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FIFTH EVALUATION ROUND

Preventing corruption and promoting integrity in
central governments (top executive functions) and
law enforcement agencies

COMPLIANCE REPORT

LATVIA



Adopted by GRECO at its 86th Plenary Meeting
(Strasbourg, 26-29 October 2020)



Group of States against Corruption
Groupe d'États contre la corruption

COUNCIL OF EUROPE



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I. INTRODUCTION

1. GRECO's Fifth Evaluation Round deals with "Preventing corruption and promoting integrity in central governments (top executive functions, PTEF) and law enforcement agencies (LEA)".
2. This Compliance Report assesses the measures taken by the authorities of Latvia to implement the recommendations issued in the Fifth Round Evaluation Report on Latvia which was adopted at GRECO's 80th Plenary Meeting (22 June 2018) and made public on 21 August 2018, following authorisation by Latvia ([GrecoEval5Rep\(2017\)6](#)).
3. As required by GRECO's Rules of Procedure¹, the authorities of Latvia submitted a Situation Report on measures taken to implement the recommendations contained in the Evaluation Report. This report was received on 2 March 2020 and served as a basis for the Compliance Report. Supplementary information was provided by the Latvian authorities on 21 October 2020.
4. GRECO selected Lithuania (with respect to top executive functions in central governments) and the Netherlands (with respect to law enforcement agencies) to appoint Rapporteurs for the compliance procedure. The Rapporteurs appointed were Agnė Veršelytė, Senior Advisor, International Law group, Ministry of Justice, on behalf of Lithuania and Ms Quirien van Straelen, Senior Policy Advisor, Ministry of Justice and Security, on behalf of the Netherlands. They were assisted by GRECO's Secretariat in drawing up the Compliance Report.
5. The Compliance Report assesses the implementation of each individual recommendation contained in the Evaluation Report and establishes an overall appraisal of the level of the member's compliance with these recommendations. The implementation of any pending recommendation (partially or not implemented) will be assessed on the basis of a further Situation Report to be submitted by the authorities 18 months after the adoption of the present Compliance Report.

II. ANALYSIS

6. GRECO addressed 17 recommendations to Latvia in its Evaluation Report. Compliance with these recommendations is dealt with below.

Regarding central governments (top executive functions)

Recommendation i.

7. *GRECO recommended that, for the sake of transparency, the names of "advisory officials and employees" and of "supernumerary advisory employees" and any other type of unpaid advisor in central government are published online and, in respect of the two latter categories, that information on their main job and ancillary activities, including "work-performance" contracts executed for central government, is easily accessible online.*
8. The authorities report that, on 19 June 2019, the State Chancellery sent a letter to all ministries instructing them to publish online the information on staff and non-staff advisors and any other employee hired by Cabinet members online. The information on advisors was to be published preferably in the "Contacts/Office of the Minister" section of the ministry's official web site. The Office of the Prime Minister and all

¹ The Compliance procedure of GRECO's Fifth Evaluation Round is governed by its Rules of Procedure, as amended: Rule 31 revised bis and Rules 32 revised bis.

thirteen ministries have systematically published such information online². By way of example, reference is made to the web pages of the Office of the Prime Minister³. It is furthermore recalled that the Prime Minister's written orders on the appointment of non-staff advisors are published on the legal acts portal (www.likumi.lv) and in the Official Gazette, and publicised via press releases (www.mk.gov.lv). At the time of reporting, the Office of the Prime Minister had four non-staff advisors and the offices of ministers – 19 non-staff advisors.

9. GRECO welcomes these efforts to increase transparency on employees in central government, including specifically staff and non-staff advisors. At the time of the evaluation, the precise information on the number, status and functions of advisors was not easy to find on institutional web sites. Their names, positions and areas on which they advise are now systematically published online and a clearer differentiation is made between those who are remunerated and those who are not. Bearing in mind that there is likely to be a regular turnover in such advisory appointments, the authorities are urged to continue to maintain this high degree of transparency and accessibility to information.
10. GRECO concludes that recommendation i has been implemented satisfactorily.

Recommendation ii.

11. *GRECO recommended that "advisory officials" in central government give orders to civil servants and employees hired on the basis of professional criteria only with proper entitlement and that greater institutional awareness of the related rights and obligations is facilitated, proper guidance provided and supplementary clarifying rules issued to the extent necessary.*
12. The authorities indicate that, after an internal reflection process, the State Chancellery decided to address this recommendation by developing "Guidelines on co-operation between political officials and professional officials". The draft Guidelines contain: i) an in-depth analysis of the role, status and differences between the two types of officials; ii) explanations concerning the right of different categories of political officials to give orders/issue instructions to civil servants; and iii) recommendations for action in typical situations (i.e. when a political official's order/instruction is received by professional staff members). On 17 January 2020, the draft Guidelines were discussed at a workshop on the integrity of political officials organised by the State Chancellery, attended by high-level officials from all ministries, the Saeima, the Corruption Prevention Bureau (KNAB), the Ombudsperson, civil servants, academia and civil society. In light of the workshop's conclusions, the Guidelines were finalised and published on 17 February 2020, on the Cabinet's website (www.mk.gov.lv/sites/default/files/page/attachments/greco_vadlinijas_17.02.2020_gala-lv-en-c.pdf).
13. GRECO takes note of the adoption of Guidelines clarifying the rights and obligations of the political and professional staff in central government. At the time of the evaluation, proper attention was not being paid to the practice of political staff giving orders/instructions to professional staff without being entitled to do so, which albeit forbidden by the rules, was widespread. The text (made available to GRECO) fills this gap by providing a guide to professional staff on how to act when receiving orders/instructions from political staff, how to check, in case of doubt, that political

² In respect of staff/employees, the following information is published: the name, duties and the contact information. In respect of staff advisors, the following is published: the name, the position, the subject of advice. In respect of non-staff advisors, the information on their main or past job is also added; often a qualification "without remuneration" is added.

³ www.mk.gov.lv; <https://www.mk.gov.lv/en/kontaktu-katalogs>; <https://www.mk.gov.lv/lv/content/ministru-prezidenta-birojs>

staff are entitled to give orders/instructions and which action to take if exertion of undue influence by political staff is suspected.

14. GRECO concludes that recommendation ii has been implemented satisfactorily.

Recommendation iii.

15. *GRECO recommended carrying out a systematic analysis of integrity-related risks that Cabinet members, other political officials and "supervisory advisory employees" (and persons with equivalent status) in central government might face in the exercise of their duties and to designate and implement appropriate remedial measures.*
16. The authorities refer to the launch in January 2020 of a risk assessment tailored to the specific functions and duties of political officials⁴. The assessment was carried out by the State Chancellery, with the involvement of the KNAB, and comprised: 1) analysis of groups of political officials facing integrity risks; 2) ascertainment of the functions, competences and scope of action of political officials which give rise to integrity risks specific to each group; 3) mapping integrity risks (corruption, conflicts of interest, gifts, lobbying, information disclosure, etc.); 4) identification of remedial measures for each risk; and 5) calculation of the probability and scale of each risk (low/high, "gross risk").
17. Perception of the everyday functioning of political officials and of situations prone to integrity risks has been further broadened thanks to the January 2020 workshop on the integrity of political officials (cf. recommendation ii), which will be further deepened by means of interviews with some political officials conducted in September-October 2020. The risk assessment is to be completed in autumn 2020, following which it will be made public and a series of measures are to be implemented, including the revision of regulations, publication of a brochure on standards of conduct - also meant as a reference text for the induction of newly appointed political officials, the development of an online ethics course⁵ and the setting up of a mechanism to ensure that the ethical standards are respected and complied.
18. GRECO welcomes the carrying out of an analysis of integrity risks facing political officials across central government (made available in Latvian only), including Cabinet members and paid and unpaid advisors. It is recalled that, at the time of the evaluation, the State Chancellery and ministries had implemented anti-corruption action plans covering only professional staff/employees. GRECO looks forward to being informed in due course of the specific risks identified for the different groups of political officials and of the mitigating action taken in respect of each risk. Given that the process is at an early stage, GRECO concludes that the recommendation is not more than partly complied with.
19. GRECO concludes that recommendation iii has been partly implemented.

Recommendation iv.

20. *GRECO recommended that the system for managing conflicts of interest also covers non-remunerated "supernumerary advisory employees" and unpaid advisors in central government, as is appropriate to their functions.*
21. The authorities report that the existing legal framework has been duly assessed by the State Chancellery and the KNAB and that it has been concluded that the

⁴ The authorities underline that the functions and duties of political officials are different from those of civil servants. For example, political officials are not entrusted with control or sanctioning powers, may not attribute funds, procurement and service delivery contracts, which are typically the functions exposed to integrity risks.

⁵ An online ethics course for both political and professional staff is already being developed by the Latvian School of Public Administration, in cooperation with the KNAB (as part of an EU-funded project).

appropriate way to deal with the recommendation is to amend Cabinet Regulation No. 495 on "The rules on supernumerary advisory employees of the Cabinet members". The amendments will introduce a duty for them to avoid acting if there is a conflict of interests. Notably, new point 6.4 will provide that: "A supernumerary advisory employee declines carrying out duties and informs the member of the Cabinet in all cases when, due to a personal interest or ethical considerations, the objectivity and neutrality of his/her actions may be put in doubt".

22. GRECO notes the intention to amend Cabinet Regulation No. 495 on "The rules on supernumerary advisory employees of the Cabinet members" by introducing a duty for them to report and step away from a matter when a potential conflict of interest arises. The proposed amendments go in the right direction but fall short of establishing a system for managing conflicts of interest. Besides the reporting duty, such a system needs to detail the types of relationships potentially representing a conflict of interest and thus requiring a disclosure⁶, outline a recording procedure and consequences for violations, and put in place training/awareness measures. Furthermore, GRECO has not been informed of any corrective measures being proposed in respect of other unpaid advisors. It recalls that not only *non-remunerated* "supernumerary advisory employees", hired by Cabinet members, but also *unpaid advisors*, hired by ministers, are not subject to any prohibitions, restrictions, duties or liability in situations of a conflict of interest. The authorities are therefore called on to give proper attention to all aspects of this recommendation and to implement it fully.
23. GRECO concludes that recommendation iv has been partly implemented.

Recommendation v.

24. *GRECO recommended to elaborate - drawing on the results of comprehensive integrity risk assessments - principles and standards of conduct applicable to and enforceable for Cabinet members, political officials and "supernumerary advisory employees" as well as for various categories of unpaid advisors in central government (on issues such as conflicts of interest, interaction with third parties, including lobbyists, gifts, etc.) and to ensure that they are made aware of those standards and are provided with dedicated guidance and counselling, including confidential counselling.*
25. The authorities inform of the adoption, on 21 November 2018, of a new Cabinet regulation – Recommendation No. 1 on "Values of the State Administration and Fundamental Principles of Ethics". It sets out common public sector values and principles of conduct, establishes the requirements for communication with lobbyists and the carrying out of auxiliary activities, provides for the establishment of ethical counsellors/ethic commissions and lays down managers' supervisory duties in relation to ethical matters. The regulation applies to all institutions subordinated to the Cabinet and those they employ, i.e. public officials, including political officials, civil servants and employees. The authorities state that the effectiveness and comprehensiveness of this regulation will be further examined in light of the outcomes of the integrity risk assessment mentioned under recommendation iii. In their most recent written submission, the authorities inform of the start of the process meant to supplement the regulation with a separate section enumerating ethical principles for ministers and other political officials and to facilitate its implementation.
26. GRECO welcomes the adoption of a programmatic document (<https://likumi.lv/ta/en/en/id/303328-values-of-state-administration-and-fundamental-principles-of-ethics>) putting in place what appears to be a robust general integrity framework for the whole of the state administration. It notes however that Cabinet members are excluded from its scope. Likewise, the obligation

⁶ For example, what is meant by "ethical considerations" in the suggested amendment is unclear and open to interpretation.

to elect/appoint ethical counsellors/ethics commissions to facilitate the sustained adherence to the common ethical values does not apply to the Cabinet and offices of the Prime Minister and ministers. This being said, GRECO understands that the on-going integrity risk assessment (cf. recommendation iii) will lead *inter alia* to the development of tailor-made standards of conduct for all political officials, including Cabinet members, appropriate compliance mechanism/s and accompanying on-line training programme/s. It can therefore be concluded that the reported action – that covers some but not all political officials – represents a step towards fulfilling the goals of the recommendation. Further measures are in the pipeline and will be assessed at a later stage. As for the “supernumerary advisory employees” and other unpaid advisors, conflicts of interest matters pertaining to them are tackled under recommendation iv.

27. GRECO concludes that recommendation v has been partly implemented.

Recommendation vi.

28. *GRECO recommended that the relevant rules be reviewed so as to ensure that the names of all participants of sittings of the Cabinet and its Committees and of State Secretaries’ meetings are publicly accessible online.*
29. The authorities refer to the Rules of Procedure of the Cabinet adopted in 2009, which provide for the possibility to invite third persons to sittings of the Cabinet and its Committees and to State Secretaries’ meetings. They state that the names of all invitees appear on the meeting agenda, in the column entitled “Invited”⁷. The minutes of the sittings of the Cabinet and its committees and of State Secretaries’ meetings contain the name of the president of the sitting and of participants, including those with the right to vote and advisory rights. Meeting agendas are itemized, and the name of the intervenor(s) can be found under each item⁸. Furthermore, as of 2013, Cabinet meetings are broadcasted live. Any person who speaks at such meetings can be heard/seen online⁹.
30. The authorities also inform that the development of a single Legal Acts Drafting Portal under the stewardship of the State Chancellery is underway. The Portal will become operational in 2021 and is expected to modernise the decision-making process and enhance public participation in it. The Cabinet Rules will be amended to give the Portal a proper legal basis, and one of the future amendments will tackle the non-publication of participants’ lists, which, in the future, will be automatically generated and become a new feature of the Portal.
31. GRECO takes note of the above. It recalls that, at the time of the evaluation, the Cabinet Rules only stipulated that the minutes of sittings should reflect the decisions and voting results as well as the names of persons who participated *and spoke* on a particular matter. Regarding Cabinet committees’ and State Secretaries’ sittings, the Rules provided that the minutes should only contain the decisions and the names of participants *who report on a specific matter* (cf. paragraph 64 of the Evaluation Report). There is no evidence to suggest that the rules have been changed in line with the recommendation, although the authorities indicate in their most recent submission that such amendments will soon be prepared. Although the publication of names of third persons attending various government sittings is a positive practice, GRECO insists that this should be done in accordance with rules, as is required by the recommendation. For this reason, GRECO fully supports the establishment of a single draft legal acts portal to substantially modernise the related decision and law-making processes and to provide a proper legal and technical basis for complying with this recommendation. GRECO furthermore notes the development in June 2020 of new rules allowing for the Cabinet and State Secretaries’ sittings to take place

⁷ <http://tap.mk.gov.lv/mk/mksedes/saraksts/darbakartiba/?sede=1089>

⁸ <http://tap.mk.gov.lv/mk/mksedes/saraksts/s/darbakartiba/?sede=653>

⁹ <http://www.mk.gov.lv/lv/tiesraide>

remotely (not made available to GRECO). The authorities indicate that the lists of participants for such meetings are prepared by the State Chancellery and that they are not published. In light of these recent developments, GRECO encourages the authorities to also ensure that these new rules also fully comply with the present recommendation.

32. GRECO concludes that recommendation vi has not been implemented.

Recommendation vii.

33. *GRECO recommended that legal requirements regarding the publication of the outcomes of public participation procedures, including the lists of participants and proposals/objections presented together with justifications for their rejection or acceptance by the institution concerned, are met in practice and that such information is posted online in a systematic, timely and easily accessible manner.*
34. The authorities recall that Cabinet Regulation No. 970 on "Procedures for public participation in the Development Planning Process", adopted on 25 August 2009, includes the requirement to publish and disseminate in other ways the results of public consultations and public discussions. The summary of a public consultation, along with the list of participants, is to be published within 30 days, a summary of a public discussion - within 14 days. Objections from the public are to be put in a "Statement of objections" and then submitted to the Cabinet, posted on the web site of the institution concerned and shared with "coordination participants" (i.e. government bodies and stakeholders involved). From the time a draft legal act is presented to a State Secretaries' meeting and until its adoption by the Cabinet, the information on the draft is accessible, in a timely and user-friendly manner, on the Cabinet's web site (www.mk.gov.lv). More detailed information, including individual opinions from the general public, can be found in an "e-portfolio" (<http://tap.mk.gov.lv/mk/tap/>). Since 2019, statements of objections have been published on the Cabinet's web site as well. The examples of information accompanying a draft legal act and containing the act, the impact assessment and the statement of objections, are given.
35. The authorities also inform that the future single Legal Acts Drafting Portal will contain the information on the life cycle of a draft legal act to be approved by the Cabinet, allow for direct public participation and inform of the outcome of the various procedures. For example, it will be possible to sign up for news, submit opinions, sign up for working groups, etc¹⁰.
36. Finally, the authorities recall that Latvia's Open Government National Action Plan 2020-2021 (<https://likumi.lv/ta/en/en/id/312544-fourth-national-open-government-partnership-action-plan-of-latvia>) includes a commitment to improve citizens' engagement in decision-making processes and foresees the creation of public participation digital platforms and the elaboration of a public participation standard coupled with training programmes to enhance citizens' engagement in decision-making process. The present recommendation will be taken into account in that process.
37. GRECO notes that, aside from the new practice of publishing statements of objections on the Cabinet's web site, the rest of the above information was known to it at the time of adoption of the Evaluation Report. While being welcome, this practice alone cannot bring about the qualitative improvements to public participation expected under the present recommendation. GRECO hopes that the establishment of the single legal acts portal (cf. recommendation vi) will create a cascading effect with

¹⁰<https://www.mk.gov.lv/lv/content/vienotais-tiesibu-aktu-projektu-izstrades-un-saskanosanas-portals-tap-portals>

respect to public participation. Pending more tangible progress, it is concluded that the recommendation has been partly implemented.

38. GRECO concludes that recommendation vii has been partly implemented.

Recommendation viii.

39. *GRECO recommended to ensure that i) Cabinet members, other political officials, "supernumerary advisory employees", and other unpaid advisors in central government notify conflicts of interest as they arise (ad hoc) and that such conflicts are adequately registered, disclosed and that non-disclosure is properly sanctioned; and ii) all political officials in central government, aside from Cabinet members and parliamentary secretaries, are to obtain permission to exercise ancillary activities.*

40. With respect to part (i) of the recommendation, the authorities refer to the Law on the Prevention on Conflicts of Interest in the Activities of Public Officials (LPCOI) and internal ministerial rules. Binding on Cabinet members and political officials, they impose a duty to notify and properly record conflicts of interest and to abstain from acting when facing such conflicts¹¹. The recording method varies depending on the institution concerned. Violations carry a fine (€350, levied by the KNAB), accompanied or not by the loss of the right to hold a public office. The KNAB and the State Revenue Office are to keep the public informed of all violations detected.

41. Regarding part (ii) of the recommendation, the authorities invoke the restrictions under the LPCOI¹² on combining offices and indicate that there are practical cases where the duty to seek permission to exercise a secondary job may be included in a political official's employment contract. It is furthermore stated that the KNAB has prepared amendments to Article 7 LPCOI which will oblige the public officials enumerated in Article 4.1.5 LPCOI to obtain a superior's written permission to perform secondary jobs. Draft Article 7.6.2. reads: "The public official mentioned in Section 4.1.5 of this law acquires a written work permission from the public official (the President, Prime Minister, Deputy Prime Minister, Minister for Special Assignments) who appointed him/her to the office." These amendments were presented on 3 September 2020 at a State Secretaries' sitting. The draft will now undergo an inter-ministerial co-ordination procedure, following which it will be adopted by the Cabinet and sent to the *Saeima*.

42. In relation to part (i) of the recommendation, GRECO recalls that the issue of whether there is or not an obligation on political officials to declare conflicts of interest *ad hoc* was controversial during the evaluation visit (cf. paragraphs 73-75 of the Evaluation Report). There is no evidence to suggest that the applicable regulatory framework has been revised or complemented by internal guidance or otherwise. Also, no statistics has been furnished to attest that conflicts of interest are routinely disclosed and properly registered across central government, and cases of non-disclosure timely detected and sanctioned, and communicated to the public. It is therefore concluded that the situation in respect of this part of the recommendation has not changed since the adoption of the Evaluation Report. As for "supernumerary advisory employees" and other unpaid advisors, conflicts of interest issues pertaining to them are dealt with under recommendation iv.

43. Regarding part (ii) of the recommendation, GRECO welcomes the draft amendments to the LPCOI placing an obligation on political officials to obtain a superior's written permission for the exercise of auxiliary jobs. Given that the amendments are still to be submitted to the *Saeima*, this part of the recommendation has not been partly implemented, even partly.

44. GRECO concludes that recommendation viii has not been implemented.

¹¹ Articles 20 and 21 LPCOI.

¹² Article 6 LPCOI.

Recommendation ix.

45. *GRECO recommended that i) the veracity of asset declarations of Cabinet members and other political officials is subject to systematic (preferably, annual) in-depth and independent scrutiny in accordance with law; and that ii) the amended asset declarations of all public officials are made publicly accessible online in accordance with law.*
46. Regarding part (i) of the recommendation, the authorities state that, in 2018, the KNAB adopted new guidelines/internal criteria for selecting the public officials whose asset declarations should be subject to in-depth scrutiny. They prioritise higher ranking officials as well as those with the power/duty/right to control, monitor or discipline direct or indirect subordinates. The guidelines take into account the priorities of the KNAB's Strategy, breaches of the law by certain categories of public officials and their frequency, media reports, etc. The guidelines have been applied since 1 January 2019. Additionally, in accordance with the Regulation of the State Revenue Service (SRS) "On procedures for the inspection of state officials' declarations" of 9 February 2018, declarations of the highest officials, i.e. the President, MPs, the Prime Minister, deputy Prime Ministers, ministers, ministers for special assignment and Parliamentary Secretaries, have been "compared with the information available to the SRS". This means that an in-depth inspection of the declarations is made on their substance and compared with those made the previous year and, if a significant change is detected, additional analysis is carried out in the context of other information available. Some other, specifically chosen, categories of public officials may also be subject to in-depth inspection, for example, bailiffs in 2020. All public officials are also monitored annually as taxpayers by the SRS. The authorities add that, even if the SRS is a direct administration authority under the supervision of the Ministry of Finance, it is independent in its administrative decision-making and its decisions can be appealed in court.
47. In furtherance of part (ii) of the recommendation, the SRS has prepared proposals for amending the LPCOI to the effect that, once it has verified a public official's asset declaration, it would be entitled to request the filer to provide clarifications, and would be obliged to publish the adjustments made to the declaration in the Public Information Database System, under the "Public Officials" section. The proposals were submitted to the Saeima in February 2019 and are currently being examined.
48. GRECO takes note and it regrets the absence of tangible measures taken so far to address the first part of the recommendation, particularly in so far as legislative efforts are concerned. At present, the LPCOI does not impose an obligation on either the KNAB or the State Revenue Service to conduct in-depth checks of PTEFs' declarations, although the KNAB's newly adopted internal guidelines provide for annual scrutiny of the declarations of all ministers and parliamentary secretaries. As for the information reported in respect of the Regulation of the State Revenue Service, it is not new and was taken into account at the stage of the evaluation. With respect to the second part of the recommendation, GRECO is pleased to note the preparation of amendments to the LPCOI which would allow for the publication of corrections/amendments made to declarations subsequent to an inspection. The authorities are encouraged to rapidly complete this reform, pending which this part of the recommendation is considered partly implemented.
49. GRECO concludes that recommendation ix has been partly implemented.

Recommendation x.

50. *GRECO recommended carrying out an evaluation of law enforcement bodies' competence to institute criminal proceedings against persons with top executive functions, with the overall goal of optimising the allocation of functions and resources.*

51. The authorities refer to a meeting between the Ministry of Justice and the heads of the country's eleven investigating bodies held on 9 August 2019. It was decided to solicit the assistance of the State Audit Office (SAO) in evaluating the functions and competences of the investigating bodies listed in Article 386 of the Criminal Procedure Code with a view to ascertaining overlaps. A letter to this effect was sent to the SAO on 1 October 2019 and a reply was received on 18 October. The SAO stated that it was unable to conduct a separate audit as suggested. Nevertheless, it promised to include, as far as possible, in the audit on "The effectiveness of economic and financial crime investigations and trials" covering four¹³ of the eleven investigating bodies, separate questions on the competence to institute criminal proceedings against persons with top executive functions. This audit is underway.
52. Moreover, the KNAB asked three independent academic establishments, for their opinion on the competence of law enforcement bodies to institute criminal proceedings against persons with top executive functions. To date one reply has been received from the Faculty of Law of Riga Stradins University (available to GRECO). In its opinion it is undeniable that the number of investigating institutions can lead to disputes arising between them regarding jurisdiction over specific criminal offences.
53. GRECO takes note of the on-going evaluation by the State Audit Office (SAO) of four of Latvia's eleven law enforcement bodies. It recalls that the competence to institute criminal proceedings in respect of top executive functionaries is currently vested in the State Police, the Security Police, the Financial Police, the customs authorities and the KNAB. Their respective jurisdictions are not clearly defined which leads to inter-institutional disputes and procedural delays. GRECO agrees that the results of the SAO's audit and the opinion of the scientific community could contribute to and guide decision making on the re-allocation of functions amongst the aforementioned bodies to secure swift and efficient criminal proceedings involving top executive functionaries. For this reason, it concludes that the recommendation has been partly implemented. It looks forward to receiving the results of the audit and the opinions of the two other academic establishments.
54. GRECO concludes that recommendation x has been partly implemented.

Regarding law enforcement agencies

55. The authorities supplied information on a series of pre-trial investigations launched in 2019 by the Internal Security Bureau in respect of high-ranking officials of the State Border Guard. At present, the legality of the actions of seven officials at different managerial level is being examined in connection with alleged criminal offences in the service of state institutions¹⁴. The State Audit Office has also audited these alleged violations. Additionally, according to the authorities, certain risks of criminal behaviour were identified within the State Border Guard by the Internal Security Bureau, including "inadequate monitoring of projects by officials, including abuses of position, exceeding authority and action". GRECO thanks the authorities for the information provided.

Recommendation xi.

56. *GRECO recommended clarifying and further strengthening the corruption prevention effect of the State Border Guard's Code of Ethics in relation to gifts/benefits, lobbying, "professional ethics" and conduct in situations not covered by the Code.*
57. The authorities inform of the entry into force, on 14 January 2020, of a new regulation on "The State Border Guard Ethics Commission". Furthermore, a new draft "Code of Ethics for Officials with the Special Service Rank and Employees of the State Border

¹³ The KNAB, the State Police, the State Prosecution Office and the Tax and Customs Police of the State Revenue Office.

¹⁴ Article 175 (Theft), Article 195 (Laundering of Proceeds of Crime), Article 323 (Giving Bribes).

Guard” has been drawn up .¹⁵ It introduces a general prohibition on the acceptance of gifts and other benefits and a definition of “lobbying”, and provides for breaches to be examined by the Ethics Commission and ethical dilemmas to be referred to it. The Code entered into force on 9 March 2020.

58. GRECO notes the adoption by the State Border Guard of a new Code of Ethics. Although it tackles some of the deficiencies pinpointed in the Evaluation Report (certain unclear provisions were deleted, the notion of “lobbying” introduced and referrals to the Ethics Committee provided for), the Code still lacks the requisite corruption prevention effect. As before, a blanket prohibition only applies to gifts, hospitality and benefits from lobbyists and persons represented by them (Article 20.1). Restrictions on permissible gifts merit clarification (Article 14). Whether to accept invitations or hospitality is left to the discretion of employee and related examples and/or guidance are not given (Article 12.5). The term “advantage” (Articles 18) is not defined. Above all, values and ethical principles of conduct are not included and are to be sourced elsewhere¹⁶. Last but not least, the Code does not reflect corruption vulnerabilities specific to the SBG. In this light, GRECO concludes that the recommendation has been partly implemented and urges the authorities to comply promptly and fully with it.

59. GRECO concludes that recommendation xi has been partly implemented.

Recommendation xii.

60. *GRECO recommended i) that the codes of ethics and the rules on ethics committees be reviewed to ensure the congruency of rules and procedures for ascertaining compliance with the codes, and that procedures and sanctions for breaches be established; and ii) that dedicated guidance and training be provided on the codes of ethics and on the mechanisms for their enforcement referred to in part i) of this recommendation with the involvement and contribution of the respective ethics committees.*

61. The authorities refer to the information supplied before in respect of recommendation xi concerning the adoption by the State Border Guard of a new Code of Ethics and a new regulation on the Ethics Commission. The authorities affirm that both texts ensure the congruency of the respective rules and procedures. The new regulation notably stipulates that the Ethics Commission is to perform the function of «a trustee on ethical issues», establish the procedure by which the Commission is to interpret ethical norms, provide for the publication of its interpretive decisions online and improve employees' training on ethical issues. To avoid a conflict between the regulatory texts of the State Border Guard and the State Border Guard College, the College has developed a separate draft Code of Ethics, which was adopted on 4 August 2020. The conformity of the content of the educational programmes run by the College with the two codes is being evaluated by the two agencies. Besides, a seminar on observing fundamental ethical principles in practice and topical ethical issues will be organised annually for the staff of the State Border Guard and the State Border Guard College.

62. Regarding the State Police, the authorities report that, on 5 February 2020, a new Code of Ethics and a new regulation on the State Police Ethics Commission entered into force. The new framework clarifies the competence and composition of the Ethics Commission and the procedure in case of breach of the Code. The Code contains a general description of police values, a section regarding communication with lobbyists and the rules for upholding the image and reputation of police in society. The

¹⁵ According to the authorities, the draft Code is based on the Cabinet of Ministers Recommendation on “Values of the State Administration and Fundamental Principles of Ethics” (cf. recommendation v) and the KNAB’s Study on “The Quality Analysis of Codes of Ethics for Leading Public Administrations, their subordinate authorities and local governments”. The values and basic ethic principles have been fully taken from the Cabinet of Ministers Recommendation, and certain sections – from the Code of Ethics of the KNAB.

¹⁶ Cf. Values of State Administration and Fundamental Principles of Ethics (recommendation v).

authorities underline that both texts have already been integrated into ethics-related training run by the State Police College.

63. GRECO notes that the State Border Guard and the State Police have adopted new codes of ethics and new regulations on the ethics commissions to ensure the coherency of the respective rules and procedures, notably with respect to the receipt and review of personal applications, the solicitation and provision of ethical advice and counselling, and the reporting and sanctioning of ethical breaches. GRECO takes the view that, thanks to those changes, both ethics commissions are now better positioned to promote and strengthen the implementation and observance of the respective codes. It would appear that improved guidance and training on the codes and the mechanism for their enforcement are also foreseen, with the involvement of the Ethics Commissions. In view of the foregoing, GRECO concludes that the first part of the recommendation has been implemented satisfactorily. With respect to its second part, GRECO would welcome complementary information on the process of training, once its comments on recommendation xi are taken into account.

64. GRECO concludes that recommendation xii has been partly implemented.

Recommendation xiii.

65. *GRECO recommended that specific legal provision is made for publicly advertising vacancies in the State Police and the State Border Guard.*

66. The authorities inform of the adoption, on 22 May 2018, by the State Border Guard of internal regulation no. 11 on "Staff Selection Rules", paragraph 12 of which stipulates that when announcing a public vacancy, information on the vacant position and the call for applications are to be published on the home pages of the State Border Guard and the State Employment Agency. In the State Police, the publication of vacancies is governed by internal regulation No. 7 of 23 April 2010 on "The order in which the State Police organises career development of officials with special service rank". Point 11 reads: "All public vacancies in the State Police are published on the State Police website". The description of the vacancy includes the name of the structural unit, the title, duties and requirements of the position, the salary before taxes and contact information. An internal assessment conducted in the State Police had found the existing normative framework to be sufficient and thorough. The authorities underline that all the necessary information is publicly available¹⁷.

67. Additionally, to make careers in the police force more attractive and to encourage applications, the State Police produced an infographic "Become a policeman", with information for example on compulsory service requirements, education and job opportunities and signed a contract with a company in charge of publishing information on vacancies online (website¹⁸, social media). In 2018, in the framework of a European Union project "Career support in general and vocational education institutions", the State Police prepared, jointly with the State Education Development Agency, descriptions of five police careers, which have been published online¹⁹.

68. GRECO notes that the internal rules of the State Border Guard and of the State Police explicitly provide for publicly advertising vacancies. The entry into force of the former rules coincided with the adoption of the Evaluation Report. The latter, effective since 2010, were not given to GRECO at the time of the evaluation and could not be taken into account. GRECO welcomes the additional efforts deployed, particularly by the State Police, to publicise vacancies and encourage external applications. In GRECO's view, these combined actions are an adequate alternative to the legislative reform recommended since the country has taken measures which meet the underlying

¹⁷ <http://www.vp.gov.lv/?id=408&said=408&rsd=1>

¹⁸ www.teirdarbs.lv

¹⁹ <http://www.profesijupasaule.lv>

concerns of the recommendation. The carrying out of reported outreach activities is appreciated and their continuation is strongly encouraged.

69. GRECO concludes that recommendation xiii has been dealt with in a satisfactory manner.

Recommendation xiv.

70. *GRECO recommended that objective and transparent criteria for ascertaining the integrity of police and border guard staff, and their compliance with the applicable code of ethics, be elaborated and form part of periodic performance reviews.*
71. The authorities refer to Cabinet Regulation No. 845 on «Procedures for the Evaluation of Performance of Activities of the Institutions under the Ministry of Interior and Prisons Administration, Officials with Special Service Rank and their Results» of 20 December 2016, which is binding on all institutions of the Ministry of Interior, including the State Border Guard and the State Police, and available to the public. Annex IV enumerates all competencies (including with respect to "Ethics") and action indicators that need to be taken into account when evaluating an official's performance. More specifically, point 15 gives a definition of "ethical behaviour" and sets out an evaluation scale and descriptive action indicators.
72. The authorities further inform that paragraph 32 of the new Ethics Commission Regulation of the State Border Guard provides that if the Ethics Commission considers an activity of an employee to be in breach of the Code of Ethics, it should inform his/her direct superior regarding the decision taken by sending an extract of it minutes. This information is to be taken into account in that employee's evaluation.
73. As for the State Police, according to Internal Orders No. 6956 of 12 December 2019 and No. 6038 of 30 October 2018, all position groups are evaluated on the competency "Ethics". Ethical principles and rules of conduct are prescribed by the Code of Ethics and adherence to them is compulsory for police staff. To improve the internal evaluation system, guidance on how to evaluate an official's actions has been developed and published on the Intranet, together with documentation on the evaluation process (legislative documents, State Police Orders, evaluation forms, etc.).
74. GRECO takes note and observes that Cabinet Regulation No. 845 had entered into force before the adoption of the Evaluation Report that drew attention to the failure of periodic performance reviews to comprehensively ascertain the integrity of police and border guard staff. In this regulation, integrity assessment is not referred to as a purpose of periodic performance reviews, and some of the indicators it contains are ambiguous (e.g. the expectation that police and border guard staff "define ethical values and act in accordance with them"). The authorities have not provided any new information in this respect. Regarding the State Border Guard, it is noted that a mechanism has been put in place to communicate to superiors the decisions of the Ethics Commission on ethical breaches. Although a welcome development, this is not sufficient to fully meet the concerns raised by the recommendation. Aside from collecting the information on ethical breaches and disciplinary offences, assessing the ethical dimension of an employee's conduct implies an on-going objective and comprehensive analysis of the everyday performance of his/her duties, its evolution over time and the detection of any propensities for unethical behaviour. This responsibility lies with the managers and requires evaluation instruments which are still missing at present. As for the State Police, GRECO takes note of the adoption of two regulations which reconfirm the findings of the Evaluation report, namely that although the competence "Ethics" is compulsory for certain groups of posts, the criteria and indicators which are to accompany each competence subject to evaluation, have not been developed for "Ethics" (paragraph 158). For this reason,

GRECO concludes that the recommendation has not been complied with, even partly, at this stage.

75. GRECO concludes that recommendation xiv has not been implemented.

Recommendation xv.

76. *GRECO recommended i) providing the State Police and the State Border Guard with the necessary resources to perform their tasks; and ii) elaborating precise, objective and transparent criteria for the allocation of bonuses, promoting consistency in their application and introducing adequate controls and monitoring in this field.*

77. On part (i) of the recommendation, the authorities report that, on 7 May 2019, the Cabinet of Ministers approved an Action Plan for the Implementation of the Declaration on Intended Activities, aimed, *inter alia*, at improving by 2022 the remuneration system in the home affairs sector. In the framework of this plan, in June 2019, the State Border Guard together with other authorities of the Ministry of Interior prepared an application for the "Increase in Remuneration of Officials of Authorities of the Interior System with Special Service Rank", providing for an increase in the monthly salary of staff classified up to the 6th monthly salary group (i.e. those earning the minimal monthly salary of between €588 and 1 060). The approximate total sum of the monthly salary increase for the above-mentioned groups is €4 394 497 per year. Furthermore, Cabinet of Ministers meeting protocol No. 42 of 17 September 2019 says that the State Border Guard will receive extra annual financing (€1 333 516) starting from 2020, which will allow for a monthly increase in the salary of the aforementioned categories of officials of about €45.

78. On part (ii) of the recommendation, on 27 June 2018, Internal Regulation No. 19 "On the Procedure for Granting Bonuses" of the State Border Guard came into force. It contains provisions defining the criteria for an employee to be granted a bonus. Supervision of the granting of bonuses in the State Border Guard takes place at several levels. It is carried out initially by a special commission composed of officials from several structural units which evaluates whether superiors' proposals meet the formal criteria. Internal control of the expenditure is exercised by the Financial Board of the Central Board, which oversees the proper conduct of financial operations. Finally, external control is exercised by the State Audit Office, which is responsible for oversight of the revenue and expenditure of financial resources of state institutions.

79. In relation to the State Police, the authorities inform that it too had drafted new internal rules on additional payments and bonuses, which will set out the framework for allocating these payments. The draft was submitted to the Ministry of Interior on 16 May 2019 and the harmonisation process is underway.

80. Furthermore, on 27 December 2019, the Ministry of Interior adopted new Guidelines on granting bonuses for officials with special service rank, which provide for a homogenous approach, based on individual assessment of personal results.

81. In their most recent written submission, the authorities add that, considering that the State Chancellery had elaborated a new draft Law on remuneration of officials and employees of state and municipal institutions, foreseeing changes in the system of additional payments and bonuses for all state officials, and the fact that during the inter-ministerial harmonisation process few substantial objections were received regarding its contents, it was decided to terminate the process of drafting internal regulations on this subject. Currently, the aforementioned Ministry of Interior's Guidelines serve as a basis for all decisions regarding bonuses in the State Police.

82. Regarding part (i) of the recommendation, GRECO notes the intention and some concrete steps taken to strengthen the financing of the State Border Guard and

increase the salaries of its staff with special service rank. Although no concrete information is submitted concerning the State Police, GRECO understands that the reported decisions have a bearing on it as well. Moreover, in their most recent written submission, the authorities state that additional substantial funding has been provided to both agencies. GRECO welcomes those positive developments and is particularly pleased that more resources seem to be injected into the respective remuneration systems. It uses this opportunity to recall that the conspicuously poor salaries especially in the State Police were the prime object of criticism in the Evaluation Report (cf. paragraph 167). Given the foregoing and acknowledging that action has and is being taken in the right direction, GRECO concludes that this part of the recommendation has been dealt with in a satisfactory manner.

83. As for part (ii) of the recommendation, GRECO notes the revision by the Ministry of Interior and the State Border Guard of the rules and procedure for the allocation and control of bonuses. To supplement this welcome development, clarifications are needed regarding the precise criteria to be applied in different cases to determine whether these are objective and transparent. Concerning the State Police, GRECO takes note that the process of drafting the internal rules has been terminated pending the adoption of the new draft Law on remuneration of officials and employees of state and municipal institutions. GRECO looks forward to being informed in due time of the completion of this work and its impact on the relevant rules not only on the State Police but also on the State Border Guard. It concludes that this part of the recommendation has been partly implemented.
84. GRECO concludes that recommendation xv has been partly implemented.

Recommendation xvi.

85. *GRECO recommended adopting and implementing whistleblower protection measures in the State Police and the State Border Guard and integrating modules on whistleblower protection into existing and future training programmes on integrity, conflicts of interest and corruption prevention designed for the police and border guard staff.*
86. The authorities report that the Whistleblowing Law entered into force on 1 May 2019. Its purpose is to promote whistleblowing in the public interest and to ensure the establishment and operation of whistleblowing mechanisms and the due protection of whistleblowers. The Law *inter alia* regulates the protection of the identity of a whistleblower, protection against adverse effects caused due to whistleblowing and places an obligation on any public institution to establish an internal whistleblowing system. Breaches of binding ethical/professional norms can also be subject to whistleblowing.
87. In pursuance of the aforementioned Law, an internal whistleblowing system has been set up in the State Border Guard pursuant to Order No. 663 of 30 April 2019. It provides for the appointment of a contact person responsible for ensuring various protection measures and regulates the procedure for anonymising whistleblowers' personal data and the circulation of related documents. Contact persons have been nominated and their names are available on a central governmental whistleblowing website (<https://www.trauksmescelejs.lv/kur-celt-trauksmi>) as well as on the website of the Ministry of Interior's (<https://www.iem.gov.lv/lv/kontaktpersonas-trauksmes-celsanas-jautajumos>). Protection in case of reporting violations of the Code of Ethics is given as well. According to Order No. 1752 of 25 October 2019 "On Internal Control System for Prevention of Corruption and Conflict of Interest Risk" the training programme on anti-corruption and conflict of interest issues will be organised every three years and examine, among others, whistleblower protection measures.

88. As for the State Police, under the Whistleblowing Law, it is one of the competent authorities to receive citizens' whistleblowing reports and is to establish as well as an internal whistleblowing system. Consideration is currently being given to merging the rules pertaining to these two aspects of whistleblowing in a single document. In practice, the State Police contact persons have been nominated and their names have been made public on the aforementioned websites. The State Police is one of the institutions that received most of whistleblowing reports in 2019. The State Police has also developed an extensive training programme on "Corruption prevention", which covers various topics and has an important ethical dimension (e.g. "Identifying possible conflicts in ethics and interests, and breaches of law"). In October 2019, information on the Whistleblowing Law was added to this programme, covering internal and external whistleblowing.
89. GRECO is pleased to see that several measures have been taken in pursuit of the recommendation. It welcomes the adoption of the Whistleblowing Law as well as the establishment of an internal whistleblowing system by the State Border Guard. The integration of modules on whistleblower protection into anti-corruption and conflict of interest training programmes by both the State Border Guard and the State Police is another positive step. GRECO calls upon the authorities to pursue the reform and to report in due course on the creation of a whistleblower protection system and rules in the State Police and/or the practical implementation of whistleblower protection measures in both agencies.
90. GRECO concludes that recommendation xvi has been partly implemented.

Recommendation xvii.

91. *GRECO recommended that consideration be given to whether or not the competence of the State Border Guard for instituting criminal proceedings in respect of its own staff should be maintained.*
92. The authorities report that in order to give effect to this recommendation, the Ministry of Interior prepared a draft law on "Amendments to the Criminal Procedure Code», which was promulgated at a State Secretaries' meeting on 20 December 2018. The draft was then examined in an inter-institutional working group comprised of representatives of line ministries, the legislative and the judiciary²⁰. As a result, it was concluded that the Ministry of Interior was competent to decide on this matter. During a meeting between the Ministry, the Internal Security Bureau and the State Border Guard it was recognised that the right of the State Border Guard to investigate non-violent criminal offences committed by border guards should be maintained. In light of the above, the Ministry of Interior withdrew the Draft on 21 February 2019. The authorities state that the matter has been examined pursuant to the procedure in force.
93. GRECO takes note of the information, indicating that the authorities have considered this recommendation (including in an inter-institutional working group) but have rejected such a possible reform. It regrets that this has not resulted in a legislative change. It also points out that the authorities' arguments concern the formal part of the measures taken, not their substance. However, the issue has been duly considered as required.
94. GRECO concludes that recommendation xvii has been dealt with in a satisfactory manner.

²⁰ The draft had been agreed with the Ministry of Justice, the Ministry of Finance, the Ministry of Defence, the Ministry of Foreign Affairs, the Ministry of Environmental Protection and Regional Development, the Prosecutor General's Office, the Free Trade Union of Latvia, etc.

III. CONCLUSIONS

95. **In view of the foregoing, GRECO concludes that Latvia has implemented satisfactorily or dealt satisfactorily with four of the seventeen recommendations contained in the Fifth Round Evaluation Report.** Of the remaining recommendations, ten have been partly implemented and three have not been implemented.
96. More specifically, recommendation i and ii have been implemented satisfactorily, recommendations xiii and xvii have been dealt with in a satisfactory manner, recommendations iii, iv, v, vii, ix, x, xi, xii, xv and xvi have been partly implemented and recommendations vi, viii and xiv have not been implemented.
97. Overall, wide-ranging reforms have been launched in response to GRECO recommendations with many promising initiatives underway. As regards PTEFs, the analysis of integrity risks facing political officials across central government has been carried out for the first time. Amendments to the Law on the Prevention of Conflicts of Interest in the Activities of Public Officials have been prepared. These would introduce a duty on political officials to seek written permission from a superior to perform a secondary job, and provide for the publication of revised asset declarations when corrections are made. Guidelines on the co-operation between political officials and professional staff have been adopted with instructions for the latter on how to check, if in doubt, that political staff are entitled to give the orders they issue and which action to take if exertion of undue influence is suspected. The names and areas of responsibility of staff and non-staff advisors are systematically published online and a clearer differentiation is made between those who are remunerated and those who are not. To secure swift and efficient criminal proceedings when PTEFs are involved, four law enforcement bodies are being audited with a view *inter alia* to identifying and removing jurisdictional overlaps. Conversely, regulatory review is lacking on such crucial aspects of corruption prevention as *ad hoc* disclosure of conflicts of interest by all PTEFS, systematic, in-depth and independent scrutiny of PTEFs' asset declarations in accordance with law, establishing a system for managing conflicts of interest in respect of paid and unpaid advisors and ensuring that the names of all participants in sittings of the Cabinet and its Committees and of State Secretaries' meetings are publicly accessible online.
98. As to LEAs, both the State Border Guard and the State Police have made provision for publicly advertising vacancies, integrated – subsequent to the adoption of the Whistleblowing Law - modules on whistleblower protection into their respective anti-corruption and conflicts of interest training programmes and prepared proposals for better funding of their activities in the future. Besides, both agencies have adopted new codes of ethics and new ethics commission regulations which foresee mechanisms for enforcement, and improved guidance and training on ethical matters. Furthermore, the State Border Guard Service has also revised the rules and procedure for the allocation and control of bonuses, made some improvements to annual performance reviews, established an internal whistleblowing system and given due consideration to whether or not its competence for instituting criminal proceedings in respect of its staff should be maintained.
99. In view of the above, GRECO notes that further progress is necessary to demonstrate an acceptable level of compliance with the recommendations within the next 18 months. Pursuant to Rule 31 revised bis, paragraph 8.2 of its Rules of Procedure, GRECO invites the Head of delegation of Latvia to submit additional information regarding the implementation of recommendations iii-xii and xiv-xvi, by 30 April 2022.
100. Finally, GRECO invites the authorities of Latvia to authorise, as soon as possible, the publication of the report, to translate it into the national language and to make the translation public.