

LATVIA

Sample questions

1. Does your country have legislation, or regulations, and/or court rules of procedure that are relevant to the topic of our focus this year – chemical substances and essential equipment possibly used in illicit drug manufacturing and trafficking, including importing, exporting, for domestic distribution and use and private sector due diligence. Please explain.

Latvia has approved and ratified 1988 UN International Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances in 1994.

Latvia has transposed Council Framework Decision 2004/757/JHA of 25th October 2004 which laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of illicit drug trafficking into national law in 2006.

In paragraphs 248.-256. of Criminal Law (1999) Unauthorized Manufacture, Acquisition, Storage, Transportation, Forwarding and Disposal of Narcotic and Psychotropic Substances, also Manufacture, Acquisition, Storage, Transportation, Forwarding and Disposal of Equipment and Substances (Precursors) Intended for Unauthorized Manufacture of Narcotic and Psychotropic Substances is criminalized.

2. Does your country have specific legislation on precursors control?

Yes.

Law on the Legal Trade of Narcotic and Psychotropic Substances and Medicinal Products, also Precursors.

Adoption 09.05.1996. Last amended/updated in: 09.12.2021.

3. In your country, is approval by a judge a pre-condition to launch investigations into a case of diversion and trafficking of precursors? Similarly, is a court order or approval by a judge required for effecting controlled or monitored deliveries?

No, there is no need for approval by a judge or a court.

Only special investigative actions, which are also Special Investigative Experiment, Surveillance and Tracking of a Person shall be performed based on a decision of an investigating judge, except in cases determined in Criminal procedure Law. In

emergency cases, the person directing the proceedings may commence special investigative actions by taking a decision and receiving the consent of a prosecutor and, not later than on the next working day, the decision of an investigating judge.

4. When a drug/precursor-related crime is being investigated in your country, does the judiciary have any role (a) in the request for information from a foreign state and/or (b) in the provision of information to a foreign state?

No, it is all handled by the police and/or the public prosecutor.

5. Does your country have legislation or court rules that relate to monitoring manufacture and distribution of precursors which are applicable over the entire national territory?

All legislation, rules are applicable throughout the territory of the State of Latvia.

6. Does your country have legislation or court rules that establish as a criminal offence the manufacture, transport and distribution of essential equipment intended to be used for illicit drug manufacturing.

Yes. In paragraph 255 of Criminal Law is determined responsibility for a person who commits manufacture, acquisition, storage, transportation or forwarding of equipment, devices, objects, materials or substances (precursors which exceed small amount) intended for the unauthorized manufacture of narcotic or psychotropic substances.

The Criminal Law provides also for confiscation objects of a criminal offence, which is the instrumentalities or means which were foreseen or used for the commission of a criminal offence.

7. In respect of non-scheduled chemicals/ equipment, is the fact that they have been mis-declared before the Customs, sufficient to impute 'knowledge' on the part of the supplier of their being used for illicit drug manufacture?

No. It is a matter of weighing the evidence in a particular case.

8. In your country, does domestic legislation include measures and/or civil, criminal and/or administrative sanctions to address non-scheduled chemicals and emerging precursors, namely those that are used as starting materials and/or intermediaries in the legitimate manufacture of substances in Table I and Table II of the 1988 Convention? If yes, which type of sanctions?

No.

9. Please elaborate on specific pieces of information and level of details that would allow you as a judge to act on information/intelligence/evidence received from counterparts in investigations related to new emerging drug precursor chemicals not under control in your country.

In conformity with Latvian procedural law a judge has no obligation or responsibility to act in such circumstances.

10. Are there any specific provisions that allow you as judge to act on non-scheduled chemicals with no known legitimate uses? Would information from an international body, or a collection of information from other countries, that a chemical has no known legitimate use facilitate your work in any way?

No. The judge is guided by the official list “Narcotic Substances, Psychotropic Substances, and Precursors to Be Controlled in Latvia and Measurement Amounts of Their Illicit Trafficking”, which is an Annex2 to the Law “On the Procedures for the Coming into Force and Application of the Criminal Law”. The Ministry of Health is usually responsible for this list.

If the judge finds information about a substance during the hearing of case, trial, the judge can make an Ancillary Decision simultaneously with a judgement about it by sending it to the Ministry of Health or the State Agency for Medicines.

11. As a judge, if you receive a request for assistance in a drug/precursor-related crime from a foreign country, whether at the investigation stage or in the context of a court proceeding (a hearing or a trial), how is it relevant to your determination to ensure that basic human rights, principles of natural justice, and/or rules of procedural fairness that exist in your country are respected?

There have been no such situations in my practice. In the context of this topic, there could be a problematic situation if the substance, for the activities of which the case is being investigated in a foreign country, is not qualified as a prohibited substance in Latvia.

12. Describe your own personal experience(s) as a judge that are relevant to the topic of our focus this year, whether it be presiding over an extradition hearing (a request to extradite an accused person to another country in order to be prosecuted in that other country), or receiving evidence in a court proceeding in your country from a witness who is testifying from another country and with the help of court officials in that other country, or helping to arrange for a witness in a court proceeding in another country to testify from a place in your own country, or responding to a request for assistance from an international court such as The Hague, or something else. These are just examples of things that you may have experienced; they are not meant to be exhaustive.

Unfortunately, or fortunately, there have been no extraordinary situations regarding the topic under review.

Thank you for your cooperation!