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2022 Rule of Law Report Country Chapter on the rule of law situation in Latvia

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2022 Rule of Law Report The rule of law situation in the European Union

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ABSTRACT

A number of reforms to improve the functioning of the Latvian justice system have entered into force. The Judicial Council further improved the procedure for selecting candidate judges and started implementing its strategy, with a focus on taking over the administrative tasks relating to courts from the executive branch. The appointment process for the Supreme Court was marked by controversies regarding possible undue political influence. The digitalisation of justice has been further improved, particularly by making the new electronic communication e-Case portal operational. The Economic Court has made an effective start in the first year of its operation. The plan to establish a new centralised training centre for the justice system is advancing. The overall efficiency of the justice system remains high, and initiatives aim at improving it further.

The new Action Plan to prevent corruption is pending adoption. Overall, the Corruption Prevention and Combating Bureau (KNAB) deals with corruption cases efficiently and progress has been acknowledged by the OECD regarding detection and prioritisation of cases of foreign bribery. The investigation and prosecution of corruption-related cases is carried out efficiently. The implementation of the two-year Action Plan addressing the State Audit Office recommendations on improving the quality of investigation and prosecution of economic and financial crimes is expected to be completed within the deadline set for June 2023. Draft legislation on lobbying is being discussed and should be adopted in the second half of 2022 along with a creation of a special lobby register. New legislation on whistleblowing was adopted on 20 January 2022. Specific anti-corruption measures were introduced in the area of issuance of COVID-19 vaccination, convalescence or testing certificates to combat the risk of fraud and corruption.

The legal framework for media pluralism and media freedom in Latvia safeguards the fundamental right to freedom of expression and information. Media authorities continue to function in an independent manner. The independence of the Latvian public service media is ensured by legal and structural safeguards. However, concerns remain on the high level of media concentration. Journalists in Latvia continue to work in a safe environment, although online threats remain an issue. At the end of 2021, Latvia started a mapping exercise based on the Commission's Recommendation on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union, to define the institutions responsible for the various recommended actions and analyse the actions to pursue.

The state of emergency, reinstated for several months to address the COVID-19 pandemic, was lifted in March 2022. The appointment rules for the Ombudsperson were amended, and this independent authority continued playing an active part in the system of checks and balances. Latvia continues to provide a favourable environment for the participation of civil society in decision-making and a new online single portal for participation of the public in the development of draft legal acts became operational. An action plan was adopted for the implementation of the guidelines for the development of a cohesive and active civil society. Financial support to civil society organisations from the state budget increased in 2021, and the Ombudsperson's office is looking into the reasons for weaker involvement of civil society in local government.

RECOMMENDATIONS

In addition to recalling the commitments made under the national Recovery and Resilience Plan relating to certain aspects of the justice system, it is recommended to Latvia to:

- Initiate a process in view of ensuring adequate safeguards against undue political influence in the appointment of Supreme Court judges, taking into account European standards on judicial appointments.
- Continue efforts towards the swift adoption and effective implementation of the Action Plan 2021-2024 to prevent corruption.
- Continue efforts towards adopting the draft legislation on lobbying, and following that, ensure the setting-up of a special lobby register.
- Take measures to increase the participation of civil society in decision-making at local level.

I. JUSTICE SYSTEM

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

Independence

The level of perceived judicial independence in Latvia continues to be average among the general public and is now very low among companies. Overall, 53% of the general population and 27% of companies perceive the level of independence of courts and judges to be 'fairly or very good' in 2022¹. According to data in the 2022 EU Justice Scoreboard, the level slightly decreased since 2021 for the general public (from 56%), but decreased significantly for companies from 53% in 2021, and reached its lowest level since 2016 (it then stood at 35%).

The Judicial Council amended the procedures for selecting candidate judges and court presidents. The procedure for selecting candidate judges for district and regional courts, which had already been modified to strengthen judicial independence², was further amended to improve the examination process by the Judicial Council. The new procedure, adopted by the Judicial Council on 21 October 2021, now comprises four rounds of candidate selection instead of five, and the number of questions has been increased in order to cover a wider range of expertise³. Furthermore, on 12 November 2021, following the Candidate Evaluation Commission's⁴ proposals, the Judicial Council made amendments to the Selection procedure

¹ Figures 50 and 52, 2022 EU Justice Scoreboard. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

² The competence to determine the procedure was transferred in 2018 from the executive to the Judicial Council. 2020 Rule of Law Report, Country Chapter on the rule of law situation in Latvia, p. 2, and 2021 Rule of Law Report, Country Chapter on the rule of law situation in Latvia, p. 2.

³ The new procedure is supplemented with the condition that the selection process is organized only if a former judge of a constitutional court, an international court or a supranational court has not expressed a wish to apply or has expressed a wish to apply, but has not received a successful assessment of the Selection Commission.

⁴ The Candidate Evaluation Commission consists of two judges delegated by the Judicial Council, an authorised representative of the Minister of Justice and a representative of the judges of the relevant court.

for presidents of district courts as well as presidents and vice-presidents of regional courts⁵. Representatives of associations of judges and a representative of the Court Administration may participate in the selection process in an advisory capacity, and the chairman of the Candidate Evaluation Commission may invite a competency assessment specialist to provide support in evaluating the capabilities of candidates. Changes were also made to the criteria for evaluating candidates⁶.

The Judicial Council started implementing its strategy for 2021-2025, with a focus on taking over the administrative tasks relating to courts from the executive branch. As stated in the 2021 Rule of Law Report, the overarching goal of this strategy is to increase the independence, quality and accountability of the justice system⁷. To this end, one of the priorities of the Judicial Council is to take over the administrative management of the justice system from the executive branch⁸. Representatives of the Ministry of Justice and of the Judicial Council are in discussions to implement this objective. In order to strengthen the strategic role of the Judicial Council and to develop its administrative capacity, the number of employees of the Secretariat of the Judicial Council was increased from three to four in 2021. Strengthening the institutional capacity of the Judicial Council is also one of the priorities of the Supreme Court's budget for 2022, which was endorsed by the Judicial Council⁹.

The appointment process for the Supreme Court was marked with controversies regarding possible undue political influence. On 17 February 2022, Parliament rejected the candidacy of a former President of the Constitutional Court as judge of the Supreme Court¹⁰. According to the appointment rules, the Judicial Qualification Committee had evaluated the application and given a positive opinion, and the Chief Justice of the Supreme Court proposed the candidate to Parliament, which then proceeded to vote. Failing to reach a majority of votes, the candidate in question was rejected. Prior to the vote, a number of members of Parliament made statements criticising the candidate's perceived political views in relation with judgments given by the Constitutional Court under her tenure as its President¹¹. This decision prompted criticism, including by the plenary of the Supreme Court, due to the politicisation of the appointment process, as it was perceived that a number of deputies had based their decision on their disapproval with the content of judicial decisions, thus undermining judicial independence¹². Under the Latvian constitution, there is no

⁵ Decision No 77 of the Judicial Council of 12 November 2021.

⁶ There are now three basic criteria: reputation and authority in the court system; professional competence; awareness of the functioning of the judicial system and vision of further development of the court.

⁷ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Latvia, p. 3.

⁸ The Court Administration is currently subordinated to the Ministry of Justice, which also decides on budgetary matters for all courts except the Supreme Court. In May 2021, the University of Latvia's department of anthropology conducted a survey on judicial independence on behalf of the Judicial Council, involving 335 judges, thus representing 61% of Latvia's judges. 70.7% of the respondents indicated that excessive influence of the Ministry of Justice had a negative impact on the independence of the judicial system.

⁹ Input from Latvia for the 2022 Rule of Law Report, p. 4.

¹⁰ Under Article 54(3) of the Law on Judicial Power, 'A person who has been in the office of a Constitutional Court judge, a judge of an international court or a judge of a supranational court and has received a favourable opinion from the General Assembly of Judges of the department of the Supreme Court may apply for the office of a judge of the Supreme Court'.

¹¹ In 2020 and 2021, the Constitutional Court gave several judgments reinforcing the rights of same-sex couples, in particular as regards the rights to benefit from parental leave and to inheritance. See Lsm.lv, 17 February 2022, 'Saeima rejects controversial Supreme Court candidate'.

¹² Decision No 2 of 18 February 2022 of the plenary of the Supreme Court 'On the relationship between the legislature and the judiciary and the independence of the judge'. The Supreme Court noted that the

possibility to challenge in court the decision of the Parliament rejecting the candidacy¹³. This situation has revealed the vulnerability of the system of appointment to the Supreme Court to politicisation. According to European standards, the appointment of judges should be made by an authority independent of the executive and legislative powers based on merit, having regard to the qualifications, skills and capacity required to adjudicate cases. Moreover, where the appointing authority is the head of state, the government or the legislative power, an independent authority drawn in substantial part from the judiciary should be authorised to make recommendations or express opinions followed in practice¹⁴.

The Supreme Court ruled in favour of the rights of lawyers to access information in court proceedings to defend their clients, while access to State secrets may be refused if strictly necessary¹⁵. In a judgment of 16 July 2021¹⁶, the Supreme Court held that lawyers belong to the justice system and that their participation in court proceedings is essential for ensuring the right to a fair trial. It found that, while access to State secrets may be objectively necessary for the performance of the duties of a lawyer, access to such materials may also be refused to a lawyer, if strictly necessary in the light of public interest, such as national security. Similarly, in a judgment of 21 October 2021¹⁷, the Supreme Court confirmed on appeal the right of lawyers to receive information from the State Revenue Service regarding a taxpayer to ensure the defence of a client in criminal proceedings. The Supreme Court upheld the findings that the sworn lawyer's right and duty to ensure the defence of his or her client and the latter's fundamental right to a fair trial should prevail over the taxpayer's interest in protecting information about his (or her) private life¹⁸.

Quality

The e-Case Management System has become operational, and is being gradually extended to all courts. As stated in the 2021 Rule of Law Report, the aim of this new portal is to modernise the recording of procedural actions and the digitalisation of record-keeping¹⁹. On 1 December 2021, the necessary legislative amendments entered into force and the e-Case

Parliament's decision to deny a Constitutional Court judge the possibility of continuing his or her career on the basis of the outcome of a particular case infringes the Constitution, which prohibits penalising a judge as a result of judgments he or she delivered, unless the conditions for disciplinary liability are met. The Supreme Court added that the vote should have been based on legal considerations and the principle of professionalism, and called upon the Parliament to observe the principles of separation of powers and judicial independence.

¹³ Figure 54, 2021 EU Justice Scoreboard.

¹⁴ Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, paras. 44-47.

¹⁵ Contribution from the CCBE for the 2022 Rule of Law Report, pp. 40-41.

¹⁶ Judgment of the Supreme Court (administrative chamber) of 16 July 2021, *Case No SA-1/2021*, ECLI:LV:AT:2021:0716.SA000121.5.S.

¹⁷ Judgment of the Supreme Court (administrative chamber) of 21 October 2021, *Case No A420268820*, SKA-1038/2021, ECLI:LV:AT:2021:1021.A420268820.4.L.

¹⁸ Article 455 of the Code of Criminal Procedure provides rights to Advocates to request information for the purposes of gathering evidence necessary to ensure the defence of a client in criminal proceedings. The State Revenue Service had however relied, among others, on Article 22(1) of the Law on Taxes and Fees, which provides that unless provided otherwise, an employee of the tax administration is prohibited from disclosing any information regarding a taxpayer without their consent, except for information regarding tax debts. The Supreme Court however ruled that this exception is not applicable, and that to refuse the disclosure of information, the State Revenue Service must establish that the interest for which the information is classified as restricted prevails over the interest of the person requesting the information.

¹⁹ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Latvia, pp. 3-4.

portal became operational²⁰. It replaced the previous digital judicial portal and ensures the exchange of information between courts, the parties in proceedings and judicial authorities. The e-Case portal notably allows its various users²¹ to complete and submit electronic forms as well as applications to the courts, consult the state of the proceedings and the judicial calendar. However, technical shortcomings were identified during the initial implementation phase of the e-Case portal, as regards for instance the uploading of court documents²², and the Supreme Court issued an interpretation of the legislation allowing for the continued use of paper files to prevent these issues from affecting the smooth conduct of the proceedings²³. Moreover, it was reported that 43% of courts are currently equipped for videoconferencing, and it is planned to equip all courtrooms with such systems by the end of 2022²⁴. The full transition to electronic court cases should take place by 1 December 2023. As pointed out by the Ministry of Justice, it is crucial to provide all the necessary technical support to courts by this date and to continue to improve the Courts Information System²⁵. In the second stage of implementation of the e-Case portal, from 2022 until 2026, it is planned to expand the range of participating institutions and integrate their information systems (e.g. the investigation authorities and Criminal Procedure Information System) as well as to integrate the e-Evidence platform in the e-Case platform, specifically for European Investigation Orders and legal assistance requests²⁶. An independent audit will be performed during the second stage of the e-Case portal.

The establishment of the new centralised training centre for the justice system is advancing. A milestone under the Latvian Recovery and Resilience Plan (RRP) requires Latvia to establish a Judicial Training Centre by 31 March 2025²⁷. The goal is to establish a unified training centre for the development of qualifications for judges, prosecutors and investigators, in cross-disciplinary matters that are essential for effective judicial reasoning, as the basis for a sustainable and stable system, providing an opportunity for the long-term planning, development and implementation of training programmes. In order to effectively achieve the project goals, a project management and supervision structure has been established and competencies have been defined. Work has begun on the project monitoring

²⁰ Input from Latvia for the 2022 Rule of Law Report, pp. 3-4 and 6-7.

²¹ The portal is intended among others for parties in judicial proceedings, third parties involved in the proceedings, sworn advocates, lawyers, community service employers and workers, judicial experts, state and local authorities as well as the general public.

²² Further difficulties for the work of courts consisted in the limited functionality, insufficient performance and frequent failures of the record-keeping module, as well as issues performing searches in the electronic file. The operation of the portal is currently stabilized and shortcomings are detected less frequently. Information received from the Ministry of Justice, the Supreme Court and the Association of Judges in the context of the country visit to Latvia.

²³ Decision No 2 of the plenary of the Supreme Court of 9 December 2021, 'On ensuring the right to a fair trial and uniform case law in the context of digitalisation of court work'. The Supreme Court noted that the judiciary had not been sufficiently involved in the development of the portal, and that the courts' technical capacity and the training of court staff were not adequate yet for the exclusive use of the e-Case portal, which would therefore affect the right to a fair trial.

²⁴ Information received from the Ministry of Justice in the context of the country visit to Latvia.

²⁵ Written contribution from the Ministry of Justice following the country visit to Latvia.

²⁶ Written contribution from the Ministry of Justice following the country visit to Latvia.

²⁷ On proposal from the Commission, the Council adopted the Implementing Decision of 16 July 2021 on the approval of the assessment of the recovery and resilience plan for Latvia, under which the milestone no. 192 states: 'Establishment of a single training centre for the development of the qualifications of judges, court staff, prosecutors, assistant prosecutors and specialised investigators (interdisciplinary matters) requires the entry into force of the regulatory framework for the operation of the training centre and public funding ensured in state budget law for 2025 and 2026'.

board, project management committee, project implementation team, training programme working groups and project advisory board²⁸. On 18 June 2021, the Judicial Council approved the institutional model proposed by the Ministry of Justice in a concept paper²⁹. The functional model provides that the strategic directions of the activities of the training centre will be determined, supervised and evaluated by the Judicial Council, whereas the coordination of daily work will be entrusted to a Supervisory Board³⁰. It is envisaged that the head of the centre will be appointed and removed from office by the Cabinet of Ministers upon the proposal of the Judicial Council. Work has also begun on planning content activities (training events). Negotiations have been initiated with the Prosecutor's office on the development of curricula³¹.

Efficiency

The overall efficiency of the Latvian justice system remains high, and initiatives aim at improving it further. The length of court proceedings in civil, commercial and administrative cases, measured in disposition time, showed a slight increase, but remains average or shorter than average, in particular as regards administrative cases³². The number of pending cases remained stable and is still overall very low³³. The clearance rate decreased slightly below 100%, except for administrative cases, where it remained above that threshold, indicating that courts are still able to deal steadily with incoming cases without the risk of significant backlog³⁴. There was a considerable improvement in the average length of judicial review regarding consumer protection at first instance, which dropped from 393 days in 2019 to 141 days in 2020³⁵, while it remained stable as regards money laundering cases³⁶. To ensure efficient management of the caseload of courts, a new digital tool, 'Portrait of Courts'³⁷, was developed and put at the disposal of court presidents. It provides active strategic management of the daily work of courts and monitors trends in work indicators³⁸, in order to proactively address potential issues. Moreover, on 22 October 2021, a Working Group for Strengthening the Efficiency of the Judiciary³⁹ submitted an action plan to the Judicial Council. Among the four priorities identified to improve the efficiency of courts, the working group recommended balancing the workload of judges and optimising the organisation of personnel in the court system.

²⁸ Written contribution from the Ministry of Justice following the country visit to Latvia.

²⁹ Press release of 21 June 2021, 'The Judicial Council supported the principles set out in the concept for setting up the training centre'. According to this concept paper, the training centre will be established as a legal person governed by public law.

³⁰ A newly created collegial institution consisting of representatives from courts, the Prosecutor's Office, the Ministry of Home Affairs, the Ministry of Justice and academia.

³¹ The establishment of the Judicial Training Center is planned in cooperation with the representatives of the Ministry of the Interior, the State Police and the State Police College in order to avoid duplication in determining the topics, content and methods of interdisciplinary training. See written contribution from the Ministry of Justice following the country visit to Latvia, p. 4.

³² Figures 6-10, 2022 EU Justice Scoreboard.

³³ Figures 14-16, 2022 EU Justice Scoreboard.

³⁴ Figures 11-13, 2022 EU Justice Scoreboard.

³⁵ Figure 22, 2022 EU Justice Scoreboard.

³⁶ 214 days in 2020, 212 days in 2019. Figure 24, 2022 EU Justice Scoreboard.

³⁷ Input from Latvia for the 2022 Rule of Law Report, p. 7.

³⁸ The portal contains information as to cases received, cases adjudicated, pending cases the length of cases heard, stability indicators as well as the work of investigating judges.

³⁹ The working group was set up on 15 June 2021 to achieve the goals set out in Axis 3 of the Judicial Council's strategy for 2021-2025, entitled 'Efficiency and Quality of the Justice System'. Input from Latvia for the 2022 Rule of Law Report, p. 9.

The Economic Court has dealt efficiently with its caseload in the first year of its operation. As mentioned in the 2021 Rule of Law Report⁴⁰, the newly established Economic Court became operational on 31 March 2021, and is still functioning with 9 out of 10 judges currently appointed⁴¹. As of 1 February 2022, that Court had examined 42 criminal cases out of 103 lodged, 136 cases related to criminally acquired property out of 194 lodged, and 47 civil cases out of 103 lodged (29 of which were declared inadmissible)⁴², showing no particular difficulty in dealing with its caseload. Whereas no rapid increase of civil cases is expected, the number of criminal cases lodged is projected to double, according to the announcements of the prosecution service⁴³. One issue described by the Court as negatively affecting the average length of its proceedings is the impossibility to conduct remote hearings by videoconference for parties not residing in Latvia due to an interpretation of the law given by the Supreme Court⁴⁴. An informative evaluation of the operations of the Economic Court was conducted in 2022, and the evaluation report was to be submitted to the Cabinet of Ministers for examination on 1 April 2022. The information report is still in development.

II. ANTI-CORRUPTION FRAMEWORK

The legislative and institutional framework to prevent and prosecute corruption is broadly in place. The Corruption Prevention and Combating Bureau (KNAB) is a specialised body with competence to investigate corruption-related offences and prevent corruption⁴⁵. The Prosecutor's Office supervises pre-trial investigations of corruption-related offences conducted by the KNAB. Other institutions with anti-corruption competences are: the State Police, which investigates corruption in private institutions and fraud; the Internal Security Bureau, which investigates corruption-related criminal offences committed by the officials of the institutions subordinated to the Ministry of the Interior; the Internal Security Board of the State Revenue Service, which investigates criminal offences committed by State Revenue Service officials; and the State Border Guard, which investigates corruption involving State Border Guard's officers.

The perception among experts and the business community is that the level of corruption in the public sector remains relatively high. In the 2021 Corruption Perceptions Index by Transparency International, Latvia scores 59/100 and ranks 11th in the EU and 36th globally⁴⁶. This perception has been relatively stable⁴⁷ over the past five years⁴⁸.

⁴⁰ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Latvia, p. 5.

⁴¹ At the time of this report, a competition is being organised to fill the remaining judge position.

⁴² As of 30 November 2021, the Economic Court had solved 31 criminal cases out of 73 lodged, 107 cases related to criminally acquired property out of 170 lodged, and 33 civil cases out of 89 lodged. Input from Latvia for the 2022 Rule of Law Report, p. 8.

⁴³ Written contribution from the Ministry of Justice following the country visit to Latvia, p. 5.

⁴⁴ Information received from the Economic Court in the context of the country visit to Latvia.

⁴⁵ KNAB competences in preventing corruption include the monitoring of conflicts of interest and political party financing (Including the monitoring of the implementation of the Law on Financing of Political Organisations (Parties), amended in June 2020) as well as investigation of corruption-related offences.

⁴⁶ Transparency International (2022), Corruption Perceptions Index 2021, pp. 2-3. The level of perceived corruption is categorised as follows: low (the perception among experts and business executives of public sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

⁴⁷ In 2017, the score was 58, while, in 2021, the score is 59. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points); is relatively stable (changes from 1-3 points) in the last five years.

The 2022 Special Eurobarometer on Corruption shows that 78% of respondents consider corruption widespread in their country (EU average 68%) and 22% of respondents feel personally affected by corruption in their daily lives (EU average 24%)⁴⁹. As regards businesses, 66% of companies consider that corruption is widespread (EU average 63%) and 23% consider that that corruption is a problem when doing business (EU average 34%)⁵⁰. Furthermore, 22% of respondents find that there are enough successful prosecutions to deter people from corrupt practices (EU average 34%)⁵¹, while 22% of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 29%)⁵².

The new Action Plan to prevent corruption is pending adoption. The draft Corruption Prevention and Combating Action plan 2021-2024⁵³ was submitted by KNAB for consideration at the 1 July 2021 meeting of the State Secretaries. It was consulted with various Ministries and Non-Governmental Organisations (NGOs). Numerous suggestions are being currently considered. The Action Plan stipulates the following goals: (1) ensure human resources management, eliminating corruptive motivation; (2) improve the internal anti-corruption control system; (3) reduce tolerance of corruption in society; (4) ensure the inevitability of punishment for law violations; (5) limit the power of money in politics⁵⁴. In terms of strengthening the fight against corruption, the implementation of the Action Plan should ensure that the delay in its adoption does not negatively impact completion of all the goals foreseen in it for the period 2021-2024⁵⁵.

The reinforced Corruption Prevention and Combating Bureau (KNAB) deals with the corruption prevention and investigation of corruption-related cases efficiently. KNAB was granted nine additional posts in 2021 and another 10 posts in 2022⁵⁶. The remuneration of its staff was increased⁵⁷. The KNAB continues monitoring conflicts of interest. In 2021, KNAB took 256 decisions for violation of the Law on Prevention of Conflict of Interest in Activities of Public Officials, for which fines were imposed on 222 public officials, for a total of EUR 40 365⁵⁸. Also, KNAB initiated 118 administrative proceedings for violations of the

⁴⁸ The Eurobarometer data on corruption perception and experience of citizens and businesses as reported last year is updated every second year. The latest data set is the Special Eurobarometer 523 (2022) and the Flash Eurobarometer 507 (2022).

⁴⁹ Special Eurobarometer 523 (2022). The Eurobarometer data on citizens' corruption perception and experience is updated every second year. The previous data set is the Special Eurobarometer 502 (2020).

⁵⁰ Flash Eurobarometer 507 (2022). The Eurobarometer data on business attitudes towards corruption as is updated every second year. The previous data set is the Flash Eurobarometer 482 (2019).

⁵¹ Special Eurobarometer 523 (2022).

⁵² Flash Eurobarometer 507 (2022).

⁵³ Input from Latvia for the 2022 Rule of Law Report, p. 10.

⁵⁴ Draft Corruption Prevention and Combating Action plan 2021-2024. Input from Latvia for the 2022 Rule of Law Report, p. 10.

⁵⁵ Information received from Transparency International and Delna in the context of the country visit to Latvia.

⁵⁶ As of 31 December 2021, 142 of 161 positions in KNAB were filled (19 vacant positions remain). KNAB employs 55 men, and 87 women. In 2021, 11 persons began their service, and 5 persons terminated their service in KNAB – Input from Latvia for the 2022 Rule of Law Report, pp. 9-10.

⁵⁷ The plan was to align the salary conditions with those of other institutions and thus monthly remuneration of KNAB officials was to be raised by 21% in 2021, by 28% in 2022 and by 37% in 2023 (in comparison to 2020). Input from Latvia for the 2022 Rule of Law Report, and information received from the Ministry of Justice in the context of the country visit to Latvia.

⁵⁸ Based on the aforementioned decisions taken by KNAB, 215 public officials paid to the State budget administrative fines for a total of EUR 37 345. KNAB took 21 decision requesting to repay losses to the

Law on Financing of Political Parties and Pre-election Campaign Law in 2021, against political parties and other legal and natural persons, taking a total of 108 decisions. As a result of the investigations of corruption-related offences, KNAB imposed a total of EUR 16 890 in fines, and six decisions on the repayment of financial resources to the State budget for a total of EUR 18 112.72⁵⁹. In terms of high-level corruption cases, in 2021, three persons were convicted and cases against four legal persons were sent for prosecution⁶⁰. In 2021, KNAB carried out 82 training courses for over 10 000 participants from the public and private sector on, inter alia, prevention of conflicts of interest, professional ethics and fundamental corruption prevention issues⁶¹. KNAB has also carried out a social campaign that aimed at promoting public involvement in reporting corruption and other latent crimes⁶².

Investigation and prosecution of corruption-related cases is carried out efficiently by the authorities. Overall, public procurement remains the main area at high-risk of corruption. Latvia's Recovery and Resilience Plan provides for the entry into force of regulatory framework for improving the competition environment and reducing corruption risks in public procurement by 31 December 2021⁶³. The OECD acknowledged progress on foreign bribery cases⁶⁴ and use of the investigative techniques⁶⁵. As reported by the Internal Security Bureau (ISB), in 2021, 23 investigations (out of 45) related to corruption were sent to the Prosecutor's Office. Out of these 23 cases, 13 related to bribery⁶⁶. In 2021, 10 criminal proceedings were initiated by the State Border Guard (SBG) in connection with corruption activities, nine criminal proceedings were sent to the Prosecutor's Office to initiate criminal prosecution. Two cases concerned bribery in relation to non-compliance with measures adopted in the context of the COVID-19 pandemic⁶⁷. Effective cooperation with the Financial Investigation Units in an investigation concerning foreign bribery led to confiscation over

State budget in the amount of EUR 29 506 for violations of the Law on Prevention of Conflict of Interest in Activities of Public Officials. Input from Latvia for the 2022 Rule of Law Report, p. 16.

⁵⁹ In 2021, political organisations parties and other legal and natural persons, pursuant to the decisions of KNAB, repaid to the State budget unlawfully acquired funding for a total of EUR 94 602, as well as voluntarily repaid a total of EUR 1 230, and a total of EUR 12 475 in fines. Input from Latvia for the 2022 Rule of Law Report, p. 17.

⁶⁰ Information received from KNAB in the context of the country visit to Latvia.

⁶¹ Input from Latvia for the 2022 Rule of Law Report, p. 11.

⁶² As part of a social campaign by KNAB, a special object – the corruption iceberg – was placed on the Daugava river in Riga. It symbolised a small visible part of the iceberg of corruption, concealing below it a wide range of negative effects on both the actors involved in corruption and society as a whole. Input from Latvia for the 2022 Rule of Law Report, p. 14.

⁶³ On 13 July 2021, the Council adopted its Decision on the approval of the assessment of the Recovery and Resilience Plan for Latvia (Council Implementing Decision of 13 July 2021 on the approval of the assessment of the recovery and resilience plan for Latvia (2021/0164 (NLE)). Milestone no. 209 states: 'Entry into force of amendments to the public procurement law, including, inter alia, the following changes: 1) The procurement commission shall be established for each procurement separately or for a specified period of time; 2) the secretary of the procurement commission shall sign a declaration of absence of conflict of interest; 3) broadened cases where a supplier may be excluded from tender; 4) the evaluation criteria identify specific areas where life-cycle costs and quality criteria are to be assessed in addition to the purchase price; 5) stricter requirements for cases with only a single bid; 6) requirement for a market consultation in order to avoid restrictive technical specifications'.

⁶⁴ As indicated in the 2020 Rule of Law Report, in June 2019 the Parliament amended the Criminal Law to amend the definitions of several offences of the abuse of office, bribery and trading in influence. The new definitions of bribery and trading in influence eliminating certain restrictions to the scope of deeds falling under the definition of these offences Amendments of the Criminal Law, 6 June 2019.

⁶⁵ OECD, Anti-Bribery Convention Latvia phase 3 two-year follow-up report.

⁶⁶ Written contribution from the Internal Security Bureau following the country visit to Latvia.

⁶⁷ Written contribution from the State Border Guard following the country visit to Latvia.

EUR 5 million⁶⁸. The majority of investigations on corruption concern abuse of official authority while bribery cases and penalties are relatively low. According to the Economic Court, corruption cases represent a small number of the overall workload (15 out of 300 cases in 2021; currently three cases still pending)⁶⁹. Overall, good cooperation between the relevant authorities was confirmed by all parties⁷⁰.

The Prosecutor General's Office has well advanced on the implementation of the action plan addressing the State Audit Office recommendations on improving the quality of investigation and prosecution of economic and financial crimes. There is significant progress as regards follow-up to the results of its performance review on the effectiveness of investigations and trials of the criminal offences in the economic and financial area⁷¹, carried out by the State Audit Office in December 2020, and a two-year action plan⁷² of April 2021 addressing those recommendations. The implementation of all twenty recommendations is well-advanced and is expected to be finalised by June 2023⁷³. The progress includes, amongst others, new strategies concerning the handling of cases, the reorganisation of several units, the merger of some district units, creation of guidelines on sharing competences between prosecutors and further digitalisation of criminal proceedings. Two specialised units were created, one focusing on offences within the state authorities and one on tax offences attached to State Revenue Service (SRS) which is likely to ensure closer cooperation between those services⁷⁴.

While the system on asset declarations works well, it requires more transparency. The 2021 amendments to the Law on Prevention of Conflict of Interest in Activities of Public Officials, which clarify, among others the definition of relatives of a public official and impose the duty on public officials to report any known alleged corruption cases, entered into force on 2 February 2021. Their impact remains to be assessed. In accordance with the legislation in force⁷⁵, all declarations of public officials electronically submitted are automatically verified in the Payment Administration Information System (MAIS) comparing their information with the information in disposal of the SRS. This system has proved effective according to the SRS⁷⁶. Currently efforts are made on the preventive side, namely through training courses concerning asset declarations. In order to further clarify and update the rules in place, it is necessary to further improve the legal framework⁷⁷. As regards the asset declarations in 2021, the SRS took 302 decisions concerning declarations on non-

⁶⁸ Information received from KNAB in the context of the country visit to Latvia.

⁶⁹ Information received from the Economic Court in the context of the country visit to Latvia.

⁷⁰ Information received from KNAB, the State Border Guard, the Prosecution General's Office and the Economic Court in the context of the country visit to Latvia.

⁷¹ State Audit Office (2020), Performance audit Effectiveness of investigations and trials of the criminal offences in the economic and financial area. The audit was conducted in cooperation with the Organization for Economic Cooperation and Development (OECD), which provided comparative information on organisation of prosecution services in selected countries. OECD (2021), Performance of the Prosecution Services in Latvia - A Comparative Study.

⁷² State Audit Office (2021), Press release: Plan to implement the SAO's recommendations for streamlining prosecution of economic and financial crimes.

⁷³ Information received from the State Audit Office in the context of the country visit to Latvia.

⁷⁴ Information received from State Revenue Service in the context of the country visit to Latvia.

⁷⁵ Law on Prevention of Conflict of Interest in Public Officials and Cabinet Regulation No. 478 'Procedure for Completion, Submission, Registration and Keeping of Declarations of Public Officials and for Drawing up and Submission of Lists of Persons Holding the Office of a Public Official'.

⁷⁶ Information received from State Revenue Service in the context of the country visit to Latvia.

⁷⁷ Information received from the State Revenue Service in the context of the country visit to Latvia.

compliance, no case resulted in the opening of criminal proceedings in 2021 (compared to eight in 2020)⁷⁸. Restrictions on post-employment remain unchanged since the 2021 Rule of Law Report⁷⁹.

The draft legislation on lobbying remains under consideration in Parliament. NGOs have showed considerable efforts to encourage the Parliament and the Government to prepare the law to regulate lobbying based on principles agreed in 2021⁸⁰. The draft law passed the first reading in the Parliament in February 2022 and is expected to be adopted by the end of the current Parliament's mandate, namely October 2022⁸¹. The objective of increasing transparency is to be achieved through, among others, a creation of a special lobby register (probably as part of the Enterprise Register of the Republic of Latvia)⁸². The entry into force is currently planned for 2023, which could be challenging as only a short timeframe is foreseen for the creation of the mentioned register.

New amendments on political party financing aiming at regulation of the allocation of state budget funding were adopted. On 24 February 2022 amendments were adopted in the Law on Financing of Political Organizations (Parties) and they will enter into force on 1 November 2022⁸³. The amendments changed Section 7(1) of the Law, which provides for the State budget financing to a political party. The aim of amendments is to improve the regulation of the allocation of State budget funding to political parties by setting certain model of action in cases where a parliamentary group of a political party in Parliament has ceased to exist or collapsed. The amendments are expected to promote the stability and parliamentary efficiency of political parties by allowing only those political parties, whose parliamentary group continue their work and have not collapsed after the Parliament elections, to receive the State budget funding⁸⁴.

New legislation on whistleblowing was adopted. The Whistleblowing Law was adopted on 20 January 2022 and entered into force on 4 February 2022⁸⁵. Its main aim is to align the national legislation to the Whistleblowers Directive⁸⁶, while it did not significantly change the current system as laid down in 2019 legislation. It mainly expands the previous list of reportable issues⁸⁷ from 15 to 22. According to the State Chancellery, which is the contact point for whistleblowers⁸⁸, corruption is the main violation reported⁸⁹. The number of

⁷⁸ Information received from State Revenue Service in the context of the country visit to Latvia. Information on asset declarations is publicly available on the State Revenue Service online database at: <https://www6.vid.gov.lv/VAD>.

⁷⁹ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Latvia, p. 9.

⁸⁰ Input from Latvia for the 2021 Rule of Law Report.

⁸¹ Information received from the Ministry of Justice in the context of the country visit to Latvia.

⁸² Information received from the Ministry of Justice in the context of the country visit to Latvia.

⁸³ Amendments to the Law on Financing of Political Organizations (Parties) of 19 July 1995, adopted on 24 February 2022.

⁸⁴ At the same time, the amendments provide that the Corruption Prevention and Combating Bureau, after receiving information from the *Saeima*, shall make a decision to terminate the payment of state budget funding referred to in Section 7(1) paragraph one, point 1 of this Law if: 1) the activities of a parliamentary group of a political organization (party) established in the *Saeima* are terminated; 2) the number of deputies of a parliamentary group of a political organization (party) established in the *Saeima*, decreases by more than two thirds. Written contribution received from the Ministry of Justice in the context of the country visit to Latvia.

⁸⁵ Whistleblowing Law, adopted on 20 January 2022.

⁸⁶ Transposing Directive (EU) 2019/1937 on the protection of persons who report breaches of Union Law.

⁸⁷ Section 3 of the 2019 Whistleblowing Law.

⁸⁸ Article 8 of the new Whistleblowing Law.

whistleblowers submissions is reported to be relatively stable, with a tendency to increase⁹⁰. In 2021, the total number of submissions received by the State Chancellery in form of whistleblowers reports was 527, from which 153 were recognised as such (in parallel, KNAB received a total of 63 submissions in form of whistleblowers reports, from which 53 were recognised as such)⁹¹. The current framework on whistleblowing is considered effective while various awareness-raising activities are conducted in this area⁹².

Specific anti-corruption measures were introduced in the area of issuance of COVID-19 vaccination, convalescence or testing certificates due to high susceptibility to fraud and corruption. On 11 November 2021, the Parliament adopted amendments⁹³ to the Criminal Law specifically criminalising the acquisition of forged COVID-19 vaccination, testing or recovery certificates, as well as providing an exemption for persons voluntarily reporting such actions post-factum and actively facilitating the detection and investigation of the criminal offence⁹⁴. The amendments entered into force on 14 November 2021 and their impact remains to be assessed. The Economic Crimes Department of the Central Criminal Police Department of the State Police unit has been actively involved in the investigation of medical staff for issuing fake COVID-19 vaccination certificates. Overall, three criminal cases were sent to prosecution, 69 criminal proceedings on fake vaccination COVID-19 vaccination certificates have been initiated in the State Police, four criminal proceedings have been initiated, 64 illegal vaccination certificates have been revoked⁹⁵.

III. MEDIA PLURALISM AND MEDIA FREEDOM

In Latvia, the legal framework concerning media pluralism and media freedom is based on constitutional safeguards and sectorial legislation. The Constitution prohibits censorship and guarantees freedom of expression and information. The Law on the Press and Other Mass Media prohibits monopolisation of the press and other mass media. The Law also establishes the right for the press to access information held by the state bodies and public organisations and prohibits censorship. Public access to information is also guaranteed by the Freedom of Information Law⁹⁶. The Electronic Mass Media Law (EMML) is the main media law. Legislation to transpose the Audiovisual Media Services Directive has been adopted⁹⁷.

⁸⁹ Information received from State Chancellery in the context of the country visit to Latvia.

⁹⁰ Statistics: 449 submissions in 2019 (8 months), 556 submissions in 2020 and 527 submissions in 2021. Written contribution received from the State Chancellery in the context of the country visit to Latvia.

⁹¹ State Chancellery's Annual Report 2021, pp. 5, 7, 8: https://www.trauksmescelejs.lv/sites/default/files/buttons-card-files/Trauksmes_celejs_2021_parskats_web_final.pdf

⁹² Its second social campaign was carried out in December 2020 and January 2021, explaining the nature, system and possibilities of whistleblowing. Additionally, the State Chancellery conducted a three-webinar cycle on various whistleblowing issues. Results of whistleblowing report examinations, reports in the competence of multiple institutions, internal whistleblowing – trust and encouragement (on 3/12/2021). Signs of whistleblowing, recognizing whistle-blower reports and effective examination thereof (on 21/10/2021). Whistleblowing – is protection guaranteed? (on 24/10/2021).

⁹³ Sections 275.2 and 275.3 were added to the Criminal Law.

⁹⁴ Sections 2752 (Obtaining and storing a forged interoperable certificate) and 2753 (Exemption from criminal liability of the holder, custodian and user of a forged interoperable certificate) were added to the Criminal Law.

⁹⁵ Written contribution from the State Police following the country visit to Latvia.

⁹⁶ Freedom of Information Law.

⁹⁷ Complete transposition of the AVMSD was notified to the Commission on 20 December 2020. Latvia ranks 22nd in the 2022 Reporters without Borders World Press Freedom Index compared to 22nd in the previous year.

Latvia has in place regulatory safeguards for the independence of the media regulator⁹⁸.

The independent media regulator, the National Electronic Mass Media Council (NEMMC), has an obligation to act in accordance with the requirements of the Latvian Constitution. When acting in its decision-making capacity, the NEMMC must not request and receive any instructions from any other institution.

There have been no changes in the legal framework concerning transparency of media ownership⁹⁹.

There are no obligations for media companies to disclose their ownership structures directly to the general public. However, the public retains the possibility to obtain such information from the Registers of Enterprises and the website of the National Electronic Mass Media Council. As described in the 2021 Rule of Law Report¹⁰⁰, following the amendment to the EMLL, all companies registered in Latvia, including media outlets, are obliged to provide the information on their beneficial owners to the Register of Enterprises, and service providers are obliged to provide information on their beneficial owners or any changes thereto to the National Electronic Mass Media Council. Latvia's National Open Government Action Plan for 2022-2025 sets out a commitment (activity 5.3. sub-point - c) to promote the availability of information on media ownership to the public¹⁰¹.

Concerns remain on the high level of media concentration. Abuse of a dominant position of an electronic mass media is prohibited. When the market share of an electronic mass media in a particular market exceeds 35%, it is considered to amount to a dominant position. However, the assessment of dominant position is provided only in case of merger of companies and there are no restrictions on horizontal or cross media concentration. The Media Pluralism Monitor indicators of news media concentration and platform concentration continue to register a high risk¹⁰². Concerning operating licensing, broadcasting rights are granted on the basis of an application submitted to the NEMMC¹⁰³. If a broadcaster requires the resource of radio frequencies, the broadcasting rights are awarded through a tender procedure. The basic criteria for the evaluation are the creative, financial and technical provisions of a broadcaster's concept and the amount of the state language used during the broadcasting period. Upon payment of a state fee, a broadcasting permit is issued to the winner of the tender for 10 years.

The new supervisory body for public service media has become operational. The new body – the Public Electronic Mass Media Council (PEMMC) – established by the Law on Public Electronic Mass Media and their Management (PEMML) in 2020¹⁰⁴ to enhance the independence of public service media, has become operational and its three members were appointed by the Parliament in August 2021¹⁰⁵. The PEMMC shares with the Public Electronic Mass Media Ombudsman, appointed in December 2021, the functions previously attributed to NEMMC as regards the operational oversight of public service media. It guarantees the editorial independence of public service media and develops and approves the public service remit. The PEMML provides specific safeguards to ensure the independence of

⁹⁸ Act amending the Electronic Mass Media Law, adopted on 5 November 2020.

⁹⁹ Act amending the Electronic Mass Media Law, adopted on 11 June 2020.

¹⁰⁰ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Latvia, p. 11.

¹⁰¹ <https://likumi.lv/ta/id/329905-par-latvijas-piekto-nacionalo-atvertas-parvaldibas-ricibas-planu-20222025-gadam?&search=on>

¹⁰² 2022 Media Pluralism Monitor, Latvia, p. 12.

¹⁰³ Article 15 of the Electronic Mass Media Law.

¹⁰⁴ Law on Public Electronic Mass Media and their Management (LPEMMM), adopted on 19 November 2020.

¹⁰⁵ Input from Latvia for the 2022 Rule of Law Report, p. 17.

the PEMMC thanks to transparent procedures and appointment process¹⁰⁶. The MPM 2022 indicates a low risk for the independence of the media authorities¹⁰⁷.

Legal safeguards protect the independence of Latvian public service media. The PEMML provides specific safeguards for the independence of public service media (LTV)¹⁰⁸. According to the Law on Public Broadcasting, public service media must be free from political, economic, or other interference with their activities. The PEMML stipulates that LTV is a limited liability company where all capital shares are owned by the state. The newly created PEMMC is the holder of the state capital shares in public media. The PEMML also provides for a new procedure to appoint the public media board and editor-in-chief. The election of the members of the board of the public service media and of the editor in chief is entrusted to the PEMMC. The board comprises a maximum of three members who are not entitled to use their powers to directly or indirectly influence editorial decisions. The members of the board cannot be active in political parties and cannot be removed from the office before the end of the term, save for the limited grounds specified in the Law. The editors in-chief of the public service media are approved by the PEMMC for a term of five years. They must be independent from the board in taking editorial decisions and can be dismissed only by the two thirds of the members of the PEMMC. LTV's annual report is prepared by the board and submitted for approval to the PEMMC. LTV is funded annually from the state budget. In line with the guidelines for the operation of the public media outside the advertising market, issued by the NEPLP, as of January 2021 LTV exited the advertising market¹⁰⁹. The MPM 2022 rates the independence of public service media at low risk¹¹⁰.

Journalists in Latvia continue to work in an overall safe environment, although threats in the online environment remain an issue. Since the 2021 Rule of Law Report, one alert has been published for Latvia¹¹¹. Nevertheless, the threats against journalists, in particular in the online environment, remain an issue¹¹². In light of the Commission's Recommendation on ensuring the protection, safety and empowerment of journalists and other media professionals in the European Union, at the end of 2021 Latvia started a mapping exercise to determine the institutions which will be responsible for the various recommended actions, followed by an analysis of the actions still to be taken¹¹³. The Latvian Government allocated around EUR 3.2 million to the media sector in 2021 to address the impact of the COVID-19 pandemic on the media¹¹⁴.

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Latvia is a unicameral, parliamentary democracy, in which the Constitutional Court can carry out *ex-post* constitutional review of laws, including in concrete cases on the basis of a constitutional complaint. Draft laws may be submitted to the Parliament by the President, the Government, Parliamentary committees, at least five members of the Parliament, or one-tenth

¹⁰⁶ Article 12 and Article 13 of the Law on Public Electronic Mass Media and their Management (LPEMMM).

¹⁰⁷ 2022 Media Pluralism Monitor, Latvia, p. 11.

¹⁰⁸ Article 3 of the Law on Public Electronic Mass Media and their Management (LPEMMM).

¹⁰⁹ Information received from the Latvian Public Service Media (LTV) in the context of the country visit to Latvia.

¹¹⁰ 2022 Media Pluralism Monitor, Latvia, p. 17.

¹¹¹ On the Council of Europe Platform to promote the protection of journalism and safety of journalists.

¹¹² Information received from the Latvian Association of Journalists in the context of the country visit to Latvia.

¹¹³ Input from Latvia for the 2022 Rule of Law Report, p. 17.

¹¹⁴ Input from Latvia for the 2022 Rule of Law Report, p. 17.

of the electorate. In addition to the justice system, also the Ombudsperson's Office, acting as a national human rights institution, and civil society play a role in the system of checks and balances.

The development of draft legal acts and the participation of the public are facilitated by a new online single portal. On 7 September 2021, the Cabinet of Ministers amended its Rules of Procedure¹¹⁵, which now provide for the drafting of legal acts and the conduct and public consultations through a Single Portal for Drafting and Harmonising Legislation (the 'TAP portal')¹¹⁶. The aim of this new portal, among others, is to provide more accessible public participation and a more efficient and swifter process for developing and harmonising draft legal acts. The TAP portal functions as an informational database on pending and previous governmental decisions, providing unified electronic access to all draft laws and regulations, including their content, progress, as well as related stakeholder and public opinions. The TAP portal also provides a technical solution to various forms of public participation, such as surveys, discussions, advisory councils, working groups and opinions. The Latvian Civic Alliance, an umbrella organisation of Latvian NGOs, criticised the process of drafting the new rules of procedure of the Cabinet of Ministers without consulting the civil society, and argued that the amendments would negatively affect the participation of civil society in the decision-making process¹¹⁷. Following the concerns expressed, the government decided to maintain the previous practice and agreed to a one-month transition period for the submission of legislative proposals by the civil society not only through the new TAP portal, but also through regular mail or e-mail¹¹⁸.

The state of emergency, reinstated for several months to address the COVID-19 pandemic, was lifted on 1 March 2022, and courts reviewed emergency measures. The government reintroduced a state of emergency¹¹⁹, providing for a variety of restrictions, initially for three months as of 11 October 2021, and then extended until 28 February 2022. The Cabinet of Ministers also adopted a new Regulation¹²⁰ on Epidemiological Safety Measures in September 2021. Measures adopted as a response to the COVID-19 pandemic were challenged before the courts, including five cases lodged before the Constitutional Court in 2021 challenging the constitutionality of the Law on the Management of the Spread of Infection with COVID-19 and the successive versions of the Regulation of the Cabinet of Ministers of 9 June 2020 on Epidemiological Safety Measures. In a judgment of 10 March 2022¹²¹, the Constitutional Court found the Regulation of the Cabinet of Ministers restricting

¹¹⁵ Cabinet Regulation No.606 of 7 September 2021 amending the Rules of Procedure of the Cabinet of Ministers.

¹¹⁶ Input from Latvia for the 2022 Rule of Law Report, p. 11.

¹¹⁷ The concerns stemmed from the fact that initially, the amendments did not foresee any transition period for the introduction of a common portal for the development of draft laws, on the one hand, and excluded the representatives of NGOs from attending the meetings of State Secretaries and of the Cabinet of Ministers, on the other hand. Latvian Civic Alliance (2021), press release of 20 August 2021, 'Latvian Civic Alliance calls on the Cabinet of Ministers to prevent a reduction in opportunities for public involvement'.

¹¹⁸ Latvian Civic Alliance (2021), press release of 3 September 2021, 'Decision to maintain the current participatory practice'. See also Franet (2022), Country research – Legal environment and space of civil society organisations in supporting fundamental rights – Latvia, p. 4.

¹¹⁹ By Order No. 720 of 9 October 2021.

¹²⁰ Regulation No. 662 on Epidemiological Safety Measures for the Containment of the Spread of Covid-19 Infection.

¹²¹ Judgment of the Constitutional Court of 10 March 2022, *No. 2021-24-03* on the compliance of paragraph 24 of Regulation No. 662 of the Cabinet of Ministers, of 9 June 2020, on Epidemiological Safety Measures for the Containment of the Spread of Covid-19 Infection (in the wording in force from 7 April 2021 to 19

the operations of larger shopping malls unconstitutional, on the grounds that it infringed the fundamental right to property and the principle of equal treatment¹²². The administrative district court also received over 200 applications, some of which are currently pending, challenging the compulsory COVID-19 vaccination for certain sectors such as education, health and social care¹²³.

On 1 January 2022, Latvia had 7 leading judgments of the European Court of Human Rights pending implementation¹²⁴. At that time, Latvia's rate of leading judgments from the past 10 years that remained pending was only at 12% and judgments had been pending implementation for 1 year and 5 months on average¹²⁵. The oldest leading judgment, pending implementation for 3 years, concerns a blanket ban on prison leave for male prisoners in closed prisons¹²⁶. On 1 July 2022, the number of leading judgments pending implementation remains 7¹²⁷.

The rules to appoint the Ombudsperson were amended, and this independent authority continues to play an active part in the system of checks and balances. The amendments to the Ombudsperson Law adopted in 2021 entered into force on 1 January 2022. As mentioned in the 2021 Rule of Law Report¹²⁸, following recommendations by the Global Alliance of National Human Rights Institutions (GANHRI) Sub-Committee on Accreditations, the law now provides that the candidate for the position of Ombudsperson is nominated by no less than ten members of Parliament, instead of five; the same person may serve as an Ombudsperson for a maximum of two consecutive terms, whereas the number of terms was previously unlimited. The Ombudsperson's Office¹²⁹ continued making use of its competence to challenge the constitutionality of laws to defend the rights of citizens, and the Constitutional Court upheld such a challenge¹³⁰ against the rules outlining the procedure for determining the income subject to personal income tax for economic operators. The Ombudsperson's Office also continued to monitor the impact laws and governmental measures, including those taken in the context of the COVID-19 pandemic, had on human

May 2021) with the first sentence of Article 91 and the first and third sentences of Article 105 of the Latvian Constitution.

¹²² The Constitutional Court noted that the Regulation did not consider the possibility of providing separate external access to certain stores of large commercial centers, whereas shops located in separate spaces could continue their activities in accordance with the epidemiological safety requirements, thus creating a differing treatment between traders.

¹²³ See Baltic News Network, 10 December 2021, 'Court rejects complain from several judges on compulsory Covid-19 vaccination'.

¹²⁴ The adoption of necessary execution measures for a judgment by the European Court of Human Rights is supervised by the Committee of Ministers of the Council of Europe. It is the Committee's practice to group cases against a State requiring similar execution measures, particularly general measures, and examine them jointly. The first case in the group is designated as the leading case as regards the supervision of the general measures and repetitive cases within the group can be closed when it is assessed that all possible individual measures needed to provide redress to the applicant have been taken.

¹²⁵ All figures are calculated by the European Implementation Network and are based on the number of cases that are considered pending at the annual cut-off date of 1 January 2022. See the contribution from the European Implementation Network for the 2022 Rule of Law Report, p. 54.

¹²⁶ Judgment of the European Court of Human Rights of 10 January 2019, *Ecis v. Latvia*, 12879/09, pending implementation since 2019.

¹²⁷ Data according to the online database of the Council of Europe (HUDOC).

¹²⁸ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Latvia, p. 13.

¹²⁹ The Latvian Ombudsperson's Office is a national human rights institution accredited with an "A Status" by the GANHRI Sub-Committee on Accreditations, in compliance with the Paris Principles.

¹³⁰ By judgment of 7 January 2022.

rights. In November 2021, the Ombudsperson asked the Ministry of Welfare for urgent information about the progress made on the amendments to the Law on the Management of the Spread of Infection with COVID-19, and repeatedly called for the elimination of the unequal treatment of people under international protection such as the elderly or people with disabilities¹³¹.

An action plan was adopted for the implementation of the guidelines for the development of a cohesive and active civil society 2021-2027. The civic space in Latvia continues to be considered as narrowed¹³². By order of 18 January 2022, the Cabinet of Ministers adopted an action plan for 2022-2023, designating the Ministry of Culture as the main responsible institution for the implementation of the plan. One of the three lines of action aims to strengthen civil society by fostering a civic culture and developing inclusive citizenship, in particular by increasing public participation and the ability of citizens to influence policies decision making.¹³³ According to the plan, the development of media literacy and digital skills is described as a priority, since much of the information space has moved to the digital environment, especially during the COVID-19 pandemic, and public participation increasingly takes place online through interactive digital platforms. The action plan commits the government to organise think tanks and fora for participation issues every year, as well as to improve the efficiency of the cooperation memorandum between the council of NGOs and the Cabinet of Ministers.

Financial support to civil society organisations from the state budget increased in 2021, and the Ombudsperson's office is looking into the reasons for weaker involvement of civil society in local government. Under the framework of the State budget programme 'NGO fund'¹³⁴, 87 civil society projects in the areas of strengthening the capacity of civil society organisations (CSOs), the protection of interests, and civil society activities were funded in 2021, for a total amount of available funding of EUR 1.5 million. The number of CSOs that have received funding from the NGO fund has increased from 70 in 2020 to 87 in 2021, and the total funding available increased to EUR 1.8 million for projects to be funded in 2022¹³⁵. According to the Ombudsperson's office, CSOs in Latvia are actively participating in the legislative process, regularly attending meetings of the parliamentary committees and are thus given an opportunity to make their position known on draft legislation. However, there are concerns that the participation and involvement of CSOs in decision-making is weaker at local than at national level, and one of the priorities of the Ombudsperson's office for 2022 is to study the cause of this discrepancy¹³⁶. One of the factors described as inhibiting public participation in local government is the lack of

¹³¹ Ombudsperson's Office, November 2021 Monthly News Summary, 5 December 2021.

¹³² 2021 Rule of Law Report, Country Chapter on the rule of law situation in Latvia, p. 13. See also rating given by Civicus, Latvia. Ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

¹³³ Action Plan, point 2.2., 'Strengthen the development and sustainability of civil society by creating a civil culture and developing inclusive citizenship'.

¹³⁴ In the action plan for the implementation of the guidelines for the development of a cohesive and active civil society 2021-2027, the NGO fund is described as one of the most important financial instruments for promoting the public involvement of civil society, as it provides NGOs opportunities to strengthen their capacity, participate in advocacy and ensure the implementation of measures important for the development of civil society.

¹³⁵ Franet (2022), Country research – Legal environment and space of civil society organisations in supporting fundamental rights – Latvia, p. 3.

¹³⁶ Some of the causes advanced are the weaker capacity of CSOs at local level and a limited support for CSOs from local government. See contribution from ENNHRI for the 2022 Rule of Law Report, p. 376.

obligation of municipalities to publish information on their meetings¹³⁷, such as minutes or recordings, in a form, which would enable stakeholders such as CSOs to take part actively in the decision-making process¹³⁸. Similarly, it is reported that municipalities in Latvia rarely provide an archive of information about former councillors or previous compositions of committees, which makes it difficult for citizens or entrepreneurs to easily identify responsible decision-makers over time¹³⁹.

¹³⁷ Transparency International Latvia in cooperation with Transparency International Norway (2021), *Transparency Index of Local Authorities*, p. 12 (Annex I). The study indicates that only one Latvian municipality went beyond its legal obligations as regards transparency, by publishing minutes and recordings of council meetings reflecting relevant information in a user-friendly form.

¹³⁸ In one specific case, the Ombudsperson pointed out that the practice of reading out audio recordings he reports of the previous city council meetings before decision-making had become purely formal, as recordings had become generalised and did not reflect the assessment and justification of the decisions taken. See Ombudsperson's Office (2022), *2021 Report*, p. 189 (Annex I).

¹³⁹ Ombudsperson's Office (2022), *2021 Report*, p. 189 (Annex I).

Annex I: List of sources in alphabetical order*

* *The list of contributions received in the context of the consultation for the 2022 Rule of Law report can be found at https://ec.europa.eu/info/publications/2022-rule-law-report-targeted-stakeholder-consultation_en.*

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Annex II: Country visit to Latvia

The Commission services held virtual meetings in March 2022 with:

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

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

- Amnesty International
- Article 19
- Civil Liberties Union for Europe
- Civil Society Europe
- European Centre for Press and Media Freedom
- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Free Press Unlimited
- Human Rights Watch
- ILGA Europe
- International Federation for Human Rights (FIDH)
- International Press Institute
- Open Society European Policy Institute (OSEPI)
- Osservatorio Balcani e Caucaso Transeuropa

- Philea
- Reporters Without Borders
- Transparency International Europe