



Latvijas Republikas
Valsts kontrole

The effectiveness of investigations and trials of the criminal offences in the economic and financial area

Skanstes ielā 50, Rīgā, LV-1013
Tālrunis: +371 67017500
Fakss: +37167017673
E-pasts: lrvk@lrvk.gov.lv
Mājas lapa: www.lrvk.gov.lv
FB, Twitter: @VKontrole

Ms Ilze Grīnhofa
Council Member of the State Audit Office,
Director of the Second Audit Department

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Issues assessed by the State Audit Office

Has one eliminated all obstacles in pre-trial criminal proceedings hindering prompt and high-quality investigation and prosecution of financial and economic criminal offenses?

Has one eliminated all obstacles during criminal proceedings being heard at court hindering prompt and high-quality prosecution of financial and economic criminal offenses been removed?

Is the regulation of the Criminal Law and the Criminal Procedure Law clear enough, cannot it be interpreted differently, does not it create obstacles to the enforcement, does it ensure the fastest and most efficient pre-trial criminal proceedings and prosecution?

Does the supervision of a prosecutor facilitate the efficient, expedient, and high-quality pre-trial investigation of criminal proceedings and prosecution for financial and economic offenses?

Does the place and role of the Prosecutor's Office in the system of state institutions provide the necessary preconditions for the effective performance of the functions of the Prosecutor's Office? Does the implementation of the management functions of the Prosecutor's Office ensure the effective performance of the functions of the Prosecutor's Office specified in the legal framework?

Are the preconditions created for the digitization of criminal proceedings, and is the management of the e-case project effective, understandable, and traceable?

The State Audit Office provides proposals for possible solutions to problems based on the opinions of law enforcers and legal scholars summarised and analysed in the audit.

***Sample of ‘active’ criminal proceedings:** 43 pre-trial criminal proceedings and 27 criminal proceedings prosecuted at court. The samples are designed to cover all investigative institutions included in the scope such as CPCB, SRS Tax and Customs Police, State Police ECCB, and Riga Regional Board Office 3, and their ongoing (former) criminal proceedings as well as to cover various district (city) courts and regional courts, and various structural units of the Prosecutor's Office.*

***Interviews** with stakeholders of sampled criminal proceedings for financial and economic offenses:*

- *Investigators in charge of proceedings, their direct superiors,*
- *Prosecutors supervising investigations, prosecuting, maintaining the charges at court in the sampled criminal proceedings, and their chief prosecutors,*
- *Judges who are adjudging the sampled criminal proceedings.*

Sample of ‘finished’ criminal proceedings.** Since 2017, there are 35 terminated cases in an investigative institution or the Prosecutor's Office (after the criminal proceedings have been transferred for initiation of criminal prosecution) on the grounds that no criminal offense has occurred, the offense does not constitute a criminal offense, is time-barred, criminal proceedings cannot be completed within a reasonable time, or the guilt of the accused in the criminal offense has not been proved in the pre-trial proceedings and it is impossible to gather additional evidence, an acquittal has entered into force or has been terminated in court due to the statute of limitations. **During the examination of the case files of the criminal proceedings included in the sample, the invited experts provided an opinion in response to the questions defined by the State Audit Office.

SAO: Achieving a fair settlement of criminal relations in case of economic and financial crimes in the fastest and most efficient way possible depends mainly on the efficiency of pre-trial criminal proceedings and the quality of public prosecution and maintenance of charges in court. The huge workload of investigators and prosecutors, which is often cited as the major reason for the lengthy criminal proceedings, is not the only factor. It is the result of other problems that have not been solved for a long time.

- **The State Audit Office submits proposals for solving the identified problems in several directions of action to the Crime Prevention Council.**
- **The Council's action plans should include specific measures and formats for cooperation by defining and distributing tasks to the institutions involved.**



ONE SHALL FIND SOLUTIONS TO THE
LONG-STANDING PROBLEMS RELATED TO
THE LACK OF COMMON UNDERSTANDING
OF ENFORCEMENT, UNCERTAINTY ABOUT
THE FACTS FOR EVIDENTIARY PURPOSES,
AND THE BODY OF EVIDENCE NECESSARY
TO PROVE ONE'S GUILT.

To safeguard the formation and implementation of uniform and consistent enforcement, one shall find mechanisms of action for (1):


- the **development of practical guidelines** for prosecutors and investigators **on typical demonstrable circumstances** and other related facts in certain categories of cases, what to look for when assessing the possibility and/or impossibility of using evidence in criminal proceedings, etc. *

** Starting from provisions of the Criminal Law identified during the audit such as Section 177, 179, 193, 193¹, 195, 195¹, 215, 218, 288², 288³, 288⁴, 317, 318, 319, and 325, where about there is no consensus and sufficient clarity resulting in problematic enforcement.*

To safeguard the formation and implementation of uniform and consistent enforcement, one shall find mechanisms of action for (2):

- **Facilitating common understanding and practice**
 - On the use of circumstantial evidence for proving, methods of obtaining and confirming them by taking into account the continuous development of methods used in crime;
 - On decision-making regarding the directions of an investigation and the reasonable limits that are sufficient to prosecute offenders at the initial stage of the investigation (understanding of the mandatory nature of criminal proceedings);
- **Organising regular events for exchange of experiences on issues of concern to specific target audiences of enforcers.**

ONE SHALL FIND A LONG-TERM SOLUTION
FOR REGULAR RESEARCH INTO THE
ENFORCEMENT;



ONE NEEDS TO START EVALUATING THE
POSSIBILITIES FOR THE IMPROVEMENT OF
THE LEGAL FRAMEWORK IN THE CASES
IDENTIFIED IN THE AUDIT, WHICH LAW
ENFORCERS, LEGAL SCIENTISTS, AND
FOREIGN EXPERTS HAVE RECOGNISED AS
KEY ISSUES TO BE ADDRESSED

- **Possibilities for further improvement of the Criminal Law regarding calling of public officials to criminal liability for criminal offenses in the service of state institutions**

□ *One must assess the possibilities for improving the provisions of the Criminal Law so that criminal liability for criminal offenses of public officials is applied not only in cases where illegal activity has caused direct property damage, but also in other cases where illegal activity of public official includes significant damage to 'public power or system of governance'.*

- **Possibilities for further improvement of the Criminal Law**

- *regarding when or under what conditions and how criminal proceedings can be instituted and terminated, as well as under what conditions and how criminal proceedings may be suspended*

- *regarding the organization of various matters relating to the conduct of proceedings*

(Procedure for examination of evidence in court, organization of various issues related to the course of legal proceedings outside court hearings, e.g., in writing)



ONE SHALL FIND SOLUTIONS FOR
REDUCING THE WORKLOAD OF THE
CRIMINAL JUSTICE SYSTEM AS A WHOLE
AND FOCUSING THE MOST QUALIFIED
RESOURCES ON THE INVESTIGATION OF
THE MOST COMPLICATED CRIMINAL
PROCEEDINGS THAT HAVE THE MOST
SIGNIFICANT IMPACT ON THE NATIONAL
INTERESTS

- **The State Audit Office considers that one must establish two types of cooperation between an investigator and a supervising prosecutor:**

(1) In complicated cases when close co-operation between an investigator and a supervising prosecutor is required from the beginning and throughout the pre-trial investigation, and

(2) when the investigation is standardised and does not require such close co-operation between an investigator and a supervising prosecutor but the *standard* of investigation of the relevant criminal proceedings should be strengthened by guidelines, instructions, or other documents for practical application among all investigators and prosecutors who receive such criminal proceedings for investigation or supervision.



ONE SHALL ACT TO ENABLE QUALIFIED
'TECHNICAL' AND ADVISORY SUPPORT FOR
OFFICIALS IN CHARGE OF PROCEEDINGS
AT VARIOUS STAGES OF CRIMINAL
PROCEEDINGS

● One shall find solutions for

- ❑ Attraction of qualified specialists with knowledge in the field of finance and economics for data analysis to be performed in criminal proceedings;
- ❑ Regulating the procedures regarding the cooperation between an official in charge of investigation (investigators and prosecutors) and specialists (analysts), and for the use of the expert (analyst) opinion provided as a result of the analysis in evidencing;
- ❑ Strengthening the capacity of law enforcement institutions by developing and specialising staff to provide support to investigators in the simplest cases and for the introduction of technical support tools and common methodologies for analysis in investigative institutions;
- ❑ Providing high-quality advisory support to investigators and prosecutors on specific issues in accounting, finance, economics, etc. when it is necessary to clarify essential circumstances in criminal proceedings;
- ❑ Mutual exchange of experience among institutions on how to conduct financial investigations more effectively through various data analysis methods, international cooperation mechanisms, etc.

- ❖ **For achieving the goal of digitising criminal proceedings and making investigations and prosecutions more efficient, one must introduce an action mechanism for the governance of a single eCase program.**



OPERATION OF THE PROSECUTOR'S OFFICE

The Prosecutor's Office is a “key” institution in pre-trial criminal proceedings and in the maintenance of state charges, which has a central and leading role in the enforcement of criminal justice and criminal procedure law.



The State Audit Office searched answers to the following questions during the audit:

- 1) Does the regulation of the activities of the Prosecutor's Office contain all the necessary preconditions provided by the internationally recognized practice and recommendations regarding the prosecution service so that the Prosecutor's Office can function effectively in Latvia;**
- 2) Is the Prosecutor's Office as an institution managed in the manner for its functions be performed effectively and efficiently?**

SAO: The conclusions obtained in the audit show that there are no obstacles in the laws and regulations to the effective operation of the Prosecutor's Office. However, one requires significant changes in the understanding of the independence of the Prosecutor's Office and a modern approach to the implementation of management functions. It would increase both the capacity of the Prosecutor's Office to perform its core functions and promote the efficient use of the resources at its disposal.

- **In total, the State Audit Office has provided 20 recommendations to the Prosecutor's Office to improve its efficiency, as well as addressed the Saeima of the Republic of Latvia, the Cabinet of Ministers and the Crime Prevention Council regarding the possibilities to improve the regulation of the operation of the Prosecutor's Office.**

The State Audit Office proposes to improve the regulation of the activities of the Prosecutor's Office with regard to

- *Accountability of the Prosecutor's Office by specifying the scope of the report to be submitted to the Saeima by the Prosecutor General and possibly providing for accountability to other institutions in addition to the Parliament;*
- *Cooperation of the Prosecutor's Office with the executive authorities in order to strengthen the participation of the Prosecutor's Office in achieving the set goals of the criminal justice system;*
- *Supplementing the scope of the powers of the Prosecutor General by determining the standards and guidelines applicable to the activities of the Prosecutor's Office;*
- *Providing for the application of the principle of good governance and operational efficiency in the activities of the Prosecutor's Office;*
- *Envisaging the responsibility of the Prosecutor General for the establishment, supervision, and improvement of the internal control system, and the compliance of the activities of the Prosecutor's Office with the principles of good governance, economy, and efficiency.*



THANK YOU FOR YOUR
ATTENTION!