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EVALUATION REPORT ON THE
FIFTH ROUND OF MUTUAL EVALUATIONS
"FINANCIAL CRIME AND FINANCIAL INVESTIGATIONS"

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1. Introduction

At the meeting of the Multidisciplinary Group on Organised Crime (MDG) on 26 February 2008, the Presidency proposed three possible topics for the fifth round of mutual evaluations, two of which received substantial support. At the MDG meeting on 6 May 2008, the majority of delegations were in favour of selecting financial crime and financial investigations. On 17 June 2008, the Group decided that the subject of the fifth round was to be "financial crime and financial investigations". The scope of the evaluation covers numerous legal acts relevant to countering financial crime. However, it was also agreed that the evaluation should go beyond simply examining the transposition of relevant EU legislation and take a wider look at the subject matter, seeking to establish an overall picture of a given national system. On 1 December 2008 a detailed questionnaire was adopted by the MDG.

The importance of the evaluation was emphasised by the Czech Presidency when the judicial reaction to the financial crisis was being discussed. The significance of the exercise was once again underlined by the Council when establishing the EU's priorities for the fight against organised crime based on OCTA 2009 and ROCTA.

Topics relating to the evaluation, in particular the improvement of the operational framework for confiscating and seizing the proceeds of crime, were mentioned by the Commission in its Communication on an area of freedom, security and justice serving the citizen.

Experts with substantial practical knowledge in the field of financial crime and financial investigation were nominated by Member States pursuant to a written request to delegations made by the Chairman of the MDG.

At its meeting on 17 March 2009 the MDG discussed and approved the revised sequence for the mutual evaluation visits. Latvia was the thirteenth Member State to be evaluated during this round of evaluations.

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1 6546/08 CRIMORG 34.
2 10540/08 CRIMORG 89.
3 16710/08 CRIMORG 210.
4 9767/09 JAI 293 ECOFIN 360.
5 8301/2/09 REV 3 CRIMORG 54.
6 11060/09 JAI 404.
7 5046/1/09 REV 1 CRIMORG 1.
The experts charged with undertaking this evaluation were Ms Vania Nestorova (Prosecutor, Supreme Cassation Prosecutor's Office, Bulgaria), Mr Santiago Alvarez Rello (Police Unit attached to the Spanish Financial Intelligence Unit - SEPBLAC, Spain), Mr Jaan Riima (Head of Division - Northern I Division - Estonian Tax and Customs Board, Investigation Department, Estonia). Four observers were also present: Mr. Christian de Beaufort (OLAF, Commission), Mr. Efstatios Tsirmpas (Eurojust) and Mr. Rafael Rondelez (Europol), together with Mr Steven Cras and Mr Michal Narojek of the General Secretariat of the Council.

This report was prepared by the expert team with the assistance of the Council Secretariat, based on findings arising from the evaluation visit that took place between 14 and 18 June 2010, and on Latvia’s detailed replies to the evaluation questionnaire.

2. National system and criminal policy
2.1. Specialised units
2.1.1. Investigative authorities

The division of investigative tasks between different entities is based on Section 387 ("Institutional Jurisdiction") of the Criminal Procedure Law.

It states that officials authorised by the State Police shall investigate any criminal offence, with the exception of the specified cases assigned to other services (except if the Prosecutor General has assigned the performance thereof), officials authorised by the State Revenue Service shall investigate criminal offences in the field of State revenue and the actions of officials and employees of the State Revenue Service and officials authorised by the Corruption Prevention and Combating Bureau shall investigate criminal offences that are related to violations of the provisions on the financing of political organisations (parties) and associations thereof, and criminal offences in the State Authority Service, if such offences are related to corruption.

Moreover, the law states that officials authorised by customs authorities shall investigate criminal offences in the field of customs matters and officials authorised by the State Border Guard shall investigate criminal offences that are related to the illegal crossing of the State border, the illegal transportation of a person across the State border, or illegal residence in the State, as well as criminal offences committed by a border guard as a State official.
According to the Section, if the investigation of a concrete criminal offence is under the jurisdiction of more than one investigative institution, the institution that initiated criminal proceedings first shall investigate such criminal offence. The Prosecutor General shall resolve disputes between investigative institutions regarding the jurisdiction of criminal offences.

If an investigative institution receives information regarding a serious or particularly serious crime that is taking place or has taken place, and the investigation of such offence is not included in that institution's competence, and the performance of emergency investigative actions is necessary for the arrest of the perpetrator of the offence or for the recording of evidence, such institution shall initiate criminal proceedings, inform the relevant competent investigative institutions regarding such initiation of proceedings, perform emergency investigative actions, and transfer the material of the initiated criminal proceedings on the basis of jurisdiction.

2.1.1.1. The State Police

The State Police is an institution of the State administration under the supervision of the Minister for the Interior. It is an armed, militarised authority, whose duty is to protect life, health, rights and freedoms, property and interests of society and the State from criminal and other illegal threats. The State Police has the following tasks assigned by the Law on Police, Article 3:

1) To guarantee individual and public safety;
2) To prevent criminal offences and other violations of law;
3) To resolve criminal offences and search for persons who have committed criminal offences;
4) To provide assistance in accordance with procedures prescribed by law to institutions, private persons and associations of persons in the protection of their rights and the carrying out of tasks prescribed by law;
5) To implement, within the scope of its competence, administrative sanctions and criminal sentences.

The State Police is also the largest pre-trial investigation institution in the country, which, as already indicated, is empowered to investigate any criminal offence, except in specific cases where
the law establishes competence of other bodies. The State Police is one of the bodies performing investigatory operations.¹

The State Police is headed by its Chief, who is appointed by the Minister for the Interior. The nomination is approved by the Cabinet of Ministers.

The State Police has within its structure a central entity, which is composed of the Internal Security Bureau, Central Criminal Police Department and Central Public Order Department. On 1 September 2009 the reorganisation of the structure of the State Police was completed in accordance with administrative and territorial reform of the State and five regional divisions were established.

There are 8,038 posts in the State Police, including the Central Criminal Police Department that consists of 328 posts, Riga Region Criminal Police – 400 posts, Kurzeme Region Criminal Police – 153 posts, Zemgale Region Criminal Police – 154 posts, Latgale Region Criminal Police -186 posts and Vidzeme Region Criminal Police -134 posts.

The number of police officers is progressively decreasing. In January 2008 there were 9687 of them. The same applies to supporting civilian staff. In 2008 there were 1365 civilian employees. By 2010 over 500 of the posts had been lost.

The Internal Security Bureau is subordinate to the Chief of the State Police. The Bureau ensures discipline and lawfulness within the State Police. In fulfilling these tasks the Bureau examines officers' conflicts of interest, as well as their misuse of authority to enrich themselves. The Bureau initiates disciplinary proceedings in cases of alleged violations and initiates prosecution of officers for disciplinary violations.

The Head of the Bureau is appointed by the Chief of the State Police. The Internal Security Bureau has 31 posts.

The Organised Crime Enforcement Department is a unit of the Central Criminal Police Department.

¹ Investigatory Operations Law, Article 25, states that the system of bodies performing investigatory operations consists of State security and defence institutions, institutions for maintaining public order, and other specially authorised State bodies which by law are granted the right to perform investigatory operation measures within the scope of their competence and whose specially authorised officials are entitled to carry out such activities in accordance with procedures prescribed by this Law.
Its main task is to detect and counteract organised crime groups, to organise and carry out preventive measures in order to prevent and detect crimes prepared and already committed by those groups; to combat narcotic drugs, psychotropic substances, precursor turnover and human trafficking.

The Organised Crime Enforcement Department in its activities is subordinate to the Chief of the Central Criminal Police Department. The State Police’s regional criminal police offices are functionally subordinate to the Organised Crime Enforcement Department for issues within its competence. The Organised Crime Enforcement Department is headed by an officer appointed by the Chief of the State Police. The Organised Crime Enforcement Department consists of 75 posts.

The Economic Police Department is a unit of the Central Criminal Police Department whose main task is to organise, coordinate and carry out actions in the field of prevention, detection and investigation of economic activities which, among other things, may pose a significant risk to economic interests, take the form of systematic actions to generate illegal profit or foster unfair competition which distorts the market.

Inter-regional and international criminal offences, as well as those which are widely publicised, that threaten economic stability and economic interests come within the competence of the Economic Police Department when they concern:

1) Activities of merchants/commercial companies;
2) Financial markets and credit institutions;
3) Trade and services;
4) Movement of goods;
5) Cyber crime;
6) Intellectual and industrial property rights;
7) Natural environment;
8) Misdemeanours in office and corruption in the private sector;
9) Public authorities.

There are no distinct financial investigator posts within the police force. If there is a financial aspect to the case, the investigator must deal with it by himself. In complex cases he may ask the Economic Police Department for assistance.
The State Police regional criminal police offices are functionally subordinate to the Economic Police Department within its sphere of competence. The Economic Police Department is headed by an officer who is appointed by the Chief of the State Police. The Economic Police Department consists of 80 posts.

The Economic Police Department was nominated as an Asset Recovery Office (ARO). Following the decision the Financial Analysis and Arrest Group was established within this Department. The Group in practice consists of one officer who deals with exchange of information as well as the necessary coordination.

According to the requirements of Sections 3 and 4 of the Law on the Exchange of Information for the Prevention, Detection and Investigation of Criminal Offences, the Asset Recovery Office, on receiving a request to provide information about search or identification of property, shall determine an authority that is competent to give the requested information and send the request to this competent authority, or provide the requested information directly if it is within the competence of the Asset Recovery Office. If the authority or official competent to provide the information in question is not entitled to access the information requested without the agreement of a prosecutor or a court, or is not entitled to provide it, they shall request without delay the authorisation of the prosecutor or the court.

The Asset Recovery Office, in order to perform information exchange as provided for in Council Decision 2007/845/JHA, shall comply solely with the requirements of the Law on the Exchange of Information for the Prevention, Detection and Investigation of Criminal Offences. This particular Law transposes into national legislation Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union.

The task of the Asset Recovery Office is to provide support for structural units of the State Police in tracing unlawful proceeds abroad by submitting requests to competent authorities of Member States, as well as to fulfil requests by Member States for help in tracing assets in Latvia. The mandate to process this information is given by the Law on the Exchange of Information for the Prevention, Detection and Investigation of Criminal Offences.
The Asset Recovery Office does not have any information data bases of its own; it makes use of available data bases and information systems of other institutions. In order to fulfil their tasks, the officials of the Asset Recovery Office have access to the same data bases and information systems which are used in the everyday work of the State Police.

The International Cooperation Bureau is a unit of the Central Criminal Police Department whose task is to ensure and promote operational and legal cooperation and information exchange with foreign law enforcement authorities and international organisations. The Bureau consists of an Interpol National Unit, a Legal Assistance Request Unit, a Europol National Unit, a SIRENE Latvian National Unit, and an Operational Coordination and Information Provision Unit.

The Operational Coordination and Information Provision Unit ensures that the bureau operates 24/7, within its competence implements urgent requests by foreign law enforcement agencies, and coordinates the execution of these requests in police units. The Bureau ensures information exchange within Sections 39, 40 and 41 of the Schengen Convention and participates in the extradition and transfer of criminals, and ensures execution of the Interpol National Security officer's duties.

The Europol National Unit is a contact point for the State Police’s cooperation with the agency. The Unit at the national level coordinates cooperation with Europol in the drafting of a strategic report, the Organised Crime Threat Assessment (OCTA).

There are liaison officers acting in the Europol National Unit and the Interpol National Unit in order to secure the State Police and other law enforcement institutions' cooperation with relevant international authorities. The International Cooperation Bureau is one of the bodies performing investigatory operations.

The International Cooperation Bureau in its activities is subordinate to the Chief of the Central Criminal Police Department. The State Police regional criminal police offices are functionally subordinate to the International Cooperation Bureau within its competence. The International Cooperation Bureau is led by a head who is appointed by the Chief of the State Police. The International Cooperation Office consists of 61 posts.
2.1.1.2 The Corruption Prevention and Combating Bureau (CPCB)

The Corruption Prevention and Combating Bureau (CPCB) is an independent institution of the public administration under the supervision of the Cabinet of Ministers. The supervision is executed by the Prime Minister, who has the right to monitor the lawfulness of decisions made by the CPCB. The CPCB's aim is to fight corruption in Latvia in a coordinated and comprehensive way through prevention, investigation and education. In accordance with the Law on the Corruption Prevention and Combating Bureau, the CPCB performs certain corruption prevention and combating functions in relation to actions of public officials, as well as monitoring compliance with financing provisions by political organisations (parties) and their associations.

The powers of the service cover administrative enquiries and application of administrative sanctions, gathering of criminal intelligence, conducting criminal investigations, access to information (including from banks) and access to premises.

According to Paragraph 6 of Section 387 of the Criminal Procedure Law the CPCB is one of the pre-trial investigating institutions whose authorised officials shall investigate criminal offences related to violations of the provisions on the financing of political organisations (parties). It also deals with corruption-related criminal offences committed by public officials (inter alia police, customs and prosecutors’ office officials as well as judges) or Local Government Authorities and where illegal benefits were involved.

In addition to pre-trial investigations, the CPCB monitors and prevents conflicts of interest among public officials and monitors compliance with certain prohibitions and additional legal restrictions on public officials. For administrative violations in the aforementioned field the CPCB has the right to apply administrative sanctions in accordance with the Latvian Administrative Violations Code.

The CPCB is managed by its Head, who is appointed for a term of five years and may be dismissed by the Parliament (Saeima) upon the recommendation of the Cabinet of Ministers. The Head of the CPCB has two deputies who are responsible for the two main directions of the Bureau's activities:

- Prevention of corruption, which includes prevention of conflicts of interest in the activities of public officials, monitoring of financing of political organisations (parties), development of analysis and counter-corruption measures, educating public officials and society on issues of corruption.
- Fighting corruption, including detection of corruptive offences using criminal intelligence information as well as investigation of criminal offences within the framework of the Criminal Procedure Law, Criminal Law and Investigatory Operations Law.

The CPCB has several Divisions and specialists directly subordinate to the Head of the Bureau, including an administrative and financial division, as well as experts on internal audit and international relations.

The Head of the CPCB, his deputies and Heads of Divisions of the central headquarters are members of a board. The activities of the Board of the CPCB are of a consultative nature. The tasks of the Board of the Bureau are the following:
1) reviewing the priorities of the Bureau’s activities;
2) reviewing the draft budget of the CPCB;
3) reviewing draft cooperation agreements between the CPCB and relevant foreign counterparts.

The CPCB is one of the bodies performing investigatory operations. The service has 140 employees. More than 90% of them have higher education. They are also, by law, required to speak at least one foreign language.

Between 2003, the year when the service began its activities, and 2009, 2.4 million lats' worth of illegal financing of political parties was discovered. Approximately 289 thousand lats' worth of illegal income of public officials was identified.

119 criminal cases against 250 persons were sent to court. They resulted in 106 persons being convicted.

The service is said to have sound international connections and closely cooperates with its foreign counterparts. It has bilateral relations with similar institutions in other Member States (Lithuania, Poland and Austria were named) and benefits from numerous international agreements and multilateral cooperation within the framework of EPAC (European Partners Against Corruption) and EACN (European Anti-Corruption Network). CPCB also underlines its close relations with Eurojust, Europol, OLAF and Interpol.
2.1.1.3 The State Revenue Service (SRS)

The State Revenue Service (SRS), in accordance with the law on the State Revenue Service, is under the supervision of the Minister for Finance and ensures the registration of tax payments and taxpayers, collection of State taxes, fees and other mandatory payments specified by the State in the territory of the Republic of Latvia; it also collects taxes, fees and other mandatory payments for the European Union budget and implements State customs policy and organises customs matters.

One of the tasks of the State Revenue Service is to prevent and detect criminal offences in the field of State taxes, fees and other mandatory payments imposed by the State.

The State Revenue Service is managed by the Director General. The Cabinet of Ministers shall approve the candidature of the Director General of the State Revenue Service upon a recommendation from the Minister for Finance. Accordingly, the Minister for Finance shall appoint the Director General to the position for a period of five years.

There are numerous formal requirements a person has to meet in order to join the Service. Civil servants who investigate financial crimes are expected to have higher education in law or in economics.

Vacant positions of civil servants in the State Revenue Service shall be publicly announced unless a civil servant of the State Revenue Service has been transferred to the relevant position from another unit or territorial office.

2.1.1.3.1 The Financial Police Department

The Financial Police Department is a structural unit of the State Revenue Service which is competent to conduct pre-trial investigation as prescribed in Paragraph three of Section 387 of the Criminal Procedure Law. Its officials investigate criminal offences in the field of State revenue and in the actions of officials and employees of the State Revenue Service.

The Financial Police is managed by a Director who is appointed by the Director General of the State Revenue Service. The Director of the Financial Police has two deputies who are responsible for pre-trial investigation and Investigatory Operations activities.
The Financial Police is one of the bodies performing investigatory operations. It has been established to perform:

1) investigatory operations to detect and prevent criminal offences in the field of State revenue;

2) investigatory operations to detect and prevent criminal offences in the activity of civil servants and employees of the State Revenue Service;

3) inquiries regarding criminal matters in respect of criminal offences which have been determined in the field of State revenue, as well as in the actions of civil servants and employees of the State Revenue Service;

4) if necessary, to provide a security guard to other civil servants and employees of the State Revenue Service in connection with the performance of their duties as well as a security guard for other purposes.

Within the structure of the Financial Police there are, among others: the Investigation Unit, which is composed of one central section and five territorial sections, and the Financial Intelligence Unit, which is composed of an Operational Intelligence Section and an Information Coordination Section.

In order to facilitate the effective execution of its tasks and ensure effective international cooperation, the Financial Police has appointed a liaison officer to Europol. The service is said to have good international cooperation, especially with the neighbouring EU Member States, Lithuania and Estonia.

An increase in the number of personnel dealing with the fight against money laundering in the Financial Police was one of the objectives of the National Programme for Organised Crime Prevention, Combat and Reduction during 2006-2010. 10 new posts are said to have been established. The Financial Police has currently 187 posts.

2.1.1.3.2 The Customs Criminal Board

The Customs Criminal Board is a structural unit of the State Revenue Service with investigative powers. It is managed by the Director under the direct supervision of the Director General of the State Revenue Service. The Director of the Customs Criminal Board is appointed by the Director General.
The Director of the Customs Criminal Board has two deputies – the Head of the Investigation Section and the Head of the Intelligence Section. The Intelligence Section is composed of the Information Coordination Unit, which includes the National Contact Point (NCP). In addition, there are 16 sectors for mobile units operating in cities: 3 in Riga, 2 in Rezekne, 3 in Daugavpils, 2 in Valmiera, 2 in Liepaja, 1 in Ventspils and 3 in Jelgava.

The Customs Criminal Board performs investigatory operations and investigative activities:
1) to monitor compliance with legal provisions regarding customs matters;
2) to monitor compliance with the system of permits for the importation and exportation of goods and other matters;
3) in cooperation with foreign customs authorities, to arrest smuggled cargoes and prevent the import and export of conventionally prohibited objects;
4) to cooperate with law enforcement, State control and State administration institutions, as well as with other institutions, in matters regarding compliance with regulatory enactments adopted in customs matters;
5) to carry out investigations in criminal offences regarding custom matters.

In order to resolve and to prevent criminal offences and other customs violations in their area of responsibility, Customs Criminal Board officials inter alia have the right:
1. To visit production premises, warehouses, sales premises and other premises located in the territory of Latvia and in the ownership or use of legal or natural persons.
2. To inspect premises or vehicles, to open persons’ hand luggage if a person is crossing the border, and to perform an inspection of a person if there are sufficient grounds to believe that a person is conveying prohibited items.
3. To inspect the accounts of legal persons and natural persons and the main documents thereof, other documents related to calculations and budget payments.
4. Within their sphere of competence and in accordance with the procedures and amounts specified in other regulatory enactments, to impose administrative fines on civil servants and natural persons, and to seize the instruments and direct objects used for committing the administrative violation.
5. To seize property related to administrative violations if confiscation may be applicable.
6. In accordance with the procedures prescribed by laws and other regulatory enactments, to suspend the activities of a taxpayer or units thereof.
7. In connection with customs-related criminal offences (also in drug trafficking combating) as the investigators (a person directing the proceedings), to perform all the investigative actions provided for in the Criminal Procedure Law.

The mandate of the Customs Criminal Board is prescribed in the Criminal Procedure Law, the Investigatory Operations Law, the law on the State Revenue Service, the Customs Law, and the Internal Regulatory Enactments of the State Revenue Service, etc.

In combating illicit turnover of drugs, the Customs Criminal Board actively collaborates with the corresponding units of the State Police.

The required level of proficiency for officials investigating customs-related criminal offences is higher education in law as well as additional knowledge in economics, customs and tax-related issues.

According to the international obligations of the Republic of Latvia, the National Contact Point (NCP) of the Customs Criminal Board is one of the contact points for assistance in customs matters (under EC Regulation No515/97) and in criminal-legal cooperation (under the Naples II Convention). Foreign cooperation partners – customs services, law enforcement bodies and liaison officers - are acquainted with the NCP as the coordinating units in information exchange in connection with the uncovering and prevention of customs regulation violations.

The Customs Criminal Board has 189 posts.

2.1.2. Prosecuting authorities

According to the Office of the Prosecutor Law, the Office of the Prosecution is an independent, single, centralised three-level institutional system under the management of the Prosecutor General which is to respond to a violation of law and ensure the application of procedures provided for by law. The Office of the Prosecutor is led by the Prosecutor General, who shall be approved by the Parliament for five years upon the recommendation of the Chief Justice of the Supreme Court.

It has district (city) level offices and regional offices as well as the office of the Prosecutor General. All these units have the status of a legal person.
Prosecution Offices of judicial regions are established by the Prosecutor General in accordance with the territorial division prescribed by the Law on Judicial Powers, and they perform all the functions of prosecution offices in the territories of the respective judicial regions. District (Republic city) Prosecution Offices are established by the Prosecutor General in accordance with the administrative territorial division of the country (with the exception of the capital).

The Prosecutor General may establish specialised prosecution offices. Specialised branch Prosecution Offices may have the status of a District or Regional Prosecution Office. Besides the Prosecutor’s General Office and 5 Regional Prosecution Offices, there are 34 District Prosecution Offices throughout the country and 6 Specialised Prosecution Offices (one with the status of a Regional and five with the status of a District Prosecution Office).

The Specialised Prosecution Office for Organised Crime and Other Branches of Crime has the status of a regional office. Offices of Prosecutors at the level of districts (Republic cities) inter alia are:
1) Prosecution Office for Investigation of Economic and Financial Crimes;
2) Customs Cases Prosecution Office.

Altogether there are 506 prosecutors in the Prosecution Office of Latvia.

The Prosecutor’s General Office consists of Departments and Divisions. Departments and Divisions of the Prosecutor’s General Office are administered by Head Prosecutors. There are 3 Departments and 7 Divisions in the Prosecutor’s General Office.
During the temporary absence of the Prosecutor General, upon his instruction the Prosecutor General is replaced by one of the Head Prosecutors of Department.

Representation of the Republic of Latvia at Eurojust, according to the Criminal Procedure Law, is performed by a representative of the Prosecutor General.

The Office of the Prosecutor:
1) supervises the work of investigative institutions and investigatory operations, the process of intelligence and counterintelligence of the State security institutions and compliance with the law on the official secrets protection system;
The Prosecution Office for Investigation of Economic and Financial Crimes has the status of a district prosecution office and, inter alia, supervises investigations, produces charges and performs other functions:

1) in connection with criminal offences in the economic area (Fraud, Fraud in an Automated Data Processing System, Insurance Fraud, Misappropriation on a Large Scale);

2) in connection with laundering of the proceeds from crime (if committed in the judicial region of Riga Regional Court).

The Prosecution Office for Investigation of Economical and Financial Crimes is led by the Chief Prosecutor who shall be appointed to the office by the Prosecutor General for five years.

2.1.2.2. Customs Cases Prosecution Office

The Customs Cases Prosecution Office is an office of prosecutors with the status of a district prosecution office and, inter alia, supervises investigations, produces charges and performs other functions:

1) in criminal proceedings concerning smuggling (including narcotic and psychotropic substances);
2) in criminal proceedings concerning unauthorised activities involving goods and other valuable property subject to customs clearance, avoidance of declaration of cash, etc.;
3) in relation to other criminal offences investigated by the Customs Criminal Board of the State Revenue Service.

The Custom Cases Prosecution Office is led by the Chief Prosecutor who shall be appointed to the office by the Prosecutor General for five years, taking into account the opinion of a certification commission.

2.1.2.3 Specialised Prosecution Office for Organised Crime and Other Branches of Crime

The Specialised Prosecution Office for Organised Crime and Other Branches of Crime has the status of a regional prosecution office and, inter alia, supervises investigations, produces charges and performs other functions of prosecutors:

1) in criminal proceedings concerning narcotic and psychotropic substances including drug smuggling (if committed in the judicial region of Riga Regional Court);
2) in criminal proceedings in the area of State revenue,
3) in cases of cyber crime;
4) in criminal proceedings concerning unlawful activities involving financial instruments and means of payment, laundering of the proceeds from crime, etc.;
5) in relation to other criminal offences investigated by the Economic Police Board of the Central Criminal Police Department of the State Police (except smuggling), the Economic Police Bureau of the Criminal Police Department of the Riga Regional Board of the State Police, and the Financial Police of the State Revenue Service (except customs matters).

The Specialised Prosecution Office for Organised Crime and Other Branches of Crime is led by the Chief Prosecutor who is appointed by the Prosecutor General for five years, taking into account the opinion of a certification commission.
2.1.3 Other authorities

2.1.3.1 The Office for the Prevention of Laundering of Proceeds Derived from Criminal Activity (the Control Service, the FIU)

The governmental authorities can come under the supervision of the Office of the Prosecutor according to special laws. These authorities do not perform the functions of the Office of the Prosecutor, but within their area of authority, using statutory powers prescribed by law, undertake criminal law-related actions. The Office for the Prevention of Laundering of Proceeds Derived from Criminal Activity (Control Service) is an institution under the supervision of the Office of the Prosecutor and is a specially established State authority which, in accordance with the Law, receives, compiles and analyses reports on unusual and suspicious financial transactions.

The Office acts as the Latvian Financial Intelligence Unit (FIU). It is not authorised to perform any investigative and operational activities, since it is considered an administrative entity.

The aim of the Control Service is to reduce the possibilities for using the financial system of Latvia for the laundering of proceeds derived from criminal activity.

The Control Service is managed by the Head of the Control Service who is appointed to the office for a four-year term and dismissed from office, by the Prosecutor General. The employees of the Control Service are hired, as well as dismissed, by the Head of this Service. The employees of the Control Service must comply with the requirements which are laid down in the Law on Official Secrets, in order to receive a special permit to access especially secret information.

The Control Service is entitled to:
1) receive, compile, store and analyse reports by persons referred to in the Law, as well as information obtained by other means, in order to determine whether such information may be related to laundering of proceeds from crime, financing of terrorism or attempts to carry out the aforementioned activities or other criminally punishable activities associated with them;
2) provide investigative institutions, the Office of the Prosecutor and the court with information that may be utilised for the prevention, detection, pre-trial investigation or adjudication of laundering of the proceeds from crime, financing of terrorism or attempts to carry out the aforementioned activities or other criminally punishable activities associated with them;

3) analyse the quality of the reports and the effectiveness of their utilisation, and to inform the persons referred to in the Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity and Terrorism Financing thereof;

4) conduct analysis and research into laundering of the proceeds from crime, financing of terrorism or attempts to carry out the aforementioned activities, and to improve the methodology for the hindrance and detection of such activities;

5) in accordance with the Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity and Terrorism Financing, cooperate with international and foreign authorities which are engaged in combating laundering of the proceeds from crime and the financing of terrorism;

6) provide the supervision and control authorities with information on typical methods and places for acquisition and laundering of the proceeds from crime and the financing of terrorism in order to reduce possibilities for laundering the proceeds from crime and the financing of terrorism, and provide training for employees of the supervision and control authorities in prevention of laundering of the proceeds from crime and the financing of terrorism;

7) taking into consideration the information available to the Control Service, provide recommendations for reducing possibilities for laundering the proceeds from crime and the financing of terrorism for individuals referred to in the law, the supervision and control authorities, pre-trial investigative authorities and the Office of the Prosecutor.

The Control Service may, in cases specified by law, suspend a transaction or a certain type of debit operation into the account of a client.

It is also entitled to request and to receive information from the entities listed in the law, public authorities and certain public persons and their institutions.

It provides information for pre-trial investigative institutions, prosecution offices, courts, supervision and control authorities.
By law, it is also able to exchange information with foreign authorities whose responsibilities are similar to its own.

The Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity and Terrorism Financing determines the persons who have an obligation to:
1) notify the Control Service without delay regarding each unusual transaction;
2) notify the Control Service without delay regarding each suspicious transaction;
3) pursuant to a request from the Control Service, provide within seven days additional information at their disposal regarding the client or financial transaction (transactions) of a client, the origin of proceeds and their subsequent movement concerning which a report has been received by the Control Service.

Laundering of the proceeds from crime covers the following activities, if such are committed with intent to conceal or disguise the criminal origin of financial resources or to assist another person involved in the offence in avoiding legal liability:
1) conversion of proceeds derived from criminal activity into other valuables, changing their disposition or ownership;
2) concealment or disguising of the true nature, origin, location, placement, movement or ownership of proceeds derived from criminal activity;
3) acquisition of ownership, possession or use of proceeds derived from criminal activity, if at the time of the creation of these rights it is known that these resources have been derived from crime;
4) participation in performance of the aforementioned activities.

The definition also covers cases where the predicate offence was committed outside Latvia and is considered a crime in the place where it was committed.

In addition to proceeds derived from criminal activity as determined by the Criminal Procedure Law, assets are also recognised as criminal proceeds derived from criminal activity if they belong to or are, directly or indirectly, controlled by a person:
1) who is included in one of the lists of persons suspected of terrorist activities compiled by states or international organisations in conformity with the criteria specified by the Cabinet of Ministers of the Republic of Latvia;
2) regarding whom institutions or persons performing investigative field work, pre-trial investigative institutions, the Office of the Prosecutor or the court have information which gives sufficient grounds to hold such person on suspicion of having committed a crime related to terrorism or participation therein.

In respect of such persons the Control Service notifies the subjects of the Law and their supervision and control authorities.

According to Regulation No 36 “The rules on states and international organisations which compiled the lists of persons who are suspected of implication in terrorist activities” (issued on 13 January 2009 by the Cabinet of Ministers), the Republic of Latvia recognises the lists of terrorists compiled by the Member States of the European Union, the Member States of the North Atlantic Treaty Organisation, the Security Council of the United Nations and the Council of the European Union.

To enhance the effectiveness of the Republic of Latvia's fight against money laundering and terrorist financing and to coordinate cooperation between public institutions and reporting entities, the Advisory Board of the FIU was established in 1998. The Board is composed of representatives of the respective Ministries, business and professional associations, the Bank of Latvia, the Financial and Capital Markets Commission and the Supreme Court. The Prosecutor General chairs meetings of the Board.

2.1.3.2 Investigating judges

According to the Criminal Procedure Law, an investigating judge is involved in the pre-trial investigative process. The investigating judge is the judge whom the chairperson of the district (city) court has assigned, for a specific term in the cases and in accordance with the procedure specified by the Law, to monitor the observance of human rights in criminal proceedings. An investigating judge does not conduct criminal investigations. An investigating judge has the following duties during an investigation and criminal prosecution:
1) to decide on the application of compulsory measures in cases provided for by the Law;
2) to decide on the application by a suspect or an accused person for the amendment or revocation of security measures concerning him that have been applied by a decision of the investigating judge;
3) to examine complaints regarding a security measure applied by a person directing the proceedings;
4) to decide on the proposal by a person directing the proceedings to perform a special investigative action;
5) to decide on complaints in relation to an unjustified violation during criminal proceedings of confidentiality that is protected by Law;
6) to decide on the request by a person who is entitled to the assistance of a defence counsel for a discharge of payment regarding use of the assistance of an advocate.

An investigating judge has, inter alia, the following rights during an investigation and criminal prosecution:

1) to familiarise him or herself with all documentation in criminal proceedings where a proposal by a person directing the proceedings, a complaint or application by a person, or a request for refusal have been submitted;
2) to request additional information from a person directing the proceedings, and to determine the terms in criminal proceedings in which special investigative actions are being conducted or a security measure related to a deprivation of liberty is applied;
3) to apply a procedural sanction regarding the non-execution of duties or the non-observance of procedures during pre-trial criminal proceedings.

2.1.3.3 State Procurement Agency

The State Procurement Agency is a governmental institution that is subordinate to the Ministry of the Interior.

It is responsible for the storage, sale or destruction of material evidence and seized property which is relevant to criminal cases. It may also, in accordance with the decision of the person directing the proceedings, return the evidence and seized property relevant to the criminal case to the owner, or, if that is not possible, pay the value that exists at the time of compensation.

The State Agency is obliged to take the items in question into storage within three working days from a request by a competent authority.
2.1.3.4 Anti-Fraud Coordination Service (AFCOS)

The Coordination Council for protection of the European Union’s financial interests was established by Regulation No 269, approved on 23 March 2010 by the Cabinet of Ministers. It is an advisory collective body whose objective is to promote introduction and development of the unified state policy of protection of the European Union’s financial interests.

The Council has the following duties:
• to evaluate summaries of unduly paid EU fund expenditure submitted by Managing Authorities and the National Authorising Office twice a year;
• to prepare an opinion on the report within one month after receipt of the draft report on unduly paid EU fund expenditure prepared by the Ministry of Finance;
• to prepare and submit to the Ministry of Finance information for the report on the implementation of Article 325 of the Treaty on the Functioning of the EU in Latvia (ex Article 280 TEC report);
• to evaluate information requests from OLAF and make proposals to the Ministry of Finance with respect to the follow-up of those requests;
• to make proposals to the Ministry of Finance on improvements in protection of the EU’s financial interests.

The Council is chaired by the State Secretary of the Ministry of Finance.

According to order No 168 on the composition of the Coordination Council for protection of the European Union’s financial interests, issued on 24 March 2010 by the Cabinet of Ministers, the following institutions are represented on the Council: EU Funds Monitoring Department of the Ministry of Finance, Department for Development Instruments of the Ministry of Regional Development and Local Government, Financial Police Department of the State Revenue Service, Customs Criminal Board of the State Revenue Service, Projects Department of the Ministry of Justice, Economic Police Department of the Central Criminal Police Department of the State Police, International Affairs and Strategy Analysis Department of the Ministry of Agriculture, Budget Department of the Ministry of Finance, Corruption Prevention and Combating Bureau, Procurement Monitoring Bureau and International Cooperation Division of the Office of the Prosecutor General.
The Ministry of Finance as such and the Council do not have any investigative roles or functions. However, Members of the Council who represent law enforcement institutions - the State Police, the State Revenue Service, the Office of the Prosecutor General and the Corruption Prevention and Combating Bureau - do have investigative roles and functions outside the AFCOS.

The Council is supported by the Audit Department of the Ministry of Finance, which is directly supervised by a State Secretary.

According to order No 495 on the focal point for cooperation with OLAF – European Anti-Fraud Office issued on 11 September 2002 by the Cabinet of Ministers, the Ministry of Finance (the Audit Department) is appointed as a focal point for cooperation with OLAF and at the same time fulfils functions of the Anti-Fraud Coordination Service (AFCOS).

The Department has 35 employees, including its director. It is composed of the following units: Public Administration Internal Audit Policy Planning Division, Ministry System Internal Audit Division, EU Funds and Foreign Financial Assistance Audit Policy Planning Division, EU Funds and Foreign Financial Assistance System Audit Division and EU Funds and Foreign Financial Assistance Financial Audit Division.

AFCOS reported to OLAF irregularities regarding PHARE and Transition Facility programme until the 1 August 2010 and regarding SAPARD until the 14 September 2010. Hereinafter National Authorising Officer (EU Funds Monitoring Department) reports to OLAF irregularities regarding PHARE and Transition Facility programme and Paying Agency (The Rural Support Service) reports to OLAF irregularities regarding SAPARD programme.

2.2 Training

Persons who apply for positions related to investigation of criminal offences in all law enforcement agencies face similar educational requirements involving at least the first level of higher education. The second level of higher education (in law or another field corresponding to the duties) or a bachelor's degree in a particular field is a requirement for high-level managers of investigative authorities, prosecutors and judges.

Latvian authorities underline that officers and employees working in the field of law enforcement and financial institutions have numerous opportunities to obtain the education required for their work in nationally recognised educational institutions both in Latvia and abroad. Officers and
employees have access to continuing education in the form of courses, seminars, conferences and other forms of activity.

The Police College is a member of the Association of European Police Colleges (AEPC), and closely cooperates with the European Police College (CEPOL) in providing officials with continuing education.

In addition, the Police College offers and organises professional development courses comprising 4 to 16 hours of training in the framework of continuing education for State Police officers. The professional development courses cover:

- corruption and elimination of conflicts of interests in the duties of State Police officers;
- cyber crime;
- economic crime detection.

If an officer (employee), without interrupting his duties, successfully studies in a state accredited higher education institution or a foreign educational institution that issues diplomas recognised in Latvia and the subject of his studies is relevant to his professional duties, the study costs are partially reimbursed by the relevant service.

Officers and employees can be assigned to attend professional development courses, seminars and conferences in Latvia and abroad according to the financial resources of the institution available for that purpose. These provisions also apply to foreign languages.

However, as financial investigations do not entail any particular procedures and there are no financial investigators as such, there is no separate, coherent training policy in the field of financial investigations. However, training sessions covering the following topics were listed in the excerpt from the Programme for Organised Crime Prevention, Combat and Reduction: “Offshore Financial Centres and Corruption: a Toolkit for investigators”, “Foreign Fund Markets”, “Tools and methods for detection of money laundering crimes”, “Fraud and corruption regarding economic interests of EU”, “Money laundering, seizure and arrest of assets. International cooperation and good practice”.

Some training courses in that field are also available to law enforcement personnel in the Police College, including the initial training. Some elements of the training programme covering financial aspects of crime have been taken over by a university, as the Police Academy has ceased to exist.
The judiciary is trained by a foundation, the Latvian Judicial Training Centre (LJTC), which deals with professional development of judges and supporting staff and regularly signs training agreements with the Ministry. The training provided is limited to judges and judicial staff. It is thus not available to prosecutors and law-enforcement personnel. Topics are chosen on a yearly basis in reaction to practitioners’ needs. The training scheme covers, to some extent, basic EU-related issues.

No comprehensive training system for prosecutors was presented. It was explained that, apart from on-the-job training, ad hoc short education sessions are organised.

Up until 2005 the Latvian AFCOS was organising training for representatives of the law-enforcement institutions in the fight against fraud. Currently, since it does not have a separate budget for training or special budgetary provisions in this regard, each institution organises training itself.

In accordance with Article 9 of the Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity and of Terrorist Financing, an entity subject to the Law shall ensure that its employees who are responsible for compliance with this Law are aware of the risks associated with money laundering and terrorist financing, and know the regulatory provisions on preventing money laundering and terrorist financing. The entity is thus obliged to train its employees on a regular basis to improve their skills in identifying indicators of unusual transactions and suspicious transactions and carrying out the measures prescribed by the internal control system.

2.3 Criminal policy

The average number of recorded offences in Latvia was less than 60 000 a year. Almost 57 000 were registered in 2009 whereas, for example, in 2004 and 2006 there were more than 62 000 recorded offences. The situation is said to be stable.

The same applies to the percentage of reported offences, which in the years 2007-2009 was slightly above 30.

According to the State Police, in 2009 1450 fraud cases were recorded as compared with 1730 cases in 2008. In first 4 months of 2010, 453 fraud cases were reported out of a total of 17 628 crimes. The CPCB and the State Revenue Service have their own additional statistics.
Latvian authorities are of the opinion that, in the field of financial crime, criminal schemes are becoming more and more complex. Perpetrators are said to have sound legal and financial knowledge. Criminal schemes have become increasingly international, with a growing number of foreign jurisdictions involved. Foreigners represent a significant percentage of customers of the Latvian financial system.

As the authorities are obliged to investigate all known offences, prioritisation is possible only to a limited extent.

For example, the priorities in the fight against crime defined by the State Police for the year 2010 are as follows:
- prevention and fight against organised crime;
- prevention and fight against fraud.

The above priorities are said to be in line with a general national Programme for Organised Crime Prevention, Combat and Reduction during 2006-2010. The Programme harmonised national sub-programmes devoted to specific threats (which are not in force any more):
- State Programme for Prevention of Trade in Human Beings during 2004-2008
- State Programme for Prevention and Combating of Corruption during 2004-2008

As the evaluators understand, the National Crime Intelligence Model, described below, will replace the expiring strategy and establish a new mechanism for selecting priorities.

Moreover, certain priorities, such as drugs and trafficking in human beings, are subjects of international, EU-funded projects, where foreign best practice is being explored.

While describing the state policy against crime it is important to underline the importance that Latvia, especially the CPCB and the State Revenue Service, attaches to the fight against corruption. The fight is based not only on enforcement, but also on prevention and education.
In analysing suspicious transaction reports (STRs), the FIU follows three main objectives. First of all it seeks to freeze the assets in order to safeguard future confiscation, secondly it tries to discover criminal schemes and thirdly to identify victims of the criminal scheme.

There is no separate policy laid down for financial investigations and strategy concerning criminal assets. Moreover, in accordance with the Criminal Procedure Law, tracing, the arrest (seizure) and confiscation of assets are not considered a separate purpose of criminal investigation. Therefore, an investigation in which the aforementioned activities need to be carried out is performed according to the general rules of procedure and no additional human or other resources are involved.

On the other hand, the Programme for Organised Crime Prevention, Combat and Reduction during 2006-2010\(^1\), adopted by the Government in May 2006, declares that "confiscating assets derived from crime is one of the most serious hits to organised criminality because it limits the influence of the group."

The Programme also contains a critical assessment of the current situation: "Unfortunately, Latvian law enforcement agencies currently have not achieved good results in finding and confiscating illegally acquired assets. The following reasons can be mentioned: low capacity, lack of information (non-availability), slow exchange between institutions, legislation problems. By solving these problems the influence of organised criminality will be limited and the economic situation of the state will be improved."

The evaluators' impression is that, even in organised crime cases, despite the above declaration, the investigators are focused primarily on identification of criminals and evidence gathering. Tracing and seizing of criminal assets are not regarded as priorities either by officers in the field or by their superiors and prosecutors. Of course, there are authorities which are more focused on criminal assets. For obvious reasons those, which deal with state revenue, pay greater attention to financial aspects of crime. Their declared aim is to reduce the illegal economy and identify the real beneficiaries of criminal schemes, such as money laundering.

While analysing current state policy in the field of crime, strict austerity measures need to be kept in mind. All evaluated fields and institutions faced substantial cuts, including to the salaries of the

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\(^1\) The evaluators were provided with an excerpt from the Programme in English. Quotations in the report are based on the excerpt.
investigating personnel. Restricted resources may mean that many of the action plans, strategies or training schemes cannot be implemented in full.

2.3.1 The National Criminal Intelligence Model

The National Criminal Investigation Model is being currently developed in order to create a new, intelligence-led and proactive priority-setting scheme for law enforcement. Its development is to be supervised by the Crime Prevention Council chaired by the Prime Minister. In developing the model, Latvian authorities aim to benefit from available EU funding and take into consideration EU-wide initiatives, such as the HARMONY\(^1\) project.

The authorities intend to establish a Criminal Intelligence Model in the State Police that would be a vital component of a National Criminal Intelligence Model covering all Latvian law enforcement and national security agencies.

The model is also said to be being developed in close cooperation with the prosecution.

The general aim of the Criminal Intelligence Model is to reduce criminality, especially organised criminality, prevent threats to society and to develop a systematic and joint approach towards the fight against crime.

Its specific aim is to implement a joint understanding of the application of criminal intelligence principles in the day-to-day work of the State Police and ensure effective information flow at national and international level.

The concept of the Criminal Intelligence Model is based on an analysis of current shortcomings and mentions numerous problems in the field of intelligence gathering and subsequent decision making (both operational and strategic).

The problems listed are as follows:
- Lack of a single joint information system to gather and process criminal intelligence information;
- Insufficient common criteria for the gathering and processing of criminal intelligence;
- Inappropriate work organisation in information circulation;
- Lack of quality information;

\(^{1}\) 12657/10 COSI 52 ENFOPOL 223 CRIMORG 150 ENFOCUSTOM 71.
- Overclassification of information;
- Lack of infrastructure to organise flow of classified information;
- Insufficient information flow and speed between structural units;
- Unclear competences of the structural bodies of the State police;
- Insufficient trained and professional personnel for gathering and processing criminal intelligence information.

According to the concept, implementation of the criminal intelligence model will bring the following benefits:
- Knowledge-based fight against criminality;
- Effective monitoring of crime situation in the country;
- Target-oriented, cost-effective and thus optimal use of resources available;
- Determination of mutual cooperation principles and their common application in structural units of the State Police;
- Proper coordination of the structural units of the State Police;
- All-inclusive limitation and combating of criminality, especially organised crime and the side-effects;
- Improvement of cooperation between the police and the public;
- Proper training of staff of the State Police to continuously increase the professionalism of the officers;
- Improvement of cooperation and exchange of information between Latvia as an EU member state and foreign law enforcement agencies.

It is also important to underline that, as indicated above, wide training activities are provided for in the project in order to ensure appropriate implementation of the model.

2.4 Conclusions

Latvia has specialised services in place, both investigative and prosecutorial, to deal with financial crime and to conduct financial investigations. Tasks of the investigating agencies are clearly divided, as described in the above-mentioned Section 387 ("Institutional Jurisdiction") of the Criminal Procedure Law.
However, since there are many investigative authorities which do not share information routinely, it may occasionally happen that different bodies start an investigation into the same suspects, duplicating their work during the initial stages of an investigation.

Moreover, internal structures of law enforcement agencies and the prosecution, and the levels of responsibility of various units, do not correspond in all cases.

There are no specialised judges dealing with financial issues; investigative efforts undertaken by law enforcement agencies may, in many cases, not bring the expected results. Formalised specialisation of judges could improve the situation.

Overall awareness of the importance and usefulness of the proceed-oriented approach seems to diminish by every step of criminal proceedings (from investigation to prosecution to court).

The evaluators find the available statistics fragmented and are of the opinion that a comprehensive, integrated picture of financial crime cannot be presented.

Unfortunately, state policies and strategic plans available, as well as daily practice, indicate that criminal assets, their tracing, seizure and subsequent confiscation are not yet regarded as priorities. There is no national policy or strategy for financial crimes and financial investigations. Thus the existing authorities and their committed staff may not always be used in an optimal way. Latvian authorities themselves admit that practical results in asset tracing are not satisfactory.

Moreover, as there is no strategic approach, certain criminal factors may be overlooked. This may be, for example, the case during customs checks, which are focused on smuggled and counterfeit goods. International cash flows, a significant factor for criminal networks, seem to remain unimportant for Latvian authorities.

Financial aspects of crime do not seem to play any significant role in investigations, nor are financial investigations based on any special procedural provisions. In most cases, should financial aspects arise during an investigation, no additional resources or expertise will be allocated.
A Financial Analysis and Arrest Group under the Economic Police Department has been established in accordance with Council Decision 2007/845/JHA (ARO). In practice the ARO consists of one person and fulfils only basic functions of a contact point, as provided for in the Decision. On the other hand, there is an ongoing project (“Strengthening the national ARO unit, evaluation and improvement of identifying, tracing and investigating proceeds of crime”) to improve the situation. It is a long-term project in its early stages, and it is not feasible to evaluate its effectiveness at the moment, but it should be mentioned as a possible good practice. The continuity of this project should be ensured.¹

The financial crisis has also taken its toll in Latvia. There have been massive cuts in the budgets of all the law enforcement authorities, which have influenced salaries (a decrease of minus 40% was reported in some areas).

Numerically reduced and inadequately paid staff may not always be able to confront criminal groups having access to vast financial resources, legal and financial expertise. Moreover, decreased salaries may result in declining commitment and corruption among law-enforcement, prosecutors and judges.

This situation, combined with inability to employ new officers and to train experts continuously, may, in the long run, bring negative effects.

¹ Latvia informed after the visit that the goal of the project “Strengthening of the National ARO Unit: Evaluation and Improvement of identification, Tracing, Investigation and confiscation of Proceeds of crime” was not only to evaluate the current national situation in the area of confiscation of criminally acquired assets, but, with the support of Ireland’s Criminal Asset Bureau and Belgium’s Office of Seizure and confiscation, to research in detail the national situation (operational and legal framework) and to draft a short-, mid- and long-term Action Plan and Strategy. They - after approval by government - would serve as detailed and binding step-by-step road map to ensure the establishment of an effective national model to combat proceeds of crime.

Beside international partners, the following authorities from Latvia are involved in the aforementioned project: Financial Police Department and Customs Criminal Board, Office of the Prosecutor General, Corruption Prevention and Combating Bureau and State Police (Economic Police Department and Organized Crime Enforcement Department).

This project is also aimed at supplementing the planned establishment of a National Criminal Intelligence Model project as well as the ongoing project “Clustering and Prioritization of Organized Crime Groups” to combat organized crime and target illegal assets in the most effective way.
The Programme for Organised Crime Prevention, Combat and Reduction covering the period between 2006 and 2010 was said to be the basis for prioritisation in all the relevant authorities. As the programme will expire soon, the initiative of the Ministry of the Interior and the State Police on the National Criminal Intelligence Model deserves to be mentioned. It has the potential to become an internationally recognised good practice, especially as it implements the European Criminal Intelligence Model at the national level.

Enhancing strategic and operational planning and developing a cost-effective and proactive approach, the model deserves to be implemented. It is crucial to avoid the risk of the praiseworthy initiative ending up as a purely intellectual exercise. The goal of involving the whole law enforcement sector is admirable and it should be backed up at both political and senior management level.

The fact that the authorities intend to benefit from EU funds for the project (as well as the others), make use of foreign best practices as well as take into account ongoing activities at EU level, such as the HARMONY project, also deserves to be praised. The project rightly recognises the responsibilities of Latvia in the field of information exchange resulting from its membership of the EU. It will also, hopefully, strengthen the links between Latvian national strategic planning and EU-wide priorities, such as those based on the Russian Organised Crime Threat Assessment (ROCTA) and the Organised Crime Threat Assessment (OCTA).

However, the project does not explain how it will enhance financial investigations. It should provide for more extended use of financial intelligence as a driver for investigations and asset recovery. Thus the conclusion is that more attention needs to be paid to criminal assets and financial investigations. They should, in fact, become one of the central points of the future mechanism.

Although the Latvian authorities are aware of the growing complexity of criminal schemes and significant legal and financial expertise criminals have at their disposal, it is unclear how those factors are addressed at the strategic level, also in the field of training.

The current training system in Latvia reflects the limited importance attached by the authorities to criminal assets and financial investigations. There are some specialised courses both at universities and in the Police College, but they do not seem to address the issue of financial crime and investigation adequately. Apart from the substance of education, which mirrors general state policy, the training schemes may require certain structural changes.
Specific training, including higher education in law, which is required for a wide range of positions, can be obtained in various Latvian universities, but is not geared specifically to state officials. This kind of approach could, in the opinion of the evaluators, raise problems in future in hiring highly qualified personnel in adequate numbers. On the other hand, there is the initiative and vision in the Ministry of the Interior to develop curricula for all law enforcement agencies at the level of higher education.

Moreover, the actual level of training in the field of anti money laundering, to which certain entities are obliged by the Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity and Terrorism Financing, needs to be analysed, as certain professions and entities seem to be more aware of their reporting obligation than others.

Corruption is a major issue for the Latvian authorities. The state approach is rightly based on a balanced application of enforcement, prevention and education. However, the current law, under which CPCB operates, does not cover private sector corruption (which is dealt with by State Police), as a government official needs to be involved. Moreover, the definition of a state official is considered narrow and not always clear, which has consequences for defining the competence of investigating authorities and legal provisions to be applied. Moreover, the current judicial practice is regarded as inconsistent. It does not provide for more severe punishment in cases of aggravated corruption. Similar punishment is imposed for minor bribery and more serious offences. For example, a person was given a two-year suspended prison sentence for giving a bribe worth EUR 30 to a policeman and the same punishment was imposed on a person for offering a bribe worth EUR 70 000 to a CPCB official.

Generally speaking the evaluators appreciate that strategic and multi-agency approaches are being developed in Latvia and the need for more proactive and intelligence-led policing is clear for the decision-makers interviewed. Moreover, use is made of foreign best practice in the field of asset recovery and EU funds. However, all the changes planned, which are praiseworthy as such, should be combined with a greater focus on criminal assets.
3. Investigation and prosecution
3.1. Available information and databases

Latvian authorities have access to numerous databases.

In accordance with the Land Register Law, all data bases of the Land Register offices of regional courts are networked within the State Unified Computerized Land Register, which can be considered as a centralized data base of all immovable properties registered in Latvia. It contains information about the legal status of more than 1 million properties. The court administration is the holder and the administrator of the State Unified Computerized Land Register.

Access to the State Unified Computerized Land Register can be granted to all law enforcement institutions whose daily work requires information about immovable properties. Information can be obtained by authorized users of institutions directly connected to the information system on the basis of mutual agreements.

The Enterprise Register of the Republic of Latvia is an administrative entity which acts under the supervision of the Minister for Justice. It keeps the relevant registers for traders and their branches, representations of foreign traders and organisations and their representatives, co-operative societies, European economic interest groupings, European commercial companies, European co-operative societies, political parties and their associations, administrators, insolvent entities, legal protection and measures of insolvency proceedings, associations and foundations, religious organisations and their institutions, trade unions, mass media, concession contracts, decisive influences, commercial pledges, marital property relations, religious organisations and their institutions.

The Enterprise Register maintains several registers, such as:
- the Commercial Register which holds records on traders - natural persons (individual traders) and commercial companies (partnerships and capital companies), which are established pursuant to the Commercial Law. Since October 2004 European commercial companies (Societas Europaea) are also registered, corresponding to the European Union Council Regulation of October 8, 2001 No 2157/2001;
- the Enterprise Register, which holds the records concerning farms, fish farms, cooperative companies and individual enterprises;
the Associations and Foundations Register, which records information on all associations and foundations which are established pursuant to the Law on Associations and Foundations;

- the Political Parties Register, where since 2007 political organizations (parties) and their associations are registered pursuant to the Law on Political Parties.

It is possible to grant access to the databases (registers) under the authority of the Enterprise Register to all law enforcement agencies whose daily work requires the information in question. Information can be obtained by authorised users of the institution directly connected to the information systems on the basis of signed agreements.

The Road Traffic Safety Directorate as an institution subordinated to the Ministry of Transport. It manages the State Register of Vehicles and Drivers.

Information kept in the Register could be divided into the following: technical data of vehicles or vessels, owner data, technical inspection data, data of the various fees and payments, data on compulsory civil liability insurance, qualification data, driver training data, data about prohibitions (of vehicles, vessels or persons), data on unpaid penalty fines (of vehicles, vessels or persons).

The following entities and persons have access to the system: the State Police, the Information Centre of the Ministry of the Interior, the State Border Guard, municipalities, the Office of the Prosecutor, insurance companies, the Motor Insurers’ Bureau of Latvia, the Population Register, the Commercial Pledge Register, sworn bailiffs, the State Revenue Service, courts, legal and natural persons.

The State Register of Vehicles and Drivers can be accessed, on the basis of a mutual agreement, by authorised users directly connecting to database. The number of registered users of the system is more than 6 000.

The National Technical Supervision Agency is subordinated to the Ministry of Agriculture and is the holder and the administrator of the information system on tractor-type machines, their trailers and drivers of tractor-type machines. The information system includes information on the registered tractors, trailers and other special self-propelled vehicles and persons holding a licence to drive tractor-type machines.

The system is used by the following entities: the State Police, the Information Centre of the Ministry of the Interior, the Motor Insurers’ Bureau of Latvia, the Population Register, the Commercial Pledge Register and the State Revenue Service. There are 120 registered users.
There is no single unified bank account register in Latvia. A central register has been established for legal persons only. The services involved have numerous ways to obtain the necessary bank-related data.

In accordance with the Criminal Procedure Law, these measures can be applied in every criminal case, if the information obtained can be used as evidence in the particular investigation. Transaction monitoring can be performed for a period of up to three months. If necessary, this period can be prolonged by an investigating judge for up to three months.

The rules concerning monitoring of transactions and the maximum duration of these activities are adopted by the Cabinet of Ministers. The Regulation of the Cabinet of Ministers on monitoring of transactions Nr. 535 entered into force on 15 June 2010.

Apart from criminal proceedings, the Office of the Prevention of Laundering of Proceeds Derived from Criminal Activities has right, with the consent of the Prosecutor General or a specially authorised prosecutor, to issue the order for an entity which falls under the Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity and Terrorism Financing to monitor transactions into the account of the client for a period of not longer than 1 month. This is possible if the Control Service has substantiated grounds for suspecting that a criminal offence has been committed or is taking place, as well as the laundering of the proceeds derived from the criminal activities, terrorism financing or attempts to carry out those activities. If necessary the Prosecutor General or a specially authorised prosecutor may prolong this period by no longer than 1 month.

In addition to the FIU, the following institutions are competent to request information from financial institutions and monitor a bank account:

- The courts: within the framework of pending cases;
- The investigative authorities: during a pre-trial investigation in the context of criminal proceedings if approved by a judge;
- The prosecutors’ office: during pre-trial investigation in the context of criminal proceedings if approved by a judge;
- The Bureau for Preventing and Combating Corruption: in pre-trial criminal proceedings, as well as based on a decision of the Chief (or a person authorized) that has been accepted by the Chief Justice of the Supreme Court (or an authorised Judge of the Supreme Court) if the information is needed for the procedures provided for in the Law on Prevention of Conflict of
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Interest in Activities of Public Officials (such as control of restrictions applied to public officials, inquiries about non-cash savings, income obtained, transactions performed and debts), or if the information is needed within the framework of the Law on Financing Political Organizations (Parties), (to inquire about annual financial activities of political parties and unions, as well as the truthfulness and lawfulness of the financial means and gifts mentioned in the declaration of expenses during the pre-election period and income and expenses relating to elections).

The request for information must be made in writing and provide the requested entity with the legal basis referring to the appropriate legislative act, international treaty or legislative act of the European Union.

The requested credit institution has no right to inform a client or third person about the fact that information on client’s bank account or transaction (transactions) is given to a court or prosecutors office.

If a law or an international treaty provided for a prohibition on informing the client or a third person about the receipt of a request for information, the court, prosecutor's office, investigative authority or a body performing investigatory operations while requesting information on accounts of a legal entity or physical person and transactions performed, draws attention to this prohibition in the request, simultaneously providing information on which grounds (law or international treaty) the prohibition is applicable.

Latvian law has provisions regulating international cooperation in this sphere, since the Convention on Mutual Assistance in Criminal Matters between Member States of the European Union and its Protocol was ratified by Latvia on 1 May 2004.

The Convention and Protocol have force of law since the ratification; therefore there is no need to adopt additional rules in order to implement them.

The request issued by an investigative authority is submitted to the Office of the Prosecutor General, which fulfils coordinating functions in delivering the legal assistance request to a competent foreign authority.
In the phase of court proceedings the court is the institution responsible for requesting the issuance of a mutual legal assistance request. The Ministry of Justice is the institution responsible for issuing the request.

According to the Criminal Procedure Law foreign requests are considered during the pre-trial phase and a decision is taken by Office of the Prosecutor General and by the State Police before the start of the criminal prosecution.

After criminal proceedings have been brought before a court, a foreign request is considered by the Ministry of Justice, which delivers it to a court for implementation.

If states or their competent authorities have made an agreement on direct contact, requests are considered and decision is taken by the respective authorities.

The Latvian authorities have identified numerous problems concerning the execution of legal assistance requests in other countries in the framework of international judicial cooperation. For instance, the Ministry of Justice as the competent authority sends legal assistance requests abroad and does not receive confirmation on fulfilment of the request, because the confirmations are addressed to Latvian courts and not to the authority which issued the request. Moreover, some Member States draw up legal assistance requests in their official language which requires translation and delays the fulfilment of these requests and investigation of the cases.

The Latvian authorities report that several states which received legal assistance requests issued by the Ministry of Justice have refused to fulfil them on the grounds that legal assistance requests should be addressed to a court of the receiving state without passing through a central authority. In practice the State Police has faced cases when confirmations of fulfilment of legal assistance requests are delayed (for example, received after a year), or a confirmation has not been received at all and a request for legal assistance is not fulfilled for unknown reasons. This approach considerably delays investigations.

On several occasions it was established that states do not comply with the requirements for processing a legal assistance request in accordance with international legislation.

The State Police as the requested authority sometimes receives legal assistance requests via Interpol and Europol communication channels. On several occasions legal assistance requests from third countries are transmitted by diplomatic and not law enforcement channels. The Latvian authorities underline that such a manner of communicating legal assistance requests delays their fulfilment.
3.2. Financial investigations and use of financial intelligence

There is no special system or separate legal framework for financial investigations, nor is there any policy or strategy on the subject, as mentioned before. Investigations into financial aspects are carried out in accordance with the Criminal Procedure Law as ordinary criminal investigations and the same rules apply.

However, investigations into financial aspects are considered particularly useful in cases involving organised crime, as well as cybercrime. Financial investigations may lead to the discovery of previously unknown individuals involved in the criminal offence, and helps to discover sources of finance of criminal groups and financial schemes for criminal activities.

The Criminal Procedure Law provides general procedure and a special procedure for investigating proceeds derived from criminal activities and their financial aspects.

The general procedure provides that property may be recognized as criminally acquired by a court ruling that has entered into effect, or by a decision of a public prosecutor terminating criminal proceedings.

During pre-trial criminal proceedings, property may also be recognised as criminally acquired by:

1) a decision of a district (city) court in accordance with the procedures specified in Chapter 59 of the Criminal Procedure Law, if the owner or lawful possessor of the property is unknown, and the person directing the proceedings has sufficient evidence showing, beyond doubt, the criminal origins of the property (the connection of the property with a criminal offence);

2) a decision of a person directing the proceedings, if, during a pre-trial investigation, property was found and seized on a suspect, accused person or third person and the owner or lawful possessor of the property had previously reported it missing and, after its recovery, proved his or her rights to such property, eliminating any reasonable doubt.

The special procedure is applied in order to solve the case in time and to safeguard the cost-effectiveness of the procedure. It provides that a person directing the proceedings has the right to initiate separate proceedings, if the following conditions exist:

1) the totality of evidence provides a basis for believing that the property that has been seized is of a criminal origin (related to a criminal offence);
2) due to objective reasons, the transferral of the criminal case to court is not possible in the near future (within a reasonable period), and such transferral may cause substantial unjustified expenses.

The financial investigation can be carried out and concluded even if there is no conviction for the offence concerned.

As far as financial intelligence gathering and analysis are concerned, the Control Service (FIU) plays the primary role. It performs analysis of information on both unusual or suspicious transactions as well as, if necessary, requesting additional information from reporting entities or various state and municipal data bases, and similar foreign authorities.

The Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity and Terrorism Financing determines the persons who have an obligation to notify the Control Service without delay regarding each unusual and each suspicious transaction and, pursuant to a request of the Control Service, provide within seven days additional information at their disposal regarding the client or financial transaction (transactions) of the client, the origin of proceeds and their subsequent movements.

In order to safeguard the gathering of relevant data pursuant to Article 15 and 21 of the Law, credit institutions and financial institutions are prohibited from opening and keeping anonymous accounts (of customers who have not been identified) and a person subject to this Law is prohibited from executing transactions with shell banks\(^1\). The establishment and operation of shell banks is prohibited in the Republic of Latvia. Article 25 of the same Law on "Business Relationship with a Politically Exposed Person" provides for special measures when a customer or a beneficial owner of the account is a politically exposed person (PEP). In such cases a person subject to this Law must take the following measures: obtain approval from the board or a specially authorised member of the board before entering into a business relationship; take and record measures to determine the origin of the customer’s money or other funds used in his/her transactions; monitor the customer’s transactions on a regular basis.

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\(^1\) Shell bank is a credit institution with has no physical presence in the jurisdiction it operates in. The full definition of the term can be found in Art. 1 of the Law.
Financial intelligence may serve as an indicator to initiate a criminal investigation. The Control Service provides information for pre-trial investigative authorities, the prosecutor’s office and courts, if this information leads to a reasonable suspicion that a criminal act has been committed. Investigative authorities, following the information, can carry out financial investigations in the framework of the Law on Investigatory Operations in order to confirm the information obtained and evidence for bringing a person to justice according to the Criminal Law. In 2009 the FIU handled about 21,000 unusual and suspicious transaction reports (STRs). Most of them were from banks. Reporting entities are able to send the reports electronically or on paper.

The report must contain customer identification data, a description of any planned, notified, reported, started, delayed, executed or confirmed transaction and identification data of the persons involved, the transaction volume, the time and place for executing or notifying the transaction, and copies of documents where a person subject to this Law has the documents providing evidence of the transaction. The grounds for considering the transaction suspicious by the reporting authority must also be presented.

A report to the Control Service received from a reporting institution or a similar foreign authority on unusual or suspicious transactions, or even a spontaneous report is sufficient for initiating an investigation.

In 1999 the Control Service became a member of the Egmont Group which established the legal basis and technical capabilities (by using its special communication network) to exchange information with 119 members of this organization. Section 62 of the Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity and Terrorism Financing makes it possible for the Control Service to cooperate with similar foreign authorities, as well as request information from other foreign authorities.

Cooperation at national level between institutions occurs on a case-by-case basis.

In order to facilitate investigations, Latvian law allows for participation of experts who are not law-enforcement agents (private experts like accountants and financial experts) in investigations.
Pursuant to the Criminal Procedure Law, a person directing the proceedings (an investigator, prosecutor, or a judge) may invite and assign a person having sufficient knowledge and practical experience to perform an expert examination.

An invited expert has the right:
1) to familiarise him- or herself with the materials of the criminal case;
2) to request from a person directing the proceedings the additional information and materials necessary for the performing of an expert examination;
3) to refuse to perform an expert examination (give a conclusion), if the submitted materials are not sufficient or the questions posed exceed the competence of the expert;
4) to receive compensation for expenses connected with the expert's attendance on the invitation of a person directing the proceedings.

An invited expert has the right to perform only the expert examination specified in the decision and to provide answers to questions posed. If an expert is of the opinion that he may acquire information that is important to the criminal proceedings but goes beyond the scope of the questions put, he must inform the person directing the proceedings of such information in writing.

A certified auditor has the authorisation to be involved in criminal proceedings if he has received a concrete task specified in a decision of the person directing the proceedings or recorded in the account of the investigative action.

On the assignment of a person directing the proceedings, an auditor shall:
1) make an inventory;
2) inspect and remove documents;
3) inspect goods, products, and raw materials to the extent necessary for carrying out an audit;
4) provide a description of economic and financial activity in an account, if it is possible to give such a description without carrying out an audit;
5) question witnesses or participate in their interrogation;
6) carry out an audit in coordination with a person directing the proceedings;
7) familiarise interested persons with audit materials;
8) provide an auditor's assessment of the objections of interested persons.
3.3 Cooperation with Europol and Eurojust

The Latvian authorities consider that cooperation with Europol and the mutual information exchange is good. No major difficulties have been reported. This opinion is shared by Europol in most areas.

There are 2 liaison officers from Latvia based in Europol’s headquarters. The head of the Latvian Liaison Bureau is seconded from the State Police and the second Latvian liaison officer is seconded by the State Revenue Service.

Latvia is participating in various analytical work files (AWFs). Within the sphere of financial crime Latvia is member of the following AWFs: AWF Sustrans (suspicious transactions/money laundering), AWF MTIC (missing trader intra-community fraud), AWF Smoke (tobacco smuggling), AWF Terminal (credit card fraud) and AWF Cyborg (cybercrime). Latvia has been a member of the Camden Asset Recovery Inter-Agency (CARIN) network since 2004.

Latvia's participation in certain AWFs deserves to be presented:

AWF Terminal: The national contact point for Latvia in this AWF is the State Police. Cooperation is average but, when information is provided, the contribution is deemed to be of good quality.

AWF Smoke: The Customs Criminal Board within the State Revenue Service represents Latvia in this work file. The quality and quantity of the information provided to Europol is average. However Latvia is cooperative in its dealings with the work file. The requests sent out by the analysts of the AWF are dealt with in time. Furthermore Latvia has chosen the AWF Smoke platform as the primary platform for exchanging information on tobacco smuggling with other Member States instead of exchanging it directly on a bilateral basis. Latvia is also a member of the AWF Smoke steering group.

AWF Cybercrime: The contact point in this work file is the cybercrime unit in the Economic Police department of the State Police. As this work file has been set up recently, it is too soon to evaluate the information exchange between Europol and Latvia.
AWF Sustrans: Latvia is member of the AWF Sustrans but the current level of cooperation is considered to be less than satisfactory. Initially the Financial and Economic Police were very cooperative and provided information on several occasions regarding money laundering in fraud-related cases. However this cooperation has considerably decreased.

Unavailability of important data stemming from the Financial Intelligence Unit is considered a major challenge. From Europol's perspective the current anti-money-laundering legislation in Latvia does not allow the development of an integrated approach between all Latvian partners involved (FIU, prosecution and law enforcement). Consequently, due to the lack of internal institutional cooperation in Latvia, Europol is not provided with the necessary information from the Latvian law enforcement authorities, which seriously limits its ability to develop a full pan-European intelligence picture of money laundering.

The situation is considered serious, since Latvia is one of the EU Member States with a heavy presence of Russian organised crime groups infiltrating its economy.

AWF MTIC: Latvia is represented by the Financial Police Department of the State Revenue Service. Latvia is also member of the Mistral target group which analyses information regarding VAT fraud in emission trading. Latvia is very supportive and is providing good quality information. AWF MTIC has also received a substantial number of Latvian VAT fraud-related money laundering cases.

As far as the CARIN Network is concerned there are two Latvian contact points: a prosecutor from the Prosecutor’s General Office (international co-operation division) in Riga and a chief inspector from the State Police (Economic Police Department) in Riga.

Latvia decided not to join the AWF Copy. However, a recent ongoing case shows that the Latvian Criminal Customs Board has good quality information to share. The decision therefore could be reconsidered. The data gathered by Latvian authorities may be of importance for EU-wide efforts to face the growing challenge.
3.3.1 Cooperation with Europol

Latvia has designated the Economic Police Department as the Latvian Asset Recovery Office (ARO). As the Europol Criminal Asset Bureau has not had any operational dealings so far with regard to the exchange of information with Latvia on asset tracing, assessment of its effectiveness from the Europol perspective cannot be made.

3.3.2 Cooperation with Eurojust

The competent Latvian authorities cooperate with Eurojust, which provides support to investigations and prosecutions in relation to crimes and offences listed in the Eurojust decision, including financial crimes.

The number of requests from Latvia referred to Eurojust was growing until 2008, when 30 requests were received, in comparison with 14 requests in 2005. In 2009 17 requests were sent by the Member State.

The number of requests addressed to Latvia has been growing steadily since 2004, when 8 requests were sent. In 2009 the Member State received 48 requests.

The national member for Latvia at Eurojust, who is a prosecutor, joined Eurojust in April 2004.

3.4 Conclusions

As indicated above, when the state policy on crime was presented, financial investigations and criminal assets do not seem to play a major role for Latvian law enforcement. No special procedural frameworks or investigative tools have therefore been established.

On the other hand basic mechanisms are in place allowing data to be obtained when necessary, such as on bank accounts, real estate or companies. Since there are only 22 registered banks, the flow of necessary information and searches is said to be smooth. However, in order to facilitate investigative work, the establishment of a central bank accounts register could be considered.

This possibility is already an objective of the current National Programme on Organised Crime, which says that the Bank of Latvia is expected to "establish a united Register of bank accounts that reflects all registered accounts of person in the banks of Latvia". This has been partially achieved, as the currently operational central register covers legal persons only.
Moreover, the evaluators were not given any concrete data about the actual use of the existing central database of bank accounts of legal persons and it was not mentioned during the visit.

Financial intelligence seems to be understood narrowly and limited mainly to data handled by the FIU. Moreover, the potential of the unit, with the valuable intelligence and committed staff it has at its disposal, seem not to be exploited to the extent possible. Cooperation at national level takes place on a case-by-case basis and could be improved.

It is also doubtful whether law enforcement agencies receiving reports from the FIU have sufficient capabilities to deal with them. Limited human resources and lack of any prioritization mechanism seem to be major challenges in this regard. On the other hand the FIU is happy with the feedback it receives from the investigating authorities.

In any case, improved mechanisms at national level would, consequently, foster international cooperation. Currently the use of the resources is insufficient from the EU perspective because Europol does not have access to valuable data from the Latvian FIU.

The law says that the Financial Intelligence Unit must submit information to pre-trial investigation institutions, the Office of the Prosecutor or the court, where this information creates reasonable suspicion that the person concerned has committed a criminal offence, including that of carrying out or attempting money laundering or terrorist financing. A wider list of recipients could be considered in order to foster international cooperation and a mutually beneficial exchange of information.

Under the current legal framework the FIU cannot exchange information directly with Europol. However, an information exchange can take place via the Latvian Europol National Unit.

Latvia does not participate in AWF Copy, dealing with counterfeit goods. This approach should be reconsidered, taking into consideration the value of intelligence Latvia may have and the significance of the criminal market.

Tobacco and cigarette smuggling seems to be a serious concern for the Latvian Customs. There is a multi-institutional plan to strengthen law enforcement activities to counter smuggling activities. One of the central themes in this plan is to improve national and international cooperation following the future development of an intelligence model. As intelligence seems to be the key element of the future counterstrategy, it would be recommendable for the Latvian Customs to improve the quality
of the information exchanged with Europol. This in turn could lead to the discovery of further international links between criminals operating in Latvia and cases in other Member States.

As far as missing trader intra-community fraud (MTIC fraud) is concerned, Latvia's engagement in Europol's AWF is praiseworthy. This fruitful cooperation could further develop into more operational actions. It could, for example, lead to the creation of joint investigation teams with other Member States, with the participation of Europol (AWF MTIC), to enhance the fight against missing traders operating from Latvia or against criminals abusing financial services based there.

4. Freezing and confiscation
4.1. Freezing
4.1.1. At national level

There are two basic legal possibilities for freezing (attachment) of assets. During a criminal investigation an attachment of property is based on the Criminal Procedure Law. Secondly, the Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity and Terrorism Financing applicable if a suspicious/unusual transaction report is received and there are sufficient grounds for the FIU to suspend a transaction or a debit operation on an account.

Section 361 of the Criminal Procedure Law titled "Imposition of an Attachment on Property" says that, in order to ensure the solution of a financial matter in criminal proceedings, as well as to safeguard the possible confiscation of property, an attachment shall be imposed on the property of an arrested person, suspect or accused person, and also on property due to such a person from other persons, or the property of persons who are materially liable for the actions of the suspect or accused person.

An attachment may also be imposed on property in order to ensure the collection of the value of a tool of criminal offence to be confiscated, if such a tool is owned by another person. An attachment may also be imposed on criminally acquired property or property related to criminal proceedings which is held by other persons.
An attachment may be imposed on criminally acquired property including financial resources as well as on the income derived from the utilisation of criminally acquired property.
In pre-trial proceedings, an attachment shall be imposed on property by decision of a person directing the proceedings that has been approved by an investigating judge. During a trial, however, it is the court which takes the decision.

In emergency cases, when property may be alienated, destroyed, or hidden, a person directing the proceedings may impose an attachment on the property with the consent of a public prosecutor. A person directing the proceedings must notify an investigating judge of the imposed attachment no later than on the next working day by presenting the protocol and other materials that justify the necessity and emergency of the attachment. If the investigating judge does not approve the decision the attachment shall be removed from the property.

A person directing the proceedings may order the State Police to effect an attachment, and shall notify the attachment of property to the relevant public register of property rights, so that it can register a prohibition on alienating such property and on burdening such property with other case or obligation rights. A certified copy of the decision must be sent to a public register.

If a mortgage pledge or other pledge specified by the law as to be registered was registered in relation to property before an attachment was imposed, actions may take place with the pledged property only on the basis of co-ordination with a person directing the proceedings. If such property has been recognised by a court decision as criminally acquired, the attachment of the property has priority in relation to the pledge.

An attachment shall not be imposed on objects of basic necessity used by the person in question, their family members or dependants. The prohibition does not apply to criminally acquired property or other property related to a criminal offence.

According to Section 389 of the Criminal Procedure Law, any precautionary measures taken in regard of property within the framework of pre-trial proceedings are, by their nature, temporary and must terminate within the following time-frame:

1) in cases of a criminal violation – within a period of six months;
2) in cases of a less serious crime – within a period of nine months;
3) in cases of a serious crime – within a period of twelve months;
4) in cases of a particularly serious crime – within a period of eighteen months.

In criminal proceedings regarding a serious or particularly serious crime, the investigating judge may extend the time limit for pre-trial proceedings by six more months but no more than by three months in one extension.

The Criminal Procedure Law states that a protocol shall be written regarding the imposition of an attachment on property. The protocol shall not be written if the decision on imposition of an attachment on property is to be implemented by a credit institution and there is no need to describe individual features of the property. In that case a person upon whose property an attachment is imposed is informed about the decision.

Section 336 of the Criminal Procedure Law provides that a complaint regarding the actions or adjudication of an official performing criminal proceedings may be submitted by a person involved in the proceedings, as well as a person whose rights or lawful interests have been infringed by the concrete actions or adjudication. A complaint may be submitted:
1) to the supervising public prosecutor regarding the actions or decisions of an investigator or the direct supervisor of the investigator;
2) to a higher-ranking public prosecutor regarding the actions or decisions of a public prosecutor.
3) to the President of the Court regarding the actions or decision of an investigating judge;
4) to a higher-level court regarding the adjudication of a court.

If an attachment is imposed on things the circulation of which has been prohibited by law, or on money, currency, securities, credit, bills of exchange, stocks, or other monetary documents, the place of storage thereof and the procedures for storage shall by determined by the Cabinet of Ministers. Monetary deposits and securities stored in banks or other credit institutions shall not be seized but, after the receipt of a decision regarding the imposition of an attachment on property, withdrawals from such deposits or securities shall be discontinued.
During criminal proceedings a decision regarding a revocation of an attachment shall be taken, if:
1) the person is acquitted;
2) the court has not ruled that the property shall be recognised as criminally acquired;
3) a person directing the proceedings terminates criminal proceedings with a rehabilitating decision;
4) compensation for damages has not been requested in criminal proceedings, or a victim has withdrawn such request;
5) a criminal offence has been reclassified on the basis of another Section of the Criminal Law that does not provide for confiscation of property;
6) a bailiff has sold the property on which the attachment was imposed with the permission of a person directing the proceedings and according to the procedures defined by Law on Civil Procedure;
7) any other reason for ensuring a solution to financial matters has ceased.

As indicated above, the FIU also has certain rights to freeze assets. Financial institutions (and other entities obliged to report to the FIU) shall refrain from executing one or several linked transactions or debit operations of a particular type on the customer’s account where the transaction is related or may be reasonably suspected of being related to money laundering or terrorist financing. The entity shall notify the Financial Intelligence Unit that it has refrained from executing a transaction without delay, no later than on the next working day. No later than five working days after receiving the report, the Financial Intelligence Unit must assess if the decision is in accordance with the law and if the legal restrictions applied are proportional, and must issue a reasoned order for continuing or ceasing from refraining from executing a transaction or debit operation of a particular type on the customer’s account.

Within 40 days of receiving a report about refraining from executing a transaction, but in exceptional cases during an additional term that is established by the Prosecutor-General or a specially authorised prosecutor as necessary for receiving the required information from a foreign country (no longer than 40 days), the Financial Intelligence Unit shall issue an order to suspend the transaction or the particular debit operation on the customer’s account where:
- according to Paragraph 3 of Section 4 of the Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity and Terrorism Financing money or other funds are recognised
as being derived from criminal activities. In that case the transaction or the particular debit operation on the customer’s account shall be suspended for the period indicated in the order, but no longer than for six months;
- on the basis of information available to the Financial Intelligence Unit there is a suspicion of committing a criminal offence, including that of carrying out or attempting money laundering. In that case the transaction may be suspended for the time indicated in the order, but no longer than 45 days.

The Control Service with an order to suspend transactions or debit operations on an account assigns the task to a body covered by the law (for example, a financial or credit institution) to send to the client a copy of the particular order and explain in a letter the right to dispute this order.

The orders issued by the Control Service can be appealed against by recourse to a specially authorized prosecutor within 30 days of receipt of a copy of the order by the person whose transaction or debit operation of particular kind was suspended.

An appeal against the decision of the specially authorized prosecutor may be lodged with the Prosecutor-General whose decision is final.

An order issued by the Control Service can be annulled by the Control Service itself, if the legal origins of the assets have been proved.

4.1.2. Cooperation at European level - Implementation of Framework Decision 2003/577/JHA

Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence has been implemented in Latvia by amendments to the Criminal Procedure Law which came into force on 11 November 2007.

Before that a request to freeze evidence was sent to the foreign competent authority along with a request for legal assistance. Therefore the time period for examining and fulfilling legal assistance requests was longer.
In year 2008 there were two freezing orders sent to Lithuania and none received.

During 2009 there were four freezing orders sent to Estonia (2), Netherlands and Germany and one received from Denmark.
During the first five months of 2010 there were two freezing orders sent to Estonia and Poland and none received.

4.1.2.1. Experience when acting as an issuing State

Latvia's actions as an issuing state are based on Chapter 74 of the Criminal Procedure Law entitled "Request to a Foreign State regarding the Performance of Procedural actions".

Section 829¹ concerns attachment on property or searches requested by Latvia to be carried out in another EU Member State.

Imposition of an attachment on property in another Member State must be based on a decision taken by a person directing proceedings or pre-trial proceedings and approved by the investigating judge. A search in another European Union Member State shall be performed on the basis of a decision taken by an investigating judge.

Without delay but no later than within three working days, the investigating judge must approve or reject the decision on attachment taken by a person directing the proceedings and complete the certificate. The person directing proceedings must ensure translation of the certificate into the language which is accepted by the recipient.

The decision regarding the imposition of the attachment on the property or search is taken at the trial stage and the certificate is completed and translated by the court dealing with the case.

The decision regarding the imposition of the attachment on property or the decision regarding a search, the certification and the translation thereof, is submitted by the person directing the procedure to the Office of the Prosecutor-General which shall send it to the competent institution of the relevant European Union Member State without delay but no later than within three working days.

The Latvian authorities did not report any problems in finding recipient authorities.

On some occasions, following a request from another Member State (Lithuania or Estonia) additional explanatory information was provided.
In the event that questions should arise, requests are discussed directly between competent authorities, without involving Eurojust/EJN.

4.1.2.2. Experience when acting as an executing State

Latvia's actions as the executing state are based on Chapter 73 of the Criminal Procedure Law entitled "Assistance to a Foreign State in the Performance of Procedural actions". Section 812 lists institutions competent to examine requests from a foreign state.

In the pre-trial proceedings, the Office of the Prosecutor-General shall examine a request from a foreign state. The State Police shall also examine and decide on such request before the start of the criminal prosecution.

After transfer of a case to a court, the Ministry of Justice shall examine a request from a foreign state.

The law also stipulates that, if states or competent institutions have come to an agreement on direct contacts, the relevant institutions shall examine and decide requests. This could presumably refer to the cooperation based on EU framework decisions.

An attachment (or a search) requested by another Member State is enforced in Latvia according to Section 825\(^1\) of the Criminal Procedure Law. On receiving a request, without delay but no later than within 24 hours, the Office of the Prosecutor-General evaluates the possibility of complying with the foreign request. If implementation is possible, the Office orders an institution to implement this decision. It also informs the respective competent authority of the requesting Member State about acceptance of the decision or presents the justification for the refusal.

The request is implemented according to the provisions of the Latvian Criminal Procedure Law. In order to recognize a foreign attachment order, the consent of an investigating judge is not required. Specific procedural requirements of the requesting state are taken into consideration as long as they do not contradict basic principles of the Criminal Procedure Law.

To date, orders for assets freezing have been received by mail. The Criminal Procedure Law does not specify any mechanism for receiving the orders. Latvia accepts requests either in Latvian or English.
Latvian authorities have reported one case when an order for freezing assets was received without a confirmation document. After the requesting state sent the required supplementary documents, the order was fulfilled. There are no examples of cases where a foreign request was not enforced.

Certain legal remedies regarding frozen property regulated by Section 825 of the Criminal Procedure Law are available to interested parties. However, submission of a complaint does not prevent the enforcement of a foreign order. If the Office of the Prosecutor-General receives a complaint about actions related to the implementation of a procedural decision from another Member State, the Office informs a competent authority of the issuing state that a complaint was submitted, the justification of this complaint and the results of its examination.

Latvia, as the requested state, may refuse to enforce a foreign order or suspend its enforcement. Reasons for refusal are listed in Section 825 and cover cases when:
- the certificate has not been sent, it is incomplete or does not correspond to the request;
- the person in question enjoys immunity;
- the enforcement would lead to double jeopardy (ne bis in idem);
- the offence to which the request is related is not included in an annex to the Criminal Procedure Law, and is not considered a criminal offence under Latvian law.

Suspension takes place, for example, where the enforcement of the request may be detrimental to the criminal proceedings initiated in Latvia.

4.2. Confiscation (including Council Framework Decisions 2005/212/JHA and 2006/783/JHA)

According to Section 514 of the Criminal Procedure Law, confiscation and recovery of criminally acquired goods is one of the matters that need to be solved during court deliberations.

Under criminal law, confiscation may occur in two ways – as a criminal punishment defined in Section 42 of the Criminal Procedure Law or a procedural compulsory measure defined in Chapter 27 “Actions with Criminally Acquired Property” and Chapter 59 “Proceedings Regarding Criminally Acquired Property” of the Criminal Procedure Law.

The procedure of enforcement of confiscation as a criminal punishment is provided for in the Latvian Law on the Execution of Sentences.
Section 42 of the Criminal Law explains that confiscation of property is the compulsory alienation to State ownership without compensation of the property (or parts of it) owned by a convicted person. Confiscation of property can be applied as a criminal punishment in cases defined by a Special Part of the Criminal Law (for example for trafficking in human beings, taking of hostages, money laundering, theft and forgery of money).

The confiscation of property is also possible regardless of whether a person has been convicted or not. Section 355 of the Criminal Procedure Law provides for non-conviction based confiscation - certain kinds of property shall be recognised as criminally acquired. The burden of proof lies in this case with the defendant.

The section defines criminally acquired property. It says that property shall be recognised as criminally acquired, if it has come into the property or possession of a person directly or indirectly as a result of a criminal offence.

If the opposite has not been proved, property and financial resources shall be recognised as criminally acquired if such property or resources belong to a person:

1) who is a member of an organised criminal group, or supports such a group;
2) engaged in terrorist activities, or maintaining permanent relations with a person who is involved in terrorist activities;
3) engaged in the trafficking of human beings, or maintaining permanent relations with a person who is engaged in the trafficking of human beings;
4) engaged in criminal activities with narcotic or psychotropic substances, or maintaining permanent relations with a person who is engaged in such activities;
5) engaged in criminal activities with counterfeit currency or State financial instruments or maintaining constant relations with a person who is involved in such activities;
6) engaged in criminal activities in order to cross the State boundary or to promote relocation of another person across the State boundary, or to enable other persons to reside illegally in the Republic of Latvia, or maintaining constant relations with a person who is involved in such activities;
7) engaged in criminal activities in relation to child pornography or sexual abuse of children, or maintaining constant relations with a person who is involved in such activities.
Within the meaning of the section, the maintenance of permanent relations with another person who is engaged in specific criminal activities means that the person lives together with the person in question or controls, determines, or influences his/her behaviour.

Section 356 relates to the recognition of property as criminally acquired. Property may be recognised as criminally acquired by a court ruling that has entered into effect, or by a decision of a public prosecutor regarding the termination of criminal proceedings.

During pre-trial criminal proceedings, property may also be recognised as criminally acquired by:

1) a decision of a district (city) court (in accordance with the procedures specified in Chapter 59 of the Law), if a person directing the proceedings has sufficient evidence (beyond doubt) regarding the criminal origins of the property (the connection of the property with a criminal offence);

2) a decision of a person directing the proceedings, if, during a pre-trial criminal proceedings, property was found and seized on a suspect, accused, or third person, loss of which had previously been reported by the owner or lawful possessor who has proved his or her rights to such property, eliminating any reasonable doubt.

Provisions of Section 355 are applied in practice. In 2008 they were applied 47 times, in 2009 - 49 times and 22 times 2010. Confiscation as a penalty was applied 880 times in 2008 and 679 times in 2009.

If criminally acquired property has been alienated, destroyed or hidden, and the confiscation of such property is not possible, other property and financial resources, of the value of the property being confiscated may be subjected to confiscation or recovery.

If an accused person does not have property that may be confiscated, the following may be confiscated:

1) property that the accused person has transferred to a third person free of charge after committing the criminal offence;

2) the property of the spouse of the accused person, if separate ownership of the property of the spouses had not been established at least three years before the criminal offence was committed;

3) the property of another person, if the accused has a common (undivided) household with such person.
A person directing the proceedings has the right, in order to solve the case in time, safeguard the cost-effectiveness of the proceedings, to initiate separate proceedings regarding criminally acquired property, if the following conditions exist:

1) the evidence justifies the assumption that the property is of criminal origin (related to a criminal offence);
2) due to objective reasons, the transferral of the criminal case to court is not possible in the near future (in a reasonable term), and such transferral may cause substantial unjustified expenses.

The court shall determine:
1) whether the property is related to a criminal offence;
2) whether there is information regarding the owner or lawful possessor of the property;
3) whether a person has lawful rights to the property;
4) further actions concerning the criminally acquired property.

If a court finds that the connection of property with a criminal offence has not been proven, it shall take a decision to terminate proceedings regarding the criminally acquired property.

Legal remedies against confiscation are possible. A person who acquired the property in question in good faith has the right to submit a claim, in accordance with civil procedures. Moreover, until a verdict of guilt has come into force, the Criminal Procedure Law provides for appeal against the decision (in full or in part) to a higher court.

A panel of three judges of a regional court examines the appeal or prosecutor's protest within 10 days, starting with hearing the appellant and examining the evidence presented. The court may revoke the decision on the criminal origin of the property which was taken by the district (city) court, and take a decision to revoke the proceedings. The decision is final.

After a judgment comes into force, the court under the Latvian Law on the Execution of Sentences issues writs of execution to a bailiff in order to enforce the confiscation of the property. A bailiff examines the property subjected to confiscation and hands it over to the State Revenue Service if there are no any requests from third parties.
The Latvian authorities are of the opinion that the provisions of Framework Decision 2005/212/JHA of 24 February 2005 on confiscation of crime-related proceeds, instrumentalities and property have been implemented and are reflected in Chapter 27 titled “Actions with Criminally Acquired Property” and Chapter 59 titled “Proceedings Regarding Criminally Acquired Property” of the Criminal Procedure Law.

As far as international cooperation is concerned, Latvia has implemented Framework Decision 2006/783/JHA on the application of the principle of mutual recognition to confiscation orders. The necessary amendments to the Criminal Procedure Law came into force on 14 June 2009.

If it is not possible to enforce a judgment regarding confiscation of property handed down in Latvia because it is the place of residence of a convicted person (or the registered legal address of a legal person) but the property belonging to that person or the revenue from it is in another European Union Member State, the court sends the judgment handed down in Latvia regarding the confiscation of property together with a certificate drawn up in a special form to the Ministry of Justice. The Ministry of Justice ensures the translation.

Regarding implementation of a confiscation order issued by another Member State, Section 801\textsuperscript{11} of the Criminal Procedure Law provides that within 10 days of notification of a judgment concerning confiscation of property (but within 30 days if the amount of property is large), the Ministry of Justice examines whether there are any reasons for refusal defined by the Criminal Procedure Law. The reasons for refusal are listed in Section 801\textsuperscript{9} and cover cases where:

1) the certificate is incomplete or does not correspond with the request;
2) the offence to which the request refers is not included in an annex to the Criminal Procedure Law and is not considered a crime under Latvian legislation;
3) the enforcement of the request would violate \textit{ne bis in idem};
4) the person in question enjoys immunity in Latvia;
5) execution of the judgment in Latvia is not possible;
6) a prescriptive period for claims has been set and the judgment refers to an offence that falls under Latvian jurisdiction;
7) the person has not reached the age of criminal liability;
8) the judgment has been handed down during the person's absence, except for cases where the person has been informed of the proceedings or has stated that he or she does not dispute the judgment;
9) there is reason to believe that the sentence was determined by the person's sex, race, religious affiliation, nationality, language or political beliefs;
10) the execution of the sentence would be infringe the basic principles of the Latvia legal system.

If reasons for refusal are not established, the examined materials are sent to a court according to the place of residence or location of property of the person (or the registered legal address of a legal entity). A judge examines the grounds for fulfilling the request, once again verifies the reasons for refusal, and takes a decision on confiscation of property that shall be imposed in Latvia, or refuses to fulfil the confiscation order.

If the judge takes a decision on execution of a property confiscation order issued abroad, a bailiff receives writs of execution in order to implement the confiscation. The Ministry of Justice receives a copy of the decision taken by a judge and information concerning the bailiff who has to enforce the decision.

A person can appeal against the decision of a judge concerning execution of a property confiscation order in Latvia to a court of appeal within 10 days of notification of the decision. A judge of a court of appeal examines the appeal in a written process and the decision taken is final.

After implementation of Framework Decision 2006/783/JHA, the Ministry of Justice has not received any confiscation orders issued by another Member State and no Latvian order has been sent abroad, so no practical problems have been reported at this stage.

4.3. Conclusions

The Latvian authorities seem to have all the necessary tools to freeze and confiscate criminal assets. The reversed burden of proof is also available and applied in practice. However, the evaluators do not have statistical data to assess in how many cases it would be applicable, how many motions of this kind were made by the prosecution and, consequently, in how many cases and for what reasons the reversed burden was rejected by courts.
The system of confiscation is not value-based, as in judgements specific items are indicated for confiscation. Generally speaking comprehensive statistics are not available because different institutions keep their own fragmented records. Therefore it is not possible to compare the value of assets frozen or confiscated. In consequence neither can the overall effectiveness of the system be assessed nor all blockages and weaknesses be identified.

The statistical data seem to be collected only for frozen funds and accounts, although it was stated that movable and immovable property is also regularly seized. The approach implies that tackling organized crime (or crime in general) via depriving criminals from their assets is of secondary importance. Asset freezing, confiscation and asset recovery do not seem to be priorities for the law enforcement agencies and prosecution. Those measures are generally undertaken to compensate for damages caused by crime.

Limited international cooperation and rare application of the tools available, especially certain Framework Decisions, is also a reason for concern. It can be explained partly by the common preference for the old MLA solutions and procedural weaknesses of the new mutual recognition mechanisms, such as the limited scope (freezing and evidence gathering) and complexity of the form.

Moreover, international cooperation (exchange of orders) takes place via central contact points. Although the Latvian authorities have stressed that it improved the quality of requests, allowed for statistical data to be gathered, and - taking into consideration the size of the administration - did not create significant delays, the evaluators are of the opinion that this approach is contrary to the spirit of the Framework Decisions concerned, which are intended to foster direct contact between the authorities involved.

Finally, certain reasons for refusal of a foreign confiscation order, such as the assumption that the ruling (of another Member State) was based on the person’s sex, race, religious affiliation, nationality, language or political beliefs go beyond the scope of the Framework Decision and hinder judicial cooperation in the EU.

5. Protection of the financial interests of the EU - available mechanisms, particularly cooperation with OLAF

As described above, the Latvian system for the protection of the financial interests of the EU is based on two entities: the Coordination Council chaired by the State Secretary of the Ministry of
Finance and the Anti Fraud Coordination Service (AFCOS).

Recently, the Coordination Council asked the EU Structural Fund and Cohesion Fund Managing Authorities to prepare information on proportionality of financial corrections with respect to EU Structural Funds and Cohesion Fund expenditure. The Council also suggested that the Ministry of Justice amend current legislation in order to give the relevant national authorities a privileged position as a creditor in cases of bankruptcy.

The Coordination Council also asked the Ministry of Agriculture to report on its activities to reduce the number of irregularities, since around 80% of all irregularities in EU expenditure concern agriculture. Moreover, AFCOS was asked to scrutinise the institutions with the highest score of irregularities or amounts of irregular expenditure. In July 2010 the Council plans to submit to the Cabinet of Ministers the first report on unduly paid expenditure of European Union funds.

The Latvian authorities should not only continue carrying out this type of checks, but also evaluate the established irregularities using both the expertise of the managing authorities and the relevant investigation services in such a way that possible frauds can be better detected.

In this respect it should be noted that the number of criminal investigations launched in relation to identified offences which affect the EU budget is very limited. It is believed that this is not due to the low crime rate in this sphere but points to certain inefficiencies in the current system.

On the EU revenue side it seems that the main efforts of the Customs Criminal Board lie in the field of fight against trafficking of drugs and smuggling of cigarettes. It is significant that only once – in 2007 – customs fraud was considered to be a priority. This priority was abandoned, since, as Latvian authorities explained “during an unsuccessful seminar where these priorities are selected, the right level of understanding could not be reached”. It is doubtful whether this can justify a modest effort in the fight against the evasion of import and antidumping duties.

In the area of the European Union’s revenue and expenditure, an efficient and effective exchange of information between police/prosecuting authorities and the competent administrative authorities in Latvia is indispensable. During the discussion with the prosecution service, the evaluators had the impression that the flow of information regarding administrative proceedings on the one hand and criminal proceedings on the other was not as regular or complete as it should be.
The Latvian authorities also admit that there are no specific measures to ensure that the institutions involved proactively provide OLAF with information on the results of criminal cases related to fraud, which threatens the financial interests of the Communities. As Latvian authorities explain, it is because there is no practice in this connection. Information on the development of criminal proceedings (initiation, completion, termination) may be transferred, but it is not obligatory under current law. As many entities may be involved in a case, it is not clear which of them should forward this kind of information to OLAF.

Asked about the state of play of the implementation of the Convention on the protection of the European Communities’ financial interests and its protocols, the Latvian Ministry of Justice forwarded a copy of its reaction of 16 April 2008 to the European Commission’s second report on the implementation of the convention and its protocols. This letter concerns four points in particular, where according to the European Commission the Latvian legislation is not yet (entirely) in line with the convention and its protocols: the definition of fraud affecting the EC’s financial interests, the liability of legal persons, the seizure, confiscation of instruments of fraud and the jurisdiction on offences committed by Community officials in Latvia. Latvian authorities are of the opinion that Latvian legislation is in compliance with the convention and its protocols on all four points. This opinion requires further discussions between Latvian authorities and the Commission.

Under Latvian law it is possible for OLAF agents to support a criminal investigation. There are two basic legal options for it, based on Sections 34 and 113 of the Criminal Procedure Law.

Section 34 stipulates that the invited expert has the right to carry out an expert examination specified in a decision by a person directing the proceedings or a member of an investigative team and to provide answers to questions posed.

According to Section 113, OLAF agents may participate in the criminal proceedings as specialists - persons who provide assistance to an official initiating criminal proceedings, on the basis of an invitation by such an official, utilising his or her special knowledge or work skills in a specific field. An official who has invited a specialist shall inform that specialist about the procedural action in which he or she has been invited to provide assistance, regarding his or her rights and duties, as well as regarding liability for the conscious provision of false information.
A specialist has a duty:

1) to arrive at the time and place indicated by an official performing criminal proceedings and to participate in an investigative action, if the procedures for invitation have been complied with.
2) to provide assistance, utilising his or her knowledge and skills, but without conducting practical studies, in the performance of an investigative action, the disclosure of traces of a criminal offence, the understanding of facts and circumstances, as well as in the recording of the progress and results of the investigative action;
3) to direct the attention of those who carry out an investigative action to the circumstances that are significant in the disclosure and understanding of circumstances;
4) to refrain from disclosing the content and results of an investigative action, if he or she has been specially warned regarding the non-disclosure of such content and results.

A specialist has the right to take notes, in connection with the operations that he or she has performed or the explanations that he or she has provided, in the document in which investigative action is recorded.

Moreover, under Section 834 of Criminal Procedure Law, in criminal proceedings taking place in Latvia a representative of another Member State may be included in the Joint Investigation Team (JIT).

An employee of a multinational organization may also be included in a joint investigative group, if he or she has such rights in another Member State. In Latvia a seconded member may independently take the procedural action assigned by the team leader.

A seconded member may take procedural action in the state that he or she represents within the framework of his or her authorization and to the extent specified by a leader.

The experts team was informed after the visit that Latvia is participating in three Joint Investigation Teams.

Under Latvian legislation the European Commission can be an injured party in a criminal case relating to offences which affect the EU budget: a legal person harmed by a criminal offence can be recognised as a victim in the course of criminal proceedings until the beginning of the court investigation at first instance. The victim can claim compensation for damages and the court should decide on this claim in its judgement. The victim has several rights during both pre-trial and trial.
proceedings, such as the right to submit applications regarding the performance of investigative and other operations and – in court - the right to participate in the examination of a criminal case and to express his views regarding every matter to be discussed. Sections 357, 359 and 360 of the Criminal Procedure Law specifically regulate the confiscation of proceeds and compensation for the victims.

6. Recommendations

6.1 Recommendations to Latvia

1. The National Criminal Intelligence Model should be fully implemented with amendments ensuring that criminal assets are considered one of its key factors and available financial intelligence is used to the full extent. Financial resources of criminals, related activities such as cash flows and money laundering should be taken into account when making national threat assessments, choosing priorities and planning concrete operational activities. (See 2.4)

2. A clear mechanism should be developed in order to facilitate gathering and analysis of data on assets frozen or confiscated and on assets actually recovered. Results achieved, weaknesses of the recovery system and countermeasures undertaken by criminals should be discussed regularly by all entities involved. (See 2.4)

3. Additional value-based confiscation measures should be considered. (See 4.3)

4. Incentives for units or services most successful in asset recovery should be foreseen. (See 2.4)

5. The importance of criminal assets as an issue in the general fight against crime needs to be reflected, as far as possible, in appropriate remuneration for personnel involved, continuous training and an increase in the number of experts with appropriate finance-related knowledge. (See 2.4)

6. The steps taken in order to strengthen the ARO should continue. The role and capabilities of the Office, which could become a centre of expertise supporting other units in financial investigations, should grow. (See 2.4)
7. Training activities focused on financial issues should be considered a priority. They must not be limited to investigators, but offered also to prosecutors and judges. Common training schemes for all three groups would be advisable. Following comprehensive training, specialisation of judges could be considered in order to reflect the existing specialisation of investigators and prosecutors. (See 2.4)

8. The unrealised plan to establish a central register of bank accounts should be reconsidered and, if appropriate, given new impetus. (See 3.4)

9. Cooperation between the FIU and Europol, based, if necessary, on certain amendments within the framework of Latvian legislation, should be enhanced in order to make full use of valuable intelligence and analytical capabilities of both parties. (See 3.4)

10. Latvia’s refusal to participate in AWF COPY should be reconsidered. Fruitful cooperation within the framework of other AWFs, such as MTIC, could lead to more concrete operational undertakings. (See 3.4)

11. A review of the implementation of the relevant Framework Decisions and application of mutual legal assistance mechanisms should be undertaken in order to reconsider procedures and methods of communication currently in place, especially the existence of central contact points, as well as certain reasons, where foreign requests can be rejected. (See 4.3)

12. Legal issues in the field of tackling corruption, such as the definition of a state official, and judicial practice should be reviewed in order to increase the efficiency of CPCB. (See 2.4)

13. Latvia should conduct a follow-up on the recommendations given in this report 18 months after its adoption on the action it has taken to the Working Party on General Affairs, including Evaluations (GENVAL).
6.2 Recommendations to the European Union, its Member States, institutions and agencies

1. EU institutions and agencies are invited to support all actions undertaken by Latvia in order to implement the recommendations listed above.

2. The scope of Framework Decision 2003/577/JHA could be reconsidered as the freezing order is not practical in cases where other investigatory activities are also required.

3. Increasing the number of training schemes at the European level could be considered a remedy for limited training capabilities of law enforcement agencies which are confronted with strict austerity measures.
PROGRAMME FOR VISIT

Evaluation visit to Latvia on financial crime and financial investigations
14 – 18 June 2010
Riga, Latvia

Tuesday 15 June 2010

10:15 – 10:45 Transfer to the State Police building.
10:45 – 11:45 Working meeting with experts from State Police. Representatives from Central Criminal Police Department Economic Police Department and Asset Recovery Office, Organised Crime Enforcement Department, Criminal Inquiry Department and International Cooperation Bureau.
11:45 – 12:00 Break.
12:00 – 13:00 Working meeting with experts from State Police. Representatives from Central Criminal Police Department Economic Police Department and Asset Recovery Office, Organised Crime Enforcement Department, Criminal Inquiry Department and International Cooperation Bureau.
13:00 – 14:30 Break.
14:30 – 14:50 Transfer to State Police Economic Police Department.
14:50 – 16:30 Visit to State Police Economic Police Department

Wednesday 16 June 2010

9.00 – 9:15 Transfer to the Ministry of Justice
9:15 – 10:30 Working meeting with representatives from Criminal Law Department, International Cooperation Department and Latvian Judicial Training Centre
10:30 – 10:45 Break.
Thursday 17 June 2010

9:00 – 9:15 Transfer to the Office of the Prosecutor General
9:15 – 10:30 Working meeting with experts from the Office of the Prosecutor General
10:30 – 10:45 Break
10:45 – 12:00 Working meeting with experts from the Specialised Prosecution Office on Investigation of Financial and Economic Crimes and the Specialised Prosecution Office on Custom Cases.
12:00 – 13:30 Lunch break.
13:30 – 14:45 Working meeting with experts from the Office for Prevention of Laundering of Proceeds Derived from Criminal Activity.
14:45 – 15:00 Break.
15:00 – 15:20 Transfer to the Corruption Prevention and Combating Bureau
18:00 – 19:30 Dinner offered by the Ministry of the Interior

Friday 18 June 2010

9:30 – 10:00 Transfer to the Ministry of the Interior
10:00 – 12:00 Final remarks and closing of the meeting with representatives from institutions involved in the evaluation.
12:00 Transfer from the Ministry of the Interior to the airport or the hotel.
LIST OF PERSONS INTERVIEWED

List of Experts

Corruption Prevention and Combating Bureau

Dace Dubova, International Relations Officer
Lienīte Šikore, Head of Investigation Unit

Ministry of the Interior

Ilze Pētersone, State Secretary
Dimitrijs Trofimovs, Head of Sectoral Policy Department
Imants Zakis, Senior Desk Officer, Policy Implementation Unit, Sectoral Policy Department
Indra Bule, Legal Adviser, European Affairs and International Co-Operation Department
Laura Romanovska, Senior Desk Officer, European Affairs and International Co-operation Department

Ministry of Justice, Latvian Judicial Training Centre

Inga Melnace, Deputy Director, Criminal Law Department
Vita Rūsiņa, Director, Judicial Co-operation Department
Jūlija Muraru-Kļučica, Legal Adviser, Judicial Co-operation Department
Ilze Zvirbule, Deputy Director, European Affairs Coordination Department
Maija Cēbere, Director, Latvian Judicial Training Centre

Ministry of Finance

Elīna Gabranova, Unit of Control and Methodology, Audit Department
Nata Lasmane, Audit Department – AFCOS LV

Courts

Irīna Jansone, Judge, Collegium on Criminal Cases, Riga Regional Court
Rinalds Silakalns, Investigating Judge, Riga City Central District Court
Baiba Jākobsone, Judge, Riga City Latgale Suburb Court
Irēna Krastiņa, Judge, Riga City Latgale Suburb Court
Ilze Apse, Judge, Riga City Northern District Court

Office for Prevention of Laundering of Proceeds Derived from Criminal Activity (Control Service, the FIU)

Viesturs Burkāns, Head of Office
Office of the Prosecutor General

Una Brenča, Head Prosecutor of International Cooperation Division
Dagmāra Fokina, Prosecutor of International Cooperation Division
Māris Strads, Prosecutor of International Cooperation Division
Mārcis Viļums, Prosecutor of International Cooperation Division

Specialised Prosecution Offices

Daiga Krecu, Head Prosecutor of Specialised Prosecution Office on Customs Cases
Vilnis Ulmis, Head Prosecutor of Specialised Prosecution Office on Investigation of Financial and Economic Crimes

State Police

Gatis Gudermanis, Head of Economic Police Department, Central Criminal Police Department
Edgars Strautmanis, Head of International Co-operation Bureau, Central Criminal Police Department
Ugis Araks, Head of Organised Crime Enforcement Department, Central Criminal Police Department
Dmitrijs Ceplis, Head of Europol National Unit, International Co-operation Bureau, Central Criminal Police Department
Ilze Sokolovska, Acting Head of Criminal Inquiry Department, Central Criminal Police Department
Andrejs Matīss, Head of International Affairs Unit, Central Administrative Department
Ervīns Romans, ARO, Economic Police Department, Central Criminal Police Department
Ēriks Zaices, Head of 1st unit (Structure to combat criminal offences in credit institutions, illegal money-laundering), Economic Police Department, Central Criminal Police Department
Sergejs Ķumačenko, Head of 2nd unit (Combating fraud, malfeasance, money counterfeiting and distribution), Economic Police Department, Central Criminal Police Department
Aleksandrs Čapulis, Head of 3rd unit (Unit that works in field of illegal import and combating crimes against the environment), Economic Police Department, Central Criminal Police Department

State Revenue Service Financial Police Department

Kaspars Ķerneckis, Director
Dairis Aniņš, Deputy Director
Ļubova Švecova, Deputy Director, Head of Investigation Unit
Māris Vītols, Head of Financial Intelligence Unit
Kaspars Valpēteris, Senior Officer, Financial Intelligence Unit

State Revenue Service Customs Criminal Board

Marjans Burijs, Director
Anda Saukāne, Head of Intelligence Unit
### LIST OF ABBREVIATIONS/GLOSSARY OF TERMS

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