Groupe d'Etats contre la corruption
Group of States against corruption

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

DIRECTORATE GENERAL I – LEGAL AFFAIRS
DEPARTMENT OF CRIME PROBLEMS

Strasbourg, 2 July 2004

Public
Greco Eval II Rep (2004) 4E

Second Evaluation Round

Evaluation Report on Latvia

Adopted by GRECO
at its 19th Plenary Meeting
(Strasbourg, 28 June – 2 July 2004)

Secrétariat du GRECO
Conseil de l'Europe
F-67075 Strasbourg Cedex

www.greco.coe.int
☎ +33 3 88 41 20 00

GRECO Secretariat
Council of Europe
Fax +33 3 88 41 39 55

I. INTRODUCTION

1. Latvia was the eighth GRECO member to be examined in the second Evaluation round. The GRECO Evaluation Team (hereafter referred to as the "GET") was composed of Mrs Maria PAPAIOANNOU, Counsel of the Republic, Attorney General's Office, Law Office, Cyprus; Mr Kestutis ZABORSKAS, Head of Analytical Organisational Division, Special Investigations Service, Lithuania and Mrs Eline WEEDA, Policy Maker, Investigation Department, Ministry of Justice, The Netherlands. This GET, accompanied by a member of the Council of Europe Secretariat, visited Riga from 3 to 6 February 2004. Prior to the visit the GET experts were provided with a comprehensive reply to the Evaluation questionnaire (document Greco Eval II (2003) 8E) as well as copies of relevant legislation.

2. The GET met with officials from the following governmental organisations: Ministry of Justice, Prosecution Office, Office for Prevention of Laundering of Proceeds derived from Criminal Activity, State Civil Service Administration, Ministry of the Interior, Ministry of Regional development and Municipalities, State Revenue Service, State Audit Office, Corruption Prevention and Combating Bureau. Moreover, the GET met with members of the following non-governmental institutions: Association of Sworn Auditors, two NGO's (Transparency International and "Providus"), Council of Sworn Attorneys.

3. It is recalled that GRECO agreed, at its 10th Plenary meeting (July 2002), that the 2nd Evaluation Round would run from 1st January 2003 to 30 June 2005 and that, in accordance with Article 10.3 of its Statute, the evaluation procedure would deal with the following themes:

   - **Theme I - Proceeds of corruption:** Guiding Principles 4 (seizure and confiscation of proceeds of corruption) and 19 (connections between corruption and money laundering/organised crime), as completed, for members having ratified the Criminal Law Convention on Corruption (ETS 173), by Articles 19 paragraph 3, 13 and 23 of the Convention;

   - **Theme II - Public administration and corruption:** Guiding Principles 9 (public administration) and 10 (public officials);

   - **Theme III - Legal persons and corruption:** Guiding Principles 5 (legal persons) and 8 (fiscal legislation), as completed, for members having ratified the Criminal Law Convention on Corruption (ETS 173), by Articles 14, 18 and 19, paragraph 2 of the Convention.

   Latvia ratified the Criminal Law Convention on Corruption on 9 February 2001.

4. The present report was prepared on the basis of the replies to the questionnaire and the information provided during the on-site visit. The main objective of the present report is to evaluate the effectiveness of measures adopted by the authorities of Latvia in order to comply with the requirements deriving from the provisions indicated in paragraph 3. The report contains first a description of the situation, followed by a critical analysis. The conclusions include a list of recommendations adopted by GRECO and addressed to Latvia in order to improve its level of compliance with the provisions under consideration.

II. THEME I – PROCEEDS OF CORRUPTION

a. Description of the situation

Provisional measures

5. There are powers pursuant to the Criminal Procedure Code (hereafter CPC) (Section XVI – see Appendix I), which permit the search, seizure and freezing of property. Freezing results in "strict limitation" of the owners' rights to dispose of property, with absolute prohibition on transactions of monetary deposits. Property includes the instruments of crime, valuables, documents and "other items". On application by an investigator, prosecutor or judge a freezing order can be made preventing the dissipation of specified property. The order can be directed to the defendant or suspect or the persons who bear material responsibility for their actions, or to other persons who are holding illegal proceeds. These measures can be applied in relation to proceeds of corruption. Credit and financial institutions are prohibited by Chapter 4 of the Law "On Prevention of legalisation of Proceeds Derived from Criminal Activity" (hereafter the 1998 Law) from dealing with a transaction where laundering or attempted laundering of the criminal proceeds is suspected. Since 1st February 2004, the Office for the Prevention of Laundering of Proceeds Derived from Criminal Activity may give credit and financial institutions and other persons an order to suspend financial transactions for period of time not longer than 45 days. Under Section 169 of the CPC, companies, institutions, organisations and officials and other natural persons must surrender objects, documents or copies of documents upon request of the investigator or prosecutor as set out in the seizure decision. The obligations on credit and financial institutions set out in the 1998 Law are suggested as an automatic process in the limited capacity of freezing suspicious transactions. Chapter XVI of the CPC and the 1998 Law specifically covers management of seized and frozen assets. There is no system which provides for the automatic triggering of an investigation into proceeds of crime when serious offences of corruption are discovered. No record has been kept of the use of interim measures. A number of new measures have been proposed by the Latvian Government to supplement the existing regime.[1]

Confiscation

6. The confiscation regime is set out in Section 36(2) of the Criminal Law which states: "In addition to the basic sentence, the following additional sentences may be adjudged (...): (1) confiscation of property; (….)".[2] Confiscation is available in relation to offences set out in the "Special Part of the Criminal Law" and includes bribery offences and, *inter alia* theft, robbery, fraud, misappropriation, extortion, smuggling, counterfeiting, "gangsterism". Section 66 of the CPC provides that "instruments belonging to the defendant and used to commit a crime shall be confiscated" (sub section 1) and that "valuables and articles acquired as a result of a criminal activity or intended to use or actually used to commit a crime shall be confiscated or returned to the respective owners" (sub section 2). The entire confiscation regime is effectively discretionary, even though offences as drafted include mandatory confiscation. For example, a State Official who accepts a bribe - Section 320(1) - may be liable for imprisonment of up to eight years with or without confiscation of property (discretionary), and, under Section 320(3), faces between eight

[1] Proposed powers under the new draft Law on Criminal Procedure will extend existing measures to a prohibition on handling criminal property (Section 249) dependant on a threefold test that property has an 1) illegal source, 2) its importance as evidence in criminal proceedings and 3) its importance for ensuring compensation or confiscation.
[2] Amendments to the Criminal Law introduce confiscation as a basic sentence.

and fifteen years imprisonment for extorting a bribe with confiscation of property (mandatory).[3] Discretionary sentencing for all offences carrying confiscation, whether the confiscation power is described as discretionary or mandatory is set out within Sections 49(1) and 49(2) of the Criminal Code. Section 49(1) states: *"If a court, taking into account various mitigating circumstances and the personality of the offender, considers it necessary to impose a sentence which is less than the minimum limit for the (...) criminal offence (...) it may reduce the sentence accordingly (…)"* and Section 49(2): *"On the same basis, a court may decide not to apply an additional sentence, which has been provided for as mandatory for the relevant criminal offence (…)."*.

7. There is no provision for confiscation without conviction or *in rem.* Calculation of economic benefit from corruption appears solely based on the sale value of property upon which there is a confiscation order. Confiscation of converted proceeds of crime is possible. However, as the law stands, confiscation may be entirely defeated by simple transference of legal title. The burden of proof in confiscating the proceeds of crime is substantially upon the state[4]. There is no specific power to divert a confiscation order to compensation, a small measure of assistance is provided under Section 145 of the Code of Enforcement of Punishments, in that a bailiff when enforcing confiscation takes only that part which is free "of all claims".

Third parties

8. As general rule, it is not possible to confiscate the property for which another person has legally acquired the right of ownership. However, under Section 42 (3)[5] of the Criminal Law the property owned by a convicted person, which s/he has "transferred" (i.e., lent, rented out, leased out) to another natural or legal person, may be confiscated, because in this case the convicted person has maintained the rights of ownership.

Statistics

Number of convictions where confiscation of property has been adjudicated as an additional sentence			
Year	Number of convictions		Convictions subjected to confiscation of property %
	Total	of which subjected to confiscation o property	
2002	12615	470	3.73
2001	12679	360	2.84
2000	12689	407	3.21
1999	12862	312	2.43
1998	12952	451	3.48

[3] A further example: theft may, for repeated offences or offences by a group following prior agreement, carry up to six years' imprisonment "(...) with or without confiscation of property" (discretionary). Theft at s175(4) committed on a "large scale" carries between three and fifteen years' imprisonment (and) confiscation of property (mandatory).

[4] This important area is the subject of a proposed amendment which will reverse the burden of proof.

[5] Article 42 (3) of the Criminal Law states: "Property owned by a convicted person, which he or she has transferred to another natural or legal person, may also be confiscated."

Money laundering[6]

9. In its "all-crimes approach", Section 4 Paragraph 10 of the 1998 Law includes that also corruption offences are predicate offences to the money laundering offence. The suspicious transaction reporting system currently in place requires that *"credit institutions and financial institutions have an obligation to: 1) notify the Control Service (…)"* of unusual or suspicious financial transactions[7], which in turn may provide information to the investigating authorities. Equally, the investigating authorities may address enquiries to the FIU.[8] The authorities of Latvia report that in the specific field of corruption, the FIU maintains a comparative software system which provides them with an oversight of some 43,000 public officials by comparing State Revenue Service (hereafter SRS) records with FIU records. This allows income declarations made to the SRS to be cross-checked with FIU suspicious transaction reports against named people. Since 1998, the FIU has referred 237 cases to the investigating authorities, resulting in 64 investigations and approximately 10 cases going before the courts. No figures regarding convictions have been provided.

Corruption and mutual legal assistance; provisional measures and co-operation

10. Whilst not specifically designed for provisional measures in anti-corruption provisional/confiscation measures, there exists a body of law governing matters of international co-operation applicable to it. Under Chapter 12 of the CPC ("International cooperation in the area of criminal law") detailed provisions are in force for exchange of criminal process including procedural activity. Section 473 of the CPC allows for cooperation to take place with or without a pre-existing formal agreement with another country, specifying the appropriate contact points in either case. The format of international requests for cooperation is laid out in Section 476 and is in a very recognisable form: name of requesting institution, subject matter and nature of the request, details and description of the offence, information to identify the person, and any other salient information. Chapter 49 ("Request for Implementation of Procedural Activities Abroad") covers the reciprocal position for a Latvian official requesting international cooperation. The official submits specific documentation to the relevant Latvian institution, which if accepted, is transmitted to the requested country. Chapter 12 is repeated in the process applicable where Latvia is the requested country.

b. Analysis

12. The Latvian authorities have pointed out that prior to conviction, Section 175 of the CPC is the relevant provision applied with regard to the freezing of assets (monetary or non monetary). Section 175 provides the following: *"For the purposes of a civil suit or prospective property confiscation the investigator or the prosecutor shall impose attachment upon the property of the defendant, or the suspect or to the property of persons legally responsible for the activities thereof, or the property of persons found in possession of proceeds derived from criminal activity."*. The GET is of the opinion that the existing legal structure concerning freezing of proceeds of corruption is (in general) adequate. Strict limitation of the property rights of the

[6] During the visit, the GET was informed that «Amendments to the Law on the Prevention of Laundering derived from Criminal Activity » had entered into force on 1 February 2004 and introduced considerable changes in the anti-money laundering system.

[7] Amendments provide for considerably extending the list of obligated institutions (organisers and holders of lotteries and gambling, companies, which are engaged in foreign currency exchange; natural persons and legal persons who perform professional activities associated with financial transactions (providers of postal services, tax consultants, sworn auditors, notaries, advocates, etc.)) or, *inter alia*, adopting an "all-crimes approach".

[8] Cooperation between the FIU and law enforcement authorities is regulated by Chapter VIII of the Law "On Prevention of Legalisation of Proceeds Derived from Criminal Activity".

defendant or the suspect or of persons legally responsible for the activities thereof, is possible pursuant to Section 175. Such powers are granted to the investigator or the prosecutor and extend to the property of persons found in possession of proceeds derived from criminal activity.

13. However, the GET noted that the existing legal regime does not contain provisions allowing for the provisional freezing of property the value of which corresponds to proceeds of corruption (property of equal value) in cases where the actual proceeds cannot be traced or where for any other reason confiscation of the proceeds of the offence is not possible. During the visit, the GET was told repeatedly that introducing legislation on freezing of value property would be particularly appreciated and useful for the law enforcement bodies' everyday investigations on organized crime activities, including corruption. In addition, in the GET's opinion there are serious loopholes in the Latvian legislative system which may hinder the practical application of provisional measures when proceeds are in the hands of third parties. As regards confiscation, it is not possible to confiscate the proceeds of corruption when another person has legally acquired rights of ownership on those properties. The only exception is provided by Section 42 (3) of the Criminal Law (see paragraph 8 above). The Latvian investigating/prosecuting authorities repeatedly pointed out that this limitation constitutes a major problem for them and, in particular, that potential confiscation is very often frustrated by a simple transfer to third parties of the proceeds of corruption. The GET was told that a new draft law is currently before Parliament (at the time of the visit, it was at the stage of a second reading) which is expected to pass and will hopefully resolve the issue of freezing assets in the hands of third persons. In the GET's view, only when effective provisional measures are available at the early stages of the investigation (for the purposes of prospective confiscation) in order to prevent asset dissipation, can a subsequent final confiscation be possible. Therefore, **the GET recommends that legal provisions be introduced allowing 1) effective provisional freezing and confiscation of assets in the hands of third parties and 2) the confiscation of assets of an equivalent value to the proceeds of corruption offences.**

14. The GET was informed that despite the limitations of the existing legislation regarding provisional freezing of third party assets, adequate use is made of such provisional measures where proceeds of corruption have in fact been traced/found. The GET was also informed that the police, especially, have made considerable use of such measures in many cases. The police have provided examples of cases where property of value of up to 500,000 LVL (approximately 770,000 euros) has been frozen. The police and prosecution service appeared to have a good knowledge of the legal provisions regarding provisional measures and the GET was of the opinion that they were well equipped with the necessary tools to track assets. Special investigative means exist under the Investigatory Operations Law to facilitate the said tracking. Direct access to relevant Registries exists and relevant bank records can be obtained, usually through close cooperation with the Control Service (the Latvian FIU). The GET noted that the mechanisms available for tracking the assets of corruption are satisfactory.

15. However, the GET was not totally convinced that enough attention is paid at the beginning of an investigation to the importance of making an economic investigation of the suspect to identify the proceeds of corruption with a view to obtaining a provisional order swiftly, thus preventing any dissipation of assets. It appeared to the GET that at the beginning of the investigation, the efforts of the investigators/prosecutors were focused primarily on obtaining the necessary evidence to set up a case. **The GET, therefore, recommends 1) to prepare specific guidelines for police officers and prosecutors on how to effectively track defendants' assets, especially at the beginning of investigations in the field of corruption; 2) to strengthen cooperation between investigators/prosecutors at the early stages of investigation to ensure economic investigations likely to result in the freezing of the proceeds of corruption.**

16. The confiscation system in Latvia is mainly governed by Section 36 of the Criminal Law and is based on a criminal conviction. Confiscation of property is adjudicated against a convicted person as a conditional sentence, only in relation to offences set out in the Special Part of the Criminal Law, further to Section 42(2) of the Criminal Law. Bribery offences are included in the said special Part of the Criminal Law. The GET took note of the fact that confiscation is not mandatory for all bribery offences provided by the Criminal Law. In particular, under Section 320 (2) of the Criminal Law, confiscation of property is a mandatory additional sentence for accepting a bribe, if "commission thereof is repeated on a large scale, or if they are associated with a demand for a bribe". Under Section 320 (3), confiscation is mandatory "if they (the acts) are associated with extortion of a bribe, or if commission thereof is by a group of persons pursuant to prior agreement, or by a state official holding a responsible position". Confiscation of property is discretionary for: a) intermediation in acts of bribery by a state official (Section 322 (2) of the Criminal Law); b) offering a bribe by a state official or for repeated offering of bribes (Section 323 (2)); c) breach of restrictions imposed on a state official (Section 325); d) illegal involvement in property transactions by a state official (Section 326 (2)). The GET was satisfied by the fact that discretion is conferred upon the court to order confiscation for most corruption related offences and considers that the existing provisions relating to confiscation of proceeds of corruption in connection with a conviction as provided for in Sections 36 and 42 of the Criminal Law are adequate and meet, to a large extend, the standards of Article 19 of the Criminal Law Convention on Corruption.

17. The GET approved the fact that the ambit of Article 42 extends to all property of a convicted person, irrespective of whether the criminal proceeds have been converted into other property. Article 42 (3) also covers legal persons, to which a convicted person has transferred property.

18. With regard to confiscating the proceeds of crime (including corruption), according to the existing legal provisions, the burden of proof is upon the State. It appeared to the GET that the Latvian authorities fully appreciate the difficulty of proving the unlawfulness of indirect proceeds from crime. The GET was informed that a draft Criminal Procedure Law is pending before Parliament, which is geared towards reversing the burden of proof. The GET observes that the Latvian authorities could consider the reversal of the burden of proof in connection with a conviction, to assist the court in identifying criminal proceeds liable to confiscation in appropriate cases.

III. THEME II – PUBLIC ADMINISTRATION AND CORRUPTION

a. Description of the situation

General Structure

19. The Constitution of the Republic of Latvia (*Satversme*) regulates the general principles of the election of the President of the Republic, the functioning of the *Saeima* (Parliament), the Cabinet of Ministers, the Court system and the State audit. The Constitution also requires that the state administration observes human rights, acts in the public interest, prohibits conflicts of interest, promotes transparency and timeliness, the examination of standards of service, the provision of information and accessibility. Chapter IV provides for a Government composed of the Prime Minister who appoints Ministers, with Article 57 stating that the number of Ministries shall be as provided for by law, and Article 58 that the administrative institutions shall be under the authority of the government. The State Administration Structure Law defines the general principles of state administration. It makes a distinction between institutions and officials as the "initial public person" (direct administration) and "institutions of derived public persons" (indirect

administration)[9] and provides also for a number of new regulations on, *inter alia,* capacities of ministries and other state institutions, delegation of specific administrative tasks to private individuals, public participation in state administration, co-operation in state administration, examination of administrative decisions and liability for administrative decisions.

Public Integrity

20. In late 2002, one of the most significant steps in the field of fighting corruption was the setting up of the Corruption Prevention and Combating Bureau (hereafter CPCB). The Bureau is now composed of a staff of 120 officials and its activity is threefold: corruption prevention, investigation of cases of corruption, building public awareness. It is also tasked to co-ordinate the implementation of anti-corruption measures in state and local government institutions. The CPCB has prepared and submitted a document to the Cabinet of Ministers, "The National Strategy for Prevention and Elimination of Corruption" resulting in a work in progress to finalise the National Programme[10]. The formation of a public reporting system within the Report Centre of the CPCB provides an example of commitment to anti-corruption. There is no audit or any other form of assessment of the effectiveness of anti-corruption measures. The process of building public awareness is in its initial stage. The Latvian authorities have planned to produce TV programmes related to the prevention of corruption.

Access to information

21. The Freedom of Information Law (hereafter FIL) guarantees public access to all information within the possession of state and local administration. There is a presumption in favour of disclosure[11], which may be requested orally or in writing. The exception is Section 5 "restricted access information" (Appendix III). Information may be ordered restricted by law, if it is for the internal use of an institution, concerns state secrets, an individual's private life or concerns certifications, examinations, submitted projects, invitations to tender (except those connected with public procurement) and other assessment processes of a similar nature. The decision is taken either by the author of the information or the manager of an institution. Section 12 of the FIL states that if an institution refuses to provide information which has been requested in writing, it "*shall specify in its written refusal on what grounds the request has been, wholly or in part, refused, and where and within what time period this refusal may be appealed*". If a refusal is based upon the fact that the institution does not have the requested information within its control, it shall indicate the institution where the requested information might be obtained. The public have the right to challenge decisions both administratively and legally. Overall compliance is monitored by the State Data Inspection Service. A fee system for information is in place. Generally accessible information should be free of charge, but fees, where chargeable, shall not exceed the costs of searching for, additional processing of, and copying of information.

[9] See Appendix II.

[10] After the visit, the GET was informed by the authorities of Latvia that the Strategy was adopted by the Cabinet of Minister on 8 March 2004.

[11] "Information shall be accessible to the public in all cases, when this Law does not specify otherwise." and "Generally accessible information shall be provided to anyone who wishes to receive it, subject to the equal rights of persons to obtain information. The applicant shall not be required to specially justify his or her interest in such information, and he or she may not be denied it because this information does not apply to the applicant."

The Public decision-making process

22. Public consultation is guaranteed in a number of public forums at national, regional and local government level. The State Administration Structure Law is the main piece of legislation in this field and states the general principle of democratic, lawful, effective public administration accessible for the general public. According to Section 48 of this Law, to achieve this purpose; a public institution shall involve public representatives (representatives of NGOs and other organised groups, individual competent persons) in its activities by including them in work groups, advisory councils or asking them to provide their opinions and if the institution departs from the direction of expressed opinion shall provide "special substantiation" for doing so. As of 1 February 2004, the Administrative Procedure Law ensures that institutions, when embarking on potentially unfavourable decisions, shall be obliged to identify and assess the position of those who are to be disadvantaged. There are exceptions for emergency administrative acts, or acts considered of low significance, though exceptions may require written justification. At local level the position is governed by the law "On Local Governments" obliging Council meetings to be open, save in limited cases. Again provision is made for public access and consultation at these meetings, with publication of decisions, mayoral orders and minutes of meetings free of charge. Notice of meetings should be given in the proper form and time. Consultation is an established principle in planning and environmental issues.[12]

Control of Administrative Procedure

23. On February 1st 2004, the Administrative Procedure Law came into force. It stipulates that an administrative act may be challenged before the next superior institution. The law or the Cabinet of Ministers Regulations may specify another institution to which the respective administrative act may be appealed. If there is no such institution or if this institution is the Cabinet, the administrative act may be directly challenged before court. The application to challenge an administrative act may be submitted orally or in writing. Under the Administrative Procedure Law, the very essence of the administrative process is the control by courts over the lawfulness and validity of administrative acts issued by institutions or their actual actions, and also clarification of public legal obligations or rights of the person. Administrative cases are adjudicated by the first instance court, but - following a complaint by the party to the administrative process on the decision of this court – also by the second instance court under the appeals procedure. The party to the administrative case may appeal against the decision of the second instance court under the cassation procedure.

Ombudsman

24. Latvia does not have ombudsmen, but there are institutions, which have the obligation to protect human rights and also to bring charges to courts in the interests of individuals. Such institutions include the State Office for Protection of Human Rights and the Prosecutor's Office. Latvia does not have the traditional model of ombudsman who deals with reviewing complaints on

[12] The Law "On Environmental Impact Assessment" provides for organising public hearings: in cases where the competent institution has issued the opinion that it is necessary to carry out the environmental impact assessment, the initiator of the assessment shall publish a notification in the official gazette "Latvijas Vestnesis" and at least in one local newspaper on the planned activity and the opportunity for the citizens to submit written proposals on the potential impact of this activity on the environment, as well as separately inform all owners (holders) of property in proximity to the site of planned activity. Upon written request of the competent institution, the Regional Environment Board, a member of the respective local government Council or no less then 10 interested persons, the initiator shall organise the public hearing on the environmental impact of the planned activity. Any interested person may participate in the hearing and voice their proposals. Some representatives of the civil society told the GET during the visit that "in reality public involvement in territorial development planning is often a formal exercise".

infringements by public institutions. However, at the time of the visit, there were several supervisory institutions (for example, the Centre for Protection of the Rights of Consumers, the Centre for Protection of the Rights of Children, the State Labour Inspection, the State Data Inspection, etc.), that act partially as ombudsmen in their own areas and consider complaints on infringements in their respective fields. The GET was told that the establishment of an ombudsman was being considered.

Employment in the State Administration

25. Civil service appointments are governed by the State Civil Service Law, which also provides for examination of the competition procedure, general duties of civil servants[13], duties of civil service position, rights of civil servants. This law is not necessarily applicable for appointments in all public institutions[14]. Training for civil servants is provided by the Latvian School of Public Administration covering civil service principles, ethics, European Union policies, and procedure in public administration. The School has prepared and implemented a special 16-hour anti-corruption programme. Seminars on conflicts of interest and professional ethics are supplementary. There are 12 trainers who conduct seminars in regions. In 2002, 800 civil servants participated in training; 500 in 2003.The State Civil Service law has standardised the selection of civil servants, allowing supervision of selection by the State Civil Service Administration who can deal with complaints (however, the checking of application data provided by civil servants to high-ranking positions is not regulated by law). This law does not cover civil servants applying to indirect (municipal) administration. The Labour Law is applied to the latter category of civil servants. There is no formal system of rotation as a means of combating corruption in all public administration, however normal routes of promotion, demotion, and transfer apply.

Conflicts of Interest

26. Legal regulation has existed since 1995 under the Corruption Prevention Law which was replaced on 10 May 2002 by the Law On Prevention of Conflicts of Interest in the Activities of Public Officials covering the role of the public official whose duties may relate to his personal interests[15]. Chapter II sets out extensive prohibitions on combining offices as public officials, restrictions on obtaining of income, involvement in commercial activities, restrictions on acceptance of gifts, restrictions on acceptance of donations, prohibitions on being a representative, receiving supplementary payments, restrictions on advertising, restrictions on using state or local government property and use of information. These prohibitions relate directly to the performance of public duties by officials, how they use their authority, how they interact with companies, for example limiting their role if they have been previously employed by the company[16]. Public officials who move to the private sector are governed by Section 9: it prohibits a public official, who has held in that function a state or local government capital share in a company, as well as for a period of three years after those duties, from receiving any kind of financial benefit, to accept gifts from the company[17], to acquire shares in the company, or to hold other offices in the company. Section 10 extends this regime to the President, members of

[13] For the definition of civil servant see Appendix IV.
[14] For the definition of public person and public institution, see Appendix II.
[15] See appendix V.
[16] Section 11 (1) prohibits public officials from *inter alia* "(…) issuing administrative acts (…) in which they, or their relatives, or business partners are financially interested", and at section 11(2) shall not *inter alia* "issue administrative enactments (…) in relation to his business partners for two years after the termination of the contractual relationship".
[17] Section 13 regulates receipt of gifts from relations and natural and legal person fixing financial limits, and ensures a separation of time between receipt of gifts and performance of public duties in relation to the donor.

parliament, the prime minister, deputy prime ministers, together with a list of public officials and their relatives who shall not be shareholders, stock holders, or partners of such commercial companies "(…) as received state procurement orders (…) unless granted in open competition". These prohibitions shall apply for two years after their public duties have finished. This regime is extended to local government officers who have contracted with commercial companies, again for a period of two years. Section 11 ensures separation of public officers from duties in relation to former business partners for two years on entering public office. Lastly, Section 14 provides that a public official or collegial authority is prohibited from taking any decision in relation to a donor for two years after the acceptance of the donation or financial aid.

27. To prevent corruption, the CPCB is mandated to monitor observance of the Law on Prevention of Conflicts of Interest in the Activities of Public Officials and any other additional restrictions for public officials provided in legal acts. Since May 2003, the Bureau has detected and investigated more than 10 cases of breaches of this law. Two of them were forwarded to the prosecutor's office for a pre-trial investigation.

Code of ethics

28. By Instruction of 9 January 2001, the Latvian Cabinet of Ministers approved the Civil Servant Principles of Conduct. This document is a declaration defining common principles of conduct. Only seven agencies have drafted comprehensive, practical codes of conduct: the State Revenue Service, the State Audit Office, Customs Officers, Prosecutors, Barristers, Sworn Notaries and the Control Service. Sanctions for breaches of a code depend on a particular code, and range from application of a disciplinary sanction under the Labour Law for a breach of the State Revenue Service Code of Ethics to a reprimand, public apology or even dismissal for breach of the Code of Ethics of Latvian Prosecutors. No information was provided on the right of appeal. The code of conduct of the State Revenue Service appears to be the most efficient code in practice: in 2002-2003 disciplinary sanctions were imposed on 585 civil servants (36 were dismissed, 15 were demoted or transferred, 60 had their wages cut) and sanctions were imposed on 258 civil servants mostly for abuse of office. No specific practices exist to familiarise managers with these codes.

Gifts

29. In standard terms, public officials shall not receive gifts directly or indirectly. Limited exceptions as above allow unrelated gifts from relatives, or companies. Gifts may be accepted from natural or legal persons by public officials outside their public duties, provided that any one donor shall not, over the course of a year, give gifts in excess of the amount "of a minimum monthly wage" (80 LVL – approximately 120 euros) and the official has not exercised his official powers in relation to the donor for two years before the gift. Sanctions are limited to a fine of 50 LVL (approximately 75 euros) to 250 LVL (approximately 375 euros), with or without confiscation of the gift. Where a gift is received in the course of official duties, i.e. diplomatic functions or receiving of foreign delegations, gifts shall be listed in an official register pending the decision of the Minister of Foreign Affairs on their use. The gifts are the property of the state. Those gifts outside the diplomatic circuit are decided by cabinet regulation.

Obligation to report a criminal offence

30. Section 315 of the Criminal Law imposes a reporting obligation for every citizen for "serious or especially serious" crimes.[18] Latvian law does not impose any additional similar duty on public officials. There are no particular measures aimed at protecting public officials who report ("whistleblowers").

Disciplinary procedures

31. There is no cohesive body charged with carrying out disciplinary investigations in relation to misconduct or corruption of public officials. Jurisdictions range from the public institution, to the State Civil Service Administration, the Prime Minister having overall charge. Judges are supervised by the Disciplinary Collegiums of Judges, prosecutors by senior prosecutors, and senior prosecutors by the Prosecutor General. Officials may challenge disciplinary measures in court. There are no records available for breaches of codes, or penalties subsequently imposed. Regimes of disciplinary and criminal procedure are separate, though initiation of disciplinary procedures does not preclude subsequent criminal prosecution.

b. Analysis

32. The GET noted that considerable progress has been made in the public administration since 2001 and that the legislation regulating the activities and structure of the public administration and formation of the civil service is in place. Relevant changes have been made in building up institutions for fighting corruption. The Government's efforts resulted in establishing the Corruption Prevention and Combating Bureau (CPCB) in late 2002. The Bureau initiated the drafting of the Strategy for Combating Corruption which, at the time of the visit, was awaiting consideration by the Government. If approved, this Strategy will be extended to a programme (Action Plan) to be adopted by the Government in the second half of 2004.

33. The GET acknowledges that it was hardly possible to expect any efficient efforts in raising public integrity before the establishment of the CPCB at the end of 2002. At the CPCB's initiative, some steps forward have been made in this field. In particular, the National Strategy for Prevention and Elimination of Corruption provides for a number of measures on anti-corruption public education and raising integrity. The GET noted that NGO's are also involved in the said policies. In addition, special TV programmes on anti-corruption issues are to be produced. However, the GET noted that there are no official researches that could provide a clearer insight into the scale of the corruption in Latvia, the forms it takes, the areas mainly affected or its causes. The GET believes that the information from such a study could be used to draw up a more appropriate and hence also more effective anti-corruption plan. Therefore**, the GET recommends to assess in a comprehensive manner the problem of corruption in Latvia and thus to further define Latvian strategy for preventing and corruption.** Furthermore, making the results of this research public would contribute to raising public awareness of corruption.

34. The activities of state and local government institutions in the sphere of public access to information are adequately regulated. The State Data Inspection Service is tasked with the monitoring of public reporting. The Freedom of Information Law provides detailed rules on access to information and provisions on restrictions on access to information are detailed and explicit.

[18] "For a person who commits failing to inform, where it is known with certainty that preparation for or commission of a serious or especially serious crime is taking place, the applicable sentence is deprivation of liberty for a term not exceeding four years, or custodial arrest, or community service, or a fine not exceeding sixty times the minimum monthly wage."

The State Administration Structure Law requires State administration to "involve public representatives" in its activities by organising public discussions, encouraging public direct participation in the decision-making process, drafting legislation, giving advice. Environmental issues seem to attract the most public attention and participation. Yet, the GET was unable to assess the effectiveness of the factual functioning of the system of access to information and of the system of public participation in State administration activities. According to NGO's representatives met by the GET, both natural and legal persons have sometimes had difficulties accessing information, particularly at local government level. **The GET recommends that measures be taken to enhance easier access to public information, above all at local level.**

35. As for the control of administrative procedures, this issue is strictly regulated by relevant legal acts and Cabinet regulations. As indicated in the descriptive part of the present report, the entire system of control of administrative procedure is currently regulated in detail by the Administrative Procedure Law which entered into force on 1 February 2004. In the GET's view, the overall control mechanism of administrative procedures appears to be operating quite efficiently.

36. According to the opinion of some representatives of the Latvian institutions met by the GET, the State Office for Protection of Human Rights and the Prosecutor's Office carry out similar functions as to those of an ombudsman. However, the GET considers that such analogy is inadequate. The ombudsman, which is an independent institution and which can be considered as being an additional institution for preventing and combating corruption, covers different area of activities and it is more focused on protecting citizens from public administration abuses. The establishment of an ombudsman is being considered. Therefore, **the GET recommends that the introduction of the institution of ombudsman be speeded up.**

37. Recruitment of state civil servants and moving to other posts depending on the needs of the state and related personnel activities are regulated by the State Civil Service Law. This law applies only to candidates to a state civil service position, who are recruited to the so-called direct administration. The State Civil Service Law does not apply to local government officials. In the GET's opinion, the Labour Law dealing with these officials does not regulate in a proper way specific activities of municipal civil servants, which can result in an increased risk of corruption at local government level. Therefore, **the GET recommends that the scope of the State Civil Service Law be extended so as to apply to civil servants in local government administration (or that specific legislation in this area be drawn up).**

38. The GET also noted that the selection and rotation of personnel, and the system of checking the data on application forms is not regulated. Though vacancy notices require that a candidate indicates any previous conviction, "dependence to any special services of foreign states" or any pre-trial investigation initiated against him/her, a systematic checking of the data in application forms and in particular of candidates to high-ranking positions still needs an appropriate legal basis. Therefore, **the GET recommends to provide a proper legal basis for checking data of candidates to senior posts in public administration.**

39. The GET noted that the anti-corruption training programme for civil servants is being successfully implemented. Training programmes and training aids are of great quality, and trainers have the necessary qualifications.

40. The GET noted that considerable progress was made in the field of the prevention of conflicts of interest over recent years. In May 2002, Latvia passed the law "On Prevention of Conflicts of Interest in Activities of Public Officials" providing for the main rules to avoid conflicts of interest for public officials and dealing also with natural and legal persons outside the state or local

government authorities to whom functions of public administration are delegated. The Law establishes that, apart from senior state and local government officials, its provisions apply also to persons who, in the performance of their duties in state or local government authorities, have the right to issue administrative acts as well as to perform supervision, control, inquiry or punitive functions in relation to persons who are not under their direct or indirect control or to deal with the property of the State or local government, including financial resources. These persons are considered as being public officials. The Law also provides for the procedure to file declarations on income and property by public officials, and for the monitoring of the data presented. The CPCB is responsible for the implementation of the Law. The GET considered that the law "On Prevention of Conflicts of Interest in Activities of Public Officials" is rather efficient. Nevertheless, it observed that those professions such as doctors or teachers who, in spite of the fact that they are not public officials, carry out significant tasks within the public sector (and are considered to be vulnerable to corruption) should also be subject to regulations on improper behaviour, including corruption offences.

41. The GET noticed that there is no unified code of ethics for civil servants; there exists only general "Principles of Conduct for Civil Servants", approved by the Government. As pointed out in the descriptive part of the present report, some state agencies have their own codes of ethics. The State Revenue Service has set up the Ethics Committee that co-ordinates and implements professional ethics training courses and investigates cases of misconduct. Furthermore, the Service has drafted regulations on "Conduct of State Revenue Service Officials, Employees if They Are Offered a Bribe". A number of these codes of conduct contain severe sanctions for misconduct. The most common sanctions are a notice, reprimand, reduction of salary by 20 per cent for up to 6 months, demotion in position or in service rank, dismissal. In the GET's opinion the said codes are easily applicable in practice. They could be taken as a model for other state agencies and ministries. In order to have a common approach, **the GET recommends that measures be taken to enhance the adoption of codes of ethics for civil servants of all state and employees of local government institutions.**

42. As regards the issue of accepting gifts and donations by public officials, the GET acknowledged that this matter is fairly well regulated by the Law on Prevention of Conflict of Interest in Activities of Public Officials (Sections 13 and 14). The monitoring and control of the acceptance of gifts and donations is ensured by a CPCB subdivision.

43. Section 315 of the Criminal Law imposes a general obligation on every citizen to report serious crime, including corruption. Provisions requiring that public officials report corruption offences are included in codes of ethics, for example in the one of the State Revenue Service. Nevertheless, there is no specific (additional to that provided by Section 315) obligation for civil servants to report suspicions of corruption or any other wrongdoing in public administration. Even though the Law on Protection of the Data of Natural Persons (Section 13) states that personal data may be disclosed only on the basis of a written application or an agreement by stating the purpose of the use of the data, unless the law provides otherwise, the GET considers that ensuring confidentiality of a whistleblower does not always mean that full protection of a person from victimisation in the workplace is provided. In particular, the GET noted that there are no measures in place aimed at protecting whistleblowers (in good faith) from retaliation. Therefore, **the GET recommends to place civil servants under a clearly defined obligation, as would be appropriate to their public status, to report suspicions of corruption offences and to establish an adequate system of protection for those civil servants who report wrongdoing.**

IV. THEME III – LEGAL PERSONS AND CORRUPTION

a. Description of the situation

General definition of legal person

44. The Commercial Law regulates the entire system related to commercial activities exercised by capital companies and, in particular, the limited liability companies that are "private" companies (shares are not negotiable and can only be transferred through contracts) and stock companies that are public companies (with publicly tradable shares). Company liability is limited to the capital value of the company, and shareholders are only liable to the extent of their investment. A company can be established with supplemental liability in which one of the shareholders is personally liable for the obligations of the company.

Registration and access to data

45. A considerable body of information is generated both by the requirements of founding a company (i.e. Private limited liability, or Public Joint Stock), and the subsequent registration process. Establishing either type of company requires set standards of equity capital (substantially higher for a public company), founding members (either natural or legal, with no nationality restrictions), an executive board (private company) or supervisory board (public company) with an executive board. Public and private companies must have an auditor, who is separated in function from the rest of the company. Directors are strictly governed about participation in other companies. Registration requires the provision of a high degree of information about the company, contained both in the memorandum and articles of association. Registration is publicly announced in the official journal. It does not appear clear to the GET to what extent the Commercial Register is publicly accessible.

Limitation in exercising functions in a legal person

46. Under Section 36 (forms of punishments) of the Criminal Law together with Section 44 (limitation of rights), a system of disqualification operates as an additional sentence imposed for between 1 and 5 years. The system prohibits participation in entrepreneurial activity (owning a company, possessing shares in it, or running a company), to holding public office, or state licensed activities. This system provides a basis for rejecting registration of a company, to removing an existing shareholder or member of the governing body of a company from the Commercial Register.

Legislation on the liability of legal persons

47. The current legal framework does not provide for corporate liability in Latvia for criminal offences. Criminal liability can only be assigned to an individual who carries out criminal acts on behalf of the company. There is a degree of civil liability for legal persons, in that, pursuant to Sections 101, 102, and 103 of the CPC, a civil claim may be initiated against a legal person within a criminal case against the person who acted criminally on behalf of the legal person. As a legal person has no capacity for criminal liability, there is no basis of liability for bribery, trading in influence, or money laundering committed for the benefit of the legal person[19]. Acts of neglect

[19] Proposed amendments to the Criminal Law will introduce corporate liability in Latvia and extend criminal liability to legal persons for offences of bribery, trading in influence and money laundering. Substantial legal amendments are proposed to extend the regime of criminal liability, allowing a legal person to be prosecuted on a stand alone basis, without precluding a

committed by the "responsible employee" of a company can result in criminal liability for the employee providing the act of neglect has "substantially harmed" the company or the rights and interest of another person. There are no figures available for prosecutions of natural persons holding managerial functions within a legal person.

Sanctions

48. There are no sanctions for legal persons for active bribery, trading in influence, or money laundering as the law stands[20]. As liability for criminal offences does not exist for legal persons, no records have been kept. Currently, there are no records of companies found liable for acts of corruption. This is the subject of proposed legislation.[21]

The Tax Regime and Fiscal Authorities

49. The system does not appear to prohibit the claiming of expenses, trips, gifts, donations etc as a deductible item, notwithstanding that the expenses are "unrelated to entrepreneurial activity." A detailed system of reporting tax and fiscal offences is in effect within the State Revenue Service (SRS). The Financial Police Department of the SRS has the right to access company records. According to Section 35 (2) of the Law on "Taxes and Fees", "In all cases when the taxpayer has allowed violations, for which criminal liability is provided, the tax administration official (employee) who has discovered such has the duty to submit within a period of ten days a notice and materials regarding such to the relevant State institution for initiating criminal matters.".

Account offences

50. The Law on Accounting requires that all aspects of accounting records, specified in detail, be maintained for periods of 5/10 and 75 years (salaries) for key documentation. Following initial retention for 10 years, company accounts are submitted to the State Archives. The manager of the enterprise is responsible for the maintenance of records. There are no exemptions excusing legal persons from keeping records. Where false accounting is discovered, a tax official must submit a written report to the relevant state institution. Those who have been caught are subjected to repeated thematic audits. Section 217 of the Criminal Law[22] provides for sanctions for "violation of provisions regarding accounting and statistical information". Under Section 16 of

---

subsequent prosecution of a natural person for offences of bribery, trading in influence and money laundering, or alternatively the natural and legal person to be prosecuted in the same proceedings (see Appendix VI).

[20]The draft legislation will make it possible to sanction legal persons with liquidation, limitation of rights (deprivation of the right to carry out a specific type of economic activity, withdrawal of the permits or rights envisaged in a special law or the prohibition to engage in certain types of activities from a period from one to five years), confiscation of property, and monetary fine (no less than one and not exceeding ten thousand minimum monthly wages). To ensure the application of these sentences a copy of the sentence will be sent to the institution which has registered the respective legal person.

[21] Amendments to the Law "On Penal Register" (will come into force at the same time as the amendments to the Criminal Law) envisage to register in the Penal Register also the information on legal persons suspected, accused, tried, convicted, acquitted for committing criminal acts, or those which have committed criminal acts (including acts of corruption), but whose cases have been closed or suspended, or against which administrative sanctions have been applied, as well as on the legal persons which have committed criminal acts and administrative infringements in other countries.

[22] "For a person who commits violation of provisions regarding the conducting of accounting documentation or of procedures regarding compilation of annual accounts or statistical reports, prescribed by law for an undertaking (company), institution or organisation, or late or incomplete submitting of annual reports, statistical reports or statistical information to the appropriate State institutions, if commission thereof is repeated within a one year period, the applicable sentence is community service, or a fine not exceeding twenty times the minimum monthly wage.

For a person who commits concealing or forging accounting documents, annual accounts, statistical reports or statistical information required by law regarding an undertaking (company), institution or organisation, the applicable sentence is deprivation of liberty for a term not exceeding three years, or a fine not exceeding eighty times the minimum monthly wage."

the Law "On accounting", managers of enterprises who have allowed violations of accounting regulations, or misrepresentation of accounts in bad faith, failure to submit reports which are officially required, or loss of accounting documents, shall be liable in accordance with the procedures provided by law. Those directly handling accounting records or responsible for the accounting records and preparation of the annual accounts or statistical records of the company, institution or organisation who fail to submit the annual accounts, statistical reports and statistical data to the respective state institutions within the specified time or in full amount, are liable to a fine.

The Role of Accountants and Professionals

51. Accountants, auditors and other professional advisors are submitted to the general sanction for failure to report provided for under Section 315 of the Criminal Law (see paragraph 29). It appears that they are obliged to report bribery (passive and active) which are serious crimes but not account offences which are generally punished by less than five years' imprisonment (less serious crimes). There are no particular provisions or rules establishing an obligation to report for those professions. Regional offices of the SRS that carry out reviews in companies can be regarded as a kind of audit institution which reports to the Financial Police Department on detected unusual or suspicious financial transactions. The SRS has developed internal instructions regulating the reporting procedure. Proposals by the state to involve accountants and advising professionals in anti-corruption policies are currently before Parliament.

b. Analysis

52. Currently, Latvian law lays down criminal liability of the natural person who committed the offence of bribery, trading in influence and money laundering of bribery on behalf of a company (Section 12 Criminal Law) and criminal liability of the supervisor who acted neglectfully (Section 197 Criminal Law). There is a degree of civil liability of legal persons in Latvia but only for the damages of the offence committed by an employee on behalf of the (benefiting) company. Because this civil liability could not be considered as liability of legal persons for criminal offences, the Ministry of Justice drafted amendments to the Criminal Law. These amendments will establish criminal liability of legal persons for criminal offences including bribery, trading in influence and money laundering. The GET welcomed this draft law. Since the amendments have not been submitted to the government and the outcome of the debates in parliament is not clear the **GET recommends to establish liability of legal persons for offences of bribery, trading in influence and money laundering and to provide for sanctions that are effective, proportionate and dissuasive, in accordance with the Criminal Law Convention on Corruption.**

53. During the visit, the GET was pleased to note that all the parties involved in fighting corruption acknowledged the need for (criminal) liability of legal persons for corruption offences. However, the GET had the impression that the law enforcement bodies were sceptical about the chances of convicting legal persons. Their concerns were based on the fact that collecting evidence would be very difficult. Different organisations referred to the problems that they meet detecting the beneficial owners of companies. The GET observed that it is necessary to train officials from the investigative and judicial authorities to improve their skills in applying the future law on liability of legal persons.

54. Sections 36 and 44 of the Criminal Law provide for the additional sentence of limitation of rights for perpetrators of criminal offences (including corruption offences) (see paragraph 46 above). The GET noticed that the enforcement of this additional sentence meets with some problems at

present. All these sentences are provided to the Commercial Register; however the Register does not take any action towards already existing companies. When a new company is established, the Register can use the information as a basis to reject registration of a company. A special inspection service within the State Police is responsible for the execution of these court sentences, but the GET was told that this inspection service suffers from a lack of personnel. In the future, the enforcement of sentences will be in the hands of a newly created probation service. Although the law establishing this service has already been adopted, it has not yet come into force. **The GET recommends to ensure that the execution of the additional sentence of limitation of rights is effective in practice.**

55. Accounting offences are regulated in different laws. The Law on Accounting only states how it should be done. Violation of these provisions constitutes administrative or criminal liability. The liability and sanctions are regulated by the Code of Administrative Violations and the Criminal Law. Repeated administrative violations constitute a criminal offence.

56. During the visit, the GET was told that provisions concerning tax deductibility can be interpreted in different ways. The main principle is that every company has to adopt its own criteria of accountancy, according to the existing legal framework. The Tax Laws provide for an accounting system. The Tax system is based on the principle that expenses are only deductible if they are stated in the law (expenses linked to corruption offences are not included). Article 5 of the Law on Enterprise Income Tax stipulates that it is prohibited to deduct certain expenses such as gifts, trips or donations that are not related to entrepreneurial activities. During the visit, the GET was told that this provision applies to, for example, gifts from the company to the employees. The GET had the impression that most expenses linked to corruption are not deductible, but the Tax Authority could not state whether this article applies to all corruption expenses, including facility payments. Therefore, **the GET recommends to ensure that the legal framework does not allow for the deductibility of the expenses related to corruption offences.**

57. Tax inspectors have an obligation to report irregularities and suspicions of criminal offences. According to internal rules, the tax inspector has to report to his supervisor or, depending on the seriousness of the suspicion, to the Financial Police Department. This rule provides a guideline for the reporting of fraud and accounting offences. In the GET's view, the Tax Authorities do not pay special attention to detecting corruption. Moreover, the GET was told that training on the issue of corruption would be necessary. Therefore, **the GET recommends to train and provide specific guidelines to tax inspectors in respect of the identification of corrupt practices, including disguised bribes.**

58. Auditors are bound by a confidentiality clause and subsequently they report irregularities in their financial report to the company itself. If the company is not able or willing to change the report, the auditor has the obligation to give a negative advice on the financial report. There is no specific sanction in case the auditor fails to give a negative advice but an auditor can be accused of intentional misleading or professional neglect. The amended Article 2 (2) of the Law on Prevention of Legalisation of Proceeds Derived from Criminal Activity includes tax advisors, sworn auditors and associations of sworn auditors under the obligation to report suspicious transactions (connected with money laundering, including corruption). Because the law entered into force only recently, there is no experience with reporting at the moment. The Association of Sworn Auditors have established a working group responsible for the development of guidelines and training on reporting in accordance with the Law on Prevention of Legalisation of Proceeds Derived from Criminal Activity.

59. Apart from the obligation to report that applies to every citizen (Section 315 Criminal Law), there is no special provision in this regard in the State Audit Law. However, the State Audit Office (SAO) has internal rules that stipulate that reporting to the public prosecutor or to the State Revenue Service is mandatory in case of irregularities. During the visit, the GET was told that these internal rules are efficient because the SAO regularly reports offences, including bribery. The SAO provides training to its personnel (both internally and in cooperation with other law enforcement bodies) to enable them to detect corruption. Next to these training activities, the SAO is drafting a handbook on the detection of fraud and corruption, which will include indicators for fraud and corruption. Although private auditors do not participate in the development of this handbook, the document will be accessible to all auditors (public and private).

V. CONCLUSIONS

60. In Latvia, the existing legal framework concerning freezing and confiscation of proceeds of corruption is (in general) adequate. Improvements can be made by introducing measures allowing investigating/prosecuting authorities for provisional freezing and confiscation of proceeds of crime when those proceeds are not any more "in the hands" of the perpetrator of the crime. In addition, more attention should be given at the beginning of an investigation to the importance of making an economic investigation of the suspect to identify the proceeds of corruption with a view to obtaining a provisional order swiftly, thus preventing any dissipation of assets. Relevant efforts have been made in the public administration to build up policies aimed at preventing and combating corruption: the Corruption Prevention and Combating Bureau was established in 2002, a Strategy for Combating Corruption has been adopted, activities of state institutions in the sphere of public access to information are regulated and a new law on prevention of conflict of interest has been adopted. However, the success of corruption prevention policies in public administration can be strengthened, notably by setting up the institution of the Ombudsman and by defining clearly the legal framework within which civil servants at local level exercise their functions. In the Latvian legal system, there is a need to establish liability of legal persons for offences of bribery, trading in influence and money laundering and to provide for sanctions that are effective, proportionate and dissuasive, in accordance with the Criminal Law Convention on Corruption.

61. In view of the above, GRECO addresses the following recommendations to Latvia:

i. **that legal provisions be introduced allowing 1) effective provisional freezing and confiscation of assets in the hands of third parties and 2) the confiscation of assets of an equivalent value to the proceeds of corruption offences (paragraph 13);**

ii. **1) to prepare specific guidelines for police officers and prosecutors on how to effectively track defendants' assets, especially at the beginning of investigations in the field of corruption; 2) to strengthen cooperation between investigators/prosecutors at the early stages of investigation to ensure economic investigations likely to result in the freezing of the proceeds of corruption (paragraph 15);**

iii. **to assess in a comprehensive manner the problem of corruption in Latvia and thus to further define Latvian strategy for preventing and corruption (paragraph 33);**

iv. **that measures be taken to enhance easier access to public information, above all at local level (paragraph 34);**

v. **that the introduction of the institution of ombudsman be speeded up (paragraph 36);**

vi. **that the scope of the State Civil Service Law be extended so as to apply to civil servants in local government administration (or that specific legislation in this area be drawn up) (paragraph 37);**

vii. **to provide a proper legal basis for checking data of candidates to senior posts in public administration (paragraph 38);**

viii. **that measures be taken to enhance the adoption of codes of ethics for civil servants of all state and employees of local government institutions (paragraph 41);**

ix. **to place civil servants under a clearly defined obligation, as would be appropriate to their public status, to report suspicions of corruption offences and to establish an adequate system of protection for those civil servants who report wrongdoing (paragraph 43);**

x. **to establish liability of legal persons for offences of bribery, trading in influence and money laundering and to provide for sanctions that are effective, proportionate and dissuasive, in accordance with the Criminal Law Convention on Corruption (paragraph 52);**

xi. **to ensure that the execution of the additional sentence of limitation of rights is effective in practice (paragraph 54;**

xii. **to ensure that the legal framework does not allow for the deductibility of the expenses related to corruption offences (paragraph 56);**

xiii. **to train and provide specific guidelines to tax inspectors in respect of the identification of corrupt practices, including disguised bribes (paragraph 57).**

62. Moreover, GRECO invites the Latvian authorities to take account of the observations made in the analytical part of this report.

63. Finally, in conformity with Rule 30.2 of the Rules of procedure, GRECO invites the Latvian authorities to present a report on the implementation of the above-mentioned recommendations by 31 December 2005.

APPENDIX I

Criminal Procedure Code of Latvia

Unofficial translation

Section XVI

Section 66. Actions in respect of tangible evidence and other articles seized in a criminal case

The procedure of treatment of tangible evidence and other articles seized within the frame of a criminal case shall be set out under the decision to open a criminal case or to close a criminal case as well as in the court ruling, moreover:

1. the instruments belonging to the defendant and used to commit a crime shall be confiscated;
2. valuables and articles acquired as a result of a criminal activity or intended to use or actually used to commit a crime shall be confiscated or returned to the respective owners;
3. objects the use whereof is forbidden shall not be returned but handed over to the competent authorities or destroyed,
4. objects without any value and no application shall be destroyed but upon the request of the interested parties or entities they shall be delivered to them;
5. the remainder of the objects shall be handed over to their owners; in the event of controversy concerning the property rights applicable to these objects, the claims shall be considered under a civil lawsuit;
6. if the tangible evidence is comprised by documents, they shall be stored for as long as the respective file is stored or handed over to the interested entities.

Section 168. Reasons for search and seizure

Prosecutor or investigator carry out seizure, if it is necessary to deprive instruments used to commit criminal offence, articles and valuables acquired as a result of a criminal activities and documents, significant in the case and if it s clear, where, in whose possession are these things. If the demanded objects are not extradited, they can be deprived compulsory.

Prosecutor or investigator carry out search, if there is a reason to believe that in the place or the person possess instruments used to commit criminal offence, articles and valuables acquired as a result of a criminal activities and documents, significant in the case. Search can be carried out also to find wanted persons or corpse. Search or seizure can be carried out on the basis of the decision of investigator or prosecutor.

Search shall be carried out only by decision of judge. In emergency cases shall be carried out with the consent of prosecutor, but after that the judge shall be advised within 24 hours.

Section 170. Persons present in search and seizure

Search and seizure shall be carried out in the presence of person where such search or seizure is taking place, or an adult member of the person's family. If the presence of the aforesaid person is not possible, or he/she avoids taking part in the search. such search shall be carried out in the presence of manager, caretaker, or representative of local municipality of the object subjected to such search.

In case of premises of legal persons, a search shall be carried out in the presence of a representative of the legal person. If the presence of the representative is not possible or the representative avoids participating, the search shall be carried out in the presence of a representative of the local municipality.

The persons at the location of the search shall be advised of their right to be present during the entire time of the investigative activities and provide their comments. These comments shall be written in protocol.

Section 171. Procedure of Search and Seizure

Search and seizure shall be carried out in daytime, except urgency cases.

At the beginning of the search or seizure the investigator or prosecutor shall advise the person at the location where these activities are taking place, of the decision to search or seizure, and shall further ask the person to voluntarily and without delay produce the mentioned object and documents. Investigator or prosecutor may request expert during search or seizure, if it is necessary.

In the event the person where this investigative activity is taking place refuses to give entry to the premises or storage places at the location of the search, the investigator or prosecutor may open same nevertheless, attempting not to cause unnecessary damage.

Persons present at the location of the search or seizure, or person entering at the location of the search or seizure may be forbidden to leave the place, move around and talk among themselves until the investigative activities are completed..

If necessary the location of the search may be surrounded.

Section 175. Imposition of attachment (freezing)

For the purposes *of* a civil suit or prospective property confiscation the investigator or the prosecutor shall impose attachment upon the property of the defendant, or the suspect or to the property of persons legally responsible for the activities thereof, or the property of persons found in possession of proceeds derived from criminal activity.

Attachment of property may be imposed simultaneously with search or seizure or independently.

The investigator or the prosecutor shall record the decision in writing. Attachment shall be imposed pursuant to the provisions of Section 170 and Section 171 hereof.

The aggregate of the property to he attached shall be shown to the invited persons and other persons present which shall be recorded in writing in the attachment order or in a special items list showing the number of objects, measures, weight, characteristic features and the wear and tear thereof.

Attachment may not be imposed on indispensable objects used by the person the property whereof is to be attached. her/his family members and persons dependent on them. Such list of indispensable objects shall be established by Appendix l hereof.

The investigator or the prosecutor shall hand the attached property over for safe custody to a municipality ' representative, or to a relative of the owner, or another person. This person has to be explained the liability applicable regarding the safe custody of the property which shall be confirmed by a signature. The properly which has been attached may be seized should that be necessary. If the attachment has been imposed on monetary deposits, all operations with the funds shall be forbidden.

APPENDIX II

State Administration Structure Law

Chapter I
General Provisions

Section 1. Terms Used in this Law

The following terms are used in this Law:

1) **public person** – the Republic of Latvia as the initial legal person governed by public law and derived public persons. Such persons shall act in accordance with the principles of public law;

2) **derived public person** – a local government or other public person established by law or on the basis of law. Such public person has been conferred its own autonomous competence by law, which includes also establishing and approval of its own budget. Such a person may have its own property;

3) **institution** – an authority which acts on behalf of a public person and to which authority whose competence in State administration is specified by a regulatory enactment, financial resources are allocated to implement its activities and which has its own personnel;

4) **body of a public person** – an institution or an official, whose competence and right to directly express the legal will of a public person are specified in a basic legal instrument or a law regulating the activities of the relevant public person;

5) **direct administration –** institutions and officials of the Republic of Latvia as the initial public person;

6) **indirect administration –** institutions and officials of derived public persons;

7) **administrative decision** – an individual legal instrument directed to the establishment, altering, determination or termination of legal consequences in the field of State administration. Administrative decisions regulate specific public legal relations with other institutions or officials (orders, and others) or with private individuals (especially – administrative acts). An internal decision that is aimed at the preparation of an administrative decision, procedural direction or other internal activities of an institution within the scope of service or employment relations is not an administrative decision;

8) **official** – a natural person who is authorised to take or prepare administrative decisions in general or in a particular case ;

9) **political official** – an official who is elected or appointed on the basis of political criteria;

10) **administrative official** – an official who is a civil servant or an employee of an institution and who is appointed to an office or hired on the basis of professional criteria; and

11) **private individual** – a natural person or a legal person governed by private law.

(…)

Section 10. "Principles of State Administration"

(1) State administration shall be governed by law and rights. It shall act within the scope of the competence prescribed by regulatory enactments. State administration may use its powers only in conformity with the meaning and purpose of the authorisation.

(2) State administration shall observe human rights in its activities.

(3) State administration shall act in the public interest. Public interest shall include also proportionate observance of the rights and lawful interests of private individuals.

(4) State administration, individual institutions or officials, in implementing the functions of State administration, shall not have their own interests.

(5) State administration in its activities shall observe the principles of good administration. Such principles shall include openness with respect to private individuals and the public, the protection of

data, the fair implementation of procedures within a reasonable time period and other regulations, the aim of which is to ensure that State administration observes the rights and lawful interests of private individuals.

(6) State administration in its activities shall regularly examine and improve the quality of services provided to the public. Its duty is to simplify and improve procedures for the benefit of private individuals.

(7) The duty of State administration is to inform the public of its activities. This especially applies to that section of the public and to those private persons whose rights or lawful interests are or may be affected by the implemented or planned activities.

(8) State administration shall be organised in a manner that is as convenient and accessible to private individuals as possible.

(9) State administration shall be organised in compliance with the principle of subsidiarity.

(10) State administration shall be organised as effectively as possible. The institutional system of State administration shall be regularly examined and, if necessary, improved.

(11) State administration in its activities shall also observe the principles of law not referred to in this Section, which principles have been discovered, derived and developed in institutional or court practice, as well as in jurisprudence

APPENDIX III

FREEDOM OF INFORMATION LAW

Section 5

Restricted Access Information

(1) Restricted access information is such information as is intended for a restricted group of persons in relation to the performance of their work or official duties and the disclosure or loss of which, due to the nature and content of such information, hinders or may hinder the activities of the institution, or causes or may cause harm to the lawful interests of persons.

(2) As restricted access information shall be deemed information:

a. which has been granted such status by law;
b. which is intended and specified for internal use by an institution;
c. which concerns trade secrets;
d. which concerns the private life of natural persons; or
e. which is related to certifications, examinations, submitted projects, invitations to tender and other assessment processes of a similar nature.

(3) The author of information or the manager of an institution has the right to grant, by their order, the status of restricted access information, indicating the basis therefore provided by this Law or by other laws.

(4) Information, which is accessible to the public without restrictions provided by law, or which has already been published, shall not be deemed to be restricted access information.

APPENDIX IV

State Civil Service Law

Chapter I
General Provisions

Section 1. Purpose of this Law

The purpose of this Law is to determine the legal status of a loyal to the lawful government, professional and politically neutral State civil service which ensures the legal, stable, efficient and transparent operation of the administration of the State.

Section 2. Operation of this Law

(1) This Law determines the mandatory requirements to be set for a candidate for a State civil service position (hereinafter – candidate), appointment to a civil service position and dismissal from a civil service position, the duties, rights, and service career path of a civil servant, and management in the general State civil service.
(2) All the duties and rights determined by this Law in respect of a State civil servant (hereinafter – civil servant) shall apply to a candidate who is appointed to a civil service position.
(3) (…).
(4) The norms of regulatory enactments regulating legal employment relations that prescribe working hours and rest time, remuneration, the financial liability of employees and terms shall apply to the legal relations of the State civil service insofar as such are not prescribed by this Law.

Section 3. A Civil Servant

(1) A civil servant is a person who forms the policy or development strategy of a sector, co-ordinates the activity of a sector, distributes or controls financial resources, formulates regulatory enactments or controls observance thereof, prepares or issues administrative documents and prepares or takes other decisions related to the rights of individuals in the State Chancellery, a ministry, a Secretariat of a Deputy Prime Minister, a Secretariat of a Minister for Special Assignments, as well as at a State administrative institution (hereinafter – institution) subject to the control of or supervised by a ministry, a Minister for Special Assignments, or a Deputy Prime Minister.
(2) A civil servant in the authorised State civil service is a person who performs the functions referred to in Paragraph one of this Section in the diplomatic and consular service, the State Revenue Service, the police, the Border Guard, the State Fire-Fighting and Rescue Service, or the Prison Administration.
(3) The Prime Minister, ministers, Ministers for Special Assignments, Deputy Prime Ministers (hereinafter – ministers), State ministers, office employees of the aforementioned officials (assistants, advisers, press secretaries) and parliamentary secretaries are not civil servants.

Chapter II
Management of the General State Civil Service

Section 4. State Civil Service Administration

(1) The State Civil Service Administration (hereinafter – the Administration) is a state administrative institution which implements State policy in the State civil service under the supervision of a minister authorised by the Cabinet.
(2) The functions of the Administration are as follows:

1) to control the application of this Law, and of other regulatory enactments related to the field of the State civil service, to the activities of State administrative institutions;

2) to formulate draft regulatory enactments of the Cabinet in the field of the State civil service;

3) to formulate unified principles for the management of personnel in State administrative institutions and to facilitate their implementation;

4) to establish, improve develop and update a unified record system in regard to State administrative institutions, their functions, personnel and persons who have terminated their civil service relations who have the status of civil servant, as well as to determine how such a record system may be accessed, in accordance with the procedures prescribed by the Cabinet;

5) to ensure unified planning of civil service careers;

6) to analyse the training needs of civil servants and prepare an annual training remit for the School of Public Administration;

7) to authorise candidate competitions in the cases prescribed by law;

8) to examine complaints concerning candidate competitions;

9) to grant the status of civil servant;

10) to verify the conformity of civil servants to the requirements of this Law in cases prescribed by law;

11) to provide information in the field of the State civil service;

12) to examine complaints of natural and legal persons concerning actions of civil servants;

13) to initiate and investigate disciplinary matters in the cases and in accordance with the procedures prescribed by law;

14) to impose disciplinary sanctions in the cases and in accordance with the procedures prescribed by law;

15) to examine complaints of civil servants concerning imposed disciplinary sanctions; and

16) to make recommendations to ministers regarding revocation of unlawful decisions of State administrative institutions in the field of the State civil service.

(3) The Administration is entitled to request and receive from officials and State institutions the information necessary to fulfil its functions.

Section 5. The School of Public Administration

(1) The School of Public Administration is a state administrative institution and shall implement State policy under the supervision of a minister authorised by the Cabinet in the education field for civil servants in order to prepare highly professional civil servants.

(2) The functions of the School of Public Administration are as follows:

1) to formulate civil service training programmes;

2) to co-ordinate and ensure the process of the training of civil servants; and

3) to formulate drafts of regulatory enactments, conceptual issues, reports, programmes and other documents related to the training of civil servants.

(…)

APPENDIX V

On Prevention of Conflict of Interest in Activities of Public Officials

Chapter I
General Provisions

Section 1. Terms Used in this Law

The following terms are used in this Law:

1) **office** – work or service within the scope of specified authorisation in a State or local government institution, public, political or religious organisation, as well as in a commercial company;

2) **work-performance contract** – a contract governed by civil law by which a public official undertakes to perform work of a specified amount for the benefit of another person for certain remuneration;

3) **authorisation** – a set of rights which has been granted to a public official by another person in order that the public official shall act in the name and interests of the authorising person;

4) **counterparty** – a natural or legal person or an association of natural or legal persons established on the basis of a contract, which in accordance with the provisions of this Law is in declarable business relations with a public official;

5) **conflict of interests** – a situation where in performing the duties of office of the public official, the public official must take a decision or participate in taking of a decision or perform other activities related to the office of the public official which affect or may affect the personal or financial interests of this public official, his or her relatives or counterparties;

6) **relative** – father, mother, grandmother, grandfather, child, grandchild, adoptee, adopter, brother, sister, half-sister, half-brother, spouse;

7) **creative work** – journalistic, literary or artistic work for which royalties or fees are received;

8) **State or local government authority** – a State or local government institution (a unit thereof) or capital company (a branch thereof);

9) **head of a State or local government authority** – the head of a State or local government institution (in a Ministry – State Secretary) or the executive board of a capital company.

Section 2. Purpose of the Law

The purpose of this Law is to ensure that the actions of public officials are in the public interest, prevent the influence of a personal or financial interest of any public official, his or her relatives or counterparties upon the actions of the public official, to promote openness regarding the actions of the public officials and their liability to the public, as well as public confidence regarding the actions of public officials.

Section 3. Scope of Application of this Law

This Law provides for:

1) restrictions and prohibitions upon public officials;

2) prevention of conflict of interest in actions of public officials; and

3) declaration of the financial status of public officials and a mechanism for the verification of the declarations of public officials.

Section 4. Public Officials

(1) Public officials are:

1) the President;

2) members of the *Saeima*;

3) the Prime Minister, Deputy Prime Ministers, Ministers, Ministers for Special Assignments, State Ministers and Parliamentary Secretaries;

4) the head of the Chancellery of the President of Latvia and his or her deputy, the Director of the *Saeima* Chancellery and his or her deputy;

5) advisors to the President, advisors, consultants and assistants, as well as heads of the Offices of the Prime Minister, Deputy Prime Ministers, Ministers, Ministers for Special Assignments and State Ministers;

6) the Governor of the Bank of Latvia, his or her deputy and members of the Board of Governors of the Bank of Latvia;

7) the Auditor General, members of the Council of the State Audit Office, members of the Collegia of the Audit Departments of the State Audit Office and the administrator of the Chancellery of the State Audit Office;

8) the Chairperson of the Central Electoral Commission, his or her deputy and the Secretary of the Central Electoral Commission;

9) the Director of the Constitution Protection Bureau and his or her deputy;

10) the head of the Prevention and Combating of Corruption Bureau and his or her deputy;

11) the head of the Prevention of the Laundering of Proceeds from Crime Service and his or her deputy;

12) the Director of the National Human Rights Office and his or her deputy;

13) members of the National Broadcasting Council of Latvia, members of the Council of the Public Utilities Commission, members of the Council of the Finance and Capital Market Commission;

14) chairpersons of local government city councils (parish or district councils) and their deputies, executive directors of local governments and their deputies;

15) councillors of local government city councils (parish or district councils);

16) heads of State or local government institutions and their deputies;

17) civil servants of the general or specialised State Civil Service;

18) members of councils or executive board of those capital companies in which the State or local government share of the equity capital separately or in aggregate exceed 50 percent;

19) members of councils or executive boards of State or local government capital companies;

20) representatives of the holder of the State or local government share of capital and their authorised persons;

21) judges, prosecutors, sworn notaries and sworn bailiffs; and

22) professional service soldiers and military employees of the National Armed Forces.

(2) Persons who in the performance of the duties of office in the State or local government authorities, in accordance with regulatory enactments, have the right to issue administrative acts, as well as to perform supervision, control, inquiry or punitive functions in relation to persons who are not under their direct or indirect control, or to deal with the property of the State or local government, including financial resources, shall also be considered to be public officials.

(3) Persons who perform duties of office outside the State or local government authorities shall also be considered as public officials if in accordance with the regulatory enactments the State or local government has permanently or temporary delegated to them any of the functions referred to in Paragraph two of this Section.

APPENDIX VI

Unofficial Translation
of Draft Law

Amendments to the Criminal Law

1. To add the third part to Section 1"Basis of Criminal Liability" as follows:
"(3) Special feature and basis of liability for legal persons is provided in the Chapter 7".

2. To state Section 7 as follows:
Section 7. Classification of Criminal Offences

(1) Criminal Offences are criminal violations and crimes. Crimes are sub-divided as follows: less serious crimes, serious crimes and especially serious.

(2) A criminal violation is an offence for which this Law provides for deprivation of liberty for natural persons for a term not exceeding two years or a lesser punishment, for legal persons – a fine not exceeding 50 minimum monthly wages.

(3) A less serious crime is an intentional offence for which this Law provides for natural persons deprivation of liberty for a term exceeding two years but not exceeding five years, or an offence which has been committed through negligence and for which this Law provides for deprivation of liberty for a term exceeding two years, for legal persons – a monetary fine from 50 and not exceeding 1000 minimum monthly wages.

(4) A serious crime is an intentional offence for which this Law provides for natural persons deprivation of liberty for a term exceeding five years but not exceeding ten years, for legal persons – a monetary fine not less than 1000 and not exceeding 5000 minimum monthly wages.

(5) An especially serious crime is an intentional offence for which this Law provides for deprivation of liberty for natural persons for a term exceeding ten years, life imprisonment or the death penalty, for legal persons – a monetary fine not less than 5000 and not exceeding 10000 minimum monthly wages.

3. To state Section 12 as follows:
"Section 12. Liability of a Natural Person as the Representative of a Legal Person."

In a proceeding against a legal person regarding a criminal offence, the natural person who has committed such offence as the representative or at the instruction of the legal person concerned, or while in the service of the legal person, as well as a joint participant of such natural person, shall be criminally liable therefore.

4. To state first part of Section 62 „Limitation Period on the Execution of a Judgment of Conviction as follows":

„(1) A judgment of conviction may not be executed, if from the day that it comes into effect, it has not been executed within the following time periods.

1) within two years, if custodial arrest, community service or a monetary fine has been adjudged to natural person.

2) within three years, if deprivation of liberty has been adjudged for natural persons for a term not exceeding two years, a fine for legal persons, for legal person – a monetary fine not exceeding 50 minimum monthly wages.

3) within five years, if deprivation of liberty has been adjudged for natural persons a for a term not exceeding five years, for legal persons – a monetary fine not less than 50 and not exceeding 5000 minimum monthly wages.

4) within ten years, if deprivation of liberty has been adjudged for natural persons for a term not exceeding ten years, for legal persons – a fine not less than 5000 and not exceeding 10 000 minimum monthly wages, confiscation of property or limitation of rights.

5) within fifteen years, if a more severe punishment has been adjudged for natural persons than deprivation of liberty for ten years , for legal persons – if an elimination has been adjudged.

5. To state points 2., 3., 4. and 5 of third part of Section 63 „Extinguishment and Setting Aside of Conviction" as follows:

2) natural persons for whom a sentence of custodial arrest, community service or a monetary fine has been imposed, if they have not committed a new criminal offence during the one year period following the date of completing their sentence.

3) after two years – if natural persons who have served a sentence of deprivation of liberty not exceeding three years; if legal person has been adjudged a monetary fine not exceeding 50 minimum monthly wages.

4) after five years – if natural persons who have served a sentence of deprivation of liberty but not exceeding five, legal person has been adjudged a monetary fine not less than 50 and not exceeding 5000 minimum monthly wages.

5) after eight years – if natural persons who have served a sentence of deprivation of liberty exceeding term of five years, but not exceeding period of 10 years, for legal persons- if a monetary fine not less than 5000 and not exceeding 10000 minimum monthly wages has been adjudged or confiscation of property or limitation of rights.

6. To add a new section to the Chapter VII[1] as follows:

Special Feature of Liability of Legal Persons

Section 67[1]. Criminal Responsibility for Legal Persons

(1) Legal person shall be held criminally liable and punishable as provided in the Special part of this law if a criminal offence has been committed by a natural person in the interests of legal person in acting individually or as a member of collegial institution of legal person based on rights to represent legal person or to take decisions on the behalf of legal person, or to carry out control within legal person.

(2) Liability of legal persons shall not exclude liability of natural persons mentioned in the first part of this section and its joint participant.

(3) Conditions of criminal liability of legal person are not applied to legal persons of the State, Municipal Authorities or other legal persons of the Public Law.

Section 67[2]. Types of punishment applicable for legal persons

(1) Legal person who has committed a criminal offence shall be sentenced with one of the following type of punishments:

1) liquidation;
2) limitation of the rights;
3) confiscation of property;
4) a monetary fine.

(2) Confiscation of property can be applied as an additional punishment if the basic punishment is applied limitation of rights or a monetary fine.

Section 67[3]. Liquidation

(1) Liquidation is a coercive determination of activity of a legal person, it's branch office, representation or structural unit of a legal person.

(2) Legal person, it's branch, representation or a structural unit is to be liquidated in cases when a legal person, it's branch office, representation or structural unit has been established to commit a criminal offence or several criminal offences or it has committed serious crimes or especially serious crimes.

(3) In liquidating a legal person, it's branch, representation or a structural unit of a legal person, property of a legal person has to be expropriated in favour of the state without reimbursement. Property to be used to carry out obligations of a legal person with reference to the employees, the state and creditors is not be confiscated.

Section 67^4. Limitation of rights

Limitation of rights is deprivation of rights to perform certain kinds of business activities, deprivation of licences provided in a special law or deprivation of rights or prohibition to perform certain kinds of activities for term not less 1 and not exceeding 5 years.

Section 65^5. Confiscation of property

(1) Confiscation of property is a complete or partial transfer to the State ownership of the property owned by a legal person which can be applied as basic sentence or additional sentence.

(2) In determining a partial confiscation of the property the court indicates exactly which property is to be confiscated.

(3) In determining a complete confiscation of property, part of the property owned by legal person is not be confiscated in order to carry out obligations referring to the employees, the state and creditors

(4) Confiscation of the property of a legal person transferred to another legal person may take place as well.

Section 67^6. A monetary fine

(1) A fine is a monetary levy which is to be determined with reference to the seriousness of the criminal offence and financial status of legal person not less than one and not exceeding ten thousand minimum monthly wages in accordance of the amount of monthly wage in the moment of announcement of verdict. A fines hall be determined in local currency of the Republic of Latvia..

(2) A fine adjudged to legal person is to be paid from means of legal person.

(3) Should a legal person avoid to pay a fine, this kind of punishment has to be executed with compulsory measures..

Section 67^7. Criminal liability and principles of punishment

(1) Punishment conditions and criminal liability of a legal person as far it is possible are provided by the content of sections 51, 51, 53, 54, 56, 58, 59, 60, 62 and 63 of this law.

(2) A court shall adjudge sentence to the extent provided in the Special part of this law which provides liability for the criminal offence committed.

(3)To determine sentence, a court takes into account a character of and harm caused by the criminal offence committed.

7. In Section 88 „Terrorism":

to state first part of the sanction as follows:

"a natural person shall be sentenced with life imprisonment or deprivation of liberty for a term from eight up to twenty years with confiscation of property; a legal person shall be sentenced with liquidation or limitation of rights, confiscation of property or a fine not less than five thousand and not exceeding ten thousand minimum monthly wages ".

to state sanction of the second part as follows:

"a natural person shall be sentenced with life imprisonment or deprivation of liberty for a term from fifteen up to twenty years with confiscation of property; for a legal person – sentence of liquidation or limitation of rights or confiscation of property or a fine not less than five thousands and not exceeding ten thousands minimum monthly wages".

8. In Section 154 "Seizure of Hostages":

to state sanction of the first part as follows:

"a natural person shall be sentenced with a deprivation of liberty for a term from three up to eight years with confiscation of property or without confiscation of property; a legal person shall be sentenced with liquidation or limitation of rights or confiscation of property or a fine not less than fifty and not exceeding five thousand minimum monthly wages".

to state sanction of the second part as follows:

"a natural person shall be sentenced with deprivation of liberty for a term from five up to twelve years with confiscation of property; a legal person shall be sentenced with liquidation or limitation of rights or a fine not less than five thousands and not exceeding ten thousands minimum monthly wages ".

to state sanction of the third par as follows:

"a natural person shall be sentenced with a deprivation of liberty for a term from ten up to fifty years with confiscation of property; a legal person shall be sentenced with liquidation or limitation of rights or confiscation of property or a fine not less than five thousands and not exceeding ten thousands minimum monthly wages".

9. In Section 166 "Violation of Provisions Regarding Importation, Production and Distribution of Pornographic or Erotic Materials":

to state sanction of the first part as follows:

"a natural person shall be sentenced with a deprivation of liberty for a term not exceeding 1 year or arrest or community service or a fine up to thirty minimum month salaries; a legal person shall be sentenced with liquidation or limitation of rights or confiscation of property or a fine not exceeding fifty minimum monthly wages".

to state sanction of the second part as follows:

"a natural person shall be sentenced with deprivation of liberty for a term up to three years or a fine not exceeding fifty minimum monthly wages with confiscation or without confiscation of property; a legal person shall be sentenced with liquidation or limitation of rights or confiscation of property or a fine not less than fifty and not exceeding thousand minimum monthly wages".

to state sanction of the third part as follows:

"a natural person shall be sentenced with deprivation of liberty for a term from one up to six years or a fine not exceeding eighty minimum monthly wages; legal person shall be sentenced with liquidation or limitation of rights or confiscation of property or a fine not less than fifty and not exceeding five thousands minimum monthly wages".

to state sanction of fourth part as follows:

"a natural person shall be sentenced with deprivation of liberty for a term from five up to twelve years with or without confiscation of property; legal person shall be sentenced with liquidation or limitation of rights or confiscation of property or a fine not less five thousands and not exceeding ten thousands minimum monthly wages".

10. In Section 177 "Fraud":

to state sanction of the first part as follows:

"a natural person shall be sentenced with deprivation of liberty for a term from up to three years or custodial arrest or community service or a fine not exceeding sixty minimum monthly wages; legal persons shall be sentenced with liquidation or limitation of rights or confiscation of property or a fine not less than fifty and not exceeding thousand minimum monthly wages".

to state sanction of the second part as follows:

"a natural person shall be sentenced with deprivation of liberty for a term up to six years or a fine not exceeding hundred minimum monthly swages; legal person shall be sentenced with liquidation or limitation of rights or confiscation of property or a fine not less than fifty and not exceeding five thousands minimum monthly wages".

to state sanction of the third part as follows:

"a natural person shall be sentenced with deprivation of liberty for a term from five up to thirteen years or a fine not exceeding one hundred fifty minimum monthly wages with or without confiscation of property; legal person shall be sentenced with liquidation or limitation of rights or confiscation of property or a fine not less than five thousands and not exceeding ten thousands minimum monthly wages".

11. In Section 178 "Insurance Fraud":

to state sanction of the first part as follows:

„a natural person shall be sentenced with deprivation of liberty for a term up to two years or custodial arrest or community service or a fine not exceeding forty minimum monthly wages; legal person shall be sentenced with liquidation or limitation of rights or confiscation of property or a fine not exceeding fifty minimum monthly wages".

to state sanction of the second part as follows:

„a natural person shall be sentenced with deprivation of liberty for a term up to three years or custodial arrest or a fine not exceeding sixty minimum monthly wages; legal person shall be sentenced with liquidation or limitation of rights or confiscation of property or a fine not less than fifty and not exceeding thousand minimum monthly wages".

to state sanction of the third part as follows:

„a natural person shall be sentenced with deprivation of liberty for a term up to six years or a fine not exceeding hundred minimum monthly wages; legal person shall be sentenced with liquidation or limitation of rights or confiscation of property or a fine from fifty and not exceeding five thousands minimum monthly wages".

12. In Section 190 "Smuggling":

to state sanction of the first part as follows:

"a natural person shall be sentenced with deprivation of liberty for a term up to five years or a fine not exceeding two hundred minimum monthly wages with or without confiscation of property; legal person shall be sentenced with liquidation or limitation of rights or confiscation of property or a fine from fifty and not exceeding thousand minimum monthly wages".

to state sanction of the second part as follows:

"a natural person shall be sentenced with deprivation of liberty for a term from five up to ten years with or without confiscation of property; legal person shall be sentenced with liquidation or limitation of rights or confiscation of rights or a fine from fifty and not exceeding five thousands minimum monthly wages."

to state sanction of the third part as follows:

"a natural person shall be sentenced with deprivation of liberty for a term from eight up to fifteen years with confiscation of property; legal person shall be sentenced with liquidation or limitation of rights or confiscation of property or a fine from five thousands and not exceeding ten thousands minimum monthly wages".

13. In Section 190^1 "Smuggling of Narcotic, Psychotropic Substances and Precursors:

to state sanction of the first part as follows:

„a natural person shall be sentenced with deprivation of liberty for a term up to seven years with or without confiscation of property; legal person shall be sentenced with liquidation or limitation of rights or confiscation of property or a fine from fifty and not exceeding thousand minimum monthly wages".

to state sanction of the second part as follows:

„a natural person shall be sentenced with a term from five up to ten years with or without confiscation of property; legal person shall be sentenced with liquidation or limitation of rights or confiscation of property or a fine from fifty and not exceeding five thousands minimum monthly wages".

to state sanction of the third part as follows:

„a natural person shall be sentenced with deprivation of liberty for a term from eight and not exceeding fifteen years with confiscation of property; legal person shall be sentenced with liquidation or limitation of rights or confiscation of rights or a fine from five thousands and not exceeding ten thousands minimum monthly wages".

14. In Section 191 „Storage and Sale of Illegally Imported Goods and Other Valuable Property":

To state sanction in first part as follows:

„the applicable sentence for natural person is deprivation of liberty for a term not exceeding two years, or custodial arrest, or a fine not exceeding one hundred times the minimum monthly wage, with or without confiscation of property, but the applicable sentence for legal person is liquidation or limitation of rights or fine not exceeding fifty times the minimum monthly wages"

To state sanction in second paragraph as follows:

„the applicable sentence for natural person is deprivation of liberty for a term not exceeding five years or a fine not exceeding one hundred and fifty times the minimum monthly wage, with confiscation of property, but the applicable sentence for legal person is liquidation or limitation of rights, or confiscation of property or monetary fine not less than fifty and not exceeding fife thousands minimum monthly wages."

15. In Section 192 „Manufacture and Circulation of Counterfeit Money and Government Securities":

To state sanction in first paragraph as follows:

„the applicable sentence „for natural person is deprivation of liberty for a term of not less than three years and not exceeding twelve years, with confiscation of property or without the confiscation of property, but the applicable sentence for legal person is liquidation or limitation of rights, or confiscation of property or monetary fine not less than five thousand and not exceeding ten thousand minimum monthly wages";

To state sanction in second paragraph as follows:

„the applicable sentence for natural person is deprivation of liberty for a term of not less than eight years and not exceeding twenty years, with confiscation of property, but applicable sanction for legal person is liquidation or limitation of rights or confiscation of property not less than five thousands and not exceeding ten thousands minimum monthly wages."

16. In Section 195 „Laundering of the Proceeds from Crime".:

To state sanction in first paragraph as follows:

„the applicable sentence for natural person is deprivation of liberty for a term not exceeding five years, or a fine not exceeding one hundred and fifty times the minimum monthly wage, with or without confiscation of property, but the applicable sanction for legal persons is liquidation or limitation of rights, or confiscation of property, or monetary fine not less than fifty and not exceeding one thousand minimum monthly wages";

To state sanction in second paragraph as follows:

the applicable sentence for natural person is deprivation of liberty for a term not less than five and not exceeding ten years, with confiscation of property, but the applicable sanction for legal persons is

liquidation or limitation of rights, or confiscation of property, or monetary fine not less than fifty and not exceeding five thousand minimum monthly wages".

17. In Section 199 "Commercial Bribery":
To state sanction in first paragraph as follows:
„the applicable sentence for natural person is deprivation of liberty for a term not exceeding three years, custodial arrest, or a fine not exceeding fifty times the minimum monthly wage, but the applicable sanction for legal persons is liquidation or limitation of rights, or confiscation of property, or monetary fine not less than fifty and not exceeding one thousand minimum monthly wages";
To state sanction in second paragraph as follows:
"the applicable sentence for natural person is deprivation of liberty for a term not exceeding five years, or monetary fine not exceeding the one hundred minimum monthly wages, but the applicable sanction for legal persons is liquidation or limitation of rights, or confiscation of property, or monetary fine not less than fifty and not exceeding five thousand minimum monthly wages".

18. To state sanction in Section 202 „Failing to Ensure Quality of Goods and Services" as follows:
„the applicable sentence for natural person is deprivation of liberty for a term not exceeding five years, or custodial arrest, or a fine not exceeding sixty times the minimum monthly wage, with or without deprivation of the right to engage in specific forms of entrepreneurial activity for a term of not less than two years and not exceeding five years, but the applicable sanction for legal persons is liquidation or limitation of rights, or confiscation of property, or monetary fine not less than fifty and not exceeding five thousand minimum monthly wages".

19. To state sanction in Section 203 „Failing to Observe Requirements Regarding Safety of Goods and Services" as follows:
„applicable sentence for natural person is deprivation of liberty for a term not exceeding six years, or a fine not exceeding one hundred times the minimum monthly wage, with or without deprivation of the right to engage in specific employment for a term of not less than two years and not exceeding five years, but the applicable sanction for legal persons is liquidation or limitation of rights, or confiscation of property, or monetary fine not less than fifty and not exceeding five thousand minimum monthly wages".

20. In Section 204 „Defrauding Purchasers and Ordering Parties".:
to statesanction in first paragraph as follows:
„the applicable sentence for natural person is deprivation of liberty for a term not exceeding two years, or custodial arrest, or community service, or a fine not exceeding fifty times the minimum monthly wage, but the applicable sanction for legal persons is liquidation or limitation of rights, or monetary fine not exceeding fifty minimum monthly wages";
to state sanction in second paragraph as follows:
„the applicable sentence for natural person is deprivation of liberty for a term not exceeding five years, or a fine not exceeding one hundred times the minimum monthly wage, with or without deprivation of the right to engage in specific employment for a term of not less than two years and not exceeding five years, but the applicable sanction for legal persons is liquidation or limitation of rights, or confiscation of property, or monetary fine not less than fifty and not exceeding five thousand minimum monthly wages".

21. In Section 205 „Violation of Trading Provisions":
To state sanction in first paragraph as follows:
„the applicable sentence for natural person is deprivation of liberty for a term not exceeding three years, or custodial arrest, or community service, or a fine not exceeding sixty times the minimum monthly wage, with or without confiscation of property, but the applicable sanction for legal persons is liquidation or limitation of rights, or confiscations of property, or monetary fine not less than fifty and not exceeding one thousand times the minimum monthly wages";

To state sanction in second paragraph as follows
„the applicable sentence for natural person is deprivation of liberty for a term not exceeding five years, or a fine not exceeding one hundred times the minimum monthly wage, with or without confiscation of property, but the applicable sanction for legal persons is liquidation or limitation of rights, or confiscation of property, or monetary fine not exceeding one thousand time minimum monthly wages".

22. To state sanction of Section 211 „Unfair Competition and Misleading Advertising" as follows:
„the applicable sentence for natural person is deprivation of liberty for a term not exceeding two years, or a fine not exceeding eighty times the minimum monthly wage, with or without deprivation of the right to engage in entrepreneurial activity for a term of not less than two years and not exceeding five years, but the applicable sanction for legal persons is liquidation or limitation of rights, or monetary fine not exceeding fifty times the minimum monthly wages".

23. In article 218 „Evasion of Taxes and Payments Imposed Together Therewith":
to state sanction in first paragraph as follows:
„the applicable sentence for natural person is deprivation of liberty for a term not exceeding three years, or custodial arrest, or a fine not exceeding eighty times the minimum monthly wage, with or without deprivation of the right to engage in entrepreneurial activity for a term of not less than two years and not exceeding five years, but the applicable sanction for legal persons is liquidation or limitation of rights, or confiscation of property, or monetary fine not less than fifty and not exceeding one thousand times the minimum monthly wages";
to state sanction in second paragraph as follows:
„the applicable sentence for natural person is deprivation of liberty for a term not exceeding five years, or a fine not exceeding one hundred and twenty times the minimum monthly wage, with or without confiscation of property, and with or without deprivation of the right to engage in entrepreneurial activity for a term of not less than two years and not exceeding five years, but the applicable sanction for legal persons is liquidation or limitation of rights, or confiscation of property, or monetary fine not less than fifty and not exceeding one thousand times the minimum monthly wages".

24.To state sanction in first paragraph of article 294.[1] „ Interference in investigation" as follows:
„the applicable sentence for natural person is deprivation of liberty for a term not exceeding two years, community service, or a fine not exceeding fifty times the minimum monthly wage, but the applicable sanction for legal persons is liquidation or limitation of rights, or monetary fine not exceeding one fifty times the minimum monthly wages".

25. To state sanction in first paragraph of article 295 „Interference in a Trial" as follows:
„the applicable sentence for natural person is deprivation of liberty for a term not exceeding two years, or custodial arrest, or a fine not exceeding fifty times the minimum monthly wage, but the applicable sanction for legal persons is liquidation or limitation of rights, or monetary fine not exceeding one fifty times the minimum monthly wages".

26. In article 323 „Giving of Bribes':
To state sanction in first paragraph as follows:
the applicable sentence for natural person is deprivation of liberty for a term not exceeding six years, but the applicable sanction for legal persons is liquidation or limitation of rights, or confiscation of property, or monetary fine not less than fifty minimum and not exceeding five thousand times the minimum monthly wages";
To state sanction in second paragraph as follows:
„the applicable sentence for natural person is deprivation of liberty for a term of not less than five and not exceeding twelve years, with or without confiscation of property, but the applicable sanction for legal

persons is liquidation or limitation of rights, or confiscation of property, or monetary fine not less than five thousands and not exceeding ten thousand times the minimum monthly wages".

27. To state sanction in first paragraph of article 326.[1] „Trading in influence" as follows:
the applicable sentence for natural person is deprivation of liberty for a term not exceeding one year, or custodial arrest, or a fine not exceeding fifty times the minimum monthly wage, but the applicable sanction for legal persons is liquidation or limitation of rights, or monetary fine not exceeding fifty times the minimum monthly wages".

The Law will come into force together with the Criminal Procedural Law.