Input of Latvia for European Rule of Law Mechanism (30.04.2020.)

I. Justice System

A. Independence

In recent years the influence of judicial collegial administrative bodies in the selection process of judges as well as in the appointment, re-appointment and career development of judges has been strengthened.

Taking into account the recommendations given by the Council of Europe's Group of States against Corruption (GRECO) in their Evaluation Report for Latvia during the Fifth Evaluation Round, the amendments to the Law on Judicial Power entered into force on 12 February 2018, which have significantly strengthened the Judicial Council's powers, capacity and governance role in the judiciary. With the amendments to the Law on Judicial Power, the competence of the Judicial Council has been specified in:

- nomination, appointment and dismissal procedure of the chairperson of a district (city) court and a regional court;
- transfer of a judge (also in a court of higher or lower instance);
- determination of the procedure for selection of candidates for the position of a judge;
- determination of the location of the courts and the place of performance of the duties of a judge within the territory of the court;
- approval of the content of training programs for judges, employees of the courts and employees of the Land Register upon the proposal of the Chief Justice of the Supreme Court or the Minister of Justice.

According to the Article 541, paragraph one of the Law on Judicial Power, the procedures for the selection, apprenticeship and taking the qualification examination of a candidate for the office of a judge of a district (city) court and regional court shall be determined by the Judicial Council. On 15 April 2020 Judicial Council adopted new Procedure for Selection of a candidate for the office of a judge of a district (city) court and regional court, which is a conceptually new approach that is based in competence assessment. The new procedure imposes significant changes in the selection process of candidates for the position of judges, including, e.g., that the selection committee shall only consist of the representatives of the judiciary. Article 63 of the new procedure stipulates that the procedure shall enter into force at the same time as the amendments to the Law on Judicial Power.

According to the Article 542, paragraph one of the Law on Judicial Power the procedures for the selection, apprenticeship and taking the qualification examination of a candidate for the office of a judge of the Supreme Court shall be determined by the Judicial Council and published in the official journal "Latvijas Vēstnesis". Article 4 of the Procedures for the selection, apprenticeship and taking the qualification examination of a candidate for the office of a judge of the Supreme Court states that the selection process, contest and apprenticeship of a candidate for the office of a judge of the Supreme Court is organised by the Administration of the Supreme Court.

Procedures for the Appointment and Confirmation of Judges of a District (City) Court, of a Regional Court and of the Supreme Court is governed by Articles 60-62 of the Law on

Judicial Power. Judges of a district (city) court shall be appointed to office by the Saeima, upon proposal of the Minister for Justice, for three years. On the basis of the decision of the Saeima on appointment of a judge to the office of a judge of a district (city) court, the Judicial Council shall determine the specific district (city) court or its courthouse and the specific place for the fulfilment of the duties of a judge within the territory of operation of the court. After a judge of a district (city) court has held office for three years, the Saeima, upon a proposal of the Minister for Justice, and on the basis of the opinion of the Judicial Qualification Committee in the assessment of the professional work of the judge, shall confirm him/her in office, for an unlimited term of office, or shall re-appoint him/her to office for a period of up to two years. The period of time when a judge is on continuous leave for justified reasons exceeding six months shall not be included in the abovementioned periods of time. After expiration of the repeated term of office, the Saeima, upon proposal of the Minister for Justice, shall confirm in office a judge of a district (city) court for an unlimited term of office.

Judges of a regional court shall be confirmed by the Saeima, upon proposal of the Minister for Justice, for an unlimited term of office. On the basis of the decision of the Saeima on the confirmation of a judge to the office as a judge of a regional court, the Judicial Council shall determine the specific regional court or courthouse in which the duties of a judge are to be performed. Judges of the Supreme Court, upon proposal of the Chief Justice of the Supreme Court, shall be confirmed in office by the Saeima, for an unlimited term of office.

1. Appointment and selection of judges and prosecutors

In the Republic of Latvia the requirements to a person who may be appointed as prosecutor are laid down by the Law on Prosecution Office. The requirements for the appointment as prosecutor are as follows: a person who is a citizen of Latvia, knows the official language at the highest level, has reached the minimum age of 25 years, who has acquired the highest professional or academic education and qualification of lawyer, as well as Master or Doctor's degree, has good reputation and has undergone the apprenticeship at the Prosecution Office, has completed the apprenticeship program, has passed the qualification exam and has received the opinion of the Prosecutors Attestation Commission on suitability to prosecutor's position. The Law on Prosecution Office also provides for the persons not suitable to the position of prosecutor, for example, persons who are convicted for the commission of a criminal offence, irrespectively, whether the conviction is extinguished or set aside.

The selection of applicants to the position of prosecutor is conducted, according to the criteria provided for by the Law on Prosecution Office for filling the vacant positions of prosecutors. The Prosecution Office shall announce publicly the selection of applicants to the position of prosecutor, two selections are announced annually. The persons who want to apply for the selection must file the application with the Prosecution Office and then to attend the exams of general and legal knowledge. During the selection process, a specific person is checked whether he/she is a subject to restrictions prohibiting to enter into the position of prosecutor provided for by the law. In the selection of an applicant to the position of prosecutor, any discrimination on the grounds of applicant's origin, social and financial status, race and national origin, gender, attitude to religion, type and nature of occupation, political or other opinions is inadmissible.

The eligibility of a person who has successfully passed the exams of the general and legal knowledge to the criteria laid down by the Law on Prosecution Office shall be assessed by the Prosecutors Attestation Commission. Having received the positive opinion of the Prosecutors Attestation Commission, Prosecutor General shall sign with the applicant the apprenticeship agreement. The applicant to the position of prosecutor must undergo the apprenticeship in the vacant position of District (City) prosecutor according to the procedures, deadlines and other conditions laid down by the apprenticeship agreement. During the apprenticeship, the applicant to the position of prosecutor has no procedural rights of prosecutor.

The applicant to the position of prosecutor, who has successfully completed the apprenticeship program, shall pass the exam consisting of practical tasks and theoretical questions. The Prosecutors Qualification Commission shall supervise the conducting of the exam and shall review the answers given by the applicant. If the exam is passed, then the Prosecutors Qualification Commission shall advance the applicant to the Prosecutors Attestation Commission for assessment and provision of opinion on suitability to the position of prosecutor. Prosecutor shall be appointed into the position by the order of Prosecutor General.

According to the Law on Prosecution Office, a person may be appointed as the Prosecutor General if he/she has reached the minimum age of 40 years; who is a citizen of the Republic of Latvia with fluent knowledge of the official language; who has the highest professional or academic education and the qualification of lawyer, as well as Master or Doctor's degree; has at least five years of work experience as a judge of the Constitutional Court, Supreme Court, international court or supranational court; or no less than ten years of work experience as a judge of regional court, Head Prosecutor, Prosecutor of judicial region Prosecution Office or the Prosecutor General's Office; has no less than 15 years of total work experience in the position of judge or prosecutor.

The selection of applicants to the position of the Prosecutor General is conducted through an open competition announced by the Council for the Judiciary. A person, who meets the criteria provided for by the Law on Prosecution Office, shall apply to the position of the Prosecutor General himself/herself. The Council for the Judiciary shall lay down the procedures and criteria for evaluation of applicants to the position of the Prosecutor General. The Law on Prosecution Office provides for the Council for the Judiciary to propose to the Parliament only such candidates for the post of Prosecutor General who has received a positive opinion of the competent state security authority, stating that he/she satisfies the requirements laid down by the Law on the State Secret for receiving the special permit to access the state secret. Amendments to the Law on Judicial Power came into force on 11 March 2020, and the Judicial Council has been granted the function to hear the candidates for the office of the Prosecutor General in order to determine the most suitable candidate, and submit its decision to the Parliament for appointment.

2. Irremovability of judges, including transfers of judges and dismissal

With the amendments to Article 733 of the Law on Judicial Power, upon proposal of the Minister for Justice, the Judicial Council shall decide on transfer of a judge to another place for the fulfilment of the duties of a judge within the territory of operation of the court, if the judge has given his/her consent.

During the vacancy or temporary absence of a judge of a regional court, the Judicial Council may, upon proposal of the Minister for Justice and upon a favourable opinion of the Judicial Qualification Board, assign a judge of a district (city) court to substitute a judge of a regional court for a time period not exceeding two years, if such person has given a written consent.

During the vacancy or temporary absence of a judge of the Supreme Court, the Judicial Council may, upon proposal of the Chief Justice of the Supreme Court and upon a favourable opinion of the relevant department, assign a judge of a regional court to substitute him/her for a time period not exceeding two years. The selection of candidates for the office of a judge shall take place in an open competition. Upon recommendation of the Minister for Justice and the Chief Justice of the Supreme Court, the Judicial Council shall approve the competition by law.

Article 83 Law on Judicial Power lists two cases in which a judge can be dismissed from his office: 1) if the judge has been convicted, and the judgment of the court has entered into legal effect; or 2) on the basis of a decision of the Judicial Disciplinary Board.

A judge of a district (city) court, a regional court and the Supreme Court shall be dismissed from office by the Saeima, upon proposal of the Judicial Disciplinary Board, but Chief Justice of the Supreme Court shall be dismissed from office by the Saeima, upon proposal of the Judicial Disciplinary Board, on the basis of an opinion of the Plenary Session of the Supreme Court. If a judge has been convicted and the judgment of the court has entered into legal effect, the judge shall be dismissed from office by the Saeima, upon proposal of the Minister for Justice.

3. Promotion of judges and prosecutors

Newly recruited prosecutors have to begin their professional career in District (City) level Prosecution Office. Prosecutor might be promoted after no less than five years of work, namely, to be able to apply to the announced vacancies in any regional level Prosecution Office or in the Prosecutor General's Office. After evaluation of applicants, the most eligible one is invited for an apprenticeship in a respective structure of the Prosecution Office for a time period not exceeding six months. Prosecutor shall be promoted by the order of the Prosecutor General upon successfully completing the apprenticeship and receiving a positive decision of the Prosecutors Attestation Commission.

4. Allocation of cases in courts

In order to ensure that the principle of randomness and transparency is applied in distribution of cases for adjudication, the cases between district (city) court and regional court judges are divided by the Court Information System using the automated case distribution functionality (hereinafter – the System). The plan for the distribution of cases approved by the Chief Judge of a court determines in which court case categories a judge may participate, and that is registered in the System.

The system distributes cases to judges proportionally – a list of judges is created randomly and cases are allocated to each judge - one case at a time. When one case is assigned to each judge, the System randomly creates a new list of judges and continues to allocate cases.

The system calculates and reflects the total workload of a judge and the workload of each judge in civil cases, criminal cases, administrative violation cases and administrative cases he/she has adjudicated. If absence of a judge is indicated in the system, cases are not assigned to this judge during his/her absence.

On 1 March 2018, the so-called "territorial reform of courts" was finished, as a result of which, the territories of operation of courts were merged, legally creating larger courts. Reform also significantly increased the average number of judges (from 8 to 31 judges) in one court, thus increasing the simultaneous observance of the principle of randomness in the distribution of cases as well as specialization of judges. The reform has also reduced risks of limited observance of the principle of randomness in the distribution of a case in the event of recusal of a judge.

5. Independence (including composition and nomination of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

The Judicial Council is a collegial authority, which participates in the development of policies and strategies of the judicial system, as well as the improvement of the organisation of work of the judicial system.

The composition of the Judicial Council has the following permanent members:

1) the Chief Justice of the Supreme Court;
2) the Chief Justice of the Constitutional Court;
3) the Minister for Justice;
4) the Chairperson of the Judicial Committee of the Saeima;
5) the Prosecutor General;
6) the Chairman of the Latvian Council of Sworn Advocates;
7) the Chairman of the Latvian Council of Sworn Notaries;
8) the Chairman of the Latvian Council of Sworn Bailiffs.

The composition of the Judicial Council shall have the following elected members:

1) a judge elected by the Plenary Session of the Supreme Court;
2) six judges elected by a conference of judges.

A Judges' Conference shall elect four members of the Judicial Council from among the district (city) court judges, and two from among the regional court judges.

The Ombudsman and the Director of the Court Administration or the authorized representatives thereof, a representative delegated by an expert in jurisprudence approved by the Latvian Academy of Sciences, as well as representatives from judge associations may participate in the work of the Judicial Council in an advisory capacity.

In 2018, a number of regulatory enactments were passed that significantly strengthened the powers, capacity and management of the Judicial Council, as well as decreased the role and power of legislative and executive branches over the judicial branch. But with the amendments to the Law on Judicial Power that came into force on 11 March 2020, the Judicial Council has been granted another function – the Judicial Council shall hear the candidates for the office of the Prosecutor General, determine the most suitable one and submit its decision to Saeima for the appointment to the position of the Prosecutor General.

6. Accountability of judges and prosecutors, including disciplinary regime and ethical rules.

Judicial Disciplinary Liability Law determines the basis and governs the procedure in which a judge may be subjected to disciplinary liability. According to Article 1 and 2 of Judicial Disciplinary Liability Law, a judge may be subjected to disciplinary liability for: 1) intentional violation of law during examination of a matter in court; 2) failure to perform his/her duties of employment or allowing gross negligence in the examination of a matter; 3) dishonourable actions or gross violation of the norms of the Judges Code of Ethics; 4) administrative violations; 5) refusal to discontinue his/her membership in parties or political organisations; 6) failure to observe the restrictions and prohibitions provided for in the Law on Prevention of Conflict of Interest in Activities of Public Officials. The revocation or modification of a court ruling shall not as such be a reason for subjecting a judge, who has participated in its acceptance to liability, if he/ she has not allowed an intentional violation of law or negligence in examination of the matter. The imposition of a disciplinary sanction shall not exclude criminal and civil liability, except for the cases indicated in Article 13 paragraph five of the Law on Judicial Power.

The decision taken by the Judicial Disciplinary Board – to impose a disciplinary sanction or to recommend the removal of the judge from office – may be appealed in the Disciplinary Court. According to Article 7 of Judicial Disciplinary Liability Law, the Judicial Disciplinary Board may take the following decisions: 1) to impose a disciplinary sanction; 2) to send materials of the disciplinary matter to the Office of the Prosecutor General for a decision to initiate criminal proceedings; 3) to recommend a removal of the judge from office; 4) to dismiss the disciplinary matter. According to Article 114 paragraph 10, a decision of the Disciplinary Court shall enter into effect at the time of notification thereof and may not be appealed.

A draft law "Amendments to the Law on Judicial Power" and a related draft law "Amendments to Judicial Disciplinary Liability Law" provides for abolition of the administrative immunity of judges, just as it was recommended by the Council of Europe

In their Evaluation Report for Latvia during the Fifth Evaluation Round GRECO advises to abolish the system of administrative immunity of judges. However, a reception of an administrative penalty will not itself exempt a judge from assessing the ethics of his/ her actions in accordance with disciplinary liability proceedings.

The disciplinary liability of prosecutors is governed by the Law on Prosecution Office, which provides for prosecutor to be a subject to disciplinary liability for:

1) an intentional violation of law or negligence while performing official duties;
2) an intentional failure to fulfil official duties;
3) a shameful act, which is incompatible with the position of a prosecutor;
4) an administrative violation;
5) a failure to comply with the provisions of the Prosecutor's Code of Conduct.

For the abovementioned violations, prosecutor may be subjected to one of the following disciplinary sanctions: reproof, reprimand, decreasing prosecutor's monthly salary for up to 20 per cent for a time period not exceeding six months, demotion, dismissal.

The Code of Conduct of Prosecutors of Latvia provides for the basic principles of conduct; therein, the principles are defined and the conduct contradicting the public interests is prohibited. It's aim is to provide for Prosecutors conduct recommendations of a binding

nature. The Code of Conduct is elaborated with purpose to ensure that all Prosecutors are bound with the basic principles of conduct, being aware that the entire image of the Prosecution Office before the society is dependent on actions of any individual Prosecutor.

7. Remuneration/bonuses for judges and prosecutors

Law on Remuneration of Officials and Employees of State and Local Government Authorities stipulates rules on the remuneration and social guarantees of judges.

On 1st January 2019, amendments in Law on Remuneration of Officials and Employees of State and Local Government Authorities came into force, providing for a system of remuneration, which ensures the preservation of the real value of judges' remuneration and financial security in accordance with the principle of judicial independence. Simultaneously with the significant increase of the basic monthly salary, as of 1st January 2019, the system of additional payments laid out in Article 15 paragraph 4 of Law on Remuneration of Officials and Employees of State and Local Government Authorities, has been changed.

Judge is entitled to a service pension upon leaving his office. Law on Judges' Retirement Pensions determines the procedure, in which a service pension of a judge is calculated and granted.

The remuneration of Prosecutors is laid down in the Law on Remuneration of Officials and Employees of State and Local Government Authorities. The basic monthly salary in the country is set annually, taking into account inflation rate.

8. Independence/autonomy of the prosecution service

According to the Article 1(1) of the Law on Prosecution Office, the Prosecution Office shall be an institution of judicial power, which shall independently exercise supervision over the compliance to law within the limits of competence prescribed by this Law.

The legal regulation effective in Latvia safeguards that any prosecutor shall be independent from any influence of other institutions or officials with the capacity of the state power and performing public governance and prosecutor shall abide only to the law. The independence of Prosecutors is safeguarded by the Law on Judiciary (Article 1061), the Law on the Prosecution Office (Article 1, 6) and by the provisions of the Criminal Procedure Law. For example, one of the procedural tools ensuring the independency of prosecutor’s opinion and viewpoint is the Article 459 of the Criminal Procedure Law. According to the 2nd paragraph of the given Article, any prosecutor may be withdrawn from prosecution up until retiring of the court to the deliberation room for the rendering of a judgment.

The self-determination and independence of prosecutors is also secured by the Code of Conduct of Prosecutors of Latvia as one of the fundamental principles. The Code of Conduct is elaborated by prosecutors, referring to the international practice and provisions of the Code of Conduct of Judges. The Code of Conduct was approved by the Prosecutor General’s Council on 17 June 1998.

9. Independence of the Bar (chamber/association of lawyers)

According to the Advocacy Law of the Republic of Latvia, the Latvian Council of Sworn Advocates is an administrative, supervisory and executive institution of the Latvian Collegium of Sworn Advocates, and the Latvian Collegium of Sworn Advocates is an independent

professional corporation of Latvian sworn advocates, which unites all sworn advocates practising in Latvia. At the same time, it should be noted that in 2019, there were no changes or legislative amendments that would apply to the independence of the Latvian Council of Sworn Advocates or other aspects of the independence of advocates.

10. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

In order to strengthen public trust and confidence in the judiciary and ensure the transparency of the work of the courts, amendments to the Judicial Disciplinary Liability Law were passed (effective from 19 July 2017), stipulating that the given name and surname of a person held liable in the decision is not concealed, that the published decision shall be deleted from the website within one day after one year following the day of entry into effect, thereof, or if a disciplinary sanction has been set aside before the time period. That also applies to decisions in the disciplinary cases of prosecutors, which have been appealed to the Disciplinary Court. The above-mentioned standard of transparency of information also applies to decisions made in disciplinary cases against officials belonging to the judicial system - sworn bailiffs and notaries.

B. Quality of justice

12. Accessibility of courts (e.g. court fees, legal aid)

The amount of state duty is determined in accordance with Article 34 of Civil Procedure Law. According to Articles 4441, 458 and 478 of Civil Procedure Law, when an ancillary complaint, a cassation complaint or application for re-examination of a case in connection with newly-discovered circumstances is submitted, a security deposit shall be paid. In accordance with Article 18 of Administrative Procedure Law, a state fee shall be paid for a submission of an application to a court and initiation of administrative court proceedings. Currently, the court fees are being assessed in the context of accessibility of courts.

In order to promote the right to a fair trial of an individual by ensuring State-guaranteed financial support for the receipt of legal aid, in accordance with State Ensured Legal Aid Law, the state ensured legal aid is provided:

- in civil cases (unless it is related to customs or tax issues, it concerns a claim regarding defamation and injuring dignity, it concerns a claim directly linked to the economic activities or commercial activities of the person, or independent professional activities etc.).
  With the amendments in the State Ensured Legal Aid Law that came into force in 1st January 2019, a new regulation has been introduced which stipulates that persons are entitled to state ensured advocate in certain types of cases indicated in the Civil Procedure Law, if the income of such persons does not exceed the minimum monthly salary specified in the State.
- in administrative cases: in the appeal procedures during the process of granting asylum; within the scope of appeal of a decision regarding the contested voluntary return decision or a decision regarding the contested

removal order; within the scope of appeal of a decision of the Orphan's and Custody Court on the protection of the rights and legal interests of the child; in administrative cases when a court or a judge has decided to grant the provision of state ensured legal aid due to the complexity of the case and individuals' financial situation.

- in Constitutional Courts proceedings to a person upon the constitutional complaint of which the Constitutional Court has taken the decision to refuse to initiate a case, indicating the lack of legal grounds or its clear insufficiency for satisfaction of the claim as the only basis for such decision.

In 15 September 2019, in cooperation with Council of Europe European Commission for the efficiency of justice (CEPEJ) the realization of a project "Strengthening the access to justice in Latvia through fostering mediation and legal aid services, as well as support to the development of judicial policies and to increased quality of court management" was initiated via Structural Reform Support Programme and in cooperation with the European Commission's DG Reform Support Service.

The aim of this project is to strengthen the access to justice, to develop and improve the systems of mediation and state ensured legal aid, as well as to improve the quality of the judiciary.

On 1 May 2019, the Whistleblowing Law entered into force, which stipulates that the State ensured legal aid shall be provided to a whistle-blower, in accordance with the provision of the State Ensured Legal Aid Law as one of the protection guarantees among others. If whistle-blower needs protection against adverse effects caused due to whistleblowing and for that he/she needs legal aid, then he/she is entitled to state ensured legal aid without assessment of the status of the property and income level of the person.

13. Resources of the judiciary (human/financial)

The Saeima, upon proposal of the Judicial Council, shall determine the total number of judges in district (city) courts and regional courts. The Judicial Council shall determine the number of judges in each court upon a proposal of the Minister for Justice (Article 32 paragraph 3 and Article 39 paragraph 2 of Law on Judicial Power). The Saeima, upon a proposal of the Judicial Council, shall determine the total number of judges in the Senate (Article 44 paragraph 2 of Law on Judicial Power).

With the amendments in Law on Judicial Power that entered into force in 28 November 2018, not only does Judicial Council appoint a Chief Judge of a district (city) court or regional court, but Judicial Council also determines the procedures for nominating and appointing candidates for the office of a Chief Judge of a court. Following that on 15 March 2019, the Judicial Council approved the Procedure in which candidates for the office of a Chief Judge, deputy Chief Judge and chairperson of a courthouse of district (city) court and regional court are nominated and appointed. This procedure determines the circle of candidates, which may apply for the position of a Chief Judge, deputy Chief Judge or a chairperson of a courthouse. The selection of candidates for the office shall take place in an open competition between all the judges of the particular court and of a court of higher instance. In order to assess the suitability of candidates, the Judicial Council forms a committee that consists of two members of the Judicial Council that are judges, a representative of the Minister of Justice, a representative of the particular court and a human resources professional provided by the Court Administration.

According to Article 502 of the Law on Judicial Power, the court system is financed from the State budget. The State, providing for adequate financing in the law on the budget for the current year, shall guarantee the independence of a judge and the effective protection of the rights of a person in a competent and independent court. The draft budget requests of district (city) courts and regional courts shall be prepared by the Court Administration and submitted to the Ministry of Justice. The Ministry of Justice shall submit a summary of the budget request to the Judicial Council for the provision of an opinion. Following the receipt of the opinion from the Judicial Council, the Ministry of Justice shall submit the budget requests of district (city) courts and regional courts to the Ministry of Finance, appending thereto the opinion of the Judicial Council.

The Supreme Court shall submit the budget request to the Judicial Council for the provision of an opinion. The Supreme Court shall submit the budget request of the Supreme Court to the Ministry of Finance, appending the opinion of the Judicial Council thereto.

14. Use of assessment tools and standards (e.g. ICT systems for case management, court statistics, monitoring, evaluation, surveys among court users or legal professionals)

In order to continuously evaluate and measure the work of the courts, Court Administration is using business intelligence platform Microstrategy. The data is processed from the Court Information System, the State Unified Computerized Land Register, the resource management system (financial and personnel data) as well as from other information systems. The Court Information System is used as a record keeping system of court work, where a wide range of information related to the progress of a case is stored in an organized and structured way. The CEPEJ recommendations are used for the evaluation of court work and most important indicators of court work evaluation recommended by the CEPEJ are available : case clearance rate, case turnover ratio, disposition time, efficiency rate (ER indicator), total backlog (TB indicator), backlog resolution (BR indicator).

Since the second half of 2019, comparative workload model for courts is being developed that is linked to court budget data, thus implementing the State Audit Office's recommendation on budget planning, linking it to indicators characterizing court work. In addition, the capabilities provided by the business intelligence platform allow anyone to have constant access to accurate and reliable court information online.

The Court Administration also ensures that surveys are conducted every year to find out the public's attitude towards the courts and their contact with the proceedings.

In order to prevent the risk of the judicial collegial administrative bodies to take inadequate decisions related to the assessment of judges' professional activity and issues related to the career of judges, the Complaints Register was established in 2019, in order to store all the complaints about possible violations of ethical conduct of judges in the same place. Information entered into the Complaints Register comes from complaints received by the Court Administration, district (city) courts, regional courts, the Ministry of Justice and the Supreme Court.

The court must ensure access to justice, which also includes a quality customer service. In order to improve and enhance the quality of work as well satisfaction of visitors the Court Administration in the period from September 2019 to 31 December 2019,a survey was carried out in Riga District Court (Sigulda), Riga District Court (Jurmala), Riga District Courts In Riga and Riga Regional Court. The results of the survey have been summarized and are currently analysed and evaluated for further action.

C. Efficiency of the justice system

16. Length of proceedings

According to Article 28 of Law on Judicial Power, a judge shall adjudicate a case as fast as possible. A person who participates in a case shall comply with the procedural terms specified in law or by the court.

Every year, the European Commission collects and evaluates the results of justice and the rule of law throughout the European Union – the EU Justice Scoreboard. The summary of the results in 2019 in the field of rule of law reflecting the statistical data for years 2010, 2015, 2016 and 2017, indicates that the average length of proceedings in Latvia corresponds to the average indicators of EU Member States and is similar to Sweden and Finland.

In the first half of 2019, a public portal on court work data (including case processing deadlines) was introduced, which provides public access to data on court work, including information on all cases with a processing time exceeding the average processing time of the respective case category.

In order to assess the factors influencing the duration of civil, criminal and administrative proceedings in Latvian courts, on 10 February 2020, the Judicial Council passed a decision inviting the Supreme Court to establish a working group to assess the factors affecting the length of civil, criminal and administrative proceedings in Latvian courts. In accordance with the decision of the Judicial Council, the conclusions on the factors affecting the length of proceeding shall be submitted to the Judicial Council by 1st October 2020.

Additionally, it must be noted that the following work has been already done or is in process, in order to enhance the productivity of the courts:

Work on the establishment of the Court of Economic Cases

The establishment of the Court of Economic Cases is being purposefully pursued. The regulatory framework has been developed and the amendments in the Law on the Judicial Power, as well as the Criminal Procedure Law and the Civil Procedure Law are to be adopted by the Saeima. The establishment of the Court of Economic Cases is aimed at enhancing the fight of Latvian institutions with money laundering, terrorist financing, as well as significantly expanding specialization in resolving complex commercial disputes in order to promote the development of the business environment. The specialized court will be a long-term investment in the creation of an economically developed state where the legal environment is in order.

Making criminal procedure more effective

In 2019, amendments to the Criminal Procedure Law were proposed and sent to the Legal Affairs Committee of the Saeima aiming at enhancing effectiveness of the criminal proceedings. On 5 February 2020, the draft law "Amendments to the Criminal Procedure Law" was supported by the Legal Affairs Committee before consideration in the Saeima in the 2nd reading. These amendments aim at speeding up and making investigation and adjudication of the case more efficient, e.g., by enhancing the involvement of sworn advocates in the criminal proceedings. Namely, if a lawyer with whom the client has entered into an agreement or who has been appointed by the elder of sworn advocates is unable to attend the court hearing, he/she shall ensure that another sworn advocate appears in his place by prior agreement with the client or by informing the elder of the sworn advocates about that. Also, the sworn

advocate when undertaking to provide legal aid, shall not obstruct the conduct of the case within a reasonable time. Amendments also intend to streamline the criminal proceedings and reduce the workload of the courts in the territory of which there are places of deprivation of liberty when they are deciding on the issue of execution of sentence.

Addressing the issue of the workload of sworn advocates

To address the issue of the workload of sworn advocates, amendments have been proposed to the Criminal Procedure Law and the Advocacy Law of the Republic of Latvia. Also, in 2019, changes to the functionality of the sworn advocates workload calendar were carried out allowing the sworn advocate himself to delete the dates of the those court hearings in which his presence is not actually necessary, thus freeing the time slots for other court hearings in his calendar.

Intensive work is carried out on the implementation of the e-Case project

The 1st Phase of the e-Case program – the Improvement of Investigation and Judicial Processes, which will end in the 1st quarter of 2021, is continuing. The full implementation of the e-Case is planned by the 2023. The amendments to the procedural laws will modernize the recording of procedural actions and the digitalization of record keeping, which will facilitate the work of public administration, law enforcement institutions and courts, as well as provide easier access for the participants to the case files.

17. Enforcement of judgements

According to Article 16 of the Law on Judicial Power, a judgment that has entered into force shall be executed, a judgment shall have the force of law, shall be mandatory for all, and shall be treated with the same respect as due law.

Sworn bailiff is entitled to commence execution actions based on execution document. Civil Procedure Law prescribes the procedure, in which court rulings or decision of officials, are enforced by sworn bailiffs, as well as the extent of rights and obligations of sworn bailiffs within the enforcement procedure. Basic information about the procedure of enforcement and execution of judgements in Latvia can be found on the webpage of European Judicial Network.

Ensuring the proper and timely execution and enforcement of a court ruling is an essential and integral part of a person's right to defend his/ her rights and legitimate interests in a fair court. Every legislative initiative of the Ministry of Justice in the field of enforcement of judgments is aimed at establishing a regulation that would enhance the effectiveness of the work of sworn bailiffs and improve the quality of enforcement.

Some of the most important measures implemented by the Ministry of Justice during the last few years to improve the recovery process:

A number of measures have been taken to modernize the enforcement process, using the opportunities offered by information technology

The Register of Enforcement Cases has been established and is constantly being improved, which provides both a unified record keeping software for sworn bailiffs and has created an opportunity to receive the information about the debtor from information systems

of other state institutions as quickly and cost-consciously as possible – through online data transmission. A monitoring mechanism for the debtor data has also been introduced.

Auctions of the debtor's property (both movable and immovable property) in the electronic environment have been introduced

This has simplified the auction process, making it more accessible and more cost-conscious regarding the administrative resources that otherwise would need to be invested. There has also been a significant increase in the number of auction participants, which in turn has contributed to an increase in the amount of funds recovered from the debtor as a result of the auction and, accordingly, it has contributed to the effectiveness of the enforcement process. Within the next year, the Ministry of Justice also plans to introduce the sale of movable property belonging to the debtor through an electronic auction. The auctions will be held on the electronic auction site.

Amendments have been passed to improve the exchange of information between sworn bailiffs and credit institutions and to improve the procedure for pledging the debtor's money as part of the judgement enforcement process

The electronization of the process of sending and executing orders of sworn bailiffs in recovery cases has significantly accelerated the exchange of information necessary for ensuring the enforcement, thus increasing the number of enforcement cases completed with successful recovery. From 1st July 2019, an electronic processing of sworn bailiff's orders is mandatory for all credit institutions as well as for other payment service providers.

II. Anti-corruption framework

Corruption Prevention and Combating Bureau (further – KNAB) would like to draw attention to the fact that information used in preparing this document will also be submitted to the UNODC for the 2nd UNCAC Review Cycle. The report will be published by the end of 2020 or early 2021, therefore, a direct reference has not been given to the document. In compiling answers KNAB also used information provided for the Progress Report on Implementation of Fourth Evaluation Round recommendations in Latvia (GRECO), which as of yet has not been made publicly available.

A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

19. List of relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption. Where possible, please indicate the resources allocated to these (the human, financial, legal, and practical resources as relevant).

KNAB was established in 2002 and is fully operational since February 2003. KNAB is an independent institution of direct administration, which performs the functions laid down in the "Law on Corruption Prevention and Combating Bureau"[1]. The main areas of activities are the following: prevention of corruption, investigation of corruption-related offences, education of public officials and the society about corruption, ethics and respect of law and monitoring of political parties' compliance with party financing regulations. KNAB is under supervision of the Cabinet of Ministers with the intermediation of Prime Minister. Supervision includes the right of the Prime Minister to inspect the rule of law of administrative decisions taken by the Head of KNAB and withdraw unlawful decisions, and also, upon detecting unlawful failure to act, issue an order to take a decision. The right of the Cabinet of Ministers to implement supervision shall not apply to the decisions taken by KNAB in performing the functions referred to in Sections 7, 8, 9, and 9.1 of Law on Corruption Prevention and Combating Bureau[2].

KNAB currently consists of 5 departments, 12 divisions and 6 separate divisions[3]. The Director of KNAB is the highest ranking official, followed by Deputy Director on Investigational Matters and Deputy Director on Operational Activities. On 1 March 2020 KNAB had 136 employees (out of 152 positions), the total planned annual budget for 2020 is 10'962'456 EUR.[4] KNAB would like to note that this budget also includes state financing for political parties which for the year 2020 amounts to 4'531'493 EUR. KNAB will be allocating the funds to the respective parties that have won more than 2% of votes in the last Parliamentary elections.[5]

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[1] https://likumi.lv/ta/en/en/id/61679-law-on-corruption-prevention-and-combating-bureau

[2] Section 7 "Functions of KNAB to Prevent Corruption", Section 8 "Functions of KNAB in Combating Corruption", Section 9 "Functions of KNAB in Controlling Fulfilment of Financing Regulations by Political Organisations (Parties) and Associations Thereof" and Section 9.[1] "Functions of the Bureau in Controlling a Pre-election Campaign"

[3] https://www.knab.gov.lv/en/knab/structure/

[4] Available online at https://www.knab.gov.lv/upload/2019/2020/pb_tame_bez_info_15-01-2020_12-30-33_97498_lvl.pdf

[5] https://likumi.lv/ta/en/en/id/36189-law-on-financing-of-political-organisations-parties

With the increasing level of public trust in KNAB, the public is providing much more information on possible cases of corruption, abuse of authority, illegal financing of Political Parties, and conflict of interest. Thus, as the volume of the received information increases, the Bureau faces both understaffing and underfunding. According to KNAB, there is a need for deliberate action to implement measure No. 180.2 of the Government Action Plan, investing resources in training for the existing staff and attracting new staff. Measure No. 180.2 of the Government Action Plan provides for strengthening of the Bureau's capacity in terms of human and material resources by increasing the Bureau's budget and number of positions by 23%.[6]

KNAB basis its actions on several laws, such as "Law on Corruption Prevention and Combating Bureau", "Law on Prevention of Conflict of Interest in Activities of Public Officials"[7], "Law on Financing of Political Organisations (parties)"[8], "Pre-election Campaign Law"[9], "On National Referendum, Legislative Initiative and European Citizens' Initiative"[10], "On Prevention of Squandering of the Financial Resources and Property of the State and Local Governments"[11]. Since KNAB is legal enforcement agency, the following laws are also controlling its actions: "Criminal Law"[12], "Criminal Procedure Law"[13], "Latvian Administrative Violations Code"[14] (valid until 31st June 2020) and "Operational Activities Law"[15], etc.

There are several institutions in Latvia that investigate corruption crimes within their scope of competence. KNAB functions are laid down in the "Law on Corruption Prevention and Combating Bureau" Chapter III, Sections 7, 8, 8^1, 9 and 9^1. Other institutions with investigative functions on corruption cases are State Police (investigates corruption in private institutions and fraud), Internal Security Bureau (investigates criminal offences within State Police and State Fire and Rescue Service), State Revenue Service (Customs and Tax Police) and State Border Guard (investigates corruption within the State Border Guard itself).

Practice has shown that cooperation with different other institutions also yields high results in preventing corruption, for example, in 2019 in one case KNAB cooperated with Competition council, in order to reveal a cartel, which was also involved in public procurements.

KNAB works closely with the Prosecution Office, which oversees the investigation phases of cases. KNAB carries out investigative and operational activities, further, when KNAB investigator takes a decision, all the case material is sent to the Prosecution Office, which is the competent authority to prosecute corruption cases.

[6] https://likumi.lv/ta/id/306691-par-valdibas-ricibas-planu-deklaracijas-par-artura-krisjana-karina-vadita-ministru-kabineta-iecereto-darbibu-istenosanai

[7] https://likumi.lv/ta/en/en/id/61913-on-prevention-of-conflict-of-interest-in-activities-of-public-officials

[8] https://likumi.lv/ta/en/id/36189-law-on-financing-of-political-organisations-parties

[9] https://likumi.lv/ta/en/id/253543-pre-election-campaign-law

[10] https://likumi.lv/ta/en/en/id/58065-on-national-referendum-legislative-initiative-and-european-citizens-initiative

[11] https://likumi.lv/ta/en/id/36190-on-prevention-of-squandering-of-the-financial-resources-and-property-of-a-public-person

[12] https://likumi.lv/ta/en/en/id/88966-the-criminal-law

[13] https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law

[14] https://likumi.lv/ta/en/en/id/89648-latvian-administrative-violations-code

[15] https://likumi.lv/ta/en/en/id/57573-operational-activities-law

B. Prevention

20. Integrity framework: asset disclosure rules, lobbying, revolving doors and general transparency of public decision-making (including public access to information)

Chapter IV of "Law on Prevention of Conflict of Interest in Activities of Public Officials" regulates mandatory asset disclosure rules for public officials, which have to be submitted in certain time frames:

1) a declaration to be submitted upon assuming the Office (Within one month from assuming the Office);
2) a declaration for the current year (From 15th February to 1st April, annually);
3) a declaration to be submitted upon ending the duties of the Office (Within 2 months from ending the duties of the Office);
4) a declaration to be submitted after the performance of duties of the Office has been terminated (For certain public officials it is defined by law. The declaration for the first 12 months shall be submitted not later than in the 15th month, for the next 12 months - not later than in the 27th month after termination of performance of the duties of office of public official).

Section 24 of the law lists all information that needs to be included in the asset declarations:

- information on other offices that the public official holds in addition to the office as a public official;
- information on the immovable property in his/her ownership, possession or usage;
- information on the fact that the public official is an individual merchant; information on commercial companies where he/she is a shareholder, a stockholder or a partner, as well as information on the capital shares and stocks owned by the public official;
- financial instruments (debt securities, investment certificates, money market instruments, securities attaching the right to acquire or alienate transferable securities);
- information on means of transport to be registered and owned by the public official;
- information on cash or non-cash savings if their amount exceeds twenty minimum monthly wages;
- information on all kinds of income obtained during the reporting period;
- information on transactions performed by him/her if their amount exceeds twenty minimum monthly wages;
- information on the fact that he/she is the beneficial owner within the meaning of the Law On the Prevention of Money Laundering and Terrorism Financing;
- information on his/her debts the amount of which exceeds twenty minimum monthly wages;
- information on loans given (amount thereof) if the total amount of such loans exceeds twenty minimum monthly wages;
- information on whether he /she has accumulated resources in private pension funds or life insurance (with the accumulation of funds);
- other information that the public official finds important to provide to the State Revenue Service.

The asset declarations (with exceptions for security services) are checked both by State Revenue Service and KNAB. The asset declarations of public officials from security services are checked by the Constitution Protection Bureau of Latvia.

Regarding lobbying, public has opportunities to participate in drafting new laws or amendments. Regulation No.300 adopted on 7 April 2009 "Rules of Procedures of the Cabinet of Ministers" provides for the possibility to invite persons, including members of the society, to State Secretaries' meetings, Cabinet of Ministers and it`s Committee meetings. The Rules of Procedures of the Cabinet of Ministers provides that the invited persons shall be indicated in the agenda of the meeting.[16] Similarly, the protocols of these meetings contain the names of the president of the meeting, the participants of the meeting, including those with rights to vote and with advisory rights. In the above-mentioned protocol issue, the names of all those who intervened about a particular issue are listed in brackets under each issue [17]. The above-mentioned information is available online, namely, all agendas and protocols for each meeting, and the historical information[18]. Furthermore, as of 2013, the Cabinet of Ministers meetings are broadcast live. Any person who intervenes during the meeting can be seen and heard online.

In October 2019, the Defence, Internal Affairs and Corruption Prevention Committee of the Saeima established a Working Group to draft a new law on lobbying. In 2019, the Analytical Service of the Saeima conducted a research on lobbying, also analysing experience of other countries. The Working Group started drafting the new law in January 2020. The Working Group intends to draft up very broad regulation, in order to promote transparency of interests in different State authority branches, including on the legislative level. The Working Group has members from all political parties' fractions of the Saeima, the Judicial Bureau of the Saeima, the President's Office, Ombudsman's Office, KNAB, representatives of State Chancellery, NGO's (Transparency International in Latvia and Centre for public policy "Providus"). Parliamentarian Inese Voika (good governance, transparency and anti-corruption expert, one of the founders of "Transparency International branch in Latvia") is chairing the working group.

The Cabinet of Ministers Regulation 970 "Procedures for the Public Participation in the Development Planning Process"[19] provides the procedures for the public participation in the development planning process of the Saeima, the Govrenment, State institutions of direct administration, State administrative institutions which are not subordinated to the Cabinet, planning regions and local governments.

Regarding the revolving doors matter, the "Law on Prevention of Conflict of Interest in Activities of Public Officials" Sections 9 and 10 prohibit certain income generation and commercial activities for specified time periods after leaving the position of a public official.

General transparency of public decision-making is guaranteed by "Freedom of Information Law"[20]. In case if a person is interested in specific questions, they may make submissions requesting additional information based on "Law of Submissions"[21].

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[16] For example: http://tap.mk.gov.lv/mk/mksedes/saraksts/darbakartiba/?sede=1089

[17] For example: http://tap.mk.gov.lv/mk/mksedes/saraksts/protokols/?protokols=2019-10-08

[18] http://tap.mk.gov.lv/mk/mksedes

[19] https://likumi.lv/ta/en/en/id/197033-procedures-for-the-public-participation-in-the-development-planning-process

[20] https://likumi.lv/ta/en/en/id/50601-freedom-of-information-law

[21] https://likumi.lv/ta/en/en/id/164501-law-on-submissions

21. Rules on preventing conflict of interests in the public sector

The "Law on Prevention of Conflict of Interest in Activities of Public Officials" provides for restrictions and prohibitions on public officials, prevention of conflict of interest in actions of public officials and declaration of the financial status of public officials and a mechanism for the verification of the declarations of public officials.

22. Measures in place to ensure Whistle-blower protection and encourage reporting of corruption

The "Whistleblowing law"[22] entered into force on 1 May 2019. The "Whistleblowing Law" determines whistleblowing mechanisms that must be used for whistleblowing in public institutions and private entities with more than 50 employees. These mechanisms (internal; turning to a competent authority or through intermediation of the contact point of whistle-blowers or association or foundation, including a trade union or association; public media can also be used for this purpose) must protect the identity of the whistle-blower and protect against adverse effects caused due to whistleblowing.

A whistle-blower is released from state fees in administrative proceedings; state ensures legal aid to the whistle-blower and his/her relatives according to "State Ensured Legal Aid Law", and if a whistle-blower is whistleblowing in conformity with the requirements of the "Whistleblowing Law", then legal liability, including civil legal liability and criminal liability, shall not set in for the person.

KNAB also offers a wide range of options for the public to report corruption. This includes anonymous and signed submissions in writing by mail or e-mail, anonymous and identified phone calls (a hotline and office line), meetings with investigators in person as well as a mobile app, which has proved to be very useful during pre-election campaigning, but can be used on a daily basis for any kind of corruption reporting. KNAB is one of the competent authorities to which whistle-blowers can report suspected criminal offences or violations of the law. In 2019 KNAB received 51 whistle-blower reports, of which 18 were confirmed to be whistle-blower reports, 13 were redirected to other institutions according to competence and 20 were not confirmed to be whistle-blower reports.

23. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for preventing corruption in these sectors. (e.g. public procurement, healthcare, other)

The sectors with high-risks of Corruption are identified in the KNAB Operational Strategy 2020-2022[23] and cover the following areas to which the focus and allocation of resources of KNAB will be:

1. Reducing the possibility of wrongful acts of public officials with the property and financial resources of a public authority, including the identification and eradication of corruptive criminal offences in public authorities, by performing targeted actions in the following priority fields:

1.1 financial sector;

[22] https://likumi.lv/ta/en/en/id/302465-whistleblowing-law

[23] https://www.knab.gov.lv/upload/2020/operational_strategy_2020-2022_eng.pdf

1.2 judiciary authorities;
1.3. healthcare;
1.4. public procurements in the:
a) projects funded by the European Union;
b) construction sector;
c) largest local governments of Latvia;
d) *Rail Baltica* project;

2. Conducting, to the extent possible, parallel financial investigations in the criminal proceeding investigated by the Bureau in order to identify, seize and confiscate proceeds of crime;

3. Improving the monitoring of the financing of Political Parties through the application of the new model for financing Political parties;

4. Strengthening the capacity of the Bureau in terms of human and material resources, to enhance and improve the efficiency of the operational and investigative capacity of the Bureau, prevent and combat corruptive criminal offences and monitor the enforcement of the Law on Financing of Political Organisations (Parties).

C. Repressive measures

25. Criminalisation of corruption and related offences

KNAB would like to draw attention that the criminalization of corruption and related offences in legislation of Latvia was thoroughly examined during the 1st Review Cycle of UNCAC, the report of which was published in 2014.[24]

Several of the laws have been amended based on recommendations received in the 1st and 2nd Phase Reports of OECD WGB.

"Criminal Law (CL) Section 320. Accepting Bribes" was amended in 8 June 2017 (entry into force 1 January 2018), based on recommendations received in both 1st and 2nd Phase assessments from Organization of Economic Co-operation and Development (OECD) Working Group on Bribery in International Business Transactions (further – WGB). The amendments were introduced to harmonize CL Sections 320 and 323, which initially foresaw a lower responsibility for public officials requesting or extorting bribes than for private persons (bribers). After the amendments were introduced, the public officials can be held criminally liable also for requesting or extorting a bribe, which is now considered to be a completed criminal offence in itself. The amendments also excluded the norm of having to prove in whose interests a criminal offence has been committed.

"CL Section 326.2. Unlawful Requesting and Receiving of Benefits" was amended in 6th June 2019 (entry into force 3 July 2019), based on recommendations received in both 1st and 2nd Phase assessments from OECD WGB, in order to harmonize the Section 326.2. with previously amended Section 320 and to excluded the requirement of having to prove in whose interests a criminal offence has been committed.

[24] https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2014_10_24_Latvia_Final_Country_Report.pdf

"CL Section 316. Concept of a Public Official" was amended on 15 May 2014, introducing a broader understanding of international public officials. In the amendments of 10 March 2016, the law was amended based on recommendations received in 2nd Phase assessment from OECD WGB. Previously the definition of "foreign state" was not precisely defined and the latest amendment to the Section fixed that.

Regarding strengthening investigation and enforcement of laws implementing Articles 15 and 16 of the Convention, Latvia would like to inform that based on recommendations received in the 3rd Phase assessment from OECD WGB, KNAB plans to issue internal instructions, by which investigating foreign public officials' bribery cases will be set as one of the top priorities, including mandatory parallel financial investigation in all investigations. The internal instructions are to be developed by July 2020.

26. Overview of application of sanctions (criminal and non-criminal) for corruption offences (including for legal persons)

According to the "Law on Prevention of Conflict of Interest in Activities of Public Officials" Section 31 provides an obligation for KNAB and State Revenue Service to inform the society regarding the violations of this Law detected in the activities of a public official, placing the information on the website of the relevant authority for the term of one year.

According to the law "On Judicial Power"[25], only courts can apply criminal sanctions for corruption offences. In certain cases, established by "Criminal Procedure Law" Section 421. a public prosecutor may draw up a Penal Order.

27. Potential obstacles to investigation and prosecution of high-level and complex corruption cases(e.g. political immunity regulation)

The Constitution of Republic of Latvia Sections 29 and 30 provide immunity to Parliamentarians against criminal prosecution without the consent of Saeima. Section 29 also prohibits searching premises of Parliamentarians and they may only be arrested if apprehended in the act of committing a crime (Saeima must be notified within the following 24 hours to take a decision whether to keep the person in detention or to release them) – in other cases, they may be arrested only with the consent of Saeima.[26] Section 54 of the Constitution allows subjecting the State President to criminal liability if the Saeima consents thereto by a majority vote of not less than two-thirds. These both provisions are also codified in the "Criminal Procedure Law" Section 120 (1). This law also guarantees immunity from criminal proceedings for judges and ombudsman (only Prosecutor General may initiate a criminal proceeding against them). A judge or ombudsman may be held criminally liable or arrested only with the consent of the Saeima. A decision on placing under arrest of a judge or an ombudsman, conveyance by force, detention, or subjection to a search shall be taken by a specially authorised Supreme Court judge. If a judge or ombudsman has been apprehended in the committing of a serious or especially serious crime, a decision on conveyance by force, detention, or subjection to a search shall not be necessary, but the specially authorised Supreme Court judge and the Prosecutor General shall be informed within 24 hours.[27]

[25] https://likumi.lv/ta/en/en/id/62847-on-judicial-power
[26] https://likumi.lv/ta/en/en/id/57980-the-constitution-of-the-republic-of-latvia
[27] "Criminal Procedure Law" Section 120

A prosecutor may be detained, conveyed by force, subject to a search, arrested, or held criminally liable in accordance with the procedures laid down in the law, notifying the Prosecutor General regarding such actions without delay.

An official of a State security institution, the Internal Security Bureau, and the Corruption Prevention and Combating Bureau may be detained, conveyed by force, subjected to a search, or a search or inspection may be conducted of the residential or service premises thereof, or of the personal or service vehicle thereof, and he or she may be held criminally liable, only with the consent of the Prosecutor General. If an official has been apprehended in the committing of a criminal offence, such consent shall not be necessary, but the Prosecutor General and the head of the relevant state security institution or office shall be informed within 24 hours.[28]

To prevent and combat high-level and complex criminal offences, KNAB officials need both the appropriate skills and technical and analytical tools. The amount of information being processed is growing rapidly, including the amount of information available in the form of open data. As a result, there is a growing need for sophisticated and modern programs and tools for data processing and analysis. In order for KNAB to remain up-to-date with the latest trends in information processing, it is necessary to regularly update the technical equipment of the KNAB with modern and effective solutions. Therefore, the full implementation of measure No. 180.2 of the Government Action Plan which provides for strengthening of the Bureau's capacity in terms of human and material resources by increasing the Bureau's budget and number of positions by 23%, is essential in further development of KNAB competencies.

KNAB also faces difficulties with attracting high-level specialists due to specific application procedures, which can take up to 6 months for security checks and limited education possibilities on higher education levels.

[28] *Ibid.*

III. Media pluralism

A. Media regulatory authorities and bodies

28. Independence, enforcement powers and adequacy of resources of media authorities and bodies

The Electronic Mass Media Law (EMML)[29] sets out the status, competencies, rights and duties of the media authority, the National Electronic Mass Media Council (NEMMC). The Law explicitly states that the Council is an independent, autonomous institution. The bill transposing the revised Audiovisual Media Services Directive (AVMSD, 2018/1808) AVMSD (2018/1808) reinforces the authority's independence by including the provision that the Council "shall not seek or take instructions from any other body". Members of the Council cannot be officials of political parties and cannot own shares in media services.

The Council's enforcement powers range from warnings and fines to revocation of licences to the suspension and prohibition of retransmission of services. The latter have been used to suspend retransmission of a channel for illegal content (hate speech and incitement to violence) and to prohibit the retransmission of certain channels because their beneficiary owner is on the EU sanctions list.

Regarding resources, the EMML states: "The financing necessary for fulfilling the functions of the National Electronic Mass Media Council, including provision of the public service remit, shall be granted from the State budget."

In 2019, the NEMMC submitted a request for the financing of 10 additional staff in order to increase the capacity of the Monitoring Unit. The objective of the request was to enable the Council to fulfil its function to prevent the unlicensed retransmission of programmes on the Internet. This would be done by limiting access to those websites available in Latvia, which retransmit television programmes without a retransmission permit through prohibiting the use of the domain name of these sites for a period of up to six for months. Restrictions on the distribution of unlicensed content is seen as essential in strengthening the security of the Latvian information space.

In August 2019, the antipiracy NGO *For Legal Content* also invited the Prime Minister, Minister of Finance, Minister of Culture, the Saeima (parliament) Human Rights and Public Affairs Committee and the State Security Service to support the budget increase for the NEMMC.

As from 1 January 2020, the financing for the Monitoring Division allows for three additional staff.

The bill to amend the EMML in order to transpose the AVMSD was adopted by the Government on 21 April 2020 and will now go to parliament for the customary three readings. One of the new provisions aims to strengthen the independence of the regulatory authority: "In carrying out its tasks, the National Electronic Media Council shall neither seek nor take instructions from any other body."

[29] https://likumi.lv/ta/id/214039-elektronisko-plassazinas-lidzeklu-likums/redakcijas-datums/2013/11/30 (in Latvian, a slightly outdated English language translation is also available at the same site.)

29. Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media authorities and bodies

Candidates to the Council are elected by the Saeima (parliament). They are nominated by the Commission of Human Rights and Public Affairs of the Saeima after a consultations with professional associations and NGOs active in the field of mass media, education, culture, science and human rights. Candidates have to be resident Latvian citizens with higher education, five years professional or academic experience in the field of mass media, education, culture, science or human rights and of good reputation. Once elected, they are required to obtain clearance for access to classified information.

Members of the Council are elected for a term of five years and may be re-elected but not more than twice in succession.

Council members may be dismissed by parliament if the member resigns of their own free will, if the member has not participated in the work of the Council, including not attending more than half of the Council meetings without justification, or cannot fulfil their duties due to illness or other reasons for more than six months in succession. Members can also be dismissed if they cannot satisfy the requirement to have access to classified information.

B. Transparency of media ownership and government interference

30. The transparent allocation of state advertising (including any rules regulating the matter)

All electronic media are required to record the programmes they distribute (apart from retransmissions) and keep these recordings for at least three months following the day of the distribution. The media are also required to keep a register of transmitted content showing the title of the programme and the broadcast, the time and duration of its transmission, copyright and neighbouring rights holders, the language of the broadcast, the sponsors of the broadcast, as well as the time and duration of commercial communications. In practice, these registers do not identify the actual advertisers. The Council has the right to request copies of these recordings and registers. However, during the pre-election campaign period, the Pre-election Campaign Law[30] requires the clear identification of those who have paid for election related advertising.

Regarding sponsorship, the EMML prohibits the sponsorship of news and current affairs programmes. This prohibition does not be apply to weather forecasts, financial market information, sports news and similar narrowly focused broadcasts which are clearly separated from news and current affairs programmes.

In 2019, the Senate of the Latvian Supreme Court examined a case regarding the right of the Baltic Centre for Investigative Journalism *Re:Baltica* to receive information from the Riga City Council regarding revenues and expenses of the Riga Municipal Foundation *Riga.lv* in 2015, 2016 and 2017, including who was paid to, how much was spent on advertising in the media and social networks as well as information on decisions taken at the *Riga.lv* board meetings regarding the use of funds. Riga City Council had refused to provide *Re:Baltica* the

[30] https://likumi.lv/ta/en/en/id/253543-pre-election-campaign-law

information requested, referring to the need to protect personal data and business secrets. The District Administrative Court partly satisfied the *Re:Baltica* application for information. The Riga City Council submitted a cassation appeal to the Supreme Court.

In its judgment[31], the Senate stressed that transparency is an integral feature of the functioning of a democratic public administration, including the possibility of obtaining information on the use of public funds. In a democratic country, the society should be able to follow up on how the state and local governments perform their functions and how public funds are used to make sure that these funds are used to ensure public interest and are not used in a reckless manner, such as the pursuit of the selfish interests of people with public power.

31. Public information campaigns on rule of law issues (e.g. on judges and prosecutors, journalists, civil society)

The mission of the *Providus*[32] centre for public policy is to promote evidence-based policy and open society values. One of its strategic goals is to help Latvia become one of the best-governed countries in the European Union. Every year, *Providus* sets out its priorities in promoting better governance in order to achieve this goal. The 2019 priority was the establishment of effective consultative mechanisms for cooperation between municipal governments, the national government, parliament and civil society. In 2019, the centre helped the Court Administration develop and pilot a survey for assessing the work of courts, to make it possible to understand the extent to which the participants of court proceedings are satisfied or dissatisfied with the quality of the work performed by courts. It also began the groundwork for collaborating with law-enforcement agencies, helping the School of Public Administration organise a two-day international conference about the difficult situations that occur in communication between investigators, prosecutors and journalists.

The centre's 2020 priorities in the field of better governance including the development of a mid-term policy planning document for the prevention of corruption, supporting the national parliament in developing a reasonable law regulating lobbying and finding solutions for the most severe governance problems in Latvia: the lack of analytical capacity both in the government and in parliament, the poor coordination and communication of important reforms, and the lack of information.

The goals set by *Delna*[33], the Latvian branch of Transparency International, include:

- To ensure that the Prosecutor's Office and courts explain their decisions to society under the legislative framework;
- To improve the work of the courts and to lobby for the accountability of judges for ensuring open courts free of corruption, concurrently respecting the rights and interests of the parties to the proceedings;
- To achieve the publication on the Internet of all court rulings that have been announced in open trials;

Among its capacity building activities, *Delna* lists citizen empowerment through access to information. "The principle of information transparency is an instrument that society uses

[31] https://bit.ly/2VgF76e
[32] http://providus.lv/en
[33] https://delna.lv/en/

to control the work of government, thus improving the quality of public administration. Transparency helps society to engage in decision-making. Moreover, it reduces the risks of corruption, collusion, and unlawful or ineffective conduct or both, as well as increasing society's confidence in public administration."

On 9 April 2019, the Constitutional Court published the first bookazine (books and magazines) series on Article 92 of the Constitution – the right to a fair trial. The series is dedicated to the Constitutional Court's case law relating to the issues of fundamental rights aimed at informing and educating the public.

32. Rules governing transparency of media ownership

Transparency of media ownership is envisaged in the EMML, which requires prospective service providers to provide the Council with information on their beneficial owners and existing service providers to provide information on any changes of beneficial owner. Applications for broadcasting or retransmission permits can be rejected if this information is not submitted.

Beneficial owners are those as defined in the Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing[34], i.e. "an individual who is the owner of the customer - legal person - or who controls the customer, or on whose behalf, for whose benefit or in whose interests business relationship is being established or an individual transaction is being executed, and it is at least:

a) regarding legal persons - an individual who owns, in the form of direct or indirect shareholding, more than 25 per cent of the capital shares or voting stock of the legal person or who directly or indirectly controls it;

b) regarding legal arrangements - an individual who owns or in whose interests a legal arrangement has been established or operates, or who directly or indirectly exercises control over it, including who is the settlor, the trustee or the protector (manager) of such legal arrangement;

The Law on the Press and other Mass Media (commonly known as the Press Law[35]) also has a disclosure provision whereby the "founders and owners of mass media, who are capital companies, have a duty to inform the Commercial Register Authority about their true beneficiaries in the cases and procedures specified in the Commercial Law." That is, they must also identify the individual behind the legal person.

B. Framework for journalists' protection

33. Rules and practices guaranteeing journalist's independence and safety and protecting journalistic and other media activity from interference by state authorities

The Press Law prohibits interference with the operations of the mass media. Journalists have the right to gather information by any method not prohibited by law and

[34] https://likumi.lv/ta/en/en/id/178987-law-on-the-prevention-of-money-laundering-and-terrorism-and-proliferation-financing

[35] https://likumi.lv/ta/id/64879-par-presi-un-citiem-masu-informacijas-lidzekliem (in Latvian, an outdated English language translation is also available at the same site)

from any source of information not prohibited by law, and to disseminate information. They have the right to be present at socially significant events. Journalists can refuse to prepare and publish material if it conflicts with their views. Prior to publication, they can remove their signature from material if its content has been distorted as a result of editing. Editors/chief editors are editorially independent.

The EMML also states that the electronic media are editorially independent.

The current bill to amend the Press Law envisages warnings or fines of up to 1000 euro for individual or legal person who prevent or deprive journalists from performing their duties, an administrative offence. The State Police are responsible for conducting the administrative offences proceedings.

34. Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists

There is currently no regulatory framework, specifically concerning the protection of journalists. However, since an incident in December 2019, where some journalists of *Re:Baltica* were being harassed and the police were unsure of how to proceed and what measures to take, Prime Minister instructed the Minister of Culture, and the Minister of the Interior to look for solutions to ensure journalists' complaints are promptly investigated and to examine the possibility of establishing a permanent system for law enforcement bodies examining journalists' complaints taking into account the specific nature of their work and the recommendations of the Council of Europe on the safety of journalists and other media actors.

The state police have agreed to provide journalists with a 24hr contact person in the event of a potential threat. They have also undertaken to check the information provided by journalists as quickly as possible.

35. Access to information and public documents

The Press Law gives the mass media the right to receive information from the state and public organisations. State and public organisation officials may only refuse to comply if the information cannot be published for example, classified material and pre-trial investigation material.

The Freedom of Information Law[36] obliges state and other institutions fulfilling administrative functions to provide information on their own initiative or upon the request of a private person. Generally accessible information must be provided to anyone who wishes to receive it. Persons requesting information are not required to specifically justify their interest in generally accessible information and cannot be denied of it because it does not apply to them. If an institution refuses to provide information, which has been requested in writing, it must specify in its written refusal the grounds for the refusal and where and within what time period this refusal may be appealed.

[36] https://likumi.lv/ta/en/en/id/50601-freedom-of-information-law

36. Other - please specify

COVID-19 and the media

As the media sector is among the sectors affected by the Covid-19 crisis, media companies can qualify for general support mechanisms (tax breaks, idle period, support instruments for improving financial accessibility, etc.).

The Ministry of Culture made several proposals to the government to lessen the impact of the pandemic on media service providers, which could have a harmful effect on media pluralism:

- Increase the funding of the Media Support Fund for the production of material of public interest as well as provide that Media Support Fund tenders can be carried out in a shorter period of time;
- Provide support to cover the costs of print media delivery as well as the costs of broadcasting radio and TV channels;
- Grant additional funding to commission commercial broadcasters to provide information to society on the emergency situation;
- Revision of advertising restrictions in order to make it easier for the media to generate their own revenue.

The government response was to order the release of some 2 million EUR from the state budget under the unforeseen events programme. 1 million EUR is allocated to the National Electronic Media Council in order to enable the public to receive comprehensive information and opinions on the crisis management of the Covid-19 and to ensure the security of the national information space in the commercial electronic media. The rest has been allocated to the Ministry of Culture for the Media Support Fund, in order to provide the public with the possibility of receiving information and opinions on the management of the Covid-19 crisis and in ensuring the security of the national information space in the printed press and commercial internet news portals. There will be support to cover the costs of delivering the subscribed press and the costs of broadcasting. The Society Integration Fund has published tenders with the aim of providing support for the continued operation and capacity building of commercial printed and digital media, as well as for the development of socially important content during the emergency.

IV. Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

37. Stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), transparency of the legislative process, rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions).

The Cabinet of Ministers of Latvia ensures that the legislative process in the Government is transparent. The functioning and operation of the Cabinet of Ministers (hereinafter – the Cabinet) is regulated by the *Law on Cabinet Structure*, which, inter alia, establishes a general rule that sittings of the Cabinet shall be open (Article 29). The agenda of each forthcoming Cabinet sitting is published on the Cabinet website and is accompanied with publicly available draft legal acts; the minutes of sittings are also made publicly available. Representatives of the media and non-governmental organizations may participate in open meetings, and anyone can watch them live stream. Yet, the Prime Minister has a right to derogate from the general rule and announce that a specific sitting or its part thereof shall be closed. The *Rules of Procedures of the Cabinet* in detailed manner determine participation procedures and restrictions.

All members of the Cabinet have a right to vote and they can address any issue being examined in the specific sitting. For a sitting to be held and decision to be adopted, more than half of the members of the Cabinet must be present. The legal acts (by-laws) adopted by the Cabinet are published in the official journal "*Latvijas Vēstnesis*"; the supported draft laws are forwarded to the *Saeima* for further legislative process.

Article 75 of the Constitution of Latvia entrusts the *Saeima* with the authority to determine that a law is "urgent". Such a decision requires no less than a two thirds majority vote. If the *Saeima* decides that a law is "urgent" the President of Latvia may not request reconsideration of the law, it may not be submitted to national referendum, and the adopted law shall be proclaimed no later than on the third day after the President has received it.

The *Rules of Procedure* of the *Saeima* (Article 114, part 2) foresee a procedure for adoption of laws in an urgent manner. The *Saeima* accepts in two readings (as a general rule there are three readings): (1) draft laws, which have been recognized as urgent; (2) draft state budget law, amendments to the state budget, the draft medium-term budget framework law and amendments to the medium-term budget framework law; (3) draft laws, which provide for the approval of international agreements. The *Saeima* decides on urgency before the debate in the first reading is commenced.

38. Regime for constitutional review of laws

In Latvia, the constitutional review is carried out by the Constitutional Court, which is established in accordance with Article 85 of the Constitution. According to Article 1 of the *Constitutional Court Law*, the Constitutional Court shall be an independent judicial authority.

The Constitutional Court has a competence to review the conformity of laws, international agreements entered into by Latvia, as well as other regulatory enactments with the Constitution as stipulated by Article 16 of the *Constitutional Court Law*.

If a person believes that a law, an international agreement or other regulatory enactment breaches the fundamental rights specified in the Constitution, the person has a right to lodge an application or a "constitutional complaint" before the Constitutional Court. The Constitutional Court will initiate a case provided that the application complies with the general and special requirements specified by law.

The Constitutional Court may establish an inconsistency of a separate legal norm or the entire regulatory enactment with a legal norm of higher legal force. It is entitled to declare laws or other enactments or parts thereof invalid. The rulings of the Constitutional Court shall be final and binding upon all State authorities.

B. Independent authorities

39. independence, capacity and powers of national human rights institutions, ombudsman institutions and equality bodies

It should be emphasised that national human rights institutions in Latvia function independently. The Ombudsman's Office[37] is in charge of protection of the rights of each and every inhabitant of Latvia. The Ombudsman is an official elected by the *Saeima*, who ensures that human rights are observed in Latvia and that the state administration and local governments observe the principle of good governance. According to Article 4 of the Ombudsman Law[38], the Ombudsman shall be independent in his/ her activities and shall be governed exclusively by the law. No one has the right to influence the Ombudsman in the performance of his/ her functions and tasks. The office of the Ombudsman may not be combined with a membership in a political party. The Ombudsman Law regulates the functions of the Ombudsman:

1) to promote the protection of the human rights of a private individual;

2) to promote the compliance with the principles of equal treatment and prevention of any kind of discrimination;

3) to evaluate and promote the compliance with the principles of good administration in the State administration;

4) to discover deficiencies in the legislation and the application thereof regarding the issues related to the observance of human rights and the principle of good administration, as well as to promote the rectification of such deficiencies;

5) to promote the public awareness and understanding of human rights, of the mechanisms for the protection of such rights and the activities of the Ombudsman.

C. Accessibility and judicial review of administrative decisions

40. modalities of publication of administrative decisions and scope of judicial review

Administrative courts started their operation on 1 February 2004, when the Administrative Procedure Law entered into force. The administrative courts, based on an application by person, exercise control over the lawfulness or effectiveness of an administrative act (decision), issued by an institution, or de facto action of an institution within the framework of its discretion. The administrative court ascertains the public legal

[37] http://www.tiesibsargs.lv/en

[38] https://likumi.lv/ta/en/id/133535-ombudsman-law

obligations or rights of an individual and reviews the disputes arising from the public law contract. This is an effective legal remedy available to individuals and legal persons, including less protected groups of society. Anyone whose (subjective) rights set by the law have been violated by a public authority, may apply to the administrative court with an application. Administrative courts may grant a compensation for violation of rights.

Unlike the courts adjudicating the civil cases and criminal cases, the administrative court, when establishing the circumstances in the case, acts in accordance with the principle of objective investigation. If necessary, it can collect evidence itself, on its own initiative, as well as can give instructions and recommendations to the participants of the administrative proceedings in order to establish the actual circumstances of the case and achieve legal and fair adjudication of the matter within the limits of the claim.

41. implementation by the public administration and State institutions of final court decisions

If the Constitutional Court has established that a norm (act) does not comply with a legal norm of higher legal force, the Constitutional Court either

(1) rules that the disputed legal norm becomes invalid from the moment of the adoption of the decision; the annulment of a legal provision means that from the beginning (*ex tunc*) it never legally existed and in fact, the norm was valid only declaratively or

(2) indicates the moment with which it shall cease to be in force if the Constitutional Court considers legislator needs some time to adopt better regulation or find a better assessment of legal interests. These cases usually concern legal solutions that require a political decision by the legislator, proper preparation for the financial consequences of one's decision, or a major change in a part of the legal system that justifies the validity of an unconstitutional norm for some time.

Thus, public administration and state institutions observe and implement court decisions, as well as use the findings of case law and doctrine.

D. The enabling framework for civil society

42. Measures regarding the framework for civil society organisations

The right to freedom of association in Latvia is enshrined in Article 102 of the Constitution and the State fully respects and ensures it. Freedom of association protects the individual's sphere of personal freedom from state interference (or *status negativus*). In practical terms the right stemming from Article 102 of the Constitution means that everyone can unite in and form a wide range voluntary and social groups to achieve their own freely chosen and legal goals. The term “unite” is understood in the broadest sense, so that the effect of the basic relationship is effective.

Regarding the framework for civil society organizations, it should be noted that in Latvia successfully functions the *Law on Associations and Foundations*. The purpose of this *Law* is to promote the activities of associations and foundations and the long-term development thereof, as well as to facilitate the strengthening of a democratic and civil society. Individuals and legal entities, and also partnerships with legal capacity may be founders of an association, the number of founders may not be less than two.