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

The *Saeima*<sup>1</sup> has adopted and  
the President has proclaimed the following law:

# Law on Administrative Liability

## Part A

### Basic Provisions of Administrative Liability

#### Chapter 1

#### General Provisions

##### Section 1. Purpose of the Law

The purpose of the Law is to protect the existing legal system, including public legal interest, the established administrative order, public order, as well as to ensure efficient administrative offence proceedings in line with the fundamental rights of a person and to achieve just settlement of legal relations.

##### Section 2. Administrative Liability System

(1) The administrative liability system shall consist of laws and regulations stipulating administrative offences, administrative penalties, and administrative offence proceedings.

(2) This Law shall prescribe general provisions of administrative liability, concept of administrative offence, types of administrative penalties, and rules of application thereof, competent institutions and officials, progress of administrative offence proceedings in an institution and court, enforcement of administrative penalties, and also international cooperation in administrative offence proceedings.

(3) Administrative offences, penalties applied for them, and competence of officials in the administrative offence proceedings in an institution in compliance with the basic provisions of administrative liability provided for in this Law shall be determined in the laws governing the relevant area or in the binding regulations of local governments. Sectoral laws may also introduce restrictions on the receipt of services of institutions and other restrictions with regard to the persons upon whom administrative penalties have been imposed and who evade the enforcement of penalty.

(4) A local government council is entitled to issue binding regulations by providing for administrative liability for violation thereof in the cases specified in the law On Local Governments.

(5) Directly applicable legal acts of the European Union and international agreements binding on the Republic of Latvia which regulate administrative liability shall form part of the administrative liability system.

##### Section 3. Applicability of the Law in Space

(1) A person who has committed an administrative offence in the territory of Latvia shall be liable for such offence in accordance with the laws and regulations of the Republic of Latvia.

(2) If a foreign diplomatic representative or another person who, in accordance with laws and regulations or international agreements binding on the Republic of Latvia, is not subject to the jurisdiction of the Republic of Latvia has committed an administrative offence in the territory of Latvia, the issue of this person being held liable for the administrative offence shall be decided by diplomatic procedures or under a mutual agreement between the countries.

#### **Section 4. Applicability of the Law in Time**

(1) A person who has committed an administrative offence shall be liable for it in accordance with the law or regulation in force at the time of committing the offence.

(2) A law or regulation which recognises an administrative offence as not subject to a penalty, commutes a penalty or is otherwise beneficial to a person, unless the relevant law prescribes otherwise, shall have retrospective effect, namely it shall apply to offences committed prior to the day of coming into force of the relevant law or regulation.

(3) A law or regulation which recognises an action as subject to a penalty, increases a penalty or is otherwise not beneficial to a person shall not have retrospective effect.

(4) The procedures for administrative offence proceedings shall be determined by the norm of the procedural law which is in effect at the moment of performing a procedural action.

## **Chapter 2 Administrative Offence**

#### **Section 5. Concept of Administrative Offence**

(1) An administrative offence is an unlawful culpable action (an act or failure to act) of a person for which administrative liability is provided for in a law or binding regulations of local governments.

(2) An action (an act or failure to act) of a person which has elements of an administrative offence but has been committed or permitted under circumstances that exclude administrative liability shall not be recognised as an administrative offence.

(3) Administrative liability for the offences specified in a law or binding regulations of local governments shall arise, unless criminal liability is imposed for such offences.

#### **Section 6. Age of Administrative Liability**

(1) A natural person who has reached 14 years of age by the moment of committing an administrative offence shall be held administratively liable.

(2) Compulsory measures of correctional nature shall be applied to minors aged from 14 to 18 years of age for committing administrative offences. The administrative penalty shall be applied to a minor aged from 14 to 18 years of age if the application of the compulsory measure of correctional nature is not useful in the specific case.

#### **Section 7. Administrative Liability of Legal Persons**

(1) A legal person shall be held administratively liable in the cases especially provided for in a law or binding regulations of a local government if:

1) the legal person has failed to perform or has improperly performed any of the duties applicable thereto;

2) an offence has been committed by a natural person in the interests of the legal person, for the benefit thereof or as a result of improper supervision or control thereof by acting individually or as a member of collegial institution of this legal person, on the basis of the right to represent the legal person, act on behalf thereof or take decisions on behalf of the legal person, or by exercising control within the legal person.

(2) A person who carries out commercial activity but is not a legal person shall be liable for an administrative offence as a legal person.

#### **Section 8. Administrative Liability of Officials**

(1) For offences committed by a legal person governed by public law an official of the legal person governed by public law shall be held administratively liable if he or she has failed to perform or has improperly performed any of the duties applicable to this official, provided that a law or binding regulations of a local government provide for administrative liability for the failure to perform such duties or for the improper performance thereof.

(2) For offences committed by a legal person governed by private law a member of the board shall be held administratively liable in the cases prescribed by sectoral laws.

(3) Administrative liability shall be applied to an official as a natural person.

### **Section 9. Special Features of Administrative Liability of Disciplinary Liability Subjects**

Persons to whom special disciplinary liability laws apply shall be held disciplinary liable for administrative offences in the cases provided for in these special laws but in other cases they shall be held administratively liable on general grounds.

### **Section 10. Circumstances Excluding Administrative Liability**

(1) Circumstances excluding administrative liability, although actions committed under such circumstances correspond to constituent elements of an administrative offence, shall be extreme necessity, necessary self-defence, detention of a person causing personal harm thereto, and justifiable professional risk.

(2) Extreme necessity is a state in which a person acts to prevent damage that threatens this specific person or another person, rights of this specific person or another person, as well as national or public interests if it is impossible under the specific circumstances to prevent the relevant damage by other means and if the caused damage is less than that which was prevented.

(3) Necessary self-defence is an act of a person to defend himself or herself or another person, his or her rights or rights of another person, as well as national or public interests against an illegal threat by causing damage to the endangering person. The limit of the necessary self-defence is exceeded if an act of the person is obviously disproportionate to the nature and danger of the threat and the resulting damage caused to the endangering person has not been necessary for the prevention of the threat.

(4) Detention of a person causing personal harm shall be considered a circumstance excluding administrative liability in case of detention of a person who commits or has committed an administrative offence or criminal offence where the damage caused as a result of this detention is not obviously disproportionate to the nature of the offence, non-compliance or resistance.

(5) Justifiable professional risk is performance of a professional activity by causing personal harm if such action is performed in order to achieve a socially useful objective which cannot be achieved by other means. The professional risk shall be considered justifiable if the person who has allowed the risk has made every effort to prevent damage to legally protected interests. The risk shall not be considered justifiable if it is knowingly related to a threat to life of several persons or threats to cause an ecological or public disaster.

### **Section 11. Release of a Person from Administrative Liability**

(1) If an administrative offence committed by a person has not caused such a threat to legally protected interests under the specific circumstances to apply a penalty for it (a petty offence), an official is entitled to not initiate administrative offence proceedings but, if initiated, an official, a higher official or a court may terminate them at any stage without applying a penalty. In this case an official, a higher official or a court shall express an admonition to the person if this has been found useful. The admonition shall not produce legal effects.

(2) A person may be released from administrative liability if he or she has committed an administrative offence during a time period when he or she was subject to human trafficking and therefore was forced to commit the administrative offence.

(3) A person, who has voluntarily transferred narcotic and psychotropic substances, precursors or new psychoactive substances or products containing them, in small amounts at his or her disposal, and whose handling is prohibited or restricted, or has voluntarily addressed a medical treatment institution seeking medical assistance due to unauthorised use of such substances, shall be released from administrative liability for the use, preparation, acquisition, storage, transportation or forwarding of such substances.

(4) A person who is engaged in prostitution may be released from administrative liability for offences in the area of restriction of prostitution if he or she agrees to receive social rehabilitation services, except for the case when the person refuses social rehabilitation services or a violation of the regulations regarding the restriction of prostitution is established during receipt of the social rehabilitation services. A person may be released from administrative liability for offences in the area of restriction of prostitution if he or she has helped to:

1) disclose persons who have compelled him or her to engage in prostitution, involved him or her in prostitution or used prostitution for the purpose of enrichment;

2) disclose persons who have violated prohibitions specified in the area of restriction of prostitution by using prostitution.

### **Section 12. Mental Incapacity**

A natural person who at the time of committing the administrative offence was in a state of mental incapacity, namely, was not able to understand or control his or her action due to mental disorders or mental disability, shall not be held administratively liable.

## **Chapter 3**

### **Administrative Penalty**

#### **Section 13. Purpose of Administrative Penalty**

Administrative penalty is a coercive measure which shall be applied to a person, who has committed an administrative offence, in order to protect public order, restore justice, punish for the committed offence, as well as to prevent the person who has committed an administrative offence and other persons from further committing of administrative offences.

#### **Section 14. Types of Administrative Penalty**

(1) The following penalties may be applied for an administrative offence:

- 1) a warning;
- 2) a fine;
- 3) a deprivation of rights;
- 4) a prohibition to exercise rights.

(2) The warning and the fine shall constitute basic penalties while the deprivation of rights and the prohibition to exercise rights shall be additional penalties.

#### **Section 15. Warning**

Warning is condemnation of an administrative offence committed by a person which shall be expressed in writing.

#### **Section 16. Fine**

(1) Fine is a specific amount of money which a person upon whom administrative penalty has been imposed shall pay for the committed administrative offence. An amount of the fine shall be expressed in the units of fine in a law or binding regulations of local governments. A ruling on penalty shall indicate the imposed units of fine and amount of the fine in EUR.

(2) One unit of fine shall be EUR 5.

(3) The minimum fine for natural and legal persons shall be two units of fine.

(4) The maximum fine for natural persons shall be 400 units of fine while for legal persons - 4000 units of fine.

(5) In cases specifically provided for in laws a fine for offences in the areas of aviation, finance, customs, and taxes or public service sectors regulated by the State shall be determined as a percentage of the value (amount) of a financial transaction or net turnover of the previous reporting year, or turnover (income) from economic transactions in the previous reporting year, without prejudice to the condition specified in Paragraph four of this Section for the maximum amount of fine but not exceeding 30 per cent of the value (amount) of a financial transaction or 10 per cent of the net turnover of the previous reporting year or turnover (income) from economic transactions in the previous reporting year.

(6) The maximum amount of fine for natural and legal persons in the sanction of administrative penalty prescribed by law may be exceeded if the need for a larger fine has been determined in international law binding on the Republic of Latvia.

(7) The minimum amount of fine in binding regulations issued by a local government shall conform to the conditions of Paragraph three of this Section, while the maximum fine for natural persons shall be 100 units of fine and for legal persons - 300 units of fine.

(8) Half of the fine which would be applied to a person of legal age for an administrative offence committed under the same circumstances shall be applied to a minor.

(9) Paragraph eight of this Section shall not be applied to cases regarding offences the special subject of which is a minor.

[12 October 2023]

## **Section 17. Deprivation of Rights**

(1) Deprivation of rights shall constitute cancellation of rights granted to a person by prescribing a prohibition for a person to re-acquire such rights for a specific time period. If the rights have not been granted to a person, the deprivation of rights shall consist of a prohibition to acquire such rights for a specific time period. After the term for the deprivation of rights has expired, a person shall re-acquire the rights by following the procedures for granting rights laid down by laws and regulations.

(2) Deprivation of rights shall be determined for a time period from one month to five years.

(3) This type of penalty may only be provided for in a law.

## **Section 18. Prohibition to Exercise Rights**

(1) Prohibition to exercise rights is a restriction which shall, for a specific time period, prohibit a person from exercising specific rights, holding specific offices or performing a specific activity. After the term for the prohibition to exercise rights has expired, a person shall not be required to re-acquire the rights.

(2) Prohibition to exercise rights shall be determined for a time period from one month to two years.

(3) This type of penalty may only be provided for in a law.

# **Chapter 4**

## **Application of Administrative Penalty**

## **Section 19. General Provisions for Application of Penalty**

(1) A penalty for an administrative offence shall be applied within the scope prescribed by a law or binding regulations of local governments which provide for liability for the committed offence.

(2) In determining the type and amount of administrative penalty, the nature of the committed offence, the personality of the person to be held liable (in case of a legal person - its reputation), financial situation, circumstances of committing the offence, and mitigating and aggravating circumstances shall be taken into consideration.

## **Section 20. Mitigating Circumstances**

(1) The following circumstances shall mitigate liability for an administrative offence:

1) a person to be held liable has confessed and regretted the act committed;

2) a person to be held liable has voluntarily compensated for loss or eliminated the caused damage;

3) an offence has been committed under the influence of extreme mental agitation or due to serious personal or family circumstances;

4) a person to be held liable has voluntarily applied prior to disclosing of the committed offence;

5) an offence has been committed as a result of unlawful or immoral behaviour of the victim;

6) an offence has been committed by a pregnant woman or a woman who takes care of a child under 1 year of age.

(2) Other circumstances may also be recognised as mitigating.

## **Section 21. Aggravating Circumstances**

The following circumstances may aggravate liability for an administrative offence:

1) an unlawful action is continued, regardless of a request of an authorised official to cease it;

2) a person of legal age has involved a minor in the committing of an offence;

3) an offence has been committed during a natural disaster or in other exceptional circumstances;

4) an offence has been committed under the influence of alcohol, narcotic or other intoxicating substances or while intoxicated;

5) committing of an offence has been motivated by hatred against distinctive features of a person, such as race, religious beliefs, nationality or other clearly obvious distinctive features of the person;

6) an offence has been committed by a group of persons.

## **Section 22. Application of Administrative Penalty for Several Administrative Offences**

(1) If one person has committed two or more administrative offences, an administrative penalty shall be applied for each offence separately.

(2) If several administrative offences have been committed by one and the same action, an administrative penalty shall be applied for each offence.

## **Section 23. Calculation of the Time Period for Administrative Penalty**

The time period for an administrative penalty (deprivation of rights, prohibition to exercise rights) shall be calculated in days, months, and years.

## **Section 24. Extinguishing Administrative Record**

(1) Administrative record shall constitute administrative legal effects of the application of penalty to a person who has committed an administrative offence which are in effect during enforcement of a ruling on penalties, as well as afterwards until the administrative record is extinguished.

(2) A person shall be considered punished starting from the moment the ruling on penalty comes into effect.

(3) A person shall be recognised as not punished administratively a year after enforcement of the penalty. The time period for extinguishing administrative record shall be calculated from the day when the basic penalty and the additional penalty have been completely enforced.

(4) If the penalty is not enforced, a person shall be considered punished administratively for one more year after expiry of the limitation period of the enforcement of penalty.

## **Section 25. Need to Fulfil an Obligation regarding the Non-fulfilment of which an Administrative Penalty has been Applied**

Application of an administrative penalty shall not release a punished person from fulfilment of such obligation regarding the non-fulfilment of which an administrative penalty has been applied.

## **Section 26. Administrative Penalties in Case of an Individual Continuous Administrative Offence**

(1) An individual continuous administrative offence shall be continuing committing of one administrative offence (an act or failure to act) which is related to the subsequent continuous failure to fulfil obligations prescribed by law. The individual continuous administrative offence shall be considered completed starting from the moment of application of an administrative penalty.

(2) If an administrative penalty has been applied for an administrative offence, however, the administrative offence is continued and is not terminated, the administrative penalty for the continuation of the administrative offence shall be applied after a reasonable period for the termination of the administrative offence has passed.

# **Part B**

## **Progress of the Administrative Offence Proceedings**

### **Division One**

## **General Provisions of Administrative Offence Proceedings**

### **Chapter 5**

## **Basic Principles of the Administrative Offence Proceedings**

### **Section 27. Principle of Equality**

This Law shall lay down a uniform procedural order for all persons involved in administrative offence proceedings irrespective of the origin, social and financial situation, employment, citizenship, race, nationality, attitude towards religion, sex, education, language, place of residence, and other conditions of such persons.

### **Section 28. Principle of the Rule of Law**

An official, a higher official, and a court shall act within the framework of their powers as prescribed by laws and regulations and may only exercise their powers in conformity with the meaning and purpose of authorisation.

## **Section 29. Presumption of Innocence**

A person shall not be considered guilty of committing an administrative offence until his or her fault is proven. The person shall not have to prove his or her innocence. All reasonable doubts about fault, unless they can be eliminated by examination of evidence, shall be evaluated in favour of the person.

## **Section 30. Principle of Procedural Equity**

In making a ruling, an official, a higher official, and a court shall respect objectivity and provide participants to the proceedings with a reasonable opportunity to express their opinion and submit evidence.

## **Section 31. Rights to the Objective Progress of Proceedings**

(1) An official, a higher official, a judge, an interpreter, and an expert shall withdraw from participation in the proceedings if he or she is personally interested in the result of an administrative offence case or if there are circumstances that justifiably give a reason for the persons involved in the proceedings to believe that such interest may exist.

(2) If an official, a higher official, an interpreter or an expert fails to recuse himself or herself, a person has the right to point to this fact when appealing the decision taken in an administrative offence case.

## **Section 32. Principle of Procedural Economy**

An official, a higher official, and a court (judge) shall select and perform procedural actions in order to ensure achievement of the objective of administrative offence proceedings as quickly and economically as possible.

## **Section 33. Right to Defence**

(1) A person to be held liable has the right to defence, namely the right to know the offence for the committing of which the person is suspected of, and to choose his or her position of defence.

(2) A person may execute his or her right to defence himself or herself, with the participation of a counsel or intermediation of a representative.

## **Section 34. Right to Compensation**

(1) A person who has suffered damage as a result of an unlawful action of an official or a higher official has the right to compensation in accordance with the laws and regulations regarding compensation for damage caused by institutions.

(2) A person who has suffered damage as a result of an administrative offence has the right to request compensation for damage from the person who has committed the offence in accordance with the procedures laid down by the Civil Procedure Law. In requesting compensation in accordance with the civil procedures, a victim shall be exempt from the State duty.

## **Section 35. Language of Proceedings**

(1) Administrative offence proceedings shall take place in the official language.

(2) A person to be held administratively liable, a punished person, a victim, an infringed owner of property, as well as a witness shall be provided with a possibility to use the language in the administrative offence proceedings in which he or she is able to communicate, as well as to use assistance of an interpreter free of charge. An official, a higher official or a court shall evaluate the need for interpreting and ensure participation of an interpreter.

(3) An official, a higher official or a court shall, if necessary, ensure that any complaints received in another language within the framework of the administrative offence proceedings are translated into the official language.

(4) Provisions of this Section regarding the right of a person to use the language in which he or she is able to communicate and to use assistance of an interpreter free of charge shall also apply to persons with hearing, speech or visual impairments. It shall be ensured that the proceedings take place in a language which such persons are able to understand or in a manner which a person is able to perceive.

## **Section 36. Right to Appeal a Ruling Made within the Framework of Administrative Offence Proceedings**

A ruling made within the framework of administrative offence proceedings may be appealed if it is provided for in this Law.

## **Section 37. Restrictions on Accessibility of Personal Data**

Data of a person who has reported an administrative offence, a victim, and also a witness shall have status of restricted access information. Personal data shall only be accessible to an official, a higher official, and a court.



Personal data shall also be accessible to other persons if a data subject has agreed to the processing of his or her data.

### **Section 38. Informing of the Use of Technical Means**

If any technical means are used during performance of procedural actions, an official shall inform the persons who participate in the procedural action thereof in accordance with the procedures laid down by the laws and regulations governing data protection.

## **Chapter 6**

### **Status of a Person in Administrative Offence Proceedings**

#### **Section 39. Persons who Participate in Administrative Offence Proceedings**

The following persons shall participate in administrative offence proceedings:

- 1) participants to the proceedings:
  - a) a person to be held administratively liable (hereinafter - the person to be held liable);
  - b) a punished person;
  - c) a victim;
  - d) an infringed owner of property;
  - e) an institution (before court);
- 2) persons conducting administrative offence proceedings:
  - a) an official;
  - b) a higher official;
  - c) a court (judge);
- 3) other persons:
  - a) a witness;
  - b) an expert;
  - c) an interpreter;
  - d) a counsel;
  - e) a representative;
  - f) a prosecutor.

#### **Section 40. Person to be Held Liable**

(1) The person to be held liable is a natural person or legal person who has committed an administrative offence with regard to which administrative offence proceedings have been initiated.

(2) The natural person to be held liable shall participate in the examination of an administrative offence case in person (a minor - with the participation of a representative) but a legal person - with the intermediation of a representative. The person to be held liable shall fulfil his or her obligations in person insofar as the administrative offence case requires personal fulfilment of obligations.

#### **Section 41. Rights and Obligations of the Person to be Held Liable**

- (1) The person to be held liable has the following rights:
- 1) to access materials of an administrative offence case, make extracts, transcripts thereof, and prepare copies;
  - 2) to participate in the examination of an administrative offence case;
  - 3) to provide explanations;
  - 4) to use the language in which he or she is able to communicate, as well as to use assistance of an interpreter if



this person does not know the language in which the administrative offence proceedings take place;

- 5) to know the offence for the committing of which he or she is held liable;
- 6) to express requests;
- 7) to submit evidence;
- 8) to appeal the decision taken in an administrative offence case.

(2) The person to be held liable has the following obligations:

- 1) to appear at a place indicated by an official, a higher official or a court at the specified time;
- 2) to not delay and hinder the progress of administrative offence proceedings;
- 3) to inform an official, a higher official or a court of any changes to the place of residence, legal address or electronic mail address during the proceedings;
- 4) to terminate the offence for which he or she is held liable;
- 5) to comply with the applied procedural compulsory measures.

#### **Section 42. Punished Person**

Punished person shall be a person with regard to whom a ruling has been made and has come into effect regarding application of an administrative penalty.

#### **Section 43. Victim**

(1) A victim in an administrative offence case shall be a natural or legal person who has suffered loss or non-material damage as a result of an administrative offence and with regard to whom an official or a higher official has taken the relevant decision to grant the status of the victim.

(2) A victim in an administrative offence case may not be a person to whom moral injury has been caused as to a representative of a specific group or part of society.

(3) A victim shall fulfil his or her obligations in person insofar as the administrative offence case requires personal fulfilment of obligations.

#### **Section 44. Rights and Obligations of a Victim**

(1) A victim has the following rights:

- 1) to access materials of an administrative offence case, make extracts, transcripts thereof, and prepare copies;
- 2) to participate in the examination of an administrative offence case;
- 3) to use the language in which he or she is able to communicate, as well as to use the assistance of an interpreter free of charge in accordance with the procedures laid down by this Law if the victim does not know the language in which the administrative offence proceedings take place;
- 4) to not testify against himself or herself and his or her betrothed, spouse, parents, grandparents, children, grandchildren, brothers and sisters, as well as against the person with whom the relevant natural person lives together and with whom he or she has a common (joint) household;
- 5) to express requests;
- 6) to submit evidence;
- 7) to appeal the decision taken in an administrative offence case.

(2) A victim shall exercise his or her rights voluntarily and within the scope chosen by him or her. Failure to exercise the rights shall not delay the progress of administrative offence proceedings.

(3) A victim has the following obligations:

- 1) to make every effort within his or her power to eliminate or reduce the extent of damage caused to him or her;
- 2) to appear at a place indicated by an official, a higher official or a court at the specified time;
- 3) to provide only true information and testify regarding everything that is known to him or her in relation to the relevant administrative offence;

- 4) to not delay and hinder the progress of administrative offence proceedings;
- 5) to inform an official, a higher official or a court of any changes to the place of residence, legal address or electronic mail address during the proceedings;
- 6) to conform to the specified procedures during the performance of procedural actions.

#### **Section 45. Infringed Owner of Property**

(1) An infringed owner of property shall be an owner or legal possessor of property whose rights to act with the property have been restricted or deprived within the framework of administrative offence proceedings and who is not the person to be held liable.

(2) An infringed owner of property has the following rights:

- 1) to access decisions regarding action with the property, make extracts, transcripts thereof, and prepare copies;
- 2) to participate in the examination of an administrative offence case;
- 3) to use the language in which he or she is able to communicate, as well as to use the assistance of an interpreter free of charge in accordance with the procedures laid down by this Law if the infringed owner of property does not know the language in which the administrative offence proceedings take place;
- 4) to express requests;
- 5) to submit evidence;
- 6) to appeal the decision taken in an administrative offence case in the part regarding action with the property.

(3) An infringed owner of property has the following obligations:

- 1) to appear at a place indicated by an official, a higher official or a court at the specified time and to comply with the established procedures during the performance of investigative actions;
- 2) to give only true testimonies;
- 3) to not delay and hinder the progress of administrative offence proceedings;
- 4) to inform an official, a higher official or a court of any changes to the place of residence, legal address or electronic mail address during the proceedings.

#### **Section 46. Official**

(1) Within the meaning of this Law, an official is a person who, according to the competence laid down by laws and regulations, shall conduct administrative offence proceedings: initiate administrative offence proceedings, perform investigative actions, apply procedural compulsory measures, and take the decision in an administrative offence case.

(2) Provisions of this Law regulating activities of an official shall also refer to a collegial institution.

#### **Section 47. Higher Official**

Within the meaning of this Law, a higher official is a person who, according to the competence laid down by laws and regulations, shall be authorised to perform lawfulness and validity control of the decision taken in an administrative offence case.

#### **Section 48. Court (Judge)**

In administrative offence proceedings a court (judge) shall exercise lawfulness and validity control of rulings made within the framework of administrative offence proceedings.

#### **Section 49. Witness**

(1) Witness shall be a person who is summoned to provide information (testify) regarding facts which need to be ascertained in an administrative offence case.

(2) Following summons of an official, a higher official or a court, a witness shall appear at the indicated place and time and shall give testimonies by telling everything that is known to him or her about an administrative offence case and answering questions.

(3) A witness shall be provided with an explanation of his or her right to refuse to testify and warned that he or she

may be held criminally liable for giving knowingly false testimony or for unjustified refusal to testify. Prior to interrogation the witness shall sign a certification that he or she has been warned of criminal liability. This certification shall be appended to an administrative offence case.

(4) An official, a higher official or a court shall explain to a witness who has not reached 14 years of age his or her obligation to testify truthfully, tell everything that is known to him or her about this administrative offence case but they shall not warn the witness of the consequences resulting from unjustified refusal to testify or knowingly false testimony.

(5) A minor shall be interrogated in the presence of his or her representative, a specialist in children's rights, a psychologist or a teacher. Such persons may also ask questions to a minor.

(6) If it is necessary for the purpose of clarification of the truth and if this does not harm the interests of a minor, during interrogation of a minor by a decision of an official, a higher official or a court any participant to the proceedings or person present may be excluded from the place where the administrative offence case is examined. After interrogation of the minor his or her testimony shall be read out, and the minor shall be asked questions with the intermediation of a specialist in children's rights, a psychologist or a teacher and he or she will provide answers to them.

## **Section 50. Rights and Obligations of a Witness**

(1) A witness has the following rights:

1) to know the proceedings to which he or she is summoned to testify and the official to whom he or she provides information;

2) to receive information on his or her rights, obligations, and liability, type of recording testimonies, as well as the right to give testimony in the language in which he or she is able to communicate and use assistance of an interpreter, if necessary;

3) to make notes and additions in testimonies recorded in writing, or to request a possibility to write testimonies by hand in the language in which he or she is able to communicate;

4) to not testify against himself or herself and his or her betrothed, spouse, parents, grandparents, children, grandchildren, brothers and sisters, as well as against the person with whom the relevant natural person lives together and with whom he or she has a common (joint) household.

(2) A witness has the following obligations:

1) to provide only true information and testify regarding everything that is known to him or her in relation to the relevant administrative offence;

2) to not delay and hinder the progress of administrative offence proceedings;

3) to inform an official, a higher official or a court of any changes to the place of residence or electronic mail address during the proceedings;

4) to appear at a place indicated by an official, a higher official or a court at the specified time and participate in investigative actions, as well as to comply with the established procedures during the performance of investigative actions;

5) to not disclose the content of a questioning or interrogation if the witness has been especially warned of the non-disclosure thereof.

## **Section 51. Expert**

(1) An official, a higher official or a court which examines an administrative offence case shall summon an expert if special knowledge of the relevant area is required.

(2) An expert may be the persons specified in the Law on Forensic Experts.

(3) An expert has the following rights:

1) to access materials of an administrative offence case which refer to the subject of expert-examination;

2) to request that additional materials necessary for the provision of an opinion are issued to him or her;

3) with the authorisation of an official, a higher official or a court, to ask questions related to the subject of expert-examination to the person to be held liable, victim, and witnesses;

4) to participate in the examination of an administrative offence case.

(4) If a person summoned as an expert is not a forensic expert certified in accordance with the procedures laid down by the Law on Forensic Experts, he or she shall be provided with an explanation of his or her rights and obligations and warned that he or she may be held criminally liable for unjustified refusal to provide an opinion, or for providing a knowingly false opinion.

## **Section 52. Interpreter**

(1) If in order to ensure administrative offence proceedings the need arises for the knowledge of a language which is not the official language, an official, a higher official or a court shall summon a person to the administrative offence case who knows the relevant language, namely an interpreter. Several interpreters may be summoned to the administrative offence case, or an official or a higher official may perform interpreting themselves if they know the relevant foreign language.

(2) Following a summons of an official, a higher official or a court, an interpreter shall appear at the indicated place and time and perform the assigned interpreting.

(3) An interpreter shall be provided with an explanation of his or her obligation to interpret the progress of administrative offence proceedings and warned that he or she may be held criminally liable for refusal to interpret or for knowingly false interpreting. Information on rights and obligations need not be provided to an interpreter for whom interpreting is a professional duty and who has certified his or her liability with a signature when commencing the fulfilment of professional duties.

## **Section 53. Counsel**

(1) A counsel shall provide legal assistance to the person to be held liable.

(2) A counsel in administrative offence proceedings may be a person of legal age whose capacity to act has not been restricted. A counsel shall not replace a defendant, but shall act in his or her interests.

(3) Authorisation of a natural person's counsel shall be drawn up as a notarially certified power of attorney. The right of a sworn advocate as a counsel to participate in administrative offence proceedings shall be attested to by a retainer. The natural person may also authorise his or her counsel orally before an institution or at the court on site. The oral authorisation given before the institution shall be drawn up in writing and signed by an authorising person. The oral authorisation given during a court hearing shall be recorded in the minutes of the court hearing.

(4) The authorisation given to a counsel may be revoked at any time by notifying of this in writing or orally. An official or a higher official shall draw up in writing the notification expressed orally but a court shall record it in the minutes of the court hearing.

(5) A counsel has the right to refuse to conduct defence by informing the person to be held liable and an official, a higher official or a court in writing in a timely manner.

(6) A representative of a minor shall decide whether the minor needs a counsel.

(7) A counsel shall not be allowed to assume defence if:

1) he or she has provided or provides legal assistance in this case to a person whose interests are in conflict with the interests of the person to be held liable;

2) the interests of the person to be held liable are in conflict with his or her interests or interests of the persons with whom he or she has a relationship of kinship within the third degree, affinity within the second degree, or to whom he or she is linked by marriage or with whom he or she has a common household;

3) he or she has been an official conducting administrative offence proceedings before in these proceedings;

4) he or she is a witness or victim in this case.

(8) If a counsel acts in a situation of a conflict of interests, a person who participates in the administrative offence proceedings may ask for his or her removal which shall be decided by an official, a higher official or a court.

## **Section 54. Representative**

(1) Representative is a person who, on the basis of law or contract, shall act on behalf of a represented person - a legal person, a victim, an owner of infringed property, a minor, or the person to be held liable - an official of the legal person governed by public law.

(2) A representative in administrative offence proceedings may be a person of legal age whose capacity to act has not been restricted.

(3) Representation of a natural person shall be drawn up as a notarially certified power of attorney. If a representative of the natural person is a sworn advocate, such authorisation shall be attested to by a written power of

attorney without notarial certification. The natural person may also authorise his or her representative orally before an institution or at the court on site. An official or a higher official shall draw up such authorisation in writing, and an authorising person shall sign it but the oral authorisation given during a court hearing shall be recorded in the minutes of the court hearing.

(4) Representation of a legal person or an institution shall be drawn up by a written power of attorney or attested to by documents giving rise to the right of an official to represent the legal person or institution without special authorisation.

(5) Authorisation shall give the right to a representative to perform procedural actions on behalf of a represented person. The scope of procedural actions shall be specified in the power of attorney.

(6) All procedural actions performed by a representative within the framework of the authorisation given to him or her shall be binding on a represented person.

(7) A represented person may revoke the authorisation given to his or her representative at any time by notifying of this in writing or orally. An official or a higher official shall draw up in writing the notification expressed orally but a court shall record it in the minutes of the court hearing.

(8) A representative has the right to refuse to conduct representation by informing a represented person and an official, a higher official or a court in writing in a timely manner.

(9) A representative shall not be allowed to assume representation if:

1) he or she has represented in this case a person whose interests are in conflict with the interests of a represented person;

2) the interests of a represented person are in conflict with his or her interests or interests of the persons with whom he or she has a relationship of kinship within the third degree, affinity within the second degree, or to whom he or she is linked by marriage or with whom he or she has a common household;

3) he or she has been an official conducting administrative offence proceedings before in these proceedings;

4) he or she is a witness or victim in this case.

(10) If a representative acts in a situation of a conflict of interests, a person who participates in the administrative offence proceedings may ask for his or her removal which shall be decided by an official, a higher official or a court.

#### **Section 55. Representative of a Minor**

(1) The following persons may represent a minor in the order of priority:

1) one of his or her lawful representatives (parents, guardians, foster family, a person authorised by a child care institution);

2) one of his or her grandparents;

3) his or her brother or sister who is of legal age;

4) a representative of an authority for the protection of the rights of children.

(2) If a lawful representative is not able to completely represent interests of a minor, an official, a higher official or a court shall summon another representative by taking into consideration the possibilities and willingness of specific persons to truly protect interests of the minor and following the order of priority specified in Paragraph one of this Section.

#### **Section 56. Prosecutor**

Prosecutor is entitled to:

1) initiate administrative offence proceedings;

2) access materials of an administrative offence case;

3) to participate in the examination of an administrative offence case;

4) submit a protest regarding a decision in the administrative offence case and a decision taken with regard to a complaint in the administrative offence case;

5) perform any other activities provided for in the Office of the Prosecutor Law.

## **Chapter 7**

### **Procedural Time Limits**

#### **Section 57. Determination of a Procedural Time Limit**

Procedural actions shall be performed within the time limits prescribed by the law. If the law does not stipulate a procedural time limit, it shall be determined by an official, a higher official or a court. The length of the time limit specified by the official, higher official or court shall be such that the procedural action may be performed.

#### **Section 58. Commencement of a Procedural Time Limit**

(1) A procedural time limit to be calculated in years, months or days shall commence on the day following the date or event indicating its commencement.

(2) A procedural time limit to be calculated in hours shall commence from the hour following the event indicating its commencement.

#### **Section 59. Termination of a Procedural Time Limit**

(1) The final day of a time limit, which is calculated in months, shall be the relevant date of the last month of the time limit. If the last month of the time limit does not have the relevant date, the final day of the time limit shall be the last day of such month.

(2) If the final day of a time limit is Saturday, Sunday, or a holiday specified in law, the following working day shall be the final day of the time limit.

(3) A time limit determined until a particular date shall expire on such date.

(4) A procedural action the time limit of which expires may be performed until midnight of the final day of the time limit. If a document is delivered to a communications institution (post) on the final day of the time limit until midnight, it shall be considered delivered within the time limit. If such action is to be performed in an institution or court, the time limit shall expire at the hour when the relevant institution or court finishes working.

#### **Section 60. Consequences of Default Regarding a Procedural Time Limit**

The right to perform procedural actions shall lapse after expiry of the time limit specified in law or by an official, a higher official, a court or a judge. Documents submitted after expiry of the procedural time limit shall not be examined.

#### **Section 61. Staying of a Procedural Time Limit**

Counting of the time limit shall be stayed at the moment when a circumstance which serves as the ground for staying the time limit occurs.

#### **Section 62. Extension of a Procedural Time Limit**

(1) A time limit determined by an official, a higher official or a court may be extended upon a reasoned request of a person.

(2) A request for extension of a procedural time limit may be submitted before expiry of the time limit determined by an official, a higher official or a court.

(3) The time limit specified in law shall not be extended.

#### **Section 63. Renewal of a Delayed Procedural Time Limit**

(1) A delayed procedural time limit may be renewed by an official, a higher official or a court upon a reasoned request of a person who participates in the proceedings if the official, higher official or court recognises the reason for default as justifying.

(2) In renewing the delayed time limit, an official, a higher official or a court shall concurrently allow to perform the delayed procedural action.

#### **Section 64. Procedures for Extending and Renewing a Procedural Time Limit**

(1) A request for extension of a procedural time limit or for renewal of a delayed time limit shall be submitted to the official, higher official or court with regard to which the delayed action had to be performed.

(2) A request shall be examined in a written procedure immediately but not later than within five working days from the day of receipt of the request.

(3) A refusal of an official to extend or renew a procedural time limit may be appealed to a higher official within 10 working days from the day of notification of the refusal. A complaint shall be submitted to an official. A higher official shall examine the complaint in a written procedure within 10 working days from the day of receipt of the complaint. A decision of the higher official shall not be subject to appeal.

## **Chapter 8**

### **Procedural Sanctions**

#### **Section 65. Application of Procedural Sanctions in order to Ensure Administrative Offence Proceedings**

If persons who participate in the proceedings hinder the course of proceedings or fail to fulfil any obligations specified in this Law, an official, a higher official or a court may apply procedural sanctions thereto.

#### **Section 66. Types of Procedural Sanctions**

The following procedural sanctions may be applied within the framework of administrative offence proceedings:

- 1) a reproof;
- 2) exclusion from a room where an administrative offence case is being examined;
- 3) a pecuniary penalty.

#### **Section 67. Reproof**

(1) A reproof shall be expressed to a person who disturbs order during examination of an administrative offence case or treats the fulfilment of his or her procedural obligations carelessly.

(2) A reproof may be expressed orally or in writing.

#### **Section 68. Exclusion from a Room where an Administrative Offence Case is Examined**

(1) If a participant to the proceedings, a witness, an expert or an interpreter disturbs order repeatedly, he or she may be excluded from a room where an administrative offence case is being examined. If the person to be held liable is excluded from the room where the administrative offence case is being examined, he or she shall be given a possibility to provide an explanation in the administrative offence case.

(2) Any other persons present who disturb order may also be excluded without expressing a reproof.

#### **Section 69. Pecuniary Penalty**

(1) An amount of the pecuniary penalty shall be determined in units of fine. Pecuniary penalty of up to 40 units of fine may be applied to a person.

(2) A decision to apply the pecuniary penalty shall be taken in writing.

(3) A time period for the voluntary payment of the pecuniary penalty shall be one month from the day of notification of the decision to apply the pecuniary penalty.

(4) A person to whom the pecuniary penalty has been applied may, within 10 working days from the day of receipt of a transcript of the decision, submit to an official, a higher official or a court that has applied the pecuniary penalty a reasoned request for release from the payment of the pecuniary penalty or for reduction of the amount thereof. The request shall be examined in a written procedure within 10 working days from the day of receipt thereof. A decision of an official, a higher official or a court shall not be subject to appeal.

## **Chapter 9**

### **Procedural Compulsory Measures**

#### **Section 70. Types of Procedural Compulsory Measures**

The following procedural compulsory measures may be applied in the administrative offence proceedings:

- 1) the administrative detention;
- 2) the suspension from driving vehicles, navigating ships, and flying aircraft;
- 3) the staying of the exercise of rights granted to a person;



4) the forced conveyance to the court.

#### **Section 71. Administrative Detention**

(1) Administrative detention shall be applied in cases where it is necessary to establish identity of the person to be held liable or terminate an administrative offence and a person fails to respond to the invitation to terminate the offence.

(2) A person may be detained administratively by the following:

- 1) police officials;
- 2) officials of the State Border Guard;
- 3) officials of the State Revenue Service;
- 4) officials of the State Environmental Service;
- 5) officials of the Nature Conservation Agency;
- 6) officials of the State Forest Service;
- 7) officials of the Naval Forces of the National Armed Forces who perform functions of the Coast Guard;
- 8) the Military Police of the National Armed Forces;
- 9) officials of the Prison Administration.

(3) Upon detention an official shall immediately inform the detained person of his or her rights.

(4) The detained person has the following rights:

- 1) to invite a counsel;
- 2) to request that his or her relatives, educational institution or employer is notified of his or her detention. In case of detention of a minor, it shall be mandatory to notify his or her representative thereof;
- 3) to access a detention protocol and receive information on the rights and obligations of a detained person;
- 4) to express his or her opinion regarding justification of his or her detention.

(5) A person may not be detained for more than four hours. The time of detention of the person shall be calculated from the moment of actual detention. For a person who has been under the influence of alcoholic beverages, narcotic or other intoxicating substances or while intoxicated, the time of administrative detention shall be calculated from the moment when the person is capable of perceiving the ongoing situation in an adequate manner.

(6) A detention protocol shall be notified to the person to whom it is addressed.

[12 October 2023]

#### **Section 72. Suspension from Driving Vehicles and Navigating Ships, and also Flying Aircraft**

(1) A driver of a vehicle, as well as a master of a ship and an aircrew member, with regard to whom it is reasonable to believe that he or she is under the influence of alcohol, narcotic or other intoxicating substances or intoxicated, shall be suspended from driving a vehicle, navigating a ship or flying an aircraft and a test of alcohol concentration in the air exhaled by a person or a medical examination shall be carried out in order to establish whether he or she is under the influence of alcohol, narcotic or other intoxicating substances or is intoxicated.

(2) A person who drives a vehicle or navigates a ship without a driving licence of the relevant category shall also be suspended from driving the vehicle or navigating the ship.

(3) A person who flies aircraft without the relevant civil aviation aircrew certificate and endorsement shall also be suspended from flying the aircraft.

(4) A decision shall be notified to the person to whom it is addressed.

#### **Section 73. Staying of the Exercise of Rights Granted to a Person**

(1) If a person has committed an administrative offence which is related to the rights granted thereto, an official may, in order to prevent further commitment of the offence, apply a procedural compulsory measure, namely the staying of the exercise of rights granted to the person (hereinafter in this Section - the staying of the exercise of rights), until the moment when a decision in the administrative offence case comes into effect.

(2) In applying the staying of the exercise of rights, an official shall seize a document which attests to the rights granted to the person if the person may produce such document.

(3) The decision to stay the exercise of rights shall be notified to the person to whom it is addressed.

(4) The decision to stay the exercise of rights shall be enforced immediately in accordance with the procedures for enforcing additional penalties laid down by this Law.

#### **Section 74. Forced Conveyance to the Court**

(1) If a participant to the proceedings, a witness or an expert fails to appear at a court summons without a justifying reason, forced conveyance may be applied to the relevant person in order to ensure that he or she participates in a procedural action.

(2) The decision regarding forced conveyance shall specify who, where, when and for what purpose must be conveyed and which police institution is assigned to ensure forced conveyance.

## **Chapter 10 Procedural Expenditures and Reimbursement Thereof**

#### **Section 75. Procedural Expenditures**

(1) Procedural expenditures are:

1) the sums paid to victims, witnesses, experts, and interpreters in order to cover travel expenses that are related to arrival at the place of the performance of a procedural action and return to the place of residence, and payment for accommodation;

2) the sums paid to witnesses and victims as average work remuneration for the time during which they did not perform their work due to their participation in a procedural action;

3) the remuneration to experts and interpreters for their work, except for the cases where they participate in the proceedings fulfilling their duties of office;

4) the sums arising from placing in storage the property and documents seized in relation to an administrative offence case, as well as from the storage, destruction, and sale thereof;

5) the sums used to perform an expert-examination or prepare an opinion of a competent institution;

6) the sums related to the tests carried out in order to establish the influence of intoxicating substances.

(2) The Cabinet shall lay down the procedures for calculating expenditures related to the tests carried out in order to establish the influence of intoxicating substances, and the procedures for informing an institution, the official of which makes a ruling on the penalty, of the relevant expenditures.

(3) The Cabinet shall lay down the procedures for calculating expenditures arising from placing in storage the property and documents seized in relation to an administrative offence case, as well as from the storage, destruction, and sale thereof, and the procedures for informing an institution, the official of which makes a ruling on the penalty, of the relevant expenditures.

#### **Section 76. Obligation to Reimburse for Procedural Expenditures**

(1) An obligation to reimburse for procedural expenditures shall lie with a punished person.

(2) Procedural expenditures shall be covered from the State or local government funds:

1) if a person has not been punished under a final ruling;

2) if a person from whom they should be recovered is low-income or needy;

3) for work of an interpreter.

(3) The Cabinet shall determine an amount and lay down the procedures for covering procedural expenditures from the State and local government funds.

## **Chapter 11 Procedural Documents**

## **Section 77. Decision**

(1) A decision shall be taken in the cases specified in this Law, and it shall indicate the following:

1) the number of an administrative offence case;

2) the time and place of taking the decision;

3) the given name, surname of a person taking the decision, an institution which he or she represents, and his or her position (if the administrative offence case has been examined by a collegial institution - the composition of the collegial institution);

4) the information on the person affected by such decision, and a representative or counsel (if any) of such person;

5) the legal grounds for taking the decision;

6) the ruling;

7) the information on appeal of the decision;

8) any other necessary information.

(2) Several decisions may be joined in one procedural document.

## **Section 78. Minutes of a Procedural Action**

(1) Performance of investigative actions and the obtained evidence, as well as application of procedural compulsory measures shall be recorded in the minutes of a procedural action. Several procedural actions may be recorded in one piece of minutes. The minutes of a procedural action may also include a decision.

(2) The minutes of a procedural action shall indicate the following:

1) the number of an administrative offence case;

2) the time and place of taking of the minutes;

3) the given name, surname of a person who takes the minutes, institution which he or she represents, and his or her position;

4) the information on the person to whom the minutes of a procedural action is addressed, and a representative or counsel of such person;

5) the action to be performed (an investigative action or application of a procedural compulsory measure) and legal grounds for the performance of the action;

6) the information on the use of technical means;

7) the evidence (if any);

8) the information on appeal of the performed action, if it is subject to appeal;

9) any other necessary information, including notes of a person, if such have been made.

(3) The minutes of a procedural action shall be signed by an official who has taken it and a person to whom it is addressed and who participates in the performance of the procedural action. If the person refuses to sign the minutes of a procedural action, a relevant note shall be made in the minutes. A person shall not sign the minutes of a procedural action if he or she participates in the procedural action remotely.

## **Section 79. Summons**

(1) Summons shall constitute a document by which an official, a higher official or a court summons a person to participate in the administrative offence proceedings.

(2) Summons shall indicate the following:

1) the information on the person to be summoned;

2) the status of the person to be summoned in the proceedings;

3) the name and address of an institution or court;

4) the surname, position, telephone number, electronic mail address of an official;

5) the time and place of appearance;

6) the reason for summoning the person;

7) the obligation of the person who has received the summons to transfer it to the person being summoned in the case of the absence thereof;

8) the consequences of the failure to appear.

(3) Summons shall be notified in such a manner so that an addressee receives it at least five days before examination of an administrative offence case or performance of a procedural action.

(4) A person shall be obliged to accept a summons.

(5) Refusal to accept a summons shall not constitute an obstacle to the performance of a procedural action and examination of an administrative offence case.

(6) Summons shall not be drawn up if a person has been notified of the need to participate in the administrative offence proceedings by including the relevant information in the decision to initiate administrative offence proceedings or by otherwise notifying such information.

#### **Section 80. Information on a Person to be Indicated in a Procedural Document**

A decision as well as any other procedural document shall indicate the following information on a person:

1) for a natural person - the given name, surname, personal identity number (in case of a foreigner - date of birth), declared place of residence (if the person does not have a declared place of residence in Latvia - the indicated place of residence), electronic mail address (if any), telephone number in compliance with the Personal Data Processing Law;

2) for a legal person - the name, registration number, legal address, telephone number, and electronic mail address, as well as information on the representative of the legal person;

3) any other information which may be important in the examination of an administrative offence case.

#### **Section 81. Notification of Documents**

(1) Documents in administrative offence proceedings shall be notified in accordance with the Law on Notification.

(2) Documents shall be notified immediately but not later than within three working days from the day of drawing up of the documents, unless this Law provides for another term.

#### **Section 82. Storage of Documents in an Administrative Offence Case**

Starting from the moment of initiation of the administrative offence proceedings all the documents related to the proceedings shall be stored in one place in an administrative offence case.

## **Chapter 12**

### **Confiscation in Administrative Offence Proceedings**

#### **Section 83. Confiscation**

Confiscation shall be compulsory alienation of the property acquired as a result of committing an administrative offence or the object for committing an administrative offence, or the property related to an administrative offence without compensation to the State ownership. Confiscation shall not be an administrative penalty.

#### **Section 84. Property Acquired as a Result of Committing an Administrative Offence**

(1) The property acquired as a result of committing an administrative offence shall constitute property which has directly or indirectly come into ownership or possession of a person as a result of the person committing an administrative offence.

(2) The property acquired as a result of committing an administrative offence shall be confiscated or returned to its owners or legal possessors.

#### **Section 85. Object for Committing an Administrative Offence**

(1) An object for committing an administrative offence shall constitute instruments and means which were intended to be used or were used to commit an administrative offence.

(2) The objects for committing an administrative offence shall be confiscated or returned to their owners or legal possessors.

#### **Section 86. Property Related to an Administrative Offence**

(1) The property related to an administrative offence shall constitute objects the circulation of which is prohibited or objects the origin or ownership of which in the relevant administrative offence case has not been established, or the property owned by a person who has committed an administrative offence that should not be left in the ownership of the person due to the committed administrative offence.

(2) The property related to an administrative offence shall be confiscated.

(3) Animals may be confiscated if they should not be left in the ownership of the person who has committed an administrative offence due to the committed administrative offence.

(4) A vehicle owned by a person who has committed an administrative offence may be subject to confiscation if the person has committed an administrative offence against traffic safety under the influence of alcohol, narcotic, psychotropic, toxic or other intoxicating substances.

## **Chapter 13 Proving**

#### **Section 87. Object of Evidence**

(1) Circumstances to be proved within the framework of the administrative offence proceedings shall constitute the existence or non-existence of an administrative offence, as well as any other circumstances which are relevant to the correct deciding of an administrative offence case.

(2) Circumstances included in the object of evidence shall be considered proven if any reasonable doubts regarding the existence or non-existence thereof have been excluded during the course of proving.

#### **Section 88. Legal Presumption of a Fact**

Without performance of additional procedural actions, the following circumstances shall be considered proven, unless the opposite is proven during the administrative offence proceedings:

- 1) generally known facts;
- 2) facts established under a court ruling which has come into effect (in criminal proceedings - also by a prosecutor's penal order);
- 3) facts established under a ruling which has come into effect regarding a person being held administratively liable;
- 4) the fact that a person knows or should have known his or her duties provided for in laws and regulations;
- 5) the fact that a person knows or should have known his or her professional duties and duties of office;
- 6) the correctness of research methods generally accepted in contemporary science, medicine, technology, art, or skilled trades.

#### **Section 89. Burden of Proof**

(1) The burden of proof in administrative offence proceedings shall lie with an official.

(2) If a person deems that one of the facts presumed in Section 88 of this Law is not true, the person who claims this shall have an obligation to point to the non-conformity of this fact with reality.

(3) The person to be held liable shall have an obligation to point to his or her alibi himself or herself, as well as to the circumstances excluding administrative liability. If the person to be held liable has failed to point to such circumstances, an official shall not be obliged to prove the non-existence thereof, an official, a higher official or a court shall not provide assessment thereof in a ruling, but the person is deprived of the possibility to receive a compensation for damage resulting from being suspected unjustifiably if the termination of an administrative offence case is related to the determination of the abovementioned circumstances.

#### **Section 90. Evidence**

(1) Evidence in an administrative offence case shall constitute information on the facts which the persons involved in the administrative offence proceedings use, according to their competence, in order to prove the existence or non-existence of an administrative offence and to determine any other circumstances which are relevant to the correct

deciding of an administrative offence case.

(2) Persons involved in the administrative offence proceedings may only use as evidence reliable, attributable, and admissible information on the facts. Facts which, in accordance with the law, may only be proved by particular means of evidence may not be established by any other means of evidence.

(3) Without performance of additional procedural actions, evidence shall be considered the information on facts which has been recorded by an official as at the moment of establishing an administrative offence, unless the opposite is proven in the administrative offence proceedings.

(4) Evidence obtained in the administrative offence proceedings shall be recorded in the minutes of procedural actions, opinions, and other documents.

#### **Section 91. Reliability of Evidence**

(1) The reliability of evidence is the degree of the determination of the veracity of a piece of information.

(2) The reliability of the information on facts which is to be used in proving shall be assessed by considering all the obtained facts or information on facts as a whole and in mutual relation thereof.

(3) No piece of the evidence has a previously specified degree of reliability higher than other pieces of evidence.

#### **Section 92. Relevance of Evidence**

Evidence shall be relevant to the specific administrative offence proceedings if the information on facts directly or indirectly confirms the existence or non-existence of the circumstances to be proved in the administrative offence proceedings, and also the reliability or non-reliability of other evidence and the possibility or impossibility to use it.

#### **Section 93. Admissibility of Evidence**

(1) It shall be admissible to use as evidence the information on facts obtained in the administrative offence proceedings if it has been obtained and procedurally recorded in accordance with the procedures laid down by this Law.

(2) Information on facts which has been obtained in the following manner shall be recognised as inadmissible and unusable in proving:

- 1) using violence, threats, fraud, or duress;
- 2) breaching the basic principles of administrative offence proceedings;
- 3) in a procedural action performed by a person who did not have the right to perform it.

(3) Information on facts which has been obtained by allowing procedural offences shall be considered restrictedly admissible, and may only be used in proving if the allowed procedural offences are insignificant or may be prevented, they could not have influenced the veracity of the obtained information, and if the reliability thereof is confirmed by the other information obtained in the administrative offence proceedings.

(4) It shall be admissible to use as evidence in the administrative offence proceedings the information on facts which officials have obtained by fulfilling their control and supervision functions specified in the law.

(5) It shall be admissible to use as evidence the information on facts which has been obtained by private persons if it is possible to verify this information within the framework of the administrative offence proceedings.

#### **Section 94. Assessment of Evidence**

An official, a higher official, and a court shall assess evidence in accordance with their own convictions based on all circumstances of an administrative offence case which have been subject to comprehensive, complete, and objective examination as a whole, by law and judicial consciousness.

#### **Section 95. Means of Evidence**

The means of evidence shall be as follows:

- 1) the explanations of the person to be held liable;
- 2) the testimonies of persons;
- 3) the expert opinion;
- 4) the opinion of a competent institution;

- 5) the document containing information on facts;
- 6) the electronic evidence;
- 7) the information on facts obtained in procedural actions and recorded in writing or otherwise;
- 8) the physical evidence.

#### **Section 96. Explanations of the Person to be Held Liable**

Evidence may be the information on facts which is provided by the person to be held liable in his or her explanation.

#### **Section 97. Testimonies of Persons**

(1) Evidence may be the information on facts which is provided by a person in his or her testimony about the circumstances to be proved in the administrative offence proceedings.

(2) If a person had the right to refuse to give a testimony and the person was informed thereof but nevertheless gave the testimony, then such testimony shall be assessed as evidence.

#### **Section 98. Expert Opinion**

(1) Evidence in administrative offence proceedings may be an expert opinion which is provided in writing by an expert involved in the specific administrative offence proceedings and which contains a description of the examination performed, conclusions made as a result thereof, and reasoned answers to the asked questions. If, upon performing an expert-examination, the expert establishes circumstances which are relevant to the case and with regard to which the expert was not asked questions, he or she may indicate such circumstances in his or her opinion.

(2) Explanations provided by an expert about his or her opinion shall constitute a testimony of the expert.

#### **Section 99. Opinion of a Competent Institution**

(1) Evidence in administrative offence proceedings may be a written opinion of a State or local government institution regarding facts and circumstances of an event the control of which is performed by such institution according to its competence specified in laws and regulations.

(2) An inventory or audit statement drawn up by a commission of competent persons authorised for the drawing up of such statement shall also be considered an opinion of a competent institution in administrative offence proceedings.

(3) A statement issued by an institution regarding facts and circumstances that are at the disposal of such institution in connection with its competence and lines of operation shall also be considered an opinion of a competent institution.

#### **Section 100. Document**

(1) Evidence in administrative offence proceedings may be a document if it is to be used in proving only in connection with the thematic information contained therein.

(2) A document may contain information on facts in writing or in another form. Electronic information media, recordings made with sound- and image-recording technical means, the thematically recorded information which may be used as evidence shall also be considered documents, within the meaning of evidence, in administrative offence proceedings.

#### **Section 101. Electronic Evidence**

Evidence in administrative offence proceedings may be information on facts in the form of electronic information which has been processed, stored, or broadcast by using automated data processing devices or systems.

#### **Section 102. Physical Evidence**

Physical evidence in administrative offence proceedings may be anything which has been used as an object for committing an administrative offence or which has preserved traces of an administrative offence, or contains information in any other way regarding facts and is usable in proving.

#### **Section 103. Information Obtained During Performance of Procedural Actions**

Evidence in administrative offence proceedings may be the information on facts obtained during performance of procedural actions.



## **Chapter 14**

### **Investigative Actions**

#### **Section 104. Types of Investigative Actions**

The following investigative actions shall be performed in the administrative offence proceedings:

- 1) questioning;
- 2) interrogation;
- 3) examination;
- 4) inspection;
- 5) seizure of property and documents;
- 6) data extraction from an electronic communications merchant;
- 7) test of the use of intoxicating substances;
- 8) expert-examination.

#### **Section 105. Basic Provisions of Investigative Actions**

(1) Unless this Law prescribes otherwise, all officials who conduct administrative offence proceedings in accordance with this Law are entitled to perform investigative actions.

(2) An investigative action shall be recorded in minutes of an investigative action, except for the cases where this Law stipulates that an official takes a decision.

#### **Section 106. Questioning**

(1) If the fact that a testimony has not been recorded in detail does not jeopardise the achievement of the objective of the administrative offence proceedings, information on the facts included in the object of evidence may be obtained by performing questioning.

(2) In performing questioning, an official shall determine the information known to the relevant person or non-existence of such information.

#### **Section 107. Interrogation**

(1) The purpose of the interrogation shall be to obtain information from a person to be interrogated.

(2) A person shall provide explanations and testimonies and answer questions orally. An expert may also provide testimonies in writing with regard to the questions asked by an official.

#### **Section 108. Examination**

(1) If it is reasonable to believe that there are traces of an administrative offence, special features which are relevant to a case, on the body of a person, or a person himself or herself is in some kind of particular physiological state, an examination of this person may be performed.

(2) Examination shall be performed by an official who is of the same sex as the person to be examined.

#### **Section 109. Inspection**

(1) During the course of inspection an official shall directly detect, establish, and record features of an object, if there is a possibility that such object is related to an administrative offence.

(2) Inspection of property shall take place in the presence of a person who is an owner or possessor of such property. In emergency cases property may be inspected in the absence of an owner (possessor) thereof.

#### **Section 110. Inspection of the Location of an Administrative Offence**

(1) Inspection of the location of an administrative offence shall be an inspection of a specific place and objects therein if the place and objects are related to the committed administrative offence.

(2) Inspection of publicly inaccessible areas or premises (namely places where it is prohibited to enter or stay without the consent of an owner, possessor or holder thereof) and the property located therein, as well as inspection of vehicles may only be performed with the consent of the owner (possessor, holder) thereof or by a decision of a judge

of a district (city) court which has been taken on the basis of an application of an official and materials appended thereto. The judge shall take a decision immediately but not later than within three working days from the day of receipt of the application.

(3) In emergency cases the inspection may be performed by a decision of an official upon receipt of the consent of a prosecutor.

(4) If the inspection of publicly inaccessible areas or premises and the property located therein or the inspection of a vehicle has been performed with the consent of a prosecutor, an official shall notify a judge of a district (city) court thereof not later than on the working day following the performance of the inspection by presenting materials which justified the need for and urgency of the inspection, as well as an inspection protocol. The judge shall verify the lawfulness and validity of the inspection. If the inspection has been unlawful, the judge shall recognise the obtained evidence as inadmissible in administrative offence proceedings and decide on the action with the seized objects.

(5) Inspection of publicly inaccessible areas, premises, a vehicle or property shall be performed in the presence of an owner (possessor, holder) thereof or in the presence of his or her representative or a representative of a local government.

(6) Control of the technical condition of a vehicle which is performed in order to establish whether the technical condition of the vehicle complies with the requirements specified in laws and regulations shall not constitute an inspection of the location of an administrative offence.

### **Section 111. Seizure of Property and Documents**

(1) Seizure shall constitute temporary removal of the property or documents relevant to an administrative offence case.

(2) Seizure shall be performed by a decision of an official which indicates the property or documents to be seized, as well as the quantity of the seized property.

(3) A decision shall be immediately notified to the person to whom it is addressed. The person may submit a complaint regarding this decision which shall be examined by taking a decision in an administrative offence case.

(4) The seized property and documents shall be placed in storage until the moment when a decision in an administrative offence case comes into effect. The Cabinet shall lay down the procedures for placing the seized property or documents in storage, as well as the institutions where the seized property or documents are placed in storage.

(5) If the seized property is perishable or permanent storage thereof causes losses to the State, an official shall transfer it for sale or destruction. The Cabinet shall lay down the procedures by which an official takes the decision to transfer the property for sale or destruction and for performing the sale or destruction of such property.

### **Section 112. Data Extraction from an Electronic Communications Merchant**

(1) Data extraction from an electronic communications merchant shall constitute a request to disclose and release information at the disposal of the electronic communications merchant on the given name, surname, personal identity number or name, registration number, and address of a subscriber or a registered user who has been granted an Internet Protocol (IP) address during connection, as well as the identifier or telephone number of the user and location of the subscriber.

(2) In an administrative offence case on physical or emotional violence against a child, an official of the State Police has the right to request that an electronic communications merchant discloses and releases the information referred to in Paragraph one of this Section in order to ensure protection of rights and legal interests of the person infringed in an electronic environment. Information shall be requested by a separate decision.

(3) An official of the State Police may request the information referred to in Paragraph one of this Section upon receipt of a decision of a judge of a district (city) court which has been taken on the basis of an application of the official of the State Police and materials appended thereto. The judge shall take a decision immediately but not later than within three working days from the day of receipt of the application.

### **Section 113. Test of the Use of Intoxicating Substances**

(1) In order to establish alcohol concentration in exhaled air, an official is entitled to test the air exhaled by a person by using a meter intended for such purpose.

(2) If there is a reasonable suspicion that a person is under the influence of alcohol or intoxicated but it is impossible to carry out a test of the air exhaled by the person or the person does not agree with the performance of the test or with results of the performed test, an official shall convey the person to a medical treatment institution for the performance of a medical examination.

(3) The Cabinet shall lay down the requirements for a meter which is used to test the air exhaled by a person.

(4) In order to establish the influence of narcotic or other intoxicating substances or intoxication, an official shall convey a person to a medical treatment institution for the performance of a medical examination if there is a reasonable suspicion of the use (influence or intoxication) of narcotic or other intoxicating substances.

(5) The Cabinet shall lay down the procedures for determining alcohol concentration in the exhaled air, as well as for establishing the influence of alcohol, narcotic or other intoxicating substances or intoxication.

#### **Section 114. Expert-examination**

(1) An expert-examination shall constitute an investigative action performed by one or several experts under the assignment of an official, and the content of which is the study of objects submitted to the expert-examination for the purpose of ascertaining facts and circumstances relevant to the administrative offence proceedings with regard to which an expert opinion is provided.

(2) Expert-examination shall be mandatory:

1) in order to determine the degree of severity and nature of bodily injuries;

2) if reasonable doubts arise about the mental capacity of a person.

(3) Expert-examination shall be determined by a decision of an official indicating the following:

1) the reasons for the determination of the expert-examination;

2) the conditions that apply to the object to be studied;

3) the expert-examination institution, or the given name and surname of the expert who has been assigned to perform the expert-examination;

4) the assignment put forth for an expert and the questions to be solved;

5) the materials transferred to an expert;

6) the personal data of a person subject to the expert-examination.

(4) A decision shall be notified to the person to whom it is addressed.

## **Division Two Administrative Offence Proceedings in an Institution**

### **Chapter 15 Initiation of the Administrative Offence Proceedings**

#### **Section 115. Officials Who are Entitled to Conduct Administrative Offence Proceedings**

(1) Officials from the following institutions of public persons are entitled to conduct the administrative offence proceedings:

1) the State Construction Control Bureau;

2) the Central Statistical Bureau;

3) the Nature Conservation Agency;

4) the Data State Inspectorate;

5) the Ministry of Economics;

6) the Procurement Monitoring Bureau;

6<sup>1</sup>) the Prison Administration;

7) the Lotteries and Gambling Supervisory Inspection;

8) the State Education Quality Service;

9) the Corruption Prevention and Combating Bureau;

- 10) the Ministry of Welfare;
- 11) the National Archives of Latvia;
- 12) the Enterprise Register of the Republic of Latvia;
- 13) the Insolvency Control Service;
- 14) the Military Police;
- 15) the National Electronic Mass Media Council;
- 16) the National Cultural Heritage Board;
- 17) the Coast Guard Service of the Naval Forces of the National Armed Forces;
- 18) the Port Police;
- 19) the Consumer Rights Protection Centre;
- 20) the Food and Veterinary Service;
- 21) the administrative inspectorate of a local government;
- 22) the administrative commission or sub-commission of a local government;
- 23) the building authority of a local government;
- 24) the executive director of a local government, the head of a parish or city (town) administration;
- 25) the rental board of a local government;
- 26) the municipal police;
- 27) the Transport Control Service of a local government;
- 28) the environmental inspectorate of a local government;
- 29) the environmental control official of a local government;
- 30) the Office of Citizenship and Migration Affairs;
- 31) the Public Utilities Commission;
- 32) the Transport Accident and Incident Investigation Bureau;
- 33) the State agency Civil Aviation Agency;
- 34) the State Plant Protection Service;
- 35) the State Inspectorate for the Protection of Children's Rights;
- 36) the State Labour Inspectorate;
- 37) the State Railway Administration;
- 38) the State Railway Technical Inspectorate;
- 39) the State Revenue Service;
- 40) the Treasury;
- 41) the State Audit Office;
- 42) the State Forest Service;
- 43) the State Police;
- 44) the State Border Guard;
- 45) the State Fire and Rescue Service;
- 46) the State Language Centre;

47) the State Environmental Service;

48) the State Land Service;

49) the Health Inspectorate;

50) the Ministry of Environmental Protection and Regional Development.

(2) Special division of competence among officials of an institution may be specified in the by-laws of the institution.

(3) Officials of the institutions of local governments referred to in Paragraph one of this Section, as well as other officials of institutions of local governments authorised by binding regulations of a local government shall conduct the administrative offence proceedings for the purpose of the application of penalties provided for in the binding regulations of a local government. Administrative commissions of local governments are also entitled to conduct administrative offence proceedings.

(4) An official with a higher education or, in case of an official with a special service rank of an institution of the Ministry of the Interior system or of the Prisons Administration, an official of the Military Police or an official of the municipal police, with at least a secondary education is entitled to conduct administrative offence proceedings.

(5) Persons authorised in accordance with the procedures laid down by sectoral laws are entitled to carry out actions in order to prevent an administrative offence without initiating administrative offence proceedings.

[12 October 2023]

#### **Section 116. Grounds for the Initiation of the Administrative Offence Proceedings**

Administrative offence proceedings shall be initiated:

- 1) on the basis of an application;
- 2) on the basis of initiative of an official;
- 3) on the basis of an order of a higher official or a report of another institution.

#### **Section 117. Term for the Initiation of the Administrative Offence Proceedings**

(1) Upon obtaining information on a potential administrative offence, an official shall, if necessary, within the scope of his or her competence specified in laws and regulations, verify such information and take one of the following decisions not later than within three working days from the day of obtaining of the information:

- 1) to initiate administrative offence proceedings;
- 2) to refuse to initiate administrative offence proceedings;
- 3) to forward the materials according to jurisdiction.

(2) If prolonged verification of information is necessary, the decision referred to in Paragraph one of this Section shall be taken not later than within one month from the day of obtaining of information.

#### **Section 118. Limitation Period of the Initiation of the Administrative Offence Proceedings**

(1) Administrative offence proceedings may be initiated not later than within one year from the day of committing the offence but in case of a continuous offence - from the day of termination of the offence.

(2) Administrative offence proceedings may be initiated not later than within two years from the day of committing the offence if the offence has been committed:

- 1) in the area of financing of political organisations (parties) or associations thereof;
- 2) in the area of submission of declarations of public officials;
- 3) in the area of prevention of conflicts of interest of public officials;
- 4) in the area of public procurement and public-private partnerships;
- 5) in the area of forest management and use.

(3) Administrative offence proceedings may be initiated not later than within three years from the day of committing the offence if the offence has been committed:

1) in the area of health care;

2) in the area of construction.

(4) If criminal proceedings have been terminated but elements of an administrative offence may be established, administrative offence proceedings may be initiated not later than within three years from the day of committing the offence.

#### **Section 119. Circumstances Excluding Administrative Offence Proceedings**

(1) Administrative offence proceedings may not be initiated but the initiated proceedings shall be terminated if at least one of the following circumstances has been established:

1) the administrative offence has not occurred;

2) the person who has committed the administrative offence has not reached 14 years of age;

3) the person has been in a state of mental incapacity at the time of committing the administrative offence;

4) the circumstances have been established that exclude administrative liability;

5) the legal provision providing for administrative liability is no longer effective;

6) the limitation period of the initiation of administrative offence proceedings has set in and the proceedings have not been initiated;

7) a decision of a competent official to apply an administrative penalty to a person who is held administratively liable has already been taken with regard to the same fact (except for the case where a reasonable time period for the termination of the offence has expired and it has not been terminated) or a decision to terminate administrative offence proceedings has come into effect;

8) the criminal proceedings have been initiated with regard to this fact;

9) the issue is to be decided within the framework of other proceedings;

10) the natural person against whom administrative offence proceedings have been initiated has died;

11) the legal person against which administrative offence proceedings have been initiated has been removed from registers of the Enterprise Register of the Republic of Latvia;

12) the administrative offence proceedings have been initiated but no decision in an administrative offence case has been taken within nine months from the day of initiation thereof.

(2) If an administrative offence has been committed by a child aged from 11 to 14 years of age and an issue has to be decided regarding application of compulsory measures of correctional nature, an official shall initiate administrative offence proceedings and verify facts regarding the committed administrative offence in accordance with the procedures laid down by this Law.

#### **Section 120. Action of an Official in Cases where an Offence Case is to be Examined within the Framework of Other Proceedings**

(1) If an offence case is to be examined within the framework of other proceedings, an official shall terminate administrative offence proceedings (if such have been initiated) and send materials according to jurisdiction. If the examination of the case within the framework of disciplinary proceedings does not exclude a possibility to apply an administrative penalty, the administrative offence proceedings shall be continued.

(2) If an official concludes during the course of the examination of a case that an offence has elements of a criminal offence, the materials thereof shall be sent to a prosecutor or an investigating institution.

#### **Section 121. Content of the Decision to Initiate Administrative Offence Proceedings and of the Decision to Refuse to Initiate Administrative Offence Proceedings**

(1) The decision to initiate administrative offence proceedings shall indicate the following:

1) the number of an administrative offence case;

2) the time and place of taking the decision;

3) the given name, surname of an official, an institution which he or she represents, and his or her position;

4) the information on participants to the proceedings (if such are established as at the moment of taking the decision), as well as representatives and counsels thereof (if any);

- 5) the information on the rights and obligations of participants to the proceedings;
- 6) the time and place of committing the administrative offence, the information on the actual circumstances of the committing of the administrative offence;
- 7) the evidence obtained until the moment of taking the decision;
- 8) the legal grounds for taking of the decision, including a legal provision which provides for liability for an administrative offence;
- 9) the information on the time and place of the examination of an administrative offence case if the administrative offence case is not examined immediately upon establishing offence and if when taking the decision the time and place of the examination of the administrative offence case are known;
- 10) any other information, if necessary.

(2) A decision to refuse to initiate administrative offence proceedings shall indicate the information referred to in Paragraph one, Clauses 1-3 of this Section, as well as the following:

- 1) the information on the persons affected by such decision (if they have been ascertained as at the moment of taking of decision), as well as representatives of such persons (if any);
- 2) the information on the actual circumstances of an event;
- 3) the evidence obtained until the moment of taking the decision;
- 4) the legal grounds for taking the decision;
- 5) any other information, if necessary;
- 6) the information on the fact that such decision is not subject to appeal, as well as the information on the fact that a prosecutor is entitled to submit a protest.

(3) The Information Centre of the Ministry of the Interior shall assign the number of an administrative offence case.

#### **Section 122. Notification of a Decision**

(1) The decision to initiate administrative offence proceedings shall be immediately notified to the person to be held liable, if such person is known (also to his or her representative if the person to be held liable is a minor), and to the person who has suffered damage.

(2) The decision to refuse to initiate administrative offence proceedings shall be immediately notified to a person who is affected by this decision (also to his or her representative if the person is a minor) if this person has been informed of the information at the disposal of an official regarding a potential administrative offence, and to a person who has suffered damage. Information on the decision shall also be notified to an applicant if the information on a potential administrative offence was included in an application (except for the case where the applicant has asked to not notify information on the decision), and to a higher official or another institution if the information on a potential administrative offence was included in an order of a higher official or a report of another institution.

#### **Section 123. Granting of the Status of the Person to be Held Liable**

(1) If the person to be held liable is known at the moment of initiating an administrative offence, the status of the person to be held liable shall be granted by a decision to initiate administrative offence proceedings.

(2) If administrative offence proceedings have been initiated with regard to a fact and the person to be held liable becomes known after taking the decision to initiate administrative offence proceedings, the status of the person to be held liable shall be granted to such person by a separate decision. Such decision shall be immediately notified to the person to be held liable (also to his or her representative if the person to be held liable is a minor), and to a person who has suffered damage.

(3) The decision shall indicate the following:

- 1) the number of an administrative offence case;
- 2) the time and place of taking the decision;
- 3) the given name, surname of an official, an institution which he or she represents, and his or her position;
- 4) the information on the person to be held liable;
- 5) the information on the rights and obligations of the person to be held liable;



6) the evidence regarding the fault of the person to be held liable which has been obtained until the moment of taking the decision;

7) any other information, if necessary.

(4) A decision to initiate administrative offence proceedings shall be appended to the decision.

#### **Section 124. Submission of a Protest of a Prosecutor Regarding the Refusal to Initiate Administrative Offence Proceedings**

(1) A prosecutor may submit a protest regarding the refusal to initiate administrative offence proceedings within six months from the day of taking the decision. The protest shall be submitted to an official who has taken the decision. The protest shall be examined by a higher official but, if there is no higher official - by a district (city) court according to the place of taking the decision. A higher official shall take a decision in a written procedure within 10 working days from the day of receipt of the protest.

(2) A prosecutor may submit a protest regarding the refusal of a higher official to initiate administrative offence proceedings within 10 working days from the day of the notification of the decision. The protest shall be submitted to a higher official who immediately sends the protest and materials of an administrative offence case for examination according to jurisdiction. The protest shall be examined by a district (city) court according to the place of taking the decision. A district (city) court shall take a decision in a written procedure within 10 working days from the day of receipt of the protest.

(3) The decision of a district (city) court shall not be subject to appeal.

## **Chapter 16**

### **Preparation of an Administrative Offence Case for Examination**

#### **Section 125. Actions of an Official when Preparing an Administrative Offence Case for Examination**

(1) In preparing an administrative offence case for examination, an official shall perform the following actions:

- 1) decide whether examination of the administrative offence case falls within his or her competence;
- 2) perform investigative actions;
- 3) apply procedural compulsory measures;
- 4) decide an issue regarding a victim and an infringed owner of property;
- 5) decide requests of the persons involved in the proceedings;
- 6) decide an issue regarding the time and place of the examination of the administrative offence case;
- 7) perform other necessary actions.

(2) In case a competent institution may not initiate administrative offence proceedings and perform immediate procedural actions for objective reasons, it may be provided for in sectoral laws that other officials of the institutions referred to in Section 115 of this Law may initiate administrative offence proceedings and prepare a case for examination.

#### **Section 126. Decision to Grant the Status of a Victim**

(1) A decision to grant the status of a victim shall be taken on the basis of a request of a person. An official or a higher official shall inform a person of his or her rights to make such request.

(2) A request to recognise a person as a victim may be made orally or in writing. An oral request to recognise a person as a victim shall be drawn up in writing by an official or a higher official, and the person shall sign it.

(3) An official or a higher official shall recognise a person as a victim by taking a relevant decision within 10 working days from the day of receipt of a request.

(4) A representative of a minor shall submit to an official or a higher official a request to recognise the minor as a victim.

(5) A request to grant the status of a victim may be submitted until the examination of an administrative offence case is completed in an institution.

#### **Section 127. Refusal to Grant the Status of a Victim**

(1) A decision to refuse to grant the status of a victim shall be taken within 10 working days from the day of receipt of a request. The decision shall be notified to a person who has submitted the request.

(2) A person may appeal a decision to refuse to grant the status of a victim within 10 working days from the day of notification of the decision to a higher official but if there is no higher official - to a district (city) court according to the declared place of residence or legal address of the person. If the person does not have a declared place of residence in Latvia or a legal address of the legal person is not located in Latvia, the decision may be appealed to a district (city) court according to the place of establishing an offence. A complaint shall be submitted to an official. A higher official shall take a decision in a written procedure within 10 working days from the day of receipt of the complaint.

(3) A person may appeal a decision of a higher official to refuse to recognise the person as a victim within 10 working days from the day of notification of the decision to a district (city) court according to the declared place of residence or legal address of the person. If the person does not have a declared place of residence in Latvia or a legal address of the legal person is not located in Latvia, the decision may be appealed to a district (city) court according to the place of establishing an offence. The complaint shall be submitted to a higher official who immediately sends the complaint and materials of an administrative offence case for examination according to jurisdiction. A district (city) court shall take a decision in a written procedure within 10 working days from the day of receipt of the complaint. The decision of a district (city) court shall not be subject to appeal.

#### **Section 128. Decision to Grant the Status of an Infringed Owner of Property**

A decision to grant the status of an infringed owner of property to a person shall be taken in accordance with the procedures laid down in Sections 126 and 127 of this Law.

#### **Section 129. Place of the Examination of an Administrative Offence Case**

(1) If an administrative offence case is examined and a decision in an administrative offence case is taken immediately upon establishing of the offence, the administrative offence case shall be examined at the place of establishing of the offence.

(2) An administrative offence case shall not be examined at the place of establishing of the offence if:

1) a minor is involved in the administrative offence case;

2) examination of an administrative offence case is impossible or particularly difficult at the place of establishing of the offence.

(3) If an administrative offence case is not examined at the place of establishing of the offence, it shall be examined in an institution. If the institution has several territorial units, an administrative offence case shall be examined in the unit in the territory of operation of which is the place of establishing of the offence.

(4) An administrative offence case may, upon a reasoned request of a victim or the person to be held liable, be examined in the territorial unit of the institution in the territory of operation of which is the declared place of residence or legal address of the victim or of the person to be held liable. If such a request is submitted by both the victim and the person to be held liable, the administrative offence case shall be examined according to the address of the victim. If the request has been submitted by several victims or several persons to be held liable, the case shall be examined according to the address of the person who was the first to submit the request or according to the address of the natural person if the request was submitted by both natural and legal persons.

#### **Section 130. Institutional Cooperation through the Integrated Information System of the Interior**

(1) If it is impossible to ensure timely and correct examination of an administrative offence case or enforce a ruling made in an administrative offence case, since the location of a person, property or document is not known, an official who conducts administrative offence proceedings or who controls correct and timely enforcement of a ruling on application of an administrative penalty may decide to include information in the Integrated Information System of the Interior in order to ascertain location of the relevant person, property or document.

(2) If it is no longer necessary or justified in an administrative offence case to ascertain location of a person, property or document, an official who conducts administrative offence proceedings or who controls correct and timely enforcement of a ruling on application of an administrative penalty shall decide to delete the information from the Integrated Information System of the Interior.

(3) The Cabinet shall determine the information which is to be included in the Integrated Information System of the Interior from an administrative offence case and which is necessary to ascertain location of a person, property or document, extent of such information, the basis of and purpose for inclusion, the procedures for including, using, and deleting it, the institutions to which access should be granted to the information included in the relevant system, as well as the action of officials upon establishing location of a person, property or document regarding which information is included in the Integrated Information System of the Interior.

#### **Section 131. Notification of the Examination of an Administrative Offence Case**

If an administrative offence case is not examined immediately upon establishing of an offence, participants to the proceedings and other persons who are to be summoned to the examination of the administrative offence case shall be notified of the information on the time and place of the examination of the administrative offence case in a manner that information is considered to be notified at least five days prior to the examination of the administrative offence case.

## **Chapter 17**

### **Examination of an Administrative Offence Case**

#### **Section 132. Circumstances to be Assessed within the Framework of an Administrative Offence Case**

In examining an administrative offence case an official shall ascertain the following:

- 1) whether an administrative offence has been committed;
- 2) whether the person to be held liable has committed it;
- 3) whether this person may be held administratively liable;
- 4) whether there are mitigating and aggravating circumstances;
- 5) whether there are other circumstances which are relevant to the correct deciding of the administrative offence case.

#### **Section 133. Term for Taking a Decision**

(1) An administrative offence case shall be decided and a decision shall be taken as soon as possible but not later than within one month from the day when a decision is taken to initiate administrative offence proceedings.

(2) If it is impossible to comply with the time period specified in Paragraph one of this Section due to objective reasons, an official may extend it for a period not exceeding four months from the day when a decision is taken to initiate administrative offence proceedings.

(3) If it is necessary to perform expert-examination, an administrative offence case shall be examined and a decision shall be taken within six months from the day when a decision is taken to initiate administrative offence proceedings.

(4) The term for the examination of an administrative offence case and taking of a decision shall be suspended until the moment when an issue is decided regarding granting of the status of a victim if a decision has been taken in the case to refuse to grant the status of a victim.

#### **Section 134. Postponement of the Examination of an Administrative Offence Case**

(1) An official shall postpone examination of an administrative offence case if:

- 1) it is necessary to summon a person whose rights or legal interests may be affected by a decision in the administrative offence case;
- 2) a participant to the proceedings fails to appear at the examination of the administrative offence case and he or she has not been timely notified of the time and place of the examination of the administrative offence case;
- 3) it is reasonably asked by a participant to the proceedings.

(2) An official may postpone examination of an administrative offence case if:

- 1) he or she recognises that it is impossible to examine the administrative offence case because a participant to the proceedings, a witness, an expert or an interpreter has failed to appear;
- 2) it is necessary to obtain additional information for examination thereof.

#### **Section 135. Examination of an Administrative Offence Case and Taking of a Decision in the Absence of the Person to be Held Liable**

An administrative offence case shall be examined and a decision shall be taken in the absence of the person to be held liable if:

- 1) the person to be held liable fails to appear at the examination of the administrative offence case without a justifying reason but he or she has been notified of the time and place of the examination of the case in accordance with the provisions of this Law;

2) the person to be held liable repeatedly fails to appear at the examination of the administrative offence case irrespective of the reasons for such absence but he or she has been notified of the time and place of the examination of the case in accordance with the provisions of this Law.

### **Section 136. Procedures for Examining an Administrative Offence Case if the Administrative Offence Case is Examined at the Place of Establishing of the Offence**

(1) If an administrative offence case is examined immediately upon establishing of an offence, an official shall comply with the provisions contained in this Chapter when examining an administrative offence case with regard to the procedures for examining an administrative offence case insofar as it is possible when examining an offence at the place of establishing thereof.

(2) The condition of Paragraph one of this Section regarding compliance with the provisions contained in this Chapter shall also be applicable to the cases where administrative detention is applied to a person and during period thereof a case is examined in an institution.

### **Section 137. Process of Examining an Administrative Offence Case**

(1) An administrative offence case shall be examined in an oral procedure.

(2) Explanations and testimonies of the persons summoned to the examination of an administrative offence case shall be provided orally.

(3) An official shall decide on the inspection of physical evidence upon request of a participant to the proceedings.

(4) An administrative offence case may be examined in a written procedure if participants to the proceedings agree thereto.

(5) If an administrative offence case is to be examined in a written procedure, an official may, at his or her own discretion, perform individual procedural actions or decide a procedural issue in an oral procedure.

(6) In examining an administrative offence case in a written procedure an official shall access case materials, materials submitted by participants to the proceedings, and request to submit the necessary information and evidence in writing.

### **Section 138. Recording of the Course of the Examination of an Administrative Offence Case**

(1) An official may record the course of the examination of an administrative offence case by using a sound recording or other technical means or by taking the minutes of hearing.

(2) If an official records the course of the examination of an administrative offence case in the minutes of hearing, it shall include the following:

1) the time (year, date, month) and place of the hearing;

2) the given name, surname of an official, an institution which he or she represents, and his or her position (if the administrative offence case has been examined by a collegial institution - the composition of the collegial institution);

3) the number of an administrative offence case;

4) the time of opening of the hearing;

5) the information on attendance of participants to the proceedings, witnesses, experts, and interpreters;

6) the information on the fact that procedural rights and obligations have been explained to participants to the proceedings and other persons;

7) the information on the fact that a victim, an infringed owner of property, a witness, an expert, and an interpreter have been made aware of criminal liability in accordance with the Criminal Law;

8) the explanations of participants to the proceedings, testimonies of witnesses, testimonies of experts, information on examination of evidence;

9) the requests of participants to the proceedings;

10) the decisions of an official which have not been taken in the form of separate procedural documents;

11) the information on taking of a decision in an administrative offence case and notification of a decision;

12) the information on a period during which participants to the proceedings may access minutes of hearing and a decision, and place where participants to the proceedings may access them;

13) the time of closing of the hearing;

14) the time of signing of the minutes of hearing.

(3) A participant to the proceedings may access minutes of hearing and, within three working days from the day it is signed, submit written notes regarding the minutes by indicating deficiencies and errors therein.

(4) An official shall append the submitted notes to the minutes of hearing by adding information thereto whether he or she agrees to these notes.

(5) Minutes, as well as materials obtained as a result of a sound recording or other technical means shall be appended to an administrative offence case and stored together with it.

### **Section 139. Video Conferencing**

(1) An official may determine that procedural actions are performed through video conferencing if a participant to the proceedings or other persons are in another place and may not appear at the place of the examination of an administrative offence case.

(2) In case of video conferencing procedural actions shall be performed by using a real-time image and sound transmission.

### **Section 140. Initiation of the Examination of an Administrative Offence Case**

For the purpose of the examination of an administrative offence case within the specified time, an official shall initiate examination of the case by notifying what administrative offence case will be examined and which official examines it.

### **Section 141. Verifying Attendance of Participants to the Proceedings and Other Summoned Persons**

(1) An official shall verify which participants to the proceedings and other persons summoned to this administrative offence case have appeared, whether the persons who fail to appear have been notified of the examination of the administrative offence case and what information has been received regarding reasons for absence thereof.

(2) An official shall verify the identity of the persons who have appeared, as well as the authorisations of counsels and representatives.

### **Section 142. Explanation of Rights and Obligations and Deciding of Requests**

(1) An official shall explain the procedural rights and obligations to the persons who participate in administrative offence proceedings and warn of criminal liability in compliance with the provisions of Chapter 6 of this Law.

(2) Participants to the proceedings may submit requests to an official. An official shall take a decision regarding the submitted request after hearing opinions of other participants to the proceedings.

### **Section 143. Commencement of the Examination of an Administrative Offence Case on the Merits**

Examination of an administrative offence case on the merits shall commence with a report of an official regarding the circumstances of the administrative offence case.

### **Section 144. Explanations and Testimonies of Participants to the Proceedings**

(1) Participants to the proceedings shall provide explanations and testimonies in the following order: the person to be held liable, a victim, an infringed owner of property.

(2) Participants to the proceedings shall indicate in their explanations and testimonies all the circumstances upon which their claims or objections are based.

### **Section 145. Procedures for Asking Questions**

(1) With the permission of an official, participants to the proceedings may ask each other questions which relate to an administrative offence case.

(2) An official may ask questions to the participants to the proceedings at any moment during examination of an administrative offence case.

### **Section 146. Interrogation of Witnesses and Reading of Testimonies**

(1) Witnesses shall be excluded from a room where a case is being examined until commencement of their interrogation. An official shall ensure that the interrogated witnesses do not communicate with the witnesses who have not been interrogated.

(2) Each witness shall be interrogated separately.

(3) With the permission of an official, participants to the proceedings may ask questions to a witness. The official may ask questions to a witness at any time during the interrogation thereof.

(4) Upon request of a participant to the proceedings, a testimony given by any person previously in the specific administrative offence proceedings may be read or played.

#### **Section 147. Interrogation of an Expert**

If an official, on his or her own initiative or upon request of a participant to the proceedings, has summoned an expert to the examination of an administrative offence case, an official or participants to the proceedings may ask questions to an expert in order to:

1) ascertain the issues relevant to the case which are related to an expert opinion and do not require additional research;

2) clarify information on the research method used in an expert examination or the terms used in the opinion;

3) obtain information on other facts and circumstances which are not a component of the opinion but are related to the participation of the expert in the administrative offence proceedings;

4) ascertain the qualification of the expert.

#### **Section 148. Examination of Documents, Electronic and Physical Evidence**

(1) Documents, electronic and physical evidence in an administrative offence case shall, upon request of a victim, the person to be held liable, a prosecutor or an infringed owner of property, be inspected and presented to participants to the proceedings and also to experts and witnesses, if necessary.

(2) A participant to the proceedings may provide explanations and express his or her opinion and make requests with regard to the documents, electronic and physical evidence in an administrative offence case.

#### **Section 149. Inspection and Examination of Evidence on Site**

(1) If written or physical evidence may not be transported to an institution, an official may inspect and examine such evidence at the location thereof.

(2) An official shall notify participants to the proceedings of an on-site inspection of evidence. Failure of these persons to appear shall not constitute an obstacle to the performance of the inspection.

(3) An official may summon experts and witnesses to the inspection of evidence at the location thereof.

#### **Section 150. Completion of the Examination of an Administrative Offence Case on the Merits**

Upon examination of evidence an official shall inform that the examination of an administrative offence case on the merits is completed.

## **Chapter 18 Taking of a Decision**

#### **Section 151. Decision in an Administrative Offence Case**

Upon examination of an administrative offence case, an official shall take one of the following decisions:

1) a decision to apply a penalty;

2) a decision to terminate administrative offence proceedings.

#### **Section 152. Deciding to Apply Compulsory Measures of Correctional Nature or an Administrative Penalty to a Minor**

(1) If an administrative offence has been committed by a minor, an official shall consider referral of an administrative offence case to an administrative commission of a local government in order to apply compulsory measures of correctional nature. In this case the official shall take a decision to find a person guilty of committing the administrative offence without applying an administrative penalty. If it is not useful in the specific case to apply compulsory measures of correctional nature to the minor, the official shall decide to apply an administrative penalty.

(2) In order to decide an issue regarding application of compulsory measures of correctional nature to a minor, an administrative offence case shall be referred to an administrative commission of a local government according to the

place of residence of the minor.

**Section 153. Content of the Decision to Apply a Penalty and of the Decision to Terminate Administrative Offence Proceedings**

(1) The decision to apply a penalty shall indicate the following:

- 1) the number of an administrative offence case, as well as include an optical machine-readable image containing an encoded number of an administrative offence case;
- 2) the given name, surname of an official, an institution which he or she represents, and his or her position (if the administrative offence case has been examined by a collegial institution - the composition of the collegial institution);
- 3) the place and date of examination of an administrative offence case and of taking of the decision;
- 4) the information on participants to the proceedings and representatives and counsels thereof (if any);
- 5) the date when a decision has been taken to initiate administrative offence proceedings;
- 6) the information on actual circumstances of committing the administrative offence;
- 7) the evidence obtained in a case;
- 8) the legal grounds for taking of the decision, including a legal provision which provides for liability for an administrative offence;
- 9) the mitigating or aggravating circumstances established during examination of an administrative offence case;
- 10) the penalty applied to a person;
- 11) where and in what term this decision may be appealed;
- 12) the action with the seized property and documents;
- 13) the information on the amount of procedural expenditures to be recovered;
- 14) the term for voluntary enforcement of a fine;
- 15) the information on the fact that in case of the failure to pay the fine a ruling regarding the fine will be assigned for compulsory enforcement.

(2) The decision to terminate administrative offence proceedings shall indicate the following:

- 1) the number of an administrative offence case;
- 2) the given name, surname of an official, an institution which he or she represents, and his or her position (if the administrative offence case has been examined by a collegial institution - the composition of the collegial institution);
- 3) the place and date of examination of an administrative offence case and of taking of the decision;
- 4) the information on participants to the proceedings and representatives and counsels thereof (if any);
- 5) the information on the actual circumstances of an event;
- 6) the evidence obtained in a case;
- 7) the legal grounds for taking the decision;
- 8) the action with the seized property and documents;
- 9) where and in what term this decision may be appealed.

(3) In examining an administrative offence case, an official shall concurrently examine a complaint regarding the action of an official with the property.

(4) If damage to natural resources has been caused as a result of an administrative offence and the procedures for determining an amount of such damage are laid down by laws and regulations, in examining an administrative offence case an official shall concurrently decide an issue regarding an obligation to compensate for the damage caused to natural resources.

(5) An official who has examined an administrative offence case shall sign a decision in the administrative offence case but a head of a collegial institution shall sign a decision of such collegial institution.



## **Section 154. Basic Provisions of Conditional Partial Release from the Payment of Fine**

(1) In order to promote mutual cooperation between an official and the person to be held liable and voluntary enforcement of fine, the official is entitled to decide on conditional partial release of the person from the payment of fine when examining an administrative offence case.

(2) Conditional partial release of a person from the payment of fine may be possible by complying with the following preconditions:

1) the person to be held administratively liable has admitted his or her fault and agrees to the decision to impose fine;

2) no circumstances have been established which aggravate liability of the person for an administrative offence;

3) there is no victim in an administrative offence case;

4) the person to be held administratively liable has not been conditionally partially released from the payment of fine within a year;

5) an administrative offence case is not examined in the absence of the person to be held administratively liable.

(3) Conditional partial release from the payment of fine shall not be applied if upon assessment of the circumstances of the committing of an administrative offence, the nature of the offence, the personality of a person who has committed the offence and other circumstances relevant to the case an official finds that conditional partial release from the payment of fine is not applicable for the purpose of achievement of a just penalty.

(4) In applying conditional partial release from the payment of fine, an official shall inform an administratively punished person of his or her obligation to pay, within 15 days, the fine specified in a decision to apply an administrative penalty in the amount of 50 per cent. If the administratively punished person fulfils this condition, he or she shall be released from the payment of the remaining part of the fine. If this condition is not fulfilled, the applied fine shall be paid in full amount.

(5) A decision regarding conditional partial release from the payment of fine shall become ineffective if an administratively punished person appeals a decision to impose a fine.

## **Section 155. Action with the Seized Property and Documents**

(1) In taking a decision in an administrative offence case, an official shall decide on the action with the seized property and documents by taking into consideration the following:

1) the seized property and documents shall be returned to their owners or legal possessors but if it is not required to return them to their owners or legal possessors they shall be sold, or if they have no value - destroyed;

2) the confiscated objects for committing an administrative offence shall be transferred to the State Revenue Service, but if they have no value - destroyed;

3) the confiscated objects the circulation of which is prohibited shall be transferred to the relevant institutions or destroyed;

4) the confiscated animals and the confiscated vehicles shall be transferred to the State Revenue Service;

5) the confiscated property which should not be left in the ownership of a person due to the committed administrative offence shall be transferred to the State Revenue Service, but if it has no value - destroyed;

6) the confiscated objects the origin or ownership of which has not been established in the relevant case shall be transferred to the State Revenue Service.

(2) If the seized property is not to be confiscated, however, it has been sold or destroyed, an owner thereof has the right to receive compensation. The Cabinet shall lay down the procedures for compensating an owner for the sold or destroyed property, or for replacing it with the same property or the property of the same quality, or for paying a value which the sold or destroyed property would have had at the moment of compensation.

## **Section 156. Informing of the Person to be Held Liable of the Term for the Termination of an Offence**

In taking a decision in an administrative offence case, an official shall inform the person to be held liable of a reasonable term for the termination of an offence, if necessary.

## **Section 157. Notification of a Decision Taken in an Administrative Offence Case**

(1) If an administrative offence case is examined immediately upon establishing of an offence, a decision taken shall be notified right after examination of the administrative offence case.

(2) If an administrative offence case is not examined immediately upon establishing of an offence, a decision shall be notified as soon as possible, but not later than within seven working days from the day of examination of the administrative offence case.

(3) The person to be held liable, a victim, as well as an infringed owner of property shall be notified of a decision taken in an administrative offence case. If the decision has been taken with regard to a minor, a representative of the minor shall also be notified of this decision.

#### **Section 158. Deciding on the Reimbursement of Procedural Expenditures After the Decision in an Administrative Offence Case Has Been Taken**

If information on procedural expenditures to be recovered becomes known after decision to apply a penalty has been taken, an official shall take a separate decision to recover these procedural expenditures. This decision may be appealed in accordance with the procedures for appealing a decision in an administrative offence case.

#### **Section 159. Coming into Effect of a Decision Taken in an Administrative Offence Case**

(1) A decision taken in an administrative offence case shall come into effect from the moment when the term for appeal thereof expires and it has not been appealed but, if the decision has been appealed,- from the moment when the complaint has been rejected.

(2) A protest of a prosecutor shall suspend enforcement of the decision.

(3) If a decision taken in an administrative offence case has been appealed in the part regarding the action with the property, the decision shall come into effect in the appealed part from the moment when the complaint has been rejected but in the part which has not been appealed - from the moment when the term for appeal of the decision expires.

#### **Section 160. Correction of Clerical Errors and Mathematical Miscalculations**

An official may, on his or her initiative or upon request of a participant to the proceedings, correct obvious clerical errors and mathematical miscalculations in the text of a decision at any moment if this does not change the nature of the decision. Clerical errors or mathematical miscalculations shall be corrected by a separate decision. A decision to correct errors shall be immediately notified to the participants to the proceedings.

## **Chapter 19**

### **Special Features of the Administrative Offence Proceedings in Separate Categories of Cases**

#### **Section 161. Examination of a Case and Taking of a Decision in Separate Categories of Cases**

(1) Administrative offence proceedings regarding the offences referred to in this Chapter shall be conducted in accordance with that laid down by this Law, unless this Chapter prescribes otherwise.

(2) An administrative offence case regarding the offences referred to in this Chapter may be examined and a decision in this case may be taken in the absence of a person who is held liable.

(3) For the offences referred to in this Chapter the minimum fine determined for the relevant offence shall be applied to a person.

#### **Section 162. Application of a Penalty to an Owner (Holder, Possessor) of a Vehicle**

(1) If regulations for stopping or parking have been violated but a driver of a vehicle is not present at the place of committing the offence, or if an offence has been recorded by technical means without stopping the vehicle, a penalty for the offence shall be applied to a holder specified in the State Register of Vehicles and Their Drivers, or if the holder has not been specified or if the vehicle has been removed from the register - to an owner or possessor of the vehicle, but if the offence has been committed with a vehicle which has been transferred for trade (the State registration number plates for trade have been installed for it or it has been registered in the trade register) - to a merchant who conducts trade of the relevant vehicle (hereinafter in this Chapter - the owner of the vehicle).

(2) A penalty for an administrative offence shall not be applied to the owner of the vehicle in the following cases:

1) if it is established that at the moment of committing the offence the vehicle has not been in the possession of the owner of the vehicle due to illegal actions of another person;

2) if the owner of the vehicle indicates a person (and data identifying him or her) who was driving the vehicle at the moment of committing the offence, as well as submits evidence attesting to this fact.

(3) In addition to the components specified in Section 153, Paragraph one of this Law, a decision to apply a penalty for the offences referred to in Paragraph one of this Section shall indicate in the determination of actual circumstances the date and time of establishing the offence, the place of committing the offence, the make and State registration number of the vehicle. A decision to apply a penalty for an offence recorded by technical means without stopping a vehicle shall be valid without a signature. The Cabinet shall determine types of notification of the decision and procedures for notifying it.

(4) If a driver of a vehicle appears at the place of committing the offence during establishing of a violation of regulations for stopping or parking, a decision shall be taken in accordance with the procedures laid down by this Chapter.

(5) A person to whom an administrative penalty is applied for the offences referred to in Paragraph one of this Section shall not be considered administratively punished.

#### **Section 163. Appeal of a Decision to Apply a Penalty to the Owner of the Vehicle**

(1) If the owner of the vehicle has not driven the vehicle at the moment of committing the offence, he or she shall indicate in the complaint a person who was driving the vehicle at the moment of committing the offence when appealing to a higher official the decision to apply a penalty. In this case the complaint shall indicate the data identifying the relevant person (given name, surname, personal identity number, but in case of a foreigner also address of his or her place of residence, number of the driving licence, date and place of issue thereof, the country issuing the driving licence) accompanied by evidence that attests to the fact that such person was driving the vehicle at the moment of committing the offence.

(2) If the submitted evidence attests to the fact that the driver of the vehicle indicated by the owner of the vehicle was driving the vehicle at the moment of committing the offence, a higher official shall set aside a decision to apply a penalty to the owner of the vehicle and take a decision to apply a penalty to the driver of the vehicle.

(3) The driver of the vehicle may appeal a decision of a higher official to a court in accordance with the procedures laid down by this Law. In examining the complaint of the driver of the vehicle, the court shall summon the owner of the vehicle.

(4) If it is not established during examination of evidence in the case that the driver of the vehicle indicated by the owner of the vehicle was driving the vehicle, a court may take the decision to apply an administrative penalty to the owner of the vehicle.

#### **Section 164. Recording of Administrative Offences in the Information Systems of the State Revenue Service**

Administrative offences may be recorded and decisions may be taken in the information systems of the State Revenue Service regarding application of a penalty with regard to the failure to comply with the term for the submission of tax and informative declarations or the failure to submit the relevant declarations.

## **Chapter 20**

### **Appeal of a Decision to a Higher Official in an Administrative Offence Case**

#### **Section 165. Higher Official in an Administrative Offence Case**

(1) A higher official in an administrative offence case may be a higher official of the same institution (according to the determined institutional subordination) or an official of another institution (according to the determined functional subordination).

(2) A higher official according to the institutional subordination shall be determined by laws and regulations which provide for general subordination of a person taking an initial decision in an organisation of State administration.

(3) A higher official according to the functional subordination may be determined by a special sectoral law which provides for administrative offences and penalties for them if such higher official is in general authorised to perform the relevant functions or tasks of the State administration.

#### **Section 166. Right to Appeal a Decision Taken in an Administrative Offence Case**

(1) A decision taken in an administrative offence case may be appealed to a higher official by a person to whom an administrative penalty has been applied, as well as a victim but in the part regarding the action with the property - also an infringed owner of property.

(2) If there is no higher official, a decision may be appealed to a district (city) court by a natural person according to the declared place of residence but by a legal person - according to the legal address. If the person does not have a declared place of residence in Latvia or an address of the legal person is not located in Latvia, the decision in an administrative offence case may be appealed to a district (city) court according to the place of establishing the

administrative offence.

#### **Section 167. Form and Content of a Complaint Addressed to a Higher Official**

(1) A complaint shall be submitted in writing.

(2) A complaint shall indicate the following:

1) the name of a higher official to whom the complaint is addressed;

2) the given name, surname, and declared place of residence, electronic mail address (if any) and a telephone number of the submitter of the complaint, but in case of a legal person - its name, registration number, legal address, electronic mail address, and telephone number. If the complaint is submitted by a representative of the legal person - also the given name, surname, place of residence or another address where he or she can be reached, electronic mail address (if any), and telephone number of such representative;

3) the decision regarding which the complaint is submitted;

4) the extent to which the decision is appealed;

5) the arguments together with the justification for the nature of the error in decision;

6) the claim of the submitter of the complaint;

7) the documents appended to the complaint;

8) the time of drawing up of the complaint.

(3) The complaint shall be signed by the submitter or a representative of the legal person.

(4) The complaint shall be accompanied by a relevant power of attorney or another document which attests to the authorisation of a representative or counsel to submit the complaint.

#### **Section 168. Procedures for Appealing a Decision Taken in an Administrative Offence Case**

(1) A person may appeal a decision taken in an administrative offence case to a higher official within 10 working days from the day of notification of the decision.

(2) A complaint shall be submitted to an official who has taken a decision in an administrative offence case. The official shall, within three working days, send the complaint together with materials of the administrative offence case for examination according to jurisdiction.

(3) A higher official shall not examine the complaint if:

1) the person does not have subjective rights to submit a complaint;

2) the term for appeal specified in Paragraph one of this Section has not been met.

#### **Section 169. Procedures for Renewing the Term for the Submission of a Complaint**

(1) If the term specified in Section 168, Paragraph one of this Law has not been met due to a justifying reason, a higher official may renew this term upon a reasoned request of a submitter of a complaint.

(2) A higher official shall take a decision in a written procedure within five working days from the day of receipt of the request.

(3) A submitter of a complaint may appeal a decision of a higher official to refuse to renew the term within 10 working days from the day of notification thereof to a district (city) court according to his or her declared place of residence or legal address. If the person does not have a declared place of residence in Latvia or an address of the legal person is not located in Latvia, the refusal to renew the term may be appealed to a district (city) court according to the place of establishing the administrative offence.

(4) A district (city) court shall examine a complaint and take a decision in a written procedure within 10 working days from the day of receipt of the complaint and materials of the administrative offence case. The submitter of the complaint and a higher official whose decision has been appealed shall be notified of the decision. The decision of a district (city) court shall not be subject to appeal.

#### **Section 170. Leaving a Complaint not Proceeded with**

(1) If the requirements of Section 167 of this Law have not been complied with and this precludes objective understanding and examination of the complaint (deficiencies are significant), a higher official shall take the decision to leave the complaint not proceeded with and determine a term for the elimination of deficiencies which may not be

shorter than 10 working days from the day of notification of the decision.

(2) If a submitter of a complaint fails to eliminate deficiencies within the specified term, a complaint shall be considered not submitted and returned to the submitter together with the decision of a higher official.

(3) A submitter of a complaint may appeal a decision to consider the complaint not submitted to a district (city) court according to his or her declared place of residence or legal address within 10 working days from the day of notification thereof. If the person does not have a declared place of residence in Latvia or an address of the legal person is not located in Latvia, the relevant decision may be appealed to a district (city) court according to the place of establishing the administrative offence. The district (city) court shall examine a complaint and take a decision in a written procedure within one month from the day of receipt of the complaint and materials of the administrative offence case. The submitter of the complaint and a higher official whose decision has been appealed shall be notified of the decision. The decision of a district (city) court shall not be subject to appeal.

#### **Section 171. Rights of a Prosecutor to Submit a Protest in an Administrative Offence Case**

(1) A prosecutor may submit a protest within six months from the day when a decision is taken in an administrative offence case. The prosecutor shall submit a protest according to the place of the taking of the decision.

(2) A protest shall indicate the information specified in Section 167 of this Law. The protest shall be examined in accordance with the procedures for examining a complaint.

(3) A prosecutor may appeal a decision of a higher official to reject a protest to a district (city) court within 10 working days from the day of notification of the decision.

#### **Section 172. Action of a Higher Official During Examination of a Complaint**

(1) A higher official shall examine a complaint in a written procedure within one month from the day of receipt of the complaint. Circumstances of an administrative offence case shall be ascertained on the basis of evidence in the relevant case.

(2) A higher official may, on his or her initiative, examine a complaint also in an oral procedure if this is recognised as useful.

(3) In examining an administrative offence case, a higher official shall comply with the procedural procedures laid down by this Law regarding an official, insofar as this Chapter does not stipulate otherwise.

#### **Section 173. Decision of a Higher Official in an Administrative Offence Case**

(1) In examining an administrative offence case, a higher official may take the following decision:

1) to leave the decision unchanged but to reject the complaint;

2) to set aside the decision and terminate administrative offence proceedings;

3) to set aside the decision fully or partially, take a new decision by which a person is found guilty of committing an administrative offence, and apply a penalty;

4) to amend a measure of penalty within the framework provided for in a legal provision which stipulates liability for the established administrative offence.

(2) In the cases referred to in Paragraph one, Clauses 3 and 4 of this Section, a higher official may take a decision, which is more unfavourable to a person, if an administrative offence case is examined upon a protest of a prosecutor or a complaint of a victim.

(3) A higher official shall indicate in a decision the procedural expenditures to be recovered (if any). If the decision in an administrative offence case is set aside and administrative offence proceedings are terminated, the paid amounts of money shall be repaid and the seized property and documents shall be returned. If it is impossible to return some property, the value thereof shall be compensated for. The seized property and documents shall not be returned if it is not allowed by other laws and regulations. The Cabinet shall lay down the procedures for repaying the paid amount of money and returning the seized property and documents.

(4) If it is established that a decision has been taken by an official who is not entitled to examine the relevant administrative offence case, such decision shall be set aside and the administrative offence case shall be referred to a competent official for examination.

(5) The person to be held liable, a victim, and an infringed owner of property shall be notified of a decision which has been taken with regard to a complaint or a protest in an administrative offence case. A prosecutor shall be notified of results of the examination of a protest. If the decision has been taken with regard to a minor, a representative of the minor shall also be notified of such decision.

#### **Section 174. Rights of a Higher Official to Set Aside an Unlawful Decision in an Administrative Offence Case**

(1) A higher official may, on his or her own initiative, set aside a decision taken by an official if such decision is unlawful. The decision may not be set aside if it has been enforced. In setting aside the decision, the higher official shall:

1) terminate administrative offence proceedings and send materials of an administrative offence case to a competent institution, if necessary;

2) take a new decision to apply a penalty.

(2) The decision referred to in Paragraph one, Clause 2 of this Section may not be more unfavourable to the person to be held liable, except for the case where the determined penalty is less severe than the minimum sanction for the relevant offence specified in the law. In this case the penalty shall be applied to the extent of the minimum sanction provided for in the law.

(3) Paragraph one of this Section shall not be applicable if:

1) a decision of the same content as the decision which has been set aside in accordance with Paragraph one, Clause 2 of this Section would be re-issued immediately;

2) procedural offences which have not affected the content of the decision have occurred in the taking of the decision.

(4) A participant to the proceedings may appeal the decision referred to in Paragraph one of this Section in accordance with the procedures for appealing a decision taken in an administrative offence case laid down by this Law.

(5) In taking the decision referred to in Paragraph one of this Section, a higher official shall act in accordance with Section 173, Paragraph three of this Law.

### **Division Three Administrative Offence Proceedings in a Court**

#### **Chapter 21 General Provisions of Court Proceedings**

##### **Section 175. Control of the Hierarchy of Legal Provisions**

(1) In verifying lawfulness of a decision taken in an administrative offence case, a court shall, in case of doubt, verify whether the legal provision applied by an institution or to be applied in administrative offence proceedings in court corresponds to a legal provision of higher legal force.

(2) If a court deems that a legal provision fails to correspond to the Constitution of the Republic of Latvia or an international legal provision (act), it shall stay proceedings in an administrative offence case and send a reasoned application to the Constitutional Court. After coming into effect of a ruling of the Constitutional Court, a court shall renew proceedings in the administrative offence case.

##### **Section 176. Court Instances in an Administrative Offence Case**

(1) A district (city) court shall examine an administrative offence case as a court of first instance.

(2) A regional court shall examine an administrative offence case in accordance with appeal procedures.

##### **Section 177. Initiation of Court Proceedings in an Administrative Offence Case**

(1) A court of first instance shall initiate proceedings in an administrative offence case upon receipt of a complaint which has been submitted by a person to whom a penalty has been applied, a victim or an infringed owner of property.

(2) An appellate court shall initiate proceedings in an administrative offence case upon receipt of a notice of appeal which has been submitted by a person to whom a penalty has been applied, a victim, an infringed owner of property or an institution.

(3) A court shall also initiate proceedings in an administrative offence case upon receipt of a protest of a prosecutor.

##### **Section 178. Court Proceedings**



(1) A court shall examine an administrative offence case in a written procedure. An administrative offence case shall be examined in a court to the extent and within the framework of claims made in a complaint or a protest which may not be exceeded, except for the cases where a court has doubts as to the fault of the person to be held liable or aggravating circumstances.

(2) A court of first instance shall determine examination of an administrative offence case in an oral procedure on its own initiative or upon request of the person to be held liable, a victim, an infringed owner of property or a prosecutor.

(3) An appellate court shall determine examination of an administrative offence case in an oral procedure on its own initiative.

#### **Section 179. Direct and Open Examination of an Administrative Offence Case**

(1) A court shall try an administrative offence case on the basis of evidence which the court has examined.

(2) A court shall examine an administrative offence case in an open procedure.

(3) A court shall determine examination of an administrative offence case in a closed session if it is necessary for the protection of the official secret, adoption secret, and restricted access information, as well as in administrative offence cases where the person to be held liable or a victim is a minor.

#### **Section 180. Written Procedure**

(1) Examination of an administrative offence case in a written procedure shall occur without holding a court hearing.

(2) In examining an administrative offence case in a written procedure, a court shall draw up a ruling in accordance with the documents in the administrative offence case.

(3) In trying an administrative offence case in a written procedure, a court shall comply with the principles of proceedings in an administrative offence case and procedural rights of participants to the proceedings, insofar as the nature of the written procedure allows it.

#### **Section 181. Oral Procedure**

(1) Examination of an administrative offence case in an oral procedure shall occur in a court hearing.

(2) Persons summoned to a court shall provide their explanations and testimonies orally.

(3) Written evidence and other documents shall be read or played if it is required by any participant to the proceedings.

(4) A court shall decide on the inspection of physical evidence upon request of a participant to the proceedings.

#### **Section 182. Joinder of Administrative Offence Cases**

If there are several administrative offence cases of the same type in the proceedings of a court involving the same participants to the proceedings, a judge may join these administrative offence cases into one set of proceedings, if such joinder promotes a faster and more correct examination of the administrative offence cases.

## **Chapter 22**

### **Submission of a Complaint**

#### **Section 183. Persons Entitled to Submit a Complaint**

(1) A complaint regarding a decision in an administrative offence case may be submitted by a person to whom an administrative penalty has been applied and a victim but in the part regarding the action with the property - also an infringed owner of property.

(2) A prosecutor may submit a protest regarding a decision in an administrative offence case. In this case all provisions of this Law which refer to the submission and examination of a complaint shall be applicable, unless this Law prescribes otherwise.

#### **Section 184. Jurisdiction of the Examination of a Complaint**

(1) A complaint shall be examined in a court according to the declared place of residence or legal address of a submitter of the complaint. If the person does not have a declared place of residence in Latvia or a legal address of the legal person is not located in Latvia, the complaint shall be examined in a court according to the place of



establishing the offence.

(2) A protest of a prosecutor shall be examined in a court according to the place of establishing the offence.

(3) If several complaints have been submitted in an administrative offence case and they fall within the jurisdiction of different courts, a complaint shall be examined in a court according to the address of a submitter of the complaint who was the first to submit the complaint. If both the person to be held liable and a victim submit the complaint, the complaint shall be examined in a court according to the address of the victim. If the complaint has been submitted by several victims or several persons to be held liable, the complaint shall be examined according to the address of the person who was the first to submit the complaint or according to the address of the natural person if the complaint was submitted by both natural and legal persons.

#### **Section 185. Form and Content of a Complaint Addressed to a Court**

(1) A complaint shall be submitted in writing.

(2) A complaint shall indicate the following:

1) the name of the court to which the complaint is addressed;

2) the given name, surname, and declared place of residence, electronic mail address (if any) and a telephone number of the submitter of the complaint, but in case of a legal person - its name, registration number, legal address, electronic mail address, and telephone number. If the complaint is submitted by a representative of the legal person - also the given name, surname, place of residence or another address where he or she can be reached, electronic mail address (if any), and telephone number of such representative;

3) the decision regarding which the complaint is submitted;

4) the extent to which the decision is appealed;

5) the nature of the error in decision;

6) the claim;

7) the list of documents appended to the complaint (if such documents are appended);

8) the time and place of drawing up the complaint.

(3) The complaint may also indicate other information which may be relevant to the examination of an administrative offence case, as well as an opinion regarding examination of an administrative offence case in an oral procedure.

(4) The complaint shall be signed by a submitter. If the complaint is submitted by a representative on behalf of the submitter, he or she shall append a relevant power of attorney or another document to the complaint which attests to the authorisation of the representative to submit the complaint.

#### **Section 186. Term and Procedures for Submitting a Complaint**

(1) A complaint may be submitted within 10 working days from the day when a decision is notified in an administrative offence case.

(2) A prosecutor may submit a protest within six months from the day when a decision is taken in an administrative offence case.

(3) A complaint shall be submitted to an institution which has taken a decision in an administrative offence case. The institution shall, within three working days after expiry of the term for the submission of the complaint, send the complaint accompanied by materials of the administrative offence case to a court according to jurisdiction.

(4) If a complaint is submitted to a court within the specified term, the term shall not be considered not met. In this case the court shall immediately refer the complaint to an institution for the performance of the actions referred to in Paragraph three of this Section.

#### **Section 187. Examination of a Complaint**

(1) Upon receipt of a complaint in a court, a judge shall take one of the following decisions within five working days:

1) to accept the complaint and initiate proceedings;

2) to refuse to accept the complaint;

3) to leave the complaint not proceeded with.

(2) If the procedural time limit for the submission of a complaint to a court is not met, the time limit of five working days specified in Paragraph one of this Section shall be calculated from the day when a judge has decided an issue regarding renewal of the procedural time limit.

(3) If a judge determines that an administrative offence case falls within the jurisdiction of another court, he or she shall send this case together with a cover letter to the court that has jurisdiction. An administrative offence case which is referred from one court to another in accordance with the procedures laid down by this Law shall be accepted by such court. Conflicts of jurisdiction between courts shall not be permitted.

#### **Section 188. Procedures for Renewing the Term for the Submission of a Complaint to a Court**

(1) If a submitter has failed to meet the procedural time limit for the submission of a complaint to a court, then he or she shall ask the court to renew the procedural time limit when submitting the complaint.

(2) A judge shall decide an issue regarding renewal of the procedural time limit in a written procedure within five working days after the day of receipt of a reasoned request.

#### **Section 189. Refusal to Accept a Complaint**

(1) A judge shall refuse to accept a complaint if:

- 1) he or she has not renewed the procedural time limit which was not met for the submission of the complaint;
- 2) the complaint has been submitted by a person who does not have the right to submit a complaint;
- 3) the complaint has been submitted on behalf of the submitter of the complaint by a person who has not been authorised to do it in accordance with the procedures laid down by law;
- 4) the submitter has failed to comply with the appeal procedures laid down in Section 166 of this Law.

(2) A judge shall refuse to accept a protest if a six-month term for the submission of a protest has not been met.

(3) A judge shall take a reasoned decision to refuse to accept a complaint with regard to which an ancillary complaint may be submitted within 10 working days from the day of notification of the decision.

#### **Section 190. Leaving a Complaint Addressed to a Court not Proceeded with**

(1) A judge shall leave a complaint not proceeded with if:

- 1) the complaint fails to comply with the requirements of Section 185 of this Law and this non-compliance precludes objective understanding or examination of the complaint (deficiency of the complaint is not only formal);
- 2) the complaint has been submitted after expiry of the term for appeal and it has not been accompanied by a request for renewal of the procedural time limit and a reasoned explanation regarding reasons for or evidence of the failure to meet the procedural time limit which attests to the reason for the failure to meet the term for appeal.

(2) A judge shall take a reasoned decision to leave a complaint not proceeded with specifying a term for the elimination of deficiencies. Such term shall not be shorter than 10 working days from the day of notification of the decision.

(3) If a submitter of a complaint eliminates deficiencies within the specified term, the complaint shall be considered submitted on the day when it was first submitted to a court.

(4) If a submitter of a complaint fails to eliminate deficiencies within the specified term, the complaint shall be recognised as not submitted by a reasoned decision.

(5) An ancillary complaint may be submitted with regard to the decision to recognise the complaint as not submitted within 10 working days from the day of notification of the decision.

## **Chapter 23**

### **Rights and Obligations of a Participant to the Proceedings in a Court**

#### **Section 191. Procedural Rights of a Participant to the Proceedings**

(1) A participant to the proceedings has the following rights:

- 1) to access materials of an administrative offence case (including recordings if the course of a court hearing is recorded by using technical means), make extracts, transcripts thereof, and prepare copies;

- 2) to participate in a court hearing;
- 3) to submit removals;
- 4) to submit evidence which, for objective reasons, was not or could not have been known during the time when a case was examined in an institution;
- 5) to participate in the examination of evidence;
- 6) to submit requests;
- 7) to provide oral and written explanations to a court;
- 8) to state their arguments and considerations;
- 9) to raise objections against requests, arguments, and considerations of another participant to the proceedings;
- 10) to withdraw the submitted complaint until the day when examination of an administrative offence case on the merits is completed fully or partially;
- 11) to receive a transcript of a ruling in an administrative offence case, as well as exercise other procedural rights granted to him or her by this Law.

(2) During examination of an administrative offence case in a court an institution is not entitled to submit additional evidence, except for the case where other participants to the proceedings have submitted additional evidence. In this case the institution has the right to submit additional evidence which rebuts additional evidence submitted by other participants to the proceedings.

(3) A prosecutor has all the rights and obligations of a participant to the proceedings, unless this Law prescribes otherwise.

#### **Section 192. Obligation of a Participant to the Proceedings**

(1) A participant to the proceedings shall have an obligation to:

- 1) appear upon a summons to a court hearing;
- 2) give a timely notice of the reasons preventing him or her from appearing at a court hearing;
- 3) fulfil other procedural obligations imposed on him or her in accordance with this Law.

(2) A participant to the proceedings shall be obliged to notify a court of any change in his or her declared place of residence or legal address, electronic mail address, and telephone number during proceedings.

## **Chapter 24 Composition of a Court**

#### **Section 193. Examination of an Administrative Offence Case by a Judge Sitting Alone or Collegially**

(1) An administrative offence case in a court of first instance shall be examined by a judge sitting alone.

(2) An administrative offence case in an appellate court shall be examined collegially in the composition of three judges.

(3) Issues arising from examination of an administrative offence case collegially shall be decided by judges by majority vote.

#### **Section 194. Recusal or Removal of a Judge**

(1) A judge is not entitled to examine an administrative offence case if he or she:

- 1) is in a relationship of kinship within the third degree or relationship of affinity within the second degree with any participant to the proceedings;
- 2) is in a relationship of kinship within the third degree or relationship of affinity within the second degree with any judge who is a member of the composition of the court examining the administrative offence case;
- 3) has a direct or indirect personal interest in the outcome of the administrative offence case, or there are other circumstances raising reasonable doubt as to his or her objectivity;

4) has taken a procedural decision in the administrative offence case during examination of this administrative offence case in an institution.

(2) If the circumstances referred to in Paragraph one of this Section are present, a judge shall recuse himself or herself until the commencement of the examination of the administrative offence case.

(3) If a judge detects the circumstances referred to in Paragraph one of this Section during the course of the examination of the administrative offence case, the judge shall recuse himself or herself by stating reasons for the refusal. In this case a court shall postpone the examination of the administrative offence case.

#### **Section 195. Submission of Removal**

(1) A participant to the proceedings may, on the basis of Section 194, Paragraph one of this Law, submit reasoned removal of a judge or entire composition of court in writing or orally. A note regarding this fact shall be made in the minutes of a court hearing.

(2) Removal shall be submitted prior to commencement of the examination of an administrative offence case on the merits. Removal may be submitted later if a person who submits the removal has become aware of the grounds for it in the course of the examination of the administrative offence case.

(3) A judge shall specify a reasonable term in a written procedure by which participants to the proceedings may submit removal in writing.

#### **Section 196. Procedures for Examining the Submitted Removal**

(1) A court shall take a decision regarding the submitted removal in the form of a separate procedural document.

(2) In an administrative offence case examined by a judge sitting alone, the decision regarding the submitted removal shall be taken by the judge himself or herself.

(3) In an administrative offence case examined collegially, the decision regarding the submitted removal shall be taken in accordance with the following procedures:

1) if the removal has been submitted with regard to one judge, the decision shall be taken by the rest of the composition of the court. If there is equal distribution of votes, the judge shall be removed;

2) if the removal has been submitted with regard to several judges or the entire composition of the court, the decision shall be taken by the same court in full panel by the majority of votes.

(4) A court shall refuse to examine the submitted removal if it has been re-submitted and it does not entail significant changes in the actual or legal circumstances.

#### **Section 197. Consequences of Removal**

(1) If a judge or the entire composition of a court has been removed, an administrative offence case shall be examined by another judge or another composition of a court.

(2) If removal has been submitted in the course of the examination of an administrative offence case and the submitted removal is satisfied, the examination of the administrative offence case shall be re-commenced.

## **Chapter 25**

### **Preparation of an Administrative Offence Case for Examination and Determination of Examination in a Court**

#### **Section 198. Preparation of an Administrative Offence Case for Examination in a Court**

(1) In order to ensure timely examination of an administrative offence case, a judge shall prepare an administrative offence case for examination upon initiation of proceedings.

(2) In preparing an administrative offence case for examination, a judge shall:

1) decide an issue regarding the following:

a) summoning of witnesses, experts, and interpreters to a court hearing;

b) examination of the administrative offence case in an open procedure or closed session;

c) acceptance of evidence or, upon request of a submitter of a complaint - request of evidence;

d) whether the administrative offence case is to be examined in an oral procedure;

2) perform other necessary procedural actions.

(3) A judge may ask participants to the proceedings to answer the questions in writing regarding actual circumstances and legal nature of an administrative offence case.

(4) In an administrative offence case examined in a written procedure a judge shall specify a reasonable term for participants to the proceedings for the provision of explanations, testimonies, and evidence and for the submission of requests and removal to the composition of a court, as well as determine the day when a ruling is to be received in the Court Registry.

(5) A judge may determine that procedural actions in a court hearing are performed through video conferencing if a participant to the proceedings, a witness or an expert is in another place during the court hearing and may not appear at the location of the court hearing.

#### **Section 199. Determination of the Examination of an Administrative Offence Case**

(1) If an administrative offence case is examined in an oral procedure, a judge shall determine a day and time of a court hearing and persons to be summoned to the court.

(2) Participants to the proceedings, a witness, and an expert shall be summoned to a court hearing in accordance with Section 79 of this Law.

## **Chapter 26**

### **Examination of an Administrative Offence Case in a Court**

#### **Section 200. Commencement of a Court Hearing**

(1) At the time specified for the examination of an administrative offence case, a court shall enter a court room, open a court hearing, inform what administrative offence case will be examined and name the composition of the court.

(2) The court shall verify which participants to the proceedings and other persons summoned to the examination of this administrative offence case have appeared, whether the persons who have failed to appear were notified of the court hearing, and what information has been received regarding the reasons for the absence thereof. The court shall verify the identity of the persons who have appeared, as well as the authorisations of counsels and representatives.

(3) The court shall ask a witness to leave a court room until the commencement of interrogation.

(4) The court shall explain to an interpreter his or her obligation to interpret the progress of proceedings and warn an interpreter that he or she may be held criminally liable for refusal to interpret or for knowingly false interpreting in accordance with the Criminal Law.

(5) The court shall explain to participants to the proceedings their procedural rights and obligations.

(6) The court shall ascertain whether participants to the proceedings wish to remove a judge or an expert. The court shall take a decision regarding the submitted removals in accordance with the procedures laid down in Section 196 of this Law.

(7) Participants to the proceedings may submit requests to the court. The court shall take a decision regarding the submitted request upon hearing opinions of other participants to the proceedings.

#### **Section 201. Commencement of the Examination of an Administrative Offence Case on the Merits in a Court**

(1) Examination of an administrative offence case on the merits shall commence with a judge's report regarding a complaint.

(2) After the report a court shall ascertain whether a submitter of the complaint maintains the claim included in the complaint.

#### **Section 202. Withdrawal of a Complaint**

(1) If a complaint has been withdrawn orally in a court hearing, a person shall sign with regard to it on a separate form and append it to an administrative offence case. If a complaint has been withdrawn in writing, the relevant document shall be appended to an administrative offence case.

(2) A complaint may be withdrawn until the moment when examination of an administrative offence case on the merits is completed.

(3) If a complaint is withdrawn, a court shall terminate proceedings in an administrative offence case.

### **Section 203. Explanations and Testimonies of Participants to the Proceedings in a Court**

(1) Participants to the proceedings shall provide explanations and testimonies in a court hearing in the following order: the person to be held liable, a victim, an infringed owner of property, an institution.

(2) If proceedings in an administrative offence case are initiated upon a complaint of a victim, a complaint of an infringed owner of property or a protest of a prosecutor, the victim, the infringed owner of property or the prosecutor shall provide explanations or testimonies first respectively.

(3) Participants to the proceedings shall indicate in their explanations and testimonies all the circumstances upon which their claims or objections are based.

(4) Participants to the proceedings may submit their explanations and testimonies to a court in writing. Written explanations and testimonies shall be read in a court hearing in the order specified in this Section.

### **Section 204. Procedures for Asking Questions in a Court**

(1) With the permission of a court, participants to the proceedings may ask each other questions which relate to an administrative offence case.

(2) A court may ask questions to the participants to the proceedings at any moment during examination of an administrative offence case.

### **Section 205. Interrogation of a Witness**

(1) Each witness shall be interrogated separately.

(2) A witness shall give his or her testimony and answer questions orally.

(3) A court shall ascertain a relationship between a witness and participants to the proceedings and ask the witness to tell the court everything that he or she personally knows about the administrative offence case by avoiding provision of information the source of which he or she may not indicate, as well as expressing his or her own assumptions and conclusions. The court shall interrupt the narrative of the witness if he or she speaks about circumstances that are not relevant to the administrative offence case.

(4) With the permission of a court, participants to the proceedings may ask questions to a witness. Questions shall be first asked by the participant to the proceedings upon whose request a witness has been summoned, and thereafter by other participants to the proceedings. Questions to the witness summoned pursuant to the initiative of the court shall be first asked by the participant to the proceedings upon whose complaint (protest) an administrative offence case has been initiated, and thereafter by other participants to the proceedings. The court shall reject questions that are not relevant to the administrative offence case.

(5) A court may ask questions to a witness at any time during the interrogation thereof.

(6) If necessary, a court may interrogate a witness for the second time during the same or the next hearing, as well as confront witnesses with each other.

(7) If the circumstances for the determination of which witnesses have been summoned are determined, a court may, with the consent of the participants to the proceedings, decide to not interrogate the summoned witnesses and take a relevant decision regarding it.

### **Section 206. Obligation of an Interrogated Witness**

An interrogated witness shall remain in a court room until the end of the examination of an administrative offence case. The witness may leave the court room prior to the end of the examination of the administrative offence case according to a court decision which has been taken after hearing opinions of participants to the proceedings.

### **Section 207. Interrogation of an Expert in a Court**

A court and participants to the proceedings may ask questions to an expert in the same order and in accordance with the same procedures as to witnesses.

### **Section 208. Examination of Documents, Electronic and Physical Evidence in a Court**

Documents, electronic and physical evidence in an administrative offence case shall be examined in accordance with the procedures laid down in Section 148 of this Law.

### **Section 209. Inspection and Examination of Evidence on Site during Court Proceedings**

(1) If written or physical evidence may not be transported to a court, the court shall inspect and examine such evidence at the location thereof.

(2) A court shall notify participants to the proceedings of an on-site inspection of evidence. Failure of these persons to appear shall not constitute an obstacle to the performance of the inspection.

(3) A court may summon experts and witnesses to the inspection of evidence at the location thereof.

(4) The course of the inspection shall be recorded in the minutes of a court hearing.

#### **Section 210. Completion of the Examination of an Administrative Offence Case on the Merits in a Court**

(1) After examination of evidence a court shall ascertain opinions of participants to the proceedings regarding a possibility to complete the examination of the administrative offence case on the merits.

(2) If it is not necessary to examine additional evidence, a court shall ascertain whether a submitter of a complaint maintains a claim contained in the complaint.

(3) If a submitter of a complaint does not waive a claim, a court shall announce that the examination of an administrative offence case on the merits is completed and shall proceed to a court debate.

#### **Section 211. Court Debate**

(1) During a court debate a victim or his or her representative shall speak first, and then an infringed owner of property or his or her representative, a representative of an institution, and the person to be held liable or his or her counsel.

(2) If an administrative offence case is initiated only on the basis of a complaint of an infringed owner of property, the infringed owner of property shall speak first.

(3) If an administrative offence case is initiated on the basis of a protest of a prosecutor, the prosecutor shall speak first.

(4) If several victims or representatives thereof participate in a court debate, a court shall determine the order of speeches after hearing the opinions of participants to the proceedings.

(5) The length of a court debate shall not be restricted.

(6) A participant of a court debate may submit his or her speech to the court in writing. It shall be appended to an administrative offence case.

(7) A participant of a court debate is not entitled to refer in his or her speech to the circumstances and evidence which have not been examined at a court hearing.

(8) A court shall interrupt a participant of the debate if he or she speaks about circumstances that are not relevant to the administrative offence case.

#### **Section 212. Replies**

After a court debate participants to the proceedings have the right to one reply each the length of which may be restricted by a court.

#### **Section 213. Notification of the Rendering of a Judgement**

(1) After a court debate and replies (if any) a court shall retire to render a judgement by notifying those present in a court room, as well as specifying the time when the judgement will be prepared and available at the Court Registry and explaining procedures for appealing a ruling.

(2) A court shall draw up a judgement not later than within 10 working days.

(3) If a case is examined in a written procedure, a court shall notify of the drawing up of a judgement in accordance with Section 198, Paragraph four of this Law.

#### **Section 214. Recommencement of the Examination of an Administrative Offence Case**

If during rendering of a judgement a court finds it necessary to ascertain new circumstances that are relevant to an administrative offence case or to additionally examine the existing or new evidence, it shall recommence the examination of the administrative offence case on the merits. In this case a court hearing shall continue in accordance with the procedures laid down by this Chapter.



## **Recording of the Course of a Court Hearing**

### **Section 215. Type of Recording of the Course of a Court Hearing**

(1) The course of a court hearing shall be recorded in minutes or by using technical means.

(2) Materials obtained as a result of using a sound recording or other technical means shall be stored in the information system of courts.

### **Section 216. Content of the Minutes of a Court Hearing**

The following shall be indicated in the minutes of a court hearing:

- 1) the time (year, date, month) and place of the court hearing;
- 2) the name of a court that examines an administrative offence case, composition of the court, and a secretary of the court hearing;
- 3) the time of opening of the court hearing;
- 4) the name of an administrative offence case;
- 5) the information on attendance of participants to the proceedings, witnesses, experts, and interpreters;
- 6) the information on the fact that procedural rights and obligations have been explained to participants to the proceedings and other persons;
- 7) the information on the fact that a victim, an infringed owner of property, a witness, an expert, and an interpreter have been made aware of criminal liability in accordance with the Criminal Law;
- 8) the explanations of participants to the proceedings, testimonies of witnesses, testimonies of experts, information on examination of physical and written evidence;
- 9) the requests of participants to the proceedings;
- 10) the court decisions that have not been taken in the form of separate procedural documents;
- 11) the brief content of a court debate;
- 12) the information on retiring of a court in order to draw up a judgement or take a decision;
- 13) the information on reading of a court judgement or a court decision taken in the form of a separate procedural document;
- 14) the information on the time and place when and where participants to the proceedings may access minutes of the court hearing and the text of a judgement (decision);
- 15) the time when the court hearing is closed;
- 16) the time when the minutes of the court hearing are signed.

### **Section 217. Taking of the Minutes of a Court Hearing**

(1) A secretary of the court hearing shall take the minutes of the court hearing but such minutes shall be signed by a chairperson of the court hearing and the secretary.

(2) The minutes of a court hearing shall be signed not later than on the third working day (in case of complicated administrative offence cases - not later than on the fifth working day) after the end of a court hearing or performance of an individual procedural action.

(3) Additions and corrections in the minutes of a court meeting shall be specified prior to the signature of a chairperson of the court hearing and the secretary. The text may not be deleted or blanked out in the minutes of a court hearing.

### **Section 218. Notes to the Minutes of a Court Hearing**

(1) A participant to the proceedings may access minutes of the court hearing and, within three working days from the day it is signed, submit written notes regarding the minutes by indicating deficiencies and errors therein.

(2) A court shall append the submitted notes to the minutes of the court hearing by adding information thereto whether the court agrees to these notes.

## **Section 219. Video Conferencing in a Court Hearing**

(1) A court may determine that procedural actions in a court hearing are performed through video conferencing if a participant to the proceedings or a witness and an expert are in another place (instead of the place of the court hearing).

(2) In case of video conferencing procedural actions in a court hearing shall be performed by using a real-time image and sound transmission.

## **Chapter 28**

## **Postponement, Staying of the Examination of an Administrative Offence Case, Leaving a Complaint Without Examination, and Termination of Proceedings**

### **Section 220. Postponement and Recommencement of the Examination of an Administrative Offence Case**

(1) A court shall postpone examination of an administrative offence case:

1) if a participant to the proceedings fails to appear at a court hearing and he or she has not been notified of the time and place of the court hearing;

2) in the case referred to in Section 194, Paragraph three of this Law.

(2) A court may postpone examination of an administrative offence case if:

1) a victim fails to appear at a court hearing and a court has recognised his or her participation as mandatory or a victim has asked to postpone a court hearing due to a justifying reason;

2) it is impossible to examine the administrative offence case because a witness, an expert or an interpreter has failed to appear;

3) a person is not able to participate in a court hearing through video conferencing due to technical or other reasons beyond control of the court;

4) there are other important reasons.

(3) A decision to postpone examination of an administrative offence case shall be recorded in the minutes of the court hearing. The decision shall indicate procedural actions to be performed by the next court hearing, as well as determine the time of the next court hearing. The court shall notify persons who have appeared at the court hearing of the day and time of the next court hearing with regard to which such persons shall sign. Absent persons shall be re-summoned to the court hearing.

(4) If all participants to the proceedings are present at a court hearing, a court may, upon postponing examination of an administrative offence case, interrogate witnesses who are present. The interrogated witnesses may be summoned to the next court hearing, if necessary.

(5) If a court has postponed examination of an administrative offence case, the procedural actions performed previously shall not be repeated when recommencing the case.

### **Section 221. Staying and Renewal of Proceedings**

(1) A court shall stay proceedings if:

1) capacity to act of a victim or an infringed owner of property is restricted. The proceedings shall be stayed until appointment of a lawful representative;

2) it is impossible to examine an administrative offence case until another case is decided in a court or an institution. The proceedings shall be stayed until a judgement or a decision in the relevant case comes into effect;

3) it takes a decision to submit an application to the Constitutional Court regarding compliance of a legal provision with the Constitution of the Republic of Latvia or an international legal provision (act), or the Constitutional Court has initiated a case regarding a constitutional complaint submitted by the person to be held liable or a victim. The proceedings shall be stayed until the day a ruling of the Constitutional Court comes into effect;

4) it takes a decision to submit a question to the Court of Justice of the European Union for a preliminary ruling. The proceedings shall be stayed until the day a preliminary ruling of the Court of Justice of the European Union comes into effect.

(2) A court may stay proceedings if:

1) it orders an expert-examination. The proceedings shall be stayed until the moment of receipt of an expert opinion;

2) there are other important reasons.

(3) A court shall take a reasoned decision to stay the proceedings in the form of a separate procedural document. The decision shall indicate circumstances until occurrence or ceasing of which the proceedings are stayed, or the term for which the proceedings are stayed.

(4) A court shall renew proceedings on its own initiative or upon request of a participant to the proceedings.

#### **Section 222. Leaving a Complaint Without Examination**

(1) A court shall leave a complaint without examination if:

1) the complaint has been submitted on behalf of the submitter of the complaint by a person who has not been authorised to do it in accordance with the procedures laid down by law;

2) a person who has submitted the complaint and who has been notified of the time and place of the court hearing fails to appear at the court hearing again without a justifying reason.

(2) A court shall take a reasoned decision to leave a complaint without examination in the form of a separate procedural document. An ancillary complaint may be submitted with regard to this decision within 10 working days from the day of notification thereof.

#### **Section 223. Termination of Proceedings in an Administrative Offence Case**

(1) A court shall terminate proceedings in an administrative offence case if:

1) the complaint has been submitted by a person who does not have the right to submit a complaint;

2) the complaint has been withdrawn;

3) there are no persons to be held administratively liable in the case (a natural person has died or a legal person has been removed from registers of the Enterprise Register of the Republic of Latvia);

4) the procedural time limit for the submission of a complaint has not been met, and a court has not renewed it;

5) the case is to be examined within the framework of other proceedings. In this case the court shall send the case to an institution which is competent to examine it.

(2) A court may terminate proceedings in an administrative offence case if a victim, upon whose complaint an administrative offence case was initiated, has died (if the victim is a natural person) or has been removed from registers of the Enterprise Register of the Republic of Latvia (if the victim is a legal person). If the court decides to continue proceedings in the administrative offence case, it shall examine the complaint of the victim in a written procedure.

(3) A court shall take a reasoned decision to terminate proceedings in the form of a separate procedural document. An ancillary complaint may be submitted with regard to this decision within 10 working days from the day of notification thereof.

(4) If proceedings have been terminated, it shall not be permitted to re-refer to the court regarding the same subject-matter and on the same grounds.

## **Chapter 29 Judgement**

#### **Section 224. General Provisions**

A court ruling by which an administrative offence case is tried on the merits shall be drawn up in the form of a court judgement and announced in the name of the State.

#### **Section 225. Lawfulness and Validity of a Judgement**

(1) In drawing up a judgement, a court shall refer to the norms of substantive and procedural law.

(2) A court shall justify a judgement with circumstances that have been established by evidence in an administrative offence case or that need not be proven in accordance with Section 88 of this Law.

(3) A court may only justify a judgement with the circumstances regarding which participants to the proceedings

have had a possibility to express their opinions orally or in writing.

#### **Section 226. Form and Content of a Judgement**

(1) A judgement shall be drawn up in writing.

(2) A judgement shall consist of an introductory part, a descriptive part, a reasoned part, and an operative part.

(3) The introductory part shall indicate that the judgement has been drawn up in the name of the State, as well as specify the time and place of drawing up of the judgement, the name of a court that has drawn up the judgement, the composition of the court, the person who has submitted a complaint, and the appealed decision of an institution. If the administrative offence case has been examined in a written procedure, the introductory part shall also state this fact.

(4) The descriptive part shall indicate the nature of an appealed decision and requests made in a complaint by a participant to the proceedings. If the administrative offence case has been examined in a written procedure, the descriptive part shall also refer to the consent of the participants to the proceedings.

(5) The reasoned part shall indicate the following:

1) the conclusions of a court regarding validity of a complaint;

2) the facts established in an administrative offence case, the evidence on which the conclusions of the court are based, and the arguments by which specific evidence has been rejected;

3) the legal provisions that the court has applied;

4) the legal assessment of the established circumstances of an administrative offence case;

5) the references to court rulings and legal literature, as well as other special literature which has been used by the court in its reasoning.

(6) The operative part shall indicate the court ruling, the action with the seized property and documents, the procedural expenditures to be recovered, as well as the term and procedures for appealing the judgement.

#### **Section 227. Types of Court Judgements**

(1) Upon examination of an administrative offence case a court may deliver one of the following judgements:

1) to leave the decision unchanged, but to reject the complaint;

2) to set aside the decision fully or partially and terminate the administrative offence case fully or in the part set aside;

3) to set aside the decision fully or partially, establish that a person is liable for the committing of an administrative offence, and impose a penalty;

4) to amend a measure of penalty within the framework provided for in a legal provision which stipulates liability for the established administrative offence.

(2) In the case referred to in Paragraph one, Clauses 3 and 4 of this Section, a court may take a decision, which is more unfavourable to a person, if an administrative offence case has been initiated upon a complaint of a victim or a protest of a prosecutor.

#### **Section 228. Notification of a Judgement**

(1) A day when a judgement is available at the Court Registry (Section 198, Paragraph four or Section 213, Paragraph one of this Law) shall be considered the day of the notification of the judgement.

(2) A court shall, upon request of a participant to the proceedings, notify a judgement by electronic means.

(3) A court shall, upon reasoned request of a participant to the proceedings, notify a judgement by using postal services.

(4) In the cases referred to in Paragraphs two and three of this Section a transcript of the judgement shall be sent within two working days from the day of drawing up of the judgement.

#### **Section 229. Correction of Clerical Errors and Mathematical Miscalculations in a Ruling**

(1) A court may, on its own initiative or upon request of a participant to the proceedings, correct clerical errors or mathematical miscalculations in a ruling by a decision.

(2) A court shall decide an issue regarding correction of errors in a written procedure within five working days from

the day of establishing of errors or receipt of a request by notifying participants to the proceedings and specifying a term for the submission of objections beforehand. A decision to correct errors shall be immediately notified to the participants to the proceedings.

#### **Section 230. Coming into Effect of a Judgement**

A court judgement shall come into effect from the moment when the term for appeal thereof has expired (if it has not been appealed). If the judgement has been appealed, it shall come into effect from the moment when the complaint is rejected.

#### **Section 231. Action of a Court Following the Examination of an Administrative Offence Case**

After coming into effect of a ruling a court shall immediately send an administrative offence case to an institution for the enforcement of the decision and for storage of the administrative offence case.

## **Chapter 30 Court Decision**

#### **Section 232. Taking of a Decision**

(1) A court ruling by which an administrative offence case is not tried on the merits shall be made in the form of a decision.

(2) A decision shall be drawn up in the form of a separate procedural document or a resolution or recorded in the minutes of a court hearing.

(3) A decision shall be taken with regard to a procedural action of a judge which has been performed outside the court hearing, and it shall be drawn up in the form of a separate procedural document or a resolution.

(4) A decision may be drawn up in the form of a resolution or recorded in the minutes of a court hearing if so provided for by this Law.

#### **Section 233. Content of a Decision**

(1) A decision that has been taken in the form of a separate procedural document shall indicate the following:

- 1) the time and place of taking the decision;
- 2) the name and composition of the court;
- 3) the participants to the proceedings and the decision regarding which a complaint (protest) has been submitted;
- 4) the issue regarding which the decision has been taken;
- 5) reasons for the decision;
- 6) the ruling of a court or judge;
- 7) the action with the seized property and documents, as well as the procedural expenditures to be recovered;
- 8) the term and procedures for appealing the decision.

(2) A decision drawn up in the form of a resolution shall indicate a conclusion regarding the issue to be examined (the nature of the decision), the date of taking the decision, and the judge who has taken the decision.

(3) If during examination of an ancillary complaint a regional court finds that the grounds of justification contained in a decision of a district (city) court are correct and completely sufficient, it may indicate in the reasoned part of a decision taken with regard to the ancillary complaint that it agrees with the reasoning of a ruling of a court of first instance. In this case a more detailed statement of arguments shall not be required.

#### **Section 234. Notification of a Court Decision**

(1) A court decision shall be notified to participants to the proceedings.

(2) A decision that has been taken in the form of a separate procedural document shall be notified to a participant to the proceedings, as well as to a person to which it is addressed on the day of taking the decision or the following working day.

(3) A decision that has been taken in the form of a resolution shall be notified to a participant to the proceedings on the day of taking the decision or the following working day.

### **Section 235. Ancillary Court Decision**

(1) If during examination of an administrative offence case circumstances have been established which indicate a possible violation of legal provisions, as well as in other cases a court may take an ancillary decision. The ancillary decision shall be sent to the relevant institution.

(2) If during examination of an administrative offence case elements of a criminal offence or a breach of law are detected, it shall send an ancillary decision to the Office of the Prosecutor.

### **Section 236. Coming into Effect of a Decision**

(1) A decision of a judge or court that is not subject to appeal shall come into effect from the moment of taking thereof.

(2) A decision of a judge or court that may be appealed shall come into effect from the moment when the term for appeal thereof has expired (if it has not been appealed). If the decision has been appealed, it shall come into effect from the moment when the complaint is rejected.

### **Section 237. Right to Appeal a Decision**

(1) A participant to the proceedings may appeal a decision of a judge of a court of first instance or of a court separately from a court judgement by submitting an ancillary complaint in the cases specified in this Law.

(2) Any objections to other decisions of a judge of a court of first instance or of a court may be raised in a notice of appeal.

(3) A prosecutor may submit a protest regarding a decision of a judge of a court of first instance or of a court within six months from the day of taking thereof.

### **Section 238. Form and Content of an Ancillary Complaint, and Procedures for Submitting it**

(1) An ancillary complaint shall be drawn up in compliance with the requirements laid down in Section 185 of this Law.

(2) An ancillary complaint shall be submitted to a district (city) court that has taken a decision. A district (city) court shall, within three working days upon expiry of the term for the submission of an ancillary complaint, send the ancillary complaint accompanied by materials of an administrative offence case to a regional court according to jurisdiction.

### **Section 239. Deciding on an Ancillary Complaint**

Upon receipt of an ancillary complaint in a regional court, a judge shall decide as to the action to be taken on the complaint in accordance with the provisions of Sections 187, 188, 189, and 190 of this Law.

### **Section 240. Procedures for Examining an Ancillary Complaint**

(1) An ancillary complaint shall be examined collegially in the composition of three judges within one month from the acceptance thereof and initiation of proceedings.

(2) An ancillary complaint shall be examined in a written procedure.

### **Section 241. Decision Taken with Regard to an Ancillary Complaint**

(1) During examination of an ancillary complaint a regional court has the following rights:

- 1) to leave the decision unchanged but to reject the complaint;
- 2) to set aside the decision fully or partially and decide an issue on the merits by its decision;
- 3) to change the decision.

(2) A decision taken with regard to an ancillary complaint shall not be subject to appeal and it shall come into effect from the moment of taking thereof.

## **Chapter 31**

### **Examination of an Administrative Offence Case in an Appellate Court**

### **Section 242. Right to Submit a Notice of Appeal**

(1) A notice of appeal regarding a judgement of a court of first instance may be submitted by a participant to the

proceedings.

(2) A prosecutor may submit an appellate protest regarding a judgement of a court of first instance. The protest shall be submitted within six months from the day of coming into effect of the judgement. In this case all provisions of this Law which refer to the submission and examination of a notice of appeal shall be applicable, unless this Law prescribes otherwise.

#### **Section 243. Term and Procedures for Submitting a Notice of Appeal**

(1) A judgement of a court of first instance may be appealed in accordance with the appeal procedures to a regional court within 10 working days from the day of notification of the judgement.

(2) A notice of appeal shall be addressed to a regional court but submitted to a court of first instance that has rendered the judgement. The notice of appeal shall be accompanied by transcripts according to the number of participants to the proceedings.

(3) A court of first instance shall, within three working days upon expiry of the term for the submission of a notice of appeal, send the notice of appeal accompanied by materials of an administrative offence case to a regional court according to jurisdiction.

#### **Section 244. Content of a Notice of Appeal**

(1) A notice of appeal shall be drawn up in compliance with the requirements laid down in Section 185 of this Law. The notice of appeal shall indicate the grounds for the initiation of appeal proceedings with regard to the error in judgement:

1) which norm of substantive law a court of first instance has applied or interpreted incorrectly, or which norm of procedural law it has breached, and how it has affected the hearing of the case;

2) what evidence a court of first instance has examined incorrectly, how the error in legal assessment of circumstances of the case manifests itself, and how it has affected the hearing of the case.

#### **Section 245. Deciding on Progress of a Notice of Appeal**

(1) Upon receipt of a notice of appeal in a regional court, a judge shall inform participants to the proceedings of a judge and composition of a court that decide an issue regarding progress of the notice of appeal by specifying a term of at least five days until the expiry of which participants to the proceedings may submit removal. After expiry of this term the judge of the regional court shall take one of the following decisions:

1) to accept the notice of appeal and initiate appeal proceedings;

2) to leave the notice of appeal not proceeded with.

(2) When ascertained that a notice of appeal complies with the requirements of this Law and there is at least one of the grounds for initiation of appeal proceedings referred to in Section 244 of this Law, a judge of a regional court shall, upon expiry of the term referred to in Paragraph one of this Section, take a decision to initiate appeal proceedings.

(3) A judge of a regional court shall, upon expiry of the term referred to in Paragraph one of this Section, take a decision to leave a notice of appeal not proceeded with if any of the circumstances referred to in Section 190, Paragraph one of this Law are present.

(4) If a judge of a regional court establishes that the initiation of appeal proceedings is to be rejected, as any of the circumstances referred to in Section 189 of this Law are present or none of the grounds for initiation of appeal proceedings referred to in Section 244 of this Law is present, an issue regarding initiation of appeal proceedings shall be decided collegially by three judges within 10 working days upon expiry of the term referred to in Paragraph one of this Section.

(5) If a notice of appeal complies with the requirements of this Law and at least one of the three judges of a regional court deems that there is at least one of the grounds for initiation of appeal proceedings referred to in Section 244 of this Law, the judges of a regional court shall take a decision to initiate appeal proceedings.

(6) If the judges of a regional court recognise unanimously that any of the circumstances referred to in Section 189 of this Law are present or none of the grounds for initiation of appeal proceedings referred to in Section 244 of this Law is present, they shall take a decision to refuse to initiate appeal proceedings. The decision shall be drawn up in the form of a resolution by indicating the judges who have taken the decision, and reasons for the decision.

(7) If the circumstances referred to in Section 189 of this Law are established during examination of a complaint on the merits, a court shall take a decision to terminate appeal proceedings.

#### **Section 246. Procedures for Examining an Administrative Offence Case in an Appellate Court**



(1) An appellate court shall examine an administrative offence case collegially in the composition of three judges.

(2) If an appellate court examines an administrative offence case in an oral procedure, a court hearing shall occur in accordance with the provisions of Chapter 26 of this Law by taking into account that a submitter of a notice of appeal shall be the first to provide explanations or testimonies, but if the notice of appeal has been submitted by both the person to be held liable and a victim or an infringed owner of property - the person to be held liable.

(3) Provisions of Chapters 25 and 26 of this Law shall be applicable to the examination of an administrative offence case in an appellate court.

(4) If during examination of a case a regional court finds that the grounds of justification contained in a judgement of a court of first instance are correct and completely sufficient, it may indicate in the reasoned part of the judgement that it agrees with the reasoning of the judgement of the court of first instance. In this case the considerations specified in Section 226, Paragraph five of this Law need not be indicated in the reasoned part of the judgement.

(5) Irrespective of the reasons for a notice of appeal, an appellate court shall set aside a ruling of a court of first instance and send an administrative offence case for re-examination if the administrative offence case is missing:

1) a full ruling;

2) full minutes of a court hearing or an audio recording of a court hearing.

#### **Section 247. Ruling of an Appellate Court**

(1) An appellate court shall draw up a ruling in accordance with the provisions of Chapters 28, 29, and 30 of this Law.

(2) A ruling of an appellate court in an administrative offence case shall not be subject to appeal and shall come into effect on the day of drawing up thereof.

## **Chapter 32**

### **Examination of an Administrative Offence Case due to Newly Discovered Circumstances**

#### **Section 248. Newly Discovered Circumstances**

(1) The following circumstances shall be recognised as newly discovered circumstances:

1) the circumstances which were not known to an institution or a court when making a ruling and which, on their own or together with the previously established circumstances, indicate that an administratively punished person has not committed an administrative offence;

2) knowingly false testimonies of witnesses, a knowingly false expert opinion, a knowingly false interpretation, false written or physical evidence has been established by a ruling in a criminal case that has come into effect, and the relevant facts have constituted grounds for making an unlawful court ruling or a decision of an institution;

3) actions of an institution, court or prosecutor have been established by a ruling in a criminal case that has come into effect due to which an unlawful judgement or decision has been rendered;

4) setting aside of a court judgement or a decision of an institution which has constituted ground for rendering the relevant decision or judgement in the relevant administrative offence case;

5) a ruling of the European Court of Human Rights or another international or supranational court, according to which a ruling in an administrative offence case that has come into effect fails to comply with the international laws and regulations binding on Latvia;

6) the recognition of a legal provision applied to the hearing of an administrative offence case as non-compliant with a legal provision of higher legal force.

#### **Section 249. Submission of an Application**

(1) If a ruling in an administrative offence case has come into effect, a punished person, a victim or a prosecutor may ask to initiate a case due to newly discovered circumstances by submitting an application for the following:

1) setting aside of a decision of an institution - to a district (city) court;

2) setting aside of a ruling of a district (city) court or a regional court - to the regional court.

(2) The application may be submitted within three months from the day when the circumstances which constitute the grounds for re-examination of an administrative offence case have been established or a court ruling has come into effect.

(3) The application may not be submitted if more than three years have passed since the day of coming into effect of a ruling. This condition shall not apply to cases where the newly discovered circumstances are a ruling of the European Court of Human Rights or of another international or supranational court.

#### **Section 250. Calculation of the Term for Submission of an Application**

The term for submission of an application shall be calculated as follows:

1) in relation to the circumstances referred to in Section 248, Clause 1 of this Law - from the day of establishing of such circumstances;

2) in the cases referred to in Section 248, Clauses 2 and 3 of this Law - from the day when the relevant ruling in a criminal case has come into effect;

3) in the case referred to in Section 248, Clause 4 of this Law - from the day of coming into effect of a court ruling by which a judgement in an administrative case, a civil case or a criminal case has been set aside or from the day of setting aside of a decision of an institution that constitutes grounds for the judgement or decision which is asked to be set aside due to newly discovered circumstances;

4) in the case referred to in Section 248, Clause 5 of this Law - from the day when a ruling of the European Court of Human Rights or of another international or supranational court, according to which administrative offences proceedings shall be re-commenced, has come into effect;

5) in the case referred to in Section 248, Clause 6 of this Law - from the day of coming into effect of a judgement of the Constitutional Court according to which the applied legal provision becomes invalid as non-compliant with a legal provision of higher legal force.

#### **Section 251. Examination of an Application**

(1) A judge of a relevant court shall decide on acceptance of an application due to newly discovered circumstances.

(2) Acceptance of an application for examination shall be refused if the requirements of Sections 249 and 250 of this Law have not been met. An ancillary complaint may be submitted to a regional court with regard to such decision of a district (city) court within 10 working days from the day of notification of the decision. A decision of a judge of a regional court taken with regard to the ancillary complaint shall not be subject to appeal. The decision of the regional court regarding the application referred to in Section 249, Paragraph one, Clause 2 of this Law shall not be subject to appeal and shall come into effect from the moment of taking thereof.

(3) An application due to newly discovered circumstances shall be examined in a written procedure.

(4) Re-submitted applications regarding the same circumstances shall be left without examination.

(5) An application for setting aside of a ruling of a district (city) court or a regional court shall be examined collegially in the composition of three judges.

#### **Section 252. Court Ruling**

(1) Upon examination of an application, a court shall verify whether the circumstances indicated by an applicant are to be recognised as newly discovered circumstances in accordance with that laid down in Section 248 of this Law.

(2) If a court establishes newly discovered circumstances, it shall set aside the contested ruling completely and render a new ruling in an administrative offence case.

(3) If a court finds that the circumstances indicated in an application are not considered to be newly discovered, it shall reject the application. A complaint may be submitted to a regional court with regard to such decision of a district (city) court within 10 days from the day of notification of the decision. The decision taken with regard to a complaint that is examined collegially in the composition of three judges shall not be subject to appeal, and it shall come into effect from the moment of taking thereof.

## **Part C Enforcement of Penalties**

### **Chapter 33**

## **Basic Provisions of the Enforcement of Penalties**

### **Section 253. Mandatory Nature of the Enforcement of a Ruling**

A ruling to apply an administrative penalty (hereinafter - the ruling on penalty) shall be binding and mandatorily enforced.

### **Section 254. Grounds for the Enforcement of an Administrative Penalty**

Grounds for the enforcement of an administrative penalty shall be the ruling on penalty that has come into effect in accordance with the procedures laid down by this Law.

### **Section 255. Organisation and Control of the Enforcement of an Administrative Penalty**

Enforcement of the ruling on penalty shall be organised and controlled by an institution whose official has initially taken the ruling on penalty (hereinafter - the institution).

### **Section 256. Procedures for Enforcing Several Rulings on Penalty Made with Regard to the Same Person**

If several rulings on penalty have been made with regard to the same person, each ruling shall be enforced individually.

### **Section 257. Termination of the Enforcement of the Ruling on Penalty**

Enforcement of the ruling on penalty shall be terminated if:

- 1) the limitation period of the enforcement has set in;
- 2) the punished legal person has been removed from registers of the Enterprise Register of the Republic of Latvia;
- 3) the punished person has died;
- 4) the law or binding regulations of local governments no longer provide for administrative liability for the specific offence, unless the relevant law prescribes otherwise;
- 5) the ruling on application of a penalty has been set aside.

### **Section 258. Limitation Period of the Enforcement**

(1) The ruling on penalty may not be enforced if five years have passed since the day of coming into effect thereof, and it has not been enforced. A ruling on application of a fine may not be enforced if five years have passed since assignment thereof for compulsory enforcement, and it has not been enforced.

(2) Staying of the operation or enforcement of the ruling on penalty shall stay the running of the limitation period of the enforcement.

(3) In accordance with that laid down by this Law, in postponing enforcement of the ruling on penalty for a period of up to one month, running of the limitation period of the enforcement shall be stayed for the period of examination of an application and until expiry of the postponed term.

(4) If enforcement of a ruling is stayed in accordance with the Civil Procedure Law regarding staying of enforcement proceedings, the limitation period of the enforcement shall be stayed until renewal of enforcement proceedings.

### **Section 259. Deciding Issues Related to Enforcement of the Ruling on Penalty**

(1) A punished person may submit a complaint regarding a decision taken or an action performed within the framework of enforcement of penalties which, in itself, affects significant rights or legal interests of the punished person or significantly impedes the exercise of rights or implementation of legal interests of the punished person.

(2) A complaint may be submitted to a head of an institution where a decision was taken or actions for the enforcement of penalty were performed within 10 working days from the day of notification of the decision or performance of the action. The head of the institution shall examine the complaint and take a decision in a written procedure within 10 working days from the day of receipt of the complaint.

(3) A decision of the head of the institution may be appealed to a district (city) court according to the declared place of residence or legal address of a person within 10 working days. If the punished person does not have a declared place of residence in Latvia, the decision may be appealed to a district (city) court according to the place of establishing the administrative offence. The complaint shall be submitted to the head of the institution who immediately sends the complaint and materials of an administrative offence case for examination according to jurisdiction. A district (city) court shall take a decision in a written procedure within 10 working days from the day of

receipt of the complaint. The decision of a district (city) court shall not be subject to appeal.

(4) Actions of a bailiff which he or she has performed during compulsory enforcement of the ruling on penalty shall be subject to appeal in accordance with the procedures laid down by the Civil Procedure Law.

#### **Section 260. Enforcement of Procedural Expenditures and Pecuniary Penalty**

(1) Procedures for enforcing procedural expenditures and pecuniary penalty shall be the same as laid down for the enforcement of a fine.

(2) If an administrative penalty has been applied to a person and the seized property has been sold, an amount shall be deducted from the obtained funds which is necessary for the payment of fine and coverage of the expenditures related to the transportation of the seized property for storage, as well as storage and sale thereof. The Cabinet shall lay down the procedures for deducting the relevant amount.

## **Chapter 34 Enforcement of Basic Penalties**

#### **Section 261. Procedures for Enforcing a Warning**

A warning shall be enforced by notifying it.

#### **Section 262. Term for Voluntary Enforcement of a Fine**

A fine applied to a punished person shall be paid in full amount not later than within one month from the day when the ruling on penalty has come into effect.

#### **Section 263. Procedures for Voluntary Enforcement of a Fine**

(1) A person shall pay a fine via a payment service provider that has the right to provide payment services within the meaning of the Law on Payment Services and Electronic Money or in an institution if the relevant institution provides such service.

(2) A punished person may also pay a fine at the place of committing the offence by non-cash transfer if an official who has applied the fine provides such service.

(3) Upon making a payment, a payer shall indicate the number of an administrative offence case.

(4) Upon collecting a fine, a payer shall be issued a document which, in addition to the mandatory information to be indicated in accordance with laws and regulations regarding transfer of payments to the State budget, indicates the number of an administrative offence case.

(5) A person who pays a fine shall cover expenditure related to the collection of the fine.

(6) Fines that have been applied for administrative offences provided for in laws shall be transferred to the State budget, unless the law prescribes otherwise. Fines that have been applied for administrative offences provided for in binding regulations of local governments shall be transferred to the budgets of local governments. Fines that have been applied by officials of local governments for administrative offences provided for in laws shall also be transferred to budgets of local governments.

(7) An official of a legal person governed by public law shall pay a fine applied thereto from his or her personal funds.

#### **Section 264. Repayment of an Overpaid or Erroneously Paid Fine**

(1) The State Revenue Service shall, within 15 working days from the day of receipt of a written opinion of an official who has taken a decision to apply a fine, repay an amount of the fine overpaid or erroneously paid into the State budget on the basis of an application of a payer of the fine submitted to the State Revenue Service.

(2) A local government shall, within 15 working days from the day of receipt of a written opinion of an official who has taken a decision to apply a fine, repay an amount of the fine overpaid or erroneously paid into the budget of the local government on the basis of an application of a payer of the fine.

(3) The overpaid amount of fine shall be repaid if an application has been submitted within three years from the day when a ruling on application of a fine has come into effect.

(4) The erroneously paid amount of fine shall be repaid if an application has been submitted within three years from the day when a payment has been received into the State or local government budget.

(5) If a payer of the fine has failed to submit an application within the term referred to in Paragraph three or four of this Section, the overpaid or erroneously paid amount of fine shall not be repaid.

(6) Provisions of this Section shall also be applicable to the repayment of procedural expenditures.

#### **Section 265. Means for Ensuring Enforcement of a Fine**

A driving licence of a driver who is a foreigner to whom an administrative penalty has been applied for an offence in road traffic or carriage by road shall be seized until enforcement of the ruling on penalty.

#### **Section 266. Postponement of Enforcement of the Ruling on Penalty or Division of a Fine in Parts**

(1) If there are justifying circumstances due to which a punished person may not enforce the ruling on penalty in full amount within the term for voluntary enforcement of the fine, an institution may postpone enforcement thereof for a period of up to one month.

(2) If there are justifying circumstances due to which a punished person may not enforce the ruling on penalty in full amount within the term for voluntary enforcement of the fine, an institution may divide enforcement of the fine in parts without exceeding a six-month period from the day when the ruling on penalty has come into effect.

(3) A punished person shall submit a written application to an institution for the postponement of enforcement of the ruling on penalty or for the division of a fine in parts within the term for voluntary enforcement of the fine.

(4) An institution shall examine a written application of a punished person for the postponement of enforcement of the ruling on penalty or for the division of a fine in parts within 10 working days from the day of receipt of the request.

(5) If enforcement of the fine has been divided in parts and a current part has not been paid within the specified term, a decision to divide the enforcement of fine in parts shall be set aside.

(6) If an institution has received an application for the postponement of enforcement of a fine, the running of the term for voluntary enforcement of the fine has been suspended for the period of examination of the application and until expiry of the suspended term.

#### **Section 267. Enforcement of a Fine in Case a Punished Person is a Minor**

(1) If a punished person who is a minor has his or her own financial funds, the fine shall be paid by the punished person who is a minor.

(2) If a punished person who is a minor does not have his or her own financial funds, the fine shall be paid by the lawful representatives of a minor, except for the cases where the minor has been placed into care of a foster family or is in a child care institution.

#### **Section 268. Reminder Regarding Expiry of the Term for Voluntary Enforcement of Fine**

(1) If a fine has not been enforced voluntarily in full amount in accordance with the procedures laid down by this Law, a punished person shall be notified of the following:

1) by which date it is necessary to pay the fine in full amount;

2) in case of the failure to pay the fine, the ruling on penalty will be assigned to a sworn bailiff for compulsory enforcement.

(2) A reminder shall be provided within a reasonable time period but not later than three working days prior to expiry of the term for voluntary enforcement of fine.

#### **Section 269. Procedures for Compulsory Enforcement of a Fine**

(1) An institution shall, after expiry of the term for voluntary enforcement of a fine, immediately assign the ruling on penalty to a sworn bailiff for compulsory enforcement.

(2) A sworn bailiff shall conduct recovery in accordance with the procedures laid down by the Civil Procedure Law.

(3) If a punished person is a minor, actions to be performed within the framework of compulsory enforcement shall be directed towards his or her lawful representative, except for the cases where the minor has been placed into care of a foster family or is in a child care institution.

#### **Section 270. Completion of Compulsory Enforcement of a Fine**

Information on completion of compulsory enforcement of a fine shall be notified in accordance with the procedures laid down in Section 160, Paragraph two of the Law on Bailiffs.

## **Chapter 35**

### **Enforcement of an Additional Penalty**

#### **Section 271. Informing a Competent Institution of Additional Penalties to be Enforced**

Upon coming into effect of the ruling on penalty an institution shall immediately inform the institution competent to exercise deprivation of rights and prohibition to exercise rights of the need to enforce additional penalties in accordance with the laws and regulations governing operation thereof.

#### **Section 272. Procedures for Enforcing Deprivation of Rights**

Deprivation of rights applied to a punished person shall be enforced by making a relevant entry in the State information system, as well as seizing the document which attests to the rights granted to the person, if possible.

#### **Section 273. Procedures for Enforcing a Prohibition to Exercise Rights**

Prohibition to exercise rights applied to a punished person shall be enforced by prohibiting to exercise specific rights, hold specific offices, perform specific activities for a specific time period, and by making a relevant entry with regard thereto in the State information system, as well as seize the document which attests to the rights granted to the person, if possible.

## **Part D**

### **International Cooperation in Administrative Offence Proceedings**

## **Chapter 36**

### **Cooperation of Institutions of the European Economic Area States in the Notification of the Ruling on the Application of a Financial Administrative Penalty**

#### **Section 274. Recovery of a Financial Administrative Penalty from an Employer in Another State of the European Economic Area**

If a ruling on application of a financial administrative penalty to an employer in another state of the European Economic Area with regard to the posting of workers has come into effect and it has not been enforced voluntarily, the State Labour Inspectorate shall send a request for compulsory enforcement of the ruling to the relevant institution of the state of the European Economic Area.

#### **Section 275. Recovery of a Financial Administrative Penalty from an Employer in Latvia**

(1) If the State Labour Inspectorate has received a request from an institution of another state of the European Economic Area to enforce a ruling on application of a financial administrative penalty to an employer in Latvia with regard to the posting of workers which has come into effect, the State Labour Inspectorate shall immediately notify the employer with regard to whom the ruling has been made of the ruling on application of a financial administrative penalty.

(2) Upon receipt of the ruling on application of a financial administrative penalty in the posting of workers referred to in Paragraph one of this Section, the employer shall voluntarily enforce the financial administrative penalty in accordance with the procedures laid down in Section 263 of this Law.

(3) If the employer has failed to voluntarily enforce the financial administrative penalty in accordance with the procedures laid down in Section 263 of this Law and enforcement of the financial administrative penalty has not been postponed or the relevant administrative penalty has not been divided in parts in accordance with the procedures laid down in Section 266 of this Law, the State Labour Inspectorate shall act in accordance with the procedures laid down in Sections 268 and 269 of this Law.

(4) The State Labour Inspectorate shall not assign for enforcement a request of an institution of another state of the European Economic Area that concerns a ruling on application of a financial administrative penalty to an employer in Latvia in the posting of workers which has come into effect if the Internal Market Information System (IMI):

- 1) does not contain information which allows to identify the punished employer and the committed offence;
- 2) does not hold the date from which the ruling is no longer subject to appeal;
- 3) does not contain the ruling on the basis of which the financial administrative penalty is to be enforced.

(5) The State Labour Inspectorate may decide to not assign for enforcement a request of an institution of another



state of the European Economic Area that concerns a ruling on application of a financial administrative penalty to an employer in Latvia in the posting of workers which has come into effect if enforcement of the financial administrative penalty would infringe the fundamental rights prescribed by the Constitution of the Republic of Latvia.

## **Chapter 37**

### **Enforcement of a Ruling Made in a European Union Member State with Regard to Financial Recovery in Latvia**

#### **Section 276. Content of the Enforcement of a Ruling on Financial Recovery**

(1) Enforcement of a ruling in Latvia which has been made in a European Union Member State with regard to fine and compensation for procedural expenditures (hereinafter - the ruling on financial recovery) shall constitute unchallenged recognition of validity and lawfulness of such ruling and enforcement thereof in accordance with the same procedures as if the ruling was made in administrative offence proceedings in Latvia.

(2) Recognition of validity and lawfulness of a penalty applied in a European Union Member State shall not exclude coordination thereof with the sanction specified for the same offence in laws and regulations of Latvia.

(3) If a ruling on financial recovery has been made in a European Union Member State in relation to an offence which is qualified in Latvia as a criminal offence, it shall be enforced in accordance with the procedures laid down by the Criminal Procedure Law.

#### **Section 277. Limitation Period of the Enforcement of the Ruling on Financial Recovery**

(1) Enforcement of a ruling in Latvia which has been made in a European Union Member State with regard to financial recovery shall be restricted by both the limitation periods of the enforcement specified in this Law and the limitation periods of the enforcement specified in laws of the relevant European Union Member State.

(2) Circumstances affecting the running of limitation periods in a European Union Member State shall also affect it to the same extent in Latvia.

#### **Section 278. Inadmissibility of Double Jeopardy**

The ruling on financial recovery which has been made in a European Union Member State shall not be enforced in Latvia if a person punished in this European Union Member State has enforced a ruling made in Latvia or a third country with regard to financial recovery for the same offence, has been punished without determination of a penalty, has been released from a penalty by amnesty or clemency or has been acquitted for the offence.

#### **Section 279. Grounds for the Enforcement of the Ruling on Financial Recovery**

Grounds for the enforcement of a ruling on financial recovery made in a European Union Member State are as follows:

1) the ruling of a competent institution of a European Union Member State on financial recovery or a certified copy thereof and a certification of a special form;

2) the fact that a person to whom financial recovery applies has a place of residence in Latvia (in case of a legal person - a registered legal address) or he or she owns property or has other income;

3) the ruling of a court of Latvia on determination of financial recovery to be enforced in Latvia.

#### **Section 280. Reasons for Refusal to Enforce the Ruling on Financial Recovery**

(1) Enforcement of the ruling on financial recovery may be refused if:

1) a certification of a special form has not been sent or it is incomplete, or does not correspond to the content of the ruling;

2) the principle of inadmissibility of double jeopardy (ne bis in idem) will be violated when executing the judgment regarding recovery of a financial nature;

3) there are grounds to believe that the penalty has been determined on the basis of race, religious affiliation, nationality, sex or political beliefs of the person;

4) the ruling on financial recovery applies to an offence that is not subject to penalty in accordance with the laws and regulations of Latvia;

5) the enforcement of the penalty is not legally possible in Latvia;



6) the limitation period for the enforcement of penalty has set in and the ruling on financial recovery applies to an offence which falls within the jurisdiction of Latvia;

7) the person punished in a European Union Member State has not reached the age of administrative liability;

8) the ruling on financial recovery has been made in a written procedure and the person punished in a European Union Member State was not informed in person or with the intermediation of a representative of the right to appeal the ruling in accordance with the procedures laid down by laws and regulations of the issuing state thereof;

9) the determined financial recovery does not exceed EUR 70.

(2) Enforcement of the ruling on financial recovery may also be refused if it has been made in the absence (*in absentia*) of the person punished in a European Union Member State or without participation of such person, except for the cases where the punished person:

1) has received summons or has been otherwise informed of the fact that the ruling may be made without his or her presence;

2) has been informed of the proceedings and his or her counsel has participated in a court hearing;

3) has received the ruling on financial recovery and has informed that he or she does not contest the ruling or has not appealed it.

(3) If the ruling on financial recovery has been made in relation to offences in road traffic, including for non-compliance with regulations which refer to driving and rest periods, and dangerous goods, smuggling of goods or infringements of intellectual property rights, it shall not be verified whether this offence is subject to administrative penalty or criminal also according to laws and regulations of Latvia.

#### **Section 281. Procedures for Examining a Request for the Enforcement of the Ruling on Financial Recovery**

(1) Upon receipt of a request in the English language for the enforcement of the ruling on financial recovery which has been made by a competent institution of a European Union Member State, a court shall send it to the Court Administration for translation.

(2) If several requests have been received at the same time from competent institutions of European Union Member States for the enforcement of rulings on financial recovery which have been made in the relevant Member States with regard to the same person or property, a court shall join verification of such requests in one set of proceedings.

(3) If the information provided by a competent institution of a European Union Member State is insufficient, a court may request additional information or documents by specifying a term for submission thereof.

#### **Section 282. Recognition and Enforcement of Financial Recovery to be Enforced in Latvia**

(1) A judge of a district (city) court shall determine enforcement of financial recovery specified in the ruling in Latvia according to the declared place of residence or legal address of a person, or location of property thereof. If the declared place of residence or legal address of the person, or location of property thereof is not known, a request of a competent institution of a European Union Member State shall be examined by the Vidzeme Suburb Court of Riga City.

(2) The actual circumstances and the fault of a person established in the ruling on financial recovery shall be binding on a court of Latvia.

(3) If a person, with regard to whom the ruling on financial recovery has been made in a European Union Member State, submits evidence of complete or partial enforcement of the ruling on financial recovery, a court shall contact the European Union Member State that has issued the ruling in order to receive confirmation thereof.

(4) A judge of a district (city) court shall, within 20 working days in a written procedure, examine a request of a European Union Member State for the enforcement of the ruling on financial recovery which has been made in the relevant Member State and shall, upon assessment of the conditions and reasons for refusal, take one of the following decisions:

1) to consent to recognise the ruling and enforce the financial recovery applied in the European Union Member State;

2) to refuse to recognise the ruling and enforce the financial recovery applied in the European Union Member State.

(5) If a ruling of a European Union Member State refers to two or more offences and not all of them are offences for which it is possible to enforce a penalty in Latvia, a judge shall request to specify which part of the penalty applies to the offences that comply with such requirements.

(6) The decision referred to in Paragraph four of this Section shall not be subject to appeal, and a judge shall inform a person punished in a European Union Member State and a competent institution of the relevant Member State of the decision referred to in Paragraph four, Clause 2 of this Section.

### **Section 283. Procedures for Determining a Penalty to be Enforced in Latvia**

(1) After taking of the decision referred to in Section 282, Paragraph four, Clause 1 of this Law, a judge shall, within a reasonable term, determine a penalty to be enforced in Latvia in a written procedure, provided that a person punished in a European Union Member State does not object thereto.

(2) A penalty determined in Latvia shall not deteriorate the condition of a person punished in a European Union Member State; it shall, however, correspond to the penalty determined in the relevant Member State as much as possible.

(3) Concurrently with a notification of the decision referred to in Section 282, Paragraph four, Clause 1 of this Law, a judge shall inform a person punished in a European Union Member State of his or her right to, within 10 working days from the day of receipt of the notification, submit objections to the determination of the penalty to be enforced in Latvia in a written procedure, request removal of a judge, submit an opinion on the penalty to be enforced in Latvia, as well as on the day of availability of the decision.

(4) If a person punished in a European Union Member State has submitted objections to the determination of the penalty to be enforced in Latvia in a written procedure, a judge shall, as soon as possible, decide an issue in a court hearing with the participation of the punished person. In case of unjustified failure of the punished person to appear, the issue may be decided without his or her presence.

(5) A person punished in a European Union Member State may appeal to a regional court a decision of a judge to determine a penalty to be enforced in Latvia within 10 working days from the day of notification of the decision in accordance with the appeal procedures.

(6) A complaint shall be examined in accordance with the same procedures as a notice of appeal submitted in administrative offence proceedings that occur in Latvia, and to the extent allowed by international agreements binding on Latvia and this Chapter.

(7) If a decision of a judge to determine a penalty to be enforced in Latvia has not been appealed within the time period specified in law, or a decision has been appealed and a regional court has maintained it in effect, the decision shall be enforced in accordance with the same procedures as a decision to apply an administrative penalty taken in Latvia. The decision shall be accompanied by a request of a European Union Member State.

### **Section 284. Determination of Financial Recovery to be Enforced in Latvia**

(1) An amount of fine applied in a European Union Member State and procedural expenditures shall be calculated at the conversion rate of EUR on the day of giving the ruling.

(2) A court may postpone the payment of a fine to be enforced in Latvia and procedural expenditures for a period not exceeding one month from the day when the decision has come into effect or divide in terms without exceeding a six-month period from the day of coming into effect of the decision. Division into terms or postponement of the payment of the fine determined in a European Union Member State and procedural expenditures shall be binding on a court of Latvia; the court may, however, additionally specify exemptions on enforcement without exceeding the limits specified in this Paragraph.

(3) If financial recovery may not be enforced in Latvia, a judge of a district (city) court shall inform a competent institution of a European Union Member State of the inability to enforce a request for financial recovery and shall ask to withdraw the request.

### **Section 285. Procedures for Deciding Issues Related to the Enforcement of a Ruling**

(1) A judge of a district (city) court shall decide the issues related to the enforcement of a ruling in a written procedure as soon as possible.

(2) Decisions taken with regard to the issues that have been examined in accordance with the procedures laid down in this Section may be appealed within 10 working days from the day of notification of the decision. Submission of a complaint shall not suspend enforcement of the decision. A judge of a regional court shall examine the complaint in a written procedure on the basis of materials in the case.

### **Section 286. Issues Related to the Enforcement of a Fine**

(1) If a penalty has been applied in a European Union Member State and determined to be enforced in Latvia, it shall be enforced in accordance with the same procedures as a penalty applied in an administrative offence proceedings in Latvia by taking into consideration the exceptions specified in this Section.

(2) Amounts of money that are paid when enforcing a decision of a judge on determination of a penalty to be enforced in Latvia shall be transferred to the State budget, unless an agreement with a European Union Member State stipulates otherwise.

(3) A court that has taken a decision in a court of first instance shall assign for enforcement a decision of a judge on financial recovery to be enforced in Latvia to a person punished in a European Union Member State not later than within seven working days after coming into effect or after receipt of a case from an appellate court. The court of first instance shall control voluntary enforcement of the decision regarding determination of a penalty to be enforced in Latvia, as well as assign a case for compulsory enforcement in accordance with the procedures laid down by this Law.

#### **Section 287. Termination of the Enforcement of Financial Recovery**

(1) Enforcement of financial recovery shall be terminated if a ruling of conviction on financial recovery has been set aside in a European Union Member State.

(2) Decisions of the relevant European Union Member State to reduce a penalty or issue an amnesty or clemency act shall be binding on Latvia.

#### **Section 288. Notifications of a Court of Latvia to a European Union Member State**

A court shall inform a relevant competent institution of a European Union Member State of the following:

- 1) the refusal to recognise the ruling on financial recovery and enforce a penalty applied in such European Union Member State;
- 2) the decision to determine a penalty to be enforced in Latvia;
- 3) completion of the enforcement of a penalty.

### **Chapter 38**

## **Enforcement of a Ruling Made in Latvia on Financial Recovery in a European Union Member State**

#### **Section 289. Procedures by which Latvia Requests Enforcement of the Ruling on Financial Recovery in a European Union Member State**

(1) An institution whose official has initially made the ruling on financial recovery shall send this ruling accompanied by the certification of a special form referred to in Paragraph two of this Section to a competent institution of a European Union Member State if it is impossible to enforce a ruling on financial recovery made in Latvia, as the place of residence of a punished person (in a case of a legal person - the registered legal address), the property belonging thereto or income thereof is in another European Union Member State and if the determined financial recovery exceeds EUR 70.

(2) The Cabinet shall determine a certification of a special form and content thereof to ensure financial recovery in cooperation with a European Union Member State.

(3) When using the website of the European Judicial Network in criminal matters, an institution shall ascertain the competent or executing institution of a European Union Member State to which a request for financial recovery is to be addressed, and send the made ruling and a certification of a special form to this institution.

(4) Prior to sending materials an institution may request an opinion of a European Union Member State on whether the offence for which the penalty has been imposed is also subject to penalty in accordance with the law of such Member State.

#### **Section 290. Consequences Related to the Assignment for Enforcement of the Ruling on Financial Recovery**

After a ruling on financial recovery made in Latvia has been sent for enforcement to a competent institution of a European Union Member State and the relevant competent institution of such Member State has taken a decision to consent to recognise the ruling and enforce a penalty determined in Latvia, a Latvian institution shall not perform any actions related to the enforcement of financial recovery.

#### **Section 291. Information to be Provided by an Institution**

If materials are sent regarding enforcement of a penalty in a European Union Member State and consent of such Member State has been received to recognise the ruling and enforce the penalty determined in Latvia, an institution shall inform a punished person thereof.

## **Section 292. Recovery of the Right to Enforce the Ruling on Financial Recovery**

Latvia shall recover the right to enforce the ruling on financial recovery if:

- 1) enforcement of the ruling on financial recovery in a European Union Member State is revoked;
- 2) the relevant Member State informs Latvia of complete or partial non-performance of the ruling on financial recovery.

## **Chapter 39**

### **Bilateral and Multilateral Agreements on Cooperation in the Enforcement of Penalties**

#### **Section 293. Relation with Other Agreements and Measures**

Provisions of Chapters 38 and 39 of this Law do not prevent European Union Member States from mutual application of bilateral or multilateral agreements or measures insofar as such agreements or measures allow to exceed the claims contained in provisions of the relevant chapters and help to simplify or facilitate procedures with regard to the enforcement of the ruling on financial recovery.

#### **Section 294. Cooperation between Latvia and a Country Other than a European Union Member State in the Enforcement of Penalties**

(1) It is possible to enforce a penalty applied in a country other than a European Union Member State in Latvia if Latvia has concluded an agreement with such country on cooperation in the enforcement of penalties. The penalty shall be enforced in Latvia in accordance with the provisions contained in the relevant agreement. If the agreement on cooperation in the enforcement of penalties does not contain the relevant regulation, a law of Latvia shall be applicable.

(2) Enforcement of a penalty in Latvia which has been applied in a country other than a European Union Member State shall constitute unchallenged recognition of validity and lawfulness of such penalty and enforcement thereof in accordance with the same procedures as if the penalty was determined in administrative offence proceedings in Latvia.

(3) Recognition of validity and lawfulness of a penalty applied in a country other than a European Union Member State shall not exclude coordination thereof with the sanction specified for the same offence in laws and regulations of Latvia.

#### **Section 295. Cooperation between a Country Other than a European Union Member State and Latvia in the Enforcement of Penalties**

(1) It may be possible to require enforcement of a penalty, which has been applied in Latvia, in a country other than a European Union Member State if Latvia has concluded an agreement with such country on cooperation in the enforcement of penalties. Enforcement of a penalty in a country other than a European Union Member State shall occur in accordance with the provisions contained in the relevant agreement.

(2) Enforcement of a penalty, which has been applied in Latvia, in a country other than a European Union Member State shall constitute unchallenged recognition of validity and lawfulness of such penalty and enforcement thereof in accordance with the same procedures as if the penalty was determined in administrative offence proceedings in Latvia.

## **Transitional Provisions**

1. With the coming into force of this Law the Latvian Administrative Violations Code is repealed.

2. Procedural actions that have been commenced in accordance with the Latvian Administrative Violations Code up to the day of the coming into force of this Law shall also be completed in accordance with the procedures laid down by the Code. Provisions of the Latvian Administrative Violations Code shall be applicable until completion of the relevant stage of administrative offence proceedings (proceedings in an institution, court or enforcement).

3. In administrative offence cases related to the violation of regulations for stopping or parking or with regard to the offences recorded by technical means without stopping a vehicle if the offence has been committed until the day of coming into force of this Law, proceedings shall be completed by applying provisions of the Latvian Administrative Violations Code and the Law on Road Traffic.

4. If several administrative offences have been committed until the day of coming into force of this Law, a decision on penalty has not been taken yet and offences are examined by one institution, a penalty shall be applied in

accordance with the provisions of Section 35 of the Latvian Administrative Violations Code regarding inclusion of the penalty.

5. A ruling made within the framework of administrative offence proceedings, the appeal of which is no longer provided for by this Law, may be appealed if a ruling is made until the day of coming into force of this Law. A complaint shall be submitted within the term provided for in the Latvian Administrative Violations Code. The complaint shall be examined in accordance with procedural norms of the Latvian Administrative Violations Code.

6. A person who has suffered damage as a result of an administrative offence may apply, in accordance with this Law, as a victim in an administrative offence case in which the offence has occurred prior to the coming into force of this Law. It may be possible to apply as a victim until the moment when a higher official has taken a decision in the administrative offence case.

7. Actions commenced in administrative offence proceedings shall be completed by the same official who has commenced them in accordance with the powers specified in the Latvian Administrative Violations Code, or an assignee of this official.

8. Officials who fail to comply with the educational requirements specified in Section 115 of this Law shall acquire the relevant education within six years from the day of the coming into force of this Law.

9. The procedures for compensating for procedural expenditures laid down by this Law shall not be applied to the procedural stages which are examined in accordance with the Latvian Administrative Violations Code when applying Clause 2 of these Transitional Provisions, except for the provisions for cases where procedural expenditures are covered from State or local government funds.

10. Chapter 38 of this Law "Enforcement in Latvia of a Ruling Made in a European Union Member State on Financial Recovery" may be applied if the administrative offence has been committed after the day of coming into force of this Law.

## Informative Reference to European Union Directive

This Law contains legal norms arising from Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ("the IMI Regulation").

The Law shall come into force on 1 July 2020.

The Law has been adopted by the *Saeima* on 25 October 2018.

[18 December 2019]

President R. Vējonis

Rīga, 14 November 2018

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<sup>1</sup> The Parliament of the Republic of Latvia

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