



The use of funding allocated to the Ministry of Justice for bonuses for the Prison Administration staff who have been directly involved in curbing the spread of COVID-19

Interim report



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The use of funding allocated to the Ministry of Justice for bonuses for the Prison Administration staff who have been directly involved in curbing the spread of COVID-19

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Inspections carried out and an interim report drafted following Sub-paragraph c), Paragraph 3, Section 3 of the State Audit Office Law and within the framework of the financial audit “On the accuracy of the 2020 annual report of the Ministry of Justice” (Audit schedule No 2.4.1-11/2020 of the Second Audit Department of the State Audit Office of 7 May 2020).

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Why have we drafted this interim report?

Since International Standard on Auditing (ISA) 701, Communicating key audit matters in the independent auditor's report¹, has taken effect, the State Audit Office is required to assess the need to include key audit matters in the audit opinion on the financial statements.

For the purposes of those standards, key audit matters are matters that, in the auditor's professional judgment, are significant in the context of the audit of the financial statements of the reported period that one reports to the management of an audited entity and that have been the focus of the auditor's attention. There is no separate opinion on the key audit matters issued.

The information provided on key audit matters serves as additional information for potential users of the financial statements. It helps apprehend both matters that the auditor has identified as significant in the professional judgment and the audited entity and the areas where the audited entity's management has made significant judgments while drafting the audited financial statements. This information may also serve as a basis for potential users to communicate further with the management of the audited entity about specific aspects of governance, audited financial statements, or audits performed.

The solidity and actual spending of the requests for additional funds allocated to address the consequences of COVID-19 are the key audit matter, which is crucial in all financial audits on the accuracy of drafting the annual consolidated financial statements for 2020 ministries and central governmental agencies.

In 2020, COVID-19 pandemic affected Latvia like the rest of the world. The Cabinet of Ministers adopted a decision to declare the emergency on 12 March 2020, and the state of emergency continued until 9 June 2020². The extraordinary circumstances caused by COVID-19 affected the daily lives of the government, the public, and everyone both during and after the emergency. The new conditions required the ability to react and adapt quickly and caused deviating from the usual order. Under the new conditions, the institutions should have been able to coordinate their activities more intensely and cooperate with each other by avoiding legal formalism and the departmentalism to ensure the functioning of the state and the protection of each individual in emergency conditions³.

Overcoming the COVID-19 pandemic and dealing with its consequences have required significant funds from the state budget. Since the declaration of the state of emergency, the Cabinet of Ministers has made decisions in connection with overcoming the crisis caused by COVID-19 and eliminating its consequences on the allocation and reallocation of state budget funds for the implementation of basic functions for 1,061,912,416 EUR in total by 30 September 2020 and has examined proposals for reallocation of funds for the performance of projects and measures co-financed by European Union policy instruments and other foreign financial assistance for 496,000,000 euros⁴. The State Audit Office pays special attention to assessing the spending of state budget funds allocated for overcoming the COVID-19 pandemic, preventing, and mitigating its consequences.

The Cabinet of Ministers has allocated additional funds of 781,600 euros to the Ministry of Justice between 12 March 2020 and 30 September 2020 to overcome, mitigate, and prevent the crisis caused by COVID-19 including the funding of 518,730 euros for bonuses to employees of the Prison Administration subordinate to the Ministry of Justice for work in a high-risk and hyperdynamic environment of public health threat related to the prevention of COVID-19 outbreaks and consequences, funding of 236,400 euros for clergy and ministry with the restrictions imposed on religious practice in connection with the spread of COVID-19, and funding of 24,955 euros to the Ministry of Justice for transfer to the Latvian Council of Sworn Notaries to cover the purchase of the server.

To provide information on the key audit matter raised in the financial audit “On the accuracy of the 2020 annual report of the Ministry of Justice”, that is, the solidity of the requests for additional funds allocated to address the consequences of COVID-19 and actual spending thereof, the State Audit Office performed an audit and drafted this interim report “The use of funding allocated to the Ministry of Justice for bonuses for the Prison Administration staff, who have been directly involved in curbing the spread of COVID-19” on the funding spent of 518,730 euros.

There are separate interim reports have been prepared on the funding allocated to the Ministry of Justice for transfer to the Latvian Council of Sworn Notaries for the purchase of a server and payment of crisis benefits to the clergy and ministry staff of religious unions (churches) and its actual use⁵.

Summary

Of the additional financial resources available in the contingency budget program of 518,730 euros, there are 80,038 euros⁶ or 15 per cent spent in total for the bonuses for 744 employees of the Prison Administration. They have been directly involved in mitigating the consequences of COVID-19 for their work in a high-risk and hyperdynamic environment of public health threat related to the COVID-19 outbreak and its implications in April and May 2020. For the employees of the Prison Administration, the minimum amount of the specified bonus for the performance of the above-mentioned duties has been 1.10 euros, but the highest - up to 406 euros per month. The average amount of the bonus per official did not exceed 55 euros per month.

The Prison Administration has granted bonuses to the employees of the institution using the criteria set by the Cabinet of Ministers⁷, which were binding on the duties performed by the employees of the Prison Administration in the understanding of the officials thereof relating to the work in a high-risk and hyperdynamic environment.

- ❖ The employees have been in direct and verifiable contact with patients at risk of COVID-19, who have not a confirmed disease but must observe quarantine or self-isolation (criterion 2);
- ❖ Employees have performed work in conditions of increased intensity and threat by ensuring special and significant contribution to the implementation of the measures specified in the

Cabinet Order on the declaration of a state of emergency⁸, which are related to proactive action to limit the COVID-19 pandemic and mitigate its consequences (criterion 3).

The Ministry of Justice has explained⁹ to the State Audit Office that the activities of the Prison Administration for what its employees have received bonuses had to be performed and were performed in addition to the daily planned measures due to the emergency caused by COVID-19; they were considered proactive, and the Cabinet of Ministers was informed¹⁰ of the reasons why all prison staff should take proactive action to prevent COVID-19 from entering and spreading in prison by correlating them with prisoners' rights given the risk of rapid COVID-19 spreading due to the high population density in prisons. However, the audit found that the Ministry of Justice had not explained to the Office what action would be considered as a specific and significant contribution to proactive effort to contain and mitigate the COVID-19 pandemic, nor had the Prison Administration set different criteria or explained sufficiently what proactive action was. Thus, the management of the prisons had acted according to their understanding and other principles in granting this type of bonus. For example, in four prisons out of nine prisons, such bonus was not granted at all. In five prisons, it was allocated for various measures/ duties that each prison management had considered to be proactive, such as:

- ❖ Intensified disinfection of premises, surfaces, and equipment following the guidelines developed by the Prison Administration¹¹ regarding compliance with the hygienic and anti-epidemic regime;
- ❖ Carrying out explanatory work with staff and prisoners;
- ❖ Ensuring the availability of face masks and disinfectants;
- ❖ Adaptation of the prison and the service to the epidemiological requirements taking into account the specifics of the service;
- ❖ Cooperation with the National Health Service, the Centre for Disease Prevention and Control, and specialists of the Health Inspectorate.

In the opinion of the State Audit Office, compliance with the guidelines¹² developed by the Prison Administration on compliance with the hygienic and anti-epidemic regime, explanatory work, or adaptation of the prison to epidemiological requirements is related to the performance of official duties to limit the spread of the COVID-19 pandemic under the guidelines drafted by the Prison Administration. The general duties of administrative officials with special service ranks are to perform official duties and decrees (orders) of higher officials dutifully in good faith¹³. At the same time, the State Audit Office has no grounds to question the opinion of the Ministry of Justice as a competent state administration institution regarding the development, coordination, and organization of the penitentiary policy that the said activities are to be considered as proactive action. Simultaneously, one cannot state that those bonuses were granted to all employees in a uniform and fair manner, as four out of nine prisons did not grant such bonuses at all, although it was most likely that employees met their obligations to limit the spread of the COVID-19 pandemic in all prisons.

The audit findings show that the procedure for granting bonuses was not well-organized in the Prison Administration, as most employees received those bonuses only in September and some even in October, that is, four months after the issuance of the Cabinet Order¹⁴ on the allocation of funds. For example, the Prison Administration reviewed the information from prisons on the recipients of

bonuses with several clarifications for two and a half months, while orders for bonuses took one and a half months. From May to September, 19 employees had already terminated their employment with the Administration. Consequently, the calculation of the average earnings used to calculate remuneration on the day of dismissal of a particular employee, such as severance pay, compensated annual leave, leave and sick leave, was incorrect as it did not include the bonus granted in April and/or May. The Prison Administration calculated those bonuses for those employees already after the dismissal of the employee and recalculated the remuneration and the difference that had arisen after the recalculation, and paid it in September and October. As a result, the Prison Administration spent additional administrative resources.

References

- ¹ The International Organisation of Supreme Audit Institutions (INTOSAI) also uses International Standards on Auditing for the financial audits; hence, the latter are binding on the State Audit Office, which conducts audits in accordance with international standards on public sector auditing.
- ² Cabinet Order No 103 “On Declaring a State of Emergency” of 12 March 2020.
- ³ Communication of the President of Latvia No 8 “Basic Principles of Activities of State Constitutional Bodies in an Emergency Situation” of 23 March 2020.
- ⁴ Informative report of the Ministry of Finance on reallocation of the financing from the EU Structural Funds and the Cohesion Fund and solutions for mitigating the consequences of COVID-19, reviewed by the Cabinet Meeting on 19 May 2020.
- ⁵ Interim audit report of the State Audit Office “Use of funding allocated to the Ministry of Justice for transfer to the Latvian Council of Sworn Notaries” of 26 August 2020 and “Use of funding allocated to the Ministry of Justice for crisis benefit to clerical and ministerial staff” of 11 September 2020.
- ⁶ Order No 407 of the Ministry of Finance “On Allocation of Funds” of 21 October 2020.
- ⁷ Par. 13 of Minutes No 23 of the Online Extraordinary Meeting of the Cabinet of Ministers of 9 April 2020, available at <https://likumi.lv/ta/id/314086-ministru-kabineta-arkartas-sedes-attalinata-veida-protokols>.
- ⁸ Cabinet Order No 103 “On Declaring a State of Emergency” of 12 March 2020.
- ⁹ Letter No 1-17/3497 of the Ministry of Justice on provision of information in the audit by the State Audit Office on the accuracy of the annual report of the Ministry of Justice for 2020 of 27 October 2020.
- ¹⁰ Preliminary Impact Assessment Report (annotation) of the draft Cabinet Order on allocation of financial funds from the state budget program “Contingency Funds” (TA-864, reviewed by the Cabinet of Ministers on 12 May 2020). Available at <http://tap.mk.gov.lv/lv/mk/tap/?pid=40487314>.
- ¹¹ Guidelines for compliance with the hygienic and anti-epidemic regime in prisons to prevent the spread of COVID-19 infection, approved on 25 March 2020.
- ¹² Guidelines for compliance with the hygienic and anti-epidemic regime in prisons to prevent the spread of COVID-19 infection, approved on 25 March 2020.
- ¹³ Section 6.2 and 6.3 of the Law on the Career of Officials with Special Ranks of the Institutions of the Ministry of the Interior and the Prison Administration.
- ¹⁴ Cabinet Order No 261 “On allocation of financial funds from the state budget program “Contingency Funds” of 14 May 2020.