

(1) The Prosecutor sends an effective ruling to the Ministry of the Interior immediately for execution.

(2) The execution of the extradition ruling occurs in accordance with the procedure outlined in Article 710, parts 1 and 2 of this law.

(3) After making the ruling regarding a person's extradition, the Prosecutor General may postpone the requested person's extradition to a European Union Member State in order to finish a pending criminal proceeding in Latvia or to serve out an imposed sentence, as well in the case of human interest, if there are reasons to believe that extradition in the specific situation would seriously harm the person's life or health. In the case of postponement of extradition, the Prosecutor General informs the European Union Member State's competent judicial authority and another date for transfer is agreed upon.

(4) If the person is not transferred within 10 days from the day that the ruling for extradition was made, or from the day an agreement was reached with the European Union Member State's competent judicial authority, the person is to be released from custody.

(5) If a ruling refusing extradition of the person is made, the Prosecutor General informs the Member State's competent judicial authority.

#### **Article 722. Transfer of items to a European Union Member State**

(1) The Prosecutor General, at the request of a European Union Member State, or on its own initiative may seize and transfer to a Member State items:

- 1) that are necessary as material evidence;
- 2) which the extraditable person acquired are a result of a crime.

(2) Items necessary as material evidence are to be handed over even in the case that a European imprisonment ruling cannot be executed due to the death or escape of the extraditable person.

(3) If the items are necessary in a pending criminal proceeding in Latvia, a later transfer date may be stipulated. The Prosecutor General may request the return of the items.

#### **Article 785. Determination enforceable property seizure in Latvia**

(1) Enforcement of property seizure in Latvia is determined, if it is imposed in a foreign country and for the same offense as the main punishment or supplemental punishment provided for in the Latvian Criminal law, or the property would be seizable in a criminal proceeding in Latvia based on different basis provided by law.

(2) If property seizure is contemplated by the verdict from the foreign country, but Latvian Criminal law does not provide for property seizure as the main punishment or supplemental punishment, property seizure is only permitted within the scope contemplated

by the foreign country's verdict that the property to be seized is an instrument in the commission of the crime or was obtained illegally.

(3) Requests for return of confiscated property or part of the property to the foreign country is determined by a competent authority on a case by case basis.

## **Chapter 70. Transfer of a person convicted in Latvia to a foreign country for service of sentence**

### **Article 764. Basis for convicted person's service of sentence**

(1) Basis for transfer of a person sentenced to deprivation of liberty to a foreign country for service of sentence:

1) request from a foreign country's competent authority to transfer the convicted person and a competent Latvian authority's consent to such;

2) A competent Latvian authority's request to transfer of a convicted person and the foreign country's competent authority's consent to such.

(2) A competent authority performs the actions provided for in this Chapter if it has received a request from the convicted person or their representative, information or a request from a competent authority in a foreign country, or on its own initiative.

### **Article 765. Authority with jurisdiction**

The request regarding transfer of a person convicted in Latvia to a foreign country for service of sentence and consent to such are received and sent by the Prosecutor General.

### **Article 766. Conditions for transfer of a person for service of sentence**

(1) A convicted person's transfer to a foreign country for service of sentence is permissible if:

1) the convicted person is a citizen of the country where sentence will be served;

2) the court's verdict has taken effect;

3) at the time of receipt of the request the convicted person had at least six months left until the completion of service of sentence;

4) the offense for which the person was sentenced is considered a crime in according to the law of the foreign country;

5) the convicted person has expressed a desire to be transferred, or has consented to transfer.

(2) The competent authorities in Latvia and the foreign country may agree on the convicted persons transfer without the person's consent if there is a reason to believe that, considering

the person's age or physical or mental state, transfer for service of sentence is necessary and a representative of the convicted person agrees.

(3) A competent authority may transfer for service of sentence in a foreign country a person who is not a citizen of that country if there is a reason to believe that the country in question is the person's place of permanent residence and the person's transfer is going to further justice and the person's social rehabilitation.

(4) A competent authority may transfer to a foreign country a person who due to psychological disorder or mental disability is subject to special treatment in a psychiatric hospital with security guards or treatment in suitable institutions, applying equivalent treatment measures.

(5) In exceptional cases a person may be transferred for service of sentence even if the length of sentence is less than stipulated in the first part of this Article, subpart 3.

#### **Article 767. Notification of the convicted person**

The administration of the institution executing the deprivation of liberty sentence must within 10 days after receiving the judge's order regarding the execution of the verdict, inform the convicted foreign country's citizen or person whose place of permanent residence is not Latvia, of the person's rights to express his desire to be transferred for service of sentence to the country of his citizenship or where he is a permanent resident. The convicted must be told of the consequences of transfer.

#### **Article 768. Person's request for transfer for service of sentence**

(1) The convicted person submits his request for transfer for service of sentence in a foreign country in written form to the competent authority.

(2) The competent authority informs the convicted person in writing of the notification sent to the foreign country and of the results of the examination of request without delay.

#### **Article 769. Receipt of convicted person's consent**

(1) If a request from a convicted person's representative or a request from a foreign country is received regarding the person's transfer and this request does not contain written indication of the person's wish to be transferred, or consent to transfer, a competent authority must in 10 days time inform the convicted person of this request, explain the judicial consequences for such and invited the person to express his opinion of the received request.

(2) A person's consent or refusal is to be in written form, and the convicted person attests to it with his signature.

(3) If the foreign country has indicated such a desire, a competent authority ensures the opportunity for a representative of the foreign country, upon which both countries have agreed, to verify the circumstances under which the person has given his consent.

### **Article 770. Notifying the foreign country**

(1) If a request from the convicted person or consent to his representative's submitted request regarding the person's transfer for service of sentence in a foreign country has been received, the competent authority informs the foreign country without delay, but no later than within 10 days.

(2) The information for the foreign country includes:

- 1) the convicted person's first name, last name, birthplace and date;
- 2) the convicted person's address in the foreign country, if available;
- 3) the offense, for which sentence is imposed;
- 4) the type and length of sentence, as well as the time, when the service of sentence was begun.

(3) Along with the information the competent authority may send to the foreign country a request to transfer the person for service of sentence to this foreign country, if in the initial materials no facts barring transfer are found. In this case the request must specify that it is effective on the condition that such facts are not found in the foreign country.

### **Article 771. Examination of request for transfer**

(1) After a request has been received to transfer the convicted person for service of sentence in a foreign country, the competent authority verifies that all conditions for transfer exist.

(2) If in the received materials there is not enough information to rule on the question of transfer, a competent authority may additionally request from the foreign country:

- 1) a document or notification that the convicted person is a citizen of that country or is a permanent resident of that country;
- 2) the text of the law according to which the offense, for which the person was convicted, is deemed a crime in this country.

(3) If necessary, the competent authority, prior to completion of examination, may request that the foreign country notify which type of determination of sentence – continuance or modification – will be applied.

### **Article 772. Completion of examination**

The competent authority examines the request within 10 days after its receipt, or the receipt of additional information, and makes one of the following rulings:

- 1) to submit the request for the person's transfer for service of sentence in a foreign country;
- 2) consent to the person's transfer;

3) deny the request for the person's transfer.

**Article 773. Request to ensure service of sentence for an escapee**

(1) A competent authority may submit a request to the foreign country to ensure the service of sentence for a citizen of this country, who was convicted in Latvia and has escaped from service of sentence to his country of citizenship. The convicted person's consent is not required..

(2) Prior to submission of request, the competent authority may request that the competent authority in the foreign country apply temporary custody to that person, indicating the person's data, offense for which the sentence was imposed, the corresponding sentence type and length, as well as the date of commencement of service of sentence.

**Article 774. Request for transfer for service of sentence of a person subject to expulsion**

(1) A competent authority without the consent of the person may submit to the foreign country a request for transfer of this person for service of sentence, if in the verdict a supplemental sentence of expulsion from Latvia or other personally binding punishment, as a result of which this person is not allowed to remain in Latvia after the service of sentence.

(2) A copy of the verdict or ruling regarding the expulsion of the person is attached to the request, along with the person's opinion regarding the transfer.

**Article 775. Transfer of convicted person**

If Latvia has consented to transfer the convicted person or the foreign country has consented to take over the person, a competent authority instructs the Ministry of the Interior to coordinate with the foreign country this person's transfer and to transfer the person to the respective foreign country.

**Article 776. Judicial consequences of transfer of a person**

(1) Upon the convicted person's crossing the border of Latvia the service of sentence is suspended. Execution of the sentence cannot be reinstated if the foreign country has notified that the service of sentence was completed.

(2) Execution of sentence may be reinstated if the foreign country notifies that:

1) the person has escaped from the incarcerating institution;;

2) the service of sentence has not been completed and the person has returned to Latvia.

(3) A competent authority informs the foreign country without delay of pardon, amnesty or reversal or amendment of the verdict.

## **Chapter 71. Execution in Latvia of a sentence imposed by a foreign country**

### **Article 777. Contents and requirements for execution of a sentence imposed by a foreign country**

(1) Execution in Latvia of a sentence imposed by a foreign country is the acknowledgement of that sentence's basis and legality, and is to be executed according to the same procedure as if the sentence were imposed in a criminal proceeding in Latvia

(2) The acknowledgement of proper basis and legality of a sentence imposed by a foreign country does not preclude the sentence's harmonization with the sanctions provided for in Latvia's Criminal law for the same crime.

(3) Execution of a sentence imposed by a foreign country is possible, if:

1) Latvia and the foreign country have a treaty governing execution of sentences from the other country;

2) the foreign country has submitted a request regarding the execution of a sentence imposed by it;

3) the sentence in the foreign country was determined by the taking of effect of a final ruling in criminal proceedings;

4) the convicted person would receive punishment in Latvia for the same crime in accordance with the Latvian Criminal law;

5) The statute of limitations has not run in the foreign country, nor in Latvia;

6) at the time the verdict was returned, the statute of limitations regarding criminal liability had not tolled according to Latvian Criminal law;

7) at least one of the reasons for submission of request for execution of sentence listed in Article 804 of this law is in effect in the foreign country..

### **Article 778. Authority with jurisdiction**

The request for execution in Latvia of a sentence imposed by a foreign country is received by and decided by the Ministry of Justice.

### **Article 779. The basis for execution of a sentence imposed by a foreign country**

The basis for execution of a sentence imposed by a foreign country is:

1) the foreign country's competent authority's written request, to which the ruling taking effect after dismissal of the criminal proceedings, and documents pertaining to the handing off of sentence execution, or notarized copies thereof, are attached;

2) the ruling of the competent authority pertaining to the receipt of the request for examination and transfer to a Latvian court for determination of the executable sentence;

3) The ruling of the Latvian court regarding the determination of the executable sentence;

4) The order of the Latvian court regarding the transfer of the verdict to Latvia.

**Article 780. Reasons for refusal of execution of a sentence imposed by a foreign country**

A request for execution of a sentence imposed by a foreign country may be refused if:

1) there is reason to believe that the sentence was determined by the person's race, religious affiliation, nationality, sex or political beliefs, or the offense is found to be of political or markedly military;

2) the execution of the sentence would conflict with Latvia's international responsibility with respect to another country;

3) the execution of the sentence would conflict with Latvia's legal system's basic principles;

4) a criminal proceeding regarding the same crime, as the one for which a sentence was imposed in the foreign country, is pending or has received a final ruling in Latvia;

5) execution of the sentence is impossible in Latvia;

6) Latvia's competent authority believes the foreign country itself is capable of enforcing the verdict;

7) the crime was not committed in the foreign country that has imposed the executable penalty.

**Article 781. Procedure to decide request for execution of a sentence imposed by a foreign country**

(1) The request for execution of a sentence imposed by a foreign country is to be decided by a competent authority within 10 days.

(2) The competent authority determines whether a basis for the execution of the imposed sentence by the foreign country exists, what regulations there might be, if there are any reasons to refusing execution, and then makes a ruling regarding the determination or refuses the request.

(3) if the competent authority believes that the information received is not adequate, it may require additional information or documents and determines the term for submission of

such. The length of time for deciding this issue as per this Article's first part shall begin upon receipt of the requested material.

(4) If the ruling concerns two or more crimes, of which not all have sentences that are possible to execute in Latvia, the competent authority requests a specification of which part of the sentence corresponds to the criminal offense.

(5) The competent authority informs the requesting country of its ruling without delay.

(6) If the request is accepted for hearing, the Ministry of Justice sends the request along with any addenda to a court in Latvia for determination of the enforceable sentence.

#### **Article 782. Determination of enforceable sentence in Latvia**

(1) After the request of the foreign country for enforcement of a sentence imposed by it, determination of enforceable sentence in Latvia is made by the same level court in the convicted person's place of residence and with the same number of judges, as a court that could have held a hearing in the case, if the criminal proceedings had been held in Latvia.

(2) The factual circumstance and guilt of the person found in the foreign country's court's ruling are binding on the court in Latvia.

(3) The sentence determined in Latvia cannot worsen the status of the convicted, however as far as possible it must correspond to the sentence imposed in the foreign country.

(4) The issue regarding the executable sentence in Latvia is heard according to the procedure outlined in Chapter 61 of this law. The convict may ask an attorney to give judicial aid.

(5) If a person is in custody in a foreign country at the time of the hearing of the issue, the court with the aid of the Ministry of Justice requests that person's transfer to Latvia or ensures his participation in the determination of executable sentence proceedings using technical means.

(6) The court's ruling may be appealed within 10 days by the convicted party or the prosecutor to the Senate of the Supreme Court in a cassation procedure.

(7) The appeal is heard the same way an appeal in cassation is heard, which is submitted in a Latvian criminal proceeding, and within the same scope as is permitted by international treaties binding on Latvia and this Chapter.

#### **Article 783. Determination of executable deprivation of liberty sentences in Latvia**

(1) Deprivation of liberty or arrest is determined by the court, if the sentence imposed by the foreign country consists of deprivation of liberty, and the Latvian Criminal law provides a sentence consisting of deprivation of liberty for the same offense.



(2) The duration of the sentence should as far as possible conform to the duration of the sentence as imposed by the foreign country, however it cannot exceed Latvian Criminal law provisions for the maximum deprivation of liberty or arrest level for the same offense.

(3) Sentencing minimums for deprivation of liberty or arrest in the Latvian Criminal law are not applicable in ruling on the issue of executable sentence in Latvia.

(4) The entire period for which the convicted person was detained and the time he spend in imprisonment and in the location for enforcement of the verdict in connection with the offense for which the foreign country imposed a sentence, is to be applied to time served.

(5) The type of institution of deprivation of liberty, commencing the enforcement of the sentence, is determined using the same criteria, as in the case the sentence would have been determined in a criminal proceedings heard in Latvia.

(6) A sentence of deprivation of liberty imposed in a foreign country may not be replaced by a fine.

(7) A sentence involving deprivation of liberty in Latvia may be conditional, if the court is convinced that the convicted person, not having served the sentence, will not continue to commit new criminal offenses. In such a case the same provisions apply as when if the person had been conditionally convicted according to a criminal proceeding held in Latvia.

#### **Article 784. Determination of enforceable fine in Latvia**

(1) A fine enforceable in Latvia is determined by a court, if the foreign country imposed a fine and the Latvian Criminal law provides a fine or more severe punishment for the same crime, or if the fine is a supplemental punishment.

(2) The amount of the fine imposed in a foreign country is calculated by the Bank of Latvia currency exchange rate which was valid on the date of the promulgation of the verdict.

(3) The fine enforceable in Latvia may not exceed the limits provided in the Latvian Criminal law for the same offense, except in the case that in Latvia for such an offense only a more severe sentence is contemplated. In such a case the fine to be enforced in Latvia may not exceed the fine provided for in the Criminal law at the time of the ruling.

(4) Payment of the fine enforceable in Latvia may be split into installments by the court, or postponed for a time, which does not exceed one year from the day the ruling took effect.

(5) A determination of payment in installments or payment postponement in the foreign country is binding in Latvian courts, however the court may rule for additional enforcement relief, so long as they do not exceed the limits determined by this Article's fourth part.

(6) If it is not possible to collect the fine enforceable in Latvia, it may be replaced with a type of sentence that includes deprivation of liberty, if this is permitted law in the country that returned the verdict. In this case the substitution of punishments occurs according to

Latvian legal procedure. Replacing a fine is not permitted if the foreign country specifically disallows it in the request for enforcement of the sentence.

#### **Article 785. Determination enforceable property seizure in Latvia**

(1) Enforcement of property seizure in Latvia is determined, if it is imposed in a foreign country and for the same offense as the main punishment or supplemental punishment provided for in the Latvian Criminal law, or the property would be seizable in a criminal proceeding in Latvia based on different basis provided by law.

(2) If property seizure is contemplated by the verdict from the foreign country, but Latvian Criminal law does not provide for property seizure as the main punishment or supplemental punishment, property seizure is only permitted within the scope contemplated by the foreign country's verdict that the property to be seized is an instrument in the commission of the crime or was obtained illegally.

(3) Requests for return of confiscated property or part of the property to the foreign country is determined by a competent authority on a case by case basis.

#### **Article 786. Determination of executable limitation of rights in Latvia**

(1) All punishments involving limitation of rights or disqualification imposed in a foreign country are enforceable in Latvia, as long as they conform to the criteria in the Latvian Criminal law regarding imposition of supplemental punishment.

(2) Limitation of rights may be imposed for a time from one year to five years, if the foreign country's verdict does not stipulate a shorter time.

(3) A court which determines the enforcement of the punishment in Latvia may also decline to impose limitation of rights, if it does not see any utility for it in Latvia.

(4) Latvia may impose limitation of rights even in the case that such a punishment is being executed in a foreign country.

#### **Article 787. Procedure for determining enforcement in Latvia of a sentence imposed in a foreign country**

(1) The enforcement in Latvia of a sentence imposed in a foreign country occurs by the same procedure as if it were an enforcement of a sentence imposed by a criminal proceeding in Latvia.

(2) Acts enacted in Latvia regarding amnesty, pardon and early release from imprisonment apply to persons who are serving a sentence imposed by a foreign country in Latvia.

(3) Service of sentence is terminated and the foreign country's request for enforcement of imposed sentence cancelled by a foreign country's ruling to reverse a verdict of guilty.

(4) Rulings in the foreign country regarding reduction of sentence, amnesty or pardon are binding in Latvia.

(5) Notification from a foreign country regarding the legal facts listed in this Article's third and fourth parts are received and the enforcement is arranged by a competent authority. If the foreign country's ruling contains unequivocal information regarding the immediate termination of sentence or termination date, the information is given to the institution enforcing the sentence, but in other cases – to the court, which rules on issues concerning the execution of verdicts.

(6) A person who is serving a sentence consisting of deprivation of liberty is to be immediately released, as soon as information is received about reversal of a verdict of guilty, unless simultaneously a request is received from the foreign country regarding application of temporary custody in cases discussed in this Chapter.

#### **Article 788. Detention of a person convicted in a foreign country**

(1) A competent authority may instruct the police to detain for a time up to 48 hours a person, who is convicted in a foreign country of such an offense, for which a sentence of imprisonment would be imposed in proceedings occurring in Latvia, if:

1) the foreign country informs of its intention to request enforcement of a sentence consisting of deprivation of liberty in Latvia and requests detention of the person due to his avoidance of punishment;

2) a competent authority sees the possibility that the convicted person, regarding whom the foreign country has submitted a request for enforcement of a sentence consisting of deprivation of liberty, will avoid participating in a court hearing for determination of the sentence to be enforced in Latvia;

3) a competent authority believes, that the person convicted *in absentia*, finding himself in freedom, will illegally influence testifying witnesses or will falsify evidence.

(2) A detained person must be released if no application for temporary custody was made within the time limit indicated in the first part of this Article.

#### **Article 789. Temporary custody of a person convicted in a foreign country**

(1) If a person is detained according to the procedures in Article 788 of this law, the Ministry of Justice submits a petition to the trial judge to apply temporary custody.

(2) A competent authority's petition is reviewed in the same procedure as a petition for application of temporary custody in cases where the criminal proceedings were held in Latvia.

(3) Temporary custody may also be imposed by a court, which is ruling on a request from a foreign country enforce a sentence consisting of deprivation of liberty in Latvia, is there is reason to believe that the convicted person will avoid court.

(4) A person must be released from temporary custody if:

- 1) within 18 days from the day of detention the foreign country has not submitted a request for enforcement of sentence along with the necessary addenda;
- 2) a competent authority has notified that it refused to rule on the request;
- 3) the court has found that enforcement of the punishment is not possible in Latvia;
- 4) the court, in imposing the sentence to be served in Latvia, has not applied imprisonment as a security measure;
- 5) circumstances have been found that bar the person's holding in custody.

#### **Article 790. Application of security measure**

Determining the enforceable sentence in Latvia, the court may, until the ruling takes effect and an order for execution of sentence is imposed, the court can apply any security measure in the same way as in a criminal proceeding in Latvia.

#### **Article 791. Order for enforcement of sentence in Latvia**

(1) If the court's ruling regarding the enforcement in Latvia of a sentence imposed in a foreign country is not appealed in the time limit provided by law, the same court's judge issues an order for the enforcement of sentence.

(2) If the court's ruling is appealed and the Senate of the Supreme Court affirms the court's ruling, the reporting judge issues an order for the enforcement of sentence.

#### **Article 792. Procedure for request for enforcement of sentence imposed in a foreign country *in absentia***

(1) If the verdict in the foreign country was returned *in absentia*, a competent authority, having received a request from the foreign country regarding its enforcement in Latvia, delivers a notice to the convicted, which indicates that:

1) a request for enforcement of sentence has been submitted by a foreign country, with which Latvia has a treaty regarding enforcement of sentences imposed in another country *in absentia*;

2) the person has the right to appeal within 30 days from the receipt of the notice, requesting the *in absentia* case be heard in his presence in the foreign country or in Latvia;

3) the sentence will be applied and enforced according to general procedure, if within 30 days no request is made for a hearing in the presence of the convicted or the appeal is dismissed or denied due to the absence of the convicted person.

(2) The convicted submits the appeal provided for in this Article's first part to a competent authority in Latvia. If the appeal does not indicate which country should hear the case, it is heard in Latvia.

(3) A copy of the notice with a note regarding its delivery to the convicted person is sent by the Ministry of Justice without delay to the requesting foreign country.

#### **Article 793. Submission of appeal to a foreign country**

(1) If the convicted person submits an appeal within the time limit imposed by law, requesting new hearing of his case with his participation in the country, which imposed the sentence, a competent authority postpones hearing of the request.

(2) If the defendant is inexcusably absent from the country after being subpoenaed by the court, which was issued no later than 21 days before commencement of new hearing, the appeal is deemed not submitted and a competent authority, after receiving the information, examines the request according to the same procedure, as if the case were heard anew in the presence of the convicted.

(3) If as a result of the appeal hearing the verdict of guilty is reversed, a competent authority sends the request without further ruling to the submitting country..

(4) If a person convicted *in absentia* is in Latvia in temporary custody based on a request by a foreign country, this person is transferred to the foreign country for appellate hearing in his presence. In this case the issue of further incarceration is determined by the country which imposed the original sentence.

(5) If the person convicted in a foreign country *in absentia*, who has submitted an appeal to the country, which imposed the sentence, is in custody in Latvia due to a different criminal proceeding or is serving a sentence for a different offense, a competent authority informs the requesting country and coordinates a time, when the convicted person can be transferred to the foreign country for participation in the appellate hearing.

(6) If the foreign country's law allows, the convicted person may participate in the appellate hearing using technical aids. Participation using technical aids does not influence the convicted person's procedural rights in the proceedings in the foreign country. If the convicted person has invited an attorney from a foreign country to provide legal assistance, the attorney has the right to meet with the convicted person in confidential surroundings in Latvia and to participate in the appellate process together,, using technical aids.

(7) The inviting of an attorney from the foreign country does not influence the convicted person's right to legal assistance in Latvia.

#### **Article 794. Submission of appeal in Latvia**

(1) If a person convicted *in absentia* requests an appeal in a Latvian court, a competent authority informs the foreign country without delay and delivers the appeal, as well as the

request from the foreign country, along with the addenda, to the court, under which jurisdiction the case would be tried, if the criminal proceedings had occurred in Latvia.

(2) From the moment the court received the appeal, the criminal proceedings continue in Latvia and the convicted person receives defendant's status and all the rights a defendant has, including the right to counsel according to the procedure set out in this law.

#### **Article 795. Appellate procedure in Latvia**

(1) Subpoena for the convicted person is delivered no later than 21 days before appellate hearing, unless he has indicated unequivocal agreement to application of a shorter time frame.

(2) If the convicted person is absent from court without excuse, the court is released from hearing the case and questions regarding the enforcement in Latvia of the foreign country's verdict *in absentia* is heard according to the same procedure as for a sentence imposed in the presence of the convicted.

(3) If the law of the foreign country permits, procedural actions with regard to the appellate proceeding with persons located in foreign countries may be done using technical aids.

(4) As a result of the hearing, the court makes one of the following rulings:

1) a ruling of dismissal of appeal and determination of the enforceable sentence in Latvia without a hearing of the case;

2) a ruling regarding the reversal of the foreign country's verdict *in absentia* and regarding the continuation of criminal proceedings in Latvia beginning from criminal prosecution.

#### **Article 796. Use of materials from a foreign country**

(1) A court which receives an appeal from a person convicted by a foreign country *in absentia* may, with the assistance of a competent authority, request materials concerning the case trial which are in possession of the foreign country.

(2) Evidence acquired in a foreign country in that country's procedural order are valued the same as evidence acquired in Latvia.

#### **Article 797. Enforcement in Latvia of a sentence imposed in out of court proceedings if a foreign country**

(1) In cases provided for in international treaties, a sentence imposed in an out of court procedure in a foreign country is enforceable in Latvia in the same manner as a sentence imposed as a result of court hearing.

(2) Upon receipt of a request for enforcement in Latvia of a sentence imposed in an out of court procedure by a foreign country, a competent authority delivers to the person, upon whom sentence is imposed, a notice which indicates that:

1) the request for enforcement of sentence is submitted by a foreign country, with which Latvia has a treaty regarding enforcement of another country's out of court imposed sentences;

2) by submitting an appeal to a Latvian competent authority within 30 days, the person can request a case hearing in a foreign country or in Latvia;

3) the sentence is applied and enforced according to general procedure, if within 30 days time no request for renewed court hearing in the presence of the person is made, or the appeal is denied or dismissed due to the person's absence.

(3) An appellate hearing in the case of a sentence imposed in an out of court procedure has the same consequences and further hearing procedure as an appeal regarding a verdict *in absentia*.

#### **Article 798. Statute of limitations for criminal liability and enforcement of sentences**

(1) The enforcement of a sentence in Latvia imposed in a foreign country is subject to the limitations on criminal liability provided for in Latvian Criminal law, as well as in international law.

(2) Circumstances, which influence the running of the statute of limitations in a foreign country also have the same effect in Latvia.

#### **Article 799. Impermissibility of double jeopardy**

Latvia does not enforce a sentence imposed in a foreign country if the person has already served such a sentence in Latvia or a third country, has been convicted without determination of sentence, has been released from sentence in accordance with an amnesty or pardon or has been found not guilty of the crime.

#### **Article 800. Observation of a verdict from a foreign country verdict in a criminal proceeding in Latvia**

(1) In determining sentence for a person in a criminal proceeding held in Latvia, depending on which country has requested enforcement of the sentence in Latvia, sentence to be enforced in Latvia is added to the foreign country's imposed sentence according to the procedure in which sentence determination due to several verdicts is provided for in the Criminal law.

(2) Classification of the offense according to Latvian Criminal law, for which a sentence is being enforced in Latvia which was imposed in a foreign country, has the same meaning as for an offense, which is heard in a criminal proceeding in Latvia.

### **Article 801. Postponement of enforcement of sentence**

The enforcement in Latvia of a sentence imposed in a foreign country can be postponed in the same cases and according to the same procedures as for enforcement of sentences imposed in Latvia.

### **Article 816. Reasons for refusal to execute request by foreign country**

Execution of a request from a foreign country may be refused, if:

- 1) the request is connected to political malfeasance;
- 2) execution of the request could harm the sovereignty of the Latvian State, its security, public order or other vital interests;
- 3) not enough information has been submitted and it is not possible to receive further information.

### **Article 819. Performance of special investigations**

At the request of a foreign country, performance of special investigations is only allowed if it were permissible in a criminal proceeding in Latvia for the same crime.

### **Article 820. Delivery of person into temporary custody**

(1) At the request of a foreign country, a person who is detained, imprisoned or is otherwise serving a sentence of deprivation of liberty in Latvia, can be delivered to a foreign country for giving testimony or for cross-examination with the condition, that this person shall be returned to Latvia immediately after the dismissal of the proceedings, but no later than the last day of the delivery period.

(2) Delivery may be rejected, if:

- 1) the detained, imprisoned or convicted person does not agree;
- 2) this person's presence is required in a criminal proceeding going on in Latvia;
- 3) the person's removal would impede the dismissal of a criminal proceeding in Latvia within a reasonable time frame;
- 4) there are other material reasons.

(3) The length of time, which the person spends in custody in a foreign country at the request of that foreign country, is applied against the length of the person's custody or imprisonment in Latvia.

### **Article 821. Receipt of person in to temporary custody**

(1) If a foreign country requests that a person imprisoned or otherwise deprived of their liberty in such foreign country be transferred to Latvia during the course of proceedings, a competent authority may accept the person into custody for the duration of the proceedings.



(2) A person who is transferred to Latvia according to a request from a foreign country, is held in custody on the basis of the documents indicated in Article 702, part one, subpart 1. After the execution of the request the person is to be returned to the foreign country without delay, but no later than the last day of the transfer period.

#### **Article 822. Execution of a person's temporary delivery or receipt**

A competent authority instructs the Ministry of Interior to coordinate with the foreign country and perform the temporary delivery or receipt of a person.

#### **Article 823. Personal immunity**

(1) Criminal proceedings cannot be commenced or continued against a person who has arrived in Latvia with the consent of the Latvian State to execute a request from a foreign country, if such offense was committed prior to such person's arrival.

(2) The immunity described in part one of this Article terminates 15 days after such time as the person was able to leave territory of Latvia, as well as in the case the person left Latvia and returned voluntarily.

#### **Article 824. Delivery of objects to a foreign country**

According to a request from a foreign country, an object necessary as material evidence may be delivered to a foreign country. If necessary, a competent Latvian authority can request a security guarantee, that the object shall be returned.

#### **Article 825. Foreign country procedure for delivering documents**

According to the request of the foreign country, a competent authority organizes the delivery of foreign procedural documents to a person located in Latvia. A record of such delivery is recorded according to Article 326 of this law.

### **Chapter 74. Request for a foreign country to perform procedural actions**

#### **Article 826. Procedure for submitting a request**

(1) If it is necessary in a criminal case for some procedural actions to be performed in a foreign country, the claimant addresses the competent authority with a written proposal to request the foreign country to perform procedural actions. According to Article 827 of this law, the suggested request and other documents are to be attached to the proposal.

(2) The proposal is to be examined within 10 days and the petitioner is then informed of the results.

(3) If the proposal is found to be grounded, the competent authority sends the request to the foreign country.

#### **Article 827. Request for performance of procedural actions in a foreign country**

(1) The request for performance of procedural actions in a foreign country must be written in accordance with Article 678 of this law, and any the same documents are attached to the request as would be necessary, if the procedural actions were to be performed in Latvia in accordance with this law.

(2) The foreign country may be requested to:

- 1) allow a Latvian official to participate in the performance of procedural actions;
- 2) inform of the time and place of the performance of the procedural action;
- 3) perform procedural action using technical means.

#### **Article 828. Request for a person's temporary transfer**

(1) A competent authority, after receiving a written petition from the claimant, may request that a person detained, in custody or otherwise serving a sentence of deprivation of liberty in a foreign country, be transferred temporarily for the performance of procedural actions.

(2) A competent authority, after receiving a written petition from the claimant, may request that a foreign country accept transfer of a person detained, in custody or otherwise serving a sentence of deprivation of liberty in Latvia, if that person's presence is necessary for the execution of procedural actions in the foreign country.

#### **Article 829. Immunity of persons invited to Latvia**

(1) Criminal proceedings may not be initiated nor continued against a person, who has arrived in Latvia on invitation from a Latvian institution for performance of procedural actions.

(2) The immunity in part one of this Article terminates within 15 days after the time that the person was able to leave Latvia, as well as in the case the person left Latvia and subsequently voluntarily returned.

The Saeima has adopted and  
the President has promulgated the following law:

ON THE PREVENTION OF LAUNDERING  
OF PROCEEDS DERIVED FROM CRIMINAL ACTIVITY

Chapter I  
GENERAL PROVISIONS

Section 1

The following terms are used in this Law:

- 1) financial transaction (hereinafter also – transaction):
  - a) attraction of deposits and other repayable funds;
  - b) lending, also in accordance with financial leasing regulations;
  - c) making cash and other than cash payments;
  - d) emitting and servicing of payment instruments other than cash;
  - e) trading with foreign currency in one's own name or in the name of a client;
  - f) fiduciary transactions (trusts);
  - g) provision of investment services and investment non-core services and management of investment funds and pension funds;
  - h) issuing of guarantees and other such obligation documents, whereby someone undertakes an obligation to a creditor for the debt of a third person;
  - i) safekeeping of valuables;
  - j) participation in the issue of stock and the provision of services related thereto;
  - k) consultation for clients regarding services of a financial nature;
  - l) the provision of such information, as is associated with settlement of the debt liabilities of a client;
  - m) insurance;
  - n) the organization and maintenance of lotteries and gambling; and
  - o) other transactions which essentially are similar to the aforementioned.
- 2) financial institution: an **entrepreneur** registered in the Enterprise Registry of the Republic of Latvia, also a branch or a representation office which is founded to perform one or more of the financial transactions referred to in this Law, except attraction of deposits and other repayable funds, or in order to acquire participation in the equity capital of other **entrepreneurs**. Within the meaning of this Law, other legal or natural persons or associations of such persons whose professional activity includes the conduct of financial transactions, the provision of consultations related to such or the approval of these transactions, shall also be considered financial institutions.
- 3) financial resources – are payments in the form of cash and payment instruments other than cash, precious metals, as well as financial instruments;
- 4) client – a legal or natural person or an association of such persons who is associated by at least one financial transaction with a credit institution or a financial institution;
- 5) credit institution – a **bank registered in the Republic of Latvia, an electronic money institution or a branch of a foreign and member country bank or an electronic money institution**;

6) list of indicators of unusual transactions – a list approved by the Cabinet, the indicators included therein may be indicative of the laundering of the proceeds from crime or an attempt at laundering;

7) **beneficiary** – a natural person who owns the fixed capital or shares giving the right to vote (including participation obtained indirectly) or controls (directly or indirectly) the client of a person referred to in Section 2, Paragraph two of this Law in whose interests a transaction is conducted. A natural person who owns 25% or more of the share capital or shares giving the right to vote (including participation obtained indirectly) shall be considered the beneficiary of an entrepreneur;

8) **shell bank** – a bank, the management, staff or the place where financial services are provided of which are not located in the country in which it is registered and which has no supervisory institution [a shell bank shall also be a commercial company which conducts non-cash transfers on behalf of the third persons except for cases where such transfers are carried out by an electronic money institution or they are carried out among companies (participants) of a single concern registered according the procedure established by the law].

## Section 2

(1) This Law determines the duties and rights of the persons referred to in Paragraph two of this Section and their supervisory and control authorities regarding the prevention of the laundering of the proceeds from crime, as well as the procedures for establishing an Office of the Prevention of Laundering of Proceeds Derived from Criminal Activity (hereinafter – the Control Service) and an Advisory Board, and the duties and rights of these institutions and authorities.

(2) The requirements of this Law shall apply to:

1) participants in the financial and capital markets, including:

- a) credit institutions,
- b) insurers, private pension funds and insurance intermediaries,
- c) stock exchanges, depositaries and brokers of brokerage companies, and
- d) investment companies, credit unions and investment consultants;

2) organizers and holders of lotteries and gambling;

3) **entrepreneurs**, which are engaged in foreign currency exchange;

4) natural persons and legal persons who perform professional activities associated with financial transactions (provision of consultations, authorization of transactions), including:

- a) providers of postal services and other similar institutions, which perform money transfers and transmissions,
- b) tax consultants, sworn auditors, sworn auditor commercial companies and providers of financial services, except in cases which are associated with the pre-trial investigation professional activities thereof or within the scope of court proceedings,
- c) notaries, advocates and their employees and self-employed lawyers if they assist their client to plan the management of financial instruments and other resources, the opening or management of various types of accounts, the organization of the necessary investments for the creation, operation and management of **entrepreneurs** and similar structures, as well as if they represent their client or act on his or her behalf in financial transactions or transactions with immovable property, except in the cases which are associated with the fulfillment of the defense or representation function in court proceedings,

- d) persons whose professional activity includes trading in immovable property, means of transport, art and cultural objects, as well as intermediation in the referred to trading transactions, and
- e) performers of economic activities who are engaged in the trading of precious metals, precious stones and the articles thereof.

### Section 3

The purpose of this Law is to prevent the possibility of laundering the proceeds from crime in the Republic of Latvia.

### Section 4

(1) As proceeds from crime shall be acknowledged financial resources and other property, which have been directly or indirectly acquired as a result of the committing of the criminal offences provided for in the Criminal Law.

(2) As proceeds from crime shall also be acknowledged financial resources and other property, which are controlled (directly or indirectly) or the owner of which is:

1) a person who in connection with suspicion of committing an act of terror or participation therein is included in one of the lists of such persons compiled by a state or international organization in conformity with the criteria specified by the Cabinet of the Republic of Latvia; or

2) a person regarding whom institutions referred to in Section 33 of this Law have information, which gives sufficient grounds to hold such person under suspicion regarding the committing of a crime – terrorism or participation therein.

(3) In respect of the persons referred to in Paragraph two of this Section, the Control Service shall notify the persons referred to in Section 2 of this Law in conformity with the conditions of the provider of the information.

### Section 5

(1) The laundering of the proceeds from crime are the following activities, if such are committed with intent to conceal or disguise the criminal origin of financial resources or other property:

- 1) the conversion of financial resources or property into other valuables, changing their disposition or ownership;
- 2) the concealment or disguising of the true nature, origin, location, placement, movement or ownership of financial resources or other property;
- 3) the acquisition of ownership to, possession of or use of financial resources or other property, if at the time of the creation of these rights it is known, that these resources or property have been derived from crime; and
- 4) participation in the performance of the activities referred to in Clauses 1-3 of this Section.

(2) As the laundering of the proceeds from crime shall be deemed to be such also when the criminal offence provided for in the Criminal Law as a result of which directly or indirectly such proceeds have been acquired, has been committed outside of the territory of the Republic of Latvia and in the place of the commitment of the criminal offence criminal liability is provided for such offence.

### Section 5<sup>1</sup>

(1) A credit institution, while engaging into correspondent relationships with a foreign bank, shall conduct purposeful, proportionate and meaningful documented measures in order to ascertain whether the normative acts on the prevention of laundering of proceeds derived from criminal activity and terrorist financing are in place in the country concerned and whether the given foreign bank complies with the respective normative acts.

(2) The requirements referred to under this Section, Paragraph 1 of the Law shall not apply to cases when correspondent relationships are being established with a bank which is registered in a country which is a member of the Organization for Economic Cooperation and Development.

#### **Section 5<sup>2</sup>**

In order to fulfill the requirements of the Law a credit and financial institution shall be entitled to demand and receive information on beneficiaries, the third persons and their current and potential clients and employees from the Register of Invalid Documents, the Penalty Register and the Population Register ensuring adequate protection of the information received.

#### **Section 5<sup>3</sup>**

The persons referred to in Section 2, Paragraph two of this Law shall be forbidden to conduct transactions with shell banks.

## **Chapter II IDENTIFICATION OF CLIENTS**

#### **Section 6**

The persons referred to in Section 2, Paragraph two of this Law have the right to open an account or accept financial resources or other valuables for safe keeping, requesting client identification documents in which the following information is provided:

1) regarding a natural person:

- a) regarding a resident – given name, surname, personal identity number, or
- b) regarding a non-resident – given name, surname, date of issue and number of the personal identification documents, and the authority which issued the documents; and

2) regarding a legal person – the legal basis for the founding or legal registration, address, as well as the given name, surname, date of issue and number of the personal identification documents, and the authority which issued the documents of the authorized person, as well as the authorizations of such natural person and status, and if necessary – the given name and surname of the manager or the highest official of the administrative body of the legal person.

#### **Section 7**

(1) Any of the persons referred to in Section 2, Paragraph two of this Law shall identify a client, pursuant to the procedures specified in Section 6 of this Law, also in the performance of any other financial transaction, if the total amount in lats, on the basis of the exchange rate specified by the Bank of Latvia on the day of the performance of the transaction, of a single separate transaction or several clearly related transactions is the equivalent of 15 000 euro or larger, and if previously when

opening the account or accepting the financial resources for safe keeping the identification of the client had not been conducted.

(2) If the total amount of the financial transaction is not determinable at the time of its performance, the identification of the client shall be conducted as soon as the total amount of the transaction becomes known, which in lats on the basis of the exchange rate specified by the Bank of Latvia is the equivalent of 15 000 euro or larger.

(3) Irrespective of the amount of the financial transaction, the persons referred to in Section 2, Paragraph two of this Law shall identify a client if the indicators of the transaction conforms to at least one of the indicators included in the unusual transaction element list, or also if due to other circumstances, there is cause for suspicion regarding the laundering or attempted laundering of the proceeds from crime.

(4) A client shall be re-identified as soon as there is cause to suspect the veracity of the information acquired in the initial identification.

## **Section 8**

(1) The persons referred to in Section 2, Paragraph two of this Law shall require a signed declaration of the client concerning the beneficiaries, including the third persons where the transactions referred to under the Sections 6 and 7 of this Law are conducted on behalf of the third persons, as well as conduct purposeful, proportionate and meaningful measures in order to identify the beneficiaries, including the third persons, and the person submitting the declaration.

(2) The declaration referred to under Paragraph 1 of this Section shall be filled in when conducting the transactions listed under Sections 6 and 7 of this Law.

(3) The information referred to under Section 6 of this Law shall be included in the declaration on the beneficiaries, including the third persons.

(4) The volume, type and frequency of the activities referred to under Paragraphs 1 and 2 of this Section shall be established by the persons referred to in Section 2, Paragraph two of this Law while assessing the possible risks in respect of laundering of proceeds derived from criminal activity or terrorist financing concerning a given client and a transaction.

(5) The persons referred to in Section 2, Paragraph two of this Law shall be obliged to document the actions directed towards the identification of the beneficiary, including the third person, the structure of organization of the client, the characteristic features of the client's economic activity as well as the identification of the client's property rights and the control structure and to provide the said documents upon request to the supervisory and control authorities of the persons referred to in Section 2, Paragraph two of this Law.

## **Section 9**

The client identification and beneficiary, including the third persons, identification requirements prescribed in this Law shall not apply to the following:

1) financial transactions in which the client of a person referred to in Section 2, Paragraph two of this Law is :

- a) a credit institution or a financial institution licensed in the Republic of Latvia,
  - b) a credit institution or a financial institution that has been granted a license in a state the normative acts whereof comply with the normative acts of the European Union in the area of prevention of the use of the financial system for laundering of proceeds derived from criminal activity and terrorist financing,
  - c) the state or municipality or a state or municipal institution or an entrepreneur controlled by the state or a municipality;
- 2) a financial instruments market organizer registered in a European Union country or a market organizer which is a member of the International Stock Exchange Federation or an entrepreneur (its subsidiary) the share capital whereof is listed in the official lists of the said market organizers;
- 3) insurance companies (insurers), if the periodic insurance premium payments of a client within a period of one year do not exceed a total of 1000 euro equivalent in lats on the basis of the exchange rate specified by the Bank of Latvia or a single insurance premium payment does not exceed 2500 euro equivalent in lats on the basis of the exchange rate specified by the Bank of Latvia – irrespective of the amount of the insurance.

## **Section 10**

- (1) If a client is identified pursuant to the procedures set out in Section 6 of this Law, the persons referred to in Section 2, Paragraph two of this Law shall preserve copies of the documents attesting to the identification data of the client for at least five years after the transaction relationship with the client has ended.
- (2) If a client is identified pursuant to the procedure set out in Section 7, the beneficiary or the third person referred to under Section 8 of this Law has been identified following the procedure set out under Sections 7 and 8 of this Law and the person submitting the declaration has been identified following the procedure set out under Section 8, the person referred to in Section 2, Paragraph two of this Law shall preserve the document copies attesting to the identification data of the person submitting the declaration, the performance of transactions and the copy of the declaration on the beneficiary, including the third person, for at least 5 years following the transaction.

## **Section 10<sup>1</sup>**

- (1) Any of the persons referred to in Section 2, Paragraph two of this Law in commencing transaction relations or in conducting transactions with a client who has not personally appeared before such persons, shall perform measures which allow the ascertainment of the veracity of the identification data of the client. For this purpose additional documents may be requested, checks made of the identification data and various types of certifications received.
- (2) The special measures referred to in Paragraph one of this Section, shall be determined by the relevant internal regulatory enactments of the authorized administrative body of the persons referred to in Section 2, Paragraph two of this Law.

### **Chapter III**

### **REPORTING UNUSUAL AND SUSPICIOUS FINANCIAL TRANSACTIONS**

## **Section 11**



(1) The persons referred to in Section 2, Paragraph two of this Law have an obligation to:

1) notify the Control Service without delay regarding each financial transaction the indicators of which conform to at least one of the indicators included in the list of indicators of unusual transactions. The list of indicators of unusual transactions and procedures for notification shall be prepared by the Control Service, taking into account the recommendations of the Advisory Board, and shall be approved by the Cabinet; and

**2) pursuant to a written request of the Control Service, provide within 14 days, for the performance of its functions provided for by this Law, additional information and documents regarding the financial transaction of a client concerning which a report has been received from the persons referred to in Section 2, Paragraph two of this Law or information exchange has been conducted with the authorities and institutions referred to under Section 39, but on the other transactions of the client concerned with the consent of the Prosecutor General or a specially authorized prosecutor. Taking into account the volume of the information or the documents to be provided the time for fulfilling the request may be prolonged by making an agreement with the Control Service.**

(2) Officials and employees of the persons referred to in Section 2, Paragraph two of this Law also have a duty to **immediately** notify the Control Service regarding discovered facts which do not conform to the indicators included in the list of indicators of unusual transactions, but which due to other circumstances cause suspicion regarding the laundering or attempted laundering of the proceeds derived from crime.

## Section 12

In the report, which is submitted to the Control Service by the persons referred to in Section 2, Paragraph two of this Law, the following, if possible, shall be included:

- 1) client identification data;
- 2) a copy of the client identification document;
- 3) a description of the transaction conducted or proposed, as well as the addressee of the transaction and the amount of the transaction, the time and place of the transaction conducted or proposed; and
- 4) the indicators, which give a basis for considering that the transaction is suspicious or conform to the indicators included in the list of indicators of unusual transactions.

## Section 13

The Control Service has the right to utilize information, which is reported in compliance with the requirements of this Law, only to perform the functions provided for by this Law. An employee of the Control Service who has utilized this information for other purposes or has disclosed it to persons who do not have the right to receive the relevant information, shall be subject to criminal liability pursuant to the procedures prescribed by law.

## Section 14

The persons referred to in Section 2, Paragraph two of this Law and the officials and employees of such persons do not have the right to inform a client or a third person that information regarding the client or his or her transaction (transactions) has been reported to the Control Service.

## Section 15

A pre-trial investigation regarding the fact of the laundering of the proceeds from crime may not be commenced against a person who has reported this to the Control Service.

## Section 16

(1) If the persons referred to in Section 2, Paragraph two of this Law or an official or employee of such persons has reported to the Control Service in compliance with the requirements of this Law, irrespective of whether the fact of the laundering of the proceeds from crime is proved or not proved during the investigation or at trial, as well as irrespective of the provisions of the contract between the persons referred to in Section 2, Paragraph two of this Law and the client, the reporting to the Control Service shall not be deemed to be the disclosure of information not to be disclosed and therefore the persons referred to in Section 2, Paragraph two of this Law and the official or employee of such persons shall not be subject to legal liability.

(2) Compliance with the provisions of this Law shall not be a violation of the norms regulating the professional activities of the persons referred to in Section 2, Paragraph two of this Law or their supervisory and control authorities, as well as the officials and employees thereof.

## Section 16<sup>1</sup>

(1) For the purpose of implementing the objectives of this Law a credit institution, following a request of a correspondent bank registered in a European Union country or a country which is a member of the Organization for Cooperation and Development, shall provide identifying information on their clients, beneficiaries, including the third persons, and data on conducted transactions if the normative acts of the respective country prescribe an analogous requirement applying to credit institutions under its jurisdiction.

(2) The respective credit institution, its official or employee shall not carry legal liability for providing the information referred to under Paragraph 1 of this Section.

### Chapter IV

#### REFRAINING FROM THE CONDUCT OF SUSPICIOUS FINANCIAL TRANSACTIONS AND THE SUSPENSION OF SUCH TRANSACTIONS

## Section 17

(1) The persons referred to in Section 2, Paragraph two of this Law shall refrain from conducting a transaction or several linked transactions, including certain type of debit operations in the account of the client if there is cause for suspicion that this transaction is associated with laundering or attempted laundering of the proceeds from crime or terrorist financing.

(2) The persons referred to in Section 2, Paragraph two of this Law, pursuant to the requirements of Section 12 of this Law, shall immediately report to the Control Service about the refraining to execute a transaction enclosing with the report the available documents associated with the fact of refraining to execute a transaction.

**(3) Within 14 days following the receipt of a report on refraining to execute a transaction the Control Service shall:**

**1) issue an order pursuant to the requirements set out under Section 17<sup>2</sup>, Paragraph 1 of this Law and inform in writing the person referred to in Section 2, Paragraph two of this Law;**

**2) inform in writing the person referred to in Section 2, Paragraph two of this Law that additional analysis of the information contained in the report is to be conducted and that information and documents about the client and his transactions are to be requested from the client, including by way of intermediation from the part of the persons referred to in Section 2, Paragraph two of this Law, in order to decide whether debit operations with financial resources in the account of the client or the movement of other property should be stopped or notify in writing the person referred to in Section 2, Paragraph two of this Law that there is no ground to issue an order pursuant to the requirements set out under Section 17<sup>2</sup>, Paragraph 1 of this Law.**

**(4) The Control Service may inform the person referred to in Section 2, Paragraph two of this Law as well as its supervisory and control authority about the fact that information has been sent to pre-trial investigation authorities pursuant to the procedure set out under Section 32 of this Law or inform that information concerning the refraining to execute a transaction cannot be sent.**

#### **Section 17<sup>1</sup>**

**(1) If financial resources or other property in accordance with Section 4, Paragraph two of this Law is qualified as proceeds of crime, the Control Service may give the persons referred to in Section 2, Paragraph two of this Law an order to suspend the debit operation of such financial resource into the account of the client or other movement of property for the time specified in the order, but for not longer than six months.**

**(2) The persons referred to in Section 2, Paragraph two of this Law shall without delay implement the order referred to in Paragraph one of this Section.**

**(3) The Control Service has the right to revoke its own order to suspend the debit operation of such financial resource into the account of the client or other movement of property before the end of the time period.**

#### **Section 17<sup>2</sup>**

**(1) If, on the basis of information at the disposal of the Control Service, there is cause to suspect that a criminal offense, including laundering, attempted laundering of the proceeds from crime or the financing of terrorism is taking place, the Control Service may give the persons referred to in Section 2, Paragraph two of this Law an order to suspend debit operations with the financial resources in the account of a client or the movement of other property for a period of time which shall not exceed 45 days.**

**(2) The persons referred to in Section 2, Paragraph two of this Law shall implement the Control Service order without delay and request from the client the information indicated in the Control Service order.**

(3) The Control Service shall revoke the order regarding the suspension of the debit operation of financial resources into the account of a client or other movement of property if the client has provided justified information regarding the lawfulness of the origin of the financial resources or other property. The information referred to shall be submitted by the client to the persons referred to in Section 2, Paragraph two of this Law, who shall transfer such information without delay to the Control Service.

(4) If the order is not revoked, the Control Service shall, within a period of 10 working days after the issue thereof, provide information to the pre-trial investigation institutions pursuant to the procedures specified in Section 32 of this Law.

### **Section 17<sup>3</sup>**

(1) In cases provided for under Section 17<sup>1</sup>, Paragraph 1 and 17<sup>2</sup>, Paragraph 1 of this Law the Control Service may issue an order to the holder of property register to take appropriate measures in the frame of its competence in order to stop its re-registration for the period of time stipulated in the order.

(2) The holder of property register shall fulfill the order immediately and report back to the Control Service about the mode of execution and the results.

(3) Where an order has not been lifted, the Control Service shall provide pre-trial investigation authorities with information within 10 weekdays following the issuance of the order.

### **Section 18**

If the persons referred to in Section 2, Paragraph two of this Law are not able to refrain from conducting a suspicious transaction, or if refraining from the conducting of such a transaction may serve as information, which would assist persons involved in the laundering of the proceeds from crime to evade liability, the credit institution or financial institution has the right to conduct the transaction, and report it to the Control Service pursuant to the procedures set out in Section 12 of this Law after the transaction has been conducted.

### **Section 19**

If the persons referred to in Section 2, Paragraph two of this Law have refrained from a transaction in accordance with the requirements of Section 17 of this Law, in relation to such refraining from or delaying of the transaction, the persons referred to in Section 2, Paragraph two of this Law or an official or employee of such persons shall not be subject to legal liability, irrespective of the results of the utilization of the information provided.

### **Section 19<sup>1</sup>**

(1) If the persons referred to in Section 2, Paragraph two of this Law have suspended the debit operation of financial resources into the account of a client or other movement of property in compliance with the requirements of Section 17.<sup>1</sup> of this Law, then irrespective of the fact of what is the result of the suspension of the financial resources debit operation or other movement of property, the persons referred to in Section 2, Paragraph two of this Law, as well as an official or employee of such institution shall not be subject to legal liability.

(2) If the order regarding the suspension of the debit operation of financial resources into the account of a client or other movement of property has been given in conformity with the provisions of this Law, the Control Service and its officials shall not be subject to legal liability for the consequences of the order.

## **Section 19<sup>2</sup>**

(1) To enable the persons referred to in Section 2, Paragraph two of this Law to fulfill the requirements of this Law they shall be entitled to request from their clients and the clients have an obligation to provide information and documents concerning the beneficiaries, including the third persons and any transaction conducted by the client, his economic, personal activity, the financial standing and the sources of funds.

(2) If a client fails to provide or refuses to provide the information and documents referred to under Paragraph 1 of this Section, the persons referred to in Section 2, Paragraph two of this Law shall decide whether the business relationship with the client is to be continued or terminated or the client should be requested to settle all his liabilities before term as well as whether the same actions should be instituted in respect of other clients who have the same beneficiaries or who conduct transactions on behalf of the same third persons. The said actions shall be documented and the documents shall be accessible to the supervisory and control authorities of the persons referred to in Section 2, Paragraph two of this Law.

(3) If a financial or credit institution terminates business relationships with its client the accounts of the client concerned at the respective financial or credit institution shall be closed and the monetary resources or financial instruments held there shall be transferred upon the request of the client only to the account of the same client at another financial or credit institution from which the monetary resources or financial instruments have been received or which has been registered and provides financial services, including the receiving of deposits, in the country of registration which appears to be another country of the European Economic Zone.

(4) Financial and credit institutions shall be entitled to exchange, directly or via a specially designated institution created for that purpose, with data on persons with whom business relations have not been initiated or have been terminated pursuant to the procedure set out under this Section as well as to create and maintain appropriate registers on such persons.

(5) The data referred to under Paragraph 4 of this Section shall be considered classified information which shall be divulged only to financial, credit institutions themselves and the institution which has been created for the exchange of such information as well as to the state institutions listed under Section 63 of the Law on Credit Institutions pursuant to the procedure established by law.

(6) A credit institution shall carry no legal liability for terminating business relationships with a client or for requesting to settle his liabilities before term in the cases and following the procedure prescribed by this Section.

## **Chapter V INTERNAL CONTROL**

## Section 20

(1) The persons referred to in Section 2, Paragraph two of this Law shall establish and document a laundering of the proceeds from crime and prevention of the financing of terrorism internal control system, providing for the regular assessment of the operational effectiveness thereof, as well as clear procedures for specifying the identification of clients and the procedures for the oversight of economic activity.

**(1<sup>1</sup>) Financial and credit institutions shall carry out purposeful, proportionate and meaningful measures in order to monitor the transactions of their clients as well as ascertain whether the transactions conducted by the client correspond with the actual specifics of the client's economic activity. The said actions shall be documented and the documents shall be accessible to the supervisory and control authorities of financial and credit institutions.**

(2) The persons referred to in Section 2, Paragraph two of this Law shall ensure that their employees are familiar with the requirements of this Law, as well as conduct regular training of their employees in the determination of the indicators of unusual transactions or suspicious financial transactions and the implementation of the activities provided for in the internal control regulations.

(3) The persons referred to in Section 2, Paragraph two of this Law shall designate a unit or appoint one employee or several employees who are entitled to take decisions and shall be directly responsible for the observance of the requirements of this Law. The persons referred to in Section 2, Paragraph two of this Law shall notify the Control Service in respect of the designation of such unit or the appointment of such employees, as well as the relevant supervisory and control authorities of such persons.

(4) The persons referred to in Section 2, Paragraph two of this Law shall register the reports provided to the Control Service and ensure the accessibility of such reports to the supervisory and control authorities.

## Section 21

(1) The persons referred to in Section 2, Paragraph two of this Law, the supervisory and control authority of such persons, the Control Service and their officials and employees do not have the right to disclose to a third person data regarding the employees of the units thereof, or employees specially designated who are responsible for maintaining contact with the Control Service.

(2) The Control Service does not have the right to disclose data about those persons who have reported unusual or suspicious financial transactions. This restriction shall not apply to cases, which are provided for in Section 33 of this Law.

## Chapter VI DUTIES OF THE SUPERVISORY AND CONTROL AUTHORITIES

## Section 22

The supervisory and control authorities of the persons referred to in Section 2, Paragraph two of this Law, if such have been established in accordance with the regulatory enactments regulating the activities of such persons, have a duty to report to the Control Service the facts discovered during the course of examinations which conform to the indicators which are included in the list of

indicators of unusual transactions, and regarding which the relevant persons referred to in Section 2, Paragraph two of this Law have not notified the Control Service.

#### Section 23

The supervisory and control authorities of the persons referred to in Section 2, Paragraph two of this Law have the right to notify the Control Service regarding facts discovered during the course of examinations which do not conform to the indicators which are included in the list of indicators of unusual transactions, but which due to other circumstances cause suspicion of the laundering or attempted laundering of the proceeds from crime.

#### Section 24

The supervisory and control authorities of the persons referred to in Section 2, Paragraph two of this Law and their employees do not have the right to inform the clients of the persons referred to in Section 2, Paragraph two of this Law, or third persons, that the Control Service has been notified in the cases referred to, and pursuant to the procedures set out in Sections 11, 12, 22 and 23 of this Law.

#### Section 25

Notification of the Control Service pursuant to the procedures set out in this Chapter shall not constitute the disclosure of information not to be disclosed, and therefore the persons referred to in Section 2, Paragraph two of this Law or their employees shall not be subject to legal or financial liability irrespective of whether the fact of the laundering of the proceeds from crime is proved or not proved during the pre-trial investigation or at trial.

#### Section 26

The supervisory and control authorities of the persons referred to in Section 2, Paragraph two of this Law have an obligation, pursuant to a request from the Control Service, to provide it with methodological assistance for the performance of the functions provided for in this Law.

#### Section 26<sup>1</sup>

In order that the supervisory and control authorities may perform the duties specified in this Law, they have the right, within the scope of their competence specified by law, to request from natural persons and legal persons information, which is associated with the implementation of the requirements of this Law, as well as to perform activities in order to prevent or reduce the possibility of utilizing the financial system and the capital market of the Republic of Latvia for laundering of proceeds derived from crime or terrorist financing.

#### Section 26<sup>2</sup>

The supervisory and control authorities of the persons referred to in Section 2, Paragraph two of this Law shall have the right to publish statistics concerning the violations of this Law and the sanctions imposed.

### Chapter VII THE CONTROL SERVICE

## Section 27

The Control Service is a specially established State authority which, in accordance with this Law, shall exercise control over unusual and suspicious financial transactions, and shall acquire, receive, register, process, compile, store, analyze and provide information to pre-trial investigative institutions and the court, which may be utilized for the prevention, detection, pre-trial investigation or adjudication of the laundering or attempted laundering of the proceeds from crime or other criminally punishable activities associated with it.

## Section 28

- (1) The Control Service is a legal person monitored by the Office of the Prosecutor; such monitoring shall be directly exercised by the Prosecutor-General and specially authorized prosecutors. The Council of the Prosecutor-General shall approve the by-laws of the Control Service.
- (2) The Control Service shall be financed from the State budget.
- (3) The structure and the staff of the Control Service shall be determined by the Prosecutor-General in accordance with the amount of funds allocated from the State budget.
- (4) The Head of the Control Service shall be appointed to office, for a four year term, and dismissed from office by the Prosecutor-General, but the Head of the Control Service may be removed from office during his or her term of office only for the committing of a criminal offence, an intentional violation of the law, or for negligence which is related to his or her professional activities or has resulted in substantial consequences, or for a shameful offence which is incompatible with his or her status.
- (5) The other employees of the Control Service shall be hired, as well as dismissed, by the Head of this Service. The Cabinet shall determine the salaries of the employees of the Control Service.
- (6) The Head and employees of the Control Service must comply with the requirements which are provided for in the Law On Official Secrets, in order to receive a special permit to access especially secret information. Their compliance with these requirements shall be examined and certified by the Constitution Protection Bureau.

## Section 29

The duties of the Control Service are:

- 1) to receive, compile, store and analyze reports by the persons referred to in Section 2, Paragraph two of this Law, as well as information obtained by other means in order to determine whether such information may be related to the laundering or attempted laundering of the proceeds from crime;
- 2) to provide to pre-trial investigative institutions and to the court information that may be utilized for the prevention, detection, pre-trial investigation or adjudication of the laundering or attempted laundering of the proceeds from crime or other criminally punishable activities associated with such;
- 3) to analyze the quality of the information reported and the effectiveness of its utilization, and to inform the persons referred to in Section 2, Paragraph two of this Law thereof;



- 4) to conduct analysis and research of the laundering or attempted laundering of the proceeds from crime methods, and to improve the methodology for the hindrance and detection of such activities; and
- 5) in accordance with the procedures set out in this Law, to co-operate with international authorities, which are engaged in combating the laundering or attempted laundering of the proceeds from crime;
- 6) to provide supervisory and control authorities with information on the most typical techniques and locations used for generating proceeds derived from crime and their laundering in order to carry out actions which would reduce the possibility of utilizing the financial system and the capital market of the Republic of Latvia for laundering of proceeds derived from crime or terrorist financing;
- 7) to provide upon the request of the supervisory and control authorities, in the frame of their competence, data on the statistics, quality and the effectiveness of utilization concerning the reports made by the persons referred to in Section 2, Paragraph two of this Law.

### **Section 30**

The Control Service shall perform the necessary administrative, technical and organizational measures, in order to ensure the protection of information, to prevent unauthorized access to and unauthorized tampering with, or distribution or destruction of such information. The procedures for the registration, processing, storage and destruction of the information received by the Control Service shall be determined by the head of the Control Service by coordinating the issue with the Prosecutor-General. The Control Service shall retain information regarding financial transactions for at least five years.

### **Section 31**

All State authorities have a duty to provide information requested by the Control Service for the performance of its functions, pursuant to the procedures prescribed by the Cabinet. In performing the information exchange with the Control Service, the person who manages the personal data processing system or performs the data processing is prohibited from disclosing to other natural or legal persons the fact of the information exchange and the information.

## **Chapter VIII**

### **CO-OPERATION BETWEEN THE CONTROL SERVICE AND STATE AUTHORITIES**

### **Section 32**

Upon its own initiative the Control Service may provide information to pre-trial investigative institutions or to a court, if such information allows the making of a reasonable assumption, that the relevant person has committed or attempted to commit a criminal offence or has performed the laundering of the proceeds from crime.

### **Section 33**

At the request of persons performing investigative field work, or of pre-trial investigative institutions, as well as of the court, pursuant to an assessment from the point of view of lawfulness

and justification and the approval of the Prosecutor-General or specially authorized prosecutors, the Control Service, in compliance with the requirements of this Law, shall provide information, if, regarding criminally punishable offences provided for in Section 4 of this Law, at least one of the following actions has been commenced:

- 1) a criminal matter has been initiated pursuant to the procedures set out in the Criminal Procedure Code of the Republic of Latvia, or
- 2) an operative registration case has been initiated in accordance with the procedure set out in Sections 21 and 22 of the Law On Operative Activities.

#### Section 34

Pursuant to a request from the State Revenue Service, which has been accepted by the Prosecutor-General or a specially authorized prosecutor, the Control Service shall provide the information at its disposal necessary for the examination of the income declarations of State officials provided for by the Law On Prevention of Conflict of Interest in Activities of Public Officials, if there is substantiated cause for suspicion that the official has provided false information regarding his or her financial circumstances or income.

#### Section 35

- (1) The submitter of a request for information and the prosecutor who accepts it shall be liable for the validity of the request.
- (2) The information provided by the Control Service may be published at the moment when the relevant person is subjected to criminal liability.**
- (3) In the cases referred to in Sections 32-34 of this Law, the Control Service shall submit the materials to the Prosecutor-General or to specially authorized prosecutors for transfer to the relevant authorized institutions.

#### Section 36

- (1) The Control Service may use the information at its disposal only for the purposes provided for in this Law and in accordance with the procedures prescribed by this Law.
- (2) Information, which has been acquired by the Control Service pursuant to procedures monitored by the Prosecutor-General or specially authorized prosecutors, shall not be transferred to the control of investigative institutions or to the court or be utilized for their needs.
- (3) The State institutions referred to in this Law may use the information issued to them by the Control Service only for the purpose for which it has been received.

### Chapter IX THE ADVISORY BOARD OF THE CONTROL SERVICE

#### Section 37

In order to facilitate the work of the Control Service and to co-ordinate its co-operation with law enforcement institutions, the persons referred to in Section 2, Paragraph two of this Law, an Advisory Board shall be established, the tasks of which are:

- 1) to co-ordinate co-operation among State institutions and the persons referred to in Section 2, Paragraph two of this Law with respect to the implementation of this Law;
- 2) to develop recommendations to the Control Service for the performance of its functions as provided for in this Law;
- 3) to prepare and submit to the Control Service proposals for supplementing or amending the list of indicators of unusual transactions; and
- 4) pursuant to a petition of the Prosecutor-General, or on its own initiative, to inform the Prosecutor-General regarding the work of the Control Service and to submit proposals on improving the work of this Service.

#### Section 38

(1) In the composition of the Advisory Board:

- 1) the Minister for Finance shall designate two representatives, including one from the State Revenue Service; and
- 2) the following shall designate one representative:
  - a) the Minister for the Interior,
  - b) the Minister for Justice,
  - c) the Bank of Latvia,
  - d) the Finance and Capital Market Commission,
  - e) the Latvian Association of Commercial Banks,
  - f) the Latvian Association of Insurers,
  - g) the Latvian Sworn Auditors Association;
  - h) the Latvian Sworn Notaries Council;
  - i) the Latvian Sworn Advocates Collegium, and
  - j) the Supreme Court.

(2) The Prosecutor-General shall chair meetings of the Advisory Board.

(3) The head of the Control Service and experts shall be invited to participate at the meetings of the Advisory Board.

(4) The Control Service shall ensure record keeping for the Advisory Board.

### Chapter X INTERNATIONAL CO-OPERATION

#### Section 39

(1) The Control Service may freely, on its own initiative or pursuant to a petition, conduct an exchange of information with foreign authorized institutions the duties of which are essentially similar to the duties referred to in Section 27 of this Law, as well as with foreign or international

anti-terrorism agencies concerning the issues of the control of the movement of financial resources or other property linked to terrorism if:

- 1) the confidentiality of data is ensured and they shall be used only for mutually agreed purposes; and
- 2) it is guaranteed that the information shall be utilized to prevent and detect only such types of criminal offences as are criminally punishable also in Latvia.

(2) Information at the disposal of the Control Service shall be provided to foreign investigative institutions and courts in accordance with the procedures provided for by international agreements regarding mutual legal assistance in criminal matters and through the Latvian State institutions specified in such agreements, moreover only regarding criminal offences, which are also criminally punishable in Latvia, if the international agreements regarding mutual legal assistance in criminal matters do not specify otherwise.

### **Transitional Provisions**

1. No actions, except for closing of the account, may be performed after 1 January 1999 with regard to accounts which were opened prior to 1 January 1997 without identifying the client, until the identification of the account holder has been performed.

2. The requirements of this Law shall also apply to the structural units and foreign subsidiaries of the persons referred to in Section 2, Paragraph two of this Law.

### **Informative Reference to European Union Directives**

This Law contains legal norms arising from European Union Directives 91/308/EEC and 2001/97/EC.

This Law shall come into force on 1 June 1998.

This Law has been adopted by the *Saeima* on 18 December 1997.

President

G. Ulmanis

Rīga, 6 January 1998

### **Transitional Provisions Regarding Amendments to the Law On Prevention of the Laundering of the Proceeds from Crime**

Transitional Provision  
(regarding amending law of 18 December 2003)

This Law shall come into force on 1 February 2004.

**The Law has been enacted by the Saeima on May 26. 2005.**

**In lieu of the President of the State  
The Chairwoman of the Saeima**

**I. Ūdre**

**Rīga, June 10, 2005.**