

LATVIA – national procedures for transfer of sentenced persons
Updated 25/05/2015

The information contained in this table should be updated on a yearly basis.

The Central Authority (name of the institution, address, telephone, fax and e-mail where available) responsible for the transfer of sentenced persons:	<p>The Ministry of Justice of the Republic of Latvia Department of Judicial Cooperation Address: Brivibas blvd.36, Riga, LV – 1536 Tel.:+371 67036824; +371 67036842; Fakss: +37167210823 E-mail: tm.kanceleja@tm.gov.lv</p>
If different from the Central Authority, the authority to which the request should be sent (name of the institution, address, telephone, fax and e-mail where available):	<p>The Ministry of Justice of the Republic of Latvia Department of Judicial Cooperation Address: Brivibas blvd.36, Riga, LV – 1536 Tel.:+371 67036824; +371 67036842; Fakss: +37167210823 E-mail: tm.kanceleja@tm.gov.lv</p>
If different from the Central Authority, the Authority/ies in charge of coordinating and/or implementing the physical transfer of the person concerned (name of the institutions, address, telephone, fax and e-mail where available):	<p>State police International Cooperation bureau Address: Ciekurkalna 1st line 1, k – 4, LV – 1026 Phone: + 371 67075212 Fax: +371 67075053 Secretariat: +371 67075030 E mail: kanc@vp.gov.lv</p>
Channels of communication for the request for the transfer of sentenced persons (directly, through diplomatic channels or other):	Directly through the Central Authority
Means of communication (e.g. by post, fax, e-mail ¹):	By regular post (also the request may be sent by fax or e-mail, but then the official request should be sent also by regular post)

¹ Please indicate if encryption or electronic signature is required.

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Language requirements:	the Republic of Latvia requires that requests for transfer and supporting documents shall be accompanied by a translation into Latvian or English language.
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Documentation required:	<p>as provided in Art.6 of the Convention</p> <ul style="list-style-type: none"> -the foreign state should submit a request regarding the execution of the custodial sentence imposed therein and the request of transfer of person; -certified copies of judgments including final judgment; -court's order on execution of the judgment having come into force; -statement on the "penal" situation of the person concerned (how long he/she has served the sentence, the length of the sentence still to be served); -statement on execution of additional penalty, if any; -information on the behaviour of the prisoner while serving his sentence; -document attesting the nationality of the sentenced person; -consent of the sentenced person in case the request has been made by the administering State. - information that the punishment in the foreign state has been specified by an adjudication that has entered into effect in terminated criminal proceedings; - information about the limitation period that has not set it for the execution of the punishment in the foreign state; - extract from the Criminal law with Articles under which the person was sentenced.
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Continued enforcement or	Continued enforcement of the sentence (See below)
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conversion of the sentence ² :	<p>Sections 755 and 576 of the Criminal Procedure Law)</p> <p>Determination of a punishment to be executed in Latvia is done after the transfer has taken place.</p> <p>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. The factual circumstances established in a court adjudication of a foreign state and the guilt of a person shall be binding to a court of Latvia.</p>
General rules on early release:	<p>Article 61 of Criminal Law. Conditional Release Prior to Completion of Punishment</p> <p>(1) A person who has been convicted with deprivation of liberty, except temporary deprivation of liberty, may be conditionally released prior to completion of his or her basic punishment, if there is a reason to believe that he or she is able to adapt in the society after release without committing a criminal offence.</p> <p>(2) Taking into account the personality and behaviour of the convicted person, conditional release prior to completion of punishment may be ordered, if:</p> <ol style="list-style-type: none"> 1) the convicted person has reached a certain result of resocialisation; 2) the convicted person to the extent possible has voluntarily made compensation for losses caused by his or her crime; 3) the convicted person has possibilities to acquire means of subsistence in legal way after his or her release; 4) the term specified in a law regulating the execution of criminal punishments after imposition of the punishment for the violation of the punishment serving regime has lapsed and there are no effective punishments for administrative violations committed during execution

² In case the sentence is converted, please specify whether this is done before or after the transfer has taken place.

of the punishment of deprivation of liberty;

5) the convicted person is solving and is ready to continue to solve his or her psychological problems which have caused or may cause commitment of criminal offence;

6) the convicted person has agreed to treatment for alcoholism or addiction to narcotic, psychotropic or toxic substances, if he or she has committed the criminal offence due to alcoholism or addiction to narcotic, psychotropic or toxic substances.

(3) Conditional release prior to completion of punishment may be proposed if the convicted person has actually served:

1) not less than half of the punishment imposed for a less serious crime committed;

2) not less than two-thirds of the punishment imposed, if it has been imposed for a serious crime, or if the convicted person is a person who previously has been convicted with deprivation of liberty for an intentional crime and the criminal record for this crime has not been set aside or extinguished;

3) not less than three-quarters of the punishment imposed, if it has been adjudged for an especially serious crime or if the convicted person is a person who previously had been conditionally released prior to completion of punishment and has newly committed an intentional crime during the period of the unserved punishment; or

4) twenty-five years of a punishment of deprivation of liberty, if the convicted person is a person for whom life imprisonment has been imposed.

(4) A court, in conditionally releasing a convicted person prior to completion of a punishment, may, for the period of the unserved punishment, impose on him or her the obligations set out in Section 55 of this Law, if it is

	<p>necessary for achieving of of the objective of punishment. A duty to participate in probation programmes in accordance with the instructions of the State Probation Service shall be imposed mandatory for a person of legal age, who is convicted for commitment of serious or especially serious crime, if a crime is connected with violence or turned against sexual inviolability or morals. If the person conditionally released prior to completion of punishment does not, without justifiable reason, fulfil the obligations imposed by the court or those specified in the regulating laws regarding the execution of criminal punishments, or repeatedly commits administrative violations, for which administrative punishments are imposed on him or her, the court, on the basis of a submission from the institution to which the supervision of the behaviour of the convicted person has been assigned, may take a decision that the portion of the punishment unserved should be served.</p>
<p>Scope of application with regard to transfer of mentally disordered persons:</p>	<p>Latvia has neither received nor sent any request for transfer of mentally disturbed persons, so Latvia has no experience in this field. That is why it is difficult to foresee what kind of problems we might face when dealing with transfer of mentally disturbed offenders.</p>
<p>Scope of application with regard to nationals and/or residents:</p>	<p>Convention is applicable with regard to nationals and/ or residents in accordance with general provisions</p>
<p>Other particularly relevant information (such as practice regarding time limits or revocation</p>	<p>In accordance with Article 759 of Criminal Procedure Law a judge of a district (city) court shall, within 30 days, examine a request of a foreign state regarding the execution of a punishment imposed in the foreign state in</p>

of consent):	<p>a written procedure and, after evaluating the conditions and reasons for refusal, take one of the following decisions:</p> <ol style="list-style-type: none"> 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.

Links to national legislation, national guides on procedure:	<p style="text-align: center;">Chapter 69 General Provisions for the Execution in Latvia of a Punishment Imposed in a Foreign State</p> <p>Section 749. Content of the Execution of a Punishment Imposed in a Foreign State</p> <p>(1) Execution of a punishment imposed in a foreign state shall be the recognition of the validity and legality of such punishment on an uncontested 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.</p> <p>(2) Recognition of the validity and legality of a punishment imposed in a foreign state shall not preclude the co-ordination thereof with the sanction provided for in The Criminal Law for the same offence.</p> <p>Section 750. Conditions for the Execution of a Punishment Imposed in a Foreign State</p> <p>(1) Execution of a punishment imposed in a foreign state shall be possible if:</p> <ol style="list-style-type: none"> 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 an adjudication that has entered into effect 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
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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 adjudicated 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 the 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 the 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 the 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 the 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 coordinate 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 adjudication 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 adjudication.

(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 the 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 the 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 an adjudication 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 adjudication 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 Senate of the Supreme Court within 10 days from the day of availability of the decision in accordance with cassation procedures.

(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 Senate of 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.

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 adjudications.

(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 an adjudication rendered 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 an adjudication rendered 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 adjudication.

(5) In relation to an adjudication rendered 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 an adjudication rendered 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 – 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 is a reason 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, coordinating 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 is a reason 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

	<p>after release; 3) the person has left Latvia and returned again.</p>
<p>Link to information about the Convention (according to Article 4) in the official language(s) of the State Party (see also Rec. R (84) 11 of the Committee of Ministers concerning information about ETS°112 and PC-OC INF 12):</p>	<p>Criminal Procedure Law 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</p> <p>(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.</p> <p>(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:</p> <ol style="list-style-type: none"> 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 is a reason 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. <p>(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.</p>
<p>For Parties to the Additional Protocol</p>	

<p>Information on the implementation of Article 2 (e.g. interpretation of “by fleeing to”):</p>	<p>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 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;</p>
<p>Information on the implementation of Article 3 (e.g. interpretation of the requirement of a consequential link between the decision on expulsion and the sentence):</p>	<p>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</p> <p>(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.</p> <p>(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:</p> <ol style="list-style-type: none"> 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 is a reason 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. <p>(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.</p>

Documentation required:	
Other relevant information:	