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***1. Introduction***

The Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (hereinafter referred to as Framework Decision) was introduced by the Law on the Amendments to the Criminal Procedure Law of 27 May 2004.

The Criminal Procedure Law (hereinafter referred to as CPL) entered into force on 1 October 2005 and it included the regulations regarding the European arrest warrant.

***2. Extradition from Latvia to another EU Member State***

**2.1. Extradition conditions, pursuant to European decision on arrest**

A person who is located in the territory of the Republic of Latvia may be extradited to a Member State of the European Union for criminal prosecution, litigation, or the execution of a judgment, if a person is the subject of a European arrest warrant abroad.

**2.1.1. Definition of the European arrest warrant (offence)** (Article 2 of Framework Decision)

A person may be extradited to a Member State of the European Union for criminal prosecution, litigation, or the execution of a judgment, if a person is the subject of a European arrest warrant abroad if the following terms exist:

- a person who is a suspect or accused in the committing of a criminal offence regarding which deprivation of liberty is intended with a maximal boundary of not less than one year or more severe penalty;
- a person is extradited for the execution of a judgement by the state that rendered the judgment and convicted the person with a penalty that is related to deprivation of liberty for a term of not less than four months;
- if extradition has been requested regarding several criminal offences, but extradition may not be applied for one of such offences because such offence does not comply with the conditions regarding the possible or imposed penalty, the person may also be extradited regarding such criminal offence.

If a person is extradited for an offence mentioned in Annex 2 to Framework Decision (*double criminality*) and if it is punishable in the issuing Member State by a custodial sentence or a detention order for a maximum period of at least three years, the verification of the criminality of such offence in accordance with the law of Latvia shall not be performed. The Article 2 of Framework Decision is enclosed as Annex 2 of CPL.

**2.1.2. Grounds for extradition refusal**

**Grounds for mandatory non-execution** (Article 3 of Framework Decision)

A person's extradition is not admissible, if:

- 1) the person may not, in accordance with a Latvian law regarding the same criminal offence, be held criminally liable, tried, or a penalty executed in connection with amnesty;
- 2) the person has been sentenced, the sentence has been served or is currently being served in a Member State of the European Union or this penalty may be no longer executed;

3) the person may not, owing to his or her age, be held criminally responsible in accordance with the law of Latvia;

4) extradition of a Latvian citizen is requested for serving the sentence pronounced by a Member State of the European Union.

#### **Grounds for optional refusal (Article 4 of Framework Decision)**

The extradition of a person may be refused, if:

- 1) a criminal offence has been committed completely or partially in the territory of Latvia;
- 2) the person is being held as a suspect, is accused, or is being tried in Latvia regarding the same criminal offence;
- 3) a decision has been taken in Latvia to not commence, or to terminate, criminal proceedings regarding the same criminal offence;
- 4) a person cannot be accused, tried or sentenced for the same criminal offence due to the limitation in accordance with the law of Latvia;
- 5) an offence has been committed outside the territory of the state issuing the European arrest warrant and it is not criminal in accordance with the law of Latvia.

#### **2.1.3. *Guarantees* (Article 5 of Framework Decision)**

If a European arrest warrant is issued regarding a Latvian citizen abroad, this person is extradited upon condition that the person, after being tried, shall be returned to Latvia in order to serve there the imposed sentence. The sentence shall be executed in accordance with the standards for the execution of a sentence passed abroad in Latvia.

If a person to be extradited is a Latvian citizen, such person has the right to waive the rights that guarantee that the Latvian citizen, after the conviction thereof in a European Union Member State, be transferred back to Latvia for the serving of an imposed sentence. If a citizen of Latvia does not waive such rights, the Office of the Prosecutor General shall request the referred to warrant for the state which has taken a European arrest warrant.

#### **2.1.4. *Competent Authorities*** (Article 6 of Framework Decision)

The Office of the Prosecutor General shall perform the verification in regard to extradition of a person to a European Union Member State and shall take the decision regarding extradition or refusal to extradite the person abroad. If a person consents to the extradition, the extradition decision shall not be appealed. If a person to be extradited does not consent to the extradition, the extradition decision taken by the Office of the Prosecutor General may be appealed in the Chamber of Criminal Cases of the Supreme Court within a term of 10 days from the day of the receipt thereof. The Chamber of Criminal Cases of the Supreme Court shall adjudicate a complaint regarding a decision of the Office of the Prosecutor General and send the taken decision to the Office of the Prosecutor General within a term of 20 days from the day of the receipt of the complaint.

The Office of the Prosecutor General shall immediately send to the Ministry of the Interior for execution a decision that has entered into force regarding the extradition of a person.

If it is decided not to extradite a person, the Office of the Prosecutor General shall immediately inform the competent institution of a Member State.

The Office of the Prosecutor General shall seize and transfer the objects that are necessary as material evidence and the objects that a person to be extradited has acquired as a result of an offence to a European Union Member State on the basis of a request of the Member State or on the basis of the initiative of such Office of the Prosecutor General. In transferring objects, the Office of the Prosecutor General may request that such objects be returned.

### **2.2. *Procedure related to a European Arrest Warrant***

#### **2.2.1. *General rules for dealing with a European arrest warrant***

#### **EAW verification and extradition decision** (Article 15 of Framework Decision)

Upon receipt of a European arrest warrant, the Office of the Prosecutor General shall organise its verification. In the course of the verification the Prosecutor General shall find out whether there is the ground for extradition of a person or whether there are reasons to refuse extradition of a person.

If a European arrest warrant fails to contain sufficient information to allow taking the decision on the extradition, the Office of Prosecutor General shall request the required additional information from a Member State; it may also set the deadline for the information submission.

The Prosecutor General shall acquaint a person to be extradited with the extradition request and provide the relevant person with the opportunity to provide explanations.

The Office of Prosecutor General shall take the decision regarding a person's extradition or non-extradition. The decision regarding a person's extradition cannot be appealed, if the person consents to the extradition.

If a person to be extradited does not consent to the extradition, the extradition decision taken by the Office of the Prosecutor General may be appealed in the Chamber of Criminal Cases of the Supreme Court.

The Chamber of Criminal Cases of the Supreme Court shall adjudicate a complaint regarding a decision of the Office of the Prosecutor General and send the taken decision to the Office of the Prosecutor General.

The Office of the Prosecutor General shall, within 20 days after the receipt of a request of a European Union Member State, decide regarding the consent for further extradition of an extradited person to a European Union Member State, as well as for criminal prosecution, adjudication and execution of a penalty for other offences committed before extradition. (Article 28 of Framework Decision).

Where a person enjoys immunity regarding criminal proceedings, the time limit for the execution of European arrest warrant shall start running and counting from the day when the person's immunity has been waived in the procedure established by the law. The Office of Prosecutor General shall submit the suggestion to waive the immunity regarding criminal proceedings to the competent institution. (Article 20 of Framework Decision)

If it is decided not to extradite a person, the Office of the Prosecutor General shall immediately inform the competent institution of a Member State. (Article 17, item 6 of Framework Decision).

**Extradition to a European Union Member State of a Person Extradited by a Foreign State**  
**(Article 28 of Framework Decision)**

An extradited person may be transferred further to another European Union Member State in cases where the state, in extraditing the person, consented to the further extradition of such person. If a European arrest warrant has been received in relation to a person who has been extradited to Latvia by another state without giving consent for the further extradition of the person, the Office of the Prosecutor General shall turn to the state that extradited the person in order to receive consent for the further extradition of the person to a European Union Member State.

**Decision in case of Several Requests** (Article 16 of Framework Decision)

If the Office of the Prosecutor General received simultaneously extradition requests from the third parties and a European arrest warrant or several European arrest warrants from European Union Member States in relation to the same person, the verification of these decisions shall be united into one proceeding, unless a decision on the person's extradition or non-extradition has not been taken. Considering the requests received simultaneously regarding a person's extradition and deciding which state should have the advantage, it shall consider the seriousness and place of the offences, the date and the sequence of the receipt of requests.

**Temporary Operations up to the taking of a Decision**

If a European Union Member State has taken a European arrest warrant in order to ensure the criminal prosecution of a person, the Office of the Prosecutor General shall, before a decision is taken on the extradition or non-extradition of the person and on the basis of a request of the competent judicial institution of the Member State, examine the person, with the participation of a person chosen by the competent judicial institution of the Member State, or shall consent to the temporary relocation of the person, determining the time of return.

### **Temporary Detention (Article 12 of Framework Decision)**

If there is a sufficient basis for belief that he or she has committed a criminal offence in the territory of another state regarding which extradition is provided for or, if a European arrest warrant has been taken regarding such person or if a report has been posted in the international search system regarding the existence of such decision, the arrest of a person to be extradited to a European Union Member State shall take place. A person may be arrested for the purpose of extradition by an investigator or a public prosecutor for up to 72 hours, a protocol shall be drawn up, and a person to be extradited shall be informed about his or her rights. The Office of Prosecutor General shall be informed about a person's arrest immediately, within 24 hours, which will subsequently inform the state that put the person on the wanted list. If a temporary or extradition arrest is not applied within 72 hours upon the detention of a person, the person in detention shall be released or another detention order shall be applied.

If circumstances are not known that exclude the admissibility of the extradition of a person, the executor of an examination shall submit a proposal regarding the application of an extradition detention and a European arrest warrant to the district (city) court in the territory of operation of which the person was arrested or the Office of the Prosecutor General is located.

An extradition detention shall be applied by a judge, with a public prosecutor and a person to be extradited participating in a court session, for 80 days from the day of the arrest of a person. If a person to be extradited is arrested in Latvia or serves his or her sentence for another offence, the term of the extradition detention shall be counted from the moment the person is released. In exceptional cases, a court may extend such term one more time by 30 days. The Office of the Prosecutor General shall inform the competent institution of the state that took a European arrest warrant regarding the reason for the delay in the execution of the decision.

### **Person's extradition (surrender)**

The decision regarding a person's extradition that has come into force shall be executed by the Ministry of the Interior. The Ministry of the Interior shall inform a European Union Member State about the extradition time and place of a person to be extradited, and about the term a person to be extradited was in detention. At the same time the Ministry of the Interior shall agree on another extradition date, if the extradition cannot be executed on the previously agreed day for reasons beyond the control of the states. If a person has not been taken over within a term of 10 days from the day when a decision was taken regarding the extradition thereof, or from the day regarding which an agreement was made with the competent judicial authority of a European Union Member State, a person shall be released from detention.

### **Transfer of Objects to a European Union Member State (Article 29 of Framework Decision)**

The Office of the Prosecutor General shall seize and transfer the objects that are necessary as material evidence and the objects that a person to be extradited has acquired as a result of an offence to a European Union Member State on the basis of a request of the Member State or on the basis of the initiative of such Office of the Prosecutor General.

The objects that are necessary as material evidence or which a suspected person has obtained as a result of offence shall be transferred even if a European arrest warrant may not be fulfilled due to the death or escape of a person to be extradited. If objects are necessary for the completion of criminal proceedings commenced in Latvia, a later transfer time may be specified for such objects. In transferring objects, the Office of the Prosecutor General may request that such objects be returned.

#### **2.2.2. *Languages* (Article 8, paragraph 2 of Framework Decision)**

Latvia accepts for execution European arrest warrants in Latvian or English.



### **2.2.3. Time Limits**

#### **2.2.3.1. Time Limits related to European Arrest Warrants (Article 17 of Framework Decision)**

If a person consents to the extradition, an examination shall be terminated within 10 days upon receipt of a European arrest warrant.

An examination shall be completed within a term of 20 days from the day of the receipt of a European arrest warrant. If additional information is necessary for the examination, the term shall be counted from the day of the receipt of such extradition request. The Prosecutor General may extend the examination term.

A public prosecutor shall acquaint a person to be extradited with the extradition request within a term of 48 hours from the moment of the receipt thereof, and provide the relevant person with the opportunity to provide explanations. If the person to be extradited has not been detained or arrested and within a time period of 48 hours from the moment of the receipt of an extradition request a public prosecutor has encountered the conditions interdicting the extradition of a person, a European arrest warrant shall be presented to the person within a time period of 20 days.

If a person to be extradited does not consent to the extradition, the decision of the Office of the Prosecutor General regarding extradition may be appealed to the Chamber of Criminal Cases of the Supreme Court within a term of 10 days from the day of the receipt thereof.

The Chamber of Criminal Cases of the Supreme Court shall adjudicate a complaint regarding a decision of the Office of the Prosecutor General and send the taken decision to the Office of the Prosecutor General within a term of 20 days from the day of the receipt of the complaint.

An extradition detention shall be applied for 80 days from the day of the arrest of a person. In exceptional cases, a court may extend such term one more time by 30 days. The Office of the Prosecutor General shall inform the competent institution of the state that took a European arrest warrant regarding the reason for the delay in the execution of the decision.

#### **2.3.3.4. Time Limits for Actual Surrender (Article 23 of Framework Decision)**

The Office of the Prosecutor General shall immediately send to the Ministry of the Interior for execution a decision that has entered into force regarding the extradition of a person.

If a person has not been taken over within a term of 10 days from the day when a decision was taken regarding the extradition thereof, or from the day regarding which an agreement was made with the competent judicial authority of a European Union Member State, a person shall be released from detention.

After the taking of a decision regarding the extradition of a person, the Office of the Prosecutor General may defer the extradition of the relevant person to a European Union Member State for the completion of criminal proceedings commenced in Latvia or the serving of an imposed sentence, or due to serious humanitarian reasons, if there is a justified reason for thinking that extradition in the concrete situation would clearly endanger the life or health of the person. The Office of the Prosecutor General shall inform the competent judicial authority of the European Union Member State regarding the decision to defer extradition, and shall come to an agreement regarding another time for the extradition of the person.

Upon mutual agreement with the Member State which takes the European arrest warrant, the Office of the Prosecutor General may temporarily convey the person.

#### **2.3.4. *Rights of a requested person*** (Article 11 of Framework Decision)

The Prosecutor General shall acquaint a person to be extradited with the extradition request within 48 hours from the moment of the receipt thereof and provide the relevant person with the opportunity to provide explanations.

A person to be extradited has the right:

- 1) to know who has requested his or her extradition and regarding what his or her extradition has been requested;
- 2) to use a language that he or she understands in the extradition proceedings;
- 3) to provide explanations in connection with extradition;
- 4) to submit requests, also requests regarding a simplified extradition;
- 5) to familiarise him or herself with all materials of the examination;
- 6) to retain an advocate for the receipt of legal assistance;
- 7) to consent or not to consent to the extradition;
- 8) the right to decline the rights that guarantee that a Latvian citizen after being tried in a European Union Member State shall be returned to Latvia in order to serve there the custodial sentence, if a person to be extradited is a Latvian citizen.

If a Latvian citizen does not decline the rights that guarantee that a Latvian citizen after being tried in a European Union Member State shall be returned to Latvia in order to serve there the custodial sentence, the Office of Prosecutor General shall request the aforesaid guarantee from the State that submitted the European arrest warrant.

An advocate may provide legal assistance from the moment when a person is retained or arrested. Providing legal assistance, an advocate has the right to meet a person in the conditions ensuring the confidentiality of their conversation, submit evidences and requests, obtain the information necessary for providing legal assistance in accordance with the procedure established by the regulatory acts.

### ***2.3.5. Consent of a Requested Person*** (Article 13 of Framework Decision)

A person to be extradited has the right to consent or not to consent to the extradition.

A person to be extradited shall certify his or her consent for the extradition, and the waiving of his or her rights to be held criminally liable and tried only regarding the criminal offences regarding which he or she is being extradited, to a public prosecutor in the presence of an advocate, and a protocol shall be written regarding such certification.

If a person consents to the extradition, the examination shall be completed within a term of 10 days from the day of the receipt of a European arrest warrant; and the decision of the Office of Prosecutor General regarding the extradition shall not be appealed.

If a person to be extradited does not consent to the extradition, the extradition decision taken by the Office of the Prosecutor General may be appealed in the Chamber of Criminal Cases of the Supreme Court. The Chamber of Criminal Cases of the Supreme Court shall adjudicate a complaint regarding a decision of the Office of the Prosecutor General and send the taken decision to the Office of the Prosecutor General.

### **2.4. Entry into force**

The Office of the Prosecutor General shall immediately send to the Ministry of the Interior for execution a decision that has entered into force regarding the extradition of a person.

The decision of the Office of Prosecutor General regarding a person's extradition cannot be appealed, if the person consents to the extradition.

If a person to be extradited does not consent to the extradition, the extradition decision taken by the Office of the Prosecutor General may be appealed in the Chamber of Criminal Cases of the Supreme Court. The Chamber of Criminal Cases of the Supreme Court shall adjudicate a complaint regarding a decision of the Office of the Prosecutor General and send the taken decision to the Office of the Prosecutor General within a term of 20 days from the day of the receipt of the complaint.

A court may take one of the following decisions:

- 1) to leave a decision of the public prosecutor unmodified;
- 1) to revoke a decision of the public prosecutor and find extradition to be inadmissible;
- 2) to transfer the extradition request for additional examination.

A court decision shall not be subject to appeal. A court shall send a decision and materials to the Office of the Prosecutor General. If a court finds extradition to be inadmissible, the relevant person shall immediately be released from detention.

If the decision regarding a person's non-extradition has been taken, the Office of Prosecutor General shall inform the competent institution of a Member State (Article 22 of Framework Decision).

### **3. Extradition from another European Union Member State to Latvia**

#### **3.1. Legal Ground for a Person's Extradition from Latvia to a European Union Member State**

A person's extradition to Latvia from a European Union Member State shall be performed in accordance with the decision taken by the Office of Prosecutor General regarding the issue of a European arrest warrant.

#### **3.1. Issue and Fulfilment of a European Arrest Warrant**

##### **3.1.1. Content of a European Arrest Warrant** (Article 8 of Framework Decision)

The form and content of a European arrest warrant enclosed in Annex to the Framework Decision is determined by the Cabinet of Ministers Regulations No. 176 dated 17 March 2008 on Form and Content of Special Documents in Criminal Legal Cooperation with European Union Member States.

### **Issue of a European Arrest Warrant** (Articles 1, 2, paragraph 1 of Article 6 of Framework Decision)

If there is ground to believe that a person who is a suspect or accused in the committing of a criminal offence to be punished in accordance with Latvian Penal Law and regarding which deprivation of liberty is intended with a maximal boundary of not less than one year, if an international agreement stipulates no other term, and a person tried in Latvia and sentenced for a detention or an arrest for the term not less than four month, a person directing the proceedings, or a court which controls the complete execution of a judgment or decision, or a court which decides regarding replacement of penalty with arrest or deprivation of liberty shall submit a written proposal to take a European arrest warrant to the Office of Prosecutor General.

The Office of Prosecutor General shall review the proposal within the term of 10 days and inform a submitter of the proposal about a taken decision. If a person has been detained in a European Union Member State, the proposal shall be reviewed within 24 hours.

If grounds for the taking of a European arrest warrant, the Office of Prosecutor General shall take a European arrest warrant which cannot be appealed.

### **Fulfilment of a European Arrest Warrant** (Article 9 of Framework Decision)

If the whereabouts of a requested person are known, the Office of the Prosecutor General shall send a European arrest warrant to the competent institution of the relevant European Union Member State, attaching to such decision a translation thereof in the language specified by the Member State.

If a European arrest warrant has been taken for the criminal prosecution of a person, the Office of the Prosecutor General may, on the basis of a proposal of a person directing the proceedings and up to the time when a Member State takes a decision regarding the extradition or non-extradition of a person, request that a competent judicial authority of the Member State:

- 1) examine the person, with the participation of a person directing the proceedings;
- 2) hand over the person for a term, agreeing regarding the time of return.

If the whereabouts of a requested person are unknown, the Office of the Prosecutor General shall send a copy of a European arrest warrant to the State Police for ensuring of the international search.

### **Guarantees (Article 5 of Framework Decision)**

If a Member State requests to guarantee that a person extradited by a Member State after conviction in Latvia will be returned for serving a sentence of deprivation of liberty, such guarantee shall be issued by the Office of the Prosecutor General.

#### ***3.1.2. Conditions related to the Takeover of a Person***

### **Conditions related to the Takeover and Consequences of the Takeover (Article 26 and 27 of Framework Decision)**

In taking over a person from a European Union Member State, the following conditions shall, be met:

- a person may be held criminally liable, tried and a penalty may be executed only regarding the criminal offence regarding which such person has been extradited. Such conditions do not apply to cases where:
  - the consent of the extraditing state has been received for criminal prosecution, and litigation, regarding other offences committed before extradition (the consent is to be requested the same was as the extradition);
  - an offence has been committed after a person was transferred to Latvia;
  - a person did not leave Latvia for a term of 45 days after being released, though he or she had such opportunity;
  - the person has left Latvia after the release and has returned there;
  - the offence of the person is not punishable with deprivation of liberty or a compulsory measure that restricts freedom;
  - the person may be subjected to a penalty that is not related to the deprivation of liberty;
  - a person in the Member State of the European Union has agreed with it;
  - the person has agreed thereto after the takeover of such person in Latvia, and such consent was accepted by a public prosecutor in the presence of an advocate, entering such acceptance in the minutes.

- if a final penalty has been specified for a person on the basis of a totality of criminal offences or on the basis of several judgments, but such penalty has been issued only regarding part of such offences or judgments, the court that specified the final penalty shall determine the executable part of the penalty in accordance with the procedures established by the Latvian Penal Law;
- the term of a detention shall be counted for an extradited person from the moment of the crossing of the border of the Republic of Latvia. The term that a person has spent, on the basis of a request of Latvia, in detention in a foreign state shall be included in the term of a penalty;

### **Transit (Article 25 of Framework Decision)**

If the takeover of an extradited person is related to transit, a competent institution of the Ministry of the Interior shall turn to the Office of the Prosecutor General with a request to receive permission from a third state for the transit of the extradited person.

If judicial cooperation is related to conveyance of a person from a foreign country to Latvia through the territory of a third country, the Office of the Prosecutor General, if necessary, shall submit the transit request.

If a person is conveyed by air transport and a landing in the territory of a third country is not envisaged, the Office of the Prosecutor General shall not submit the transit request, but shall inform the third country in cases stipulated in international agreements.

The Office of the Prosecutor General upon the request of a foreign country may allow the transit of a person related to judicial cooperation through the territory of Latvia. The transit request may be waived, if the transit of a citizen or a non-citizen of Latvia is requested.

A transit request shall be drawn up in the same way as a specific request of judicial cooperation.

### ***3.1.3. Processing Time* (Article 23 of Framework Decision)**

The competent institution of the Ministry of the Interior shall take over a person within 10 days after the day when the decision on a person's extradition has been taken or agree with the competent judicial institution of the extraditing state on a different time for a person's extradition.

The Office of the Prosecutor General shall be informed about a person's surrender to Latvia within 24 hours.



If a suspected person is extradited during pre-trial proceedings, a prosecutor or a prosecutor of a higher rank shall accuse this person within 10 days upon his or her surrender to Latvia. If an accused person is extradited, the accusation shall be levelled within 72 hours, but if the accusation has already been levelled, the rights to submit rejections and requests, submit complaints shall be explained to a person.

If a person is extradited while being tried, the Office of the Prosecutor General shall inform a person directing the proceedings about a person's surrender to Latvia within three days.

#### **3.1.4. *Languages*** (Paragraph 2 of Article 8 of Framework Decision)

If the whereabouts of a requested person are known, the Office of the Prosecutor General shall send a European arrest warrant to the competent institution of the relevant European Union Member State, attaching to such decision a translation thereof in the language specified by the Member State.

#### **3.1.5. *Expenses*** (Article 30 of Framework Decision)

Latvia shall cover all the expenses incurred in the course of judicial cooperation in its territory and in regard to a person's transit through the territory of a third country to Latvia, unless stipulated otherwise by this part of the Law or by another regulatory act or by mutual agreement of the states.

### **4. National contact point**

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