perform special investigative actions based on a decision of an investigating judge. If the 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 particularly 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 particularly serious crimes shall be recorded that:

- 1) is necessary for ascertaining conditions to be proven in criminal proceedings;
- 2) indicates the committing of another criminal offences, or the conditions of the committing thereof;
- 3) is necessary for the prevention of immediate and significant threats to public security.

(2) The person directing the proceedings, his or her involved persons, a public prosecutor, and the investigating judge who supervises special investigative actions shall perform all the necessary measures in order not to allow 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 public prosecutor, and, not later than 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 a decision to perform a special investigative action after substantiated proposal of the person directing the proceedings, and the materials of the criminal case, have been examined.

(2) A decision shall indicate a special investigative action, the institutions or persons to which the performance of such operation has been assigned, the purpose and allowed duration of the performance thereof, and all other conditions that have significance in the ensuring of the operation to be performed, including a permit to imitate a participation in commitment of 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 seized objects.

#### **Section 215. Types of Special Investigative Actions**

(1) The following special investigative actions shall be performed in accordance with the provisions of this Chapter:

- 1) control of legal correspondence;
- 2) control of means of communication;
- 3) control of data in an 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 28 hours from the moment of the receipt of information, and shall decide on the seizure of such consignment, or the further delivery thereof with or without the copying, photographing, or other recording of the content thereof. In all cases, an official shall write up a consignment inspection protocol in the presence of a representative of the deliverer.

(3) A consignment shall be seized only if there are grounds 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 seized or a seized consignment is transferred to the addressee or deliverer with a substantial delay, he or she shall be informed regarding the reasons for the delay of the consignment and the 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 removal thereof without the information 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 located in the concrete 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 performs 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 regarding the non-disclosure of an investigative secret.

(4) In a decision on control of data present 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 concrete criminal offence may be interrupted within the framework of initiated criminal proceedings;

3) information regarding facts included in circumstances to be proven may be obtained as a result of the experiment, and if the acquisition of necessary information is impossible or hindered without such activity.

(2) A special investigative experiment creates a situation or conditions, characteristic of the daily activities of a person, that promote the disclosure of criminal intent, and records the actions of the person in such conditions.

(3) The provocation of the actions of a person is prohibited, as is the influencing of a person with violence, threats, or blackmail, or the 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 seized publicly when there is no longer a necessity to keep the fact of study a secret.

#### **Section 227. Control of Criminal Activity**

(1) If, 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 procedure.

(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 procedure 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 seized objects and documents or the copies thereof of special investigative actions shall be used in proving in the same way as the results of other investigative actions.

(2) If secretly recorded expressions or activities of a person are used in proving, such person shall compulsorily be 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 public prosecutor or investigating judge who supervises special investigative actions in the criminal proceedings wherein the relevant operation was performed. Such restriction is not applicable to the use of supporting evidence within the framework of another criminal proceedings.

(2) A decision of an investigating judge or public prosecutor shall not be necessary if information acquired as a result of special investigative actions is 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 familiarised with the materials of a special investigative action unattached to a criminal case, familiarising itself with the request and the materials of the criminal case, and, if necessary, requesting explanations from submitter and public prosecutor.

*[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 public 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 seized 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) Seized documents and objects shall, if possible, be returned to the owners, informing such owners regarding the special investigative action insofar as such operation affects such persons.

(3) Accounts, copies, and materials that were recorded using technical means shall be destroyed, if it is ascertained that such accounts, copies, or materials do not have the significance of evidence in criminal proceedings.

(4) In criminal proceedings wherein the persons who are to be held criminally liable have not been ascertained, actions with the materials referred to in this Section may be decided not earlier than six months after 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 public prosecutor or investigating judge shall notify persons who are being familiarised with the materials not attached to a criminal case regarding liability.

(4) In deciding regarding actions with materials not attached to a criminal case, a public prosecutor and investigating judge shall examine whether all person have been notified and whether the necessary measures have been performed in order to prevent the spread of unjustified information, and shall assign tasks for the rectification of deficiencies.

## **Chapter 12 Actions with Material Evidence and Documents**

### **Section 235. Attachment of Material Evidence and Documents to a Case and Storage Thereof**

(1) The person directing the proceedings shall register objects and documents obtained during the course of investigative actions in the list of material evidence and documents in the criminal case, if there are grounds to believe that such objects and documents may have the significance of evidence in the subsequent criminal proceedings.

(2) 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 material evidence 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.

(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 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 seized during the course of investigative actions only for the performance of a technical or handwriting expert-examination on the documents, but in other cases certified copies 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.

*[21 October 2010]*

#### **Section 236. List of Material Evidence and Documents**

The person directing the proceedings shall indicate the following in a list of material evidence and documents:

1) the name of a piece of material evidence or a document;

2) the date when such material evidence or document was obtained, and the investigative action wherein such material evidence or document was obtained;

3) storage location;

4) the date and definitive action with the material evidence or document.

#### **Section 237. Storage of Material Evidence**

*[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 seized 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 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 is not 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 Seized Objects and Valuables**

(1) A decision to terminate criminal proceedings, penal order of a public prosecutor, or court ruling shall indicate what shall be done with material evidence, documents, property related to criminal offence and other seized objects and valuables, that is:

1) material evidence, documents, other seized 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 realised, or if they have no value, they shall be destroyed;

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 realised 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 realised 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 an attachment 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]*

## Division Three Procedural Compulsory Measures and Sanctions

### Chapter 13 General Provisions for the Application of Compulsory Measures

#### **Section 241. Grounds for the Application of a Procedural Compulsory Measure**

(1) Grounds for the application of a procedural compulsory measure shall be the resistance of a person to the reaching of the aim of criminal proceedings in concrete proceedings or to the performance of a separate procedural action, or non-execution or improper execution 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 applied a punishment of deprivation of liberty for serious or especially serious crime, a judgement of conviction 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.

(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]*

#### **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 motivated written decision that indicates:

- 1) the person to whom the compulsory measure is to be applied;
- 2) grounds for the application of the procedural compulsory measure;
- 3) the type of compulsory measure;
- 4) *[19 January 2006]*;
- 5) the institution or person to whom the execution of the decision has been assigned;
- 6) the procedures for the appeal of the decision.

(2) A decision 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 state 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 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 justifying 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 concrete 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 State**

A prohibition on departure from a state is a restriction, specified by a decision of the person directing the proceedings, upon a suspect or accused to depart from a state 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, observing the nature of a criminal offence and the harm caused by such offence, the financial status of a person, as well as the type and measure of a 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 concrete criminal proceedings in connection with which such security measure has been applied, and shall explain the consequences that will come about if such security measure is not complied with.

(4) 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 concrete criminal proceedings in connection with which a security measure has been applied, and shall explain the consequences that will come about if the provisions of such security measure are not complied with.

(4) If the provisions of a security measure are violated, a 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 concrete criminal proceedings in connection with which such security measure has been applied, as well as his or her liability.

(4) If a suspect or accused does not fulfil his or her obligations, the unit commander (supervisor) under the supervision of whom he or she is located, an investigating judge, or the court may 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 concrete criminal proceedings in connection with which a security measure has been applied, and shall explain the consequences that will come about if the provisions of such security measure are not complied with.

(4) Parents or guardians may withdraw from the supervision of a minor at any time, if such persons are not able to ensure the proper behaviour of the minor.

(5) If a suspect or accused, who is a minor does not fulfil his or her procedural duties, an investigating judge or a court may 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 regarding which a punishment of deprivation of liberty may be applied, 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 punishment of deprivation of liberty may not be applied regarding a 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 particularly serious crime has been committed, a person who is a vagrant in and hides in the site of the committing of the offence or in the vicinity thereof, and who does not have a specific place of residence and place of employment, may also be 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 public prosecutor, or under the assignment of the person directing the proceedings, such employee or public 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 regarding which a punishment of deprivation of liberty may be applied, and such person is located at the location where the criminal offence was committed or flees from such site, or if a search for the person regarding the committing of such criminal offence has been announced, such person may be 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 public prosecutor within 24 hours.

(4) Notations regarding subsequent activities - the release of the detained person or the application of a security measure - shall be made in a detention protocol.

*[28 September 2005]*

#### **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 meeting with a defence counsel, but for a foreigner - also with a representative of the diplomatic or consular representation 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]*

#### **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.

*[17 May 2007]*

#### **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) In releasing a detained person, a copy of the detention protocol that indicates the grounds and date of release shall be issued to such detained person.

#### **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 in respect of which a punishment of deprivation of liberty is provided for, and a security measure related to the deprivation of liberty 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 public 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. If the detention is performed in the case provided for in Paragraph two, Clause 1 of this Section, and the detained person has previously been detained according to the procedures of Section 264 of this Law, another detention protocol need not be written, but in the protocol which has been drawn up regarding detention according to the procedures of Section 264 of this Law, an annotation shall be included regarding the fact from which moment the person is considered to be detained according to the procedures of this Section.

*[17 May 2007; 20 December 2012]*

#### **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 concrete 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) An investigating judge or a court may determine additionally the restrictions on meetings, except meetings with a defence counsel or a representative of the diplomatic or consular representation of the state of the foreigner, and communication for a detained person, assessing the proposals of an investigator or public prosecutor and hearing the views of the person arrested.

(4) A special law shall determine the procedures for holding under arrest.

*[12 March 2009; 18 February 2016]*

#### **Section 272. Grounds for Placing under Arrest**

(1) Arrest may be applied only if concrete information, acquired in criminal proceedings, regarding facts causes justified suspicions that a person has committed a criminal offence regarding which the law provides for a punishment of deprivation of liberty, and the application of another security measure may not ensure that the person will not commit another criminal offence, will not hinder or will not avoid the pre-trial criminal proceedings, court, or the execution of a judgment.

(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 punishment of deprivation of liberty has been adjudicated.

[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 the case 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 public 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 public 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 state, a matter may be decided in the absence of such person. The participation of a defence counsel summoned to provide legal assistance is mandatory.

(4) An investigating judge shall take one of the following decisions in a closed court session, the course of which shall be recorded in minutes:

- 1) a refusal to apply 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 concrete 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 introduction and resolution 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 performs 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 state 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 chancellery, 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 performs defence has intentionally delayed the progress of proceedings, or if the faster completion of proceedings has not been possible due to the particular complexity thereof.

(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 performs defence has intentionally delayed the progress of proceedings, or if the faster

completion of proceedings has not been possible due to the particular complexity thereof.

(7) The term of 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 performs defence has intentionally delayed the progress of proceedings, or if the faster completion of proceedings has not been possible due to the particular complexity thereof. A higher-level court judge may extend such term by three more months, if the person directing the proceedings has not allowed for unjustified delay, and public security may not be guaranteed with the application of another security measure.

(8) The issue regarding the extension of the term of arrest shall be examined by a court judge in a closed court sitting, providing an opportunity for the person regarding whose arrest is being decided, his or her defence counsel and representative, as well the public prosecutor to express their views. The decision cannot be appealed.

(9) If a person to whom a security measure related to deprivation of liberty commits a new criminal offence during criminal proceedings, regarding which the law provides for a punishment of deprivation of liberty, arrest may be applied to 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 punishment of deprivation of liberty that a court may impose regarding the criminal offence regarding the committing of which such person has been accused, but after judgment of conviction - if the punishment 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 performs 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 session in accordance with the procedures by which the submitted requests are decided.

(3) An application regarding 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 proposal is not justified with information on the facts that were not known to an investigating judge or court in 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 appellate court 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 appellate court is suspended or an interruption is announced for a term more than two months, the appellate court 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]*

### **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 concrete 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 public 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 the case 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 concrete 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 to whom a compulsory measure, excluding detention, related to deprivation of liberty has been applied, the representative or defence counsel thereof, and a public prosecutor may submit a complaint regarding a decision of an investigating judge within seven days after receipt of a copy of a decision taken on application 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 public prosecutor.

(3) If a compulsory measure related to deprivation of liberty is applied to a person after commencement of trial, and the next court session 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 a court which has taken 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 deprivation of liberty, or regarding a refusal to apply such security measure, in a closed court session 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 justifying 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 violation or a criminal offence is at the disposal of a person referred to in Paragraph one of this Section, such person may be held administratively liable or criminally liable.

### **Section 290. Types of Procedural Sanctions**

(1) The following procedural sanctions may be applied to a person who has violated the procedures laid down in the law:

- 1) a warning;
- 2) a fine;
- 3) expulsion from the court room;

(2) Only a warning may be applied to an advocate and public prosecutor, but, in other cases, the Council of Sworn Advocates or the Prosecutor General, accordingly, shall be notified regarding a violation thereof.

### **Section 291. Warning**

(1) 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 one minimal monthly wage 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.

### **Section 293. Application of a Fine**

(1) An investigator or public prosecutor who has determined an interference with procedures or a procedural violation shall write a protocol regarding such interference or violation, and shall immediately send such protocol 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) An investigating judge shall take a decision on day of the receipt of a protocol, and shall send a copy of such decision to the person to whom a fine has been applied, as well as to the person directing the proceedings, if a fine has not been applied.

(3) If a violation is determined during a court session, the chairperson of the court session shall define the essence of the violation, which shall be entered in the minutes of the court session, notify the operative part of a decision to apply a procedural sanction, and explain to the punished person his or her right to receive a copy of the entire decision in court on the same day, as well as his or her right to submit a request, within 10 days, regarding release from payment of the fine or reduction of the amount thereof.

(4) A decision of the investigating judge and court shall not be subject to appeal.

*[12 March 2009; 24 May 2012]*

### **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 regarding the decision of the investigating judge shall be submitted to the chairperson of the district (city) court, and regarding a court decision - to the same court that applied 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 session may expel from the court room a person who interferes with procedures during the court session and does not fulfil an order of the judge. A note regarding such expulsion shall be made in the minutes of the court session.

(2) An accused and a victim may be expelled from a court room with a decision of the court, if he or she repeatedly and substantially interferes with procedures. In the case of an expulsion of an accused, a court session may be continued if a court decides that the participation of an accused in the court session is not compulsorily necessary, and, in addition, only so long as there are grounds to believe that the accused may continue to interfere with procedures in the court session.

(3) A fine may be applied to a person, except 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 session, the chairperson of the court session shall familiarise such person with the procedural actions that have been fulfilled during the term of the expulsion thereof.

(2) If an accused who does not have a defence counsel is expelled from a court room, he or she shall be ensured with the opportunity to participate in 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 public 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 given name, surname, personal identity number (or, if such number does not exist, the year and date of birth), citizenship, place of residence and employment, education, marital status, dependents, and information regarding the criminal record of the threatened person;

2) the content and date of receipt of the submission;

3) the results of an examination of the submission, and materials that certify the necessity to determine special procedural protection;

4) conclusions regarding the necessity to determine special procedural protection.

*[12 March 2009]*

### **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 seized 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 public 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 State secrets.

#### **Section 306. Rights and Duties of a Defence Counsel and other Persons**

Neither a defence counsel, nor other persons who participate in criminal proceedings and who have knowledge, in connection with the execution of the procedural duties thereof, of the determination of special procedural protection have the right to disclose information regarding a person under special procedural protection, and the measures for the protection of such person.

#### **Section 307. Rights and Duties of a Protected Person**

A person who has been recognised as requiring special procedural protection has the rights and duties of a protected person specified in a special law.

#### **Section 308. Special Features of the 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 session. 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 session.

(2) If necessary, a protected person may participate in a court session 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 session, 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 session, the Prosecutor General shall assign, with a decision thereof, a special protection institution to perform the protection measures of such person specified in a special law.

*[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 performed may not guarantee the security of a protected person, the Prosecutor General, or the court that determined protection, shall take a 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 concrete 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 a request regarding 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 motivated, and a submitter shall be immediately notified regarding 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 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 motivated 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 motivated 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 perform criminal proceedings but are not persons directing the proceedings shall take a motivated 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 application or non-application of a punishment, and the acquittal or release from a punishment.

(3) A court shall take a decision on matters that must be decided in preparing a criminal case for examination in a court session, during the course of trial of a case, and in transferring a judgment for execution.

(4) Court judgments and, in the cases determined by law, decisions shall be drawn up in writing.

### **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 ruling 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 perform 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) Decisions to be written in the form of resolution, if they are not subject to appeal, shall be entered only in the register of the criminal proceedings.

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

### **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 person by electronic mail, it shall be deemed that the person has been notified of the ruling on the second working day after sending of the copy thereof or the notification.

*[12 March 2009; 24 May 2012]*

### **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 chancellery.

(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 state 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 purpose of the criminal proceedings.

### Section 324. Examination of a Proposal

(1) A proposal shall be examined by an official who has been granted the authority in criminal proceedings to perform the operations recommended in the proposal by 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 public prosecutor institutions thereof, in the record-keeping of which is the concrete proceedings.

(2) If the law does not specify otherwise, a proposal shall be examined within 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) The minutes of an operation shall record the course of an investigative action performed in pre-trial proceedings, and, in the cases determined by law, also the course of another procedural action.

(2) The minutes of a court session shall record procedural actions performed in judicial proceedings.

### Section 326. Content of Minutes

(1) The minutes of a procedural action shall indicate:

- 1) the place and date of the occurrence of the operation;
- 2) the time when the operation was commenced and completed;
- 3) the position, given name, and surname of the performer of the procedural action;
- 4) the given name, surname, and personal identity number of the person - participator in the procedural action, and the given name, surname, place of practice, and procedural status of an advocate;
- 5) the course of the occurrence of the operation, and determined facts, if such facts exist;
- 6) the 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) Section 484 of this Law shall determine the content of the minutes of a court session.

### Section 327. Familiarisation with the Minutes of a Procedural Action

(1) The performer of a procedural action shall familiarise the persons who participate in the relevant operation with the content of the minutes of such procedural action, and the attachments thereto, by reading, indicating, or playing such content and attachments. The minutes shall record the corrections and additions expressed by the persons.

(2) The performer of a procedural action, the taker of minutes, and all the persons who participate in the operation shall sign the protocol as a whole and, separately, each page thereof. If a person refuses 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 Public Prosecutor's Office, 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 Public Prosecutor's Office, or court;
- 4) the time and place of attendance;
- 5) the reason for the summoning of the person;
- 6) the duty of the person receiving the summons to transfer such summons to the person being summoned in the case of the absence thereof;
- 7) the consequences of a failure to attend.

### Section 330. Delivery of a Summons

(1) A summons 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 indicated by 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 indicated by the person. A summons shall be sent by an electronic mail to a defence counsel, State and local government institutions.

(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 state, or whose legal address is in a foreign state, 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]

### 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 concrete 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 a person being summoned in accordance with the procedures laid down in Section 330 of this Law by electronic 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 second working day after sending of the summons.

*[19 January 2006; 14 January 2010]*

## **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 activity.

(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 the attaining of the purpose of the 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 taking of a decision on an application, submission or request is not possible immediately, such decision shall be taken within three working 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]*

### **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 motivated 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.

*[12 March 2009]*

## **Chapter 24 Complaints**

### **Section 336. Right to Submit a Complaint**

(1) A complaint regarding the actions or ruling of an official performing criminal proceedings may be submitted by a person involved in the proceedings, as well as a person whose rights or lawful interests have been infringed upon by the concrete actions or ruling.

(2) A complaint submitted by a public prosecutor shall be called the protest of the public prosecutor.

(3) A decision of the person directing the proceedings shall be subject to appeal, except 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 public prosecutor regarding the actions or decision of an investigator or the direct supervisor of the investigator;

3) to a higher-ranking public prosecutor regarding the actions or decision of a public prosecutor.

4) to 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) If a person has appealed the actions or decision of a person referred to in Paragraph two, Clauses 1-3 of this Section, and does not agree with the decision taken by the examiner of a complaint - higher-ranking public prosecutor, such person may appeal such decision to the next higher-ranking public prosecutor, whose decision shall not be subject to appeal in a 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]*

### **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 a 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 public 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 public 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.

(4) If the term for the submission of a complaint has been missed due to a justifiable 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]*

### **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 perform measures in order to renew for persons the violated rights and lawful interests thereof.

(5) If the term of a complaint has been missed and has not been renewed, the complaint shall not be examined, and the submitter shall be notified regarding such non-examination.

(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) A judge of higher level court shall examine a complaint in a closed court session in the presence of the submitter of the complaint and his or her defence counsel or representative. The person whose actions or decision is being appealed, or the representative thereof, may participate in the court session. The failure of the referred to persons to attend shall not be an impediment to examination of the complaint. 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. A 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]*

#### **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 performing of other measures, is necessary for examination of a complaint, examination of the complaint shall be allowed within 30 days, notifying the submitter of the complaint regarding such examination.

(3) If the complaint has not been submitted in the official language, in respect of the beginning of the term of 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 substantiated.

(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 concrete 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 session. 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 justifiable reason, if such persons have been notified in a timely manner regarding the time and place of the examination, shall not be an impediment to examination of the complaint.

(2) Having heard the submitter of a complaint and the Prosecutor General, or the representatives thereof, a court shall retire to deliver and take a decision, which shall be read in the court session.

(3) A court may take one of the following decisions:

- 1) to leave the decision of the Prosecutor General without 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 that an accused pays voluntarily or on the basis of a court ruling.

(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]

### **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, to which compensation for a harm should be transferred, may 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 public 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 make a judgment. The refusal of compensation of a victim may not be grounds for the revocation or modification of prosecution, or a justifying judgment.

[12 March 2009; 29 May 2014]

### **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) A court may impose the duty to pay compensation upon the following:

- 1) an accused of legal age who has been found guilty of the committing of a criminal offence;
- 2) a minor who has been found guilty of the committing of a criminal offence, - subsidiary with the parents or persons who substitute for him or her, except 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]

#### **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 public prosecutor to terminate criminal proceedings.

(1<sup>1</sup>) If property has been recognised as criminally acquired, the attachment imposed on it, burdens, prohibitions and pledge rights, 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 decision of a district (city) court in accordance with the procedures laid down in Chapter 59 of this Law, if the person directing the proceedings has sufficient evidence that does not cause any doubt regarding the criminal origins of the property or the relation of the property to a criminal offence;

2) a decision of the person directing the proceedings, if, during a pre-trial criminal proceedings, property was found with and seized from a suspect, accused, or third person in relation to which property the owner or lawful possessor thereof had previously submitted a loss of property, and, after finding thereof, has proven his or her rights to such property, eliminating any reasonable doubt.

(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, 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 the person directing the proceedings expresses an assumption that property is criminally acquired or related to a criminal offence, a person has the right to prove the lawful origin of the property from the moment when his or her right to act with his or her property have been restricted with procedural actions.

[12 March 2009; 21 October 2010; 22 June 2017]

#### **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 the achievement of the purpose of criminal proceedings. Action with property which is not removed by its owner or lawful possessor shall take place in accordance with the same procedures as action with property for which an attachment has been revoked.

(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 the achievement of the purpose of criminal proceedings and if such property does not need to be returned to the owner of lawful possessor, and acquired financial resources shall be included in the State budget.

(2) 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 public prosecutor to terminate criminal proceedings, except the case when a property the rights for 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 public 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 Prosecutor's Office 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 public prosecutor or a higher-level court judge in a written procedure. A decision shall not be subject to appeal.

(4) A public prosecutor or a judge who has taken a decision on the replacement of property shall revoke an attachment imposed on a criminally acquired property when a 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 imposing an attachment.

(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 public 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. A 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 criminally acquired property has been found on a third person, such property shall be returned, on the basis of ownership, to the owner or lawful possessor thereof.

(2) If criminally acquired property has been returned to the owner or lawful possessor thereof, the third person who acquired such property, or pledge, in good faith has the right to submit a claim, in accordance with civil procedures, regarding compensation for the loss, including against an accused or convicted person.

(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.

[22 June 2017]

## **Chapter 28 Ensuring of a Solution to Financial Matters**

### **Section 361. Imposition of an Attachment on 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, an attachment shall be imposed on a property within criminal proceedings. An attachment on a property may be imposed 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) An attachment may also be imposed on property in proceedings regarding the application of compulsory measures on legal persons, and regarding the determination of compulsory measures of a medical nature, if the ensuring of a solution to financial matters in criminal proceedings, a possible liquidation or recovery of money, or a confiscation of property is necessary.

(3) In pre-trial proceedings, an attachment shall be imposed on property with a decision of 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 impose an attachment on the property with the consent of a public prosecutor. The person directing the proceedings shall notify an investigating judge regarding the imposed attachment not later than on the next working day by presenting the protocol and other materials that justify the necessity and emergency of the attachment. If the investigating judge does not approve the decision of the person directing the proceedings on imposition of the attachment on property, the attachment shall be seized from the property.

(5) A decision on imposition of an attachment on property shall indicate the purpose for the imposition of the attachment and the person who owns the property upon which the attachment has been imposed, and, if the amount of the financial matter to be solved is known, the necessary ensuring sum shall also be indicated.

(6) [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 an attachment was imposed, 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 attachment of the property has priority in relation to the pledge.

(7<sup>1</sup>) If in relation to property on which an attachment is being imposed 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 imposing of an attachment on a property, a mortgage creditor or commercial pledgee have the right to submit documents regarding the origin of property.

(8) An attachment shall not be imposed on basic necessity objects used by the person upon whose property the attachment is being imposed, or by the family members of such person and the persons dependent on such person. Annex 1 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) The copy of a decision shall be sent or issued to a person on whose property an attachment is being imposed.

[12 March 2009; 14 January 2010; 14 March 2013; 18 February 2016; 22 June 2017]

### **Section 361.<sup>1</sup> Sending for Execution of a Decision to Impose an Attachment on a Property**

(1) The execution of attachment 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 attached 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 attached 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 to which an attachment is imposed), 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 attached monetary deposits, financial instruments and capital shares (stocks) are stored so that withdrawal operations with them would be discontinued.

(2) In imposing an attachment on property, the owner, possessor, user, or holder of such property shall be notified regarding a prohibition to act with or use, such property, as well as regarding the rights of the owner of property infringed during criminal proceedings. If necessary, a tangible property shall be seized and placed in storage.

(3) In imposing an attachment on 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) In imposing an attachment on 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 attached 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 on which an attachment is imposed).

(5) In imposing an attachment on 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 on which an attachment is imposed).

[22 June 2017]

### **Section 362. Protocol Regarding the Imposition of an Attachment on Property**

(1) A protocol shall be written regarding the imposition of an attachment on property. A protocol regarding the imposition of an attachment on property need not be written if a decision on the imposition of attachment, 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.

(2) A protocol shall record the following:

1) each object upon which the attachment has been imposed, indicating the name, label, weight, level of wear, and other individual features;

2) the objects upon which the attachment has not been imposed, if the attachment has been imposed on an entire property;

3) the application that a third person has submitted regarding ownership of the property.

(3) [22 June 2017]

(3<sup>1</sup>) In imposing an attachment on property, also all the civil yield arising or due from the attached property shall be considered attached.

(4) If property has been seized, the protocol shall indicate precisely what has been seized, and where and with whom such property has been placed in storage.

(5) If an attempt to hide, destroy, or damage property was made during the term of the imposition of an attachment, an entry regarding such attempt shall be made in the protocol.

[12 March 2009; 18 February 2016; 22 June 2017]

### **Section 363. Issuance of Copies of a Protocol Regarding the Imposition of an Attachment on Property**

(1) A copy of a protocol regarding the imposition of an attachment on property shall be issued, in return for a signature, to the person by whom a description of the property was made, or one of his or her family members of legal age, but if such person is not present, the copy shall be issued to a representative of the local government in the administrative territory of which the attachment was imposed on the property.

(2) If an attachment has been imposed on property that is located in the territory of a legal person, a copy of the protocol regarding the imposition of the attachment on the property shall be issued, in return for a signature, to a representative of such legal person.

### **Section 364. Determination of the Value of Property Subjected to an Attachment**

(1) Property upon which an attachment is being imposed shall be assessed in accordance with the prices prevalent in the area, taking into account the degree of wear and tear of such property. The immovable property to which an attachment is being imposed 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 imposing an attachment. 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 an attachment must be imposed on only a portion of the property for a specific sum, the owner or user of the property has the right to indicate the property that, according to his or her view, should be subjected to attachment.

[22 June 2017]

### **Section 364.<sup>1</sup> Permission for the Disposal of Attached Property**

(1) If the person directing the proceedings after imposition of an attachment on property determines that in relation to the same property there is a registered note of a sworn bailiff regarding directed recovery, the person directing the proceedings shall inform the sworn bailiff regarding imposition of an attachment on the property.

(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 bring a collection in respect of the attached 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 bring a collection in respect of attached property. A 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 have significantly changed after evaluation of which the person directing the procedures has given a permission for a bailiff to bring a collection in respect of attached property, the person directing the proceedings may take a decision on prohibition to bring a collection in respect of attached property notifying such decision to the bailiff until the day of auction of the property or until the day when property is given to a trading enterprise for selling according to commission regulations.

(4) After the disposal of the attached 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 cancel attachment for 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 imposition of an attachment on these financial resources. The confirmation of an investigating judge is not necessary for such decision.

[12 March 2009; 22 June 2017]

### **Section 365. Storage of Attached Property**

(1) Property upon which attachment is imposed may be left in storage with the owner or user thereof, his or her family members, or another natural person or legal person to whom the liability, provided for by law, regarding the storage of the referred to property shall be explained. Such persons shall sign regarding such storage.

(2) [12 March 2009]

(2<sup>1</sup>) Property upon which an attachment is imposed 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 continued storage of which is not possible or the continued 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.

(3) If an attachment is imposed on objects the circulation of which has been prohibited by law, as well as on 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 on 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 seized, but, after receipt of a decision on imposition of an attachment on property, withdrawal operations with them shall be discontinued.

[12 March 2009; 14 January 2010; 22 June 2017]

### **Section 366. Revocation of an Attachment on Property**

(1) The person directing the proceedings shall take a decision to revoke an attachment on property, and shall immediately notify the persons upon the property of whom the attachment was imposed, or in the storage of whom the attached property was placed, regarding such revocation. A decision on a revocation of an attachment 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 the person directing the proceedings in accordance with the procedures laid down in the Civil Procedure Law, in order to execute the ruling;

6) any other reason for the ensuring of a solution to financial matters has ceased.

(2) The person directing the proceedings may retain an attachment only for the portion 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 execution of an attachment on property.

(4) If, within a month after the day when a notification of the revocation of an attachment on property was sent, the person on whose property the attachment was imposed 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, the person directing the proceedings or - after entering into effect of the final ruling in the criminal proceedings - a judge, public prosecutor of the institution, which sent the notification, or the head of an investigating institution or a unit thereof shall take a decision to dispose 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]

## **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 Prosecutor's Office, 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 cases where such persons participate in proceedings fulfilling the official duties thereof;

4) payment to an advocate, when expenditures regarding legal assistance are covered from State resources;

5) sums that are used for the storage, transfer, 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 violation matter in which a decision to terminate administrative violation proceedings is taken by transferring the materials to an investigating institution, or the ruling made is revoked in relation to commencement 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;

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]*

### **Section 368. Recovery of Procedural Expenditures**

(1) Procedural expenditures shall be recovered with a court ruling from convicted persons, except 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 State funds, if the person from whom such expenditures are to be recovered is indigent. A court may release a convicted person from the recovery of procedural expenditures fully or partially in other cases as well, if the recovery may substantially affect the financial situation of a person who is a dependent of such convicted person.

(5) State resources shall cover the work of an interpreter, as well as procedural expenditures that are related to the participation of an advocate, on the basis of an assignment, in criminal proceedings, if 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 session, if such operation or session has been postponed in connection with the non-appearance, without a justified reason, of persons summoned 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 public prosecutor in criminal proceedings in accordance with the procedures laid down in this Law.

(6<sup>1</sup>) If after termination of the criminal proceedings information has been received regarding procedural expenditures,

which have arisen until the date of the entering into effect of the final ruling and which were not known on the day of making the final ruling, a judge of a court of first instance shall decide on 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 public prosecutor. The person or the public 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 a written procedure, and his or her decision shall not be subject to appeal.

(7) Also a public prosecutor shall determine the recovery of procedural expenditures in accordance with the procedures provided for in this Section, if criminal proceedings are terminated by preparing 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 public 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 public prosecutor whose decision is not subject to appeal.

(8) In collecting procedural expenditures, a public prosecutor shall determine in the decision a time period of 30 days for voluntary execution thereof. The public prosecutor shall send a copy of the decision in the part regarding recovery of procedural expenditures for execution after the end of the term for voluntary execution of the decision.

*[12 March 2009; 21 October 2010; 24 May 2012; 14 March 2013]*

#### **Section 368.<sup>1</sup> Recovery of Procedural Expenditures Related to the Postponement of Investigative Actions or Court Sessions**

(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 sessions, 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 public 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 Sessions**

(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, Prosecutor's Office, 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 performing criminal proceedings regarding another criminal offence;

4) in performing other functions specified in laws: examinations, an investigative action, etc.

#### **Section 370. Grounds for the Initiation of Criminal Proceedings**

(1) Criminal proceedings may be initiated, if the actual possibility exists that a criminal offence has taken place.

(2) Criminal proceedings may also be initiated if information contains particulars regarding a criminal offence that has possibly taken place, and the examination of such information is possible only with the resources and methods of criminal proceedings.

#### **Section 371. Initiation of Criminal Proceedings within the Competence of Investigating institutions, the Prosecutor's Office, 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 public 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 public prosecutor to initiate criminal proceedings, and the materials related to such decision, shall immediately be sent to an investigating institution, except 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 Prosecutor's Office.

*[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 concrete person to whom the performing of the proceedings has been assigned.

(2) A decision may also be written in the manner of a resolution. 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 that is responsible for the supervision of the investigation, as well as to the person who submitted information regarding the criminal offence, except medical practitioners or a medical institution.

(6) A prosecutorial institution shall notify the person directing the proceedings regarding the data of the supervising public 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, the 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]*

### **Section 373. Refusal to Initiate Proceedings**

(1) If a procedurally authorised official determines that there are no grounds for the initiation of criminal proceedings, such official shall take a decision 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 medical practitioners or institutions, regarding such decision. If a motivated 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 public prosecutor may refuse the initiation of criminal proceedings, if a criminal offence has been committed that has the features of a criminal offence, but which has not caused such harm that would warrant the application of a criminal punishment.

(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 public prosecutor, if the decision has been taken by an investigator, or, if the decision has been taken by a public prosecutor, to a higher-ranking public prosecutor.

(6) A complaint to a public 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 public prosecutor may fully or partially revoke or amend the appealed decision. The ruling of the public 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]*

#### **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 a State 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 perform the criminal proceedings, as well as the persons to whom the referred to officials present the relevant materials in accordance with the procedures provided for in this Law, shall be permitted to familiarise themselves with such materials.

(2) After the completion of criminal proceedings and entering into effect of the final ruling, employees of the court, the Prosecutor's Office, and investigating institutions, and persons whose rights were infringed upon in the concrete criminal proceedings, as well as persons who performed scientific activities shall be permitted to familiarise themselves with the materials of the criminal case. All final 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 a person who has the right to defence) involved in criminal proceedings shall be stored in a separate reference that shall be attached to a criminal case, and only the officials who perform the criminal proceedings may familiarise themselves with such reference.

(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 a State secret and regarding the liability which is intended for disclosure of the State secret. Making of copies of the documents containing the State secret is not permissible.

*[12 March 2009; 18 February 2016]*

#### **Section 376. Criminal Proceedings Register**

(1) A Criminal Proceedings Register is the registration page, inserted in each criminal case, that begins with an entry on the initiation of criminal proceedings and ends with an entry on the entering into effect of a final ruling.

(2) During the course of criminal proceedings, the following shall be entered in a register:

- 1) the initiation of the criminal proceedings, the legal classification of the offence and further direction;
- 2) recognition of a person as a suspect and the legal classification of the offence;
- 3) holding person criminally liable and the legal classification of the offence;
- 4) a security measure;
- 5) imposition of an attachment on property;
- 6) the officials who perform the concrete criminal proceedings;
- 7) term for restriction of rights of a person in the pre-trial criminal proceedings;
- 8) the initiation of the proceedings regarding application of a coercive measure;

9) the representative of the legal person.

(3) The change of a register during the course of proceedings shall not be allowed.

(4) The person directing the proceedings shall ensure that the persons who have the right to become familiar with the Criminal Proceedings Register in accordance with this Law are familiarised with the Criminal Proceedings Register within three days after submitting an application.

*[12 March 2009; 23 May 2013; 29 May 2014]*

### **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 application of a punishment regarding the relevant criminal offence;

5) a person who is to be held or is held criminally liable has died, except cases 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 ruling in some other incomplete proceedings, the person directing the proceedings may suspend the criminal proceedings up to the time when the ruling in such proceedings has entered into effect.

(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. A note shall be made in the Criminal Proceedings Register regarding the decision taken.

(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]*

### **Section 379. Termination of Criminal Proceedings, Releasing a Person from Criminal Liability**

(1) An investigator with a consent of a supervising public prosecutor, public prosecutor or a court may terminate criminal proceedings, if:

1) a criminal offence has been committed that has the features of a criminal offence, but which has not caused harm that would warrant the application of a criminal punishment;

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 public prosecutor, or a public prosecutor may terminate criminal proceedings, and send materials regarding a minor for the application of a compulsory measure of a correctional nature.

(3) A public 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]*

### **Section 380. Circumstances that do not Exonerate Persons**

A person shall not be exonerated, if criminal proceedings have been terminated with a decision that is provided for in Section 377, Paragraph one, Clauses 3, 4, 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]*

### **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 regarding such possibility or usefulness, but if the criminal offence was committed by a minor, then the State Probation Service shall be informed at any case, except the case 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 session, a settlement may be announced orally, and such announcement shall be entered in the

minutes of the court session.

(5) A settlement shall be signed by both parties - the victim and the person who 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) The person directing the proceedings shall select and perform procedural actions, within the framework of criminal proceedings, in order to ensure the reaching of the purpose of criminal proceedings as quickly and economically as possible.

(2) If necessary and if required by the interests of criminal proceedings, a procedural action may be performed using technical means (teleconference, video conference) in accordance with the procedures 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 perform 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 perform 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 public 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. Types of Pre-trial Criminal Proceedings**

(1) During the course of criminal proceedings, the person directing the proceedings shall select one of the following types of pre-trial proceedings:

- 1) to direct criminal proceedings in order to terminate such proceedings, conditionally releasing from criminal liability;
- 2) to direct criminal proceedings in order to apply a public prosecutor's penal order;
- 3) to direct criminal proceedings in accordance with urgent procedures;
- 4) to direct criminal proceedings in accordance with summary procedures;
- 5) to direct criminal proceedings for the application of agreement proceedings;
- 6) to perform an investigation and criminal prosecution in accordance with general procedure.

(2) The person directing the proceedings shall enter the selected type of proceedings in the Criminal Proceedings Register in the case where the further direction of the proceedings differs from general procedures. If proceedings take place in accordance with general procedure, such proceedings shall not be indicated in the Register.

### **Section 386. Investigating Institutions**

The following institutions shall perform an investigation within the framework of the competence thereof:

- 1) the State Police;
- 2) the Security Police;
- 3) the Financial Police;
- 4) the Military Police;
- 5) the Latvian Prison Administration;
- 6) the Corruption Prevention and Combating Bureau;
- 7) customs authorities;
- 8) the State Border Guard;
- 9) the captains of seagoing vessels at sea;
- 10) the commander of a unit of the Latvian National Armed Forces located in the territory of a foreign state;
- 11) the Internal Security Bureau.

*[21 October 2010; 8 July 2015]*

### **Section 387. Institutional Jurisdiction**

(1) Officials authorised by the State Police shall investigate any criminal offence, except the cases laid down in Paragraphs two to 10.1 of this Section, unless the Prosecutor General has assigned the performance thereof.

(2) Officials authorised by the Security Police shall investigate criminal offences that have been performed in the field of State security or in State security institutions, or other criminal offences within the framework of the competence thereof and in cases where the Prosecutor General has assigned the performance thereof.

(3) Officials authorised by the Financial Police shall investigate criminal offences in the field of State revenue and in the actions of officials and employees of the State Revenue Service.

(4) Officials authorised by the Military Police shall investigate criminal offences committed in the military service and in military units, or in the places of deployment thereof, as well as criminal offences committed in connection with the execution of official duties by soldiers, national guardsmen, or civilians working in military units.

(5) Officials authorised by the 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 customs authorities shall investigate criminal offences in the field of 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 state 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 the Security Police, as well as criminal offences related to violence which, upon carrying out 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 concrete criminal offences.

(12) If the investigation of a concrete 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 serious or particularly serious crime that is taking place or has taken place, and the investigation of such offence is not included in the competence thereof, and the performance of emergency investigative actions are necessary for the detention of the perpetrator of the offence or for the recording of evidence, such institution shall initiate criminal proceedings, inform the relevant competent investigating institutions regarding such initiation of proceedings, perform the emergency investigative actions, and transfer the materials of the initiated criminal proceedings on the basis of jurisdiction.

(14) The Prosecutor General shall resolve the disputes of investigating institutions regarding the jurisdiction of criminal offences.

*[28 September 2005; 12 March 2009; 8 July 2015]*

### **Section 388. Territorial Jurisdiction of Pre-trial Criminal Proceedings**

(1) Pre-trial criminal proceedings shall take place in the district (city) in which a criminal offence has taken place, or, if the determination of such place is not possible, the place where a criminal offence was disclosed or determined, except 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 performed 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 public prosecutor, that has received information regarding a criminal offence committed in another district (city) shall immediately transfer the received materials on the basis of jurisdiction. If emergency operations are necessary, the investigating institution shall initiate criminal proceedings, perform 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 withdraw 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 public 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 public prosecutor or investigator to another public prosecutor or investigator regardless of the place of the committing of the criminal offence.

(7) The chief public prosecutor of a court district, the chief public prosecutor of The Criminal Law Department of the

Prosecutor General's Office, 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. Terms for Restriction of Rights of a Person in the Pre-trial Criminal Proceedings**

(1) From the moment when a person who has the right to defence, or a person whose right to handle his or her property have been restricted with procedural actions, becomes involved in pre-trial criminal proceedings, the pre-trial criminal proceedings shall be terminated or all security measures suspended, and restrictions of rights, in relation to the property within the following term:

- 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 a particularly serious crime - within twenty two months;

(2) In criminal proceedings regarding several less serious offences, as well as in criminal proceedings regarding a serious or particularly serious crime, the investigating judge may extend the term specified in Paragraph one of this Section by six more months but not more than by three months in one extension, 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. 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 term 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 term referred to in Paragraph one 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 chancellery 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 terms for restricting the rights of persons with regard to a property on which the attachment has been imposed within the proceedings regarding the application of a coercive measure to a legal person shall be suspended from the moment when the public prosecutor has submitted to the chancellery of the district (city) court 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.

*[28 September 2005; 12 March 2009; 24 May 2012; 20 December 2012; 14 March 2013; 22 June 2017]*

### **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 public prosecutor of a district (city), court district, or of The Criminal Law Department of the Prosecutor General's Office, or the Prosecutor General shall take a decision, on the basis of a proposal of the person directing the proceedings and within the framework of the competence thereof, on merger of criminal proceedings in one records,

entering such decision in the registers of the criminal proceedings to be combined. 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]*

### **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) A public 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>) A term for restriction of rights of a person in cases determined in Paragraph one and Paragraph two, Clause 3 of this Section shall commence to count from the time 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 restricted the rights of a person to act with the property by procedural activity. 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]

### **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 concrete suspect or accused in the committing of a criminal offence has not been successful in pre-trial proceedings, and the gathering of additional evidence is not possible, the investigator, with a consent of the supervising public prosecutor, or the higher-level public 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.

(3) If a case has several accused, but criminal prosecution is being terminated in relation to one or several of such accused, criminal proceedings shall be terminated in such part, and a public prosecutor shall take a decision on such termination.

(4) If criminal proceedings are terminated in the part in relation to one or several accused, a public prosecutor shall, if necessary, decide the matter regarding the division of the criminal proceedings.

(5) [21 October 2010]

[12 March 2009; 21 October 2010; 30 March 2017]

### **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 part of resolutions 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 an attachment on property, except the case 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 seized 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.<sup>4</sup>, Paragraph one of this Law in 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 public 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>) The 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.

(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 punishment 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 state, 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 for reasons other than exoneration and it is necessary to decide in criminal proceedings regarding actions with the property 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 for which there are sufficient evidence that the property is criminally acquired, the person directing the proceedings shall decide on the sending of 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]*

### **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.

(2) Pre-trial criminal proceedings and criminal prosecution may be renewed, if the limitation period for criminal liability has not entered into effect.

### **Section 394. Tasks in Pre-trial Criminal Proceedings**

(1) An investigator or public prosecutor may assign the performance of separate procedural actions or tasks to another investigating institution or an official authorised to perform criminal proceedings.

(2) An assignment shall be given in writing, indicating the matters that shall be ascertained by performing the relevant investigation or other operation. The decision on the basis of which the indicated investigative action is to be performed shall be attached to the assignment, if such attachment has been determined by law. If the assignment is being given to an official of the same 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 higher-level 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 concrete 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) An entry regarding a taken decision shall be made in the Criminal Proceedings Register.

(3) The head of an investigative group shall organise the work of the group and take all decisions on direction of the criminal proceedings the application of security measures, and the extension of the application term.

*[12 March 2009]*

### **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 public prosecutor and in the amount specified by him or her. The investigator or public 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 public prosecutor if the decision has been taken by an investigator, or to a higher-ranking public prosecutor if the decision has been taken by a public prosecutor. The decision of the supervising public prosecutor and the higher-ranking public 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 public prosecutor for the commencement of criminal prosecution.

(2) If the person who has committed a criminal offence is not ascertained, an investigation shall be conducted up to the moment when the limitation period for criminal liability comes into effect, or other circumstances are ascertained that, in accordance with the provisions of this Law, do not allow for criminal proceedings.

### **Section 398. Significance of the Qualification of a Criminal Offence in an Investigation**

(1) In initiating criminal proceedings, the actions of the person being investigated may be qualified only on the basis of belonging to the object of the group of criminal offences.

(2) When sufficient evidence has been acquired, the offence regarding which an investigation has been commenced shall be qualified on the basis of a concrete Section of The Criminal Law, and a note shall be made regarding such qualification in the Criminal Proceedings Register.

(3) A person may be recognised as a suspect, and a security measure may be applied to such person, only from the moment when the offence being investigated may be qualified on the basis of a concrete Section of The Criminal Law.

### **Section 398.<sup>1</sup> Decision to Recognise a Person as a Suspect**

(1) The following shall be indicated 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 name, surname, personal identity number, notified place of residence and place of work 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, on the basis of which it is necessary to amend the decision taken, the person directing the proceedings shall take a new decision to recognise the relevant person as suspect and a copy thereof shall be issued to the suspect.

*[12 March 2009; 21 October 2010]*

### **Section 399. Pre-trial Proceedings on Seagoing Vessels at Sea, or in a Unit of the Latvian National Armed Forces located in the Territory of a Foreign State**

(1) An investigation shall be performed on seagoing vessels at sea by the captain of the vessel, and an investigation shall be performed in a unit of the Latvian National Armed Forces in the territory of a foreign state by the commander of such unit, in accordance with the procedures and terms specified in this Law up to the moment when the materials of the criminal proceedings may be transferred to the competent investigating institutions or the Public Prosecutor's Office of the Republic of Latvia.

(2) If the necessity arises to apply procedural compulsory measures, or to perform investigative actions that are to be performed only on the basis of a decision of an investigating judge, the captain of a vessel or the commander of a unit may propose such application or performance, and receive such decision, by using technical means of communication.

### **Section 400. Suspension of Criminal Proceedings in an Investigation**

(1) If the ascertaining of persons who have performed criminal violations or less serious crimes has not been successful in criminal proceedings within two months after the day of the initiation of criminal proceedings, an investigator shall decide, with the consent of a supervising public prosecutor, the matter regarding the suspension of criminal proceedings. The criminal proceedings regarding commitment of serious criminal offence may be suspended in accordance with the same procedures, unless it is connected with violence and if a person committing such crime it has not been possible to find out within four months.

(2) Before the suspension of criminal proceedings referred to in Paragraph one of this Section, the minimal amount of procedural and investigative measures determined, in accordance with the classification of the criminal offences, by the Prosecutor General shall compulsorily be executed.

(3) If a supervising public prosecutor determines that all the requirements of the Prosecutor General for the investigation of a concrete criminal offence have been fulfilled in criminal proceedings, the person directing the proceedings shall suspend the criminal proceedings up to the moment when the guilty person may be ascertained, or the limitation period for criminal liability has entered into effect. After suspension of criminal proceedings, investigative actions may be performed only when such criminal proceedings have been renewed.

(4) A decision to suspend criminal proceedings shall be noted in the Criminal Proceedings Register, and information regarding a criminal offence shall be inserted in the registers of the Ministry of the Interior.

*[12 March 2009]*

### **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 public prosecutor;

2) by transferring the materials of a criminal case to a public prosecutor for the commencement of criminal prosecution on the basis of his or her initiative;

3) by taking a decision 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 public prosecutor.

(2) An investigator shall indicate the following in a decision:

- 1) the circumstances of the criminal offence;
  - 2) the qualification of the criminal offence;
  - 3) the given name, surname, personal identity number, and notified place of residence of the person to be held criminally liable;
  - 4) evidence;
  - 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]

## **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 public prosecutor is convinced that the evidence confirms such guilt.

[21 October 2010]

### **Section 403. Commencement of Criminal Prosecution**

(1) A public prosecutor - person directing the proceedings may commence criminal prosecution:

1) if he or she has received a 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 public 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 public 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 performing concrete procedural actions;

2) take a decision to terminate criminal proceedings against the concrete 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) A public prosecutor shall make an entry in the Criminal Proceedings Register regarding the acceptance of criminal proceedings in record-keeping.

[12 March 2009; 29 May 2014]

### **Section 404. Revocation of Procedural Immunity for the Commencement of Criminal Prosecution**

If this Law does not specify otherwise, a public 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 given name, surname, personal identity number, and notified place of residence, and place of employment of the person to be held criminally liable;
- 2) the 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.

#### **Section 405.<sup>1</sup> Issues to be Decided if the Ruling Made in an Administrative Violation Case Ceases to be in Effect due to Holding of a Person Criminally Liable**

(1) If a ruling made in an administrative violation case or a part thereof ceases to be in effect due to a decision to hold a person criminally liable, the public prosecutor shall take a decision on the action with the property removed or confiscated in the administrative violation 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 punishment, upon preparation of a final ruling.

(3) The public 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 violation case.

*[18 February 2016]*

#### **Section 406. Issuance of Prosecution**

(1) After a decision has been taken to hold a person criminally liable, a public prosecutor shall immediately:

1) issue a copy of the prosecution to the accused, after having become convinced of the personal identity of him or her, and explain the essence of the prosecution;

2) issue to the accused written information regarding the rights of an accused;

3) ensure for the accused the opportunity to summon a defence counsel, if such defence counsel has not already been summoned;

4) ascertain whether the accused has a defence counsel, or if there are grounds for requesting the assistance of a defence counsel with the funds of the 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, on the decision to hold him or her criminally liable, and shall indicate the date.

(3) If an accused refuses to sign, a public prosecutor shall record such refusal in the decision, indicating the date when the copy of the prosecution, and written information regarding the rights of the accused, was issued to such accused.

(4) If the representative and defence counsel of an accused are present at the moment of the issuance of a copy of the prosecution, such representative and defence counsel shall also sign the decision to hold such person criminally liable.

(5) If an accused may not appear before a public prosecutor due to a justifiable reason, the public prosecutor, by common accord, may transfer a copy of the prosecution, and written information regarding the rights of an accused, to the accused personally, through the intermediation of the defence counsel or representative of the accused, with the assistance of a courier, or by post to the address for the receipt of consignments notified by such accused.

(6) If the whereabouts of an accused are known, but he or she is evading appearance on the basis of a summons of a public prosecutor, a copy of the prosecution shall be issued to the accused after 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 state and a search for him or her has been announced, a copy of the prosecution shall be issued simultaneously with the report of the official extradition request.

*[23 May 2013]*

#### **Section 407. Interrogation of an Accused**

A public 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 public 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 public 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 public prosecutor shall terminate criminal prosecution in such part with a decision, and he or she shall immediately send a copy of the decision to the person against whom the criminal prosecution has been terminated.

*[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 public prosecutor shall immediately take a decision on a search for an accused. If necessary, a public prosecutor may take a decision to apply a security measure to an accused, or regarding the modification of such decision.

(2) A public prosecutor shall send a copy of a decision on a search for an accused, and a decision to apply a security measure, to the persons performing investigative field work within the competence thereof for execution.

*[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 himself 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. Types of Completion of Pre-trial Criminal Proceedings**

A public prosecutor may complete pre-trial criminal proceedings:

1) by taking a decision to transfer a criminal case to a court and submitting the criminal case to the court on the basis of jurisdiction;

2) by taking a decision to transfer a criminal case to a court in accordance with urgent procedures;

3) by taking a decision to transfer a criminal case to a court in accordance with summary procedures;

- 4) by entering into an agreement with the accused and transferring the criminal case to a court;
- 5) by applying to the accused 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.

#### **Section 412. Completion of Pre-trial Criminal Proceedings by Transferring a Case to a Court**

(1) In order to suspend a prosecution in court, a public prosecutor, having recognised evidence as sufficient, shall draw up a list of the materials of a criminal case and archive file to be transferred to the court.

(2) A public prosecutor shall include materials that are applicable to a concrete criminal offence, and that will be 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 public 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 public 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 public prosecutor, immediately after receipt of copies of the materials of the criminal case or becoming acquainted with the materials of the criminal case, information regarding the fact that he or she wishes for the participation of a defence counsel in the trial of a case whose persons, on the basis of the views of the accused, should be summoned to the court session, or regarding whether the accused agrees to the possibility that the criminal case be 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 public 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 concrete part thereof, and shall explain to the accused the procedural essence and consequences of such consent.

(5) A public prosecutor shall issue to a victim, on the basis of an application of such victim, copies of the materials of a case that applies to a criminal offence in which the person has been recognised as a victim in criminal proceedings or acquaint with these materials of the criminal case with the consent of a public 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 shall be ensured. The information referred to in Section 203, Paragraph two, Clauses 1 - 5 and 9 - 10 of this Law may be copied from the referred to findings.

(6<sup>1</sup>) Copies of audio or video records in which testimonies of victims or witnesses are recorded, shall not be issued, however, an opportunity to become acquainted with them 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 public 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 public 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 public 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]*

#### **Section 413. Decision to Transfer a Criminal Case to a Court**

(1) A public prosecutor shall indicate the following in a decision to transfer a criminal case to a court:

- 1) information regarding the accused person;
- 2) the criminal offence regarding the committing of which the person is being prosecuted and regarding which the case is being transferred to the court;
- 3) the qualification of the criminal offence;
- 4) [12 March 2009];
- 5) the testimony of the accused person;
- 6) the listing of evidence to be used in court;
- 7) the applied security measure and the end time thereof;
- 8) the amount of victims and compensation;
- 9) the attachment imposed on property;
- 10) the aggravating and mitigating circumstances of the liability of the accused;
- 11) the number of pages in the criminal case;
- 12) procedural expenditures.

(2) A list of the material evidence and documents shall be attached to a decision, as well as a list of the persons who are to be summoned to a court session on the basis of the views of the prosecution and the defence. Only the list that is sent to the court shall indicate the addresses of the person to be summoned to court.

(3) A public prosecutor shall immediately send a decision together with the materials of a criminal case to a court.

(4) A public prosecutor shall inform an accused and victim, or the representatives thereof, regarding the taking of a decision, and the sending of a criminal case to a court, by sending such person a copy of the decision, a copy of the list of the material evidence and documents, as well as a copy of the list of the persons who are to be summoned to a court session and information regarding the rights and duties thereof in court, as well as by indicating the court to which the criminal case has been sent. The person directing the proceedings shall inform the owner of property infringed during criminal proceedings on whose property an attachment is imposed regarding taking of a decision and sending of a criminal case to a court. If the accused does not know the official language in which a decision has been written, the public 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 regarding the rights 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 session 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 public 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 2016]*

#### **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 public 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 public prosecutor may request an evaluation report from the State Probation Service.

(3) The termination of criminal proceedings, conditionally releasing from criminal liability, shall be allowed only if:

1) a person is prosecuted regarding the committing of a criminal violation or a less serious crime;

2) a person has not previously been 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 public prosecutor agrees to such termination of proceedings and makes a note in the Criminal Proceedings Register regarding such termination.

(4) The termination of criminal proceedings shall be allowed only with the voluntarily and clearly expressed consent of the accused.

(5) In terminating criminal proceedings, conditionally releasing from criminal liability, a public prosecutor shall determine a 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]*

#### **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 himself or herself has organised a crime.

*[12 March 2009]*

#### **Section 416. Decision to Terminate Criminal Proceedings, Conditionally Releasing from Criminal Liability**

A public 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 public 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 public 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 public 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 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 public prosecutor has taken a decision in a conflict of interest situation;

4) the person has influenced testifying persons, with an illegal activity thereof, to provide false testimony or has otherwise falsified evidence;

5) new circumstances have been disclosed that were unknown to the public prosecutor at the moment of the taking of the decision, and which confirm that the person has actually committed a serious or especially serious crime that, as a result of the lack of knowledge of such circumstances, has been incorrectly qualified as a criminal violation or a less serious crime.

(4) The Information Centre of the Ministry of the Interior shall store information regarding the termination of criminal proceedings, conditionally releasing from criminal liability.

*[20 December 2012]*

#### **Section 419. Supervision of the Termination of Criminal Proceedings, Conditionally Releasing from Criminal Liability**

(1) A public 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 public 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 Public Prosecutor's Penal Order**

#### **Section 420. Admissibility of the Application of a Penal Order of a Public Prosecutor**

(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 public 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 punishment of deprivation of liberty should not be applied to 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 public prosecutor, if the person has committed a serious crime for which the punishment of deprivation of liberty of up to five years is provided for, may be drawn up, if a higher-ranking public prosecutor agrees thereto, making a note to this effect in the register of criminal proceedings.

(2) In order to obtain personal characterising data, a public prosecutor may request an evaluation report from the State Probation Service.

(3) If one person has committed several criminal offences, 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 public 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 applying a punishment to him or her.

*[19 January 2006; 12 March 2009; 20 December 2012; 18 February 2016 / Amendment to Paragraph one regarding replacement of the words "or a less serious crime" with the words "a less serious crime or a serious crime for which the punishment of deprivation of liberty up to five years is provided for", as well as amendment regarding supplementation of Paragraph one with a sentence shall come into force on 7 April 2016. See Paragraph 60 of Transitional Provisions]*

#### **Section 421. Public Prosecutor' Penal Order**

(1) If a public prosecutor has determined that criminal proceedings may be ended by determining a punishment for a person, he or she shall draw up a penal order, which shall include the decision to terminate criminal proceedings and the operative part of which shall indicate the punishment.

(2) The public prosecutor may apply a fine or community service to the accused in his or her penal order, as well as additional punishments - restriction of rights or probationary supervision - as defined in The Criminal Law..

(3) [18 February 2016]

*[19 January 2006; 12 March 2009; 8 July 2011; 18 February 2016]*

#### **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 public 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 state 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 Public 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, Applying Urgent Procedures**

#### **Section 424. Admissibility of the Application of Urgent Procedures**

In commencing an investigation, the person directing the proceedings may apply urgent procedures, if:

- 1) the person who committed the criminal offence has been ascertained, because such person was surprised at the moment of the committing of the criminal offence or immediately after committing thereof;
- 2) the person has committed a criminal violation, a less serious crime, or a serious crime;
- 3) the completion of the investigation, in accordance with emergency procedures in the amount specified for such investigation, is possible in five working days.

*[12 March 2009]*

#### **Section 425. Direction of an Investigation in Accordance with Urgent Procedures**

(1) The person directing the proceedings shall do the following after commencement of an investigation in accordance with urgent procedures:

- 1) ascertain the circumstances of the committed criminal offence;
- 2) ascertain the victim of the criminal offence;
- 3) ascertain the nature and amount of harm caused by the criminal offence;
- 4) ascertain the eyewitnesses of the event;
- 5) perform a questioning of eyewitnesses and of the person against whom criminal proceedings have been initiated;
- 6) if necessary, perform an inspection of the site of the event, or other investigative actions;
- 7) record all that has been determined in a single protocol;
- 8) take a decision to recognise a person as a suspect, may decide the issue of application of security measures;  
and
- 9) ascertain other circumstances that have significance in the deciding of the matter.

(2) Within five working days after commencement of an investigation, the person directing the proceedings shall submit the materials of a case together with a cover letter to the supervising public prosecutor, and shall make a note regarding such submission in the minutes of the criminal proceedings.

*[28 September 2005; 19 January 2006; 11 June 2009]*

#### **Section 426. Activities of a Public Prosecutor in Pre-trial Criminal Proceedings in Accordance with Urgent Procedures**

(1) A public prosecutor shall decide on the continuation of proceedings in accordance with urgent procedures within two working days after receipt of materials.

(2) If a public prosecutor does not agree to the continuation of proceedings in accordance with emergency procedures, because he or she determines circumstances that do not allow for such continuation, or he or she believes that sufficient evidence has not been gathered in order for a court to prove the guilt of the suspect, such public prosecutor shall send the materials back to the investigating institution for the continuation of criminal proceedings. The public prosecutor may continue the criminal proceedings, choosing another type of criminal proceedings.

(3) If a public prosecutor agrees to the continuation of proceedings in accordance with urgent procedures, he or she shall take a decision to transfer the criminal case to a court.

*[19 January 2006; 21 October 2010]*

#### **Section 427. Decision to Transfer a Criminal Case to a Court in Accordance with Urgent Procedures**

(1) A public prosecutor shall indicate the following in a decision to transfer a criminal case to a court in accordance with urgent procedures:

- 1) the person regarding whose offence criminal proceedings are taking place (given name, surname, personal identity number, notified place of residence and place of employment);
- 2) the criminal offence regarding the committing of which a person is being prosecuted and transferred to a court;
- 3) the qualification of the criminal offence;
- 4) the evidence to be used in court;

- 5) the aggravating and mitigating circumstances of the liability of the accused;
- 6) the applied security measure;
- 7) the amount of victims and compensation;
- 8) the place and time of the trial of the case.

(2) A public prosecutor shall determine the term for the trial of a case by co-ordinating such term with a court, yet the term up to a court session shall not be permitted to be shorter than three or longer than 10 working days, counting from the day when a copy of a decision was issued to the accused.

(3) A list of material evidence and documents shall be attached to a decision, as well as a list of the persons who are to be summoned to a court session on the basis of the views of the prosecution and the defence. A public prosecutor shall send a summons to the court session simultaneously to all persons to be summoned.

(4) A taken decision 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 a decision shall be immediately issued to an accused together with copies of case materials. 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 a decision, a public prosecutor shall send the taken decision and materials of the criminal case to a court.

(7) A decision to transfer a criminal case to a court in accordance with urgent procedures shall not be subject to appeal.

(8) After sending a case to a court all requests and complaints shall be sent directly to the court.

*[12 March 2009; 23 May 2013]*

## **Chapter 37**

### **Special Features of Pre-trial Criminal Proceedings in Accordance with Summary Procedures**

#### **Section 428. Admissibility of the Application of Summary Procedures**

The person directing the proceedings may perform an investigation in accordance with summary procedures, if:

- 1) the person who committed the criminal offence has been ascertained;
- 2) the completion of the investigation is possible within 10 days.

#### **Section 429. Direction of an Investigation in Accordance with Summary 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) perform the necessary investigative actions;
- 5) take a decision to recognise a person as a suspect;
- 6) if necessary, detain the suspect or apply a security measure to him or her;
- 7) ascertain other circumstances that have significance in the deciding of the matter.

(2) Within 10 days after the day of the commencement of an investigation, the person directing the proceedings shall submit the materials of a case together with a cover letter to a public prosecutor and make a note thereof in the Criminal Proceedings Register.

(3) [21 October 2010]

[21 October 2010]

### **Section 430. Operations of a Public Prosecutor in Pre-trial Summary Proceedings**

(1) If a public prosecutor does not agree to the continuation of proceedings in accordance with summary procedures, because he or she determines circumstances that do not allow for such continuation, or he or she believes that sufficient evidence has not been gathered in order to bring a prosecution against a suspect and prove such prosecution in court, such public prosecutor shall send the materials back to the investigating institution for the continuation of criminal proceedings. The public prosecutor may continue the criminal proceedings, choosing another type of criminal proceedings.

(2) If a public prosecutor agrees to the continuation of proceedings in accordance with summary procedures, he or she shall take a decision to transfer the criminal case to a court.

(3) A public prosecutor shall take a decision and send a criminal case to court within 10 days.

[19 January 2006; 21 October 2010]

### **Section 431. Decision to Transfer a Criminal Case to a Court in Accordance with Summary Procedures**

(1) A public prosecutor shall indicate the following in a decision to transfer a criminal case to a court in accordance with summary procedures:

1) the person regarding whose offence criminal proceedings are taking place (given name, surname, and personal identity number);

2) the criminal offence regarding the committing of which a person is being prosecuted and transferred to a court;

3) the qualification of the criminal offence;

4) the evidence to be used in court;

5) the applied security measure;

6) the attachment imposed on property;

7) the aggravating and mitigating circumstances of the liability of the accused;

8) information regarding the person of the accused;

(2) A list of material evidence and documents shall be attached to a decision, as well as a list of the persons who are to be summoned to a court session on the basis of the views of the prosecution and the defence.

(3) A taken decision to transfer a criminal case to a court shall simultaneously be recognised also as a decision to hold a person criminally liable, and such decision shall not be subject to appeal.

### **Section 432. Familiarisation with Case Materials in Summary Proceedings**

(1) A copy of a decision to transfer a criminal case to a court according to the summary proceedings shall be submitted to an accused together with the materials of the case. 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.

(2) [19 January 2006]

(3) [12 March 2009]

(4) After sending of a case to a court all requests and complaints shall be sent directly to the court.

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

## **Chapter 38**

### **Application of an Agreement in Pre-trial Criminal Proceedings**

#### **Section 433. Grounds for the Application of an Agreement**

(1) A public prosecutor may enter into an agreement, on the basis of his or her own initiative or the initiative of an accused or his or her defence counsel, regarding an admission of guilt and a 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 applied to all the accused persons.

#### **Section 434. Negotiations regarding the Entering into of an Agreement**

(1) If, in pursuing a prosecution or continuing criminal prosecution, a public prosecutor considers as possible the entering into an agreement, he or she shall perform the following operations:

1) explain to an accused, or the representative of an accused who is a minor, the possibility to regulate criminal-legal relations by entering into an agreement, and the rights of the accused in entering into an agreement, and the consequences of such entering into of an agreement;

2) inform a victim regarding his or her rights to express his or her views regarding the possible application of agreement proceedings.

(2) Having received the consent of an accused, or of the representative of an accused who is a minor, to enter into an agreement, a public prosecutor shall prepare a draft of the agreement and commence negotiations with the accused, his or her defence counsel, or the representative of the accused who is a minor regarding the elements of the agreement.

(3) If an accused, or the representative of an accused who is a minor, agrees to a prosecution that has been pursued and issued, the qualification of the criminal offence, and the assessment of the harm caused by such offence, negotiations shall be commenced regarding the type and amount of a punishment, which a public prosecutor will request for a court to impose.

#### **Section 435. Rights of an Accused in Agreement Proceedings**

An accused has the following rights in agreement proceedings:

1) to agree or not agree to the entering into an agreement;

2) to submit a recusal;

3) to express his or her proposal regarding the type and amount of a punishment;

4) to receive copies of the materials of the criminal case after entering into an agreement;

5) to be informed of the criminal offence regarding the committing of which he or she will be prosecuted in court, and the type and amount of punishment that the public 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 familiarise himself or herself with the minutes of the court session;

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 - public prosecutor shall issue to a victim a copy of the minutes of the agreement.

(2) A victim has the following rights:

1) to submit a recusal;

2) to receive information in a timely manner regarding where and when a court will examine an agreement;

3) to participate in 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]

#### **Section 437. Minutes of an Agreement**

(1) The minutes of an agreement shall indicate the following:

1) the place and date of the occurrence of the operation;

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

3) the given name, surname, and personal identity number (or, if such personal identity number does not exist, the year and date of birth) of an accused or the representative of an accused - minor person, and the given name, surname, and place of practice of a defence counsel;

4) the time and place of the committing of the criminal offence, and a short description of such offence;

5) the qualification of the criminal offence;

6) the amount of harm caused by the criminal offence, and an agreement regarding the compensation of such harm;

7) the aggravating and mitigating circumstances of the liability of the accused;

8) information regarding the accused person;

9) the punishment that a public prosecutor will request for the court to impose.

(2) If an accused has committed several criminal offences, a public prosecutor shall indicate the punishment that he or she will request to be imposed regarding each of the criminal offence, and the final punishment. Such provision shall also be complied with in cases where a punishment 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 public prosecutor, and a copy of such agreement shall be issued to the accused or his or her representative.

#### **Section 438. Sending of a Criminal Case to a Court**

(1) After entering into an agreement, a public prosecutor shall send the materials of a criminal case together with the minutes of the agreement to a court, proposing for such court to approve the entered into agreement.

(2) In a proposal to a court, a public prosecutor shall:

1) inform regarding an entered into agreement;

2) inform regarding a security measure applied to an accused;

3) refer to evidence that confirms the committing of a criminal offence and the guilt of the accused;

4) indicate the amount of harm caused by the criminal offence, and an agreement regarding the compensation of such harm;

5) inform regarding the expenditures of pre-trial proceedings;

6) refer to material evidence, the location thereof, and resources that have been used for the ensuring of compensation and of a possible confiscation of property;

7) request for the court to approve the entered into agreement and impose the punishment provided for in such agreement.

(3) A public prosecutor shall inform an accused, his or her defence counsel, a victim, and the representatives thereof in writing regarding the court to which a case has been sent.

(4) After sending of a case to a court, all requests and complaints shall be sent directly to the court.

## **Chapter 39**

### **Special Features of Pre-trial Criminal Proceeding Applying Coercive Measures to a Legal Person**

#### **Section 439. Procedures for Criminal Proceedings**

(1) If it has been ascertained during the course of criminal proceedings that, 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 it has been refused to initiate criminal proceedings or they have been terminated on the basis of non-exonerating circumstances, and the grounds for initiating the proceedings against a legal person laid down in Paragraph one of this Section have been ascertained.

(4) 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 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]*

#### **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 performed by the legal person in order to prevent the committing of the criminal offence;
- 6) the size, type of occupation, and financial situation of the legal person.

*[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 public 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 public 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 3.1 of this Law, the public prosecutor shall, within 10 days after receipt of a decision of the investigator to continue the proceedings regarding the application of a coercive measure to a legal person and the materials of the proceedings, and the assessment thereof, 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 public 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 is not subject to appeal;

4) draw up a penal order of a public prosecutor regarding a coercive measure.

(3) By isolating the proceedings regarding the application of a coercive measure to a legal person in separate records the public 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 public 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 public 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 public 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 public 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]*

#### **Section 441.<sup>1</sup> Peculiarities of the Proceedings Regarding the Application of a Coercive Measure to a Legal Person upon Application of a Penal Order of a Public Prosecutor**

(1) If a criminal offence, a less serious crime or a serious crime for which the punishment 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 public prosecutor may terminate the proceedings by drawing up a penal order regarding a coercive measure. The penal order regarding a coercive measure of a public prosecutor, if a serious crime has been committed for which the punishment of deprivation of liberty up to five years is provided for, may be drawn up, if a higher-ranking public prosecutor agrees thereto, making a note to the effect in the register of criminal proceedings.

(2) In the penal order regarding a coercive measure the public 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 public 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 public 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 public 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 / Amendment to Paragraph one regarding replacement of the words "or a less serious crime" with the words "a less serious crime or a serious crime for which the punishment of deprivation of liberty up to five years is provided for", as well as amendment regarding supplementation of Paragraph one with a sentence shall come into force on 7 April 2016. See Paragraph 60 of Transitional Provisions]*

#### **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 public 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 public prosecutor or a public 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 441.4 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 an attachment on property;
- 5) actions with seized 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 public 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 441.5 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 441.6 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 public 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 public prosecutor considers as possible the entering into an agreement, he or she shall perform the following activities:

- 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) inform the victim regarding his or her rights to express his or her views regarding the possible application of agreement.

(3) Having received a consent of the legal person to enter in an agreement, the public 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 public 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 public 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 familiarise himself or herself with the minutes of the court session;
- 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]*

#### **Section 441.<sup>7</sup> Agreement Protocol Regarding the Application of a Coercive Measure to a Legal Person**

(1) The following shall be indicated in an agreement protocol 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 public prosecutor.

(2) If a coercive measure is applied in relation to several criminal offences, the public prosecutor shall indicate, the imposition of which by the court will be requested by the public 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 public 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 public prosecutor shall send the materials of a case together with the agreement protocol to the court, proposing for such court to approve the entered into agreement.

(2) In a proposal to a court, a public prosecutor shall:

1) inform regarding an entered into agreement;

2) 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 public prosecutor shall draw up one proposal.

(4) The public 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, materials of which include objects containing official secret, shall be within the jurisdiction of the Riga City Vidzeme Suburb Court as the court of first instance.

(2) A regional court shall examine as an appellate court a ruling of a district (city) 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]*

#### **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) A judge of a court of first instance may determine the collegial trial of a criminal case if the case is particularly complicated. In such case the criminal case shall be tried in the composition of three judges of a court of first instance.

(4) In appellate or cassation courts criminal cases shall be tried collegially.

*[12 March 2009; 16 June 2009]*

#### **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 session.

(3) Written evidence and other documents, which are related to the object of evidence, shall be read or played in a court session fully or partially, if the person who performs defence, a public prosecutor, a victim or his or her representative, and the owner of property infringed during criminal proceedings on whose property an attachment is imposed 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 session only when the person who performs defence, a public prosecutor, a victim or his or her representative and the owner of property infringed during criminal proceedings on whose property an attachment is imposed has submitted such a request.

(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]*

#### **Section 450. Openness of the Trial of a Criminal Case**

(1) A criminal case shall be tried in an open court session.

(2) A criminal case regarding a criminal offence against the morality and sexual inviolability, as well as a criminal case in which the protection of a state or adoption secret is necessary, shall be tried in a closed court session.

(3) A court may determine a closed court session with a reasoned decision:

1) in a criminal case regarding a criminal offence committed by a person who has not reached sixteen years of age;

2) [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) in a criminal case regarding a criminal offence committed against a minor.

(4) Persons involved in criminal proceedings shall participate in a closed court session.

(5) A court ruling shall be announced publicly. In a criminal case that has been tried in a closed court session, the introductory part and operative part of the court ruling shall be announced publicly, without disclosing information identifying the victims, and the reasoned and descriptive part shall be announced afterwards in a closed session.

*[29 May 2014; 18 February 2016]*

#### **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 public prosecutor, a victim, and his or her representative shall be permitted to familiarise themselves with materials that have been additionally attached to a criminal case after 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 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 session in a criminal case shall occur in an unchanging composition of judges.

(2) If a judge is substituted by another judge in the course of the trial of a criminal case, the 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 session 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 Session**

(1) A court session shall be led by one of the judges who participates in the trial of the criminal case (hereinafter - the chairperson of a court session).

(2) The chairperson of a court session shall lead the trial of a case in such a way that equal opportunity is ensured for the person who performs defence, a public 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 session, an accused, his or her representative and defence counsel, a victim and his or her representative, as well as the owner of property infringed during criminal proceedings on whose property an attachment is imposed, and a public 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 public prosecutor has the right to request documents of importance to the criminal proceedings and information regarding facts from natural persons and legal persons, except 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 session, only in the case where the accused performs 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 Public Prosecutor in the Trial of a Case**

(1) The participation of a public prosecutor in the trial of a criminal case is mandatory.

(2) A public prosecutor shall maintain State prosecution in a case, justify such prosecution with evidence, express his or her views regarding the circumstances determined during the trial of the case, and participate in court debates. Several public prosecutors may also maintain State prosecution in a single criminal proceedings.

(3) A public prosecutor may submit and maintain an application regarding a recovery of compensation in the interests of the State or local government.

[21 October 2010; 18 February 2016]

#### **Section 457. Consequences of the Non-arrival of a Public Prosecutor**

(1) If a public prosecutor does not arrive for a court session, the trial of the criminal case shall be deferred. If several public 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 public prosecutors has not arrived to the court debates by a consent of a higher-ranking public prosecutor.

(2) If the reasons for the non-arrival of a public prosecutor are unknown a higher ranking public prosecutor shall be notified regarding the non-attendance thereof.

*[24 May 2012]*

#### **Section 458. Replacement of a Public Prosecutor during the Trial of a Criminal Case**

(1) If the subsequent participation of a public prosecutor in the trial of a case is not possible, he or she may be replaced.

(2) In the case of a change of public prosecutor, a court shall continue the trial of the case.

(3) A court shall give a public prosecutor who has newly entered a criminal case time to prepare for the trial of the criminal case.

(4) A public prosecutor who has newly entered a criminal case may ask the court to repeatedly hear the testimony of a witness or victim, as well as the owner of property infringed during criminal proceedings on whose property an attachment is imposed, or the findings of an expert, as well as perform other procedural actions.

*[22 June 2017]*

#### **Section 459. Duty of a Public Prosecutor to Withdraw from Prosecution**

(1) If a public prosecutor admits, during the course of the trial of a criminal case, that a prosecution has not been confirmed either completely or partially, he or she has a duty to completely or partially withdraw from prosecution by submitting to a court the reasoning for the withdrawal approved by a higher ranking public prosecutor.

(2) A public prosecutor may 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 public 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 session. If the higher ranking public 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 session, a court shall take a decision to terminate the criminal proceedings in connection with the withdrawal from prosecution of the public 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 public prosecutor, the renewal of the proceedings shall be allowed if new circumstances have been disclosed.

(3) The withdrawal from prosecution of a public prosecutor shall not be an impediment to the requesting of consideration for harm in accordance with the procedures laid down in the Civil Procedure Law.

*[12 March 2009]*

#### **Section 461. Duty of a Public Prosecutor to Modify a Prosecution**

(1) If a public prosecutor admits, during the course of the trial of a criminal case, that 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 public 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 public 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 session.

(2) If a public 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 session. The public 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 session if the defence needs time to prepare for the new prosecution.

(3) If a public 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 session, the court shall announce, upon request of the public prosecutor, an interruption for the performance of necessary investigative actions and for the drawing up of a new prosecution.

(4) A public 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 session, the trial of the criminal case shall be deferred.

(3) If an accused does not arrive for a court session due to an unjustifiable reason, or he or she has not notified regarding the reasons for non-arrival, a court may decide on application of a fine or 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**

A court may try a criminal case regarding a criminal violation and a less serious crime without the participation of the accused, if the accused repeatedly does not arrive to a court session without justifying reason or has submitted to the court a request regarding the trial of the criminal case without his or her participation. The court may try the criminal case if a defence counsel participates in the court session.

[21 October 2010; 24 May 2012]

### **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 public 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 procedure. Nevertheless, an accused may appeal the ruling in accordance with appellate or cassation procedures before a court of higher instance within 30 days from the day when a copy of the ruling has been received. From the time when a court has received a complaint, the convicted person shall obtain the status of an accused and all rights of an accused. A judge of a court of first instance shall take a decision to suspend the execution of the ruling and to apply security measures.

[12 March 2009; 24 May 2012; 29 May 2014]

### **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.

(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 perform defence in a single criminal proceedings.

### **Section 467. Consequences of the Non-arrival of a Defence Counsel**

(1) If a defence counsel does not arrive for a court session, the trial of a criminal case shall be deferred. The court shall notify the Latvian Council of Sworn Advocates regarding non-arrival of the defence counsel for a court session.

(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. The trial of the case may also be continued if any of defence counsels has not arrived to court debates and the accused does not object to continuation of the case.

*[24 May 2012]*

#### **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 performing defence.

(4) A defence counsel who has newly entered a criminal case may ask the court to repeatedly hear the testimony of a witness or victim, or the findings of an expert, as well as perform other procedural actions.

*[12 March 2009]*

#### **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 session, a criminal case shall be tried without the presence thereof, except the 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 justifiable reason, that the court session 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 session, the court shall commence the trial of the case, if, in accordance with this Law, grounds to defer such court session do not exist.

(2) The procedural sanctions specified in this Law shall be applied to a witness or expert who has not arrived for a court session due to an unjustifiable reason. A witness may also be applied conveyance by force.

(3) Non-arrival to the court session of an owner of property infringed during criminal proceedings on whose property an attachment is imposed shall not be an impediment to examination of a case if the procedures for invitation of this person have been complied with.

*[24 May 2012; 22 June 2017]*

#### **Section 471. Procedures during Court Sessions**

(1) When the court enters a courtroom and departs from such courtroom, the persons present in the courtroom shall rise.

(2) The persons present in a courtroom shall stand while hearing the introductory part and operative part of the judgment of the court.

(3) Persons present in a court session shall behave so as not to disturb the course of the court session.

(4) The persons present in a court session shall submit without objections to the instructions of the chairperson of the court session, court decisions, and the requirements of the bailiff.

(5) Procedural sanctions may be applied to a person who interferes with order in a courtroom, or such person may be held to the liability, specified by law, regarding contempt of court.

(6) A bailiff for whom the orders of the chairperson of a court session are mandatory shall maintain order in a courtroom.

*[19 January 2006]*

#### **Section 472. Right to be Present in a Courtroom**

(1) The number of persons present in a courtroom shall be determined by the court according to the number of seats in the courtroom.

(2) The 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 Session**

(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 session.

(5) A court decision taken during a trial shall be announced immediately.

(6) A decision to determine a knowingly false testimony, findings, or translation, or regarding the compelling to provide false testimony, findings, or a translation, or also regarding the determination of an unjustified refusal to provide testimony, findings, or a translation shall be taken by a court simultaneously with a judgment. The decision shall be sent to an 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.

#### **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 a punishment, if such correction applies to execution of a punishment.

(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 committing of one or several criminal offences, the criminal proceedings regarding such offences shall be merged, except cases 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 become known 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 regarding several criminal offences may be divided in the interests of the accused or the victim, if the division does not interfere with the achievement of the purpose of the criminal proceedings.

(2) A court shall take a decision 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 Prosecutor's Office.

(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 public 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 summoned to the court session has not arrived at such session, a court shall take a decision on deferral of a trial for a specific term.

(2) In deferring trial, a court shall decide on the conveyance by force to a court session of a person who has not arrived for such court session, or regarding the application of procedural sanctions.

(3) In recommencing 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 concrete criminal proceedings does not comply with a legal provision (act) of higher legal effect, such court shall issue an application regarding the initiation of the case in the Constitutional Court, simultaneously suspending court proceedings in the criminal case until 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 adjudication of a concrete 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 property attachment, 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 disturbances or another serious illness, and will not be able to participate

in a court session for a long period of time, a court shall suspend criminal proceedings until the accused has recovered.

(2) In the case referred to in Paragraph one of this Section, a court may determine an expert-examination for an accused.

(3) If an accused has recovered, a judge shall renew 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 application of a criminal punishment, proceedings for the determination of compulsory measures of a medical nature shall be continued.

*[12 March 2009]*

#### **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) A decision on a search for an accused shall be transferred for execution to persons performing investigative field work pursuant to the competence thereof.

(3) After finding of an accused or after receipt of information regarding the location of an accused in a foreign state, 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 Session**

(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 public prosecutor has withdrawn from prosecution;

3) *[12 March 2009]*.

(11) If the accused has died during examination in the court of first instance, examination of the case shall be continued only if an application of a member of the immediate family 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 procedure. 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 punishment 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 Prosecutor's Office.

*[12 March 2009; 21 October 2010; 24 May 2012]*

## **Chapter 44 Recording of the Course of a Court Session**

#### **Section 482. Minutes of a Court Session**

(1) The minutes of a court session is a procedural document in which the course of the trial of a case and the decisions taken in the court session shall be recorded.

(2) If one of the persons who participate in trial has objections against the actions of the chairperson of a session, such objections shall be recorded in the minutes of the court session.

(3) In the cases provided for in this Law, minutes shall also be recorded regarding procedural actions performed outside the courtroom.

(4) Written speeches submitted by members of court debates may be attached to the minutes.

*[12 March 2009]*

#### **Section 483. Recording of the Course of a Court Session with Technical Means**

(1) During a trial, the court of a court session shall be recorded in full amount using sound or image recordings or other technical means, and a note regarding such recording shall be made in the minutes of the court session.

(2) Materials obtained as a result of the use of the technical means referred to in Paragraph one of this Section shall be attached to a criminal case and stored until the day when the limitation period specified by law ends for the most serious criminal offence incriminated for an accused.

#### **Section 484. Recording of the Course of a Court Session in the Minutes of the Court Session**

(1) The secretary of a court session shall write the minutes of the court session, and such minutes shall be signed by the chairperson of the court session and the secretary.

(2) In commencing the trial of a case, the following shall be indicated in the minutes of the court session:

1) the time and place of the court session (also the beginning and end of the court session);

2) the composition of the court, the secretary of the court session, as well as the interpreter, if he or she participates in the court session;

3) the given name and surname of the accused, and the criminal offence in connection with the prosecution;

3<sup>1</sup>) the name and registry number of the legal person, against which proceedings regarding the application of a coercive measure have been initiated;

4) the given name and surname of the public prosecutor and defence counsel, if such persons participate in the court session;

5) the given name and surname of the victim and his or her representative, if such persons participate in the court session;

6) the essence of the requests submitted to the court, if such requests have been submitted, and the content of the decisions taken by the court in relation to such requests.

(3) The following shall also be recorded in minutes after commencement of a court investigation:

1) the attitude of the accused toward the prosecution;

2) the given name and surname of the witnesses, experts, and other persons involved in proceedings who have arrived;

3) court orders and decisions that have not been taken in the manner of separate procedural documents;

4) information regarding an examination of material evidence or documents;

5) [30 March 2017];

6) the day of availability of the minutes.

(4) If the course of a court session is not recorded using sound and image recordings or other technical means, the testimony of the accused, victim, witness, experts, owner of property infringed during criminal proceedings on whose property an attachment is imposed, and explanations of other persons involved in proceedings, speeches of court debates, replies, last word of the accused shall be recorded in the minutes of the court session.

(5) Minutes of separate procedural actions performed outside of a courtroom shall comply with the requirements referred to in this Section.

(6) Corrections in minutes shall be justified before the signature of the secretary of a court session. Incomplete lines and other blank spaces in the minutes shall be crossed out.

(7) The content of minutes shall not be extinguished, blocked out, or corrected in another manner by applying

mechanical effects.

(8) The minutes of a court session shall be drawn up within 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 session shall be drawn up within three working days after day of the court session. A public prosecutor, persons who perform defence, a victim, and an owner of property infringed during criminal proceedings on whose property an attachment is imposed 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 session 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]*

#### **Section 485. Rights of Other Person to Record the Course of a Court Session**

Other persons who are not employees of a court may make a sound and image recording during a court session without interfering with the procedure of the court, if the court permits such recording and the accused, his or her defence counsel, a public prosecutor, victim, and witnesses agree to such recording.

## **Division Nine 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, a court shall examine whether:

- 1) the case is under the jurisdiction of such court;
- 2) a prosecution has been attached to the criminal case;
- 3) a copy of the prosecution has been issued to the accused;
- 4) the opportunity has been ensured for the accused to familiarise himself or herself with case materials.

(2) If it is determined that a criminal case is under the jurisdiction of another court, a judge may 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 has not been complied with, a judge shall send the criminal case to a higher ranking public prosecutor for the elimination of deficiencies.

*[12 March 2009]*

#### **Section 487. Preparation of a Case for Trial in Accordance with Urgent procedures**

(1) In receiving a criminal case that has been transferred to a court for examination in accordance with urgent procedures, the court shall examine, in addition to the provisions of Section 486 of this Law, whether the time and place of the trial indicated in the decision of a public prosecutor regarding the transferring of the criminal case to the court has been co-ordinated with the court.

(2) The operations provided for in Sections 488 and 489 of this Law shall be performed only in cases where the modification of the time and place of the trial of a criminal case is necessary.

#### **Section 488. Time of the Trial of a Criminal Case**

(1) A judge shall take a decision, in his or her court proceedings, regarding the time and place of the trial of a criminal case not later than within three working days after receipt of the criminal case. 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) After receipt of a criminal case which has been transferred to a court in accordance with the shortened procedures, a court shall initiate the trial thereof not earlier than after 10 days and not later than after 30 days.

*[12 March 2009]*

#### **Section 489. Notifying Summoned Persons, a Public Prosecutor, and a Defence Counsel Regarding a Court Session**

(1) After determination of the time of a court session, a judge shall immediately give an order for the court chancellery to invite summoned persons to a court session and to notify a public prosecutor and defence counsel regarding the time of the court session.

(2) If the 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 session.

*[12 March 2009]*

#### **Section 490. Modification of the Term of the Trial of a Criminal Case**

If it becomes known up to the trial of a criminal case that an accused or victim will not be able to arrive at a court session due to a justifiable reason, or if there are other circumstances why the trial of the case may not take place at a specific time, a judge shall determine another term for the trial of the criminal case.

#### **Section 491. Matters to be Decided in Preparing a Criminal Case for Trial in a Court Session**

In preparing a criminal case for trial in a court session, a judge shall decide the following matters:

1) regarding the retaining of a defence counsel;

2) regarding the summoning of an interpreter;

3) *[21 October 2010]*;

4) regarding examination of the matter in an open or closed court session;

5) whether the matter may be examined with or without a verification of evidence in a court session;

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, public prosecutor, victim or his or her representative, or owner of property infringed during criminal proceedings on whose property an attachment is imposed 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 session.

*[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 Session**

The chairman of a court session shall open the court session 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 session shall notify regarding which persons summoned to such case have arrived, whether the persons who have not arrived have been notified regarding the court session, and regarding the information that has been received regarding the reasons for the non-arrival thereof.

(2) If an accused has refused the participation of a defence counsel in proceedings, he or she shall sign regarding such refusal in the minutes of the court session.

#### **Section 495. Exclusion of Witnesses from a Courtroom**

A witness shall not be present in a courtroom until the commencement of an interrogation thereof.

#### **Section 496. Deciding of Submitted Requests**

(1) A public prosecutor, victim, accused or his or her representative, and owner of property infringed during criminal proceedings on whose property an attachment is imposed may submit requests to a court.

(2) A court shall decide a submitted request after hearing the views of the persons referred to in Paragraph one of this Section.

(3) During the course of a court session, a person may repeatedly submit rejected requests, if new circumstances, which were not known before, have been indicated.

*[24 May 2012; 22 June 2017]*

#### **Section 497. Maintenance of Prosecution**

A court investigation shall begin with the maintenance of prosecution by a public prosecutor briefly outlining the essence of the prosecution.

#### **Section 498. Attitude of an Accused toward Prosecution**

(1) After hearing a prosecution, the chairperson of a court session shall ascertain whether the accused understands the criminal offence regarding the committing of which he or she is being accused, and whether he or she admits his or her guilt.

(2) The attitude of an accused toward a prosecution shall be recorded in the minutes of a court session, and the accused shall sign such minutes.

#### **Section 499. Non-Conducting of 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 public prosecutor, the person who performs defence, a victim and his or her representative, and an owner of property infringed during criminal proceedings on whose property an attachment is imposed 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 on whose property an attachment is imposed 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 punishment, 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 a verification of evidence by hearing the testimony of a victim and the testimony of the witnesses indicated by the public prosecutor, as well as examine other evidence submitted by the public prosecutor.

(2) After a verification of the evidence indicated by the public prosecutor, a court shall hear the witnesses indicated by the owners of property infringed during criminal proceedings on whose property an attachment is imposed, accused or his or her defence counsel, and verify other evidence submitted by him or her.

(3) A court may determine another procedure for the verification of evidence upon request of the public prosecutor, victim, or accused or his or her defence counsel.

(4) If the information obtained in operational activities measures is used in a criminal case as evidence, only the court upon motivated request of the public prosecutor, victim, accused or his or her defence counsel may become acquainted with the 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.

(5) 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 invited upon request of the public prosecutor, victim, accused or his or her defence counsel.

*[29 May 2014; 18 February 2016; 22 June 2017]*

#### **Section 501. Reading or Playing of Testimony**

Testimony previously given by any person in concrete criminal proceedings may be read or played in court, if:

- 1) there are important contradictions between such testimony and the testimony given in court;
- 2) the testifier has forgotten some circumstances of the case;
- 3) the testifier is not present at the court session due to a reason that excludes the possibility to arrive in court;
- 4) the testifier evades appearance in court or refuses to testify;
- 5) the court agrees to the instruction of a psychologist that the person who has not attained 14 of age or a minor victim may not be interrogated in a court session 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**

(1) An accused, his or her defence counsel, a public prosecutor, a victim, and his or her representative may ask the persons who are giving testimony in court questions with the permission of the court. The court shall reject questions that do not apply to the case. An owner of property infringed during criminal proceedings on whose property an attachment is imposed has the right to ask the persons who are giving testimony in court questions in relation to property with the permission of the court.

(2) A public prosecutor shall be first to ask questions of a victim and other persons summoned by the public prosecutor.

(3) An accused and his or her defence counsel, 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 on whose property an attachment is imposed.

(4) A court may ask questions at any moment during the trial of a case.

*[22 June 2017]*

#### **Section 503. Testimony of an Accused**

(1) After the verification of evidence referred to in Section 500 of this Law, the chairpersons of a court session 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 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 sessions.

(3) After completion of a court investigation a court may not take a decision on conveyance by force, as well as to request the opinion of the State Centre for Forensic Medical Examination regarding, whether an accused may participate in a court session due to his or her state of health. If it is necessary, the State Centre for Forensic Medical Examination may invite a specialist.

*[12 March 2009]*

#### **Section 505. Court Debates**

(1) A public 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 on whose property an attachment is imposed, and an accused or his or her defence counsel.

(2) If several victims or the representatives thereof, owners of property infringed during criminal proceedings on whose property an attachment is imposed, 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) The length of court debates shall not be restricted.

(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]*

#### **Section 506. Content of Court Debates**

(1) A public 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 a punishment to be applied to the accused. The public prosecutor shall also express his or her views regarding other issues to be adjudicated in a court debate.

(2) During court debates, a victim may express himself or herself regarding consideration for harm and a punishment to be applied to an accused.

(2<sup>1</sup>) An owner of property infringed during criminal proceedings on whose property an attachment is imposed 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 substantiate 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 session. 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 a punishment to be applied, 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 a court session may interrupt the speech of a member of court debates, if he or she speaks

regarding circumstances that do not have any relation to the case.

*[12 March 2009; 14 January 2010; 21 October 2010; 24 May 2012; 22 June 2017]*

#### **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.

(2) A defence counsel has the right to the last reply. If the defence counsel does not participate in a court session, the accused has the right to the last reply.

#### **Section 508. Last Word of an Accused**

(1) After completion of court debates, the chairperson of the court session shall invite the accused to say the last word.

(2) An accused shall be permitted to refuse the last word.

(3) The duration of the last word of an accused shall not be restricted. The chairperson of a court session may interrupt the last word of an accused, if he or she speaks regarding circumstances that do not have any relation to the case.

(4) During the last word, the asking of questions of an accused shall not be permitted.

#### **Section 509. Recommencement of a Court Investigation**

(1) If, during court 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 session but that apply to the case, a court, upon request of a member of the discussions or on the basis of the initiative of such court, shall take a decision on recommencement of a court investigation, and shall conduct the court investigation.

(2) After completion of a recommended 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 session shall notify the persons present in the court session regarding 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]*

## **Chapter 47 Judgment**

#### **Section 511. General Provisions for the Rendering of a Judgment**

(1) A court ruling with which a case is adjudicated on the basis of the merits thereof shall be made in the manner of a court judgment, and announced in the name of the State.

(2) A judgment shall be lawful and justified.

#### **Section 512. 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 judgment with evidence that has been examined in a court session, and written evidence and documents, which have been indicated in the decision to transfer a criminal case to a court, or with evidence for which, in accordance with the provisions of Section 125 of this Law, an examination is not necessary.

*[24 May 2012]*

#### **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 punishment that shall be imposed on an accused, and whether he or she shall serve such punishment;

7) whether an additional punishment is to be imposed on the accused, and what punishment is to be applied;

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 seized during the proceedings, and property on which an attachment is imposed;

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 session shall lead court deliberations.

(2) The chairperson of a court session shall ask each question in such a way that only an affirmative or negative answer may be given.

(3) The judges shall vote in deciding each separate question. The chairperson of a court session shall express his or her views and vote last.

#### **Section 516. Dissenting Conclusions of a Judge**

(1) The chairperson of a court session, or a judge, who has a dissenting conclusion shall express such conclusion in writing.

(2) A dissenting conclusion shall be attached to a case in a closed envelope, and only a court of higher instance may become acquainted with such conclusion in the case of an appeal of such court ruling. In announcing a judgment, a dissenting conclusion shall not be announced.

*[16 June 2009]*

### **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 determined.

### **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, observing the special circumstances of the committing of such offence, and the information acquired regarding the guilty person, that mitigate the liability of such minor, may release him or her from the imposed punishment 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>) A court may write an abridged judgement except the case when a criminal case is adjudicated without participation of the accused, because the accused does not repeatedly arrive to a court hearing without any justified reason, or in the absence of the accused (*in absentia*).

(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]

### **Section 524. Introductory Part of Judgments**

The following shall be indicated in the introductory part of a judgment:

1) that the judgment has been rendered in the name of the State;

- 2) the date of the announcement of the judgment;
- 3) the name of the court that rendered the judgment;
- 4) the composition of the court;
- 5) the public prosecutor and defence counsel;
- 6) the given name, surname, and personal identity number (or, if such number does not exist, the date and place of birth) of the accused;
- 7) The section, paragraph, and clause of The Criminal Law on the basis of which the person was prosecuted.

#### **Section 525. Descriptive Part and Reasoned Part of a Judgment of Acquittal**

(1) The descriptive part of a judgment of acquittal shall indicate the essence of the prosecution.

(2) The reasoned part of a judgment of acquittal shall indicate:

- 1) the circumstances of the event ascertained by the court;
- 2) the grounds for the acquittal of the accused and the evidence that confirms such acquittal;
- 3) the reasons why the court rejects the evidence with which the prosecution has been justified;

#### **Section 526. Operative Part of a Judgment of Acquittal**

(1) The operative part of a judgment of acquittal shall indicate a court decision:

1) regarding the fact that an accused (referring to his or her given name and surname) has been found innocent in the prosecution pursued against him or her (referring to the section, paragraph, and clause of The Criminal Law in which the relevant criminal offence has been provided for) and acquitted;

2) regarding the revocation of a security measure;

3) regarding the revocation of means for ensuring the confiscation of property and the consideration of harm, if such confiscation and consideration have been applied;

4) regarding the work remuneration of an advocate;

5) regarding the sending of a case, or a part thereof, to the Prosecutor's Office, 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 Prosecutor's Office, 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 application of the concrete punishment;

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 session, a court shall indicate in a judgment that the guilt of the accused has been proven. In such cases, an analysis of evidence and an inventory thereof shall not be necessary.

### **Section 528. Operative Part of a Judgment of Conviction**

(1) The operative part of a judgment of conviction shall indicate a court decision 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 punishment imposed on an accused regarding each criminal offence, and the final punishment that must be served;

3) the releasing of an accused from a criminal punishment, if he or she may be released from such punishment;

4) the application of a compulsory measure of a correctional nature, if a minor has been released from a criminal punishment;

5) the deduction in the term of the punishment of the term of security measures related to the deprivation of liberty applied to an accused;

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 been 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 punishment not related to deprivation of liberty has been specified for him or her.

(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**

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 seized 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 October 2014].

[12 March 2009; 21 October 2010; 30 March 2017; 22 June 2017]

### **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 public prosecutor, accused, victim, defence counsel or representative, as well as owner of property infringed during criminal proceedings on whose property an attachment is imposed, 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 public prosecutor, accused, victim, defence counsel and representative, as well as owner of property infringed during criminal proceedings on whose property an attachment is imposed when a full court judgment will be available. Drawing up of a full court judgment may be postponed only once.

(5) An abridged judgment may not be appealed.

[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 for whom a criminal punishment has not been determined;

3) an accused who has been released from a criminal punishment;

4) an accused to whom a punishment of deprivation of liberty 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 for whom a punishment of deprivation of liberty has been imposed conditionally;

6) an accused for whom a punishment not related to deprivation of liberty 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 perform the necessary measures and notify the court regarding the results thereof 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 regarding a settlement during a court session, an entry shall be made regarding the settlement in the minutes of the court session, and the victim and the accused shall sign regarding such settlement.

(5) Before the signing of a settlement or after 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 session are signed regarding such settlement, after a court investigation has been commenced, and the court has no doubts regarding the guilt of the accused, such court 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 Session 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 shall take a decision and send the case to the public prosecutor for elimination of the violation. A public 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 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]*

#### **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 public 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 public prosecutor, an accused, a defence counsel or a victim has submitted objections against trial of the case in a written procedure, a 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) 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) a decision to send the case to a public prosecutor for elimination of violations;

3) a judgment of conviction;

4) a decision to try the case in accordance with general procedure, if an accused refuses the agreement.

(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]*

#### **Section 541. Court Investigation**

(1) A court shall commence an investigation by becoming acquainted with an agreement, which shall be read by a public prosecutor.

(2) After hearing an agreement, a court shall ascertain whether the accused understands the criminal offence for the committing of which he or she is being prosecuted, whether he or she considers 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.

(3) A court shall offer an accused and his or her representative the opportunity to provide explanations regarding the circumstances of the entering into of an agreement.

(4) A court shall ascertain the attitude of a defence counsel and public prosecutor toward an agreement.

(5) A court shall also hear other persons summoned in a case.

(6) At the end of a court investigation, the court shall invite the members of the court session to express requests, and shall decide 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 session regarding such judgment.

#### **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) a decision to send the case to a public prosecutor for the elimination of violations;

3) a judgment of conviction;

4) a decision to try the case in accordance with general procedure, if an accused refuses the agreement.

(2) A court ruling shall be appealed only in accordance with cassation procedures.

*[12 March 2009; 24 May 2012]*

#### **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 public prosecutor, accused, and his or her defence counsel have confirmed in a court session, in the reasoned part of a judgment, and shall evaluate the validity of the entered into agreement.

(3) The operative part of a judgment shall indicate a court decision 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 punishment not related to deprivation of liberty has been specified for him or her.

4) the deduction of the term of a security measure related to deprivation of liberty applied on an accused in the term of a punishment;

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.

(4) A court, rendering a judgment, may determine the punishment provided for in the agreement protocol, if a mistake has been made in determining the final punishment, 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]

## **Chapter 50**

### **Special Features of Court Proceedings in Entering Into an Agreement in Trial Proceedings**

#### **Section 544. Right to Enter Into an Agreement in Trial Proceedings**

(1) A public prosecutor and an accused have the right to mutually agree, up to the completion of a court investigation, regarding the completion of criminal proceedings by entering into an agreement regarding the admission of guilt and a punishment.

(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 public prosecutor or accused, or his or her defence counsel or representative, regarding the desire to enter into an agreement, a court shall do the following:

1) examine the admissibility of the agreement in the concrete proceedings;

2) explain to the accused the consequences of the agreement;

3) ascertain whether the public prosecutor or accused, or his or her representative, accordingly, agrees to the entering into of the agreement;

4) ascertain the views of the victim or his or her representative regarding the application of the agreement;

5) determine a break in the court session for the co-ordination of the agreement and the submission thereof to the court.

#### **Section 546. Trial of a Criminal case in Agreement Proceedings**

(1) If an agreement has been entered into, a court shall continue, after session 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 public prosecutor and accused notify, after break in the court session, that an agreement has not been entered into, the court shall continue the trial of the case in accordance with general procedure.

(3) If an agreement entered into during the interruption of the court session 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 procedure.

[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 be performed 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 public prosecutor for elimination of the violation. The public 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.

(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 public 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 public prosecutor towards the agreement, as well as hear other persons invited in this case.

(5) The court shall invite the members of the court session 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 session 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 public prosecutor for the 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 procedure, 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 public 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 public 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 the written procedure, shall make one of the rulings 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]*

**Part 10**  
**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 regarding 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 observed 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 public prosecutor has a duty to submit a protest regarding an unlawful or unjustified court ruling. However, a public prosecutor who has participated in a court of first instance is entitled to submit a protest only regarding judgments in which the court has not taken into account his or her views in the 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 public 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 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]*

### **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 adjudicated 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 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 public prosecutor - his or her appellate protest, and a higher-ranking public prosecutor - an appellate protest of a lower-ranking public prosecutor.

(3) The following persons may withdraw the following complaints only with the written consent of an accused:

1) his or her defence counsel - his or her appellate complaint;

2) his or her representative or former representative - his or her appellate complaint.

(4) The representative of a victim may withdraw his or her appellate complaint only with the consent of such victim.

(5) The withdrawal of an appellate complaint shall not be binding on a court, if:

1) the appellate complaint has been withdrawn by a minor or a person for whom protection is to be compulsorily ensured due to his or her natural person or mental deficiencies, or the defence counsel or representative of such minor or person;

2) 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 punishment, 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 session;

3) how the submitted requests have been decided, and the additional materials that are required in connection with the submitted requests.

(3) A public 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 regarding mitigation of a punishment imposed is expressed in the appellate complaint or protest and if a public 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 public 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 public prosecutor or the person whose interests and rights are infringed by the complaint or protest does not object against it;

3) only the request regarding mitigation of a punishment imposed 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 punishment imposed 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 punishment imposed is not related to the deprivation of liberty exceeding a term of five years; or

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 public 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 Session of an Appellate Court**

(1) A public 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 session of an appellate court.

(2) Other persons may be invited to a court session if such request has been expressed in an appellate complaint or protest, and if such persons have not been interrogated in the adjudication of the case in a court of first instance. A court may summon, on the basis of the initiative thereof, persons who have been 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 session without a justifiable reason, his or her complaint or protest may be left without examination. If an accused does not arrive at a court session without a justifiable 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 session without a justifiable 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 Session 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 session. 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 session only when the person who performs defence, a public prosecutor, and a victim or his or her representative, as well as owner of property infringed during criminal proceedings on whose property an attachment is imposed 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 public 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 cases 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 public prosecutor in his or her protest, or by a victim in his or her complaint who is supported by a public prosecutor. In such case, a law regarding an offence more serious than the offence regarding which the person has been accused in sending a criminal case to court shall not be applied, except the case where a public prosecutor modified the prosecution in a session of a court of first instance to a more serious prosecution.

(3) The determination of a more serious punishment for an accused shall be allowed if the protest of a public prosecutor or the complaint of a victim has been submitted for such reason, as well as then, if upon a protest of a public 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 application of a punishment to such person, shall be allowed only in cases where a protest of a public prosecutor, or a complaint of a victim, supported by a public 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 the written procedure an appellate court shall make one of the following rulings:

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 a punishment 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) An appellate court 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 public 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 punishment or without changing the punishment determined;

2) find an accused guilty regarding the committing of a criminal offence that is less serious than that recognised by a court of first instance, determining a lighter punishment or without changing the punishment determined;

3) exclude from prosecution a separate independent part thereof, determining a lighter punishment or without changing the punishment determined;

4) revoke the judgment of a court of first instance in the part regarding the punishment determined, and determine a lighter punishment 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 public prosecutor, or the complaint of a victim, supported by a public prosecutor, an appellate court may:

1) find an accused guilty regarding the committing of a criminal offence that is more serious than recognised by a court of first instance, determining a heavier punishment or without changing the punishment;

2) revoke the judgment of acquittal of the court of first instance, and render a judgment of conviction;

3) find an accused guilty regarding the committing of separate criminal offences, which a court of first instance excluded from prosecution, determining a heavier punishment or without changing the punishment;

4) [12 March 2009].

(4) On the basis of a protest of a public prosecutor or a complaint of a victim, an appellate court may revoke the judgment of a court of first instance in the part regarding a punishment, determining a heavier punishment.

[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 public 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 the time within the next 14 days when a full court ruling will be available.

(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 public prosecutor, accused, victim, defence counsel and representative, as well as owner of property infringed during criminal proceedings on whose property an attachment is imposed 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]

## **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 regarding 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 observed 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 on whose property an attachment is imposed.

(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 on whose property an attachment is imposed may submit a complaint in the part that infringes upon his or her rights and interests.

(3) A public prosecutor may submit a cassation protest.

*[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 session, if the submitter of the complaint or protest so wishes.

#### **Section 573. Reasons for Examination of a Ruling According to Cassation Procedures**

(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) An issue regarding the examination of a ruling in accordance with cassation procedures shall be decided by a judge appointed by the Chairperson of the Department of Criminal Cases of the Supreme Court.

(3) A decision shall be written in a manner of resolution and it shall not be subject to appeal.

*[12 March 2009; 19 December 2013]*

#### **Section 574. Violations of The Criminal Law**

A violation of The Criminal Law is:

- 1) an incorrect application of sections of the General Part of The Criminal Law;
- 2) the incorrect application of a section, paragraph, or clause of The Criminal Law in qualifying a criminal offence;
- 3) the determination for an accused of a type or amount of punishment 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 session, 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 public 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 public 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 public prosecutor may submit supplements and modifications to the protest.

(2) Modifications or supplements to a protest, or to the complaint of a victim, that has been submitted in accordance with cassation procedures after the end of the term for appeal shall not put forth an action regarding the deterioration of the condition of the accused, if such action is not in the initial protest or complaint.

(3) Supplements and modifications shall not be submitted later than within 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 session, 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) The judge who has been assigned to make an account shall familiarise himself or herself with a case and, with a resolution to the cassation complaint or protest, determine examination of the case in a written procedure or examination in a court session.

(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 session shall be determined.

(3) Persons who have submitted a complaint or protest, as well as persons whose interests are infringed upon by the complaint or protest shall be notified whether a case will be examined in a written procedure or a court session, 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 session, 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]*

#### **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 public 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 session 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 Session of a Cassation Court**

(1) The chairperson of a court session shall open the session, announce which case is to be examined, ascertain who has arrived for the court session, 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 session of the cassation court, shall not be an impediment to examination of a case.

(2) The chairperson of a session shall announce the composition of the court, the surname of the interpreter, public prosecutor, and advocate, and ascertain whether there are recusals. If there are such recusals, a court shall take a decision 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 public 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 session and whose rights and interests are infringed upon by the cassation complaint or protest.

(7) After hearing of explanations, the public prosecutor shall express his or her view regarding such explanations. Then the court shall once again hear the accused or his or her defence counsel, and take a decision in the deliberation room.

*[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 public 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 public 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 cassation court 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 session, the entire composition of the court shall sign the operative part of a decision in the deliberation room. The chairperson, or a judge of the court panel, shall immediately pronounce such decision in the courtroom.

(5) A decision of a cassation court shall not be subject to appeal. Such decision shall enter into effect at the moment of the pronouncement thereof.

[24 May 2012]

#### **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 cassation court shall be sent to the submitter of a complaint and a public 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 procedure, but in a different composition of court.

(2) The intensification of a punishment, or the application of a law, regarding 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 a punishment or in connection with the fact that, on the basis of the protest of a public prosecutor or the complaint of a victim, the application of a law regarding a more serious criminal offence was necessary.

(3) 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 procedure.

## **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 procedure, 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 public 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 concrete 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 public 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 public 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 application 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 concrete 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 public 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 public 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 public prosecutor shall complete the pre-trial proceedings in relation to the other accused in accordance with general procedure.

(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 Session**

(1) In preparing a case for examination, the judge shall decide the matter regarding which persons are to be summoned to a court session.

(2) If a person against whom the proceedings for the determination 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 session, except the case 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 Session**

(1) A criminal case regarding the determination of compulsory measures of a medical nature shall be examined in a closed court session with the participation of a public prosecutor, defence counsel, the representative of a person, and an expert - psychiatrist, as well as the person to whom the compulsory measure of a medical nature is determined, except the case 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 public 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 session shall examine evidence and hear the findings of an expert regarding the mental condition of a person, in order to decide the matter of whether such person has committed a criminal offence, and whether compulsory measures of a medical nature shall be determined for such person.

(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 on the issue of transferring the person under the care of the immediate family or other persons who perform nursing of patients, the court must receive consent of such persons.

(4) An appellate court shall summon an expert on the basis of the discretion thereof.

*[29 May 2014]*

#### **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 seized during proceedings, and property upon which an attachment has been imposed;

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 a decision, in accordance that laid down in The Criminal Law, regarding the releasing of such person from criminal liability or punishment, and shall determine one of the compulsory measures of a medical nature provided for in 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 public prosecutor for the completion of pre-trial proceedings.

(4) Having found that the participation in a criminal offence of a person being examined has not been proven, or having ascertained circumstances that, in general, do not allow for criminal proceedings, a court shall take a decision 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 public prosecutor for the continuation of pre-trial proceedings.

(6) In the operative part of a decision, a court shall determine actions with material evidence and documents, compensation for harm, actions with property upon which an attachment has been imposed, recovery of procedural expenditures, and shall explain the procedures and time persons for the appeal of a court decision.

(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 session 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 procedure.

(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 public prosecutor may also submit to a court a proposal regarding the revocation or modification of a compulsory measure of a medical nature specified by the court, by attaching to the proposal the conclusion of the relevant medical treatment institution and other documents that are necessary for the deciding of the matter.

(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 public 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. A representative of the relevant medical treatment institution and a person who has proposed examination of the issue shall also be invited to a 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 public 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 cases when on the basis of the findings of a physician (expert) the person does not participate in the court session..

(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 accordance with cassation procedures.

(6) The repeated proposal of a matter in court shall be allowed not earlier than three months from the day when the court rejected a request regarding the revocation or modification of compulsory measures of a medical nature.

*[21 October 2010; 29 May 2014; 30 March 2017]*

#### **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 public prosecutor for the completion of pre-trial proceedings.

(2) The time spent in a medical treatment institution shall be conformed to the time spent 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 public prosecutor, or a public 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 performer of the pre-trial proceedings;

2) determine the time and place of a court session;

3) summon the necessary person to the court session.

(2) A criminal case for exoneration of a deceased person shall be examined in a court session with the participation of a public prosecutor, the submitter of the application, and the defence counsel, if such defence counsel exists.

(3) A court session shall hear the complaint of the submitter of an application or a defence counsel, the report of a public prosecutor regarding the essence of the case, and examine submitted evidence.

#### **Section 615. Deciding of a Criminal Case**

(1) In 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 Prosecutor's Office 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 procedure.

(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 public 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 session 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 invited to a court session.

(2) If the submitter of a complaint does not arrive at a court session without a justifiable reason, examination of his or her submitted complaint shall be terminated.

(3) A judge shall hear in a court session 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 a 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]*

## **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 public prosecutor or a public 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 seized or upon which an attachment has been imposed 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) An investigator with the consent of the supervising public prosecutor has the right, upon terminating criminal proceedings for reasons other than exoneration, to separate the materials from a criminal case regarding criminally acquired property and to initiate proceedings if the totality of evidence provides grounds to believe that the property that has been seized or upon which an attachment has been imposed is criminally acquired.

(3) A public prosecutor has the right, upon terminating criminal proceedings for reasons other than exoneration, 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]*

### **Section 627. Decision to Initiate 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 concrete 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.

*[8 July 2011; 22 June 2017]*

### **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 a suspect or accused and the person by whom property has been seized or an attachment has been imposed on property, if such persons exist in the relevant criminal proceedings, or to another person who has the right to concrete property, simultaneously indicating the right to.

1) participate in proceedings regarding criminally acquired property personally or through the intermediation of a defence counsel or representative;

2) express his or her attitude in court, orally or in writing, toward the taken decision;

3) submit applications to the court.

### **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 session;

2) summon the person directing the proceedings and a public 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 session.

(2) A court session 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 public prosecutor, others summoned and arrived persons, their representatives or defence counsels shall be heard in a court session.

(4) During a court session 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) The case materials in proceedings regarding criminally acquired property shall be an investigative secret, and the person directing the proceedings, a public prosecutor and a court examining the case may get acquainted with the case. The persons referred to in Section 628 of this Law may get acquainted with the case materials with a permission of the person directing the proceedings and in the amount specified thereby.

*[12 March 2009; 21 October 2010; 8 July 2011; 24 May 2012 / Insofar a court cannot reassess the legality and validity of a decision of the person directing the proceedings regarding the rights of a person to familiarise himself or herself with the case materials in proceedings regarding criminally acquired property, Paragraph five has been recognised as non-conforming to the first sentence of Section 92 of the Constitution of the Republic of Latvia by the Constitution Court judgment of 23 May 2017 which shall enter into effect on 25 May 2017]*

### **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, it shall, in addition to that referred to in Paragraph one of this Section, decide also upon revoking an attachment on 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. A 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 Public 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 public 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 of a punishment cannot be appealed 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 Public Prosecutor's Penal Order**

A public prosecutor's penal order and a penal order of a public prosecutor 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 Penal Order of a Public 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 public prosecutor's penal order shall be transferred for execution by the Prosecutor's Office that rendered it within 7 days after entering into effect of such penal order.

(3) A judgment, decision and public 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 public 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 detention - if a punishment of deprivation of liberty or temporary deprivation of liberty has been applied and a person is in prison;

3) the State Probation Service - if a punishment of deprivation of liberty 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 to the deprivation of liberty institution thereof if community service or fine has been replaced with a temporary deprivation of liberty or a punishment of deprivation of liberty has been applied and a person is not in prison.

(5) A judgment of conviction of an accused, a judgment releasing from a punishment, 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 public 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]*

### **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 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 public 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 regarding putting an attachment on 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 name, surname, personal identity number and the place of residence of a person against whom recovery is directed or whose property is to be confiscated, but for a legal person - its name, registration number and legal address;

8) the name, surname, personal identity number and the place of residence, as well as 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, as well as 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 public prosecutor's decision or penal order shall be sent for execution together with a cover letter and an extract of a decision or protocol regarding putting an attachment on a property, if such protocol has been drawn up. The following shall be indicated in a cover letter:

1) the name, surname, personal identity number and the place of residence of a person against whom recovery is 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 public 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 / Paragraph two shall come into force on 1 January 2019. See Paragraph 64 of Transitional Provisions]*

## **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 regarding replacement of punishment with deprivation of liberty shall take a decision on a search for the convicted person. A decision on search for the convicted person shall be taken in writing. Such decision shall not be subject to appeal.

(2) A decision on a search for an accused shall be transferred for execution to persons performing investigative field work in accordance with the competence thereof.

*[22 June 2017]*

## **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.

*[22 June 2017]*

#### **Section 636. Procedures for Execution of a Public Prosecutor's Penal Order**

(1) The public 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 public prosecutor's penal order is unable to pay it within 30 days and has submitted a reasoned request regarding postponement of 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 public 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 public prosecutor shall initiate to the district (city) court, in the territory of operation of which the Public Prosecutor's Office 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 of the Punishment**

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 of the punishment.

*[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 punishment - 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 punishment 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) The payment for the fine or recovery of money may be postponed or divided in instalments payable over a time period up to one year, if the person who has been applied the fine or coercive measure is unable to pay it within 30 days and has submitted a reasoned request regarding postponement of the payment for the fine or division thereof in instalments.

*[22 June 2017]*

#### **Section 639. Control of Enforcement of a Ruling and Public 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 public prosecutor's penal order shall be controlled by the public prosecutor's office. The institution that executed the punishment or coercive measure determined in the public prosecutor's penal order shall immediately inform the Prosecutor's Office 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 a mental disturbances during the serving of a punishment of deprivation of liberty, and therefore he or she may not be located in a prison and medical treatment is necessary for him or her, a judge may, on the basis of the findings of an expert-examination, release the convicted person from the serving of the punishment, 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 punishment, a convicted person whose determined punishment is not related to deprivation of liberty falls ill with mental disturbances, a judge may take a decision on his or her release from further serving of the punishment.

(4) If a convicted person falls ill with a serious illness that is not mental disturbances, a judge may take a decision on his or her release from further serving of the punishment, taking into account the nature of the committed criminal offence, the character of the convicted person, and other circumstances.

(5) In releasing a convicted person from the further serving of a punishment in connection with an illness, a court may release him or her not only from the basic punishment, but also from an additional punishment, indicating such release in a decision.

*[12 March 2009]*

#### **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 a decision to execute the punishment determined in 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 in a court session, without requesting the criminal case file.

*[16 October 2014]*

#### **Section 642. Reduction of Punishment 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 punishment of such convicted person in accordance with the provisions of Section 60 of The Criminal Law. A submission shall be examined in a

closed court session.

[12 March 2009]

### **Section 643. Conditional Release Prior to Completion of Punishment**

(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 prior to the completion of a punishment of deprivation of liberty by a judge of the district (city) court according to the place of the serving of the punishment, if a submission of the deprivation of liberty institution has been received.

(2) A submission shall be examined in a court session, without requesting the criminal case file.

(3) If a judge rejects a submission, it may be resubmitted after four months.

(4) If a person who has been conditionally released prior to completion of punishment, without justifiable reason does not fulfil the obligations laid down in the law governing the execution of criminal punishments or stipulated by the State Probation Service, the judge of the district (city) court according to the place of residence of the convicted person, on the basis of a submission by the State Probation Service, may take a decision to execute the part of unserved punishment.

(5) If a person who has been conditionally released prior to completion of punishment and who has been applied electronic monitoring, without justifiable reason does not fulfil the obligations related to electronic monitoring laid down in the law governing the execution of criminal punishments, 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, on the basis of a submission by the State Probation Service may take a decision to execute the part of unserved punishment.

(6) If a person who has been conditionally released prior to completion of punishment and who has been applied electronic monitoring, has, in exemplary manner, fulfilled the obligations provided for in the law governing the execution of criminal punishments 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 release prior to completion of punishment is possible without determination of electronic monitoring, the judge of the district (city) court according to the place of residence of the convicted person, on the basis of a submission by the State Probation Service may take a decision to revoke electronic monitoring.

*[16 October 2014 / Regulation of Section in relation to conditional release from serving the punishment before term with determination of electronic monitoring shall be applied from 1 July 2015. See Paragraph 57 of Transitional Provisions]*

### **Section 644. Substitution or Revocation of Police Supervision**

(1) If a person to whom police supervision has been applied violates the provisions thereof in bad faith, the district (city) court according to the place of residence of the convicted person may, on the basis of a submission of a police institution and in the cases determined in Section 45 of The Criminal Law, substitute the term of the punishment not served with deprivation of liberty in accordance with the term specified in The Criminal Law.

(2) In accordance with Section 45 of The Criminal Law, a judge of the district (city) court according to the place of residence of the convicted person may reduce police supervision or revoke such supervision, if a justified submission of a police institution has been received.

(3) [12 March 2009]

*[12 March 2009; 16 June 2009; 16 October 2014]*

### **Section 644.<sup>1</sup> Substitution or Revocation of Probationary Supervision**

(1) If a convicted person upon whom an additional punishment - probationary supervision - has been applied violates the provisions of probationary supervision during probationary supervision without justifiable reason, a judge of a district (city) court may, on the basis of a submission of the State Probation Service according to the place of residence of the convicted person, substitute the additional unserved punishment term with deprivation of liberty in accordance with 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 the convicted person, may reduce the probationary supervision period or revoke probationary supervision.

*[8 July 2011 / The Section shall come into force on 1 October 2011. See Paragraph 32 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 in the term which had been specified by dividing or suspending the payment of the fine or recovery of money, a judge shall determine a court session and a fine shall be substituted with the punishment specified in accordance with The Criminal Law, or, if the recovery of money is applied to 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 punishment of deprivation of liberty in place thereof, he or she shall be released immediately.

(3) If, during the term when a convicted person serves a punishment of deprivation of liberty, in place of a fine, part of the fine is paid, a judge shall reduce the duration of the deprivation of liberty 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]

#### **Section 646. Substitution of Community Service with Temporary Deprivation of Liberty**

If the person who has been convicted with community service evades the serving of the punishment in bad faith, a court shall substitute such punishment with temporary deprivation of liberty in accordance with the provisions of Section 40, Paragraph three of The Criminal Law.

[20 December 2012]

#### **Section 647. Execution of a Punishment after Application of Compulsory Measures of a Correctional Nature**

(1) If a minor who has been released from an imposed punishment and to whom a compulsory measure of a correctional nature has been applied does not fulfil the duties imposed by a court, the punishment imposed on such minor shall be executed.

(2) A matter regarding the execution of a punishment 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 a Punishment**

If a convicted person who is serving a punishment of deprivation of liberty is placed in a medical treatment institution, the time spent in such institution shall be included in the term of the punishment.

[20 December 2012]

#### **Section 649. Execution of a Judgment or Penal Order of the Public Prosecutor, if Several Judgments or Penal Orders of the Public Prosecutor Exist**

(1) If several judgments or penal orders of the public 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 court of the same level according to the place of the execution of the judgment, or a judge of a district (city) court according to the place of the execution of the penal order of the public prosecutor, shall, on the basis of a submission of the institution or public 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 punishment on the basis of the totality of such judgments or penal orders of the public prosecutor.

(2) Having received the submission referred to in Paragraph one of this Section, the judge shall inform the convicted person and the public 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 regarding the penalty to be determined, and also the day of availability of the decision.

(3) A decision may be appealed within 10 days. 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]

#### **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 executive institution or public 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 punishment 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 executive institution or public 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 punishment.

*[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 court session, with the participation of a public prosecutor and the convicted person, for whom the rights provided for in Section 74.<sup>2</sup> of this Law shall be ensured, as well as the representative of such institution, which is responsible for execution of the ruling. In the case of the unjustified non-attendance of the convicted person a decision may be taken without his or her presence.

(2) If a judge examines a matter regarding the releasing of a convicted person from the serving of a punishment 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 session.

(3) If a judge examines matters related to the execution of a punishment, a representative of the institution that supervises the execution of the punishment, or controls the behaviour of a person who has been convicted conditionally, shall be summoned to the court session. 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 session, without a justifiable reason, examination of the case shall be deferred.

(5) A judge shall open a court session and notify what case is being examined, and then examine whether the summoned persons have arrived for the court session, and decide the matter regarding recusal of a judge, public prosecutor and regarding the possibility to examine a case in the absence of persons summoned to the court session.

(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 public prosecutor and other persons. The convicted person and his or her defence counsel shall speak last. Then the judge shall take a decision in the deliberation room.

(7) All 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]*

#### **Section 652. Procedures for the Deciding of Matters Related to the Execution of a Punishment Determined in the Penal Order of a Public Prosecutor**

(1) Matters that are related to the execution of a punishment determined in the penal order of a public prosecutor, 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 higher-ranking public prosecutor, but regarding the issue of replacement of punishment,

reduction of the probationary supervision period or revocation of probationary supervision, or release from serving a punishment 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 higher-ranking public 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]*

### **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 punishment, if a request of such person, or the defence counsel or lawful representative thereof, has been received.

(2) A court shall notify a public prosecutor regarding a received request. The non-arrival of the public prosecutor to the court session shall not be an impediment to examination of the matter regarding removal of conviction.

(3) Participation in a court session 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.

(4) 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.

(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.

### **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 public 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 public prosecutor's penal order;

2) criminal maliciousness by a judge, public prosecutor, or investigator that has been the grounds for the making of an unlawful ruling has been recognised by a valid court judgment or public prosecutor's penal order;

3) other circumstances that were not known to a court or public 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 public 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 concrete person has performed a more serious criminal offence than the offence regarding which such person has been convicted, criminal proceedings may be renewed during the limitation period specified for the more serious criminal offence.

(3) 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 public 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 a public prosecutor's office 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 public prosecutor who has carried out investigatory 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 public prosecutor shall take a decision to leave the application without examination and notify the applicant thereof. A 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 public 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. A decision shall not be subject to appeal.

(6) If after completion of investigation of newly disclosed circumstances a public 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 public prosecutor's penal order has been applied to the person - to the Prosecutor General's Office. A decision shall not be subject to appeal.

(7) If following an investigation of newly disclosed circumstances a public 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 public 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 public prosecutor's penal order has been applied to the person - to a higher-ranking public 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. A decision of the judge shall not be subject to appeal.

(9) If a higher-ranking public prosecutor, when examining the complaint, detects that there are grounds to revoke a public 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 Prosecutor General's Office. If a higher-ranking public prosecutor does not detect such grounds, he or she shall take a decision to refuse the complaint. A decision of a higher-ranking public prosecutor shall not be subject to appeal.

*[30 March 2017]*

#### **Section 658. Actions of a Public 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 Prosecutor General's Office in Relation to Newly Disclosed Circumstances**

(1) An application, a decision of a public prosecutor and the submitted materials shall be examined by the chief prosecutor of the Criminal Legal Department of the Prosecutor General's Office or the Prosecutor General and one of the following decisions shall be taken:

1) to revoke the public 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 public 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 Legal Department of the Prosecutor General's Office 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 public 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 public 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 public 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 public prosecutor in the court session 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 public 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 public prosecutor;

2) after the report of the judge the public prosecutor shall justify the conclusion or express opinion regarding 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 Prosecutor's Office;

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]

### **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 procedure.

(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 punishment determined 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, 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.

### **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 Law Department of the Prosecutor General's Office 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 Law Department of the Prosecutor General's Office.

#### **Section 665. Grounds for the Submission of an Application or Protest**

(1) 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 public prosecutor.

(2) The Prosecutor General or the Chief Prosecutor of The Criminal Law Department of the Prosecutor General's Office 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 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 state (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 state may be applied, if such necessity has been justified in a request for criminal-legal co-operation, and if such application is not in contradiction with the basic principles of Latvian criminal procedure.

(3) Latvia may request that a foreign state, in fulfilling a request for criminal-legal assistance, apply the criminal procedure specified in Latvia, or separate principles thereof.

#### **Section 675. Criminal-legal Co-operation in Competent 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, Prosecutor's Offices, and investigating institutions.

(3) If an agreement with a foreign state regarding criminal-legal co-operation does not exist, the Minister for Justice and the Prosecutor General have the right, within the framework of the competence specified in this Part of this Law, to submit to the foreign state a request for criminal-legal co-operation, or to receive a request from the foreign state for criminal-legal co-operation.

(4) The officials referred to in Paragraph three of this Section may request from, or submit to, a foreign state a confirmation that 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.

*[18 February 2016]*

#### **Section 676. Admissibility of Evidence within the Framework of Criminal-legal Co-operation**

Evidence that has been acquired as a result of criminal-legal co-operation and in accordance with the criminal procedure specified in a foreign state shall be made equivalent to the evidence acquired in accordance with the procedures provided for in this Law.

#### **Section 677. Participation of an Advocate**

(1) In performing criminal-legal co-operation, an advocate shall be summoned to provide legal assistance to a person, or, in the cases provided for in this Part of this Law, to perform the assistance of a defence counsel.

(2) An advocate may provide legal assistance from the moment when a person is 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 state 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 states have chosen as the language of communication shall be attached to the request.

(3) If an international agreement does not determine a language of communication, a request may be submitted to a foreign state without attaching a translation.

(4) If an international agreement does not regulate criminal-legal co-operation with a foreign state, a translation in the language of the relevant state shall be attached to a request.

(5) The competent authority may come to an agreement with the competent authority of a foreign state 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 state 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 state 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 state 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 state 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 state 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 Prosecutor General's Office 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 states 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 state 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 state, the transit of a person related to criminal-legal co-operation through the territory of Latvia. A transit request may be rejected, if the transit of a citizen or non-citizen of Latvia - a subject of the law On the State of Former Citizens of the U.S.S.R. who do not have Latvian Citizenship or the Citizenship of Another State (hereinafter - the Latvian citizen) is requested.

(4) A transit request shall be written the same as a request for a concrete type of criminal-legal co-operation.

## **Division Fourteen Extradition**

### **Chapter 65 Extradition of a Person to Latvia**

#### **Section 682. Provisions for the Submission of a Request for the Extradition of a Person**

(1) The extradition of a person may be requested, if there are grounds to believe that the following is located in a foreign state:

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 punishment.

(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 deprivation of liberty shall turn to the Prosecutor General's Office with a written proposal to request the extradition of a person from a foreign state.

(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 urgent cases - immediately after receipt thereof in the Prosecutor General's Office, and the person directing the proceedings or the court which applied with a proposal to request the foreign state 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 state, shall be informed regarding such extension.

(4) If there are grounds for requesting the extradition of a person, the Prosecutor General's Office shall prepare and send a request to a foreign state.

(5) The Prosecutor General's Office also may submit to a foreign state a request for the extradition of a person on the basis of the initiative thereof.

*[11 June 2009; 20 December 2012]*

#### **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 state.

(2) True copies, copies and extracts of the documents attached to an extradition request shall be prepared and certified in accordance with the procedures 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 deprivation of liberty, shall request the Prosecutor General's Office 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 Prosecutor General's Office 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 Prosecutor General's Office may request for a foreign state 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 State**

(1) The takeover of a person extradited by a foreign state shall be performed by the State Police in the terms laid down in international agreements. The Prosecutor General's Office 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 public prosecutor or higher ranking public 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 Prosecutor General's Office 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 Prosecutor General's Office 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 State for a Term**

(1) If a foreign state 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 Prosecutor General's Office may request for the foreign state 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 Punishment of a Person Extradited by a Foreign State**

(1) A person may be held criminally liable, tried and a punishment may be executed only regarding the criminal offence regarding which such person has been extradited.

(2) Such conditions do not apply to cases where:

1) the consent of the extraditing state has been received for criminal prosecution, and 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 state.

(4) The consent provided for in Paragraph two, Clause 1 of this Section shall be requested in the same way as extradition.

(5) If a final punishment has been determined for a person on the basis of a totality of criminal offences or on the basis of several judgments, but such punishment has been issued only regarding part of such offences or judgments, the court that determined the final punishment shall determine the executable part of the punishment 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 State**

(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 state shall be included in the term of a punishment.

#### **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 Prosecutor General's Office 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 punishment related to the deprivation of liberty.

*[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 deprivation of liberty, shall turn to the Prosecutor General's Office 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 Prosecutor General's Office 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 Prosecutor General's Office shall take a European arrest warrant, which is not 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 Prosecutor General's Office 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 Prosecutor General's Office 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 Prosecutor General's Office 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 punishment of deprivation of liberty, 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 Prosecutor General's Office 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 punishment may be executed regarding other criminal offences regarding which such person was not extradited, as well as further extradited to another Member State, in the following cases:

1) the offence of the person is not punishable with deprivation of liberty or a compulsory measure that restricts freedom;

2) the person may be subjected to a punishment that is not related to the deprivation of liberty;

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 public 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 State**

#### **Section 696. Grounds for the Extradition of a Person**

(1) A person who is located in the territory of Latvia may be extradited for criminal prosecution, trial, or the execution of a judgment, if a request has been received for temporary arrest or from a foreign state to extradite such person regarding an offence that, in accordance with the law of Latvia and the foreign state, is criminal.

(2) A person may be extradited for criminal prosecution, or trial, regarding an offence the committing of which provides for a punishment of deprivation of liberty the maximum limit of which is not less than one year, or a more serious punishment, if the international agreement does not provide otherwise.

(3) A person may be extradited for the execution of a judgment by the state that rendered the judgment and convicted the person with a punishment that is related to deprivation of liberty for a term of not less than four months, if the international agreement does not provide otherwise.

(4) If extradition has been requested regarding several criminal offences, but extradition may not be applied for one of such offences because such offence does not comply with the conditions regarding the possible or imposed punishment, the person may also be extradited regarding 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 state requests the extradition of a person for the execution of a punishment 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 trial of the case;
- 6) extradition has been requested by a foreign state with which Latvia does not have an agreement regarding extradition.

(2) The extradition of a person shall not be admissible, if:

- 1) the person is a Latvian citizen;
- 2) the request for the extradition of the person is related to the aim of commencing criminal prosecution of such person or punishing such persons due to his or her race, religion affiliation, nationality, or political views, or if there are sufficient grounds 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 regarding the same criminal offence, be held criminally liable, tried, or execute a punishment 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 state does not provide a sufficient bail that such state will not impose the death punishment on such person and execute such punishment;
- 7) the person may be threatened with torture in the foreign state;
- 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 invite 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 invite 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 state which rendered the European arrest warrant.

(3) A foreigner may request that the diplomatic or consular representation 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 public 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 state regarding which extradition has been provided for, or if the a foreign state has announced a search for such person and issued a request for temporary arrest or extradition.

(2) An investigator or public 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 Prosecutor General's Office 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 Prosecutor General's Office shall inform the state 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 public 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 state.

(2) A public prosecutor shall apply a security measure not related to deprivation of liberty by a motivated written

decision in accordance with the procedures laid down in Section 245 of this Law. A decision to apply such security measure is not 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 public prosecutor is entitled, until the transfer of the person to be extradited to a foreign state, 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 public prosecutor or investigator upon assignment of the public 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 state 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 state on arrest of the person or a valid judgment in relation to such person, or indicates that the foreign state will issue an extradition request and the criminal offence regarding which extradition will be requested, or if information has been provided regarding the person to be extradited or if circumstances are not known that would exclude the possibility of extradition, a public prosecutor shall submit a proposal regarding the application of temporary arrest and materials justifying such proposal to the investigating judge in whose territory of operation the person has been detained or the Prosecutor General's Office is located.

#### **Section 701. Application of Temporary Arrest**

(1) A judge shall decide on the application of temporary arrest in a court session, with the participation of a public prosecutor and the person to be extradited.

(2) Having heard a public prosecutor, a person to be extradited, and an advocate, if he or she participates, a judge shall take a reasoned decision that shall not be subject to appeal.

(3) Temporary 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 public prosecutor may release a person from temporary arrest, if a request of a foreign state regarding the extradition of such person, or a report regarding justified reasons for the delay of such request, has not been received within 18 days after detention.

(5) A public 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 state regarding the arrest of such person or a judgment that has entered into effect in relation to the concrete person;
- 2) a description of a criminal offence or a decision 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 Prosecutor General's Office 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 punishment in Latvia imposed regarding 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 punishment imposed in a foreign state, 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 public prosecutor, the person to be extradited, his or her representative and advocate shall participate in the court session.

(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 State Regarding Arrest**

The Prosecutor General's Office shall inform the state 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 state regarding the extradition of a person, the Prosecutor General's Office shall commence an examination of such request. A public prosecutor shall ascertain whether the grounds for the extradition of a person specified in Section 696 of this Law, and the reasons for the refusal of the extradition of a person specified in Section 697 of this Law, exist.

(2) If a request does not have sufficient information in order to decide a matter regarding extradition, the Prosecutor General's Office shall request from the foreign state 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.

(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 public 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 public 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 state the public prosecutor may perform all investigatory 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]*

#### **Section 705. Completion of an Examination**

(1) Having assessed the grounds and admissibility for the extradition of a person, a public prosecutor shall take a reasoned decision 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 public prosecutor shall submit the decision on admissibility of the extradition to the Prosecutor General together with examination materials.

(4) The Prosecutor General's Office shall notify the relevant person and foreign state regarding a decision on refusal to extradite a person. The public 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 public 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 State**

(1) After receipt of the decision of a public 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 state;
- 2) to refuse to extradite a person;

3) to revoke the decision of the public 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 state 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 state which has entered into effect, shall be notified by the Prosecutor General's Office to the relevant person and foreign state without delay.

(4) As soon as a decision to refuse to extradite a person is taken, the Prosecutor General's Office 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 state which has entered into effect shall be handed over by the Prosecutor General's Office 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 state.

(2) A judge who has been assigned to make an account shall request examination materials from the Prosecutor General's Office and determine the term of examination of a complaint.

(3) The Prosecutor General's Office, 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 session. If necessary, a court shall

request other necessary materials and summon persons for the provision of explanations.

(4) The submitter of a complaint shall be ensured the opportunity to participate in examination of the complaint.

(5) If the advocate of a person to be extradited has not arrived, without a justifiable reason, another advocate shall be summoned for the provision of legal assistance, if the person wishes to receive legal assistance.

*[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 public 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 state unamended;

2) to revoke a decision to extradite a person to a foreign state;

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 Prosecutor General's Office, 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 state, 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 Prosecutor General's Office shall inform the foreign state regarding the court decision.

(6) If a court decides to leave a decision to extradite a person to a foreign state unamended, the Prosecutor General's Office shall transfer the relevant decision to the State Police for execution.

*[18 February 2016]*

#### **Section 708. Decision to Extradite a Person to a Foreign State**

*[18 February 2016]*

#### **Section 709. Extradition upon Request of Several States**

(1) If the Prosecutor General's Office 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 state 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 state, such decision shall not be advanced for taking of a decision to extradite a person to a foreign state until completion of examination of a request received later.

(4) If several foreign states 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 state 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 state 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 state 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 states.

(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 public 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 public 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 state does not take over a person being extradited within 30 days from the specific date of extradition, a public 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 punishment imposed on such person must be fulfilled, 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 state.

(2) If the deferral of a transfer may cause a limitation period of the term of criminal liability or hinder the investigation of the criminal offence in a foreign state, and such transfer does not interfere with the performance of court proceedings in Latvia, the Prosecutor General may transfer a person to a foreign state 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 state and has returned to Latvia, such person may be repeatedly extradited upon request of the foreign state and on the basis of a previously taken decision on extradition.

#### **Section 713. Simplified Extradition**

(1) A person may be extradited to a foreign state in accordance with simplified procedures, if:

1) the written consent of the person to be extradited has been received for the extradition thereof in accordance with simplified procedures;

2) the person to be extradited is not a Latvian citizen;

3) [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 public prosecutor in the presence of an advocate before a decision is taken on admissibility of extradition.

(3) After receipt of consent, a public prosecutor shall ascertain only that which is referred to in Paragraph one of this Section, and immediately submit to the Prosecutor General the materials related to extradition.

(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 state and a person to be extradited shall be informed regarding the extradition of the person or a refusal to extradite such person, and the relevant decision shall be transferred to the 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 state 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 punishment of deprivation of liberty is provided for in the state 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 state regarding a Latvian citizen, then the extradition of such person shall take place with the condition that the person be transferred back to Latvia, after conviction thereof, for the serving of a punishment of deprivation of liberty imposed on such person. Execution of the imposed punishment 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 regarding the same criminal offence, be held criminally liable, tried, or have a punishment executed due to a limitation period;

3) the offence has been committed outside of the territory of the state that has taken a European arrest 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 regarding the same criminal offence and has served or is serving a punishment in one of the European Union Member State, or such punishment 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 punishment imposed by a European Union Member State.

#### **Section 715. Conditions Related to the Extradition of a Person to a European Union Member State**

(1) A person being extradited has the rights determined in Section 698 of this Law and an excerpt 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 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 state that rendered the European arrest warrant, the Prosecutor General's Office shall inform the relevant state regarding 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 public 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 punishment. If a citizen of Latvia does not waive such rights, the Prosecutor General's Office shall request the referred to guarantee to the state 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 ruling was made 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

Prosecutor General's Office 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 Prosecutor General's Office.

(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]*

#### **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 Prosecutor General's Office shall organise an examination thereof.

(2) A public 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 Prosecutor General's Office 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 state is to be given privilege, the seriousness of the offence, the place and time of the committing thereof, and the order of the receipt of the requests shall be taken into account.

*[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 state 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 Prosecutor General's Office 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 Prosecutor General's Office shall inform the competent authority of the state that took a European arrest warrant regarding the reason for the delay in the execution of the decision.

*[29 June 2008; 11 June 2009]*

#### **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 Prosecutor General's Office 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 State**

(1) An extradited person may be transferred further to another European Union Member State in cases where the state, in extraditing the person, had agreed to the further extradition of such person.

(2) If a European arrest warrant has been received in relation to a person who has been extradited to Latvia by

another state without giving consent for the further extradition of the person, the Prosecutor General's Office shall turn to the state that extradited the person in order to receive consent for the further extradition of the person to a European Union Member State.

#### **Section 720. Decision to Extradite a Person to a European Union Member State**

(1) The Prosecutor General's Office shall take a decision on extradition or non-extradition of a person to a foreign state. 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 Prosecutor General's Office 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 Prosecutor General's Office in accordance with the procedures laid down in Sections 706 and 707 of this Law, and send the taken decision to the Prosecutor General's Office 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 punishment 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 Prosecutor General's Office 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 of a decision to extradite a person, the Prosecutor General's Office 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 punishment, or due to serious humanitarian reasons, if there is a justified reason for thinking that extradition in the concrete situation would clearly endanger the life or health of the person. The Prosecutor General's Office 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 Prosecutor General's Office 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 Prosecutor General's Office 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 Prosecutor General's Office shall seize and transfer the following objects to a European Union Member State upon request of the Member State or upon initiative of such Prosecutor General's Office.

- 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 Prosecutor General's Office 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 State**

#### **Section 723. Content and Condition of the Takeover of Criminal Proceedings**

The takeover of criminal proceedings is the continuation in Latvia of criminal proceedings commenced in a foreign state, upon request of the foreign state or with the consent thereof, if such continuation is required by procedural interests and the offence is punishable in accordance with The Criminal Law.

#### **Section 724. Competent Authority in the Takeover of Criminal Proceedings**

(1) In the pre-trial criminal proceedings, the Prosecutor General's Office 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 state 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 state to transfer such criminal proceedings;

(2) If an offence in connection with which the takeover of criminal proceedings is being requested (hereinafter in Chapters 67 and 68 - 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 state with which Latvia does not have an agreement regarding mutual recognition and execution of court judgments rendered in criminal proceedings, and, in addition, such state has the opportunity to execute an imposed punishment 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 state that submitted the request;
- 5) the takeover of criminal proceedings would be in contradiction to the international obligations of Latvia toward another state;
- 6) the continuation of proceedings does not comply with the principles of the judicial system of Latvia;
- 7) Latvia does not have an agreement regarding the takeover of criminal proceedings with the state of the submitter of the request.

#### **Section 727. Terms for 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 state 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 state, 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 performance 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 state that submitted the request.

#### **Section 729. Request of Latvia Regarding the Transfer of Criminal Proceedings**

- (1) If criminal proceedings are taking place in another state simultaneously with criminal proceedings in Latvia regarding the same offence, competent authorities may submit to the foreign state a request regarding the transfer of the criminal proceedings to Latvia, if such request complies with the interests of court proceedings and promotes the course of criminal proceedings.
- (2) A request shall not be submitted if reasons exist that exclude the takeover of criminal proceedings.

#### **Section 730. Procedures for the Takeover of Criminal Proceedings**

- (1) If prosecution has been pursued against a person in another state, and the relevant person has been transferred to a court or convicted, the competent authority shall transfer criminal proceedings for continuation to the Prosecutor's Office according to the domicile, or place of residence, in Latvia of such person.
- (2) A public 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 state against a person, criminal proceedings shall be transferred for the investigation.
- (4) Subsequent criminal proceedings shall take place in accordance with general procedure.

*[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 state that submitted a request regarding a withdrawal of a takeover of criminal proceedings, and shall send materials of criminal case to such state.

(5) If a takeover of criminal proceedings has been withdrawn in accordance with the political nature or expressly military nature of criminal proceedings, or because a person has been prosecuted due to his or her race, religious affiliation, nationality, gender, or political views, evidence obtained in Latvia may be not transferred to the state that submitted a request. In other cases, evidence shall not be transferred if investigative actions are not able to be performed upon request of a foreign state 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 state 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 state on application of arrest;
- 2) The Criminal Law provides for a punishment of deprivation of liberty regarding 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 session in which a representative of the competent authority, a public prosecutor, and the person to be placed under arrest participate.

(3) Having heard a representative of the competent authority, a public 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 state regarding the committing of an offence resides in Latvia, and such offence is under the criminal jurisdiction of Latvia only because the foreign state requests a takeover of criminal proceedings, 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 state that submitted the request. The views of the person may be taken into account in deciding regarding the request for the takeover of criminal proceedings, but such views are not binding.

(2) A person shall 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 state, 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 state shall not be included in the term of arrest in Latvia, but shall be included in the term of a punishment.

(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 Punishment in Taken-over Criminal Proceedings**

(1) Only the activities that are criminal in accordance with the laws of both states shall be incriminated to an accused.

(2) An imposed punishment shall not be larger than the punishment provided for in the law of the state that submitted a request, if the offence is under the jurisdiction of Latvia only on the basis of the request for a takeover of criminal proceedings.

#### **Section 740. Duty to Inform a State that Submitted a Request**

(1) 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 state that submitted a request regarding a taken final decision, as well as regarding other procedural actions, if contracts or mutual agreements provide for such informing.

## **Chapter 68**

### **Transfer of Criminal Proceedings Commenced in Latvia**

#### **Section 741. Content and Condition of a Transfer of Criminal Proceedings**

(1) Transfer of criminal proceedings is the suspension thereof in Latvia and the continuation thereof in a foreign state, if there are grounds for holding a person suspect, or prosecuting a person, for the committing of an offence, but the successful and timely performance of the criminal proceedings in Latvia is not possible or hindered, and, in addition, transfer to the foreign state promotes such impossibility or hindrance.

(2) The transfer of criminal proceedings in which a judgment of conviction has entered into effect shall be admissible only if the judgment may not be executed in Latvia, and the foreign state in which the convicted person resides does not accept a judgment of another state for execution.

#### **Section 742. Competent Authorities**

(1) The Prosecutor General's Office shall submit a request to a foreign state regarding the transfer of criminal proceedings during pre-trial proceedings.

(2) The Ministry of Justice shall submit a request to a foreign state regarding the transfer of criminal proceeding during a trial or after entering into effect of a judgment.

#### **Section 743. Grounds for the Transfer of Criminal Proceedings**

The following are grounds for the transfer of criminal proceedings commenced in Latvia to a foreign state:

1) a request submitted by Latvia for taking over criminal proceedings, and the consent of a foreign state to takeover such criminal proceedings;

2) a request submitted by a foreign state for the transfer of criminal proceedings, and the consent of Latvia to transfer criminal proceedings taking place in Latvia for the continuation thereof in the foreign state.

#### **Section 744. Reasons for a Transfer of Criminal Proceedings**

(1) 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 state of citizenship;

2) the suspect, accused, or convicted person is located in a foreign state and his or her extradition is not possible or has been refused;

3) criminal proceedings are being performed in a foreign state against the same person and regarding the same criminal offence, as well as other offences;

4) the most important evidence or the majority of witnesses are located in a foreign state;

5) the ensuring of the presence of the accused in criminal proceedings in Latvia is not possible;

6) it is or will not be possible to execute a punishment 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 state, 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 state 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 state has been received regarding a takeover of criminal proceedings;
- 2) Latvia has given consent for a transfer to a foreign state of criminal proceedings taking place in Latvia.

(3) Proceedings may be renewed in Latvia, if a report has been received:

- 1) regarding a retraction of a takeover;
- 2) that proceedings regarding an offence in a foreign state have been terminated.

#### **Section 747. Arrest**

(1) If there are grounds to believe that a person will attempt to evade criminal proceedings in the state that received a request, the competent authority shall send a request regarding 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 state 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 punishment.

#### **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 state regarding a transfer of criminal proceedings;
- 3) a foreign state with which a treaty regarding a transfer of criminal proceedings does not exist has provided a sufficient guarantee that the limits of a punishment and criminal liability specified in Section 739 of this Law will be complied with.

## **Division Sixteen**

### **Recognition of Judgments of a Foreign State and Execution of Punishments**

[24 May 2012]

## **Chapter 69**

### **General Provisions for the Execution in Latvia of a Punishment Imposed in a Foreign State**

#### **Section 749. Content of the Execution of a Punishment Imposed in a Foreign State**

(1) Execution of a punishment imposed in a foreign state shall be the recognition of the validity and legality of such punishment on an undisputed basis and execution according to the same procedures as in case where the punishment would have been specified in criminal proceedings taking place in Latvia.

(2) Recognition of the validity and legality of a punishment imposed in a foreign state shall not preclude the coordination thereof with the sanction provided for in The Criminal Law for the same offence.

#### **Section 750. Conditions for the Execution of a Punishment Imposed in a Foreign State**

(1) Execution of a punishment imposed in a foreign state shall be possible if:

- 1) the foreign state has submitted a request regarding the execution of the punishment imposed therein;
- 2) the punishment in the foreign state has been specified by a valid ruling in terminated criminal proceedings;
- 3) the limitation period has not set it for the execution of the punishment in the foreign state or Latvia;

4) the person convicted in the foreign state is a Latvian citizen or his or her permanent place of residence is in Latvia, or he or she is serving a punishment related to deprivation of liberty in Latvia and has been convicted with deprivation of liberty or arrest in a foreign state, which could be executed right after serving of the punishment imposed in Latvia;

5) the foreign state would not be able to execute the punishment, even by requesting extradition of the person;

6) execution of the punishment of Latvia would promote resocialization of the person convicted in the foreign state.

(2) Execution of a fine or confiscation of property applied in a foreign state shall be possible also if the person convicted in the foreign state owns a property or has other income in Latvia.

#### **Section 751. Reasons for Refusal of the Execution in Latvia of a Punishment Imposed in a Foreign State**

A request regarding the execution of a punishment imposed in a foreign state may be refused if:

1) there is a reason to believe that the punishment 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 punishment would be in contradiction with international commitments of Latvia to another state;

3) execution of the punishment may harm the sovereignty, security, public order or other essential interests of the State of Latvia;

4) a person convicted in a foreign state for the same offence could not be punished in accordance with The Criminal Law;

5) execution of the punishment would be in contradiction with the basic principles of the legal system of Latvia;

6) criminal proceedings regarding the same offence, for which a punishment has been imposed in a foreign state, are taking place in Latvia;

7) execution of the punishment in Latvia is not possible;

8) the offence has not been committed in the foreign state, which imposed the punishment to be executed;

9) expenditure for execution of the punishment are not commensurate with the seriousness of and harm caused by the criminal offence;

10) the foreign state itself is able to execute the judgment;

11) Latvia does not have a contract with the foreign state regarding the execution of punishments imposed in another state.

#### **Section 752. Time Limitations for Execution of a Punishment**

(1) Execution of a punishment imposed in a foreign state shall be limited by both the time limitations for the execution of a punishment provided for in The Criminal Law and the time limitations for the execution of a punishment provided for in laws of the relevant foreign state.

(2) Circumstances affecting the running of limitation periods in a foreign state shall also affect it to the same extent in Latvia.

#### **Section 753. Inadmissibility of Double Trial**

A punishment imposed in a foreign state shall not be executed in Latvia, if a person convicted in the foreign state has served a punishment imposed in Latvia or a third country for the same offence, has been convicted without determination of a punishment, has been released by amnesty or clemency or has been acquitted for the same offence.

#### **Section 754. Procedures for Examination of a Request Regarding Execution of a Punishment Imposed in a Foreign State**

(1) Having received a request of a foreign state regarding the execution of a punishment 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 state 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 states regarding the execution of a punishment imposed in such foreign states 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 of a decision to recognise the judgment of a foreign state and execution of a punishment in Latvia. The request shall be examined by a judge according to the place of residence of a convicted person in a foreign state. If the place of residence of the person is unknown, the request of the foreign state 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 state 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 Punishment Imposed in a Foreign State in the Absence of a Person (*in absentia*)**

(1) If a judgment has been rendered in a foreign state, except a European Union Member State, in the absence of a person (*in absentia*) and Latvia has a contract with the foreign state regarding the execution of a punishment imposed in the absence of a person (*in absentia*), prior to taking a decision to recognise a judgment of a foreign state and execution of a punishment in Latvia a court shall issue a notification to the person convicted in the relevant foreign state, indicating that:

1) the request regarding the execution of a punishment has been submitted by a foreign state, with which Latvia has a contract regarding the execution of a punishment imposed in the absence of a person (*in absentia*);

2) the person convicted in the foreign state has the right, within 30 days from the day of receipt of the notification, to submit an application regarding examination in his or her presence in the relevant foreign state or Latvia of the case tried in his or her absence (*in absentia*);

3) the punishment will be conformed and executed in accordance with general procedure, if examination of the case in the presence of the person convicted in the foreign state 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 state 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 state with a note regarding issuance of the notification to the person convicted in the foreign state.

#### **Section 756. Submission of an Application of a Person Convicted in a Foreign State in his or her Absence (*in absentia*) to the Relevant Foreign State**

(1) If a person convicted in a foreign state 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 state, which imposed the punishment, a court shall postpone examination of the request of such state regarding execution of a punishment.

(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 a request regarding execution of a punishment imposed in the relevant foreign state 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 state regarding execution of a punishment undecided to the requesting state.

(4) If the person convicted in a foreign state in his or her absence (*in absentia*) is under temporary arrest upon request of the foreign state, such person shall be transferred to the relevant foreign state for examination of an application in his or her presence. In such case the state which imposed the punishment shall decide on the matter of further holding under arrest of such person.

(5) If the person convicted in a foreign state in his or her absence (*in absentia*) who has submitted an application to the state which imposed the punishment has been placed under arrest due to other criminal proceedings or is serving a punishment for other offence, a court with the intermediation of the Ministry of Justice shall inform the foreign state thereof and assign the State Police to co-ordinate the time when the person may be transferred to the relevant foreign state for participation in examination of the application.

(6) If the law of the foreign state allows it, the person convicted in such foreign state 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 state in the process taking place in such foreign state. If the person has invited an advocate of the foreign state 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) Invitation of an advocate of the foreign state shall not affect the right of the person convicted in such foreign state 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 State in his or her Absence (*in absentia*) to Latvia and Procedures for Examination Thereof**

(1) If a person convicted in a foreign state 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 state thereof.

(2) A summons to a court in a foreign state 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 state and execution of the punishment in Latvia;

2) on allowing the application of the person convicted in the foreign state 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 state to send the necessary materials related to trial of the offence at the disposal of the foreign state, specifying the deadline by which materials should be sent. Having received the materials of the foreign state, 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 state shall be assessed in the same way as the evidence obtained in Latvia.

#### **Section 758. Procedures for Examination of a Request Regarding Execution of a Punishment (ordonnance penale) Determined in a Foreign State According to Extrajudicial Procedures**

(1) In the cases provided for in international agreements the punishment specified in a foreign state in accordance with extrajudicial procedures shall be executed according to the same procedures as the punishment imposed as a result of trial.

(2) Having received a request regarding the execution in Latvia of the punishment determined in accordance with extrajudicial procedures, a court shall issue a notification to the person upon whom a punishment in a foreign state has been determined, indicating therein:

1) the request regarding the execution of a punishment imposed in a foreign state has been submitted by the foreign state, with which Latvia has a contract regarding the execution of the punishment determined in other state in accordance with extrajudicial procedures;

2) within 30 days, the person may request examination of the case in a court in a foreign state or Latvia by submitting an application to the competent authority of Latvia;

3) the punishment will be conformed to and executed in accordance with general procedure, 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 execution of the punishment determined in accordance with extrajudicial procedures shall have the same consequences and subsequent procedures for examination shall be the same as for an application if the punishment has been imposed in the absence of the person convicted in a foreign state (*in absentia*).

#### **Section 759. Recognition and Execution of a Punishment Imposed in a Foreign State**

(1) A judge of a district (city) court shall, within 30 days, examine a request of a foreign state regarding execution of a punishment imposed in the foreign state 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 punishment imposed in the foreign state;

2) on refusal to recognise the judgment and execute the punishment imposed in the foreign state.

(2) If a ruling of a foreign state applies to two or more offences, not all of which are offences, for which execution of the punishment is possible in Latvia, a judge shall request to specify more precisely, which part of the punishment 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 state and with the intermediation of the Ministry of Justice - to the foreign state and the person convicted therein, if he or she is in the foreign state.

#### **Section 760. Determination of a Punishment 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 a punishment to be executed in Latvia in a written procedure, if a person convicted in a foreign state and a public prosecutor does not object thereto.

(2) The factual circumstances established in a court ruling of a foreign state and the guilt of a person shall be binding to a court of Latvia.

(3) The punishment determined in Latvia shall not deteriorate the condition of a person convicted in a foreign state, however, it shall conform to the punishment determined in the relevant foreign state as much as possible.

(4) Concurrently with a notification regarding the decision referred to in Section 759, Paragraph one, Clause 1 of this Law a judge shall inform a person convicted in a foreign state and a public prosecutor regarding the right, within 10 days from the day of receipt of the notification, to submit objections against the determination of the punishment to be executed in Latvia in a written procedure, to submit recusation for a judge, to submit an opinion on the punishment to be executed in Latvia, as well as on the day of availability of the decision.

(5) If a person convicted in a foreign state is serving a punishment of deprivation of liberty in the state that submitted the request, the relevant person shall be informed regarding the right referred to in Paragraph four of this Section immediately after transfer thereof to Latvia.

(6) If a person convicted in a foreign state or a public prosecutor has submitted objections against the determination of the punishment 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 state is under arrest in the foreign state or is serving a punishment of deprivation of liberty in the relevant foreign state, and an issue on determination of the punishment to be executed in Latvia, which is not related to deprivation of liberty, is being decided, technical means shall be used for ensuring of the participation or temporary transfer of the person to Latvia shall be requested.

(7) A person convicted in a foreign state or a public prosecutor may appeal a decision of a judge on determination of the punishment to be executed in Latvia to the Supreme Court within 10 days from the day of availability of the decision.

(8) A complaint shall be examined according to the same procedures as a cassation complaint or protest submitted in criminal proceedings taking place in Latvia, and in such extent as allowed by the international agreements binding to Latvia and this Chapter.

(9) If a decision of a judge on determination of the punishment to be executed in Latvia has not been appealed

within the time period specified in Law or a decision has been appealed and the Supreme 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 state shall be attached to the decision.

*[19 December 2013]*

#### **Section 761. Conformity with a Foreign State Judgment in Criminal Proceedings Taking Place in Latvia**

(1) In determining a punishment in criminal proceedings taking place in Latvia to a person, in relation to whom a foreign state has requested to execute the punishment in Latvia, the punishment to be executed in Latvia shall be added to the punishment imposed in the foreign state according to the norms of The Criminal Law regarding determination of a punishment after several rulings.

(2) When classifying offences according to The Criminal Law, an offence, for which the punishment imposed in the foreign state 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 Punishment Imposed in a Foreign State**

(1) Execution of a punishment, which has been imposed in a foreign state, determined for execution in Latvia shall take place according to the same procedures as execution of the punishment 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 state on reduction of the punishment, amnesty or clemency shall apply to a person.

(3) Only the state in which the judgment was rendered has the right to re-examine the judgment.

(4) Execution of a punishment shall be discontinued and a request of a foreign state regarding the execution of a punishment shall be cancelled by a decision taken in the relevant foreign state on revocation of a judgment of conviction.

(5) A notification of a foreign state 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 state contains an unequivocal information regarding immediate termination of the execution of a punishment or the final date, it shall be transferred to the institution executing the punishment 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 punishment related to deprivation of liberty 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 state 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 State**

(1) The Ministry of Justice shall notify a foreign state that a request thereof regarding the execution of a punishment applied in the foreign state 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 state regarding:

- 1) a decision to recognise the judgment and to execute the punishment imposed in the foreign state;
- 2) a refusal to recognise the judgment and to execute the punishment imposed in the foreign state;
- 3) a decision to determine the punishment to be executed in Latvia;
- 4) an amnesty and clemency decision;
- 5) completion of execution of the punishment;
- 6) if the foreign state has requested a special report.

(3) In relation to a ruling made in the foreign state, by which the punishment of deprivation of liberty 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 state regarding:

- 1) the beginning and the end of the early conditional release term, if the state 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 state, 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 state regarding:

- 1) substitution of the fine;
- 2) inability to execute the ruling.

(5) In relation to a ruling made in the foreign state, 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 state 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 state, 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 Punishment Related to the Deprivation of Liberty Imposed in a Foreign State**

#### **Section 764. Grounds for the Execution in Latvia of a Punishment Related to the Deprivation of Liberty Imposed in a Foreign State**

(1) The grounds for the execution in Latvia of a punishment related to the deprivation of liberty imposed in a foreign state (hereinafter - the punishment of deprivation of liberty) shall be as follows:

- 1) a request of the Ministry of Justice to transfer the execution of a punishment of deprivation of liberty to Latvia and the consent of the foreign state for such transfer;
- 2) a request of the foreign state to take over the punishment of deprivation of liberty imposed in the foreign state 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 state is in the foreign state or in Latvia.

#### **Section 765. Verification of the Possibility to Execute in Latvia a Punishment of Deprivation of Liberty Imposed in a Foreign State**

(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 state has been received, or upon its own initiative.

(2) If a request of a person convicted in a foreign state 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 a possibility of submitting a request to the relevant foreign state regarding the execution in Latvia of a punishment of deprivation of liberty imposed in the foreign state.

#### **Section 766. Conditions for the Execution in Latvia of a Punishment of Deprivation of Liberty Imposed in a Foreign State**

In addition to the conditions referred to in Section 750 of this Law the execution in Latvia of a punishment of deprivation of liberty imposed in a foreign state shall be possible, if at the time of receipt of the request the person convicted in the relevant foreign state has at least six months remaining until the end of serving the punishment of deprivation of liberty. As an exception the person may be taken over for serving the punishment also if the time period of serving the punishment is less than six months.

#### **Section 767. Consent of a Person Convicted in a Foreign State for his or her Takeover for Serving the Punishment of Deprivation of Liberty in Latvia**

(1) A person convicted in a foreign state who is serving the punishment of deprivation of liberty in the foreign state may be taken over for serving the punishment in Latvia, if the person agrees thereto.

(2) A person convicted in a foreign state may be taken over for serving of the punishment in Latvia without a consent of the relevant person if:

- 1) the person is in Latvia;
  - 2) the person has escaped from serving the punishment in the foreign state and has entered Latvia and the relevant foreign state has requested to ensure the serving of the punishment in Latvia;
  - 3) the judgment or administrative decision contains an order regarding removal or deportation of the person from the foreign state 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 punishment is necessary, and if the representative of the person convicted in the foreign state agrees thereto.
- (3) A person convicted in a foreign state 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 state and other conditions of Section 766 of this Law exist.

#### **Section 768. Takeover of a Person Convicted in a Foreign State**

- (1) Having taken the decision referred to in Section 759, Paragraph one, Clause 1 of this Law and received a consent of the foreign state to transfer the person convicted in the foreign state for serving of the punishment of deprivation of liberty in Latvia, a court shall assign the State Police to take over the person, co-ordinating with the relevant foreign state. After delivery of the person convicted in the foreign state 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 punishment to be executed in Latvia is taken.
- (2) The person convicted in the foreign state who is requested by the foreign state 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 Punishment of Deprivation of Liberty to be Executed in Latvia**

- (1) The punishment of deprivation of liberty 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 punishment specified in a court of the foreign state does not conform to the punishment specified in The Criminal Law for the same offence, a court shall amend it according to the punishment, 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 punishment shall not exceed the maximum punishment specified in The Criminal Law for the same offence;
  - 2) the type and level of the punishment shall conform as much as possible to that specified in the judgment;
  - 3) the minimum limit of the punishment specified in The Criminal Law is not of significance.
- (3) A court decision to determine the punishment of deprivation of liberty to be executed in Latvia shall determine:
- 1) the continuation of serving the punishment and the punishment 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 state;
  - 3) the part of additional punishment to be executed, if The Criminal Law does not provide for such additional punishment.
- (4) The punishment of deprivation of liberty imposed in a foreign state shall not be substituted with a fine.
- (5) If a person has not been punished with a criminal punishment in a foreign state due to mental disorders or mental disability, however, he or she has been applied other measures related to deprivation of liberty, 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 State**

- (1) The Ministry of Justice may assign the police to detain a person convicted in a foreign state, 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 state notifies regarding the intent thereof to request execution of the punishment of deprivation of liberty imposed therein and requests to arrest the person due to his or her evasion of the punishment;

2) the Ministry of Justice foresees that the person convicted in the foreign state, regarding whom the foreign state has submitted a request regarding the execution of the punishment of deprivation of liberty imposed therein, will evade the participation in a court session regarding determination of the punishment 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 state requests to execute the punishment of deprivation of liberty imposed therein and to arrest the person due to his or her evasion of the punishment.

(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 state thereof and request to send a request regarding the execution of the punishment of deprivation of liberty imposed therein within 18 days after the day when the person was detained.

#### **Section 771. Temporary Arrest of a Person Convicted in a Foreign State**

(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 regarding the execution of the punishment of deprivation of liberty imposed in a foreign state, 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 state has not submitted a request regarding the execution of the punishment of deprivation of liberty imposed therein together with the necessary annexes within 18 days from the day of detaining;

2) a court has established that execution of the punishment in Latvia is not possible;

3) a court, in determining the punishment 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 punishment to be executed in Latvia, a court may, until the time when a decision enters into effect and an order regarding the execution of the punishment 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 of the punishment in Latvia without his or her consent shall not be held criminally liable, tried or transferred to serving the punishment for other offences committed before taking over of the person, except 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 state, which imposed the punishment, for criminal prosecution, trial or execution of the punishment 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 Punishment of Deprivation of Liberty has been Imposed**

#### **Section 774. Grounds for the Execution of a Ruling Made in a European Union Member State, by which a Punishment of Deprivation of Liberty has been Imposed**

The grounds for recognition and execution of a ruling made in a European Union Member State, by which a punishment of deprivation of liberty has been imposed, (hereinafter - the ruling on the punishment of deprivation of liberty) is a ruling of the competent authority of the European Union Member State, which has entered into effect, on the punishment of deprivation of liberty 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 punishment of deprivation of liberty.

#### **Section 775. Conditions for the Execution of a Ruling on the Punishment of Deprivation of Liberty Made in a European Union Member State**

(1) A ruling made in a European Union Member State on the punishment of deprivation of liberty 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 punishment of deprivation of liberty 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 punishment shall be executed as defined in this Chapter.

[18 February 2016]

#### **Section 776. Reasons for Refusal of Recognition and Execution of a Ruling on the Punishment of Deprivation of Liberty Rendered in a European Union Member State**

(1) Recognition and execution of a ruling on the punishment of deprivation of liberty 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 punishment, 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 punishment 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 sets in;

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 of the punishment;

9) prior to taking of a decision on the recognition and execution of a ruling on the punishment of deprivation of liberty, 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 punishment of the person convicted in the state 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 punishment contains a measure related to psychiatric or health care or other measure related to deprivation of liberty, which cannot be executed in Latvia;

11) it is not possible to execute the punishment because the person convicted in a European Union Member State is not in Latvia.

(2) Recognition and execution of a ruling on the punishment of deprivation of liberty may be refused also if it has been made in the absence of the person (*in absentia*), except in cases when the relevant person:

- 1) has received summons or has been otherwise informed that the ruling may be made without his or her presence;
- 2) has been informed regarding the proceedings and his or her defence counsel has participated in a court session;
- 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 punishment of deprivation of liberty 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 punishment of deprivation of liberty 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 Punishment of Deprivation of Liberty Rendered in a European Union Member State**

(1) A judge of a district (city) court shall take a decision on recognition and execution of a ruling on the punishment of deprivation of liberty in accordance with the procedures referred to in Section 759 of this Law and the punishment 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 punishment of deprivation of liberty 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 punishment of deprivation of liberty 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 Punishment of Deprivation of Liberty Imposed in a European Union Member State**

Execution of a punishment of deprivation of liberty 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 Punishment**

(1) A person convicted in a European Union Member State who has been taken over for serving of the punishment of deprivation of liberty in Latvia may not be held criminally liable, tried, or punishment 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 punishment of deprivation of liberty 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 punishment or measure, which is not related to deprivation of liberty;
- 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 punishment of deprivation of liberty, for criminal prosecution, trial or execution of the punishment 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 State**

#### **Section 783. Principles for the Assessment of a Request of a Foreign State 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 state 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 state and The Criminal Law also provides for a fine or a more severe punishment as a basic punishment regarding 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 state 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 judgment of conviction.

(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 the case where only a more severe type of punishment 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 state 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 deprivation of liberty, if such substitution is allowed in the laws of the foreign state that rendered the judgment. In such case, the substitution of a punishment 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 state, in submitting a request regarding execution of the punishment, has specially justified such non-substitution. In such case a court, with the intermediation of the Ministry of Justice, shall inform the foreign state regarding inability to execute the request regarding the execution of the punishment 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), the compensation specified in the same ruling 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) 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]

### **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 ruling on the recovery of a financial nature;

3) there are grounds to believe that the punishment has been determined 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 considered an offence according to the laws of Latvia;

5) the immunity from criminal proceedings referred to in Chapter 8 of this Law exists;

6) the execution of punishment is not possible in Latvia;

7) the limitation period has set it for execution of the punishment 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 state 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 ruling was proclaimed).

(2) Execution of the ruling 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 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 regarding the proceedings and his or her defence counsel has participated in a court session;

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 September 2013]*

#### **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 Section 784, Paragraphs two and four 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 punishment, 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 State**

#### **Section 790. Principles for the Assessment of a Confiscation of Property Applied in a Foreign State**

The procedures referred to in Chapter 69 of this Law shall be applied to the assessment of a request of a foreign state 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 applied in a foreign state and if property should be confiscated in Latvia for the same offence. Confiscation of property provided for in a ruling of a foreign state shall be executed regardless of in which proceedings it was applied in the foreign state.

(2) If a judgment of a foreign state provides for the confiscation of property, but The Criminal Law does not provide for the confiscation of property as a basic punishment or additional punishment, confiscation shall be applied only in the amount established in the judgment of the foreign state, that the object to be confiscated is an instrumentality of the committing of the offence or has been obtained by criminal means.

(3) The amount of a confiscation of property imposed in a foreign state, 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) attachment imposed on 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]*

### **Section 792. Conditions in Respect of the Division of Money or Property Acquired as a Result of a Confiscation of Property with Foreign States**

(1) A request regarding the division of money or property acquired as a result of a confiscation of property shall be decided by the Ministry of Justice in each particular case.

(2) In examining a request regarding division of money acquired as a result of a 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 obtained as a result 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 announcement of the ruling on the confiscation of property), the Ministry of Justice shall take a decision to refuse to transfer the money to a foreign state. If the money obtained as a result 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 announcement of the ruling on the confiscation of property), the Ministry of Justice, upon consulting with a foreign state, shall take a decision to transfer to the foreign state not more than half of the money or the amounts specified in a request of the foreign state.

(4) The Ministry of Justice, upon consulting with a foreign state, 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 request of a foreign state the Ministry of Justice may take a decision to return the property acquired as a result of a confiscation of property to the foreign state.

(6) The Ministry of Justice shall refuse a request regarding the division of money or property acquired as a result of a confiscation of property, if the request is received after one year from the day of sending of a notification regarding the execution of the ruling on the confiscation of property.

(7) The Cabinet shall determine the procedures by which money or property acquired as a result of a confiscation of property shall be divided with foreign states and the procedures by which money shall be transferred, as well as the criteria for the division of money or property.

*[12 September 2013]*

## **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**

The grounds for the execution of a ruling of a European Union Member State on the confiscation of the property, the instrumentalities of a criminal offence and the proceeds of crime in Latvia (hereinafter - the ruling on the confiscation of property) shall be as follows:

- 1) the ruling on the confiscation of property or a certified copy thereof and a certification of a special form;
- 2) a 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 confiscation of property to be executed in Latvia and a writ of execution regarding transfer of the decision for execution.

#### **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 ruling;

4) immunity from criminal proceedings provided for in Chapter 8 of this Law is present;

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 punishment has been determined 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 ruling 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 in cases where the person:

1) had received summons or had been otherwise informed that the ruling may be rendered without his or her presence;

2) has been informed regarding the proceedings and his or her defence counsel has participated in a court session;

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 execution of confiscation of property is commenced in Latvia.

(2) A sworn bailiff, having established the reasons referred to in Paragraph one of this Section, shall defer the execution of the decision on the confiscation of property and perform measures for ensuring the execution of confiscation of property. A sworn bailiff shall notify a court and the Ministry of Justice regarding deferring the execution of the decision.

(3) The Ministry of Justice shall inform a Member State which has made the ruling on deferring the execution of the ruling on the confiscation of property.

#### **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 judge of 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.

(2) A judge of the regional (city) court shall send the writ of execution to the court bailiff. It shall be indicated in a writ of execution that a decision has been taken upon a request of the competent authority of a European Union Member State regarding the confiscation of property, as well as in accordance with the information referred to in Section 634.<sup>1</sup>, Paragraph four of this Law. A judge of a district (city) court shall send to the Ministry of Justice a copy of the decision taken and the information regarding a bailiff, to which a decision has been sent for the execution.

(3) If the ruling on the confiscation of property is made for a certain amount of money, a judge of 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 a 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 judge of a district (city) court shall with the intermediation of the Ministry of Justice communicate with the European Union Member State, which made the ruling, for the receipt of an approval thereof. If the confirmation regarding complete execution of the ruling on the confiscation of property has been received, a judge of a district (city) court shall revoke a decision on the confiscation of property to be executed in Latvia. If the confirmation regarding partial execution of the ruling on the confiscation of property has been received, a judge of a district (city) court shall amend the decision in accordance with the received confirmation.

*[12 September 2013; 22 June 2017]*

### **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) attachment imposed on 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.

(2) The decisions of the relevant European Union Member State regarding reduction of a punishment, 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 legal facts provided for in Paragraphs two and three of this Section which transferred the decision for execution, and shall inform a sworn bailiff thereof.

### **Section 799. Submission of a Complaint Regarding Execution of the Ruling on the Confiscation of Property**

(1) A person, against whom or against whose property a decision on a confiscation of property to be executed in Latvia is directed against, may appeal the activities of a sworn bailiff in accordance with the procedures laid down in the Civil Procedure Law.

(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.

### **Section 800. Conditions for the Division of Money or Property Acquired as a Result of a Confiscation of Property with a European Union Member State**

(1) The Ministry of Justice, upon request of a European Union Member State, shall decide a matter on division of money or property obtained as a result of a confiscation of property with this Member State.

(2) If the money acquired as a result 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 proclamation of the ruling), the Ministry of Justice shall take a decision to refuse to transfer the money to a European Union Member State. If the money acquired as a result 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 proclamation of the ruling), the Ministry of Justice shall take a decision to transfer half of the money to the respective European Union Member State.

(3) The Ministry of Justice, upon consulting with the relevant European Union Member State, 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) The Ministry of Justice may, upon request of a European Union Member State, take a decision to return a property acquired as a result 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 or property acquired as a result of a confiscation of property, if the request is received after one year from the day of sending of a notification regarding the execution of the ruling on the confiscation of property.

(6) The Cabinet shall determine the procedures by which the money or property acquired as a result of a confiscation of property shall be divided with European Union Member States and by which the money shall be transferred, as well as the criteria for the division of money and property.

*[12 September 2013]*

## **Chapter 76**

### **Execution in Latvia of a Punishment of Restriction on Rights Determined in a Foreign State 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 state regarding recognition and execution of a punishment imposed in the foreign state, as well as determination of a punishment in accordance with the procedures referred to in Sections 759 and 760 of this Law.

(2) All the punishments of restrictions on rights, or deprivation of rights, specified in a foreign state that comply with the criteria for the imposition of such additional punishment 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 state.

(4) The court that determines a punishment to be executed in Latvia may not apply restrictions on rights, if such court does not see the usefulness of such application in the state thereof.

(5) Latvia may also specify restrictions on rights, which by their content apply to execution in all states, also if such punishment is being concurrently executed in a foreign state.

#### **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, in which a punishment is specified 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 a duty applied to a person in relation to a suspended sentence, conditional deferral of determination of a punishment or early conditional release from the punishment.

(4) Conditional deferral of determination of a punishment is a court judgment, by which determination of a punishment is conditionally deferred, applying one or several probationary measures, or in which one or several probationary measures are applied instead of the punishment of deprivation of liberty.

### **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 ruling on 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) immunity from criminal proceedings provided for in Chapter 8 of this Law is present;
- 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 the ruling on an alternative sanction may also be refused, if it has been taken in the absence of a person (*in absentia*), except in cases 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 regarding the proceedings and his or her defence counsel has participated in a court session;
- 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 punishment 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 punishment 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 punishment 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 punishment specified in The Criminal Law shall not have any significance.

(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.

#### **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 punishment, 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. Determination of a Punishment 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 punishment not related to deprivation or liberty or does not fulfil the probationary measures applied by a court without justifiable 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 punishment 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 punishment if the ruling on an alternative sanction is related to conditional deferral of the determination of a punishment or the ruling on an alternative sanction does not provide for the punishment of deprivation of liberty 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 State of a Punishment Imposed in Latvia**

[24 May 2012]

## Chapter 77

# General Provisions in Relation to Execution in a Foreign State of a Punishment Imposed in Latvia

### Section 808. Conditions for the Submission of a Request for the Execution of a Punishment

(1) Submission of a request to a foreign state regarding the execution of a punishment imposed in Latvia shall be possible if a ruling of a court has entered into effect and the execution of the punishment in the foreign state would promote resocialization of the convicted person.

(2) Latvia may request a foreign state to execute a punishment 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 state is the state of citizenship of the convicted person or his or her permanent place of residence is located in the foreign state;

2) a property of the convicted person is located in the foreign state or he or she has income there;

3) the foreign state is the state of citizenship of the convicted person, and the state has expressed a readiness to facilitate resocialization of the person;

4) Latvia would not be capable of executing the punishment, even by requesting extradition of the person.

(3) Prior to sending a request the Ministry of Justice may request an opinion of the foreign state on whether the offence for which the punishment has been imposed is criminal also in accordance with the laws of the foreign state.

### Section 809. Procedures for Sending of a Request Regarding the Execution of a Punishment

(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 state executes the punishment.

(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 state of a punishment imposed in Latvia, the Ministry of Justice shall prepare a request, ensure the translation of the request and send it to the foreign state.

(4) Upon request of a foreign state the Ministry of Justice shall send it the criminal case or certified copies of the documents in the criminal case.

(5) If a punishment has been determined for several offences or on the basis of several judgments, but not all the offences allow for the execution in a foreign state of the imposed punishment, 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 punishment in the foreign state is possible. The court shall determine the punishment in accordance with the procedures provided for in Division Thirteen of this Law.

### Section 810. Examination of a Complaint Regarding Execution in a Foreign State of a Punishment Applied 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 state if the complaint has been recognised as unacceptable or the person does not arrive to a court session.

(3) If the complaint has been accepted for examination, a court with the intermediation of the Ministry of Justice shall revoke a request regarding execution of a punishment imposed in Latvia.

#### **Section 811. Consequences of Submission of a Request Regarding the Execution of a Punishment**

(1) After a request regarding the execution of a punishment has been submitted to a foreign state, institutions of Latvia shall not perform any activities related to the execution of a punishment.

(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 the punishment of deprivation of liberty in Latvia or he or she has been applied a security measure - arrest.

(3) Confiscation of property or restriction on rights specified as an additional punishment in Latvia may be executed regardless of the submission of a request regarding the execution of a punishment to a foreign state.

#### **Section 812. Information to be Provided by the Ministry of Justice**

(1) If a request regarding the execution of a punishment in a foreign state has been sent and a consent of the foreign state 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 state regarding the end of serving the punishment the Ministry of Justice shall inform a court and the institution executing the punishment thereof.

#### **Section 813. Rights of Latvia during the Execution of a Punishment in a Foreign State**

(1) A court ruling, by which a punishment executed in a foreign state has been determined, 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 state thereof without delay. Such information shall cancel the previously submitted request regarding the execution of a punishment.

(3) If as a result re-examination a court ruling is amended in the part relating to the type, amount of the punishment or the conditions for execution thereof, the Ministry of Justice shall submit a supplement to the request regarding the execution of a punishment.

(4) Amnesty acts adopted in Latvia shall also apply to persons who have been imposed a punishment in Latvia, however, it is executed in a foreign state, therefore the Ministry of Justice shall send them without delay to foreign states to which requests regarding the execution of a punishment have been submitted, but from which information regarding termination of the execution thereof has not been received.

(5) A convicted person to whom punishment is executed in a foreign state may be pardoned in accordance with the procedures provided for in laws. The Ministry of Justice shall inform a foreign state regarding adopting of a clemency act without delay.

#### **Section 814. Recovery of the Right to Execute a Punishment**

(1) Latvia shall recover the right to execute a punishment if:

1) a request regarding the execution of a punishment has been revoked before a foreign state has notified its intent to execute the punishment;

2) a foreign state has notified regarding rejection of a request;

3) a foreign state unequivocally does not implement its right to execute a punishment, although it has notified its intent to do so;

4) as a result of hesitation of a foreign state execution of a punishment therein is not possible anymore.

(2) If a request regarding the execution of a punishment has been cancelled due to revocation of a court ruling, criminal proceedings in Latvia shall take place in accordance with general procedure.

(3) Regardless of the place of execution of a punishment anything that has been executed in Latvia and in a foreign state shall be included in the part of the punishment served.

(4) Execution of a punishment in Latvia shall not be possible if a foreign state has notified regarding termination of the execution of a punishment or it has become known that a person has been acquitted for the same offence, has served the punishment, convicted without determination of a punishment, pardoned or amnestied in another foreign state, with which Latvia has entered into an agreement regarding mutual recognition of judgments.

### **Section 815. Limitation Periods**

(1) The Ministry of Justice shall inform a foreign state 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 state shall not be an obstacle for the execution of a punishment in Latvia after recovery of the right to execute.

## **Chapter 78**

### **Execution in a Foreign State of a Punishment of Deprivation of Liberty Imposed in Latvia**

#### **Section 816. Grounds for the Execution in a Foreign State of a Punishment of Deprivation of Liberty Imposed in Latvia**

(1) The grounds for the execution in a foreign state of a punishment of deprivation of liberty imposed in Latvia shall be as follows:

1) a request of the Ministry of Justice to execute in a foreign state a punishment of deprivation of liberty imposed in Latvia and a consent of the foreign state thereto;

2) a request of a foreign state to transfer the execution of a punishment of deprivation of liberty imposed in Latvia to the foreign state 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 state 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 state or in Latvia.

#### **Section 817. Conditions in Relation to Sending of a Request Regarding the Execution in a Foreign State of a Punishment of Deprivation of Liberty Imposed in Latvia to the Relevant Foreign State**

(1) In addition to the conditions referred to in Section 808 of this Law sending a request regarding the execution in a foreign state of a punishment of deprivation of liberty 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 punishment. In an exceptional case a request may be submitted if the term of serving of the punishment is lesser.

(2) The Ministry of Justice may request a foreign state to take over for the execution of a punishment of deprivation of liberty 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 State of a Punishment of Deprivation of Liberty**

(1) If a convicted person is serving a punishment of deprivation of liberty in Latvia, a foreign state may be requested to execute the punishment of deprivation of liberty if the convicted person agrees thereto.

(2) If a request of a representative of the convicted person or a foreign state regarding transfer of the execution of a punishment of deprivation of liberty to the foreign state has been received and a wish of the convicted person to serve the punishment in the foreign state 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 state has expressed such wish, the Ministry of Justice shall ensure an opportunity for the representative of the foreign state, regarding whom both states have agreed, to examine the circumstances in which the convicted person gave his or her consent.

(4) If a convicted person is serving a punishment of deprivation of liberty in Latvia, Latvia and the foreign state 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 punishment is necessary and the representative of the convicted person agrees thereto.

(5) The consent of a person convicted with a punishment of deprivation of liberty shall not be necessary if he or she has escaped from serving of the punishment to the state of his or her citizenship.

(6) The consent of a person convicted with a punishment of deprivation of liberty 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 of the punishment. 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 deprivation of liberty institution shall, within 10 days after it has received an order of a judge regarding execution of the judgment, inform a foreigner convicted in Latvia or a person whose permanent place of residence is not in Latvia, regarding the right of the person to express his or her wish to serve a punishment in the state 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 punishment.

(2) The convicted person shall submit his or her request regarding execution in a foreign state of a punishment of deprivation of liberty imposed in Latvia to the Ministry of Justice, which shall, without delay, inform the convicted person in writing regarding sending of a notification to the foreign state and regarding the results of examination of the request.

(3) The following shall be indicated in a notification to a foreign state:

- 1) the given name, surname, place and date of birth of the convicted person;
- 2) the address of the convicted person in the foreign state, if such address exists;
- 3) the offence, for which the punishment has been imposed;
- 4) the type and amount of the punishment, as well as the time when serving of the punishment was commenced.

*[18 February 2016]*

#### **Section 820. Examination of a Request Regarding the Execution in a Foreign State of a Punishment of Deprivation of Liberty**

(1) If a person has been convicted in Latvia with a punishment of deprivation of liberty and is located in a foreign state, 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 punishment of deprivation of liberty in Latvia and a request of the person or of a foreign state regarding the execution of a punishment of deprivation of liberty in the relevant foreign state 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 state:

- 1) a document or notification that the convicted person is a citizen of the state or he or she has a permanent place of residence in the state;
- 2) the text of the law, according to which the offence for which the person has been convicted is deemed criminal in the state;
- 3) information regarding what procedure for determination of the punishment - continuation or changing - will be applied by the foreign state.

(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 punishment of deprivation of liberty in a foreign state;
- 2) to agree to the execution of a punishment of deprivation of liberty in a foreign state;
- 3) to reject a request regarding the execution of a punishment of deprivation of liberty in a foreign state.

(4) Concurrently with the notification referred to in Section 819 of this Law the Ministry of Justice may send a request to the foreign state regarding takeover of the execution of a punishment of deprivation of liberty in the foreign state, 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 state.

(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 punishment already served, the time period of pre-trial arrest, reduction of the punishment or any other condition important for serving of the punishment;

2) a consent of the convicted person to serving of the punishment in a foreign state;

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 state.

#### **Section 821. Transfer of a Convicted Person and Legal Consequences Thereof**

(1) If Latvia has agreed to the execution of a punishment of deprivation of liberty in a foreign state or a foreign state 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 state and transfer him or her to the relevant foreign state.

(2) In conformity with Section 813 of this Law, execution of a punishment in Latvia shall be suspended if the convicted person is moved across the State border of the Republic of Latvia. Execution of a punishment shall not be renewed if a foreign state has notified that serving of the punishment has been terminated.

(3) In addition to the conditions referred to in Section 814 of this Law execution of the punishment shall be renewed if a foreign state notifies that:

1) the person has escaped from the deprivation of liberty institution;

2) execution of the punishment 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 punishment in Latvia and there is justified suspicion that he or she might evade serving of a punishment of deprivation of liberty in a foreign state, a court may, in accordance with Section 808 of this Law, propose the Ministry of Justice to request the foreign state that it places the person under arrest until submission of and deciding on a request regarding the execution of the punishment imposed in Latvia.

(2) If a person has been placed under arrest in a foreign state on the grounds of the request indicated in Paragraph one of this Section, a request regarding the execution of a punishment 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 state for participation in proceedings regarding determination of the punishment to be executed. If a court of a foreign state establishes that execution of the punishment imposed in Latvia is not possible in the state, Latvia shall take over the person placed under arrest and decide on his or her holding under arrest or release in accordance with general procedure.

(4) If the laws of a foreign state allow it, a person placed under arrest in Latvia may participate in the proceedings for determination of the punishment, using technical means.

(5) If a judgment is revoked in Latvia, on the grounds of which a foreign state executes the punishment of deprivation of liberty, and the case is transferred for examination de novo, a court with the intermediation of the Ministry of Justice shall inform the relevant foreign state 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 Punishment of Deprivation of Liberty Imposed in Latvia**

#### **Section 823. Conditions in Relation to Sending of a Request Regarding the Execution in a European Union Member State of a Punishment of Deprivation of Liberty Imposed in Latvia to the Relevant European Union Member State**

(1) Submission of a request to a European Union Member State regarding the execution of a punishment of deprivation of liberty 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 punishment;

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 punishment.

*[See Paragraph 35 of Transitional Provisions]*

#### **Section 824. Opinion of a Convicted Person**

(1) If a convicted person is serving a punishment of deprivation of liberty in Latvia and a request to execute the punishment in a European Union Member State has been received, however, a wish of the convicted person expressed in writing to serve the punishment 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 Punishment 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 punishment of deprivation of liberty 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 deprivation of liberty institution.

(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 punishment. 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 punishment 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 punishment of deprivation of liberty in Latvia, he or she shall be issued a document of a special form regarding informing of the convicted person regarding sending of 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 state, 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 punishment will promote resocialization of the convicted person in the state, 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 punishment 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 punishment, 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 punishment.

(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 Punishment in a European Union Member State**

The rights of Latvia during the execution of a punishment 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 punishment in Latvia shall be suspended when a convicted person is moved across the State border of the Republic of Latvia. Execution of a punishment may not be renewed if a European Union Member State notifies that the person has escaped from the deprivation of liberty institution. Execution of a punishment shall be renewed, if the respective foreign state notifies that the person has escaped from the deprivation of liberty institution.

## **Chapter 80**

## **Execution in a Foreign State 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 State**

(1) In conformity with the conditions and procedures referred to in Chapter 77 of this Law, the Ministry of Justice may request that the confiscation of property applied in Latvia, which has been applied as a basic punishment or additional punishment, is executed or the property is to be confiscated on another basis provided for in the law (hereinafter - the ruling on the confiscation of property).

(2) The ruling made in Latvia on the confiscation of property may be sent concurrently to several foreign states, if property is located in a different foreign state or confiscation is related to activities in several foreign states. When sending several rulings on the confiscation of property, the Ministry of Justice shall inform all foreign states involved in the execution of the ruling thereon.

*[29 January 2015]*

### **Section 833. Consequences of the Execution of a Confiscation of Property**

(1) Having received information from a foreign state regarding the execution of the ruling on the confiscation of property, the Ministry of Justice may request that the foreign state 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 state 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 state 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 public 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 it is not possible to execute the ruling made in Latvia on the confiscation of property 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 shall 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.

#### **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 the ruling on the confiscation of property, if the money acquired as a result of the confiscation of property exceeds EUR 10 000 (by 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 punishment related to deprivation of liberty has been served, to a European Union Member State during the serving of a punishment related to deprivation of liberty upon a submission of a deprivation of liberty institution 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.

(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.

### **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 regarding 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, if the remaining term of the punishment 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.

(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.

### **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 State in the Performance of Procedural Actions**

*[24 May 2012]*

#### **Section 845. Grounds for the Assistance to a Foreign State in the Performance of Procedural actions**

The grounds for procedural assistance are the following:

1) a request of a foreign state regarding the provision of assistance in the performance of a procedural action (hereinafter in this Chapter also - the request of a foreign state);

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 State**

(1) In the pre-trial proceedings, the Prosecutor General's Office shall examine and decide the request of a foreign state, 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 state.

(3) If states 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 State**

(1) The request of a foreign state regarding the provision of assistance in the performance of a procedural action shall be fulfilled in accordance with the procedures laid down in this Law.

(2) A request may be fulfilled in accordance with other procedures if so requested by a foreign state and if such execution is not in contradiction with the basic principles of the criminal procedure of Latvia.

(3) Upon the request of a foreign state, the competent authority may permit a representative of a foreign state 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 state, shall be executed regardless of the proceedings in which it is requested in the foreign state.

*[24 May 2012; 30 March 2017]*

#### **Section 848. Deciding on the Request of a Foreign State**

(1) The request of a foreign state regarding the provision of assistance in the performance of a procedural action shall be decided immediately, but not later than within 10 days after receipt thereof. If additional information is necessary for deciding of a request, such information shall be requested from the state that submitted the request.

(2) In examining the request of a foreign state, 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.

(3) The state 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 state has so requested.

*[24 May 2012]*

#### **Section 849. Execution of the Request of a Foreign State**

(1) An investigating institution, the Prosecutor's Office or a court shall execute the request of a foreign state under the assignment of the competent authority.

(2) The institution executing the request of a foreign state shall, in a timely manner, inform the foreign state, 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 state the materials obtained as a result of the execution of the request.

(3) If a procedural action has not been performed or has been performed partially, a foreign state shall be notified regarding the reasons for the non-execution of a request.

(4) If, in executing the request of a foreign state, facts are acquired for the further examination of which the performance of other emergency procedural actions are necessary, the executor of the request is entitled, in accordance with the procedures 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 state, having determined during the execution of the request objects and documents, the circulation is prohibited by law and seizure of which is not justified in the request, shall seize such objects and documents, and write a separate protocol regarding such seizure.

*[24 May 2012]*

## **Section 850. Reasons for the Refusal of the Execution of the Request of a Foreign State**

The execution of the request of a foreign state may be refused, if:

- 1) the request is related to a political offence, except the case when a 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 state or upon a proposal of the institution fulfilling the request and with the consent of a foreign state. 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 state that submitted a request shall perform, in accordance with the procedures of such state, a procedural action using technical means. If necessary, an interpreter shall participate in the performance of such procedural action in Latvia or a foreign state.

(3) A representative of the institution that fulfils a request shall certify the identity of involved persons and ensure the progress of a procedural action in Latvia and the 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 perform measures in order for such operation to continue in accordance with the referred to principles.

(5) A person who has been summoned to provide testimony has the right to not provide testimony also in a case where such non-provision of testimony arises from the laws of the state that submitted the request.

*[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 state that submitted the request;
- 2) such treaty exists, but the foreign state has undertaken to apply compulsory measures in such state only regarding offences that are criminally punishable in such state.

*[24 May 2012]*

## **Section 853. Performance of Special Investigative Actions**

A special investigative action shall be performed upon the request of a foreign state only in a case where such operation would be admissible in criminal proceedings taking place in Latvia regarding the same offence.

*[24 May 2012]*

## **Section 854. Temporary Transfer of a Person**

(1) Upon the request of a foreign state, a person who has been detained in Latvia, is being held under arrest in Latvia or is serving a punishment related to deprivation of liberty in Latvia may be transferred for a specific term to the foreign state for the provision or confronting of testimony 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 state, under arrest in the foreign state shall be included in the term of the security measure and the served punishment.

*[24 May 2012; 30 March 2017]*

#### **Section 855. Temporary Acceptance of a Person**

(1) If a foreign state requests that a person who is being held under arrest, or is serving a punishment related to deprivation of liberty, in such foreign state 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 state 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 state, 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 State Police to co-ordinate with a foreign state 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 state.

(2) The immunity specified in Paragraph one of this Section shall be terminated for a person after 15 days from the moment when such person could leave the territory of Latvia, as well as in the case where the person has left the territory of Latvia and then voluntarily returned to Latvia.

*[24 May 2012]*

#### **Section 858. Transfer of an Object to a Foreign State**

An object necessary as material evidence may be transferred to a foreign state upon request of such foreign state. 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 State**

Upon the request of a foreign state, the competent authority shall organise the issuance of the procedural documents of a foreign state to a person in Latvia. A protocol shall be written regarding such issuance in accordance with the requirements of Section 326 of this Law.

*[24 May 2012]*

#### **Section 860. Execution of a Procedural Ruling of a European Union Member State Regarding Provision of Property for Confiscation or Provision of Acquiring Evidence in Latvia**

(1) Imposition of attachment of property or search requested by a European Union Member State in Latvia shall be performed on the basis of procedural ruling on the provision of property for confiscation or on the provision of acquiring evidence issued by the competent authority of the European Union Member State to which a certification is attached.

(2) The Prosecutor General's Office upon receiving procedural ruling on the provision of property for confiscation or on the provision of acquiring 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 provision of acquiring evidence. If the execution of ruling is possible it shall point the executive institution 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 carrying out of ruling on the provision of property for confiscation or provision of acquiring 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 provision of acquiring evidence in Latvia - in accordance with the procedures laid down in Chapter 10 of this Law. For imposition of an attachment upon 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 provision of acquiring evidence specified by a European Union Member State shall be observed 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 provision of acquiring evidence it is necessary to carry out 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 provision of acquiring evidence has been issued according to an offence referred to in Annex 2 to this Law, and if such punishment of deprivation of liberty, the maximum limit of which is not less than three years, is provided for commitment of the crime in the state, which issued the ruling, examination regarding whether such offence is criminal also according to the Law of Latvia shall not be performed.

[22 November 2007; 24 May 2012]

#### **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 Provision of Acquiring Evidence**

(1) The procedural ruling on the provision of property for confiscation or provision of acquiring evidence shall be refused to be carried out 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 provision of acquiring 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 provision of acquiring 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 provision of evidence acquisition 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 provision of acquiring 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 issuing state of the ruling.

(2) The Prosecutor General's Office, 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 state of the ruling from the duty to submit or clarify the certification, if it considers that the submitted information is complete.

(3) The Prosecutor General's Office shall, without delay, notify the competent authority of the issuing state of the ruling that it is not possible to carry out the procedural ruling on the provision of property for confiscation or provision of acquiring evidence 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 state 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 Provision of Acquiring Evidence of a European Union Member State**

(1) Execution of a procedural ruling on the provision of property for confiscation or provision of acquiring evidence may be delayed if:

1) execution thereof may be harmful to a criminal proceeding initiated in Latvia;

2) an attachment is imposed on the property indicated in a ruling or the indicated items or documents are seized for another criminal proceedings in which the procedural ruling on the provision of property for confiscation or provision of acquiring evidence is made - until the moment of revoking the decision or the entering into effect of the final ruling in the criminal proceedings; and/or

3) to the property indicated in the ruling concerning imposition of an attachment on 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 provision of acquiring evidence and the reasons thereof, the competent authority of the issuing state 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 provision of acquiring evidence shall be carried out immediately after elimination of the reasons for execution thereof informing, without delay, the competent authority of the issuing state of the ruling.

(4) The Prosecutor General's Office shall inform the competent authority of the issuing state of the ruling on the any burden or restriction referring to the property that is indicated in the ruling on the imposition of an attachment on the property.

*[22 November 2007; 24 May 2012]*

### **Section 863. Storage in Latvia of the Seized Documents, Items and Attached Property**

(1) Seized documents, items or attached property shall be stored insofar until the request of legal assistance regarding transfer of documents and items or confiscation of property from the competent authority of the issuing state of the ruling is received.

(2) A limited term regarding storage of the seized documents, items and attached property may be indicated taking into consideration an opinion of the issuing state that is expressed in writing.

(3) If the competent authority of the issuing state of the ruling notifies regarding revocation of a procedural ruling on the provision of property for confiscation or provision of acquiring evidence, the seized documents, items or the attached property shall be returned to the owner, lawful possessor, user or holder, but the attachment imposed on the property shall be revoked.

*[22 November 2007; 24 May 2012]*

### **Section 864. Further Activities in Latvia Regarding Revoked Documents, Items and Attached Property**

(1) If to the procedural ruling on the provision of property for confiscation or provision of evidence acquisition 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 Prosecutor General's Office may ask the competent authority of the relevant European Union Member State to alter such term, as well as to inform regarding 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 provision of acquiring evidence shall be carried out 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 state of issuing of request of criminal-legal assistance a punishment of deprivation of liberty is provided for, the maximum limit of which is not smaller than three years, a verification 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 Provision of Acquiring 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 provision of acquiring 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 on the provision of acquiring evidence.

(3) A complaint regarding reasons for issuing a procedural ruling on the provision of property for confiscation or provision of acquiring evidence shall be submitted only to the court of the issuing state of the ruling.

(4) If a complaint regarding activity related to execution of a procedural ruling on the provision of property for confiscation or provision of acquiring evidence has been received, the Prosecutor General's Office shall inform the competent authority of the issuing state 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 Prosecutor General's Office 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 / The Section shall come into force on 1 December 2012. See Paragraph 39 of 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 / The Section shall come into force on 1 December 2012. See Paragraph 39 of 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 determining the application of 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 cases 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) immunity from criminal proceedings provided for in Chapter 8 of this Law is present;

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 / The Section shall come into force on 1 December 2012. See Paragraph 39 of 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 Prosecutor General's Office 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 Prosecutor General's Office 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 / The Section shall come into force on 1 December 2012. See Paragraph 39 of 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 Prosecutor General's Office 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 Prosecutor General's Office 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 Prosecutor General's Office has expired.

(4) If the Prosecutor General's Office 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 Prosecutor General's Office 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 Prosecutor General's Office shall not be subject to appeal.

*[24 May 2012 / The Section shall come into force on 1 December 2012. See Paragraph 39 of Transitional Provisions]*

#### **Section 871. Execution of a Decision Determining the Application of a Security Measure not Related to Deprivation of Liberty**

(1) The Prosecutor General's Office 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 Prosecutor General's Office 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 a decision determining the application of a security measure not related to deprivation of liberty shall be executed in accordance with the procedures laid down in this Law, however, the time periods for restriction of the rights of a person specified in Section 389 of this Law shall not apply thereto.

(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 adjudicate or to execute a punishment to him or her for a criminal offence committed in the territory of Latvia.

*[24 May 2012 / The Section shall come into force on 1 December 2012. See Paragraph 39 of Transitional Provisions]*

#### **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 / The Section shall come into force on 1 December 2012. See Paragraph 39 of 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 Prosecutor General's Office 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 Prosecutor General's Office.

(2) Upon request of a European Union Member State the Prosecutor General's Office shall take a decision to extend the time period for execution of a security measure.

(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 / The Section shall come into force on 1 December 2012. See Paragraph 39 of Transitional Provisions]*

#### **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 Prosecutor General's Office 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 Prosecutor General's Office shall refuse to apply the amended security measure.

(3) In deciding an issue regarding recognition of a decision amending a security measure, the Prosecutor General's Office shall evaluate only the reason for refusal specified in Section 868, Clause 3 of this Law.

*[24 May 2012 / The Section shall come into force on 1 December 2012. See Paragraph 39 of Transitional Provisions]*

#### **Section 875. Notifications to a European Union Member State**

(1) In executing the security measure applied, the State Police shall inform the Prosecutor General's Office 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 Prosecutor General's Office 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 Prosecutor General's Office 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 Prosecutor General's Office 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 Prosecutor General's Office 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 / The Section shall come into force on 1 December 2012. See Paragraph 39 of 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 carry out 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 Prosecutor General's Office 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 prosecutor's office 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 regarding performance of other 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. A 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 regarding performance of other 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 punishment of deprivation of liberty 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, carry out 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 carry out necessary measures 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 carry out 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 carry out 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 State 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 state 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 state 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 it is possible to achieve the objective of criminal proceedings by other means.

(3) If the proposal is found to be justified, the competent authority shall send a request to a foreign state.

*[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 State**

(1) A request regarding the performance of a procedural action in a foreign state shall be written in accordance with Section 678 of this Law, and 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 state:

- 1) to allow a Latvian official to participate in the performance of a procedural action;
- 2) to notify the time and place of the performance of a procedural action;
- 3) to perform a procedural action by using technical means.

(3) If a foreign state 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 state, is being held under arrest in a foreign state, or is serving a punishment related to deprivation of liberty in a foreign state 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 state, 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 state to accept for a term a person who is being held under arrest, or is serving a punishment related to deprivation of liberty, in Latvia, if the presence of such person is necessary for the execution of a procedural action in the foreign state.

*[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 a Decision on Imposition of Attachment on Property or of a Decision on a Search and Sending to a European Union Member State**

(1) Imposition of an attachment on property in another European Union Member State shall take place on the basis of a decision on imposition of attachment on 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 a 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 imposition of attachment on property - information referred to in Section 361, Paragraph five of this Law.

(3) The investigating judge, upon approval of a decision on imposition of attachment on property taken by the person directing the proceedings or upon taking of a 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 to impose the attachment on the 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 record-keeping of which the criminal case is located.

(5) The person directing the proceedings shall submit the decision on imposition of the attachment on property or the decision on a search, the certification and the translation thereof, to the Prosecutor General's Office 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]*

#### **Section 881. Requesting of Submission of Documents and Items and Confiscation of Property**

(1) In order to request the submission of the seized documents and items or to confiscate the property upon which an attachment is imposed, a relevant request for criminal-legal assistance shall be attached to the decision on a search or to the decision on imposition of an attachment on 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 Prosecutor General's Office 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 imposition of attachment on property or with the decision on a search, a term for sending the request for criminal-legal assistance until which the documents, items or attached 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 a Decision, Taken in Latvia, on the Imposition of an Attachment on Property or of a Decision on a Search**

(1) If information from the competent authority of the executing state has been received that a complaint regarding execution of a decision, taken in Latvia, on the imposition of attachment on property or of a decision on a search has been received, the Prosecutor General's Office may send to the competent authority of the executing state arguments which are necessary for the examination of the complaint.

(2) An appeal of the decision on imposition of an attachment on property or of decision on a search in Latvia shall not suspend its execution in the executing state.

*[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 / The Section shall come into force on 1 December 2012. See Paragraph 39 of 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 Prosecutor General's Office 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 Prosecutor General's Office 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 Prosecutor General's Office 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 Prosecutor General's Office 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 Prosecutor General's Office.

*[24 May 2012 / The Section shall come into force on 1 December 2012. See Paragraph 39 of 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 Prosecutor General's Office 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 Prosecutor General's Office, 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 Prosecutor General's Office, 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 state;

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 Prosecutor General's Office, 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 / The Section shall come into force on 1 December 2012. See Paragraph 39 of 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 / The Section shall come into force on 1 December 2012. See Paragraph 39 of 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 Prosecutor General's Office 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 Prosecutor General's Office, 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 Prosecutor General's Office, 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 Prosecutor General's Office 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 a decision to amend the security measure and to determine other 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 Prosecutor General's Office 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 / The Section shall come into force on 1 December 2012. See Paragraph 39 of 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, carry out all actions which would be necessary if a procedural action would be carried out 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 public prosecutor for approval.

(3) A supervising public 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 public 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 Prosecutor General's Office, 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 carry out 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 public 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 carry out other 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 public prosecutor and competent authority of Latvia regarding a request to carry out other 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 carry out a procedural action in the territory of other European Union Member State before transfer of the case to the court, a public 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 Prosecutor General's Office. Prior to preparing the European Investigation Order a public prosecutor shall, by complying with the procedures laid down in this Law, carry out all actions which would be necessary if the procedural action would be carried out in Latvia in accordance with this Law. When approving a European Investigation Order, a public 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 Prosecutor General's Office shall send the received European Investigation Order to a competent authority of the European Union Member State. The Prosecutor General's Office 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 public prosecutor may amend or withdraw the taken European Investigation Order if it is no longer necessary to carry out 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 public prosecutor shall inform the Prosecutor General's Office

regarding a decision to amend or withdraw the European Investigation Order.

(4) When participating in execution of a European Investigation Order, a public prosecutor may, where necessary, request to carry out other 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 public prosecutor shall inform the Prosecutor General's Office regarding a request to carry out other 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 carry out 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 carried out 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 carry out 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 state or several foreign states authorised to perform pre-trial proceedings who operate jointly within the framework of criminal proceedings taking place in one state.

(2) A joint investigative team shall be established for the performance of concrete criminal proceedings, with the states 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 states, particularly in cases where several states 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 state 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 concrete 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]*

### **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 state in which criminal proceedings are taking place.

(2) The appointment of a leader is an integral part of an agreement. A leader may be replaced only with the consent of all member states.

(3) If a leader is a representative of Latvia, he or she shall have the following authorisations:

1) to implement all the procedural rights that he or she would have if proceedings were taking place only in Latvia;

2) to assign an attached member of the group to independently perform procedural actions in Latvia;

3) to assign an attached member of the group to perform a specific amount of an investigation in the state of which he or she is a representative;

4) to decide the amount in which each member of the joint group is to be familiarised with the information at the disposal of the group.

(4) By coming to an agreement, Member States may specify another scope of the authorisation of a leader.

*[24 May 2012]*

### **Section 892. Member Attached by a Foreign State 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 state that he or she represents within the framework of his or her authorisation and in the amount specified by a leader.

(5) If the legal assistance of a third country is necessary in the part of criminal proceedings the performance of which has been assigned to an attached member, such member shall submit requests for legal assistance in accordance with the procedures laid down in his or her state.

*[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 state in which criminal proceedings are taking place.

(2) In criminal proceedings taking place in a foreign state, the Latvian attached member of a group has the right to independently perform procedural actions in Latvia within the framework of his or her procedural authorisation and in the amount specified by the leader.

(3) A member of a joint investigative 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 performed 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 state thereof in accordance with the procedures laid down in such state, 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 state.

(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 public prosecutor shall perform control and supervision in accordance with general procedure, if an agreement does not specify otherwise.

*[24 May 2012]*

### **Section 895. Transfer of Criminal Proceedings to Another State**

(1) If the conditions and reasons provided for in Chapter 68 of this Law exist for the transfer to another Member State of criminal proceedings taking place in Latvia, the competent representatives of the states shall come to an agreement regarding the appointing of another leader.

(2) If Member States are not capable of coming to an agreement regarding the replacement of 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 state shall be returned upon request.

*[24 May 2012]*

### **Section 896. Extradition**

Extradition shall take place in accordance with general procedure 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 punishment of deprivation of liberty in Latvia.

(3) The legal grounds for the transfer of a person to an international court are the basic document of the establishment of the international court and the provisions of this Law.

[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 state. If an international court has not itself specified with a decision that a concrete case is only under the jurisdiction of the international court, the order of competing requests shall be determined by 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 satisfied in accordance with the procedures laid down in Sections 847 -849, Sections 851 - 854, Sections 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 state, unless a request may be fulfilled with particular conditions or later.

(4) Officials authorised by an international court have the right to perform the necessary procedural actions in the territory of Latvia independently or in co-operation with a competent international organisation or competent Latvia institution. If procedural actions are not related to the application of a compulsory measure, an official authorised by an international court, after consultations with the competent authority of Latvia, may perform such activities without the presence of a representative of the competent authority.

[24 May 2012]

#### **Section 903. Execution of Rulings of Financial Nature of an International Court**

(1) The competent authority shall perform 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 perform the measures provided for in this Law in order to regain the value of the income, property, or assets thereof that are to be confiscated on the basis of a decision of an international court. Obtained property or income shall be transferred to the international court.

*[24 May 2012; 22 June 2017]*

#### **Section 904. Execution of a Judgment of Conviction of an International Court**

(1) If an international court has determined that a punishment of a convicted person related to the deprivation of liberty is to be executed in Latvia, the competent authority shall immediately inform the international court regarding the possibility of the execution of the punishment or also regarding circumstances that might substantially influence the execution of the punishment in Latvia.

(2) The execution of a punishment shall take place in accordance with the same procedures as the execution of a punishment 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 punishment.

(3) Only an international court shall be permitted to reduce or change the amount of a punishment determined by such court.

(4) During the execution of a punishment, the competent authority shall inform an international court at least 45 days in advance regarding the execution of previously specified conditions and regarding any circumstances that may substantially influence the provisions or term of imprisonment.

(5) If, after serving of a punishment, a person does not have rights or is not given permission to remain in Latvia, such person shall be transported to another state that must accept such person or that agrees to accept such person, complying with the choice of the person.

(6) The criminal prosecution, punishing, or extradition to another state of a convicted person regarding an offence that such person committed before being conveyed for the serving of a punishment in Latvia may take place only with the consent of an international court, except cases where the person remains voluntarily in Latvia after serving of the punishment 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 regarding co-operation and the documents attached to such request shall be held in secrecy, except cases 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 perform measures in order not to allow the disclosure of information that might harm the interests of state security, in order to protect Latvian officials, or also to protect other restricted-access information.

(3) The competent authority shall be permitted to provide to international court information provided confidentially by another state only if the state 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 application of the 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) A 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 determined 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 regarding a 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 regarding the amending or revocation of the protection measure applied, the State Police shall take a 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 concrete criminal cases in relation to security measures that have been applied to person before the day of the coming into force of this Law.

6. If this Law does not provide for a previously applied security measure, 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) public 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]*

15. The Prosecutor's Offices and investigating institutions shall decide, within one month after coming into force of this Law, the matter regarding the commencement of criminal proceedings or a refusal to commence criminal proceedings in connection with received application regarding prepared or committed criminal offences in relation to which an examination had been commenced in accordance with the procedures laid down in Section 109 of the Criminal Procedure Code of Latvia.

*[28 September 2005]*

16. Complaints examination of which have 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 abovementioned 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 the objects containing the State 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 public 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 public 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 public 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 session. 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 seized for commission of a serious or especially serious crime, a 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 shall be informed. 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 commencement 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 states regarding transfer or takeover of convicted persons for serving a punishment, which the Prosecutor General's Office 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 punishment, 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 states regarding the execution in Latvia of a punishment imposed in a foreign state, 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 punishment imposed in a foreign state, 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 - 857 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 Prosecutor's Office 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 public 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 made the last ruling in the first instance or a public prosecutor of the institution of the Prosecutor's Office in the territory of operation of which drew up a public prosecutor's penal order. The court shall send a copy of the decision taken to the ruling execution institution, the public prosecutor and the convicted person. The public 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 a 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 regarding application of a fine shall decide on an issue 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 public prosecutor and the convicted person. The public 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 a 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 public 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 rulings 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 state 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 euro according to the currency exchange rate specified by the Bank of Latvia which was in effect on the day of proclamation of the ruling.

*[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 execute the punishment 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 released from punishment before term, which were in force until 31 January 2015, is applied, if a submission regarding conditional release of a convicted person before term has been received from the administrative commission of the deprivation of liberty institution.

*[16 October 2014]*

56. Regulation of the Law regarding execution of the unserved part of the punishment 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 deprivation of liberty institution.

*[16 October 2014]*

57. Regulation of Section 643 of this Law in relation to conditional release from serving the punishment before term

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 Section regarding recording of the course of interrogation of minors in audio and video recording in the cases laid down in Section shall be mandatory for the person directing the proceedings starting from 1 January 2019. Until then recording of the course of interrogation of minors in audio and video 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 public prosecutor to draw up a penal order if a serious crime has been committed for which the punishment 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 the ruling regarding 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 regarding 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 the case when the confiscation of criminally acquired property is applied and an application for compensation regarding a harm caused to a victim is satisfied within one ruling. If the confiscation of criminally acquired property is applied and an application for compensation regarding a 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]*

## **Informative Reference to European Union Directives**

*[23 May 2013; 29 May 2014; 29 January 2015; 18 February 2016; 30 March 2017; 22 June 2017]*

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.

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 upon which an Attachment shall not be Imposed**

*[12 March 2009; 29 May 2014]*

The following property in the property of persons shall not be subject to an attachment:

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 cases where an undertaking has been found to be insolvent or the rights to certain employment have been taken away from the accused with a court judgment in a criminal case.
6. For persons whose employment is agriculture - one cow, heifer, goat, sheep, pig, poultry, and small stock, feedingstuffs for feeding the referred to animals up to the harvest of new feedingstuffs or the driving to pasture of livestock, as well as seed and planting material.

Criminal Procedure Law

295/297

**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.

[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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