

LATVIA

● Limited enforcement

0.1% of global exports

Investigations and cases

In the period 2016-2019, Latvia opened six investigations, commenced no cases and concluded no cases with sanctions.

The Latvian Bureau for Preventing and Combatting Corruption (KNAB) initiated a formal investigation in 2016 of allegations that the CEO of Latvia's largest road and bridge construction company, **Latvijas Tilti**, paid bribes to secure a €10 million (US\$11.4 million) contract in Lithuania.¹ The investigation into the CEO was transferred to Lithuania, where he was convicted in 2018.² KNAB initiated an investigation of the Latvian company for foreign bribery in 2019 and in August 2020 referred that case to the Prosecutor General's Office, requesting a criminal prosecution of the company.³ In 2019, KNAB also initiated an investigation of **Tieto Latvija**, a subsidiary of **Tieto**, a Finnish IT and engineering company, on the basis that the liability of its Latvian sales manager in Belarus had been already established in Belarus.⁴ The sales manager was convicted in 2018 in Belarus on allegations of having paid more than €2 million (US\$2.3 million) in bribes

to a then-high-ranking official of a Belarus public enterprise to ensure purchases of licences and related services.⁵ The bribes were allegedly transferred through the Latvian bank account of a Scottish shell company.⁶

The OECD WGB expressed concern in its Phase 3 Report in 2019 about the number of cases involving Latvian banks and shell companies which allegedly served to channel bribe payments.⁷ This concern is reinforced by a series of scandals and allegations involving the country's banking system and related deficiencies in Latvia's anti-money laundering arrangements. There is a long list of examples. A Latvian bank was fined US\$191,000 for its role in laundering US\$230 million from an illegal tax refund scheme exposed by Sergei Magnitsky.⁸ In 2018, **ABLV Bank** was shut down following a US Treasury report which demonstrated that the bank had helped Ukrainian business tycoon Serhiy Kurchenko use shell companies to funnel billions of dollars allegedly embezzled from Ukrainian government coffers.⁹ The bank was accused of institutionalising money laundering.¹⁰

Latvian banks **Trasta Komerbanka**, **Privatbank** and **Baltikums Bank** were among the financial institutions which allegedly received the most money originating in the Russian Laundromat.¹¹ **Baltikums Bank**, later renamed **BlueOrange Bank**, was allegedly involved in the Azerbaijani Laundromat.¹² **Swedbank Latvia**, along with the other Baltic branches of the Swedish bank, was found to have actively pursued high-risk customers as a business strategy. The banks reportedly passed a combined amount of at least US\$40 billion in high-

¹ http://www.china.org.cn/world/Off_the_Wire/2016-06/18/content_38691325.htm

² <https://globalinvestigationsreview.com/short-cut/2020/august/11>

³ https://www.baltictimes.com/corruption_prevention_bureau_seeks_prosecution_of_latvijas_tilti_construction_company_for_bribery/; <https://bnn-news.com/corruption-watchdog-proposes-criminal-prosecution-of-latvijas-tilti-over-possible-bribery-215951>

⁴ <http://www.oecd.org/corruption/anti-bribery/OECD-Latvia-Phase-3-Report-ENG.pdf>, pp 12-13

⁵ <http://www.oecd.org/corruption/anti-bribery/OECD-Latvia-Phase-3-Report-ENG.pdf>; <https://www.heraldsotland.com/news/16190405.a-baltic-bank-a-belarusian-bribe-and-a-british-embarrassment/>; <https://www.tieto.com/en/newsroom/all-news-and-releases/other-news/2018/a-former-tieto-latvia-employee-convicted-for-bribery---corrective-action-taken-/>

⁶ <https://www.heraldsotland.com/news/16190405.a-baltic-bank-a-belarusian-bribe-and-a-british-embarrassment/>;

⁷ <http://www.oecd.org/corruption/anti-bribery/OECD-Latvia-Phase-3-Report-ENG.pdf>

⁸ <https://www.occrp.org/en/daily/1992-latvia-bank-fined-for-role-in-magnitsky-money-laundering-case>

⁹ <https://www.nytimes.com/2019/07/17/business/latvia-money-laundering.html>

¹⁰ https://www.washingtonpost.com/world/europe/latvian-member-of-european-central-bank-detained-in-probe/2018/02/18/325c7e28-14b3-11e8-930c-45838ad0d77a_story.html

¹¹ <https://www.occrp.org/en/laundromat/the-russian-laundromat-exposed/>

¹² <https://eng.lsm.lv/article/politics/politics/updated-latvian-estonian-banks-named-in-council-of-europe-corruption-scandal.a221032/>

risk transactions between 2014 and 2019, ignoring anti-money laundering obligations.¹³

Recent developments

The Latvian regulatory and enforcement frameworks have undergone important reforms in recent years. The Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing¹⁴ has been regularly amended, generally in line with recommendations from the EU and other regional and international bodies. The amendments include the addition in 2017 of a chapter on customer due diligence, and the 2019 obligation for registered companies to disclose their beneficial owners. Another legislative development was the adoption of the 2018 Whistleblowing Law, a comprehensive piece of legislation reflecting most internationally recognised best practices, which entered into force in May 2019.¹⁵

Amendments in 2017 of the Criminal Law¹⁶ and Criminal Procedure Law, as well as a new Law on Execution of Confiscation of Criminally Acquired Property,¹⁷ increased the statutory maximum fines and prison sentences available for natural persons, and comprehensively reformed how the confiscation of criminally acquired property is carried out. This last reform was accompanied by training sessions and the publication of recommended guidelines for relevant practitioners.¹⁸ An Action Plan on Anti-Money Laundering and Counter-Terrorism Financing Measures was approved in late 2018 to enhance

inter-agency cooperation, associated with the creation of specialised units. A new Action Plan for 2020-2022 was adopted by the government on 23 December 2019.¹⁹

Transparency of enforcement information

KNAB provides annual reports and statistics on enforcement, but these do not offer much detail.²⁰ Each annual report includes information on mutual legal assistance requests and their execution, and KNAB will provide more detailed information on request. The annual reports can be accessed on KNAB's web portal.²¹

Information regarding enforcement is partially available through several sources, notably press releases on the State Prosecution's website concerning any final decisions on foreign bribery and related offences.²² However, press releases can only be filtered by year, not by topic, so information regarding foreign bribery is not readily available.

Certain court rulings in criminal proceedings are publicly available online.²³ Anonymised court rulings in other proceedings are published online in accordance with Regulation n° 123 on the Publication of Court Information on the Website and Processing of Court Decisions before their Issuance.²⁴ Rulings and decisions of the highest courts that could be relevant to the interpretation of the law are generally made public in anonymised

¹³ https://www.transparency.org/news/pressrelease/swedbank_dirty_money_dealings_money_laundering_supervision

¹⁴ Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing, entered into force 17 July 2008, last amended 13 June 2019, <https://likumi.lv/ta/en/en/id/178987-on-the-prevention-of-money-laundering-and-terrorism-financing>

¹⁵ <https://likumi.lv/ta/en/en/id/302465> (the English translation does not include the most recent amendments of 30 January 2020); <https://www.oecd.org/corruption/anti-bribery/OECD-Latvia-Phase-3-Report-ENG.pdf>, para. 243.

¹⁶ The Criminal Law, entered into force 1 April 1999, last amended 1 July 2019, <https://likumi.lv/ta/en/en/id/88966-the-criminal-law>

¹⁷ Law on Execution and Confiscation of Criminally Acquired Property, entered into force 1 August 2017, <https://likumi.lv/ta/en/en/id/292019-law-on-execution-of-confiscation-of-criminally-acquired-property>

¹⁸ <https://www.tm.gov.lv/lv/nozares-politika/metodiskie-ieteikumi> (only available in Latvian)

¹⁹ <https://www.fm.gov.lv/en/s/prevention-of-money-laundering-and-terrorism-financing/plan-of-measures-for-mitigation-of-the-money-laundering-and-terrorism-financing-risks-for-2017-2019/>

²⁰ "Progress of KNAB activities in 2019", 23 January 2020, https://www.knab.gov.lv/en/knab/news/548648-progress_of_knab_activities_in_2019.html

²¹ <https://www.knab.gov.lv/en/knab/results/>

²² <http://www.prokuratūra.gov.lv/lv/jaunumi/2020/pazinojumi-presei>

²³ <http://www.manastiesas.lv>

²⁴ Regulation No. 123 on the "Publication of Court Information on the Website and Processing of Court Decisions Before Their Issuance", adopted by the Cabinet of Ministers on 10 February 2009.

form.²⁵ The pool of publicly available court decisions is much smaller than that of court rulings, and there are regular debates within the legal community about the availability of court decisions.

Beneficial ownership transparency

Latvia has set up a public beneficial ownership registry, which is accessible free of charge.²⁶ Following the adoption of an amendment to the Law on the Prevention of Money Laundering and Terrorism and Proliferation that came into force in December 2017, every legal person registered with the Latvian Register of Enterprises is required to disclose its beneficial owners.²⁷ This includes foreign persons, following the amendment of 2019 – the extension which entered into force on 1 July 2020. This information is legally required to be published online on the Enterprise Register portal.²⁸

Inadequacies in legal framework

Latvian authorities have not taken the results of the National Risk Assessment sufficiently into consideration when reassessing their anti-corruption efforts, and “the private sector showed little if any interest in using the results of the risk assessment for revisiting their relevant policies, procedures and controls” to take into account all the major money-laundering, bribery and corruption threats.²⁹

Inadequacies in enforcement system

The 2019 OECD WGB Phase 3 Report on Latvia states in its commentary that “Latvia still encounters high levels of grand corruption and evidence of

‘state capture’”. The report also mentions the domestic context, where evidence of “state capture” is reported in relation to a parliamentary inquiry on a high-profile corruption case, raising questions on whether law enforcement agencies are able to do their jobs independently and without interference”.³⁰ The report also expressed concern that “the government’s open and unrestrained commentary about the Prosecutor General risks creating the perception of political interference in what should be an independent body” and recommended that the government refrain from this. The OECD WGB further noted that “Publicly available information seems to indicate that businesses are faced with a high risk of corruption when dealing with the judiciary, and about two out of five companies perceive the independence of Latvia’s courts as fairly bad. In a survey, judges in Latvia expressed significantly more concern than their European peers about bribery in the judiciary and threats of disciplinary action based on the way they adjudicate cases. These issues were discussed during the on-site visit where the judges defended their strong independence under the law and in practice”.³¹ The 2019 OECD Economic Survey of Latvia calls for strengthening the judiciary and law enforcement agencies in their independence, to help improve trust in institutions and address corruption and money laundering issues.

Latvia’s framework against bribery is weakest at the enforcement stage, especially considering the country’s position as a platform for financial transactions.³² Several multi-jurisdictional bribery cases have shown that proceeds of foreign bribery were laundered through Latvian banks and other corporate entities.³³ There has been a tendency not

²⁵ The word loosely translates as “case law”. However, the Latvian civil law system does not operate on a *stare decisis* basis.

²⁶ <https://www.globalwitness.org/en/campaigns/corruption-and-money-laundering/anonymous-company-owners/5aml-d-patchy-progress/>

²⁷ “New procedure for registration and publishing of beneficial owners of legal persons”, <https://www.financelatvia.eu/en/news/new-procedure-registration-publishing-beneficial-owners-legal-persons/>; <http://www.ur.gov.lv/?a=936&z=729&v=lv>

²⁸ <https://likumi.lv/ta/en/en/id/178987-on-the-prevention-of-money-laundering-and-terrorism-financing>

²⁹ <https://rm.coe.int/moneyval-2018-8-5th-round-mer-latvia/16808ce61b>, paras. 6-9.

³⁰ <https://www.oecd.org/corruption/anti-bribery/OECD-Latvia-Phase-3-Report-ENG.pdf>, p. 41; https://www.baltictimes.com/case_materials_in_oligarch_affair_show_that_state_capture_truly_exists_in_latvia/

³¹ <https://www.oecd.org/corruption/anti-bribery/OECD-Latvia-Phase-3-Report-ENG.pdf>, para. 113; https://www.baltictimes.com/case_materials_in_oligarch_affair_show_that_state_capture_truly_exists_in_latvia/

³² GAN Business Anti-Corruption Portal, “Latvia Corruption Report”, last updated July 2018, <https://www.ganintegrity.com/portal/country-profiles/latvia/>

³³ E.g. the ABLV case: ABLV, previously Latvia’s third biggest lender, self-liquidated after having been accused of money laundering by the US Treasury’s Financial Crimes Enforcement Network. Department of Treasury – Financial Crimes Enforcement Network, “Proposal of Special Measure against ABLV Bank, as a Financial Institution of Primary Money Laundering Concern”, 12 February 2018, https://www.fincen.gov/sites/default/files/federal_register_notices/2018-02-

to pursue claims against legal persons if the natural person who had committed the offence was in a foreign country and was not prosecuted.³⁴ Lax punishments for financial institutions caught up in money laundering schemes has also long been an issue in Latvia.³⁵

Latvian financial institutions and their personnel have never been held liable. For example, at the end of 2019, the Prosecution Office began prosecuting employees of the **Baltic International Bank**³⁶ and **Swedbank**³⁷ for money laundering, but not the institutions. This is in part due to the inadequacies of and limited coordination between the relevant domestic agencies (such as KNAB, the State Police, the Financial Intelligence Unit, the Financial and Capital Market Commission, the State Revenue Services and the Prosecutor's Office), especially in large-scale foreign bribery cases. Some efforts have been undertaken in 2020 to address this situation.

A consequence of the lack of coordination is that investigations against the same individual or for the same facts will be distributed to different agencies according to the offence envisioned.³⁸

This situation is made worse by the lack of resources and specialised training for enforcement authorities.³⁹ The absence of a court specialised in economic affairs also hinders enforcement.⁴⁰ The creation of such a court is supported by the current Latvian government and there are plans for it to become operational in January 2021.⁴¹

- Improve the definition of aggravated foreign bribery
- Ensure independence for investigators and prosecutors against political interference
- Reinforce inter-agency cooperation and implement a strategic approach to ensure that fact patterns are fully investigated, rather than focusing on specific offences
- Ensure that sanctions are dissuasive, in line with international standards, and that enforcement action may be taken against all relevant companies, including Latvian financial institutions
- Provide sufficient resources and expertise to authorities to effectively investigate and prosecute foreign bribery and related money laundering cases
- Increase efforts to ensure compliance of Latvian banks with international anti-money laundering rules and best practices
- Ensure the efficient operation of the Financial and Capital Markets Commission – the banking supervisory body – for the prevention and detection of foreign bribery and related money laundering
- Improve current whistleblowing protection by providing incentives to companies to conduct independent internal investigations when they receive reports of irregularities
- Step up enforcement actions against companies, especially against Latvian financial institutions and other corporate entities involved in foreign bribery schemes.

Recommendations

13/ABLV%20NPRM%2020180212%20%28Final%20for%20FR%20Submission%29.pdf;
<https://www.forbes.com/sites/francescoppola/2018/02/28/why-the-u-s-treasury-killed-a-latvian-bank/#64d4136b7adc>;
<https://www.occrp.org/en/laundromat/the-russian-laundromat-exposed/>

³⁴ <https://www.oecd.org/corruption/anti-bribery/OECD-Latvia-Phase-3-Report-ENG.pdf>, para. 41.

³⁵ <https://voices.transparency.org/european-banks-in-money-laundering-scandals-what-lessons-for-the-eu-d743f3d7ac9b>

³⁶ <https://www.oecd.org/corruption/anti-bribery/OECD-Latvia-Phase-3-Report-ENG.pdf>, footnote 51.

³⁷ <https://www.lsm.lv/raksts/zinas/ekonomika/prokuratura-par-noziedzigi-iegutu-lidzeklu-legalizesanu-apsudz-11-personas-to-starpa-bijusos-swedbank-darbiniekus.a359770/>

³⁸ <https://www.oecd.org/corruption/anti-bribery/OECD-Latvia-Phase-3-Report-ENG.pdf>, para. 19.

³⁹ This was highlighted by the Latvian State Audit Office with regard to the State Police: State Audit Office, "Pre-trial investigations are hampered by problems in investigators' qualification, work organisation and monitoring", 10 October 2017, <http://www.lrvk.gov.lv/en/state-audit-office-pre-trial-investigations-hampered-problems-investigators-qualification-work-organisation-monitoring/>

⁴⁰ https://www.baltictimes.com/pm_karins_promises_to_find_way_to_establish_economic_affairs_court/; This court is set to start working on 1 January 2021.

⁴¹ <https://bnn-news.com/latvian-government-supports-creation-of-courts-for-economic-affairs-207042>