



# Investigative authorities in Latvia: a question of competences and resources rather than a number

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Riga 2022

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Latvijas Republikas  
Valsts kontrole

## Audit report

21.10.2022

“Investigative authorities in Latvia: a question of competences and resources rather than a number”.

Performance audit “Are there opportunities to reduce the number of investigative authorities and redistribute competencies among them?”

The audit was performed based on audit schedule No 2.4.1-5/2021 of the Third Audit Department of the State Audit Office of 15 March 2021.

The audit report was approved by decision No 2.4.1–5/2021 of the Third Audit Department of the State Audit Office of 21 October 2022.

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Dear Reader,



In Latvia, the function of investigating criminal offences is assigned to 11 investigative authorities: the State Police, the Internal Security Bureau, the State Border Guard, the Prisons Administration, the Tax and

Customs Police Administration of the State Revenue Service and the Internal Security Administration, the Corruption Prevention and Combating Bureau, the State Security Service and the Military Police, as well as for such special entities as captains of sea vessels on long-distance voyages and commanders of units of the Latvian National Armed Forces on the territory of a foreign country.

Taking into account the apparently fragmented structure of investigative authorities, the audit has assessed whether changes in the institutional system of investigative authorities are possible and necessary so that investigations of criminal offences can be carried out more efficiently.

The audit included a study, which allows to dispel the myth that the decentralized model of investigative authorities is the primary cause of problems in the field of investigation. However, when judging from various legal and practical aspects, it was concluded that changing the institutional system of investigative institutions in Latvia was possible so that the investigation of criminal offences could be carried out more efficiently, and that there were also such changes that were both desirable and required. In other words, the audit confirms what the responsible institutions have known for years - due to the potential or very possible conflict of interest, it is unacceptable that "colleagues investigate criminal offences committed by colleagues".

Although all investigative authorities perform the same investigative function, they belong to different sectors institutionally, as a result of which the regulations for their governance differ unreasonably. In this context, the unequal

remuneration system, which inevitably creates situations where investigative authorities compete with each other to attract qualified staff, should be highlighted.

At the same time, the assessment and conclusions must be interpreted in accordance with the scope and limitations of the audit. For example, the audit scope does not include the State Security Service and the Military Police, as well as captains of sea vessels on long-distance voyages and commanders of units of the Latvian National Armed Forces on the territory of a foreign country, who are entitled to conduct investigations in specific cases, including pursuant to international practice or the requirements of international institutions. One should emphasise that the auditors' assessment is made in performance audits taking into account the criteria developed by the auditors, according to which it is possible to carry out checks with audit methods, but which are not comprehensive. For instance, the audit did not assess technical resources required for operational activity and the effectiveness of their use in the decentralized model of investigative authorities.

Therefore, the State Audit Office expects that the conclusions reached in the audit will be useful and will be taken into account when making decisions on the further development of the institutional framework of investigative authorities, however, they may not be the only ones and may be used in conjunction with other considerations that the responsible authorities may consider relevant.

We thank the Ministry of the Interior, the Ministry of Justice and the Ministry of Finance for their cooperation, as well as the investigative authorities that provided the auditors with the necessary information. Special thanks to the professionals in the field - the General Prosecutor's Office and Mr Aldis Lieljuksis personally - for the support and exchange of ideas.

Respectfully  
Ms Maija Āboliņa  
Department Director

A handwritten signature in blue ink, appearing to read 'Maija Abolina'.

## Summary

### Main conclusions

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**It follows from the audit findings that the decentralized model of investigative authorities, as established in Latvia, is not inefficient in itself. However, judging from various legal and practical aspects, the auditors conclude that it is possible to make changes in the institutional system of investigative authorities in Latvia so that the investigation of criminal offences can be carried out more effectively and that there are also such changes that are not only desirable but necessary. Although all investigative authorities perform the same investigative function, they belong to different sectors institutionally, as a result of which their governance rules differ unreasonably, including creating situations where investigative authorities compete with each other for attracting qualified human resources.**

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#### **I. Institutional jurisdiction in a decentralized model of investigative authorities**

The decentralized model of investigative authorities was formed historically in Latvia by restoring the investigative authorities that had operated before the occupation of Latvia. Latvia's situation is not unique, as investigations are also carried out by various institutions in most other EU Member States, including police, border guards, customs institutions, prison supervision institutions, and institutions responsible for combating and preventing corruption, as well as such institutions that are not assigned investigative function in Latvia.

Over time, changes have been made to the list of investigative authorities by creating new or reorganizing existing investigative authorities, for example, the ISB started operating in 2015, and the SRS TCP and the SRS ISA were launched in 2018.

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When analysing the amendments to laws and regulations and their justification, one has concluded that the establishment of new investigative authorities is of an occasional nature so far related to solving specific problems in a specific investigative authority and that a comprehensive approach is not implemented while solving the same problems uniformly throughout the institutional system of investigative authorities.

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The Internal Security Bureau was established to prevent violations in the Prisons Administration that were pointed out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in its reports, as well as violations of the European Convention for the Protection of Human Rights and Fundamental Freedoms committed by the State Police and Municipal Police. In their turn, the SRS TCP and SRS ISA were created, among other things, to prevent threats to the reputation of SRS immediately, as well as possible dishonest actions of SRS officials, after publicly released information. Although similar problems were identified in other investigative authorities, they were not resolved.

The auditors consider that decisions on the establishment of a new investigative authority or the reorganization of an existing investigative authority should always be made based on a systemic assessment, including with the aim of optimising resources and improving the investigation of criminal offences.

The Criminal Proceedings Law of Latvia determines institutional jurisdiction in the division of investigative authorities. The most comprehensive capacity is vested in the State Police, which investigates any criminal offence that is not under the jurisdiction of another investigative authority. Thus, other investigative authorities have specialized capacity.

The audit findings allow us to state that the limits of institutional jurisdiction are separated in the Criminal Proceedings Law in general while providing a mechanism for solving individual situations of institutional jurisdiction at the same time, for which the Prosecutor General is responsible. However, the Criminal Proceedings Law allows for overlapping institutional jurisdictions with respect to “internal” investigation of corruption offences committed by officials of their institutions.

*“Internal” criminal investigation is an unavoidable conflict of interest*

Five investigative authorities, namely, ISB, SBG, PA, SRS ISA and CPCB, are entitled to investigate criminal offences committed by officials of their authorities.

The ECHR has stated that, for an investigation to be considered impartial, an investigator must be independent from the persons whose criminal offences are being investigated. Lack of independence includes both hierarchical or institutional ties and practical independence. If an investigation is carried out by direct colleagues or representatives of the same authority and there are informal ties between them that are not identified during the investigation, this may be a reason to question the impartiality of investigation. The European Code of Police Ethics also mentions that there is a conflict of interest when “police investigates police”.

The findings of the ECHR were the basis for the reorganization of Latvia’s largest investigative authority, State Police, which has not investigated criminal offences committed by its officials from 2015. After reorganization, such crimes are investigated by a separate investigative authority, the Internal Security Bureau.

According to the Criminal Proceedings Law of Latvia, in the event of potential conflict of interest, an investigator must recuse himself or herself from conducting criminal proceedings, while other participants in the criminal proceedings have the right to request rejection. Thus, the conflict of interest prevention mechanism currently depends on an investigator or a party to the criminal process. However, the audit obtained evidence of only five such cases out of approximately 126,000 criminal proceedings initiated between 1 January 2018 and 31 August 2021. In addition, none of these cases has been detected by the investigative authorities, which are entitled to investigate “internal” criminal offences.

The auditors consider that informal personal or collegial ties, which an investigator does not want to reveal himself or herself, are difficult and, most likely, impossible to detect. Therefore, the conflict of interest in investigative authorities will exist as long as investigators investigate criminal offences committed by their colleagues.

The data show that from the total number of criminal proceedings initiated between 1 January 2018 and 31 December 2020, in which investigations of crimes committed by officials of their institutions are carried out, the majority or 62% is carried out by the ISB. The remaining 38% is carried out by the SBG, PA, and SRS ISA. One should note that the ISB and CPCB did not initiate any criminal proceedings related to criminal offences committed by their officials during the audited period.

To avoid potential conflicts of interest or even suspicions of them and to promote public trust in investigative authorities, “internal” investigations of criminal offences are not allowed in any of the investigative authorities, therefore the institutional jurisdiction of such criminal offences must be reassessed.

The Ministry of Justice and the Prisons Administration have agreed that the institutional jurisdiction of the PA could be reviewed by considering the possibility of transferring the investigation of criminal offences committed by PA officials at a place of imprisonment to another investigative authority.

The question of “internal” investigation of criminal offences in the State Border Guard and the SRS ISA is still relevant. These problems were already known and their solution had been started, but decisions that would have prevented future investigations of “internal” crimes were not taken.

#### *Investigating corruption offences - overlapping institutional jurisdictions*

Not only crimes in the service of state institutions (i.e., corruption in public sector), but also crimes in the national economy (i.e., corruption in private sector) are considered to be corruption crimes.

Every year, 190 criminal proceedings are initiated on average, in which corruption criminal offences are investigated. In most cases, they investigate serious and particularly serious crimes related to bribery.

Corruption crimes are investigated not only by the CPCB, but also by five other investigative authorities, that is, State Police, ISB, SBG, PA, and SRS ISA. In addition, all of them, except for the State Police, are also entitled to investigate corruption offences committed by their colleagues, resulting in the potential conflict of interest inherent in “internal” investigation of criminal offences.

When establishing the CPCB, one expected that it would have capacity for investigating all corruption crimes, both those committed in public sector and those committed in private sector.



Moreover, it was planned to develop the regional coverage of the CPCB. However, the originally intended model of the CPCB as a specialised and comprehensive investigative authority for corruption offences was not implemented in practice. The data analysis carried out during the audit confirms that the CPCB has initiated only 16% of all criminal proceedings of this type during the audited period.

The auditors estimated that if the CPCB investigated all corruption criminal offences, there would be an additional 160 criminal proceedings on average every year where 97% of criminal proceedings would refer to corruption criminal offences committed in public sector and 3% of criminal proceedings in private sector. Thus, a number of criminal proceedings initiated by the CPCB would increase five times a year. At the same time, one must indicate that most of these criminal proceedings are unlikely to be extensive and legally complicated, which means that investigations can be carried out more quickly and with less consumption of resources.

Based on the information and data analysis obtained during the audit, the auditors doubt that the CPCB has the ability to investigate all the corruption criminal offences in the records of investigative authorities currently. However, in the opinion of the auditors, reducing the number of investigative authorities that are currently responsible for the investigation of such crimes is possible. It is essential that solving the issue of preventing the potential conflict of interest in the investigation of “internal” criminal offences would reduce the risks associated with the decentralised institutional jurisdiction of corruption criminal offences at the same time.

The auditors point out that the CPCB has been tasked several times to address the issue of expanding its institutional jurisdiction by centralizing the investigation of corruption criminal offences since 2015, but no result has been achieved so far.

#### *Evaluation of the effectiveness of the investigation is unclear*

From the Law on the State Administration System comes the obligation to organise state administration, including the activities of each institution, as efficiently as possible, as well as to check constantly and streamline the institutional system if necessary.

The audit has established that the results and performance indicators in the field of criminal investigation are defined in the planning documents of all investigative authorities, except for the PA, and they are regularly evaluated.

However, the results presented mostly do not show the efficiency of investigation process but describe the results of investigative authority’s performance in general. In addition, different results are determined and evaluated in each investigative authority, which does not allow the identification of trends, problems, and possible improvements in the field of investigation as a whole.

For example, the result that characterises the activity of an investigative authority is a number of detected criminal offences. The resulting indicator is expressed in absolute numbers, for a three-year period, with a constant trend.

In its turn, the audit has also identified examples of good practice in individual investigative authorities regarding results and performance indicators, which characterize the increase in investigative efficiency and which could possibly be applied to the evaluation of investigative efficiency in other investigative authorities as well. For instance, results showing the use of expedited process and settlement, suspension of criminal proceedings, the progress of criminal proceedings in which serious or particularly serious crimes or interconnected criminal offences qualified under several articles of the Criminal Law, or otherwise considered legally complicated, are being investigated, as well as results related to the time spent on the investigation.

The auditors consider that a unified system for assessing the effectiveness of investigative work of investigative authorities should be developed. It would provide an opportunity to assess the results achieved and improvements made by investigative authorities comprehensively and to identify common issues that must be addressed.

## II. Human resources: workload, professional qualifications and remuneration of investigators

According to the Criminal Proceedings Law, at the investigation stage, the initiators of the process are investigators, who have the same procedural rights and obligations regardless of the investigative authority.

However, the classification of investigator positions is based on various laws and regulations:

- ❖ The positions of investigators at the SRS TCP, SRS ISA, and CPCB are classified according to the Position Catalogue of State and Municipal Institutions;
- ❖ The positions of investigators at the investigative authorities of the Ministry of the Interior that is, the State Police, ISB, and SBG, and the PA are classified according to a special catalogue of positions that applies directly to these investigative authorities.

Although the names of positions of investigators in investigative authorities are different, all positions of investigators belong to the “Investigation” subfamily of positions and can be divided into three levels according to the complexity and responsibility of the work:

- ❖ Top-level investigators who conduct investigations in particularly complicated and large-scale interregional or international crime cases - chief and senior inspectors (or investigators) of SP Criminal Police Headquarter, ISB, SRS TCP, SRS ISA and CPCB;
- ❖ Mid-level investigators who conduct investigations in particularly complicated and large-scale cases at the level of an authority (administration) - chief and senior inspectors (or investigators) of the SP Riga Region Police, SBG and PA;
- ❖ Lower-level investigators who conduct investigations in other cases - inspectors (or investigators).

In addition to each of these levels, positions are further broken down into job levels.

All investigators have one main basic function, that is, to organise and carry out investigations of criminal offences; therefore, the positions of investigators in all investigative authorities



(taking into account the levels of positions) are mutually comparable. In addition, the Constitutional Court of Latvia already recognized in 2013 that the investigators of the investigative authorities of the Ministry of the Interior and the CPCB, as well as prosecutors, were in comparable conditions. Therefore, the positions of top-level investigators (taking into account the levels of positions) are comparable to the position of a district (city) prosecutor.

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*Workload of investigators: criteria are not defined and cannot be measured*

In the seven investigative authorities included in the audit scope as of 1 January 2022, a total of 1,260 investigator positions have been approved, but 926 positions have actually been filled, i.e., 73%.

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In the audit, no unambiguous evidence was obtained, which would confirm that the number of investigator positions in investigative authorities was determined on a reasonable basis. Consequently, it is also impossible to claim that the determined number of positions is optimally necessary for the effective and high-quality performance of the investigative function in each investigative authority. Yet, although the amount of work that can be done by one investigator has not been evaluated and determined in any investigative authority, the information obtained in the audit shows that, most likely, the workload varies among investigators in investigative authorities.

It follows from the explanations of the investigative authorities that the workload of the investigators is often increased. The auditors assume that this is also related to the high number of vacancies.

Regarding the workload of investigators of investigative authorities included in the audit sample and whether it is similar, the auditors refrain from giving an opinion because it is also impossible to make a comparison and draw reasonable conclusions since the investigative authorities do not use uniform criteria for measuring investigators' work.

The auditors understand that the criminal proceedings carried out in each investigative authority are different in terms of both volume and complexity, but they also consider that determining an optimal workload is also possible. For example, the State Police has already started activities to introduce investigation work accounting with the aim of also determining the workload of investigator.

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Investigative authorities must ensure uniform accounting, evaluation, and control of investigative work. This would give an opportunity both for mutual comparison according to uniform criteria and for measuring the results of investigator's work and identifying problematic issues related to workload, including overload.

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*Professional qualifications of investigators: formal and unequal initial requirements and insufficiently focused further development*

Investigation requires specific legal knowledge inevitably for the application of the Criminal Law, Criminal Proceedings Law, and other laws and regulations; therefore, the professional qualification requirements set for investigators are essential when starting this job.

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Laws and regulations stipulate different professional qualification requirements (education, professional experience, knowledge, and skills) for investigators of different investigative authorities unjustifiably, and they are not defined at all in some cases. Likewise, the professional qualification requirements set for top-level investigators are lower than the requirements set for district (city) prosecutors.

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Legal education is mandatory only for the PA's investigators, and in addition, higher requirements are set for the PA than investigators of the SRS TCP, SRS ISA and CPCB, who conduct investigations in particularly complicated and large-scale interregional or international crime cases. In other investigative authorities, areas and fields in which the acquired education gives the opportunity to start the work of an investigator are either broadly defined or not defined at all.

At the same time, the actual situation cannot be assessed as critical, because:

- ❖ Out of the investigators included in the audit sample, 98% of top-level investigators have a second-level higher education, and 76% of them have a law degree (in addition, the proportion of CPCB investigators with a higher education in law is 89%, and 88% in the SRS ISA);
  - ❖ Out of the SP investigators included in the audit sample, 77% of the investigators have a second-level higher education, and 72% of them have a law degree.
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However, the auditors find that it is important that the majority of investigators who have a degree in law, have obtained it in study curricula not related to the standard of investigator profession, which means that they do not acquire the specific knowledge and skills necessary for investigation.

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Continuous improvement of professional qualifications in the field of investigation also plays a crucial role in ensuring a high quality and effective investigation.

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Currently, one cannot describe raising the professional qualifications of investigators as a systematic and targeted set of measures based on the assessment of knowledge and skills necessary for a specific investigator, which would be the foundation for determining personalized training needs.

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To solve problems in the education system of investigators, the Cabinet of Ministers has supported the formation of the Consortium and the Investigator Training Centre of State Police College on 10 February 2022. The goal is to provide uniform educational and professional qualification improvement opportunities for investigators of all investigative authorities. The

Consortium is in the stage of establishment, and the first admission of students is planned for 2023.

In addition, the auditors have information that a project of the Professional Standard of Investigator (in the field of criminal law) has been drafted, which provides for the professional qualification requirements of investigator and which should be applicable to investigators of all investigative authorities.

The auditors consider that the standard of investigator profession is an essential prerequisite for successful implementation of educating and training of investigators according to uniform principles. The auditors also appreciate the commenced initiatives for the professional training and development of investigators. However, due to an early stage of the implementation of these projects, the auditors refrain from providing an assessment currently of whether their goals will be achieved and whether the long-standing problems of investigator education will be fully resolved.

#### *Remuneration of investigators is unequal*

The Remuneration Law determines general principles of the investigators' remuneration system. In its turn, special laws and regulations also apply to the officials of investigative authorities of the Ministry of the Interior and the Prisons Administration with special service ranks. Remuneration of investigators consists of salary, as well as social guarantees and annual leaves. Salary consists of monthly salary and variable part (premiums, bonuses, and cash prizes).

The auditors have concluded that the established remuneration system is unequal and creates conditions for mutual competition among investigative authorities in attracting qualified staff. The auditors consider that the main reason for the unequal remuneration system is that the positions of investigators are classified and different laws and regulations determine the remuneration, hence the levels of positions of investigators, groups and amounts of monthly salaries applicable to them, as well as components of the variable part, differ.

The most significant differences in remuneration are detected among top-level investigators of investigative authorities such as chief and senior inspectors (or investigators), who conduct investigations in particularly complicated and large-scale interregional or international crime cases.

As of 1 January 2022, the highest monthly salary was determined for top-level investigators at the ISB because it was 2,724 euros and 2,532 euros for chief and senior inspector respectively while the lowest monthly salary was determined at the SRS TCP, that is, 1,706 and 1,511 euros respectively. Thus, the monthly salaries differ by almost 40%. Moreover, monthly salary of top-level inspectors of the SRS TCP is the same or lower (even 34% lower) than for lower-level inspectors of other investigative authorities that conduct investigations in standard cases. Monthly salary of top-level chief and senior inspectors of other investigative authorities is 13%

to 33% lower than that of the ISB investigators. Similar trends were found regarding the annual total remuneration.

In no investigation authority as of 1 January 2022, actual monthly salary did not reach a monthly salary of district (city) prosecutor. The ISB is closer to the set goal, where monthly salary of a chief inspector is 90% of the monthly salary of district (city) prosecutor. The monthly salary of chief inspectors of the other investigative authorities such as SP CPH, SRS TCP, SRS ISA, and CPCB is significantly behind and ranges from 57% to 78% of the monthly salary of district (city) prosecutor.

One can conclude that the situation regarding the monthly salary of a middle-level investigator who conducts an investigation at an institution (administration) level, i.e., SBG, SP RP and PA investigator, is improving, and there is a trend that the previously different monthly salaries are evening out as of 1 January 2022. When comparing, the differences in actual monthly salaries of chief and senior inspector are within 2% to 11%, respectively for chief inspector from 1,635 to 1,845 euros and for senior inspector from 1,390 to 1,497 euros. However, when comparing total annual remuneration, significant differences can still be found while total remuneration of senior inspectors differs by only 3% in 2021, then that of chief inspectors differs up to 29%. In its turn, actual monthly salary of lower-level SP investigators (whose share is 57% in the SP) is 1,140 and 1,231 euros as of 1 January 2021 and 1 January 2022 respectively, which is one of the most important limitations for attracting and retaining highly qualified human resources according to the auditors.

Following laws and regulations, maximum possible monthly salary of SRS TCP, SRS ISA, and CPCB investigators can change when adapting to economic development trends, and monthly salaries can be increased or “indexed” as long as funding is available and the remuneration fund allows it. In its turn, the amount of maximum possible monthly salary of the investigators of the investigative authorities of the Ministry of the Interior, that is, the SP, ISB, SBG, and PA can be changed only with amendments to the relevant laws and regulations.

The regulatory framework provides that investigators of all investigative authorities, except SRS TCP and SRS ISA, receive equivalent general and special allowances, bonuses, cash prizes and social guarantees. Nevertheless, significant differences can be found among investigative authorities. Investigative authorities use tools of the variable part more often where a less monthly salary is set. In addition, the variable part will always depend on the funding available to the specific investigative authority and the allocation and disbursement procedures set out in internal regulations.

For example, in 2020 and 2021, the proportion of variable part of remuneration of chief inspector of the ISB was the smallest - 17% and 18%, respectively, whereas the proportion of the variable part varied between 26% and 35% in the other investigative authorities, including SP CPH, SRS TCP, SRS ISA, and CPCB.

Differences in the determination of premiums, bonuses, and cash prizes, and the possibilities of receiving social guarantees do not ensure equal conditions between those performing the

duties of comparable positions. Moreover, the range of components that make up the variable part of remuneration is too broad, creates an administrative burden, and makes the remuneration determination process less transparent.

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The auditors reason that the possibility of increasing the proportion of monthly salary and reducing the proportion of variable part should be considered by making the remuneration system simpler, more transparent, and understandable. At the same time, the auditors believe that the remuneration funds of investigative authorities should be equalized in order to ensure equal conditions of remuneration and social guarantees for those performing an equivalent position in all investigative authorities.

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Also in this audit, the auditors bring up the issue of service pensions. In the audit carried out in 2017, the State Audit Office has stated that the service pension policy does not correspond to the essence of the state pension policy, namely, to interest working-age residents to continue working as long as possible, and that the initially set goals are to guarantee social security for those working in those professions, positions and services, who cannot continue their work due to the loss of professional skills or social danger after working for a certain period of time are obsolete.

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The audit confirmed that the current service pension policy does not motivate qualified staff to continue working in an existing investigative authority and also allows the possibility of continuing the same work in another investigative authority by receiving both remuneration and service pension.

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## Key recommendations

Based on the audit conclusions, five recommendations have been made to the Ministry of Justice, the Ministry of the Interior, the Ministry of Finance and the investigative authorities by calling for more and more efficient investigation of criminal proceedings as a result of cooperation and also inviting industry experts if necessary. The State Audit Office expects that the implementation of the recommendations will:

- ❖ Prevent potential conflict of interest arising from the investigation of criminal offences committed by colleagues;
- ❖ Avoid overlap of institutional jurisdiction regarding the investigation of “internal” crimes and corruption crimes;



There are 5  
recommendations issued to  
the audited entities.

- ❖ Establish unified system for evaluating the effectiveness of investigative work of investigative authorities by setting achievable results for investigative authorities to improve the effectiveness of investigating criminal offences;
- ❖ Ensure unified accounting, evaluation, and control of investigative work to plan necessary human resources and to determine actual consumption of resources;
- ❖ Provide equivalent remuneration to similarly qualified investigators.