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ANNEX 14

**ANNEX**

**LATVIA**

*to the*

**EU Anti-Corruption Report**

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# LATVIA

## 1. INTRODUCTION — MAIN FEATURES AND CONTEXT

### *Anti-corruption framework*

**Strategic approach.** The overall framework of anti-corruption policy is set out in the Guidelines for the Prevention and Combating of Corruption covering the 2009-13 period.<sup>1</sup> Policy actions are further detailed in the Corruption Prevention and Combating Programme 2009-13, which contains 70 tasks to be implemented by various institutions. The government has adopted both documents. The programme is results-oriented and lists specific deadlines, indicators and responsibilities. It does not include detailed budgetary estimates. The Corruption Prevention and Combating Bureau (KNAB) is the coordinating body for implementing the programme. KNAB has identified particular corruption risks in public procurement and utilities, local government and state-owned companies.<sup>2</sup> In February 2013, the government approved a framework plan for human resources in the central administration, entailing wider use of open competitions and a unified system of disciplinary liability. A unified code of ethics is planned by 2015.<sup>3</sup>

**Legal framework.** According to the Council of Europe's Group of States against Corruption (GRECO), the frequently amended provisions on bribery in Latvian criminal law provide a fairly sound basis for the criminalisation of corruption offences.<sup>4</sup> Latvia partly implemented a GRECO recommendation to clarify the way in which criminal law covers the offering and request of an undue advantage, as well as the unrequested receipt of such an advantage. GRECO's recommendations to criminalise active bribery of state- and local government employees and indirect active trading in influence also remain partially implemented.<sup>5</sup> In response to these and other recommendations, Latvia amended the Criminal Code in December 2012 and March 2013. In August 2013, the government proposed amendments to the Civil Service Law to centralise the selection of heads of administrative agencies: the State Chancellery would draft the selection procedure and criteria, announce competitions, and assess the competence of candidates.<sup>6</sup> The proposed rules aim to limit political influence and the role of personal contacts in such appointments.

**Institutional framework.** In 2008, Latvia imposed budget cuts on institutions involved in fighting and preventing corruption. The Corruption Prevention and Combating Bureau (KNAB) continues to play a central role. It has a record of carrying out high-profile investigations, despite a recent internal crisis. KNAB's draft strategy for 2013-15 focuses on institutions in charge of significant assets and resources, healthcare, the judiciary, law enforcement, and political party finance.<sup>7</sup> KNAB works in cooperation with the Finance Police, State Border Guard and other institutions. The Internal Security Bureau (ISB) of the State Police investigates criminal offences committed by police officers and reviews citizen complaints, including corruption-related ones. It is to

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1 Guidelines for the Prevention and Combating of Corruption 2009-2013 (Informative Part):

[http://www.knab.lv/uploads/eng/guidelines\\_for\\_corruptionprevention\\_combating\\_2009\\_2013.pdf](http://www.knab.lv/uploads/eng/guidelines_for_corruptionprevention_combating_2009_2013.pdf).

2 KNAB 2011 *Publiskais pārskats*. Rīga: p. 5. [http://www.knab.lv/uploads/free/parskati/knab\\_publicais\\_parskats\\_2011.pdf](http://www.knab.lv/uploads/free/parskati/knab_publicais_parskats_2011.pdf).

3 Valsts pārvaldes cilvēkresursu attīstības koncepcija (informatīvā daļa). Endorsed on 5th Feb. Available from: <http://www.mk.gov.lv/lv/mk/tap/?pid=40265608>.

4 [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282008%291\\_Latvia\\_One\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3%282008%291_Latvia_One_EN.pdf).

5 [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3%282012%2913\\_Second%20Latvia\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3%282012%2913_Second%20Latvia_EN.pdf).

6 Grozījumi Valsts civildienesta likumā, VSS-358, TA-1775. Approved by the Cabinet of Ministers on 06/08/13.

Likumprojekta „Grozījumi Valsts civildienesta likumā” sākotnējās ietekmes novērtējuma ziņojums (anotācija).

<http://www.mk.gov.lv/lv/mk/tap/?dateFrom=2012-10-07&dateTo=2013-10-07&text=civildienesta&org=0&area=0&type=0>

7 KNAB (2012) *KNAB izstrādājis darbības stratēģijas projektu turpmākajiem trim gadiem*

<http://www.knab.lv/lv/knab/press/article.php?id=391584>.

become a separate body under supervision of the Ministry of Interior.<sup>8</sup> The State Audit Office (SAO), which controls the use of central and local government resources, has a high degree of independence in law and in practice. In 2011, SAO discovered serious shortcomings in the annual reports of seven state institutions. Between 2006 and 2012, its findings resulted in 23 cases of administrative proceedings, 15 cases dismissed due to the statute of limitations, and 56 cases of criminal proceedings, of which one has led to a conviction and fine.<sup>9</sup> Although criminal matters are generally adjudicated more swiftly than civil or administrative matters, delays in complex criminal cases are perceived as hindering the effective combating of corruption, given that few cases of high-level corruption have reached a final verdict.<sup>10</sup> Convictions for corruption-related offences usually relate to lower to mid-level officials and transactions of modest amounts.<sup>11</sup>

### **Opinion polling**

**Perception surveys.** According to the 2013 Special Eurobarometer, 83 % of respondents think corruption is widespread in Latvia (EU average: 76 %), and 67 % say that it is acceptable to give a gift to obtain something from the public administration (highest percentage in the EU). Some 20 % say that corruption affects their daily lives (EU average: 26 %). 81 % agree that bribery and using connections is often the easiest way to obtain public services (EU average: 73 %).<sup>12</sup>

**Experience of corruption.** Some 6 % of Latvian respondents in the 2013 Special Eurobarometer state that they have been asked or expected to pay a bribe over the past 12 months (EU average: 4 %) and 25 % say that they personally know someone who takes or has taken bribes (EU average: 12 %).

**Business surveys.** According to the 2013 Eurobarometer business survey, 20 % of companies consider corruption a problem when doing business in Latvia (EU average: 43 %) and 37 % think that corruption has prevented them from winning a public tender in the past three years (EU average: 32 %). Some 79 % consider corruption to be widespread (EU average: 75 %).<sup>13</sup>

### **Background issues**

**Private sector.** Latvia partly transposed the provisions of Framework Decision 2003/568/JHA on the liability of legal persons. When reporting on transposition in 2011, the Commission found that, for active corruption, Latvia did not cover the element of promising a bribe and also limited the offence to cases where the offer or promise was accepted. According to the second implementation report, acceptance of an offer was not included in Latvian legislation for passive corruption.<sup>14</sup> More recent amendments have addressed some of these concerns. The shadow economy accounted for 26.1 % of GDP in 2012.<sup>15</sup> In the 2013 Global Competitiveness Index, Latvia ranks 52nd out of 148 countries.<sup>16</sup>

**Conflicts of interest and asset disclosure.** For two years after leaving a public office, officials may not earn income from an enterprise if they had made procurement decisions, decided on

8 Ministru Kabinets (2013) *Koncepcija par Valsts policijas Iekšējās drošības biroja pārveidošanas par iekšlietu ministra pārraudzībā esošu institūciju risinājumiem (informatīvā daļa)*. Endorsed on 30/07/13.

<http://www.mk.gov.lv/lv/mk/tap/?pid=40273130&mode=mk&date=2013-07-30>.

9 SAO Annual Report 2012, pp. 16, 17. [http://www.lrvk.gov.lv/upload/VK\\_Publiskaisgadaparskats\\_23Jan2013.pdf](http://www.lrvk.gov.lv/upload/VK_Publiskaisgadaparskats_23Jan2013.pdf).

10 See section on accountability and integrity of elected officials below.

11 *Trial Statistics for Offences Committed in Public Service in Latvia 2004 - 2011* Centre for Public Policy PROVIDUS. <http://corruption-e.wikidot.com/statistics-on-trials-of-corruption-cases>.

12 2013 Special Eurobarometer 397.

13 2013 Flash Eurobarometer 374.

14 COM(2011) 309 final, Second Implementation report of FD 2003/568/JHA of 6 June 2011: [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/docs/report\\_corruption\\_private\\_sector\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/docs/report_corruption_private_sector_en.pdf)

15 [http://ec.europa.eu/europe2020/pdf/themes/07\\_shadow\\_economy.pdf](http://ec.europa.eu/europe2020/pdf/themes/07_shadow_economy.pdf).

16 [http://www3.weforum.org/docs/GCR2013-14/GCR\\_Rankings\\_2013-14.pdf](http://www3.weforum.org/docs/GCR2013-14/GCR_Rankings_2013-14.pdf).

granting funds or supervised the same enterprise when in office.<sup>17</sup> While in office and for two years thereafter, MPs, ministers and other senior officials cannot own shares in enterprises that are involved in public procurement or receive public funds, except if the funds are granted following an open competition. Similar rules apply for senior officials of agencies and local governments.<sup>18</sup> GRECO noted that the conflict-of-interest regime for public officials, while comprehensive, is complex and rigid.<sup>19</sup> The legally established incompatibilities and other restrictions for public officials prioritise formalistic compliance over evaluating the merits of individual cases. Fine-tuning measures relating to conflicts of interest in accordance with the distinct needs of different professions would encourage officials to understand and 'internalise' relevant rules and adopt a more proactive approach.<sup>20</sup> In December 2011, Parliament adopted the Law on the Declaration of Assets of Physical Persons and Undeclared Income. It obliged residents (not just public officials) with assets above certain thresholds to submit a one-time asset declaration in 2012.<sup>21</sup> The aim was to facilitate audits by limiting the ability of suspects to explain their wealth by citing old and unverifiable sources. However, failure to submit a declaration or the provision of false data carries a relatively minor administrative sanction.<sup>22</sup>

**Financing of political parties.** Financing of political parties and electoral campaigns is relatively transparent. Following GRECO recommendations, Latvia strengthened provisions on the liability of natural persons for political finance violations, and extended the statute of limitations for administrative offences.<sup>23</sup> Latvia limits individual donations to parties (only natural persons may donate) and the amount a party is allowed to spend during a campaign. The law also provides for full and speedy disclosure of all donations, and disclosure of party expenditure.<sup>24</sup> However, there is a risk that parties may use unregistered funds to pay for hidden advertising.<sup>25</sup> There are still possibilities to unofficially pay for favourable coverage (hidden advertising) in some media.<sup>26</sup> Major donations to political parties by people of modest means have raised suspicions of intermediation, which is a criminal offence if done on a large scale.<sup>27</sup> In November 2012, Parliament adopted the new Pre-election Campaign Law and amended the Law on the Financing of Political Organisations (Parties) to lower the cap on campaign spending by a half.<sup>28</sup> The new legislation appears a *prima facie* significant move in limiting the risk of political corruption, but its implementation in practice will require strengthened controls. In June 2013, KNAB used for the first time its authority to discontinue payment of state funding to a political party. The party had not disclosed transactions of EUR 54 137 in its 2011 election revenue and expenditure

17 Law on Prevention of the Conflict of Interest in Activities of Public Officials. Section 10, Paragraph 7.

18 Law on Prevention of the Conflict of Interest in Activities of Public Officials. Section 10.

19 [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4\(2012\)3\\_Latvia\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4(2012)3_Latvia_EN.pdf).

20 See Informatīvais ziņojums „Korupcijas novēršanas un apkarošanas programmas 2009. – 2013.gadam īstenošana” (Information Report Implementation of the Action Plan for the Prevention and Combating of Corruption for the Years 2009-2013). [http://www.knab.lv/uploads/free/valsts\\_programma/zino-knap\\_2010.pdf](http://www.knab.lv/uploads/free/valsts_programma/zino-knap_2010.pdf).

21 Fizisko personu mantiskā stāvokļa un nedeklarēto ienākumu deklarēšanas likums (Law on the Declaration of Assets and Undeclared Income of Physical Persons). Available from: <http://www.likumi.lv/doc.php?id=241275>.

22 Fine of up to EUR 360. Latvijas Administratīvo pārkāpumu kodekss (The Code of Administrative Violations of Latvia), Section 165. [http://www.likumi.lv/doc.php?id=89648#saist\\_4](http://www.likumi.lv/doc.php?id=89648#saist_4).

23 However, GRECO's recommendation on KNAB's independence remains only partly implemented, as noted in the next section. GRECO: Third Evaluation Round - Compliance Report on Latvia, October 2010, p.11. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2010\)6\\_Latvia\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2010)6_Latvia_EN.pdf).

24 Law on the Financing of Political Organisations (Parties).

25 KAZOKA, I. (2011) *Kas buru jāuzlabo Latvijas partiju finanšu un priekšvēlēšanu aģitācijas regulējumā? Sabiedriskās politikas centrs PROVIDUS*, p. 9.

[http://www.providus.lv/upload\\_file/Jaunami/2010/ZiniojumsPartijuFinanses2011gatavs2.pdf](http://www.providus.lv/upload_file/Jaunami/2010/ZiniojumsPartijuFinanses2011gatavs2.pdf)

26 PROVIDUS. [http://www.providus.lv/upload\\_file/Jaunami/2010/ZiniojumsPartijuFinanses2011gatavs2.pdf](http://www.providus.lv/upload_file/Jaunami/2010/ZiniojumsPartijuFinanses2011gatavs2.pdf)

27 Krimināllikums. Adopted on 17/06/98, last amended on 13/12/12. Section 288.3

<http://www.likumi.lv/doc.php?id=88966>

28 Likumprojekts trešajam lasījumam *Likumprojekts 'Priekšvēlēšanu aģitācijas likums'* (Nr.273/Lp11)

<http://titania.saeima.lv/LIVS11/saeimalivs11.nsf/0/B9056E70F4F3DE64C2257ABE00528881?OpenDocument> Likumprojekts trešajam lasījumam *Likumprojekts 'Grozījumi Politisko organizāciju (partiju) finansēšanas likumā'* (Nr. 222/Lp11). <http://titania.saeima.lv/LIVS11/saeimalivs11.nsf/0/D8683EBE18A74B15C2257ABE00523BC6?OpenDocument>.

declaration.<sup>29</sup> According to the party, the expenditure was incurred by candidates who had left the party.

**Whistleblowing.** The Labour Law prohibits retaliation against employees who have exercised their legal rights or notified the authorities about a suspected violation at the workplace.<sup>30</sup> No confidentiality requirements are envisaged in this law. The Prevention of the Conflict of Interest Law protects the confidentiality of a public official or an employee who has reported a conflict of interest of another public official.<sup>31</sup> However, this protection does not apply to those reporting bribery or abuse of office. The Law on Submissions prohibits disclosure of information about the contents of the submission and its source, if so requested by the person who made the submission.<sup>32</sup> Overall, these provisions are a step in the right direction but do not amount to a comprehensive system of whistleblower protection. 92 % of Eurobarometer respondents say that they did not report corruption that they experienced or witnessed (EU average 74 %).

**Transparency of lobbying.** Latvia has no explicit regulations on lobbying although annotations accompanying draft legislation provide information about consultations held.<sup>33</sup> GRECO suggested that Latvia do more to improve access to information in the legislative process, in particular with respect to lobbying.<sup>34</sup> A draft law has been under discussion since 2012.<sup>35</sup> The Ministry of Environment Protection and Regional Development and several other agencies publish online basic information on contacts with lobbyists, based on internal codes of ethics.<sup>36</sup>

## 2. ISSUES IN FOCUS

### *Independence and effectiveness of anti-corruption institutions*

Operational since 2003, the Corruption Prevention and Combating Bureau (KNAB) has established a positive reputation. KNAB combines tasks related to prevention, investigation and education, including the control of party financing. KNAB also acts as a pre-trial investigatory body with traditional police powers and access to bank and tax databases.

#### ***Good practice: searchable online database of political donations***

*KNAB's searchable online database of political donations contains up-to-date and complete records of donations to parties, which they are required to disclose within 15 days, including date, value, source and recipient. Similar databases cover membership fees and required financial declarations and annual reports.<sup>37</sup> The accessibility of this information contributes to the prevention and detection of corruption.*

Following the controversial dismissal of a KNAB director in 2008, the Bureau underwent a period

29 KNAB (2013) *KNAB pieņēmis lēmumu par valsts budžeta finansējuma izmaksas pārtraukšanu Reformu partijai*. <http://www.knab.lv/lv/knab/press/article.php?id=413202>.

30 Darba likums (*Labour Law*). Available from: <http://www.likumi.lv/doc.php?id=26019>. Section 9, paragraph 1.

31 Law on Prevention of the Conflict of Interest in Activities of Public Officials. Section 20, paragraph 7.

32 Iesniegumu likums (*Law on Submissions*). <http://www.likumi.lv/doc.php?id=164501>.

33 MK noteikumi Nr.300 'Ministru kabineta kārtības rullis' (*Rules of Procedure of the Cabinet of Ministers*). Article 3. <http://www.likumi.lv/doc.php?id=190612> MK instrukcija Nr.19 'Tiesību akta projekta sākotnējās ietekmes izvērtēšanas kārtība' (*Procedure for the Initial Impact Assessment of a Draft Legal Act*). <http://www.likumi.lv/doc.php?id=203061>. Saeimas kārtības rullis (*Rules of Procedure of Saeima*). Section 85, Paragraph 5, Item 6. <http://www.likumi.lv/doc.php?id=57517>.

34 [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4\(2012\)3\\_Latvia\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4(2012)3_Latvia_EN.pdf).

35 Ministru kabineta rīkojums Nr. 113 'Grozījumi Ministru kabineta 2011.gada 12.decembra rīkojumā Nr. 647 'Par koncepciju 'Publiskās pieejamības nodrošināšana informācijai par lobētājiem'. <http://www.likumi.lv/doc.php?id=255743>.

36 Vides aizsardzības un reģionālās attīstības ministrija. *Par lobētāju sniedzamie dati*. [http://www.varam.gov.lv/lat/lidzd/informacija\\_par\\_lobijiem/](http://www.varam.gov.lv/lat/lidzd/informacija_par_lobijiem/).

37 <http://www.knab.lv/lv/finances/db/>.



of instability with a conflict between staff and the next director appointed in 2009. Amid budget and salary cuts, nearly 20 % of KNAB's 142 employees had left by the end of 2010. Still KNAB's anti-corruption efforts continued and 2010 saw the arrest of managers at a state-owned electricity company and the mayor of a seaside resort. Several KNAB investigations concern the former head of the Criminal Board of Customs; one of these has resulted in conviction.<sup>38</sup>

Following the appointment of a new director in November 2011, KNAB has consolidated its public standing. However, recurrent internal conflicts and the surrounding public controversy have raised questions about the long-term sustainability of KNAB's independence. No KNAB director has concluded a full term of office. In August 2013, the director of KNAB dismissed KNAB's Ethics Commission following their letter to the Prime Minister alleging conflict-of-interest violations by him and his deputy. KNAB's director also initiated disciplinary proceedings against another deputy after she, as acting director in his absence, reversed some of his decisions. She was dismissed in December 2013 and reinstated in January 2014. In response to the internal tensions within KNAB, the Prime Minister set up a working group, headed by the Prosecutor General, to assess the effectiveness of legal norms governing KNAB and to draft recommendations for improving KNAB's overall effectiveness.

GRECO's Third Round Evaluation noted several institutional issues regarding KNAB's independence: (1) KNAB is under the direct supervision of the Prime Minister; (2) the director is appointed and dismissed by Parliament on the government's recommendation; (3) the budget is proposed and decided by Parliament whose Members KNAB might potentially investigate. To address these shortcomings, GRECO recommended measures to strengthen KNAB's independence, including on the external supervision of its activities, the procedure for appointing and dismissing its director and deciding on its budget.<sup>39</sup> Latvia subsequently set up a commission composed of high-ranking magistrates and government officials to assess candidates for KNAB director in an open competition according to pre-stipulated criteria. The head of the commission may invite additional experts, including from NGOs. These measures have gone some way in minimising the risk of political interference in the appointment of KNAB's director.

However, as noted by GRECO's Fourth Round Evaluation, legislative measures, including on budgetary aspects, have not been adopted, and the Cabinet of Ministers has yet to decide on proposals to reform the government's role in supervising KNAB.<sup>40</sup>

Judicial independence and effectiveness require further attention. The Venice Commission (the Council of Europe's advisory body on constitutional matters) warned that, because of the scope of powers held by Parliament over judges, 'judicial appointments may over time be more likely than otherwise to become a subject of party politics'.<sup>41</sup> While the overall risk of direct political influence in judicial decisions is relatively low, concerns have been raised about potential interference in appointments. In October 2009 and December 2010, without apparent justification, Parliament refused to confirm the appointment of two separate candidates to the Supreme Court. One had previously issued an arrest warrant for an influential politician. The other candidate was a well-known criminal law expert from a non-governmental think-tank. Both had satisfied formal requirements and passed previous stages of the procedure.

In the context of the 2013 European Semester of economic policy coordination, the Council recommended that Latvia complete pending reforms to improve the efficiency and quality of the

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38 Rīgas pilsētas Ziemeļu rajona tiesas 2011. gada 21. oktobra spriedums.

39 [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2012\)13\\_Second%20Latvia\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2012)13_Second%20Latvia_EN.pdf).

40 [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2012\)13\\_Second%20Latvia\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2012)13_Second%20Latvia_EN.pdf).

41 Opinion on the Draft Law on Judicial Power and Corresponding Constitutional Amendments of Latvia, CDL AD (2002) 26.

judiciary and reduce the backlog and length of proceedings.<sup>42</sup> GRECO has identified potential weaknesses that may affect the judiciary's capacity to prevent and punish corruption: budget setting and control, court funding and resources (including pay levels for court staff and a sufficient number of judges); political influence in judicial appointment; judicial control over career progression; effective disciplinary processes for judges; judicial immunity for administrative offences; internal ethos of self-governance; and ethical norms and control.<sup>43</sup> Latvia has already moved the power over judicial transfers from Parliament to the Judicial Council. However, as noted by GRECO, in order to ensure judicial independence, responsibility for the appointment and career of judges (including reappointment and promotion) needs to rest with the judiciary.<sup>44</sup>

According to GRECO, without further assurances of due process for dismissals of judges, clear assessment criteria, and proper resourcing of the Judicial Qualification Board<sup>45</sup> and those charged with assessment, there are potential risks to judicial independence, particularly with respect to the security of tenure of judges. At the same time, to promote accountability, GRECO has recommended the abolition of administrative immunity for judges and prosecutors, and measures to ensure that disciplinary cases are decided before the statute of limitations expires. A new system of reviewing judges' performance came into force in 2013. Judges may be suspended if a disciplinary case has been initiated against them and must be suspended if a criminal case has been initiated. In July 2013, the Justice Minister refused to confirm the president of a regional court for a second term, overruling the evaluation committee.

In order to improve transparency, an obligation was introduced to publish court judgments on the internet.<sup>46</sup> Other positive developments for judicial independence and integrity include the setting up of the Judicial Council, Judicial Qualification Board, Judicial Disciplinary Board, and Disciplinary Court of Judges, in addition to the existing Commission of Judicial Ethics, to facilitate collective problem solving and to encourage initiative among magistrates. According to GRECO, these bodies lack full-time staff and their members struggle to combine ordinary daily work with specific tasks in the judicial bodies.<sup>47</sup> In June 2013, Parliament amended the Law on Judicial Power in an effort to address court delays.<sup>48</sup>

### ***Public procurement***

Public works, goods and services accounted for about 20 % of Latvia's GDP in 2011. The value of calls for tender published in the Official Journal as a percentage of total expenditure on public works, good and services was 87.2 % in 2011 (highest percentage in the EU).<sup>49</sup> According to the 2013 Eurobarometer Business Survey on corruption, 66 % of Latvian respondents consider that corruption is widespread in procurement managed by national authorities (EU average: 56 %) and 58 % in contracts awarded locally (EU average: 60 %).<sup>50</sup> In particular, Latvian respondents stated that the following practices were widespread in public procurement procedures: specifications

42 Council recommendation 2013/C 217/12 of 9 July 2013.

43 [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4\(2012\)3\\_Latvia\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4(2012)3_Latvia_EN.pdf)

44 [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4%282012%293\\_Latvia\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4%282012%293_Latvia_EN.pdf)

45 The Judicial Qualification Board oversees the qualification process for new judges, and assesses their suitability and professional preparedness. It also oversees the process of granting qualification levels which are linked to salary. The Board is composed of nine members elected by the Conference of Judges for a four-year term: three judges from the Supreme and regional courts, two district judges and one land register judge. Opinions of the Judicial Qualification Board can be appealed to the Disciplinary Court. Article 93, Law on Judicial Power.

46 Likumprojekts otrajam lasījuma Grozījumi likumā 'Par tiesu varu' (Nr.223/Lp11) <http://titania.saeima.lv/LIVS11/SaeimaLIVS11.nsf/0/036A899E3C47A43EC2257AEF004FAEB8?OpenDocument>

47 [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4%282012%293\\_Latvia\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4%282012%293_Latvia_EN.pdf)

48 Grozījumi likumā 'Par tiesu varu'. <http://likumi.lv/doc.php?id=258013>

49 [http://ec.europa.eu/internal\\_market/publicprocurement/docs/modernising\\_rules/public-procurement-indicators-2011\\_en.pdf](http://ec.europa.eu/internal_market/publicprocurement/docs/modernising_rules/public-procurement-indicators-2011_en.pdf)

50 2013 Flash Eurobarometer 374.

tailor-made for particular companies (73 %); abuse of negotiated procedures (36 %); conflicts of interest in bid evaluation (53 %); collusive bidding (56 %); unclear selection or evaluation criteria (55 %); abuse of emergency grounds to avoid competitive procedures (45 %); involvement of bidders in designing specifications (50 %); and amending contractual terms after contracts were concluded (50 %). These indicators, while not necessarily directly related to corruption, illustrate risk factors that increase vulnerability to corruption in public procurement procedures. The European Commission's assessment in the framework of the European Semester also noted insufficient competition for public contracts for maintenance works and construction of roads and bridges.<sup>51</sup>

Public procurement in the construction sector faces particular challenges. Following a KNAB investigation, municipal- and private-sector managers were convicted of bribery in relation to construction projects. The Procurement Supervision Bureau has noted cases in which procuring agencies failed to make documentation available to bidders, requirements for bidders and subcontractors were missing or unclear, or requirements regarding bidders' qualifications were disproportionate.<sup>52</sup> Such violations may not necessarily reflect corruption but they do indicate a corruption risk. Further risks arise from the decentralised procurement of a range of standardised goods and services (such as internet services), despite the existence of a centralised e-procurement system.

Amendments to the Code of Administrative Violations are now in force, establishing administrative sanctions for violations of procedures in public procurement, public-private partnerships and the award of concessions.<sup>53</sup> This will make it possible to sanction officials for procurement violations which do not amount to criminal offences. The government has been drafting proposals to improve the public procurement system. Amendments made to the Public Procurement Law in June 2013 include an obligation for local governments to use centralised procurement, stricter consequences for suppliers who fail to deliver according to procurement contracts, and the requirement to publish small procurement contracts online.<sup>54</sup> In July 2013, the government modified regulations on centralised electronic procurement, widening the circle of buyers who can register in the system.<sup>55</sup> Taken together, these changes mark a gradual move towards the wider use of centralised procurement. The government also adopted new regulations for procurement procedures carried out by private companies or associations receiving EU or other public funding.<sup>56</sup> The new rules focus on transparency and prevention of conflicts of interest.<sup>57</sup>

A Construction Law adopted in July 2013 introduces a new register for construction entrepreneurs, and companies now have to obtain specific classification documents to be eligible to participate in public procurement procedures. Individual purchasing agencies are no longer under an obligation to evaluate the companies.<sup>58</sup>

51 [http://ec.europa.eu/europe2020/pdf/nd/swd2012\\_latvia\\_en.pdf](http://ec.europa.eu/europe2020/pdf/nd/swd2012_latvia_en.pdf), p. 20.

52 Iepirkumu uzraudzības birojs (2012) *Pārskats par Iepirkumu uzraudzības biroja darbu 2011.gadā (Vadības ziņojums)*, pp. 2, 3. <http://www.iub.gov.lv/files/upload/VadibasZinojums2011gadu.pdf>.

53 Likumprojekts Grozījumi Latvijas Administratīvo pārkāpumu kodeksā.

<http://titania.saeima.lv/LIVS11/saeimalivs11.nsf/0/04FE04808DD722B9C2257A87003B67A2?OpenDocument>.

54 Grozījumi Publisko iepirkumu likumā. Adopted on 20/06/13. <http://likumi.lv/doc.php?id=258040>.

55 Grozījumi Ministru kabineta 2010.gada 28.decembra noteikumos Nr.1241 'Centralizēto elektronisko iepirkumu noteikumi'. Adopted on 30/07/13. <http://likumi.lv/doc.php?id=258671>.

56 04/06/13. MK noteikumi Nr.299 'Noteikumi par iepirkuma procedūru un tās piemērošanas kārtību pasūtītāja finansētiem projektiem'. <http://likumi.lv/doc.php?id=257257>

57 Lapiņš, A. (2013) Jauna kārtība patērētāju finansētiem iepirkumiem. *Iepirkumi*, 2 July. <http://zurnalsiepirkumi.lv/jauna-kartiba-pasutitaju-finansetiem-iepirkumiem/>

58 Ekonomikas Ministrija (2013) D.Pavļuts: Jaunais Būvniecības likums dos pozitīvu stimulu visai ekonomikai. <http://www.em.gov.lv/em/2nd/?id=33374&cat=621>.



## *Accountability and integrity of elected officials*

Appropriate standards for the accountability and integrity of elected officials set an example for others, and are a crucial element in preventing high-level corruption. Concerns regarding the integrity of individual Members of Parliament have been raised. For example, MPs allegedly hired each other's relatives to circumvent the prohibition on hiring one's own relatives.<sup>59</sup> In May 2011, the President initiated the dissolution of the legislature, citing a number of such cases in addition to Parliament's refusal to lift the immunity of an MP under KNAB investigation and thus preventing a search of the premises. The President also expressed concerns over the political influence of oligarchs.<sup>60</sup> The dissolution was confirmed by a referendum in July 2011, leading to early elections in September 2011. There has been a stronger focus on anti-corruption issues in the new parliament.

In 2012, Parliament amended its rules of procedure, introducing an open vote on the appointment of judges, the Prosecutor General, KNAB director and others. This is an improvement over the previous secret ballots, which led to controversial decisions on appointments and dismissals relating to anti-corruption policy. Continuing this trend, in September 2013 Parliament amended the Constitution to introduce an open vote on the appointment of Constitutional Court judges.<sup>61</sup> It also adopted amendments to clarify the status of Constitutional Court judges and prosecutors who have been suspended because of a criminal prosecution or disciplinary proceedings.<sup>62</sup>

Apart from the Law on Prevention of the Conflict of Interest,<sup>63</sup> MPs are also subject to Parliament's Code of Ethics.<sup>64</sup> The code contains provisions against actual and apparent conflicts of interest, attempts to illegally influence decisions of state and municipal authorities, and use of confidential information for private purposes. The Committee of Mandates, Ethics and Submissions oversees the code's implementation and may issue oral or written warnings.<sup>65</sup> Since the code was adopted in 2006, its impact has been limited, with only a few MPs sanctioned for corruption-related breaches. GRECO attributed this limitation to the abstract and outdated nature of the code and the lack of a proactive approach by the Committee, which acts only upon an MP's complaint.<sup>66</sup> It recommended that the Code of Ethics be revised and complemented with practical channels for discussing and resolving ethical issues, through confidential advice and institutional guidance and training.<sup>67</sup> GRECO also recommended a system requiring *ad hoc* oral declarations at the outset of parliamentary proceedings which can then be put on public record, to ensure that potential conflicts of interest which might arise are duly noted and reported. Most of the Committee's decisions do not contain detailed reasoning and thus contribute little to MPs' and the broader public's understanding of the practical application of ethics principles.<sup>68</sup>

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59 GRECO (2012) *Fourth Evaluation Round. Evaluation Report Latvia*. Strasbourg: pp. 13, 14.

[http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4\(2012\)3\\_Latvia\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4(2012)3_Latvia_EN.pdf)

60 Address by President Valdis Zatlers to the People of Latvia, 28 May 2011, [http://www.president.lv/pk/content/?cat\\_id=605&art\\_id=17537](http://www.president.lv/pk/content/?cat_id=605&art_id=17537).

61 Grozījums Latvijas Republikas Satversmē. <http://likumi.lv/doc.php?id=260656>

62 Grozījumi Satversmes tiesas likumā. <http://likumi.lv/doc.php?id=259938> Grozījumi Prokuratūras likumā. <http://likumi.lv/doc.php?id=259941>

63 Likums Par interešu konflikta novēršanu valsts amatpersonu darbībā (Law on Prevention of the Conflict of Interest in Activities of Public Officials). <http://www.likumi.lv/doc.php?id=61913>

64 Saeimas kārtības rullis (*Rules of Procedure of Saeima*). Adopted on 28/07/94, last amended on 19/01/12. Section 179, Annex. <http://www.likumi.lv/doc.php?id=57517>.

65 Saeimas kārtības rullis (*Rules of Procedure of Saeima*). Adopted on 28/07/94, last amended on 19/01/12. Section 179, Paragraph 1, Item 3 and Paragraph 7. <http://www.likumi.lv/doc.php?id=57517>.

66 [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4\(2012\)3\\_Latvia\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4(2012)3_Latvia_EN.pdf).

67 [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4\(2012\)3\\_Latvia\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4(2012)3_Latvia_EN.pdf).

68 Mandātu, ētikas un iesniegumu komisija (2010-2013) *Par Saeimas deputātu ētikas kodeksa pārkāpumiem Saeima*. <http://mandati.saeima.lv/lemuma-projekti/par-saeimas-deputtu-etikas-kodeksa-prkpumiem>.

MPs are exempt from a number of corruption prevention provisions in the Conflict of Interest Law, including procedures to report conflicts of interest. Reporting to KNAB is possible with respect to other MPs but not with respect to oneself. GRECO noted that relying on the common sense of individual MPs to resolve such matters sends the wrong signal to the public. It also encouraged KNAB to continue its efforts to inform MPs about the course of action to take if a conflict of interest question arises, but noted that it was up to Parliament to assume more self-responsibility in this area. A stronger system for regulating parliamentary ethics would help build public trust.<sup>69</sup>

Provisions on MPs' immunity have not been revised since they were first introduced. GRECO recommended that administrative immunity be lifted, as it no longer serves its original purpose and gives the impression that MPs are above the law.<sup>70</sup> However, recent attempts to abolish administrative immunity did not reach the 2/3 majority required to amend the Constitution.

The effective accountability of elected officials and the dissuasive impact of relevant penalties require timely adjudication. A major case against a major political party for overspending during the 2006 election campaign reached a final verdict in 2011, after two other elections had passed and the party had dissolved. The delay made it impossible to enforce the court judgment, which fined the party for overspending and accepting illegal donations.

### ***State-owned companies***

There is a perception that supervisory and managerial positions are reshuffled to reflect changes in the governing coalition, with associated risks of conflicts of interest and corruption. Further increasing public accountability at state-owned companies would help to address this perception.<sup>71</sup> In an improvement, in 2012 and 2013 the Privatisation Agency organised a merit-based selection of members for supervisory boards in four major companies with a state share.<sup>72</sup> Members of management boards of state-owned companies are subject to the same rules on incompatibility of offices and asset disclosure applicable to public officials.<sup>73</sup> State-owned companies are required to disclose criteria for determining the remuneration of their officials and employees.<sup>74</sup> The law also grants public access to information on donations granted by state-owned companies.<sup>75</sup> While the State Audit Office has the authority to audit state-owned enterprises, it has been noted that internal auditors do not have independent board members or independent audit committees to which to report.<sup>76</sup> Moreover, state-controlled parent companies purchase services from subsidiaries on terms that are not fully transparent. The government is planning to establish a partially centralised ownership agency, which would report to the Prime Minister.<sup>77</sup> Draft amendments submitted to Parliament in May 2013 aim to improve the governance of state-owned companies and ensure a more professional appointment of managers

69 [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4\(2012\)3\\_Latvia\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4(2012)3_Latvia_EN.pdf).

70 [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4%282012%293\\_Latvia\\_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/GrecoEval4%282012%293_Latvia_EN.pdf).

71 Kalniņš, V. and Litvins, G. (2011) *Augošas vērtības meklējumos. Valsts un pašvaldību kapitālsabiedrības: rīcībpolitikas un prakses izvērtējums Sabiedriskās politikas centrs Providus*, pp. 54-64.

72 Spridzāns, A (2013) *Padomes locekļu atlases prakse 2012/2013 VAS 'Privatizācijas aģentūra'*. <http://delna.lv/business-integrity-conference/conference-materials/>.

73 As defined in the Law on Prevention of the Conflict of Interest.

74 Valsts un pašvaldību institūciju amatpersonu un darbinieku atlīdzības likums (*Law on Remuneration of Officials and Employees of State and Local Government Institutions*). Section 2.

75 Likums 'Par valsts un pašvaldību finanšu līdzekļu un mantas izšķērdēšanas novēršanu' (*Law on Prevention of Waste of Financial Means and Property of the State and Local Governments*). Section 14. <http://www.likumi.lv/doc.php?id=36190>

76 Baltic Institute of Corporate Governance (2012) *Governance of State-Owned Enterprises in the Baltic States*, p. 49. <http://corporategovernance.lt/uploads/docs/Governance%20of%20State-owned%20Enterprises%20in%20the%20Baltic%20States.pdf>

77 Ministru kabinets (2012) Valsts kapitāla daļu pārvaldības koncepcija. <http://polsis.mk.gov.lv/view.do?id=3990>

and reduced possibilities for the politicisation of enterprises.<sup>78</sup> These plans, still under consideration, also include the reinstatement of the supervisory boards for larger companies, abolished in 2009 for all companies solely owned by the state.

### 3. FUTURE STEPS

Latvia has made progress in preventing and addressing corruption, with a searchable online database of political donations, and a track record of KNAB investigations. Moreover, anti-corruption laws are gradually being developed and refined, although implementation in practice remains uneven. Further efforts can help address corruption risks in public procurement and improve the accountability of elected officials as well as the transparency of state-owned companies.

The following points require further attention:

- Maintaining **KNAB's** achievements by strengthening its independence and protecting it from potential political interference, notably in supervisory and budgetary procedures.
- Promoting greater competition for **public contracts** and greater use of centralised e-procurement. Further enhancing KNAB's efforts to detect corruption in public procurement. Improving the transparency of **state-owned companies** and defining professional selection criteria for supervisory and management posts.
- Strengthening the **ability of the judiciary to handle corruption cases** in an independent manner by reinforcing the role of self-governing judicial bodies in relation to appointments and career progression, by taking further measures to uphold due process in disciplinary proceedings, and by restricting Parliament's powers to the confirmation of judicial appointments.
- Revising and applying more rigorously **Parliament's Code of Ethics**, providing practical guidance on conflicts of interest, requiring *ad hoc* oral declarations at the outset of proceedings, and lifting administrative immunities for MPs.

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<sup>78</sup> Ministru kabinets (2013) *Sēdes protokols Nr. 32*, 28. maijs.  
<http://www.mk.gov.lv/lv/mk/mksedes/saraksts/protokols/?protokols=2013-05-28>.