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COMMISSION STAFF WORKING DOCUMENT

**2021 Rule of Law Report
Country Chapter on the rule of law situation in Latvia**

Accompanying the

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**2021 Rule of Law Report
The rule of law situation in the European Union**

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ABSTRACT

The Latvian justice system has benefitted from measures to further improve its independence, quality, and efficiency. The new procedure for selecting candidate judges, established to strengthen judicial independence, started to be applied. The Judicial Council approved a new strategy for 2021-2025 aiming at increasing judicial independence. However, the Council keeps operating with limited resources, in particular as regards its staff – an issue already raised in the 2020 Rule of Law Report. A new Code of Ethics for judges has been adopted to modernise guidance on ethics, which had not been amended since 1995. The level of digitalisation of courts and the prosecution services is high, and efforts are ongoing to develop it further. The Government intends to create a new training centre, centralising all training in the justice system. It would be important that the judiciary is adequately involved in its governance and supervision. The newly created Economic Court is becoming operational and will require sufficient resources as regards both staff and training to be able to handle complex economic and financial cases efficiently.

The legislative reforms adopted by Latvia to strengthen the effectiveness of the anti-corruption framework remain to be fully implemented. Legislation criminalises the offences of abuse of office, domestic and foreign bribery, and trading in influence. A new Action Plan to prevent corruption is under preparation. The investigation and prosecution of corruption-related offences continues to be a shared task among different authorities. Measures were taken to increase the capacity of the Corruption Prevention and Combating Bureau to investigate corruption cases. Work on the integrity framework for the prevention of conflicts of interest continued, but the provisions regulating “revolving doors” and post-employment restrictions remain limited. Lobbying remains unregulated, while the draft legislation continues to be discussed by the Parliament. The State Audit Office audited more than 90% of the funding spent in 2020 for COVID-19 related support measures.

As regards media freedom and pluralism, new legislation has been adopted to transpose the Audiovisual Media Service Directive, which aims to strengthen the independence of the media regulator, the National Electronic Mass Media Council, while its remit has been reduced by excluding the operational oversight of public service media. Although a comprehensive framework for the protection of journalists and the right to access information is in place, it appears that journalists continue to face personal attacks online, often from politicians. Steps were taken to mitigate the economic impact of the COVID-19 pandemic on the media. In addition, some concerns were expressed about journalists’ limited access to information during the COVID-19 pandemic.

Measures to address the COVID-19 pandemic were adopted in the framework of the state of emergency, which ended in April 2021. The Parliament continued to work remotely and reviewed the pandemic-related measures. However, Parliament could only approve or reject *ex post* the Government measures that mostly had already entered into force under the state of emergency and could not amend them. The Ombudsperson's Office was re-accredited with an A-status and continued to monitor measures related to the pandemic. New Guidelines for the development of a more cohesive civil society for the period 2021-2027 were adopted by Government, which also allocated financial support to NGOs to mitigate the impact of the COVID-19 pandemic.

I. JUSTICE SYSTEM

The Latvian justice system has three tiers. At first instance, there are nine district (city) courts dealing with civil and criminal cases, and one district administrative court. A new specialized Economic Court deals with certain economic and financial crimes. At second instance, five regional courts are dealing with civil and commercial cases and there is one regional administrative court. The Supreme Court, at third instance, is handling criminal, civil and administrative cases. The Constitutional Court carries out constitutional review. An independent Judicial Council is tasked with participating in the development of policies and strategies for the judicial system and the improvement of its organisation. Furthermore, the Council deals with selecting candidate judges, appointing and dismissing court presidents, determining the judicial map and approving the content of training. Candidate judges are selected through an open competition organised by the Judicial Council, ranked and placed on a list, from which the Minister for Justice proposes the candidate with the highest number of points to the Parliament (*Saeima*) for appointment. After three years and an evaluation by a judicial body, judges are appointed for an indefinite term by the Parliament on a proposal from the Minister for Justice. The Prosecution Office is an independent judicial institution under the authority of the Prosecutor General. Latvia participates in the European Prosecutor's Office (EPPO). The Latvian Council of Lawyers is an independent, self-governing professional organisation, which is in charge of disciplinary proceedings regarding lawyers.

Independence

The level of perceived independence has risen since 2016 both among companies and the general public, and remains average. Among the general population, 57% consider the level of independence of courts to be 'fairly or very good', as well as 53% of companies¹. The perceived level of independence has improved since 2016 both among the general public and companies, and it increased by 12% for the general population and by 6% for companies in 2021².

The new procedure for selecting candidate judges and strengthening judicial independence has started to be applied. As described in the 2020 Rule of Law Report, the Judicial Council determined the new procedure for the selection of candidate-judges, a competence transferred by a 2018 law from the executive to the Council³. The Commission for the selection of judicial candidates for district and regional courts established by the Judicial Council started its work on 22 October 2020, and implemented this competence for the first time to select the judges of the newly created Economic Court. Building on the experience gained during this selection process, in April 2021, the Judicial Council slightly adjusted the procedure for selecting candidates for district and regional court judges, improving both the content of examinations and evaluation criteria and the organisation of

¹ Figures 48 and 50, 2021 EU Justice Scoreboard. While 5% of the general population and 7% of companies indicate that they perceive the level of judicial independence to be 'very good' and 52% of the general population and 51% of companies perceive it as 'fairly good', 29% of the general population and 26% of companies perceive the level of judicial independence to be 'fairly or very bad'. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

² Figures 48 and 50, 2021 EU Justice Scoreboard.

³ 2020 Rule of Law Report, Country chapter on the rule of law situation in Latvia, p. 2.

the process, particularly as regards the written test⁴. The Council considered the overall implementation of the procedure to be successful. The amended rules will govern the selection process for vacancies in civil and criminal regional courts starting in May 2021⁵.

The Judicial Council adopted its strategy for 2021-2025 aiming at increasing judicial independence. The overarching goal of the new strategy, approved in March 2021, is to increase the level of independence, quality and accountability of justice by achieving the judiciary's equal representation in the dialogue between the branches of state power⁶. To this effect, the strategy proposes to entrust the Judicial Council, instead of the executive, with judicial training⁷. It also aims, among others, at strengthening the functioning and the role of the Judicial Council as well as the self-organisation capacity of the judiciary. This is important to reinforce the operational autonomy of courts, as the Judicial Council only gives opinions in relation to the financing of the judiciary⁸, and the Supreme Court is the only national court which plans and requests its budget independently.

A new Code of Ethics for judges has been adopted. In February 2021, a new Code of Judicial Ethics⁹ was adopted by the Judicial Ethics Commission¹⁰. It replaced the one in place since 1995, which had become obsolete in several respects. In particular, the new Code is designed as a set of principles instead of detailed rules of conduct, and no longer deals with situations that are now covered by law or regulations. On average, the Commission processes between 10 and 20 cases of alleged violation of ethics per year. While the Commission decides simple cases, more serious violations are referred for decision and disciplinary measures to the Judicial Disciplinary Board. In 2020, a member of the judiciary was disciplined for breaching restrictions linked to the COVID-19 pandemic¹¹.

Quality

The level of digitalisation of courts and the prosecution services is high and efforts are ongoing to develop it further. As reported last year¹², the deployment of ICT by the Latvian justice system is among the most advanced in the EU, especially for case management and court activity statistics, communication with court parties and online publication of judgments, most of which are machine-readable¹³. The project to introduce an e-Case

⁴ Judicial Council, Press release of 16 April 2021: The procedure for selecting candidates for the position of a judge has been improved.

⁵ Information received in the context of the country visit to Latvia.

⁶ Strategy of the Judicial Council for 2021-2025, 12 March 2021.

⁷ According to paragraph 16 of Opinion no. 4 of the Consultative Council of European Judges (CCJE), "The judiciary should play a major role in or itself be responsible for organising and supervising training. Accordingly, and in keeping with the recommendations of the European Charter on the Statute for Judges, the CCJE advocates that these responsibilities should, in each country, be entrusted, not to the Ministry of Justice or any other authority answerable to the Legislature or the Executive, but to the judiciary itself or another independent body (including a Judicial Service Commission)".

⁸ Under Art. 50(5) of the Law on Judicial Power, the Ministry of Justice can submit the proposed budget to the Ministry of Finance despite a differing opinion of the Judicial Council.

⁹ See Annex I.

¹⁰ According to Art. 91.¹ of the Law on Judicial Power, the Judicial Ethics Commission is a collegial judicial self-government authority whose main objective is to provide opinions on the interpretation and violations of ethical rules, as well as to explain rules of judicial ethics. It is composed of ten judges elected by the Judges' Conference by a secret ballot.

¹¹ Information received in the context of the country visit to Latvia.

¹² 2020 Rule of Law Report, Country chapter on the rule of law situation in Latvia, p. 5.

¹³ Figures 40, 41, 44, 45, and 47, 2021 EU Justice Scoreboard.

Management System to modernise the recording of procedural actions and the digitalisation of record-keeping is making progress¹⁴. In the first phase, the Government plans to include the investigation and judicial process, and the full implementation is planned for 2023¹⁵. In 2020, as part of the pilot project, eleven courtrooms were equipped with screens for the examination of cases online, and the plan is to equip most courtrooms by the end of 2021¹⁶. However, following a performance audit, the State Audit Office concluded that the program management of the e-Case project must be improved¹⁷. The availability of secure electronic communication tools for the prosecution services still requires further development, particularly concerning their communication with defence lawyers, detention facilities, investigative authorities and courts¹⁸. Such secure electronic communication channels would support the more expedient and efficient preparation of the proceedings in front of the court.

The Government intends to create a new training centre, centralising all training in the judiciary, by the end of 2024. Training for judges and court staff is currently provided by the Latvian Judicial Training Centre, established as a foundation in 1995 and based on a multiannual agreement. This institutional model lacks stability in terms of long-term planning of the training in the justice system, as the contract is periodically subject to public procurement¹⁹. Moreover, funds allocated to judicial training are currently managed by the Court Administration, an institution subordinated to the Ministry of Justice, with limited input from the judiciary. The Judicial Council approves the content of the training programmes of judges and court employees, whereas the Prosecutor General's Office is responsible for initial and continuous in-service training of prosecutors. The new training centre would become a single training institution for judges and prosecutors, as well as specialised investigators, judicial staff and assistant prosecutors. In its Strategy for 2021-2025, the Judicial Council announced its objective "to take over the training of judges from the executive branch"²⁰, and its involvement in the setting up and management of the training centre would provide an opportunity to meet this objective. The creation of the training centre would bring more institutional and financial stability to the training and further increase the quality of the Latvian justice system. The new training centre is planned to adopt an interdisciplinary training approach, and to cover all professionals involved in the administration of justice, which is in line with the Strategy on European judicial training for 2021-2024 of the European Commission and the conclusions of the Council of the EU on promoting the training of judicial professionals²¹. It would be important that the judiciary

¹⁴ Input from Latvia for the 2021 Rule of Law Report, p. 8.

¹⁵ Input from Latvia for the 2021 Rule of Law Report, p. 8.

¹⁶ Input from Latvia for the 2021 Rule of Law Report, p. 8.

¹⁷ The results of the performance audit on the "Effectiveness of investigations and trials of the criminal offences in the economic and financial area" were made public on 11 January 2021. See Annex I. In particular, the State Audit Office noted that the development and implementation of the e-Case should have started from the initial stage of the investigation, which generates the most significant volume of documents, instead of at the stage of the proceedings. This solution creates additional work for the Prosecutor's Office related to the scanning of documents generated by the investigative institutions at least until 2024, when the investigative institutions will join the e-Case system for criminal proceedings.

¹⁸ Figure 43, 2021 EU Justice Scoreboard.

¹⁹ This issue was raised by the Government and other stakeholders in the context of the country visit to Latvia.

²⁰ Strategy of the Judicial Council for 2021-2025, 12 March 2021. See also the Independence section, above.

²¹ The Council Conclusions of 10 March 2021, Boosting Training of Judicial Professionals, support the European Commission Strategy on European judicial training for 2021-2024 of 2 December 2020 (COM(2020) 713 final) and confirm that "European judicial training should address all the professionals involved in the administration of justice: judges, prosecutors and judicial staff and other justice practitioners" and emphasise "the multidisciplinary approach that judicial training should involve".

(judges and prosecutors) itself be involved in the governance, supervision and setting of priorities of the new training centre, in line with European standards²².

The newly created Economic Court is becoming operational. The Court has jurisdiction over certain types of civil cases²³ as well as corruption cases and economic and financial crimes. The Court is planned to have ten judges²⁴ and 21 administrative assistants²⁵. The Economic Court started working from 31 March 2021 and, thus far, nine out of its ten judges, with varied professional (including financial) background, but none of them having been judges before, have been appointed following the new selection procedure mentioned above²⁶. In order to provide professional support to the new judges of the Economic Court, the Judicial Council ensured mentoring support²⁷. They were each assigned a mentor and offered specialised training on legislation related to money laundering, as well as commercial, competition and financial law. Training related to insurance matters is planned in the second half of 2021. It is expected that the Economic Court will deal with between 250 and 500 cases per year²⁸, which would require sufficient resources as regards both staff and training, so that complex economic and financial cases can be efficiently handled²⁹. The Ministry of Justice is monitoring closely the development related to the activity of the court and intends to review the situation after the first year of operations³⁰.

The Judicial Council operates with a shortage of resources. The 2020 Rule of Law Report found that, despite gaining new powers, the Judicial Council is experiencing a shortage of human resources, which could impede the exercise of its new powers³¹. Since then, there were no developments regarding financial and human resources³². One of the budgetary priorities of the Supreme Court for 2022-2024 is building the capacity of the Judicial Council by creating additional positions for an adviser and a consultant.

²² “The judiciary should play a major role in or itself be responsible for organising and supervising training.” Opinion no. 4 of the Consultative Council of the European judges (CCJE) on Appropriate Initial and In-service Training for Judges at national and European Levels, 27 November 2003, para. 16. The nine fundamental judicial training principles adopted in 2016 by the European Judicial Training Network (EJTN) “reiterate the importance of the support of the highest judicial authorities in the training process”.

²³ These include disputes arising from investment, infringements of competition law, legal relations of companies, financial collateral or reinsurance contracts, operations with financial instruments held, liquidation and insolvency of credit institutions.

²⁴ The judges are to be selected among senior practitioners with experience in either commercial or criminal law. After a probationary period of three years, the Parliament will decide whether to confirm the judges, on a permanent basis. During the first year of activity, two experienced judges, from both commercial and criminal courts, will mentor each new judge of the Court of economic cases. As of 15 June 2021, the Court had received 17 civil cases and 89 criminal cases, and the first hearings are scheduled at the end of 2021.

²⁵ The Economic Court does not have its own budget. The additional financing of around EUR 1.2 million was included in the overall budget of all courts.

²⁶ See section on independence above. One judge still has to take oath.

²⁷ Judicial Council, Call for the support of judges of the Economic Court and their mentors, 16 March 2021.

²⁸ Information provided by the Economic Court in the context of the country visit to Latvia.

²⁹ Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para. 33: “[e]ach state should allocate adequate resources, facilities and equipment to the courts to enable them to function in accordance with the standards laid down in Article 6 of the Convention and enable judges to work efficiently”.

³⁰ Information received in the context of the country visit to Latvia.

³¹ 2020 Rule of Law Report, Country chapter on the rule of law situation in Latvia, pp. 1 and 4.

³² The Council still operates only with four officials. Information provided by the Council of the Judiciary in the context of the country visit to Latvia.

Efficiency

The justice system remained efficient despite the challenges related to the COVID-19 pandemic. Overall, the length of court proceedings in civil, commercial and administrative cases, measured in disposition time, remains at average or shorter than average level in EU comparative terms. The number of pending cases, already among the lowest in the EU, shows a slightly decreasing trend³³. The clearance rate remains above 100%, meaning that courts are able to cope with incoming cases³⁴. Further progress could be observed as regards the average length of proceedings in cases involving money laundering, which further decreased to 212 days in 2019 (303 in 2018)³⁵. The average length of proceedings remained stable in 2020, with a slight decrease in civil, criminal and administrative cases in first instance courts and a slight increase in civil and criminal cases in second instance³⁶. In February 2020, the Judicial Council called on the Supreme Court to set up a working group to analyse the causes for lengthy proceedings in civil, criminal and administrative matters. The working group submitted three reports to the Council of the Judiciary on the rules of procedure, concluding that while each type of procedure presents distinctive challenges, judges are the facilitators of all procedures and therefore emphasis should be put on their training³⁷.

II. ANTI-CORRUPTION FRAMEWORK

The legislative and institutional framework to prevent and prosecute corruption is broadly in place. The Corruption Prevention and Combating Bureau (KNAB) is a specialised body with competence to investigate corruption-related offences and prevent corruption. The General Prosecutor's Office supervises pre-trial investigations of corruption-related offences conducted by the KNAB. Other institutions with anti-corruption competences are the State Police, which investigates corruption in private institutions and fraud; the Internal Security Bureau, which investigates corruption-related criminal offences committed by the officials of the institutions subordinated to the Ministry of the Interior; the Internal Security Board of the State Revenue Service, which investigates criminal offences committed by State Revenue Service officials, and the State Border Guard, which investigates corruption involving State Border Guard's officers.

The perception among experts and business executives is that the level of corruption in the public sector remains relatively high. In the 2020 Corruption Perceptions Index by Transparency International, Latvia scores 57/100 and ranks 12th in the European Union and 42th globally³⁸. This perception has been relatively stable³⁹ over the past five years⁴⁰.

³³ Figures 6-16, 2021 EU Justice Scoreboard.

³⁴ Figures 11-13, 2021 EU Justice Scoreboard.

³⁵ Figure 22, 2021 EU Justice Scoreboard.

³⁶ From 2018 to 2019, the average length of proceedings in first instance courts decreased from 244 to 239 days in litigious civil cases, from 164 to 153 days in criminal cases, and from 304 to 248 days in administrative cases. In second instance courts, it increased from 130 to 136 days in litigious civil cases, from 99 to 110 days in criminal cases and decreased from 194 to 192 days in administrative cases. Data from the Court Administration.

³⁷ Input from Latvia for the 2021 Rule of Law Report, p. 10.

³⁸ Transparency International, Corruption Perceptions Index 2020 (2021), pp. 2-3. The level of perceived corruption is categorised as follows: low (the perception among experts and business executives of public sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

A new Action Plan to prevent corruption is under preparation. The Corruption Prevention and Combating Bureau (KNAB) has started drafting the Corruption Prevention and Combating Action Plan for 2021-2024⁴¹, which is due for adoption in summer 2021⁴². National legislation in force criminalises corruption and related offences, including the abuse of office, domestic and foreign bribery, and trading in influence⁴³.

The Corruption Prevention and Combating Bureau has expanded its investigative capacity. The Corruption Prevention and Combating Bureau's (KNAB) competences in preventing corruption include the monitoring of conflicts of interest and political party financing⁴⁴ as well as investigation of corruption-related offences. KNAB has an allocated annual budget of around EUR 6.6 million from the State budget. In addition, it receives annually special funding from the Ministry of Justice (Fund for Confiscation of Criminal Assets) of about EUR 200,000 to improve the efficiency of its special criminal intelligence operational activities⁴⁵. As of December 2020, the KNAB has recruited additional staff⁴⁶, mainly investigators and financial analysts⁴⁷. It also improved staff salary conditions to align them with the level of other public institutions⁴⁸. In 2020, KNAB initiated 39 criminal proceedings, while 23 cases were transferred to the prosecution⁴⁹.

The investigation and prosecution of corruption-related offences continues to be a shared task among different authorities. The General Prosecutor's Office supervises pre-trial investigations of corruption-related offences conducted by the Corruption Prevention and Combating Bureau⁵⁰. Since the beginning of 2021, the Prosecutor's Office has dealt with 204

³⁹ In 2015 the score was 56, while, in 2020, the score is 57. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points); is relatively stable (changes from 1-3 points) in the last five years.

⁴⁰ The Eurobarometer data on corruption perception and experience of citizens and businesses as reported last year is updated every second year. The latest data set is the Special Eurobarometer 502 (2020) and the Flash Eurobarometer 482 (2019).

⁴¹ Input from Latvia for the 2021 Rule of Law Report.

⁴² It is envisaged that the plan will focus *inter alia* on ensuring human resources management against corruption, reduced tolerance for corruption, and limit funds in politics, divided into 69 activities. Input from Latvia for the 2021 Rule of Law Report.

⁴³ As indicated in the 2020 Rule of Law Report, in June 2019 the Parliament amended the Criminal Law to amend the definitions of several offences of the abuse of office, bribery and trading in influence. The new definitions of bribery and trading in influence eliminating certain restrictions to the scope of deeds falling under the definition of these offences (Grozījumi Krimināllikumā (amendments of the Criminal Law), 6 June 2019.)

⁴⁴ Including the monitoring of the implementation of the Law on Financing of Political Organisations (Parties), amended in June 2020.

⁴⁵ In order to strengthen the investigative, intelligence and analytical capacity of KNAB in preventing and combatting corruptive criminal offences and associated money-laundering, in September 2020 the Cabinet of Ministers adopted Order No. 576 ("Action Plan for the Prevention of Money Laundering and Terrorism and Proliferation Financing") aimed at strengthening the human resources of KNAB by allocating additional 19 officers (nine posts in 2021, and ten posts in 2022). Input from Latvia for the 2021 Rule of Law Report.

⁴⁶ Only in 2020, the KNAB has filled 137 out of 152 positions (15 were vacant).

⁴⁷ These positions are currently awaiting for final clearance.

⁴⁸ Monthly remuneration of KNAB officials is to be raised by 21% in 2021, by 28% in 2022 and by 37% in 2023 (in comparison to 2020). Input from Latvia for the 2021 Rule of Law Report, and information received in the context of the country visit to Latvia.

⁴⁹ In the same year, EUR 21.2 million, including value of 13 immovable properties were seized, and eleven cases of corruption were adjudicated (with 38 persons found guilty).

⁵⁰ The office consists of 497 staff, 70 of whom are prosecutors. Since January 2021, two new units were created: one on customs and taxes, and the other on public economic crimes involving large-scale cases mainly as well as corruption. There is also a cross-cutting supporting unit, with 22 prosecutors and two data

cases, and EUR 7 million of illicit funds were confiscated⁵¹. The scarcity of human resources, as compared to the workload, is a challenge for the office⁵². The Internal Security Bureau detects, prevents and investigates crimes committed by the officials and employees under the Ministry of Interior, such as the State police⁵³. The State police has rules for integrity in place⁵⁴. In 2020, the State Border Guard forwarded 29 criminal cases to the Prosecutor's Office with a proposal to initiate criminal prosecution, including one case involving one official of the State Border Guard⁵⁵. Between 2020 and 2021, there were 14 criminal cases involving State Revenue Service (SRS) officers, including bribery and organised crime involving high-ranking officers⁵⁶.

An action plan aims to address the State Audit Office recommendations on improving the quality of investigation and prosecution of economic and financial crimes. In December 2020, the State Audit Office published the results of its performance review on the effectiveness of investigations and trials of the criminal offences in the economic and financial area⁵⁷, and issued recommendations in order to improve operational efficiency of the Prosecutor's Office⁵⁸. One of the findings of the performance review was that while there is no shortage of resources in the Prosecutor's Office, there is room for improvement in terms of management, governance structure, division of responsibilities between different offices,

analysts. In 2020, a large amount of digital data was seized and, despite the in-house expertise, the data decryption and analysis represents a challenge for the office.

⁵¹ In 2020, 13 fines were applied for an overall amount of EUR 300,000, in addition to imprisonment sentences and obligations to conduct community services. In the same year, two foreign bribery cases were investigated. One case of fraudulent public procurement, which involved one high-administrator and one legal person (fined with EUR 77,000), was adjudicated in 2020, ranking and another case remains pending. Input from Latvia for the 2021 Rule of Law Report.

⁵² The workload of prosecutors varies widely, sometimes reaching several hundreds of cases (see footnote below on State Audit Office). Input from Latvia for the 2021 Rule of Law Report.

⁵³ In 2020 The Internal Security Bureau (ISB) initiated 12 criminal proceedings and 12 cases were transferred to the prosecution (24 officials of the State Police, the State Fire and Rescue Service and the State Border Guard were involved in those criminal proceedings).

⁵⁴ Namely a code of ethics (with provisions on conflict of interest and external positions, see Annex I), rotation for staff, as well as specific training on ethics and prevention of corruption. An ethics commission was established in 2020, with competence to advise officers on issues related to ethics, as well as monitoring the implementation of the code of conduct. Information received in the context of the country visit to Latvia.

⁵⁵ In 2020, 32 criminal cases were initiated in connection with corrupt activities in the State Border Guard. Criminal cases initiated against 31 persons, of which one was an official of the State Border Guard. 29 criminal cases were sent to the Prosecutor's Office with a proposal to initiate criminal prosecution. Out of the criminal cases sent for prosecution in 2020: in 13 criminal cases individuals were prosecuted by concluding an agreement with a prosecutor on admission of guilt and sentencing; in 7 criminal cases a prosecutor's prescription was drawn by a sentence; 5 criminal cases are at the trial stage; in 3 criminal cases individuals have been sentenced to imprisonment; and in 1 criminal case, the prosecutor's office decided to suspend it.

⁵⁶ In 2020, 12 persons received prison sentences, 13 received fines and 13 community service. Information received in the context of the country visit to Latvia.

⁵⁷ State Audit Office, Performance audit Effectiveness of investigations and trials of the criminal offences in the economic and financial area, 23 December 2020. The audit was conducted in cooperation with the Organization for Economic Cooperation and Development (OECD), which provided comparative information on organisation of prosecution services in selected countries. OECD, Performance of the Prosecution Services in Latvia - A Comparative Study, 11 January 2021.

⁵⁸ In particular, the State Audit Office recommended that a common understanding should be found between the prosecutors and the investigators regarding the quality of evidence required to effectively prosecute economic and financial crime cases. State Audit Office, Press release: The State Audit Office calls on the investigating institutions and the Prosecutor's Office to cooperate closely, 11 January 2021.

specialisation of prosecutors⁵⁹. In April 2021, the Crime Prevention Council, a governmental consultative body, approved, with involvement of the Office of Prosecutor General, a two-year action plan to address the State Audit Office's recommendations⁶⁰.

Latvia continues to develop its integrity framework for the prevention of conflicts of interest, whereas restrictions on post-employment remain almost unchanged⁶¹. A series of amendments to the Law on Prevention of Conflict of Interest in Activities of Public Officials⁶² are pending final approval by the Parliament⁶³. In January 2021, amendments to the definition of public officials covered by the law to include members of the Public Electronic Media Council entered into force⁶⁴. In July 2020, the prohibition for members of Parliament and Government and for parliament secretaries to receive payments for positions held in associations, foundations or social enterprises that have received funding from the Government also entered into force⁶⁵. The Parliament is currently discussing whether to extend this prohibition to heads of municipal councils and their deputies. Restrictions to prevent conflicts of interest are limited and there have been little developments since 2018⁶⁶.

⁵⁹ State Audit Office, Press release: The State Audit Office concludes that a more organised work of the Prosecutor's Office would improve the quality, 11 January 2021. While the Prosecutor's Office does not analyse information on the workload of prosecutors, these data were collected by the State Audit Office, which found they vary widely: from 200 to a maximum of 2 000 criminal cases per prosecutor (data from March 2020). State Audit Office, *Does the operation of the Prosecutors' Office require and improvements?* 11 January 2021, pp. 21-22.

⁶⁰ State Audit Office, Press release: Plan to implement the SAO's recommendations for streamlining prosecution of economic and financial crimes, 15 April 2021.

⁶¹ As indicated in the 2020 Rule of Law Report, in October 2019 the Parliament has amended the Law on Prevention of Conflict of Interest in Actions of Public Officials, among others, to prohibit members of Parliament, members of Government, and parliamentary secretaries from receiving remuneration for positions that they hold in associations, foundations and social enterprises. The amendment addresses concerns regarding certain officials who were paid by organisations engaging in policy advocacy and lobbying, hence could be regarded as having conflicts of interest.

⁶² Law on Prevention of Conflict of Interest in Activities of Public Officials (<https://likumi.lv/ta/en/en/id/61913-on-prevention-of-conflict-of-interest-in-activities-of-public-officials#:~:text=The%20purpose%20of%20this%20Law,the%20actions%20of%20the%20public>).

⁶³ Namely on 1) regulating the asset declaration submission procedure; 2) asset declarations submitted by Council members of higher education institutions and Board members of capital companies of public persons or representing the interests of public persons; and 3) prohibition for Heads of Municipal Councils and their deputies from receiving payment for posts held in associations, foundations or social enterprises. As reported by Latvian authorities, in June 2021, the Parliament adopted amendments to ensure that all political officials (except members of the Cabinet of Ministers and Parliamentary secretaries) obtain a superior's written permission for the exercise of auxiliary jobs.

⁶⁴ <https://likumi.lv/ta/id/319526-grozijumi-likuma-par-interesu-konflikta-noversanu-valsts-amatpersonu-darbiba>.

⁶⁵ *Ibid.*

⁶⁶ The Parliament has adopted amendments to the Law on Prevention of Conflict of Interest in Activities of Public Officials, clarifying the definition of relatives of a public official, allowing scientific and veterinary work without special permissions, specifies restrictions on accepting donations and duties of public official, imposing the duty to clarify the declaration of a public official within one month after the decision by which the person has been punished for indicating false information in the declaration of a public official has entered into force in administrative violation or criminal proceedings, as well as imposing the duty on public officials to report any known alleged corruption cases. The amendments entered into force on 3 February 2021. Also, the Parliament has adopted amendments to the Law on Prevention of Conflict of Interest in Activities of Public Officials, supplementing it with a Chapter on Administrative Violations in the Field of Prevention of Corruption and Competence in Administrative Violations Proceedings, inter alia granting the State Revenue Service the right to bar public officials from office (up to 2 years) for submitting false information in the declaration of a public official, or for not submitting the declaration after the warning of

Lobbying remains unregulated, while the draft legislation continues to be discussed by the Parliament⁶⁷. To date, there are no rules on lobbying transparency⁶⁸ and only a few cases of voluntary publication of meetings between public representatives and lobbyists have been reported⁶⁹. In January 2021, the Parliament's Defence, Internal Affairs and Corruption Prevention Committee approved a set of principles on openness and transparency, outlining the prospective content and scope of the lobbying law⁷⁰. According to these principles, the law would need to include, among others, a broad definition of interest representatives, a single mandatory lobby register and sanctions⁷¹. Moreover, the law would cover activities influencing decisions of members of Parliament, local and national governments, legislative bodies and top executives⁷². The proposal was subject to a public consultation in early 2021, although there is no set date for parliamentary approval⁷³. Nevertheless, each public institution currently has a code of ethics, with a specific chapter on lobbying. The oversight and implementation of the codes of ethics are under the competence of trusted persons of ethics, which is a temporary one-year role performed by a selected officer within each institution.

Whistleblowing systems are being implemented. The Corruption Prevention and Combating Bureau (KNAB) is the competent authority to admit and process whistleblowing reports on alleged corruption and conflict of interest related offences received by the State Chancellery and any other competent authority. In 2020, the State Chancellery received 517 submissions of general complaints, including 122 qualified as whistle-blowers reports (compared to 119 in 2019). In 2020, the KNAB received a total of 53 whistleblower reports, of which 13 were recognised as such, 17 were transferred to other competent authorities, and 23 were not recognised as whistleblower reports⁷⁴. To date, some entities have not received any reports from whistleblowers, thus awareness-raising activities of this reporting channel continues⁷⁵.

The government issued guidelines to cope with the increased risk of corruption in public procurement related to the COVID-19 pandemic. The government developed a series of guidelines in May 2020 on how to mitigate corruption risk through the existing procurement law. The State Audit Office conducted a number of audits regarding the COVID-19 emergency spending, covering over 90% of funds spent in 2020 for this purpose⁷⁶. As a new practice, the State Audit Office did not wait for the auditees to submit the financial reports,

public authority that is entitled to request the submission thereof. The amendments entered into force on 1 July 2020. Input from Latvia for the 2021 Rule of Law Report.

⁶⁷ 2021 Rule of Law Report, Country chapter on the rule of law situation in Latvia, pp. 8 and 9.

⁶⁸ In 2020, the working group for the elaboration of a lobbying transparency law, set up in the Parliament in October 2019, started working on a draft law.

⁶⁹ On 21 January 2021, the Mayor of Riga Mārtiņš Staķis launched voluntarily a public register of his meetings with lobbyists. Also the Minister of environmental and regional development publishes information on lobbying. Information received in the context of the country visit to Latvia.

⁷⁰ Input from Latvia for the 2021 Rule of Law Report.

⁷¹ Information received in the context of the country visit to Latvia.

⁷² Information received in the context of the country visit to Latvia.

⁷³ Information received in the context of the country visit to Latvia.

⁷⁴ Input from Latvia for the 2021 Rule of Law Report.

⁷⁵ Information received in the context of the country visit to Latvia.

⁷⁶ State Audit Office, Auditing COVID-19 emergency spending – Completed Audits. Among the 41 recommendations issued until May 2021 in this area, most concerned the need to establish a link between spending and the COVID-19 pandemic consequences, on unequal conditions for beneficiaries, and on excessive administrative burden in accessing funds.

and issued its audit recommendations immediately after the spending finished, so the recommendations could be implemented quickly⁷⁷.

III. MEDIA PLURALISM AND MEDIA FREEDOM

The Latvian legal framework is based on a set of constitutional safeguards and legislative measures, such as the Electronic Mass Media Law (EMML). Legislation has been adopted to transpose the Audiovisual Media Services Directive. The Law on the Press and Other Mass Media establishes the right for the press to access information held by the state bodies and public organisations and prohibits censorship. Access to public information is also guaranteed by the Freedom of Information Law⁷⁸. The media regulator, the National Electronic Mass Media Council (NEMMC), is set up by and functions in compliance with the EMML⁷⁹.

The independence of the media regulator – NEMMC – has been strengthened, but its remit has been reduced. In December 2020, the Parliament adopted the Act amending the Electronic Mass Media Law, transposing the revised Audio-Visual Media Services Directive, which enhances the independence of the NEMMC. In particular, the Act includes a new provision stipulating that the NEMCC “*shall not seek or take instructions from any other authority*”⁸⁰. The Act also envisages that the funding necessary for carrying out the functions of the NEMCC, including participation in the work of European Regulators Group for Audiovisual Media Services, shall be allocated from the State budget. However, following the entry into force of the new Law on Public Electronic Mass Media and their Management (LPEMMM)⁸¹ in December 2020, the NEMCC is no longer responsible for supervising the operations of the public service media. The new Law established two new independent authorities for this purpose - the Public Electronic Mass Media Council (PEMMC) and the Public Electronic Mass Media Ombudsperson - with the aim of ensuring the independence and promoting quality of public electronic media. In May 2021, the first of three PEMMC members has been proposed, pending final approval by the Parliament.

The availability of information on media ownership to the public raises concerns. As described in the 2020 Rule of Law Report, new provisions on transparency of media ownership were introduced with the amendments to the EMML⁸². They oblige prospective service providers to submit information on their beneficial owners to the National Electronic Mass Media Council, and existing service providers to submit information on any changes of the beneficial owner. However, the MPM 2021 indicator of transparency of media ownership continues to register a high risk, given that there are no obligations for media companies to disclose their ownership structures directly to the general public and without payment⁸³. Since all companies registered in Latvia, including media outlets, are obliged to provide the information on beneficial owners to the Register of Enterprises, the public retains the

⁷⁷ Information received in the context of the country visit to Latvia.

⁷⁸ Freedom of Information Law (<https://likumi.lv/ta/en/en/id/50601>).

⁷⁹ The 2021 World Press Freedom Index of Reporters Without Borders places Latvia at 22nd position (12th among the EU Member States), the same as in 2020, out of 180 monitored countries. See Reporters without Borders, Latvia.

⁸⁰ Act amending the Electronic Mass Media Act (<https://likumi.lv/ta/id/318739-grozijumi-elektronisko-plassazinas-lidzeklu-likuma>).

⁸¹ Law on Public Electronic Mass Media and their Management (LPEMMM) (<https://likumi.lv/ta/id/319096-sabiedrisko-elektronisko-plassazinas-lidzeklu-un-to-parvaldibas-likums>).

⁸² Act amending the Electronic Mass Media Act (<https://likumi.lv/ta/id/315661-grozijumi-elektronisko-plassazinas-lidzeklu-likuma>).

⁸³ 2021 Media Pluralism Monitor, Latvia, p. 12

possibility to obtain such information from that Register. News media concentration is considered to be high, in particular due to high concentration in different media sub-sectors⁸⁴.

The authorities have taken steps to address the impact of the COVID-19 pandemic on the media. In order to mitigate the economic impact of the pandemic, the Latvian Government has allocated around EUR 3,5 million to the media sector in 2020. Funds were distributed for covering fixed costs and for content creation projects, including analytical and investigative journalism projects⁸⁵.

Some concerns were raised about journalists' access to information during the COVID-19 pandemic. Legal guarantees for the right to access information and journalists' protection are in place. However, concerns were expressed about the availability of information during the COVID-19 pandemic, in particular as reporters were not able to participate in the governmental meetings, while previously their presence in generally open meetings was the rule⁸⁶.

Journalists appear to continue to face personal attacks online. At the end of 2020 and in 2021, the Council of Europe's Platform to promote the protection of journalism and safety of journalists did not register any alerts concerning Latvia⁸⁷. Nevertheless, it appears that journalists continue to face attacks in the online environment, often from politicians and political communication companies⁸⁸.

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Latvia is a unicameral, parliamentary democracy, in which the Constitutional Court can carry out *ex-post* constitutional review, including in concrete cases on the basis of a constitutional complaint. Draft laws may be submitted to the Parliament by the President, the Government, Parliamentary committees, at least five members of the Parliament, or one-tenth of the electorate. In addition to the justice system, also the Ombudsperson's Office, acting as a national human rights institute, and civil society play a role in the system of checks and balances.

Measures to address the COVID-19 pandemic were adopted in the framework of the state of emergency, which ended in April 2021. On 12 March 2020, the Latvian Government adopted the Declaration of Emergency Situation, which ended on 7 April 2021⁸⁹. The declaration contained measures addressing the COVID-19 pandemic, and was

⁸⁴ 2021 Media Pluralism Monitor, Latvia p. 12. For example the Top4 audiovisual media market share is 56 per cent; the market share of the Top4 radio owners makes 71%; Top4 online news media market share is 53 per cent.

⁸⁵ 2020 Rule of Law Report, Country chapter on the rule of law situation in Latvia, p. 7.

⁸⁶ Reporters without Borders, Latvia. As a general rule, sittings of the Cabinet are open and representatives of the media and non-governmental organisations may participate in open meetings, and anyone can watch them on live-stream.

⁸⁷ Council of Europe: Platform to promote the protection of journalism and safety of journalists, Latvia.

⁸⁸ 2021 Media Pluralism Monitor, Latvia, p. 11.

⁸⁹ On 16 March 2020, the Government informed the Council of Europe pursuant to the derogation clause contained in Article 15 of the European Convention on Human Rights (the Convention) that the restrictions adopted due to the state of emergency could potentially exceed the limits provided for by the Convention to ensure the legitimate aim of "public health". The Ombudsperson has provided an explanation to the public and politicians that the limitations allowed by the derogation clause contained in Article 15 of the Convention are to be interpreted narrowly, allowing for deviation from obligations only to the extent that the extraordinary nature of the situation inevitably requires. The derogation was lifted on 10 June 2020.

amended a number of times⁹⁰. The up-to-date versions of the applicable rules in different areas of societal life are posted on the Government website in a consolidated and easily readable form, with details available when amendments are made to a particular paragraph (focusing on one type of measures, such as education or restaurants/bars). In June 2020, the Law on the Management of the Spread of COVID-19 Infection entered into force, laying down basic principles for the operation of public authorities⁹¹.

The Parliament continued to work remotely and reviewed Governmental measures related to the COVID-19 pandemic. With the support of the e-Saeima platform, the Parliament worked throughout the emergency situation. As part of its powers, it regularly discussed, first before the committees and then in the plenary, the Government measures addressing the COVID-19 pandemic. However, the Parliament could only approve or reject *ex post* the Government measures that mostly had already entered into force under the state of emergency and could not amend them. Nevertheless, in the course of preliminary discussions, which the Ombudsperson also regularly attended, the Parliament provided guidance to the Government in the formulation and adoption of future measures and the amendments to existing ones⁹².

The Ombudsperson's Office was re-accredited with A status and continued to monitor measures related to the COVID-19 pandemic. In December 2020, the Ombudsperson's Office was re-accredited as "A Status" institution, in compliance with the Paris Principles. In January 2021, taking into account recommendations by the GANHRI Sub-Committee on Accreditations⁹³, amendments to the Ombudsman Law were adopted providing that the Ombudsperson's appointment shall be approved by the Parliament pursuant to the proposal of no less than ten members of Parliament (previously five members) and that the same person can be Ombudsperson for a maximum of two terms (of five years each). The Ombudsperson has continued to play its role of monitoring the Government's measures and their impact on human rights, expressing opinions and making recommendations to EU and national policy makers, in particular as regards the need to respect and promote economic and social rights, the right to healthcare and the importance of engaging in transparent communication with the public⁹⁴. The Ombudsperson also monitored the Government's decisions taken in the context of the COVID-19 pandemic to ensure that restrictions were adequate, and that the public was informed in a timely and accurate manner⁹⁵.

The Government adopted guidelines for the development of a more cohesive civil society and allocated financial support to NGOs to mitigate the impact of COVID-19 pandemic. The civic space in Latvia is still considered to be narrowed⁹⁶. The guidelines for the period

⁹⁰ Latvian Government (2020), Consolidated text of the Declaration of Emergency Situation.

⁹¹ Input from Latvia for the 2021 Rule of Law Report, p. 20.

⁹² Information received in the context of country visit to Latvia.

⁹³ The GANHRI Sub-Committee on Accreditations recommended the formalisation and application of a broader and more transparent process for the selection and appointment, amendments to ensure an independent and objective dismissal, process an explicit limitation to the possibility of consecutive re-appointments, and stronger protection from criminal and civil liability for actions taken by the Ombudsperson in their official capacity in good faith.

⁹⁴ Contribution from the ENNHRI for the 2021 Rule of Law Report, p. 230.

⁹⁵ Contribution from the ENNHRI for the 2021 Rule of Law Report, p. 231.

⁹⁶ Rating given by Civicus, Latvia; ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

2021-2027⁹⁷ set out the lines of action requiring investments, as well as the planned funding for each action, in order to make citizens more knowledgeable, active and ready participate in the development of the country⁹⁸. In December 2020, the Cabinet of Ministers examined and approved an informative report prepared by the Ministry of Culture “on support to associations and foundations to mitigate the negative consequences of the COVID-19 crisis”, which concluded that the financial impact of the COVID-19 pandemic is expected to affect about half of the NGOs registered in Latvia, in particular public benefit organisations⁹⁹. The Government therefore decided to allocate EUR 600 000 from funds for unforeseen events to the NGO support programme for alleviating the negative consequences of the COVID-19 pandemic in 2021. The programme is implemented by the Society Integration Fund, granting funding through an open call for tenders for NGO projects to be implemented by 30 June 2021.

⁹⁷ The new guidelines, which follow-up on the 2012-2018 Guidelines on National Identity, Civil Society and Integration Policy, have been drawn up by an inter-institutional working group composed of representatives of the Chancellery of the President of the Republic, the State Chancellery and several ministries, under the auspices of the Ministry of Culture. In the course of two public consultations organised in October 2019 and February 2020 by the Civic Alliance of Latvia, more than 500 participants had the opportunity to give their suggestions for the drawing up of the guidelines. See Annex I.

⁹⁸ Input from Latvia for the 2021 Rule of Law Report, p. 21.

⁹⁹ Contribution from the Latvian Centre for Human Rights for the 2021 Rule of Law Report, pp. 4-5.

Annex I: List of sources in alphabetical order*

* *The list of contributions received in the context of the consultation for the 2021 Rule of Law report can be found at <https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2021-rule-law-report-targeted-stakeholder-consultation>.*

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Annex II: Country visit to Latvia

The Commission services held virtual meetings in April and May 2021 with:

- Parliament's Defence, Internal Affairs and Corruption Prevention Committee
- Parliamentary Working group for the elaboration of a lobbying transparency law
- Ministry of Foreign Affairs
- Ministry of Justice
- Ministry of the Interior
- Ministry of Culture
- Supreme Court
- Judicial Council
- Economic Court
- Prosecutor's Office
- National Electronic Mass Media Council
- Ombudsperson's Office
- State Audit Office
- Corruption Prevention and Combating Bureau (KNAB)
- State Police
- State Border Guard
- Internal Security Board of the State Revenue Service
- State Chancellery
- Association of Journalists
- Association of Judges
- Council of Lawyers
- Delna – TI Latvia
- Providus
- Civic Alliance Latvia

* The Commission also met the following organisations in a number of horizontal meetings:

- Amnesty International
- Center for Reproductive Rights
- CIVICUS
- Civil Liberties Union for Europe
- Civil Society Europe
- Conference of European Churches
- EuroCommerce
- European Center for Not-for-Profit Law
- European Centre for Press and Media Freedom
- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Front Line Defenders
- Human Rights House Foundation
- Human Rights Watch
- ILGA-Europe
- International Commission of Jurists
- International Federation for Human Rights

- International Planned Parenthood Federation European Network (IPPF EN)
- International Press Institute
- Netherlands Helsinki Committee
- Open Society European Policy Institute
- Philanthropy Advocacy
- Protection International
- Reporters without Borders
- Transparency International EU