



**COUNCIL OF
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COVER NOTE

from:	Mr. Raimundas Karoblis, Ambassador, Permanent Representation of Lithuania to the European Union
to:	Mr. Rafael Fernández-Pita y González, Director-General, Council of the European Union
date of receipt :	30 July 2013
Subject:	Implementation of Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders - Notification

Dear Sir,

Please find attached notification by the Republic of Lithuania concerning the implementation of the Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders.

(Complimentary close)

(s.) Raimundas Karoblis

MINISTRY OF JUSTICE OF THE REPUBLIC OF LITHUANIA

To the Permanent Representation of the Republic of Lithuania to the European Union 18 July 2013 Ref. no (1.39.) 7R-5260

**NOTIFICATION OF THE TRANSPOSITION OF FRAMEWORK DECISION
2006/783/JHA ON THE APPLICATION OF THE PRINCIPLE OF MUTUAL
RECOGNITION TO CONFISCATION ORDERS**

Please find attached the text of the provisions of the legislation of the Republic of Lithuania transposing the obligations imposed on the Member States under Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders, including the provisions relating to Council Framework Decision 2009/299/JHA of 26 February 2009 amending it, ("the Framework Decision"). We hereby request that you inform the European Commission and the General Secretariat of the Council of the European Union thereof, in accordance with the procedure laid down.

The provisions of the Framework Decision are implemented by the Code of Criminal Procedure of the Republic of Lithuania and by the rules on the transmission of confiscation decisions adopted by courts of the Republic of Lithuania to other Member States of the European Union for the purpose of execution, endorsed by resolution of the Government of the Republic of Lithuania.

The provisions of the Code of Criminal Procedure set out the action to be taken by the Republic of Lithuania when, as executing State, it recognises and executes confiscation decisions received from other Member States, and the framework for the action taken by the Republic of Lithuania when, as issuing State, it sends confiscation decisions to other Member States. The current amendments to the Code of Criminal Procedure were adopted by means of Law No XI-2200 of 30 June 2012 amending and supplementing Articles 94, 342, 344, 362, 364, 365 and 365² of and the Annex to the Code of Criminal Procedure of the Republic of Lithuania and supplementing the Code by means of Articles 173, 365³ and 365⁴. These amendments came into force on 1 January 2013. The rules on the transmission of confiscation decisions adopted by the courts of the Republic of Lithuania to other Member States of the European Union for execution set out detailed provisions on the action to be taken by the Republic of Lithuania as issuing State when sending confiscation decisions to other EU Member States. The rules were endorsed by Resolution of the Government of Lithuania No 219 of 13 March 2013 and came into force on 21 March 2013.

District courts are the authorities of the Republic of Lithuania as *executing State* competent to recognise and arrange the execution of confiscation decisions transmitted by the competent authorities of other Member States of the European Union in accordance with Article 3(1) of the Framework Decision. District courts are competent to receive confiscation decisions transmitted directly by other Member States of the European Union.

In accordance with Article 365³(1) of the Code of Criminal Procedure, a decision on confiscation by a court of a Member State of the European Union is recognised by the *district court* of the *place of residence* of the *natural person* in respect of whose property the decision on confiscation was issued, or of the *registered seat* of the *legal person* in respect of whose property the decision on confiscation was issued. In cases where the natural person in respect of whose property the decision on confiscation was issued has no residence in the Republic of Lithuania or the legal person in respect of whose property the decision on confiscation was issued has no registered seat in the Republic of Lithuania, the decision on confiscation is recognised by the *district court of the place where the property or the principal part thereof in respect of which confiscation is sought is located*.

Courts of general jurisdiction (district courts, regional courts, the Lithuanian Court of Appeal and the Supreme Court of Lithuania) are the authorities of the Republic of Lithuania as *issuing State* competent to adopt a confiscation decision and transmit it to the competent authorities of another Member State of the European Union for the purposes of execution pursuant to Article 3(1) of the Framework Decision. Courts of general jurisdiction are competent to transmit confiscation decisions adopted by them directly to other Member States of the European Union for the purposes of execution.

In accordance with point 8 of the rules adopted by Resolution of the Government of the Republic of Lithuania No 219 of 13 March 2013, it is for the *court that adopted the decision on confiscation* to consider and issue a ruling on the question of whether to transmit a decision on confiscation to a competent authority of another Member State of the European Union under the procedure laid down in Article 362 of the Code of Criminal Procedure.

Contact information for Lithuanian courts and their geographical areas of responsibility can be found on the website of the Lithuanian National Courts Administration [in Lithuanian] (<http://www.teismai.lt/lt/teismai/teismai-teismu-kontaktai/> and <http://www.teismai.lt/lt/teismai/teismu-veiklos-teritorijos/>).

The **Ministry of Justice of the Republic of Lithuania** (Gedimino pr. 30/1, LT-01104, Vilnius, Lithuania, tel. (370) 5266 2933, fax (370) 5262 5940) is the *central authority* responsible for providing assistance to competent authorities.

We hereby declare that, in accordance with Article 7(5) of the Framework Decision and Article 365³(4) of the Code of Criminal Procedure, the Republic of Lithuania will recognise and execute judicial confiscation decisions of Member States of the European Union that are based on a decision by the issuing Member State under the general (extended) powers of confiscation of property provided for in [its] national law only when this consistent with the national law of the Republic of Lithuania.

We hereby declare that, in accordance with the provisions of Article 19(2) of the Framework Decision and of Article 365³(3)(8) of the Code of Criminal Procedure, the Republic of Lithuania will accept certificates under Article 4(2) of the Framework Decision in Lithuanian and English.

ATTACHMENT: Excerpts from the current version of the legislation in force, nine pages.

(s.) Paulius Griciūnas

Deputy Minister for Justice

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