Text consolidated by Valsts valodas centrs (State Language Centre) with amending regulations of:

29 October 2013 [shall come into force from 1 January 2014].

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

Republic of Latvia

Cabinet

Regulation No. 431

Adopted 19 June 2012

**Procedures for the Division of Money or Property Acquired as a Result of a Confiscation of Property with Foreign Countries, and the Procedures for the Transfer of Money to Foreign Countries**

*Issued pursuant to*

*Section 792, Paragraph seven and Section 800, Paragraph six of the Criminal Procedure Law*

1. The Regulation prescribes the procedures by which money or property acquired as a result of a confiscation of property shall be divided with foreign countries, including European Union Member States, and the procedures by which money shall be transferred to foreign countries, including European Union Member States, and also the criteria for the division of money or property.

2. Upon receipt of a writ of execution issued by a court on the basis of a request of a competent authority of a foreign country for the confiscation of property, a bailiff shall perform the confiscation of property in the following order:

2.1. if money is to be confiscated, the bailiff shall issue an order to a person or an institution, where the money is being held, to transfer it to the deposit account of the bailiff. After covering of other claims in accordance with the procedures specified in the Civil Procedure Law, the bailiff shall transfer the surplus of the money to the Treasury account in the possession of the State Revenue Service for accounting of the deposited money, and send a certified copy of the writ of execution to the State Revenue Service;

2.2. if such property is to be confiscated from which other claims must be satisfied, the bailiff shall sell the property in accordance with the procedures specified by the Civil Procedure Law, satisfy the claims in accordance with the Civil Procedure Law, transfer the surplus of money to the Treasury account in the possession of the State Revenue Service for accounting of the deposited money, and send a certified copy of the writ of execution to the State Revenue Service;

2.3. if such property is to be confiscated from which other claims may not be satisfied, the bailiff shall transfer such property, together with a certified copy of the writ of execution, to the State Revenue Service;

2.4. if specific property is to be confiscated, which is to be returned to foreign countries, other claims may not be satisfied from it. The bailiff shall transfer such property, together with a certified copy of the writ of execution, to the State Revenue Service;

2.5. if the bailiff determines that the property to be confiscated in Sub-paragraph 2.2 of this Regulation would be impossible to sell and the judgment enforcement expenditure might exceed the amount of money to be obtained from the sale, the bailiff shall transfer such property, together with a certified copy of the writ of execution, to the State Revenue Service;

2.6. if it is established that the money or property to be confiscated and referred to in Sub-paragraphs 2.1, 2.2, 2.3, and 2.4 of this Regulation does not exist or cannot be found within one year from the commencement of the enforcement proceedings, the bailiff shall draw up a statement and submit one copy of the statement to the State Revenue Service.

3. Upon completion or termination of an enforcement case on the confiscation of property, the bailiff shall, within 10 working days, send a relevant notification to the State Revenue Service.

4. If, as a result of the action of the bailiff referred to in Sub-paragraph 2.3, 2.4 or 2.5 of this Regulation, property is transferred to the State Revenue Service:

4.1. the State Revenue Service shall act with it in accordance with the laws and regulations regarding the activities involving property under the State jurisdiction. The State Revenue Service shall transfer the money acquired to the Treasury account in the possession of the State Revenue Service for accounting of the deposited money;

4.2. if a foreign country requests the transfer of specific property acquired as a result of confiscation of property, the State Revenue Service shall appraise it and store it in accordance with the laws and regulations regarding the activities involving property under the State jurisdiction, insofar as they do not prescribe other actions with property.

5. The State Revenue Service shall, within 10 working days after complete enforcement of the writ of execution on the confiscation of property, inform the Ministry of Justice regarding the receipt of the specific property, the appraisal value and storing thereof, or the money transferred to the Treasury account in the possession of the State Revenue Service for accounting of the deposited money, indicating:

5.1. the case number;

5.2. the given name and surname of the bailiff who has transferred money or property;

5.3. the amount of the money transferred or the appraisal value of a specific property.

6. The Ministry of Justice:

6.1. if the amount of money acquired as a result of confiscation of property does not exceed EUR 10 000, shall take the decision specified in the Criminal Procedure Law on the refusal to transfer money to a foreign country;

6.2. if the amount of money acquired as a result of confiscation of property exceeds EUR 10 000 or if specific property is acquired as a result of confiscation of property, shall, within one month, convene a meeting of the Commission for the Division of Money and Property (hereinafter – the Commission).

[*29 October 2013*]

7. The composition of the Commission shall include four representatives of the Ministry of Justice and the Chairperson of the Commission. The composition of the Commission shall be approved by the Minister for Justice. If necessary, the representatives of such authorities or institutions may be invited to participate in the Commission meeting who participated in the execution of the request of a competent authority of a foreign country for the confiscation of property, and also a specialist (expert) may be invited.

8. Minutes shall be taken during the meetings of the Commission. The minutes shall be coordinated with all the members of the Commission and signed by the Chairperson of the Commission.

9. The Commission shall take a decision with a simple majority vote and draw it up in writing in the form of an opinion. If the number of votes of the members of the Commission present is tied, the deciding vote shall be that of the Chairperson of the Commission. The opinion shall be signed by the Chairperson of the Commission.

10. The Commission shall evaluate the division amount of the money and property, observing the conditions for division specified in the Criminal Procedure Law and the procedures for division referred to in this Regulation, and also, if necessary, by consulting the competent authority of a foreign country.

11. If the amount of money acquired as a result of confiscation of property exceeds EUR 10 000, the Commission shall take a decision on the division of money in the following amount:

11.1. if the division of money is requested by a European Union Member State – to transfer half of the money or more to the relevant European Union Member State;

11.2. if the division of money is requested by a foreign country which is not a European Union Member State – to transfer not more than half of the money to the relevant foreign country or the amount specified in the request of a foreign country.

[*29 October 2013*]

12. If a request to return specific property is expressed in the request of a competent authority of a foreign country for the confiscation of property, the Commission shall, taking into account the appraisal value of the specific property and the value of the specific property indicated in the request of the competent authority of the foreign country, take a decision:

12.1. if the appraisal value of the specific property does not exceed EUR 10 000:

12.1.1. to return the specific property to the foreign country, receiving a confirmation that the foreign country agrees to repay the full appraisal value of the property in the form of money;

12.1.2. not to return the specific property to the foreign country;

12.2. if the appraisal value of the specific property exceeds EUR 10 000:

12.2.1. to return the specific property to the foreign country, receiving a confirmation that the foreign country agrees to repay half of the appraisal value of the property or more in the form of money;

12.2.2. not to return the specific property to the foreign country by repaying to the foreign country, in the form of money, not more than half of the amount obtained after the sale of the property in accordance with the laws and regulations regarding activities involving property under the State jurisdiction;

12.3. if the value of the specific property indicated in the request of the competent authority of a foreign country differs from the value of appraisal performed in Latvia and:

12.3.1. is less than the value of appraisal performed in Latvia, it may be agreed:

12.3.1.1. to return the specific property, receiving a confirmation from the foreign country that the foreign country agrees to repay the amount referred to in Sub-paragraphs 12.1.1 and 12.2.1 of this Regulation in the form of money in accordance with the appraisal performed in Latvia;

12.3.1.2. not to return the specific property and to repay part of the value of the property indicated in the request of the competent authority of the foreign country in accordance with Sub-paragraphs 12.1.2 and 12.2.2 of this Regulation;

12.3.2. exceeds the value of appraisal performed in Latvia, it may be agreed:

12.3.2.1. to return the specific property, receiving a confirmation from the foreign country that the foreign country agrees to repay the amount referred to in Sub-paragraphs 12.1.1 and 12.2.1 of this Regulation in the form of money in accordance with the value of the specific property indicated in the request of the competent authority of the foreign country;

12.3.2.2. not to return the specific property and to repay part of the value of appraisal performed in Latvia in accordance with Sub-paragraphs 12.1.2 and 12.2.2 of this Regulation.

[*29 October 2013*]

13. If a request to return specific property and money is expressed in the request of a competent authority of a foreign country for the confiscation of property and the appraisal value of the specific property and the sum of money exceeds EUR 10 000, the Commission shall take a decision in accordance with the conditions for division specified in the Criminal Procedure Law and this Regulation, taking into account the total amount of the appraisal of the specific property and money.

[*29 October 2013*]

14. Action shall be taken with property, which has historical, artistic or scientific value, in accordance with the laws and regulations regarding activities involving property under the State jurisdiction.

15. If the property to be confiscated has historical, artistic or scientific value, such property shall not be returned to a foreign country. If the foreign country has expressed a request to receive the proceeds of crime invested in such property, the Commission, upon consultation with the foreign country, may take a decision to return not more than half of the amount of the relevant funds. If, as a result of confiscation of property, it has not been possible to obtain the amount of money to be returned to the foreign country referred to in this Paragraph, the necessary money may be returned from the State budget funds.

16. If other conditions more favourable to Latvia have been established, the Commission may agree with the foreign country and take a decision which does not harm the financial interests of Latvia.

17. Upon deciding the matter regarding the return of specific property to a foreign country, the Commission shall take into account expenditure related to the takeover, storage, appraisal, and transfer of the property, and may agree on the compensation thereof.

18. The amount of money to be divided and subsequent action with money or specific property shall be indicated in the opinion of the Commission. The basis for taking the decision shall also be indicated in the opinion.

19. The Ministry of Justice shall, on the basis of the report of the Commission and other materials, take a decision:

19.1. on the division of money, indicating the amount of money to be transferred to a foreign country and the amount of money to be paid into the State budget revenues account. The basis for taking the decision and the account number indicated by the competent authority of a foreign country shall be indicated therein;

19.2. on the return (or non-return) of specific property acquired as a result of confiscation of property to a foreign country. The basis for taking the decision and the method for return of the property or subsequent action with the property shall be indicated therein.

20. The Ministry for Justice shall, within three working days, send a true copy of the decision and the contact information of the foreign country to the State Revenue Service.

21. The State Revenue Service shall:

21.1. within five working days, transfer the amount of money referred to in the decision to the State budget revenues account or to the account indicated by the competent authority of a foreign country;

21.2. organise the return of the specific property using the method indicated in the decision or act, in accordance with that specified in the decision, with the specific property in accordance with the laws and regulations regarding the activities involving property under the State jurisdiction.

22. Upon organising the return of the specific property to a foreign country, the State Revenue Service shall inform the competent authority of the foreign country regarding the right to receive the relevant property within three months, indicating the place of receipt and the contact information. If the competent authority of the foreign country does not ensure the collection of the specific property within three months, the State Revenue Service shall act with the relevant property in accordance with the laws and regulations regarding the activities involving property under the State jurisdiction, informing the Ministry of Justice thereof.

23. Matters on the allocation of additional State budget funds for expenditure related to the division of money or funds acquired as a result of confiscation of property with foreign countries and the source of financing shall be decided by the Cabinet on a case-by-case basis.

24. The Regulation shall come into force on 1 July 2012.

Prime Minister V. Dombrovskis

Acting for the Minister for Justice, Minister for Culture Ž. Jaunzeme-Grende