

UNTOC Review Mechanism

Self-assessment questionnaire submitted by Latvia

UNTOC

Step A

Article 2 - Use of Terms.

1. Does your country's legal framework include the definitions set forth in article 2?

No

Yes

Yes, in part

1(a). Please explain

All necessary definitions are transposed in national law - Criminal Law (CL), Criminal Procedure Law and Civil Law

2. Does your country's legal framework permit it to implement the Convention without adopting the specific definitions set forth in article 2?

No

Yes

Yes, in part

2(a). Please explain

The definitions have been adopted.

Article 5 - Criminalization of participation in an organized criminal group.

3. Is participation in an organized criminal group criminalized under your country's legal framework, in accordance with article 5?

No

Yes

3(a). If the answer to question 3 is "Yes", does participation in an organized criminal group consist of agreeing with one or more other persons to commit a serious crime in order to obtain, directly or indirectly, a financial or other material benefit (art. 5, para. 1 (a) (i))?

No

Yes

Yes, in part

3(a)(i). If the answer to question 3 (a) is "Yes", does the criminal offence as provided in your domestic law require an act undertaken by one of the participants in furtherance of the agreement or involving an organized criminal group (art. 5, para. 1 (a) (i))?

No

Yes

Yes, in part

3(b). If the answer to question 3 is “Yes”, does participation in an organized criminal group consist of taking an active part in the criminal activities of an organized criminal group with knowledge of either the aim and general criminal activity of that group or its intention to commit the crimes concerned, or taking an active part in other activities of an organized criminal group in the knowledge that such participation will contribute to the achievement of the criminal aim of that group (art. 5, para. 1 (a) (ii))?

No

Yes

Yes, in part

3(c). If the answer to question 3 (a) is “Yes”, please cite the applicable laws and/or other measures, including the applicable sanctions for this offence.

Section 21. Organised Groups

(1) An organised group is an association formed by more than two persons which has been created for the purpose of jointly committing one or several crimes and the participants of which in accordance with previous agreement have divided responsibilities.

(2) Liability of a person for the commission of an offence within an organised group shall apply in the cases set out in this Law for formation and leadership of a group, and for participation in preparation for a serious or especially serious crime or in commission of a crime, irrespective of the role of the person in the jointly committed offence.

Section 21(2) Criminal Law stipulates the provisions for liability of a person for the commission of an offence within an organised group. According to the said provision the liability shall apply in the cases set out in this Law for formation and leadership of a group, and for participation in preparation for a serious or especially serious crime or in commission of a crime, irrespective of the role of the person in the jointly committed offence. Section 21(1) Criminal Law defines an organized group as an association formed by more than two persons which has been created for the purpose of jointly committing one or several crimes and the participants of which in accordance with previous agreement have divided responsibilities. MoJ would like to stress that according to the Supreme Court Decision of 12 January 2006 in case No SKK 01-0020/06 (criminal case No 1814002803) “a previous agreement with divided responsibilities” simply covers concerted actions of accused (the decision is available in Latvian here: <http://at.gov.lv/lv/judikatura/judikaturas-nolemumu-arhivs/senata-kriminallietu-departaments/klasifikators-pec-likuma-normam-ar-tezem/kriminallikuma-vispariga-dala/#1>).

The Special Part of the Criminal Law lists every offence which is criminally punishable in Latvia and the description of the criminalised conduct may include a special reference to an offence committed by an organised group (qualifying element of the offence).

Organised group as a qualifying element is included in the following criminal offences stipulated in the Special Part of the Criminal Law relating directly or indirectly to the obtaining of a financial or other material benefits, or in any other way related to property: Sections 98, 99, 109, 148, 153, 154, 1541, 164, 165, 1651, 166, 175, 176, 177,

1771, 187, 190, 1901, 192, 193, 1931, 1932, 195, 1951, 206, 2121, 218, 2201, 221, 233, 250, 2531, 255, 256, 285, 314, 320, 323.

In case if a description of a criminal offence stipulated in the Special Part of the Criminal Law does not contain such qualifying element but instead refers to conduct by a group of persons to a prior agreement however the offence was committed by an organised group then the offence will be qualified as committed by a group of persons to a prior agreement. Such qualifying element is included in the following Criminal Law Sections: 84, 88, 881, 110, 112, 148, 152, 154, 1541, 1651, 1691, 175, 176, 177, 1771, 179, 182, 183, 190, 191, 1941, 195, 198, 206, 221, 2211, 2212, 228, 230, 2441, 248, 249, 253, 2531, 265, 268, 275, 279, 285, 2882, 2884, 320, 323, 3262, 327.

In case if a description of a criminal offence stipulated in the Special Part of the Criminal Law does not contain such qualifying element but the offence was committed by an organised group then according to the provision of Section 48(1.2) Criminal Law it can be considered as aggravating circumstances and taken into account when determining punishment.

3(d). If the answer to question 3 (a) is “Yes in part” or “No”, please specify how participation in a criminal group is treated under your country’s framework.

4. If your domestic law requires an act in furtherance of the agreement, has your country so informed the Secretary-General of the United Nations, as required under article 5, paragraph 3?

No

Yes

5. Does your country’s legal framework establish as criminal offences the acts of organizing, directing, aiding, abetting, facilitating or counselling the commission of serious crime involving an organized criminal group (art. 5, para. 1 (b))?

No

x Yes

Yes, in part

5(a). Please explain, if needed.

Article 6 – Criminalization of the laundering of proceeds of crime.

6. Is the laundering of proceeds of crime criminalized under your country’s legal framework, in accordance with article 6, paragraph 1 (a), of the Convention (art. 6, paras. 1 (a) (i)–(ii))?

No

x Yes

Yes, in part

6(a). If the answer is “Yes, in part”, please specify the manner in which the laundering of proceeds of crime is criminalized under your country’s legal framework.

7. Are the acquisition, possession and use of property known at the time of receipt to be the proceeds of crime criminalized under your country’s legal framework (art. 6, para. 1 (b) (i))?

No

x Yes

Yes, in part

7(a). Please explain briefly

According to Section 5, Para 1 (3) of the AML/CTPF Law (Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing) the acquisition, possession, use or disposal of the proceeds of crime of another person while being aware that these funds are the proceeds of crime are considered as money laundering actions. According to Section 195 of the Criminal Law money laundering actions are criminalized.

8. Are participation in, association with and conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of a money-laundering offence criminalized under your country's legal framework (art. 6, para. 1 (b) (ii))?

No

Yes

Yes, in part

8(a). Please explain briefly

The appropriate ancillary offences to the ML offence (participation in; association with or conspiracy to commit; attempt; aiding and abetting; facilitating; and counselling the commission) are covered by Sections 15 to 20 of the Criminal Law. According to Section 195 of the Criminal Law money laundering actions are criminalized and Section 15 and 20 of the Criminal Law criminalize participation in, association with and conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of a money-laundering offence.

9. If the answer to question 6, 7 or 8 is "Yes", are all serious crimes and the offences covered by the Convention and the Protocols to which your State is a party predicate offences under your domestic law to the offence of money-laundering (art. 6, para. 2 (a) and (b))?

No

Yes

9(a). If the answer is "No", please specify which of the offences covered by the Convention and the Protocols to which your State is a party are not predicate offences under your domestic law to the offence of money-laundering (art. 6, para. 2 (b)).

10. Please provide information on the scope of predicate offences set out in your domestic law, including any list of specific predicate offences that may be set out by your domestic law; indicate, for example, the relevant acts and article numbers (art. 6, para. 2 (b)).

Latvia has an "all crimes" approach which means that all criminal offences stipulated in the Criminal Law are predicate offences to money laundering.

11. Does your country's legal framework include predicate offences committed outside your country's jurisdiction (art. 6, para. 2 (c))?

No

Yes

Yes, in part

11(a). If the answer is "Yes" or "Yes, in part", please describe the circumstances under which a predicate offence committed in a foreign jurisdiction may be recognized pursuant to your domestic law.

According to Section 5(2) of the AML/CTPFL money laundering shall also be recognised as such if a criminal offence which is provided for in the Criminal Law and

in the result of which such funds have been directly or indirectly acquired has been committed outside the territory of the Republic of Latvia.

12. Has your country furnished copies of its laws that give effect to article 6 and of any subsequent changes to such laws or a description thereof to the Secretary-General of the United Nations (art. 6, para. 2 (d))?

12(a). If yes, please provide a link.

12(b). If not, please provide this information

Article 8 – Criminalization of corruption.

13. Is the conduct described in article 8, paragraph 1 (a), criminalized in your country's legal framework?

No

Yes

Yes, in part

13(a). Please explain briefly

14. Is the conduct described in article 8, paragraph 1 (b), criminalized in your country's legal framework?

No

Yes

Yes, in part

14(a). Please explain briefly

15. Is the form of corruption described in article 8, paragraph 1, involving a foreign public official or international civil servant criminalized in your country's legal framework (art. 8, para. 2)?

No

Yes

Yes, in part

15(a). If appropriate, please explain briefly

16. Is any other form of corruption established as a criminal offence in your country's legal framework (art. 8, para. 2)?

No

Yes

Yes, in part

16(a). If appropriate, please explain briefly

17. Is participation as an accomplice in offences established in accordance with article 8 criminalized under your country's legal framework (art. 8, para. 3)?

No

Yes

Article 9 – Measures against corruption.

18. Has your country adopted measures to promote integrity and to prevent, detect and punish the corruption of public officials (art. 9, para. 1)?

No

Yes

18(a). If the answer is "Yes", please specify the measures implemented to promote integrity and to prevent, detect and punish the corruption of public officials.

19. Has your country taken measures to ensure effective action by its authorities in the prevention, detection and punishment of the corruption of public officials, including providing such authorities with adequate independence to deter the exertion of inappropriate influence on their actions (art. 9, para. 2)?

No

Yes

19(a). If the answer is “Yes”, please specify the measures implemented to ensure effective action by its authorities in the prevention, detection and punishment of the corruption of public officials, including providing such authorities with adequate independence to deter the exertion of inappropriate influence on their actions.

Article 10 – Liability of legal persons.

20. Is the liability of legal persons for participation in serious crimes involving an organized criminal group and for the offences covered by the Convention and the Protocols to which your State is a party established under your country’s legal framework (art. 10)

No

Yes

Yes, in part

20(a). If the answer is “Yes, in part” or “No”, please explain

21. If the answer is “Yes”, is this liability:

21(a). Criminal:

No

Yes

21(b). Civil:

No

Yes

21(c). Administrative:

No

Yes

22. What kind of sanctions are provided for in your country’s legal framework to implement article 10, paragraph 4, bearing in mind article 11, paragraph 6, of the Convention?

Latvia is able to apply coercive measures provided by the Criminal Law against legal persons and currently the practice of prosecuting legal entities (credit institutions) is being developed.

Section 70.2 Types of Coercive Measures Applicable to a Legal Person

(1) For a legal person one of the following coercive measures may be specified:

1) liquidation;

2) restriction of rights;

3) confiscation of property;

4) recovery of money.

(2) For a legal person one or several of the coercive measures provided for in Paragraph one of this Section may be applied. In applying liquidation, other coercive measures shall not be specified.

(3) The procedures for executing coercive measures shall be determined in accordance with the law.

(4) For a criminal violation, a less serious crime or a serious crime for which deprivation of liberty for a period of up to five years is provided for in the Special Part of this Law a prosecutor, in drawing up a penal order regarding the coercive measure, may determine the recovery of money or restriction of rights as a coercive measure to a legal person.

Section 70.3 Liquidation

(1) Liquidation is the compulsory termination of activities of a legal person.

(2) A legal person shall be liquidated only in such cases, if the legal person has been especially established for the committing of a criminal offence or if a serious or especially serious crime has been committed.

(3) In liquidating a legal person, all of the existing property thereof shall be alienated without compensation to the ownership of the State.

Section 70.4 Restriction of Rights

(1) Restriction of rights is the deprivation of specific rights or permits or the determination of such prohibition which prevents a legal person from exercising certain rights, receive State support or assistance, participate in a State or local government procurement procedure, to perform a specific type of activity for a period of one year and up to ten years.

Section 70.5 Confiscation of Property

(1) Confiscation of property is the compulsory alienation of the property owned by a legal person to the State ownership without compensation.

(2) A court, when determining the confiscation of property, shall specifically indicate which property is to be confiscated.

(3) [14 March 2013]

(4) Property owned by a legal person which has been transferred to another person, may also be confiscated.

Section 70.6 Recovery of money

(1) The recovery of money is a sum of money which is imposed by a court or prosecutor to be paid for the benefit of the State within 30 days in the amount laid down in this Section.

(11) A monetary levy proportionate to the harmfulness of the criminal offence and the financial status of the legal person shall be determined:

1) for a criminal violation - in the amount of five and up to ten thousand minimum monthly wages prescribed in the Republic of Latvia;

2) for a less serious crime - in the amount of ten and up to fifty thousand minimum monthly wages prescribed in the Republic of Latvia;

3) for a serious crime - in the amount of twenty and up to seventy five thousand minimum monthly wages prescribed in the Republic of Latvia;

4) for an especially serious crime - in the amount of thirty and up to hundred thousand minimum monthly wages prescribed in the Republic of Latvia.

(12) At the time of rendering the adjudication, the amount of the money levy shall be indicated in the adjudication in the monetary units of the Republic of Latvia. A prosecutor may, in a penal order regarding a coercive measure, apply not more than half of the maximum amount of the money to be recovered provided for in this Section, conforming to the amount of the minimum wage prescribed in the Republic of Latvia at the time of drawing up the abovementioned penal order.

(2) The recovery of money which has been imposed upon a legal person, shall be paid from the funds of the legal person.

(3) A court or prosecutor accordingly may divide the payment for the recovery of money into periods or postpone for a time period not exceeding one year from the day when a ruling or injunction on coercive measure has entered into effect.

(4) If recovery of money has not been paid, the coercive measure shall be implemented by compulsory procedures.

Section 70.7 Compensation for Harm Caused

[14 March 2013]

Section 70.8 Conditions for the Application of Coercive Measures to a Legal Person

(1) In determining the type of a coercive measure, the nature of the criminal offence, the harm caused shall be taken into account and whether a coercive measure has been previously applied to a legal person.

(2) In determining the extent of a coercive measure the following conditions shall be taken into account:

1) the actual action of a legal person;

2) the nature and consequences of the acts of a legal person;

3) measures which a legal person has performed in order to prevent the committing of a criminal offence;

4) the size, type of activities, and financial circumstances of a legal person;

5) measures which a legal person has performed in order to compensate for the losses caused or prevent the harm caused;

6) whether a legal person has reached a settlement with the victim.

(3) If a legal person in accordance with Section 70.2, Paragraph two of this Law has been applied several coercive measures, each of them shall be executed independently.

(4) In a criminal case for several independent criminal offences, a court in rendering a judgement or a prosecutor by drawing up a penal order on a coercive measure shall impose a coercive measure to a legal person separately for each criminal offence. In such case the set of the applicable coercive measures shall be determined according to the aggregation of the criminal offences, in the following order:

1) including the lesser recovery of money in the more serious or also completely or partially adding them together;

2) fully adding together restrictions of rights;

3) fully adding together confiscations of property.

(5) If a legal person after the judgement or the prosecutor's penal order on a coercive measure has entered into effect, but before full execution of the coercive measure is involved in new criminal proceedings regarding application of a coercive measure, the court shall add to the coercive measure determined in the new judgement a coercive measure that has not been executed after the previous judgement or the prosecutor's coercive measure, in the following order:

1) fully or partially adding together the money to be recovered;

2) fully adding together restrictions of rights;

3) fully adding together confiscations of property.

(6) If liquidation has been applied, then in the cases referred to in Paragraphs four and five of this Section other coercive measures are included in the liquidation.

(7) In the cases referred to in Paragraphs four and five of this Section the total amount or term of the coercive measure may exceed the maximum amount or term of the coercive measure provided for the most serious of the criminal offences committed, but not more than half of the maximum amount or term of the coercive measure provided for the most serious of the criminal offences committed. In drawing up a penal order for a coercive measure, a prosecutor may not determine the total amount or term of the coercive measure which exceeds the maximum amount or term of the coercive measure provided for the most serious of the criminal offences committed.

Article 15 – Jurisdiction.

23. Are there any circumstances under which your country does not have jurisdiction over offences established in accordance with articles 5, 6, 8 and 23 of the Convention and the Protocols to which it is a party committed in its territory (art. 15, para. 1 (a))?

No

Yes

23(a). If the answer is “Yes”, please specify the circumstance(s) under which your country does not have jurisdiction over offences committed in its territory.

Exception is applied to diplomatic representatives:

Criminal Law Section 2. Application of the Criminal Law in the Territory of Latvia

(1) The liability of a person who has committed a criminal offence in the territory of Latvia shall be determined in accordance with this Law.

(2) If a foreign diplomatic representative, or other person who, in accordance with the laws in force or international agreements binding upon the Republic of Latvia, is not subject to the jurisdiction of the Republic of Latvia, has committed a criminal offence in the territory of Latvia, the issue of this person being held criminally liable shall be decided by diplomatic procedures or in accordance with a mutual agreement of the states.

24. Does your country have jurisdiction to prosecute the offences established in accordance with articles 5, 6, 8 and 23 of the Convention and the Protocols to which it is a party when the offences are committed on board a vessel flying its flag or an aircraft registered under its laws (art. 15, para. 1 (b))?

No

Yes

Yes, in part

24(a). If the answer is “Yes” or “Yes, in part”, please specify the manner in which your country has jurisdiction to prosecute the offences covered by the Convention and the Protocols to which it is a party, in accordance with article 15, paragraph 1 (b).

Criminal Law Section 3. Applicability of the Criminal Law to Aircrafts, and Sea and River Vessels Outside the Territory of Latvia

A person who has committed a criminal offence outside the territory of Latvia, on an aircraft, or a sea or river vessel or other floating means of conveyance, if this means of conveyance is registered in the Republic of Latvia and if it is not provided otherwise in the international agreements binding upon the Republic of Latvia, shall be held liable in accordance with this Law.

25. Does your country’s legal framework allow for the following extraterritorial jurisdictional bases:

25(a). Jurisdiction to prosecute the offences established in accordance with articles 5, 6, 8 and 23 of the Convention and the Protocols to which your country is a party when committed outside its territory by its nationals (or stateless persons who have habitual residence in the country) (art. 15, para. 2 (b))?

No

Yes

25(b). Jurisdiction to prosecute the offences established in accordance with articles 5, 6, 8 and 23 of the Convention and the Protocols to which your country is a party when committed outside its territory against its nationals (art. 15, para. 2 (a))?

No

Yes

25(c). Jurisdiction to prosecute participation in an organized criminal group that occurred outside its territory with a view to the commission of a serious crime (art. 2, para. (b)) within its territory (art. 15, para. 2 (c) (i))?

No

Yes

25(d). Jurisdiction to prosecute ancillary offences related to money-laundering offences committed outside its territory with a view to the commission of the laundering of proceeds of crime in its territory (art. 15, para. 2 (c) (ii))?

No

Yes

Article 23 - Obstruction of Justice

26. Is obstruction of justice in relation to offences covered by the Convention and the Protocols to which your country is a party criminalized under your country's legal framework, in accordance with article 23 of the Convention?

No

Yes

Yes, in part

26(a). Please explain briefly

The obstruction of justice is criminalised in following articles:

Section 301 of Criminal Law. Compelling the Giving of False Testimony, Explanations, Opinions and Translations

(1) For a person who commits bribing, or otherwise illegally influences a witness, victim, person against whom the criminal proceedings have been commenced, detained, suspect, accused, applicant, expert or translator, for the purpose of compelling him or her to give false testimony or to certify on oath a false explanation to a court in an administrative matter, or a false opinion, or to provide a false translation, or to refrain from giving testimony or an opinion, or providing a translation,

the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or community service, or a fine.

(2) For the commission of the same acts, if they are related to violence or threats of violence,

the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or community service, or a fine.

(3) For the acts provided for in Paragraph one of this Section, if they are related to torture,

the applicable punishment is the deprivation of liberty for a period of up to ten years.

Section 294.1 of Criminal Law. Interference in the Pre-trial Criminal Proceedings

(1) For a person who in any way influences an official performing a pre-trial criminal proceedings with the purpose of impeding commencement or performance of pre-trial criminal proceedings, or of attaining the taking of an illegal decision

the applicable punishment is a temporary deprivation of liberty or community service, or a fine.

(2) For the commission of the same acts, if they have been committed by a public official,

the applicable punishment is the deprivation of liberty for a period of up to one year or temporary deprivation of liberty, or community service, or a fine, with the deprivation of the right to take up a specific office for a period of up to five years.

Criminalization: cases and judgements

27. States are invited to provide examples, relevant cases or judgments relating to successful implementation and enforcement for each of the criminal offences reviewed above.

Examples related to Article 5 & 6

Robbery/extortion/threats/damage of the property

The criminal case of 2016 (combining 4 criminal proceedings in total):

- *Robbery in a significant scale committed in an organised group (including its support);*

Section 176.3.d. and Article 20.4. of the Criminal Law

- *Extortion by threatening violence against the victim,*

Section 183.2 of the Criminal Law

- *attempted grievous bodily injury in an organised group (including its support)*

Section 125.3/15.4, Article 125.3.d/20.4. of the Criminal Law.

- *the fact of burning the vehicle belonging to the official (including its organisation),*

Section 185.2, 185.2/20.2 of the Criminal Law.

In total, 6 persons were granted the status of suspect in the course of the investigation. Following the completion of the investigation on 08.01.2018, the criminal proceedings were referred to the Public Prosecutor's Office for prosecution, which in turn was received in court on 02.07.2018.

To date, the criminal proceedings are pending before the 1st Instance Court and there is no conviction.

Falsification and disposal of documents

Criminal case of 2016 for falsification and disposal of forged documents by an organised group.

Criminal Law Section 275.2., Art. 21 (the article does not provide for qualifications "committed in an organized group).

In total, 3 persons were granted the status of suspect in the course of the investigation.

Following the completion of the investigation on 03.11.2017, the criminal proceedings were referred to the Public Prosecutor's Office for prosecution, which in turn was received in court on 21.02.2018. and the following judgment of 24.10.2019.

Illegal cigarette manufacturing site (in Riga)

The criminal case of 2017 for the illegal storage and sale of tobacco products in large amounts (i.e. 5 670 380 cigarettes without excise marking, with a total estimated damage of EUR 838 869.32 to the State) by the organised group.

Criminal Law Section 221.3.

Following the completion of the investigation on 24.04.2019, the criminal proceedings were referred to the Public Prosecutor's Office for prosecution, which in turn was received in court on 09.12.2019.

At present, the criminal proceedings are pending before the 1st Instance Court and there is no conviction.

Illegal cigarette manufacturing site (in Jelgava)

The criminal case of 2018 for the illegal storage and movement (transport) of large amounts of tobacco products (i.e. 1 151 075 cigarettes and 1 tons of 977 kg) carried out within an organised group, and the laundering of the proceeds of crime and other assets committed on a large scale.

Criminal Law Section 221.3, 195.3.

Property acquired by natural and legal persons has been identified as assets of crime, arrested in the framework of the criminal proceedings (the total value of EUR 462397.73). In addition, the decision was taken on the initiation of the process of

applying the coercive measure to a legal person in relation to 1 company registered in Latvia.

On 18.05.2020, the criminal case was sent to the Public Prosecutor's Office for the initiation of criminal proceedings against 9 persons (6 Latvian nationals, 2 Moldovan citizens and 1 Lithuanian citizens) after the investigation had been completed, as well as for the continuation of proceedings for the application of the coercive measure to the company registered in Latvia and the funds seized in an account of 405 880 EUR.

The criminal proceedings are now pending before the Public Prosecutor's Office and have not yet been sent for the initiation of court proceedings.

Methadone laboratory

The criminal case of 2017 on the production, possession and sale of drugs/psychotropic substances in large quantities and in an organised group (5650 gr of crystalline substance containing methadone intermediates and isomethadone intermediates, 395 gr yellowish colour crystalline containing methadone and more than 2 tons of chemical and precursors for the manufacture of methadone)

Detainees (suspects) – 9 persons (6 Latvian nationals and 1 Ukrainian citizen)

Criminal Law Section 253¹.3, 255.3.

Property acquired by natural and legal persons has been identified and arrested in the framework of the criminal proceedings in the total value of EUR 976 501,59.

Following the completion of the investigation on 08.08.2018, the criminal proceedings were referred to the Public Prosecutor's Office for prosecution, which in turn was received in court on 27.12.2018.

At present, the criminal proceedings are pending before the 1st Instance Court and there is no conviction.

Drugs trafficking (with cargo trucks)

In 2019 the criminal proceedings investigated in respect of the unauthorised acquisition, possession and transportation of drugs/psychotropic substances for the purpose of sale, committed in an organised manner, and the movement of drugs/psychotropic substances across the state border of the Republic of Latvia (Hashish 250 kg, MDMA 55,27 kg, amphetamine 96,2 kg)

Detainees (suspected) – 7 persons (6 Latvian nationals and 1 Ukrainian citizen)

Criminal Law Section 253¹.3. and 190¹.3.

Property of natural persons, as well as of the involved legal persons, have been identified and arrested in the framework of the criminal case for a total amount of 43 832,15 EUR.

Following the completion of the investigation on 09.03.2021, the criminal proceedings were referred to the Public Prosecutor's Office for prosecution. The criminal proceedings are now pending before the Public Prosecutor's Office and have not yet been sent for the initiation of court proceedings.

Cocaine cargo case

In the criminal proceedings investigated in 2019 for unauthorised acquisition, storage and transport, transfer for sale on a significant scale in an organised group, and trafficking of drugs/psychotropic substances in an organised group across the state border of the Republic of Latvia, and the laundering of the proceeds of crime and other assets committed on a large scale. (Cocaine: 2197,725 kg)

Detainees (suspected) -11 persons (LV nationals)

Criminal Law Section 253¹.3. and 190¹.3.

Property of natural persons, as well as of the involved legal persons, have been identified and arrested in the framework of the criminal case for a total amount of 698 040.56 EUR.

Following the completion of the investigation on 24.07.2020, the criminal proceedings were referred to the Public Prosecutor's Office for prosecution.

The criminal proceedings are now pending before the Public Prosecutor's Office and have not yet been sent for the initiation of court proceedings.

JIT "Doubrava"

In November 2017, criminal proceedings were initiated for the recruitment, transportation and accommodation in an organised group of Latvian citizens for the labour exploitation in the UK flower farms and industry. In January 2018, the Joint Investigation Team (JIT "Doubrava") was launched in cooperation with the UK Police. In February, 2018, 5 Latvian citizens (3 men, 2 women) were detained in Latvia. The persons suspected of having committed an offence under Article 1541.3. of the Criminal Law and extradited to the UK. The movable and immovable property of the detainees and their relatives was arrested in the amount of EUR 301 500. As well as 2 Latvian citizens (women) have been identified as suspects in the framework of this process for money laundering. One Latvian citizen who resided with detainees has been handed over to NGOs for social rehabilitation as a victim of labor exploitation. In criminal proceedings, investigative activities were carried out with more than 50 persons. 28 victims of the 9 persons organized criminal group (OCG), all Latvian citizens, were identified, with 15 victims travelling to the UK to tell of their ordeals in court. The Perpetrators were jailed for a total of 33 years by UK Nottingham Crown Court in November 2018 with the ringleaders receiving sentences as high as six years.

Based on JIT Doubrava materials in December 2019, an investigation launched in Latvia with the following criminal proceedings for the labour exploitation in the UK and the threat of killing. The court proceedings are still going on. Upon THB investigation of

Latvian citizens labour exploitation in the UK, in 2021 were confiscated by Latvian court perpetrators property for up to 161 500 EUR.

In addition based on JIT Doubrava materials the investigation and relevant criminal proceedings launched in July 2020 for threatening to kill. In October 2020, the Zemgale District Court found the person guilty of committing a criminal offence under the CL Article 132 and fined him of EUR 860.

Labour exploitation of the Indian citizens

In April 2020, an investigation launched for the labour exploitation in an organised group of seven Indian citizens by means of violence, as well as for large-scale laundering of proceeds of crime or other property in an organised group in a food production enterprise. All victims redirected to NGOs for state-funded social rehabilitation services in April 2020 and were granted a waiting period and residence permits. In November 2020, 3 Latvian citizens detained. In January 2021, in accordance with Article 439 of the CPL (Criminal Proceedings Law), the decision to initiate proceedings on the application of a coercive measure to a legal person represented by OCG members was taken in January 2021. The decision to initiate criminal proceedings against this OCG was taken in March 2021.

“Money Laundering” (ML) the Criminal Law Article 195, Paragraph 3 regarding laundering of criminally acquired financial resources or other property, if they have been committed on a large scale, or if they have been committed by an OCG, the following number of criminal proceedings (CP) have been initiated by the State police:

- **51** in 2016 (the number of CP initiated throughout the country - 64 CP);
- **48** in 2017 (the number of CP initiated throughout the country - 74 CP);
- **86** in 2018 (the number of CP initiated throughout the country - 114 CP);
- **140** in 2019 (the number of CP initiated throughout the country - 204 CP);
- **233** in 2020 (the number of CP initiated throughout the country - 286 CP).

The increase in the number of the initiated CP is explained as by the increased customer due diligence of banks, following the recommendations of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) regarding the high proportion of "non-resident" companies, as well as by increased competence of police officers in financial crime investigations, including the successful use of legislative amendments in the fight against financial crime.

Seized and confiscated proceeds of crime within the application of Section 195 of the Criminal Law (data on April 20, 2021).

2017 01.06.2017)	(from	2018	2019	2020
Arrested proceeds of crime (Section 195 of the Criminal Law)				

the number of criminal cases	31	89	158	243
incl. CL 195 (3)	27	71	143	223
total amount (euro)	13 509 129	100 225 697	300 570 954	520 642 499
incl. CL 195 (3)	13 479 822	98 615 272	300 128 825	519 526 877
Confiscated proceeds of crime (Section 195 of the Criminal Law)				
the number of criminal cases	25	28	48	32
incl. CL 195 (3)	21	23	37	28
total amount (euro)	3 133 717	6 413 912	47 225 399	11 646 804
incl. CL 195 (3)	3 117 964	6 316 055	46 893 199	11 609 012

CP examples regarding OCGs activities connected with ML:

1. In October 2019 the CP was initiated for fraud in the amount of at least 477 466,63 euros from two companies registered in Latvia, conducted by the OCG in 2013-2019. The fraudulent funds were mixed with the company's funds, part of the funds was withdrawn in cash, and part was used for the development of the business of the supplier companies and for personal needs. Cash in the amount of 25 500,00 euros was seized. In August 2020 the CP was sent to prosecution.

2. In August 2018 the CP was initiated for alleged ML (Section 195 (3) Criminal Law) against OCG composed of three members for attempted ML in a large scale, which was disguised under the legal business of selling flowers. The members of the OGC operated in the territory of Latvia, involving in criminal activities companies registered abroad. In 2019, 27 searches were carried out in cooperation with the State Revenue Service. A total of 27 real estates, vehicles, including retro cars, collections of coins, luxury watches for a total value of about 4 million euros, as well as cash around 500 000 euros were seized within the CP. In December 2020 the CP was sent for prosecution.

3. In June 2018 the CP was initiated for money laundering in large amounts using AS "SWEDBANK" branches for currency conversion performed by OCG, including bank employees, from January to March 2017. The investigation revealed that no later than January 2017, an OCG was set up, which consisted of 10 persons with the aim to legalize funds (most likely to be obtained by crime) in foreign currency - US dollars, Norwegian kroner and British pounds. Foreign currency was transferred at a currency exchange point in Riga and later was converted in the branches of AS "Swedbank" "Centrs" and "Ķīpsala" with the support of the Bank's employees. The Bank's staff, acting as part of the OCG, artificially divided the total amount of cash to be converted, which exceeded 15 000.00 euros, into several parts and, within a few minutes, executed each conversion into euro in such a way as to give the impression that each transaction was made for amounts of less than 8 000.00 euros, so that the transaction did not have to be reported to the Financial Intelligence Unit as suspicious. In addition the personal data of the persons who performed the conversion were not intentionally provided. In the

period from January to March 2017, 5 313 157.22 euros were converted. In June 2019, in co-operation with the Bank of Latvia, a search was performed at the currency exchange point. During the search, funds of unknown origin, most likely illegally obtained, in the amount of 223 155 euros were seized and a safe with cash in the amount of 497 157 euros was found. The funds were seized and their origin is being investigated in two separate CP. In addition, 131 000 euros were seized and 10 persons were recognised as suspects under Section 195 (3) Criminal Law (money laundering). In December 2019 the CP was sent for prosecution.

4. In September 2017 the CP was initiated for funds fraud from the Ogre municipality municipal agency "Ogres namsaimnieks" and ML in a large scale conducted by the OCG from April to June 2017. Investigation was conducted under Section 195 (3) Criminal Law (money laundering), Section 193 (4) (illegal activities with financial instruments and means of payment), Section 1931 (1,2) (obtaining, manufacture, distribution, utilisation, and storage of data, software and equipment for illegal acts with financial instruments and means of payment), Section 177 (3) (fraud), Section 319 (3) (failure to act by a public official). In January 2019 the CP was sent to prosecution against four persons, one of whom was a public official.

5. In January 2017 the CP was initiated for extortion by an organised group (Section 184 (3) Criminal Law) and for alleged ML (Section 195 (3) Criminal Law) for the possible illegal activities of the liquidator of LAS "TRASTA KOMERCBANKA" (a sworn advocate) within the process of fulfilment of the obligations of the bank's creditors. It was found that the liquidation process of the bank is controlled by the OCG, composed of several persons, including and not only officials of the Latvian Association of Certified Insolvency Administrators. In addition it was found that these persons demand (extort) money from the bank's creditors in order to make the most favourable decision for them in the bank liquidation process. The extorted funds were laundered through the companies owned by the OCG members and invested in economic activities. Cash 15 650.00 euros and 17 300.00 USD, water scooter and company shares were seized within the CP. In December 2017 the CP was sent to prosecution.

6. In October 2016 CP was initiated for evasion of tax payments and payments equivalent thereto (Section 218 (3) Criminal Law) and for alleged ML (Section 195 (3) Criminal Law) regarding the fact that the OCG from 2015 until 2018 implemented a criminal money laundering scheme. Namely, luxury class cars systematically were purchased in cash for funds of unknown origin (possibly fraudulent) in Latvia, which were exported to Germany, where they were registered on fictitious companies registered in Latvia on the basis of fictitious purchase-sale documents and were re-imported into Latvia, thus avoiding paying VAT in Latvia. Thus, 98,000 euros (found in cash) and exclusive vehicles (Mercedes Benz S500 4Matic Coupe worth 125,000 euros and BMW X6M worth 127,000 euros) were confiscated within the CP. In May 2018 the CP was sent to prosecution against five persons.

7. In October 2016 the CP was initiated for misappropriation (Section 179 (3) Criminal Law) and for alleged ML (Section 195 (3) Criminal Law). Illegal activities of the Latvian company, operating in the field of trade in goods in the Internet environment, which misappropriated the funds of several Latvian and foreign legal and natural persons - a total of approximately 1 million euro, which were transferred to various foreign companies, changing their ownership, thus performing ML, were investigated within

the CP. Approximately 500 000,00 euros (remained in the account of the Lithuanian bank "Shiauliu banka") were suspended and seized. In May 2020 the CP was sent to prosecution.

8. In April 2016 the CP was initiated for alleged ML (Section 195 (3) Criminal Law), i.e., for the involvement of both former and current employees of AS "BALTIC INTERNATIONAL BANK" in ML within an OCG, which took place at least from 2012, performing cash transfers in interconnected and complex transactions without economic or clearly legal purpose. An accusation was filed against both a legal entity (A/S "Baltic International Bank") and a natural person. In September 2019 the CP was sent to prosecution.

9. In April 2013 the CP was initiated for large-scale money fraud, more than 50 million euros from AS "NORVIK BANKA", which was performed by several companies related to wind electricity generation, the largest of which was SIA "Winergy". Investigation was conducted under Section 177 (3) Criminal Law (fraud), Section 195 (3) Criminal Law (money laundering), Section 275 (2) Criminal Law (forgery of a document, seal and stamp and use and disposal of a forged document, seal and stamp), Section 197 (neglect) and Section 213 (2) Criminal Law (driving into insolvency). More than 10 Latvian and more than 10 foreign companies (Estonia, Malta) were involved in the fraud scheme. The property of the involved companies was seized, including the assets of SIA "Winergy" for more than 50 million euros. The fraud scheme was implemented with the support of bank officials, including one of the bank's largest shareholders, at the same time the Chairman of the Board. Due to the arrests imposed on the property of the Estonian companies involved in the CP, Estonian entrepreneurs had sued the Latvian state in the International Court of Arbitration with a claim to recover 50 million euro from the state. Due to the mutual agreement reached, the arbitration proceedings were terminated. Additional evidence of other criminal offenses committed by natural and legal persons involved in the main proceeding was collected, resulting in the extraction of materials from the CP and initiating of six separate CP against the natural and legal persons involved (grant fraud from the Ministry of Environmental Protection and Regional Development; funds fraud for the purchase of bank shares). The extracted CP were sent for prosecution. In addition, four proceedings were initiated regarding the application of a coercive measure to legal persons. Namely, the main CP was sent to prosecution in September 2015 against nine persons (Latvian and Estonian citizens, including several bank officials and the Bank's largest shareholder, Chairman of the Board), as well as in order to impose coercive measures on four legal entities.

Supreme Court case law:

In the decision of 26 November 2015 of the Department of Criminal Cases of the Supreme Court of the Republic of Latvia in a case no. SKK -32/2015 acknowledged that the issue of qualification of an offense in accordance with the qualifying feature specified in the Articles of the Special Part of the Criminal Law - an organized group has committed the offense - should be considered in conjunction with Section 21 of the Criminal Law, which provides the characteristics of an organized group and indicates the cases in which a person is liable for committing a crime in an organized group.

In the decision of 7 February 2017 of the Department of Criminal Cases of the Supreme Court of the Republic of Latvia in a case no. SKK-59/2017 acknowledged that a person

who, in order to achieve a common intention and in accordance with the previous division of responsibilities, has coordinated a criminal offense - illegal activity with a psychotropic substance, organizes the purchase of a substance, supervises and controls the activities of other group members, shall be recognized as a member of an organized group.

In the decision of 18 June 2007 of the Department of Criminal Cases of the Senate of the Supreme Court of the Republic of Latvia in a case no. SKK - 333/2007 acknowledged that to define an organized group, it is important to note that each member of the group, in the performance of their duties in the chain of joint activities, is aware that in addition to him, there are other persons who, in the performance of their duties, contribute to a common crime.

In the decision of 12 January 2006 of the Department of Criminal Cases of the Senate of the Supreme Court of the Republic of Latvia in a case no. SKK 01-0020/06 acknowledged that the fact of the division of responsibilities in an organized group may be evidenced not only by the testimony of the persons, but also by the specific concerted action.

On October 20, 2020 by the decision of City of Riga Latgale District Court in criminal case No.11518004615 three persons were found guilty and sentenced of committing two criminal offenses provided for in Section 195, Paragraph three of the Criminal Law i.e., money laundering in on a large scale and by an organized group. Person A found on the website persons who had not been clarified in the investigation (hereinafter - Persons) who needed to launder the proceeds of crime and offered their services in money laundering. To carry out his criminal intent, person A decided to involve other persons in the commission of the criminal offense, who on his order will find persons who will open a bank account or provide information about an already opened bank account to transfer criminally obtained funds, give instructions on necessary actions to withdraw the obtained funds in cash and place them at the disposal of person A to transfer the further laundered funds to Persons. A member of the organized group also received fraudulently obtained funds from the Client of the German bank "SPARKASSE ARNSTADT-ILMENAU".

Difficulties encountered

28. Has your country encountered any difficulties or challenges in implementing the Convention?

No

Yes

28(a). If the answer is "Yes", please specify:

Problems with the formulation of legislation

Need for further implementing legislation (laws, regulations, decrees, etc.)

Reluctance of practitioners to use existing legislation

Insufficient dissemination of existing legislation

Limited inter-agency coordination

Specificities of the legal system

Competing priorities for the national authorities

Limited resources for the implementation of existing legislation

Limited cooperation with other States

Lack of awareness of the existing legislation
Other issues (please specify)

For certain crimes, when the crime is committed directly within an organised criminal group, the prosecution can be held under the Criminal Law (reference in Section 52). In other cases, persons are held liable for the commitment of a criminal offence within a group of persons (in Section as a qualifying factor) or, in accordance with Section 48(2), a group of persons is taken into account as an aggravating circumstance.

It is not possible to prosecute the leader of the organised criminal group without establishing a link with a specific criminal offence (the act of the person concerned). The Supreme Court refused to accept a special type of measures against the organized criminal group leader on the ground that he did not himself commit the crime.

Responsibilities specifically for the establishment of an organized criminal group are mentioned in only a few articles – Criminal Law Section 184.p.1. “Extortion by an Organised Group”, Art. 311 “Assault at a Prison”. Some other articles foresee responsibility for the establishment of groups – Section.224 “Gangsterism”, Section 89.1 of the Criminal Law “Criminal organisation”. In practice, also provisions of Article 20 shall apply to those organisers and supporters.

The problem is related also to the crimes committed by the so-called “white-collar workers” and the hiring of highly qualified specialists - lawyers and attorneys to represent the interests of these persons.

In addition, an important aspect is a large amount of data in specific cases, the use of Internet resources and the latest technologies to commit crimes, including the fact that servers (in which data is held by criminals) are stored mostly abroad.

Another issue - the implementation of international cooperation, for example - the lengthy procedure for executing individual Requests for Judicial Assistance, which is reinforced by the impact of the circumstances of COVID-19, by prolonging international cooperation mechanisms.

Need for technical assistance

29. Does your country require technical assistance to overcome difficulties in implementing the Convention?

No

Yes

30. If the answer is “Yes”, please specify the type of technical assistance needed.

31. Which of the following forms of technical assistance, if available, would assist your country in fully implementing the provisions of the Convention? In identifying the forms of technical assistance as listed below, please also indicate for which provisions of the Convention such assistance would be needed.

Legal advice

Legislative drafting support

Model legislation or regulations

Model agreements
Standard operating procedures
Development of strategies, policies or action plans
Dissemination of good practices or lessons learned
Capacity-building through the training of practitioners or trainers
On-site assistance by a mentor or relevant expert
Institution-building or the strengthening of existing institutions
Prevention and awareness-raising
Technological assistance
Establishment or development of information technology infrastructure, such as
databases or communication tools
Measures to enhance regional cooperation
Measures to enhance international cooperation
Other assistance (please specify)

32. Please provide any other information that you believe is important for the Conference of the Parties to the United Nations Convention against Transnational Organized Crime to consider regarding aspects of, or difficulties in, the implementation of the Convention other than those mentioned above.

TIP

Step A

Uploads

Article 3 - Use of Terms - and Article 5 – Criminalization.

33. Is trafficking in persons, when committed intentionally, criminalized under your country's legal framework (art. 5, para. 1, in conjunction with art. 3)?

No

Yes

Yes, in part

33(a). If yes, please cite the applicable laws and/or other measures, including the applicable sanctions for this offence.

The Criminal Law. Section 154.1 Human Trafficking

(1) For a person who commits human trafficking, the applicable punishment is deprivation of liberty for a period up to eight years, with or without confiscation of property.

(2) For a person who commits human trafficking if it has been committed against a minor, or if it has been committed by a group of persons according to a prior agreement, the applicable punishment is deprivation of liberty for a period of three and up to twelve years, with or without confiscation of property and with or without probationary supervision for a period up to three years.

(3) For a person who commits human trafficking if it has endangered the life of a victim or serious consequences have been caused thereby, or it has been committed involving particular cruelty or against an underaged person, or it has been committed by an organised group, the applicable punishment is deprivation of liberty for a period of five and up to fifteen years, with or without confiscation of property and with or without probationary supervision for a period up to three years.

34. If the answer to question 33 is “Yes, in part” or “No”, please specify how trafficking in persons is treated under your country's legal framework.

35. If the answer to question 33 is “Yes”, is trafficking in persons treated as a criminal offence in your country, in accordance with article 3, paragraph (a), of the Protocol (combination of three elements: action, means and purpose of exploitation)?

No

Yes

35(a). Please explain

The Criminal Law. Section 154.2 Meaning of Human Trafficking

(1) Human trafficking is the recruitment, transportation, transfer, concealment, accommodation or reception of persons for the purpose of exploitation, committed by using violence or threats or by means of deceit, or by taking advantage of the dependence of the person on the offender or of his or her state of vulnerability or helplessness, or by

the giving or obtaining of material benefits or benefits of another nature in order to procure the consent of such person, upon which the victim is dependent.

(2) The recruitment, transportation, transfer, concealment, accommodation or reception of a minor for the purpose of exploitation shall be recognised as human trafficking also in such cases, if it is not connected with the use of any of the means referred to in the Paragraph one of this Section.

(3) Within the meaning of this Section, exploitation is the involvement of a person in prostitution or in other kinds of sexual exploitation, the compulsion of a person to perform labour, to provide services or to commit criminal offences, the holding of a person in slavery or other similar forms thereof (debt slavery, serfdom or compulsory transfer of a person into dependence upon another person), and the holding a person in servitude or also the illegal removal of a person's tissues or organs.

(4) Within the meaning of this Section state of vulnerability means using the circumstances when a person does not have another actual or acceptable choice, only to submit to exploitation.

36. If the answer to question 33 is “Yes”, are the following actions of trafficking in persons criminalized in your country (art. 3, para. (a))?

36(a). Recruitment

No

x Yes

36(b). Transportation

No

x Yes

36(c). Transfer

No

x Yes

36(d). Harboring

No

x Yes

36(e). Receipt of persons

No

x Yes

36(f). Other actions, please specify

36(g). Please provide further detail, if needed

37. If the answer to question 33 is “Yes”, do the means of trafficking in persons consist of any of the following (art. 3, para. (a))?

37(a). Threat or the use of force or other forms of coercion

No

x Yes

37(b). Abduction

No

x Yes

37(c). Fraud

No

x Yes

37(d). Deception

No

x Yes

37(e). Abuse of power

No

x Yes

37(f). Abuse of position of vulnerability

No

x Yes

37(g). The giving or receiving of payments or benefits to achieve the consent of a person having control over another person

No

x Yes

37(h). Other means, please specify.

37(i). Please provide further details, if needed.

38. If the answer to question 33 is “Yes”, does the purpose of exploitation include, at a minimum, any of the following (art. 3, para. (a))?

38(a). The exploitation of the prostitution of others or other forms of sexual exploitation

No

x Yes

38(b). Forced labour or services

No

x Yes

38(c). Slavery or practices similar to slavery

No

x Yes

38(d). Servitude

No

x Yes

38(e). The removal of organs

No

x Yes

38(f). Other purpose, please specify.

38(g). Please provide further details, if needed.

39. Does your country ensure that, when the means set forth in article 3, paragraph (a), of the Protocol have been established, the consent of the victim to the intended exploitation is irrelevant (art. 3, para. (b))?

No

x Yes

39(a). Please explain

If the means described has been used, the consent of the victim of trafficking in persons is not taken into consideration under domestic legislation.

40. Does your country’s legal framework criminalize trafficking in children (recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation) even where it does not involve any of the means set forth in article 3, paragraph (a), of the Protocol (art. 3, para. (c))?

No

x Yes

40(a). If yes, please cite the applicable laws and/or other measures, including the applicable sanctions for this offence.

The Criminal Law. Section 154.1 Human Trafficking.

*(2) For a person who commits human trafficking if it has been committed **against a minor**, or if it has been committed by a group of persons according to a prior agreement, the applicable punishment is deprivation of liberty for a period of three and up to twelve years, with or without confiscation of property and with or without probationary supervision for a period up to three years.*

*(3) For a person who commits human trafficking if it has endangered the life of a victim or serious consequences have been caused thereby, or it has been committed involving particular cruelty or **against an underaged person**, or it has been committed by an organised group, the applicable punishment is deprivation of liberty for a period of five and up to fifteen years, with or without confiscation of property and with or without probationary supervision for a period up to three years.*

The Criminal Law. Section 154.2 Meaning of Human Trafficking

(2) The recruitment, transportation, transfer, concealment, accommodation or reception of a minor for the purpose of exploitation shall be recognised as human trafficking also in such cases, if it is not connected with the use of any of the means referred to in the Paragraph one of this Section.

41. Who is considered to be a “child” under your country’s legal framework (art. 3, para. (d)):

x “Child” means any person under 18 years of age (art. 3, para. (d))?.

Other? Please specify.

42. Subject to the basic concepts of your legal framework, does your country criminalize attempting to commit trafficking in persons (art. 5, para. 2 (a), in conjunction with art. 3)?

No

x Yes

Yes, in part

42(a). Please explain. If the answer is “Yes” or “Yes, in part”, please cite the applicable laws and/or other measures, including the applicable sanctions for this offence.

The Criminal Law. Section 15. Completed and Uncompleted Criminal Offences.

(2) Preparation for a crime and an attempted crime are uncompleted criminal offences.

(4) A conscious act (failure to act) which is directly dedicated to intentional commission of a crime, shall be considered to be an attempted crime if the crime has not been completed for reasons independent of the will of the guilty party.

(5) Liability for preparation for a crime or an attempted crime shall apply in accordance with the same Section of this Law as sets out liability for a specific offence.

42(b). If your answer is “No”, do the basic concepts of your legal framework prevent the adoption of measures to criminalize attempting to commit trafficking in persons?

43. Does your country criminalize participating as an accomplice in trafficking in persons (art. 5, para. 2 (b), in conjunction with art. 3)?

No

Yes

Yes, in part

43(a). Please provide further details, if needed.

43(b). If the answer is “Yes” or “Yes, in part”, please cite the applicable laws and/or other measures, including the applicable sanctions for this offence.

The Criminal Law. Section 20. Joint Participation.

(1) An act or failure to act committed knowingly by which a person (joint participant) has jointly with another person (perpetrator) participated in the commission of an intentional criminal offence, but he himself or she herself has not been the direct perpetrator of it, shall be considered to be joint participation. Organisers, instigators, and abettors are joint participants in a criminal offence.

(3) A person who has encouraged another person to commit a criminal offence shall be considered to be an instigator.

(4) A person who has knowingly promoted the commission of a criminal offence, providing advice, direction, or means, or removing impediments for the commission of such, as well as a person who has previously promised to conceal the perpetrator or joint participant, the instrumentalities or means for committing the criminal offence, trail of the criminal offence or the objects acquired by criminal means or has previously promised to acquire or to dispose these objects, shall be considered to be an abettor.

(5) A joint participant shall be held liable in accordance with the same Section of this Law which provides for the liability of the perpetrator.

(6) Individual constituent elements of a criminal offence which refer to a perpetrator or joint participant do not affect the liability of other participants or joint participants.

44. Does your country criminalize organizing or directing other persons to commit trafficking in persons (art. 5, para. 2 (c), in conjunction with art. 3)?

No

Yes

Yes, in part

44(a). If your answer is “Yes” or “Yes, in part”, please cite the applicable laws and/or other measures, including the applicable sanctions for this offence.

The Criminal Law. Section 20. Joint Participation.

(1) An act or failure to act committed knowingly by which a person (joint participant) has jointly with another person (perpetrator) participated in the commission of an intentional criminal offence, but he himself or she herself has not been the direct perpetrator of it, shall be considered to be joint participation. Organisers, instigators, and abettors are joint participants in a criminal offence.

(2) A person who has organised or directed the commission of a criminal offence shall be considered to be an organiser.

(5) A joint participant shall be held liable in accordance with the same Section of this Law which provides for the liability of the perpetrator.

(6) Individual constituent elements of a criminal offence which refer to a perpetrator or joint participant do not affect the liability of other participants or joint participants.

Criminalization: cases and judgments

45. States are invited to provide examples, relevant cases or judgments relating to successful implementation and enforcement for each of the criminal offences reviewed above.

DE MLA - labour exploitation in DE of LV citizens

During the German MLA request execution regarding the connection of the Latvian citizens with THB in an organised group case in Baden-Baden for labour exploitation in the construction business, in 2017 the movable and immovable property of suspects and their relatives was arrested in Latvia. As well as 3 persons are suspected of money laundering in this process. In 2018, 2 persons identified as suspects in these criminal proceedings for organising the THB in Latvia.

In 2020, 1 Latvian citizen recognised as a suspect in the laundering of the proceeds of crime and in the collection or dissemination of data enabling the illicit use of a financial instrument or means of payment (EUR 6 221 confiscated and transferred to the state budget as a part of the proceeds of crime). None of the residents of Latvia recognised themselves as a victim of an offence (as they themselves agreed to work at disadvantages in Germany because of their financial vulnerability). The adoption of a decision to initiate prosecutions against this situational group and the transfer of criminal proceedings to the Prosecutor of the Specialised Prosecutor's Office for Organised Crime and Other Sectors are planned for May-June 2021.

Marriages of convenience with the third countries nationals

In December 2012, the criminal proceedings initiated pursuant to Chapter 15 of the Criminal Law (offences committed against the freedom, honour and dignity of victims). In January 2014, 3 criminal proceedings concerning international OCGs (operating 10 people) merged into one case. The OCG took steps to abusively legitimise Pakistani citizens in Cyprus and Ireland on the basis of marriages of convenience with Latvian nationals, to recruit them (promise of work abroad), transport them from Latvia to Cyprus or Ireland, housed in the country of destination and forced marriages with Pakistani citizens using threats, physical force and sexual violence against Latvian citizens. 9 victims were identified. The decision to initiate criminal proceedings against this OCG was adopted in February 2015. Legal proceedings are still ongoing since April 2016.

JIT "Doubrava"

In November 2017, criminal proceedings were initiated for the recruitment, transportation and accommodation in an organised group of Latvian citizens for the labour exploitation in the UK flower farms and industry. In January 2018, the Joint Investigation Team (JIT "Doubrava") was launched in cooperation with the UK Police. In February 2018, 5 Latvian citizens (3 men, 2 women) were detained in Latvia. The persons suspected of having committed an offence under Article 1541.3. of the Criminal Law and extradited to the UK. The movable and immovable property of the detainees and their relatives was arrested in the amount of EUR 301 500. As well as 2 Latvian citizens (women) have been identified as suspects in the framework of this process for money laundering. One Latvian citizen who resided with detainees has been handed over to NGOs for social rehabilitation as a victim of labour exploitation. In criminal proceedings, investigative activities were carried out with more than 50 persons. 28 victims of the 9 persons organized criminal group (OCG), all Latvian citizens, were identified, with 15 victims travelling to the UK to tell of their ordeals in court. The Perpetrators were jailed for a total of 33 years by UK Nottingham Crown Court in November 2018 with the ringleaders receiving sentences as high as six years.

Based on JIT Doubrava materials in December 2019, an investigation launched in Latvia with the following criminal proceedings for the labour exploitation in the UK and the threat of killing. The court proceedings are still going on. Upon THB investigation of Latvian citizens labour exploitation in the UK, in 2021 were confiscated by Latvian court perpetrators property for up to 161 500 EUR.

In addition based on JIT Doubrava materials the investigation and relevant criminal proceedings launched in July 2020 for threatening to kill. In October 2020, the Zemgale District Court found the person guilty of committing a criminal offence under Criminal Law Section 132 and fined him EUR 860.

Labour exploitation of the Indian citizens

In April 2020, an investigation launched for labour exploitation in an organised group of seven Indian citizens by means of violence, as well as for large-scale laundering of proceeds of crime or other property in an organised group in a food production enterprise. All victims redirected to NGOs for state-funded social rehabilitation services in April 2020 and were granted a waiting period and residence permits. In November 2020, 3 Latvian citizens detained. In January 2021, in accordance with Article 439 of the CPL (Criminal Proceedings Law), the decision to initiate proceedings on the application of a coercive measure to a legal person represented by OCG members was taken in January 2021. The decision to initiate criminal proceedings against this OCG was taken in March 2021.

Supreme Court case law:

By its decision of 18 June 2007 in Case SKK - 333/2007, the Department of Criminal Cases of the Senate of the Supreme Court of the Republic of Latvia decided to leave a ruling unamended and reject a cassation complaint. By the judgment of the Riga Regional Court, Chamber of Criminal Cases of 15 April 2005, the person was found guilty and sentenced for trafficking in adults and minors in an organized group. According to the court judgment, in a period from the end of May or the beginning of June 2003 to 23 October 2003, the minor AC was sent twice to Finland, where the accused forced her into

prostitution, embezzling most of her money, but the third time the accused tried to take the victim to Finland by ferry for further sexual exploitation, he failed because the victim was detained by Finnish border guards. On August 2, 2003, the accused with deception took S.K to Finland, where he forced her into prostitution, misappropriating all the money she had earned.

The accused committed a crime provided for in Section 154.1, Paragraph 3 of the Criminal Law.

The Supreme Court acknowledged that the finding that an offence had been committed in an organized group could not be affected by the fact that not all members of the group had directly agreed to commit the offence, nor by the failure to ascertain and prosecute. To define an organized group, it is important to note that each member of the group, in the performance of their duties in the chain of joint activities, is aware that in addition to him, there are other persons who, in the performance of their duties, contribute to a common crime.

Difficulties encountered

46. Does your country encounter difficulties or challenges in implementing any provisions of the Trafficking in Persons Protocol relevant to cluster I?

No

Yes

46(a). If the answer is "Yes", please explain.

With the addition of an element of the vulnerability of the victim in 2014 to the Criminal Law Section 154.4., the perception stereotype of the person's "voluntary" involvement in exploitation by intermediaries in the law enforcement sector has not changed significantly. This leads to false assumptions that the economic situation in the country of origin of the victims has facilitated individuals to accept offers of intermediaries to engage in Latvia in such activities as the provision of prostitution services, for example, on a voluntary basis, for rapid profit purposes (also for persons from other countries where the average monthly salary is EUR 250, while the cost of living is similar to the Latvian level).

With the exception of the Criminal Division of the Senate of the Higher Court, a clear and genuine understanding of the term 'person with vulnerability' by some prosecutors and police officers, the most part of LEA understands this vulnerability that the person has a medical diagnosis or has been the subject of a court decision of limited relevance. The understanding of the vulnerability as victim's financial vulnerability because of poverty or low incomes and the following consent to exploitative activities is considered to be voluntary some LEA representatives in a multi-practice environment. This, of course, does not necessarily constitute a qualification of THB.

For example, the criminal case of February 2017 about two female Latvian citizens sent for sexual exploitation to Germany and сутenerism against them. 1 woman recognized to be a victim but the second one did not claim victim status. The suspect, the Latvian citizen - an intermediary who sent women to Germany legal brothel. Although the financial vulnerability of the victims was exploited and the intermediary profited on this basis, the offence was not classified as THB (the case has been tried without conviction).

Need for technical assistance

47. Does your country require technical assistance to implement the Protocol?

No

Yes

47(a). If the answer is “Yes”, please indicate the type of assistance required:

Assessment of criminal justice response to trafficking in persons

Legal advice or legislative drafting support

Model legislation, regulations or agreements

Development of strategies, policies or action plans

Good practices or lessons learned

Capacity-building through the training of criminal justice practitioners and/or the training of trainers

Capacity-building through awareness-raising among the judiciary

On-site assistance by a relevant expert

Institution-building or the strengthening of existing institutions

Prevention and awareness-raising

Technological assistance and equipment

47(b). Please be specific.

Question _47b _option _1

Development of data collection or databases

Workshops or platforms to enhance regional and international cooperation

Specialized tools, such as e-learning modules, manuals, guidelines and standard operating procedures

Other (please specify)

48. Is your country already receiving technical assistance in those areas?

No

Yes

48(a). If the answer is “Yes”, please specify the area of assistance and who is providing it.

49. Please provide any other information that you believe is useful to understand your implementation of the Trafficking in Persons Protocol and information that is important for the Conference of the Parties to the United Nations Convention against Transnational Organized Crime to consider regarding aspects of, or difficulties in, the implementation of the Protocol.

SOM

Step A

Uploads

Article 3 – Use of Terms - Article 5 – Criminal liability of migrants and Article 6 Criminalization

50. Is the smuggling of migrants criminalized under your domestic legal framework (art. 6, para. 1)?

No

Yes

50(a). If the answer is “No”, please explain.

50(b). If the answer is “Yes”, is the smuggling of migrants defined in your country as a criminal offence, in accordance with article 3, paragraph (a)?

Section 285. Illegal Movement of a Person Across the State Border

(1) For illegal movement of a person across the State border, the applicable punishment is the deprivation of liberty for a period of up to two years or temporary deprivation of liberty, or community service, or a fine.

(2) For the commission of the same acts, if they have been committed by a public official, using its official position, or a group of persons according to a prior agreement, or for illegal movement of several people across the State border in one time, the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or community service, or a fine, with or without the confiscation of property.

(3) For the commission of the same acts, if they have been committed by an organised group or they have resulted in serious consequences, or also who commits illegal movement of a large number of persons, that is, more than five persons at one time, across the State border,

the applicable punishment is deprivation of liberty for a period of two and up to eight years, with or without confiscation of property and with or without probationary supervision for a period up to three years.

(4) For the commission of the same acts, if they have resulted in the death of two or several human beings, the applicable punishment is deprivation of liberty for a period of three and up to fifteen years, with probationary supervision for a period up to three years.

51. Is in particular the purpose of obtaining a “financial or other material benefit” a constituent element of the offence, in accordance with article 6, paragraph 1, in conjunction with article 3, paragraph (a), of the Protocol?

No

Yes

52. Can the presence of a “financial or other material benefit”, when appropriate, constitute an aggravating circumstance of the crime?

No

Yes

52(a). Please cite the applicable laws and/or other measures, including the applicable sanctions for this offence.

Section 285. Illegal Movement of a Person Across the State Border

(1) For illegal movement of a person across the State border,

the applicable punishment is the deprivation of liberty for a period of up to two years or temporary deprivation of liberty, or community service, or a fine.

(2) For the commission of the same acts, if they have been committed by a public official, using its official position, or a group of persons according to a prior agreement, or for illegal movement of several person across the State border in one time,

the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or community service, or a fine, with or without the confiscation of property.

(3) For the commission of the same acts, if they have been committed by an organised group or they have resulted in serious consequences, or also who commits illegal movement of a large number of persons, that is, more than five persons at one time, across the State border,

the applicable punishment is deprivation of liberty for a period of two and up to eight years, with or without confiscation of property and with or without probationary supervision for a period up to three years.

(4) For the commission of the same acts, if they have resulted in death of two or several human beings,

the applicable punishment is deprivation of liberty for a period of three and up to fifteen years, with probationary supervision for a period up to three years.

Section 48. Aggravating Circumstances

(1) The following may be considered to be aggravating circumstances:

11) the criminal offence was committed out of a desire to acquire property;

53. Does your country’s legal framework make a distinction between the smuggling of migrants and trafficking in persons?

No

Yes

53(a). If the answer is “No”, please explain.

54. Is producing, procuring, providing or possessing a fraudulent travel or identity document (as defined in art. 3, para. (c)) for the purpose of smuggling migrants

criminalized under your country's legal framework (art. 6, para. 1 (b)), or as a related offence or offences?

No

Yes

54(a). If the answer is "Yes", please specify.

It is considered to be a related offence.

Criminal Law Section 275. Forgery of a Document, Seal and Stamp and Use and Disposal of a Forged Document, Seal and Stamp

(1) For a person who commits forgery of a document conferring rights or a release from obligations, of a seal or a stamp, as well as commits using or selling a forged document, seal or stamp,

the applicable punishment is the deprivation of liberty for a period of up to one year or temporary deprivation of liberty, or community service, or a fine.

(2) For the commission of the same acts, if they have been committed for the purpose of acquiring property, or if they have been committed by a group of persons according to a prior agreement, or if substantial harm has been caused thereby to the State power or administrative order or to interests of a person protected by law,

the applicable punishment is the deprivation of liberty for a period of up to four years or temporary deprivation of liberty, or community service, or a fine.

55. Is enabling a person who is not a national of or a permanent resident in your country to remain in its territory without complying with the necessary requirements for legally remaining, by using the means referred to in question 54 or any other illegal means, criminalized under your domestic legislation (art. 6, para. 1 (c))?

No

Yes

56. Does your country's legal framework establish as a criminal offence the attempt to commit the offences referred to in questions 50, 54 and 55 (art. 6, para. 2 (a), in conjunction with art. 6, para. 1)?

No

Yes

56(a). If the answer is "Yes", please cite the applicable laws and/or other measures, including the applicable sanctions.

Section 15. Completed and Uncompleted Criminal Offences

(1) A criminal offence shall be considered completed if it has all the constituent elements of a criminal offence set out in this Law.

(2) Preparation for a crime and an attempted crime are uncompleted criminal offences.

(3) The locating of, or adaptation of, means or instrumentalities, or the intentional creation of circumstances conducive for the commission of an intentional offence, shall be considered to be preparation for a crime if, in addition, it has not been continued for

reasons independent of the will of the guilty party. Criminal liability shall apply only for preparation for serious or especially serious crimes.

(4) A conscious act (failure to act) which is directly dedicated to intentional commission of a crime, shall be considered to be an attempted crime if the crime has not been completed for reasons independent of the will of the guilty party.

(5) Liability for preparation for a crime or an attempted crime shall apply in accordance with the same Section of this Law as sets out liability for a specific offence.

(6) A person shall not be held criminally liable for an attempt to commit a criminal violation.

Section 285.1 Ensuring the Possibility to Residing Illegally in the Republic of Latvia

(1) For knowingly ensuring persons the possibility to reside illegally in the Republic of Latvia, if it has been committed by a group of persons or by a public official using his or her official position,

the applicable punishment is the deprivation of liberty for a period of up to two years or temporary deprivation of liberty, or community service, or a fine, with the deprivation of the right to take up a specific office for a period of up to five years.

(2) For knowingly ensuring persons the possibility to reside illegally in the Republic of Latvia, if it has been committed for the purpose of acquiring property or if such possibility is ensured for two or several persons,

the applicable punishment is the deprivation of liberty for a period of up to four years or temporary deprivation of liberty, or community service, or a fine, with the deprivation of the right to take up a specific office for a period of up to five years and with or without confiscation of property.

[13 December 2012; 10 March 2016]

Section 285.2 Ensuring, in Bad Faith, a Possibility to Acquire the Right to Stay in the Republic of Latvia Legally, other Member State of the European Union, Member State of the European Economic Area or Swiss Confederation

(1) For ensuring, in bad faith, a possibility to acquire the right to stay in the Republic of Latvia legally, other Member State of the European Union, Member State of the European Economic Area or Swiss Confederation,

the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or community service, or a fine.

(2) For ensuring, in bad faith, a possibility to acquire the right to stay in the Republic of Latvia legally, other Member State of the European Union, Member State of the European Economic Area or Swiss Confederation, if it has been committed for the purpose of acquiring property or if such a possibility is ensured for two or several persons, or if it has been committed by a group of persons,

the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or community service, or a fine, with or without the confiscation of property.

57. Is participating as an accomplice in the offences referred to in questions 50, 54 and 55 criminalized under your country's legal framework (art. 6, para. 2 (b), in conjunction with art. 6, para. 1)?

No

Yes

57(a). If the answer is "Yes", please cite the applicable laws and/or other measures, including the applicable sanctions

Section 20. Joint Participation

(1) An act or failure to act committed knowingly by which a person (joint participant) has jointly with another person (perpetrator) participated in the commission of an intentional criminal offence, but he himself or she herself has not been the direct perpetrator of it shall be considered to be joint participation. Organisers, instigators, and abettors are joint participants in a criminal offence.

(2) A person who has organised or directed the commission of a criminal offence shall be considered to be an organiser.

(3) A person who has encouraged another person to commit a criminal offence shall be considered to be an instigator.

(4) A person who has knowingly promoted the commission of a criminal offence, providing advice, direction, or means, or removing impediments for the commission of such, as well as a person who has previously promised to conceal the perpetrator or joint participant, the instrumentalities or means for committing the criminal offence, the trail of the criminal offence or the objects acquired by criminal means or has previously promised to acquire or to dispose of these objects, shall be considered to be an abettor.

(5) A joint participant shall be held liable in accordance with the same Section of this Law which provides for the liability of the perpetrator.

(6) Individual constituent elements of a criminal offence that refer to a perpetrator or joint participant do not affect the liability of other participants or joint participants.

(7) If a joint participant has not had the knowledge of a criminal offence committed by a perpetrator or other joint participants, he or she shall not be held criminally liable for such.

(8) If the perpetrator has not completed the offence for reasons independent of his or her will, the joint participants are liable for joint participation in the relevant attempted offence. If the perpetrator has not commenced commission of the offence, the joint participants are liable for preparation for the relevant offence.

(9) Voluntary withdrawal, by an organiser or instigator from completing of commission of a criminal offence, shall be considered as such only in cases when he or she, in due time,

has done everything possible to prevent the commission with his or her joint participation of the contemplated criminal offence and this offence has not been committed. An abettor shall not be held criminally liable if he or she has voluntarily refused to provide the promised assistance before the commencement of the criminal offence.

58. Is organizing or directing other persons to commit the offences referred to in questions 50, 54 and 55 criminalized under your country's legal framework (art. 6, para. 2 (c), in conjunction with art. 6, para. 1)?

No

Yes

58(a). If the answer is "Yes", please cite the applicable laws and/or other measures, including the applicable sanctions.

Section 20. Joint Participation

(1) An act or failure to act committed knowingly by which a person (joint participant) has jointly with another person (perpetrator) participated in the commission of an intentional criminal offence, but he himself or she herself has not been the direct perpetrator of it shall be considered to be joint participation. Organisers, instigators, and abettors are joint participants in a criminal offence.

(2) A person who has organised or directed the commission of a criminal offence shall be considered to be an organiser.

(3) A person who has encouraged another person to commit a criminal offence shall be considered to be an instigator.

(4) A person who has knowingly promoted the commission of a criminal offence, providing advice, direction, or means, or removing impediments for the commission of such, as well as a person who has previously promised to conceal the perpetrator or joint participant, the instrumentalities or means for committing the criminal offence, a trail of the criminal offence or the objects acquired by criminal means or has previously promised to acquire or to dispose of these objects, shall be considered to be an abettor.

(5) A joint participant shall be held liable in accordance with the same Section of this Law which provides for the liability of the perpetrator.

(6) Individual constituent elements of a criminal offence that refer to a perpetrator or joint participant do not affect the liability of other participants or joint participants.

(7) If a joint participant has not had the knowledge of a criminal offence committed by a perpetrator or other joint participants, he or she shall not be held criminally liable for such.

(8) If the perpetrator has not completed the offence for reasons independent of his or her will, the joint participants are liable for joint participation in the relevant attempted offence. If the perpetrator has not commenced commission of the offence, the joint participants are liable for preparation for the relevant offence.

(9) Voluntary withdrawal, by an organiser or instigator from completing of commission of a criminal offence, shall be considered as such only in cases when he or she, in due time, has done everything possible to prevent the commission with his or her joint participation of the contemplated criminal offence and this offence has not been committed. An abettor shall not be held criminally liable if he or she has voluntarily refused to provide the promised assistance before the commencement of the criminal offence.

59. Does your country adopt such legislative and other measures as might be necessary to establish as aggravating circumstances to any of the offences referred to in questions 50, 54, 55, 57 and 58, conduct that endangers, or is likely to endanger, the lives or safety of the smuggled migrants or that subjects them to inhuman or degrading treatment, including for exploitation (art. 6, para. 3, in conjunction with art. 6, paras. 1 and 2)?

No

Yes

59(a). If the answer is “Yes”, please cite the applicable laws and/or other measures, including the applicable sanctions.

Section 285, Paragraph 3 - states enhanced liability if the criminal offence caused serious consequences (including bodily harm) or if it resulted in death. Also Section 48 states-general aggravating circumstances.

Section 48. Aggravating Circumstances

(1) The following may be considered to be aggravating circumstances:

- 1) the criminal offence constitutes recidivism of criminal offences;*
- 2) the criminal offence was committed while in a group of persons;*
- 3) the criminal offence was committed, taking advantage in bad faith of an official position or trust of another person;*
- 4) the criminal offence has caused serious consequences;*
- 5) the criminal offence was committed against a woman, knowing her to be pregnant;*
- 6) the criminal offence was committed against a person who has not attained eighteen years of age or against a person by taking advantage of his or her condition of helplessness or of infirmity due to old-age;*
- 7) the criminal offence was committed against a person taking advantage of his or her official, financial or other dependence on the offender;*
- 8) the criminal offence was committed with particular cruelty or with the humiliation of the victim;*
- 9) the criminal offence was committed by taking advantage of the circumstances of a public disaster or during an emergency situation or a state of exception;*

10) the criminal offence was committed employing weapons or explosives, or in some other generally dangerous way;

11) the criminal offence was committed out of a desire to acquire property;

12) the criminal offence was committed under the influence of alcohol, narcotics, psychotropic, toxic or other intoxicating substances;

13) the person committing the criminal offence, for the purpose of having his or her punishment reduced, has knowingly provided false information regarding a criminal offence committed by another person;

14) the criminal offence was committed due to racist, national, ethnic or religious motives;

15) the criminal offence related to violence or threats of violence, or the criminal offence against morality and sexual inviolability was committed against a person to whom the perpetrator of a criminal offence is related in the first or second degree of kinship, or against the spouse or former spouse, or against a person with whom the perpetrator of a criminal offence is or has been in continuous intimate relationships, or against a person with whom the perpetrator of a criminal offence has a joint (single) household;

16) the criminal offence related to violence or threats of violence, or an intentional criminal offence against health or morality and sexual inviolability of a person was committed in the presence of a minor;

17) the perpetrator of the criminal offence has knowingly given false testimony.

(2) Taking into account the nature of the criminal offence, it may be decided not to consider any of the circumstances referred to in Paragraph one of this Section as aggravating.

(3) In determining punishment, such circumstances may not be considered as aggravating which are not set out in this Law.

(4) A circumstance which is provided for in this Law as a constituent element of a criminal offence shall not be considered an aggravating circumstance.

Section 285. Illegal Movement of a Person Across the State Border

(1) For illegal movement of a person across the State border,

the applicable punishment is the deprivation of liberty for a period of up to two years or temporary deprivation of liberty, or community service, or a fine.

(2) For the commission of the same acts, if they have been committed by a public official, using its official position, or a group of persons according to a prior agreement, or for illegal movement of several people across the State border in one time,

the applicable punishment is the deprivation of liberty for a period of up to five years or temporary deprivation of liberty, or community service, or a fine, with or without the confiscation of property.

(3) For the commission of the same acts, if they have been committed by an organised group or they have resulted in serious consequences, or also who commits illegal movement of a large number of persons, that is, more than five persons at one time, across the State border,

the applicable punishment is deprivation of liberty for a period of two and up to eight years, with or without confiscation of property and with or without probationary supervision for a period up to three years.

(4) For the commission of the same acts, if they have resulted in the death of two or several human beings,

the applicable punishment is deprivation of liberty for a period of three and up to fifteen years, with probationary supervision for a period up to three years.

Criminalization: cases and judgments

60. States are invited to provide examples, relevant cases or judgments relating to successful implementation and enforcement for each of the criminal offences reviewed above.

Court cases:

With the judgment of Rēzekne City Court of March 12, 2019 in criminal case No.11822001815 six persons were found guilty and sentenced for illegally moving a large number of persons across the state border in an organized group, that is, more than five persons in one case. The illegal transfer took place across the borders of the territories of the Russian Federation and the Schengen member states (including the Republic of Latvia), the organized group also included a person living in Germany, against whom the criminal proceedings were separated in separate records. By their actions, the persons committed a criminal offense provided for in Section 285, Paragraph three of the Criminal Law.

With the judgment of Daugavpils City Court of December 5, 2017 in the criminal case No.11820000115 six persons were found guilty and sentenced for the illegal transfer of persons across the state border in an organized group. Five third-country nationals of the Socialist Republic of Vietnam without valid travel documents were taken from third parties, against whom the criminal proceedings have been separated in separate records, with an aim to smuggle them to Poland, and transferred to the residence of person F, where these Vietnamese citizens were held illegally. Later, the organized group illegally transferred five citizens of the Socialist Republic of Vietnam were illegally across the state border from the territory of the Republic of Latvia to the territory of the Republic of Lithuania, where three members of the organized group and five citizens of the Socialist Republic of Vietnam were detained without valid travel documents. By their actions, the persons committed a serious crime provided for in Section 285, Paragraph three of the Criminal Law.

Difficulties encountered

61. Does your country encounter difficulties or challenges in implementing any provisions of the Smuggling of Migrants Protocol relevant to cluster I?

No

Yes

61(a). If the answer is “Yes”, please explain.

62. If domestic legislation has not been adapted to the Protocol requirements, what steps remain to be taken? Please specify.

Need for technical assistance

63. Does your country require additional measures, resources or technical assistance to implement the Protocol effectively?

No

Yes

63(a). If the answer is “Yes”, please indicate the type of assistance required to implement the Protocol:

Assessment of criminal justice response to the smuggling of migrants

Legal advice or legislative drafting support

Model legislation, regulations or agreements

Development of strategies, policies or action plans

Good practices or lessons learned

Capacity-building through the training of criminal justice practitioners and/or the training of trainers

Capacity-building through awareness-raising among the judiciary

On-site assistance by a relevant expert

Institution-building or the strengthening of existing institutions

Prevention and awareness-raising

Technological assistance and equipment (please be specific)

Development of data collection or databases

Workshops or platforms to enhance regional and international cooperation

Specialized tools, such as e-learning modules, manuals, guidelines and standard operating procedures

Other (please specify)

64. In which areas would border, immigration and law enforcement officials in your country need more capacity-building?

65. In which areas would criminal justice institutions in your country need more capacity-building?

66. Is your country already receiving technical assistance in those areas?

No

Yes

66(a). If the answer is “Yes”, please specify the area of assistance and who is providing it.

FA

Step A

General information

67. States are invited to list other multilateral, regional or bilateral international firearms control regimes to which they are a party.

Latvia, as a Member State of the European Union, is involved in the policy of implementation of control of the circulation of weapons and ammunition by the European Union in the European region, applicable to all Member States, as well as in cooperation with the other Member States, and is based on binding European Union legislation in the field of the circulation of weapons and ammunition.

Article 3 – Use of terms.

68. Does your country's legal framework permit your country to implement the Firearms Protocol without adopting the specific definitions set forth in article 3 of the Firearms Protocol?

No

Yes

x Yes, in part

68(a). Please explain

The definitions mentioned in the Article 3 of the Firearms Protocol are incorporated in the Directive (EU) 2017/853 of the European Parliament and of the Council of 17 May 2017 amending Council Directive 91/477 / EEC on control of the acquisition and possession of weapons. Latvia fully transposed the requirements of the Directive (EU) 2017/853 on 10 April 2019, when the new Law on the Handling of Weapons entered into force. The definitions in the Law on the Handling of Weapons (Section 1. Terms Used in this Law) have been harmonized with those in the Article 3 of the Firearms Protocol.

69. Does your country's legal framework include definitions for the following terms?

69(a). Firearms (art. 3, para. (a))

No

x Yes

Yes, in part

69(a)(i). If the answer is "Yes" or "Yes, in part", are antique firearms and their replicas excluded from the definition of firearms?

No

x Yes

69(a)(ii). Please indicate any method or threshold used to exclude antique firearms and describe any criterion used to exclude replicas from the scope of application of your country's national laws on firearms.

In accordance with the Section 3, Paragraph 1, Clause 1 of the Law on the Handling of Weapons, the law does not apply to antique firearms. To identify this, two technical criteria are used, which are set out in the definition of an antique firearm. In accordance

with Section 1, Paragraph 1 of the Law on the Handling of Weapons, a firearm is considered to be an antique if the firearm is intended only for firing unfixed ammunition (components of ammunition which are not combined into one round) and has been manufactured until 1899.

Similarly, the Section 3, Paragraph 1, Clause 7 of the Law on the Handling of Weapons, does not apply to replications of antique firearms, provided that a round intended for the prohibited firearms or firearms for the handling of which a permission of the State Police is required cannot be fired from them.

In addition, in accordance with the Section 3, Paragraph 1, Clause 2 of the Law on the Handling of Weapons, the law also does not apply to copies of firearms. To identify this, the technical criteria set out in the definition of a copy of a firearm are used. In accordance with the Section 1, Paragraph 44 of the Law on the Handling of Weapons, a copy of a firearm is an accurate replication of the original firearm which is not fit for use and which only has the functions of a source of reference or ornamental functions.

69(a)(iii). If the answer to question 69 (a) is “Yes” or “Yes, in part”, do weapons that may be readily converted to expel a shot, bullet or projectile by the action of an explosive fall under the definition of firearms in your country’s legal framework (art. 3, para. (a))?

No

x Yes

69(b). Parts and components of firearms (art. 3, para. (b))

No

x Yes

69(c). Ammunition (art. 3, para. (c))

No

x Yes

69(c)(i). If the answer is “Yes”, please indicate which of the components of ammunition referred to in article 3, paragraph (c), are themselves subject to authorization in your country.

*In accordance with the Law on the Handling of Weapons Section 1, Paragraph 30, **ammunition** is an object constructionally designed for making a shot and intended for the destruction or damaging of live or inanimate targets.*

*In accordance with the Law on the Handling of Weapons Section 1, Paragraph 33, **round** is an ammunition of a firearm or gas weapon (with or without a projectile) in which gunpowder or other propellant, incendiary device (primer), and shell case (or without it) have been combined in a complete unit.*

69(d). Tracing (art. 3, para. (f))

No

x Yes

69(e). Other definitions relevant to the implementation of the Firearms Protocol (please cite them).

According to the Law on the Handling of Weapons Section 87, Paragraph 1 firearms, their essential components and ammunition, high-energy pneumatic weapons, gas weapons and signal weapons, firearms converted into salute weapons (acoustic weapons), deactivated firearms, destroyed firearms of natural persons and legal persons of Latvia, of State and local government authorities (except for the National Armed Forces and State security institutions) and the persons to whom the State Police has issued authorizations for weapons, as well as the suppliers of firearms and their essential components shall be registered in the Register of Weapons.

According to the Law on the Handling of Weapons Section 83, Paragraph 1 a weapons dealer has an obligation, during the term of operation of the license, to enter, within one working day in the Register of Weapons such information which allows the identification and tracing of all its:

- 1) manufactured, acquired, and marketed firearms, their essential components, ammunition, as well as the gunpowder acquired and sold;*
- 2) manufactured, acquired, and marketed high-energy pneumatic weapons;*
- 3) manufactured, acquired, and marketed gas weapons and signal weapons;*
- 4) essential components of firearms replaced during the repair;*
- 5) deactivated firearms and high-energy pneumatic weapons, as well as marketing of deactivated firearms;*
- 6) firearms which have been converted into salute weapons (acoustic weapons);*
- 7) firearms, ammunition, gunpowder accepted into possession.*

69(f). If the answer to any of the follow-up questions 69 (a) to (e) is “Yes”, please cite the relevant laws or regulations and definitions.

*In accordance with Section 1, Paragraph 42 of the Law on the Handling of Weapons, **firearm** is any portable barrelled weapon that expels, is designed to expel, or may be converted to expel a projectile by the action of gunpowder or another propellant.*

*In accordance with the Law on the Handling of Weapons Section 1, Paragraph 47, **component of a firearm** is any element or its substitute which is specially constructed for a firearm and is fit for operating it, as well as a device which has been constructed or adapted for silencing the sound of the shot of the firearm or for suppressing flames.*

*In accordance with the Law on the Handling of Weapons Section 1, Paragraph 43, **essential component of a firearm** is a component which, being a separate object, is included in the category of the firearm on which it is or is intended to be mounted - the barrel, including barrels and adapters which can be fitted on and are intended for the change of the calibre, the frame, the receiver or the frame of the firing mechanism, the breech block, the cylinder, the barrel casing which fixes the barrel and performs the function of the frame.*

*In accordance with the Law on the Handling of Weapons Section 1, Paragraph 45, **exchangeable essential components of a firearm** is the exchangeable barrel of the firearm, the exchangeable set of the barrel and breech block of the firearm (if the breech block can be changed completely), the barrel which can be fitted and is intended for the change of the calibre, and the adapter.*

In accordance with the Section 5, Paragraph 4 of the Law on the Handling of Weapons, semi-automatic, repeating or single-shot gas weapons and signal weapons that can be converted to bullet or multi-component projectiles by barrel firearm or other propellant are considered to be Category B firearms and are classified in the appropriate Category B subgroup depending on their mode of operation.

Article 5 – Criminalization.

70. Is the illicit manufacturing or assembly of firearms, their parts and components, and ammunition, when committed intentionally, a criminal offence under your country's legal framework, according to article 5, paragraph 1 (a), in conjunction with article 3, paragraph (d)?

No

Yes

Yes, in part

70(a). If the answer is "Yes, in part" or "No", please explain, if needed.

70(b). If the answer is "Yes" or "Yes, in part", are the following conducts, when committed intentionally, included in the criminal offence of the illicit manufacturing or assembly of firearms, their parts and components, and ammunition?

70(b)(i). The manufacturing or assembly of firearms from illicitly trafficked parts and components (art. 5, para. 1 (a), in conjunction with art. 3, para. (d) (i))

No

Yes

Yes, in part

70(b)(ii). The manufacturing or assembly of firearms, their parts and components and ammunition without a licence or authorization from a competent national authority (art. 5, para. 1 (a), in conjunction with art. 3, para. (d) (ii))

No

Yes

Yes, in part

70(b)(iii). The reactivation of deactivated firearms or essential parts thereof without a licence or authorization from a competent national authority (art. 5, para. 1 (a), and art. 3, para. (d) (ii), in conjunction with art. 9 (1))

No

Yes

Yes, in part

70(b)(iv). The conversion of weapons into a firearm without a licence or authorization from a competent national authority (art. 5, para. 1 (a), in conjunction with art. 3, para. (d) (ii))

No

Yes

Yes, in part

70(b)(v). The manufacturing or assembly of firearms, without marking them at the time of manufacture or with markings that do not meet the requirements of article 8 of the Firearms Protocol (art. 5, para. 1 (a), in conjunction with art. 3, para. (d) (iii))

No

Yes

Yes, in part

70(c). If the answer to any of these questions is “Yes” or “Yes, in part”, please cite for each of these modalities the applicable laws and regulations and/or other measures, including the applicable sanctions.

Criminal Law Section 233. Unauthorised Manufacture, Repair, Acquisition, Storage, Carrying, Transportation, Forwarding and Sale of Firearms, Essential Components of Firearms, Firearm Ammunition, High-powered Pneumatic Weapons, Explosives and Explosive Devices, and Violation of Disposal Regulations

(1) For a person who disposes firearms, essential components of a firearm, firearm ammunition, high-powered pneumatic weapons, explosives or explosive devices to a person who does not have a relevant permit or special permit (licence), if committed by a person who has a relevant permit or special permit (licence),

the applicable punishment is the deprivation of liberty for a period of up to one year or temporary deprivation of liberty, or community service, or a fine.

(2) For a person who commits manufacturing, repair, acquiring, storing, carrying, transporting, forwarding or disposal of firearms, essential components of a firearm, firearm ammunition, high-powered pneumatic weapons, explosives or explosive devices, without a relevant licence,

the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or community service, or a fine.

(3) For a person who commits the acts provided for by Paragraph two of this Section, if they have been committed by an organised group,

the applicable punishment is the deprivation of liberty for a period of up to ten years, with or without the confiscation of property and with probationary supervision for a period of up to three years.

70(d). If the answer to any of these questions is “Yes, in part” or “No”, please explain how the modalities of the illicit manufacturing or assembly of firearms, their parts and components and ammunition are treated under your country’s legal framework.

71. Is the offence of illicit trafficking in firearms, their parts and components and ammunition, when committed intentionally, criminalized under your country’s legal framework, in accordance with article 5, paragraph 1 (b), in conjunction with article 3, paragraph (e), of the Firearms Protocol?

No

Yes

Yes, in part

71(a). If the answer is “Yes, in part” or “No”, please explain, if needed.

71(b). If the answer is “Yes” or “Yes, in part”, are the following conducts, when committed intentionally, included in the criminal offence of illicit trafficking in firearms, their parts and components and ammunition?

71(b)(i). The import, export, acquisition, sale, delivery, movement or transfer of firearms, their parts and components or ammunition from or across the territory of one State to that of another State without authorization of any of the countries concerned (art. 5, para. 1 (b), in conjunction with art. 3, para. (e), and art. 10)

No

Yes

Yes, in part

71(b)(ii). The import, export, acquisition, sale, delivery, movement or transfer of firearms from or across the territory of one State to that of another State without appropriate marking, in accordance with article 8 of the Firearms Protocol (art. 5, para. 1 (b), in conjunction with art. 3, para. (e), and art. 8)

No

Yes

Yes, in part

71(c). If the answer to any of the questions above is “Yes” or “Yes, in part”, please cite for each of the modalities the applicable laws and regulations and/or other measures, including the applicable sanctions.

Criminal Law Section 233. Unauthorised Manufacture, Repair, Acquisition, Storage, Carrying, Transportation, Forwarding and Sale of Firearms, Essential Components of Firearms, Firearm Ammunition, High-powered Pneumatic Weapons, Explosives and Explosive Devices, and Violation of Disposal Regulations

(1) For a person who disposes firearms, essential components of a firearm, firearm ammunition, high-powered pneumatic weapons, explosives or explosive devices to a person who does not have a relevant permit or special permit (licence), if committed by a person who has a relevant permit or special permit (licence),

the applicable punishment is the deprivation of liberty for a period of up to one year or temporary deprivation of liberty, or community service, or a fine.

(2) For a person who commits manufacturing, repair, acquiring, storing, carrying, transporting, forwarding or disposal of firearms, essential components of a firearm, firearm ammunition, high-powered pneumatic weapons, explosives or explosive devices, without a relevant licence,

the applicable punishment is the deprivation of liberty for a period of up to three years or temporary deprivation of liberty, or community service, or a fine.

(3) For a person who commits the acts provided for by Paragraph two of this Section, if they have been committed by an organised group,

the applicable punishment is the deprivation of liberty for a period of up to ten years, with or without the confiscation of property and with probationary supervision for a period of up to three years.

71(d). If the answer to any of the questions above is “Yes, in part” or “No”, please explain how these modalities of the illicit transfer of firearms, their parts and components and ammunition are treated under your country’s legal framework.

72. If the answer to question 71 is “Yes” or “Yes, in part”, are any of the following actions included in the offence(s) of illicit trafficking established under your country’s legal framework (art. 5, para. 1 (b), in conjunction with art. 3, para. (e))?

Import

Export

Acquisition

Sale

Delivery

Movement

Transfer

Other, if any

72(a). Please provide further details, if needed.

73. If the answer to question 71 is “Yes” or “Yes, in part”, does the offence of illicit trafficking established under your country’s legal framework require a transnational transfer of the items between at least two States to qualify as illicit trafficking under your country’s legal framework (art. 5, para. 1 (b), in conjunction with art. 3, para. (e))?

No

Yes

Yes, in part

73(a). If your answer is “Yes, in part” or “No”, please explain, on a voluntary basis, and cite the applicable laws and regulations and/or other measures

Section 233 of the Criminal Law (Unauthorized manufacture, repair, acquisition, storage, carrying, transport, transfer, sale and sale of firearms, essential components of firearms, firearm ammunition, high-energy pneumatic weapons, explosives and explosive devices) does not state that trafficking should involve two or more states.

74. Is the act of falsifying or illicitly obliterating, removing or altering the marking(s) on firearms, when committed intentionally, criminalized under your country’s legal framework according to article 5, paragraph 1 (c), in conjunction with article 8 of the Firearms Protocol?

No

Yes

Yes, in part

74(a). If the answer is “Yes” or “Yes, in part”, please cite the applicable laws and regulations and/or other measures, including the applicable sanctions for this offence(s).

74(b). If the answer is “Yes, in part” or “No”, please explain how the falsifying, obliterating, removing or altering of required marking(s) on firearms is treated under your country’s legal framework.

The Republic of Latvia in 2019 finished the process of transposition of requirements of the Directive (EU) 2017/853 of the European Parliament and of the Council of 17 May 2017 amending Council Directive 91/477/ECC on control of the acquisition and possession of weapons (forward - Directive (EU) 2017/853) and Commission Implementing Directive (EU) 2019/68 of 16 January 2019 establishing technical specifications for the marking of firearms and their essential components under Council Directive 91/477/EEC on control of the acquisition and possession of weapons (forward - Directive (EU) 2019/68). The

Republic of Latvia was one of the first Member States of the European Union which transposed the requirements of Directive (EU) 2019/68. However, an evaluation of the concept of the marking of weapons in Directive (EU) 2017/853 and Directive (EU) 2019/68 and its transposition in the Republic of Latvia shows that the Latvian legislature has fully transposed Directive (EU) 2017/853 and Directive (EU) 2019/68 in the Latvian national legislation in a field of handling of weapons, but has not completely transposed the requirements of Directive (EU) 2017/853 into Latvian national criminal law. Directive (EU) 2017/853 section 1 paragraph 11, c) includes into the meaning of the definition of “illicit manufacturing” the manufacturing or assembly of firearms, their essential components and ammunition without marking firearms at the time of manufacture in accordance with Directive (EU) 2017/853 requirements [2]. Directive (EU) 2017/853 section 1 paragraph 11, c) not transposed into The Latvian Criminal Law section 233 which establishes criminal liability for unauthorized manufacture of firearms, essential components of firearms, firearm ammunition. Taking into account the above mentioned, firearms, their essential components and ammunition which are not marked at the time of their manufacture are not considered as a criminal offence in the Republic of Latvia at the moment.

Keywords: *handling of weapons, firearms, firearms essential components, firearm ammunition, marking, traceability, illicit manufacturing, criminal liability.*

75. Subject to the basic concepts of its legal system, does your country’s legal framework criminalize the following ancillary offences:

75(i). Attempting to commit any of the offences covered by article 5, paragraph 1 (art. 5, para. 2 (a))?

No

Yes

Yes, in part

75(ii). Participating as an accomplice in any of the offences covered by article 5, paragraph 1 (art. 5, para. 2 (a))?

No

Yes

Yes, in part

75(iii). Organizing, directing, aiding, abetting, facilitating or counselling the commission of any of the offences covered by article 5, paragraph 1 (art. 5, para. 2 (b))?

No

Yes

Yes, in part

75(a). If the answer to any of the questions above is “Yes” or “Yes, in part”, please cite for each of these offences the applicable laws and regulations and/or other measures, including the applicable sanctions.

Section 15. Completed and Uncompleted Criminal Offences

(1) A criminal offence shall be considered completed if it has all the constituent elements of a criminal offence set out in this Law.

(2) Preparation for a crime and an attempted crime are uncompleted criminal offences.

(3) The locating of, or adaptation of, means or instrumentalities, or the intentional creation of circumstances conducive for the commission of an intentional offence, shall be considered to be preparation for a crime if, in addition, it has not been continued for reasons independent of the will of the guilty party. Criminal liability shall apply only for preparation for serious or especially serious crimes.

(4) A conscious act (failure to act) that is directly dedicated to the intentional commission of a crime, shall be considered to be an attempted crime if the crime has not been completed for reasons independent of the will of the guilty party.

(5) Liability for preparation for a crime or an attempted crime shall apply in accordance with the same Section of this Law assets out liability for a specific offence.

(6) A person shall not be held criminally liable for an attempt to commit a criminal violation.

Section 20. Joint Participation

(1) An act or failure to act committed knowingly by which a person (joint participant) has jointly with another person (perpetrator) participated in the commission of an intentional criminal offence, but he himself or she herself has not been the direct perpetrator of it shall be considered to be joint participation. Organisers, instigators, and abettors are joint participants in a criminal offence.

(2) A person who has organised or directed the commission of a criminal offence shall be considered to be an organiser.

(3) A person who has encouraged another person to commit a criminal offence shall be considered to be an instigator.

(4) A person who has knowingly promoted the commission of a criminal offence, providing advice, direction, or means, or removing impediments for the commission of such, as well as a person who has previously promised to conceal the perpetrator or joint participant, the instrumentalities or means for committing the criminal offence, the trail of the criminal offence or the objects acquired by criminal means or has previously promised to acquire or to dispose of these objects, shall be considered to be an abettor.

(5) A joint participant shall be held liable in accordance with the same Section of this Law which provides for the liability of the perpetrator.

(6) Individual constituent elements of a criminal offence that refer to a perpetrator or joint participant do not affect the liability of other participants or joint participants.

(7) If a joint participant has not had the knowledge of a criminal offence committed by a perpetrator or other joint participants, he or she shall not be held criminally liable for such.

(8) If the perpetrator has not completed the offence for reasons independent of his or her will, the joint participants are liable for joint participation in the relevant attempted

offence. If the perpetrator has not commenced commission of the offence, the joint participants are liable for preparation for the relevant offence.

(9) Voluntary withdrawal, by an organiser or instigator from completing of commission of a criminal offence, shall be considered as such only in cases when he or she, in due time, has done everything possible to prevent the commission with his or her joint participation of the contemplated criminal offence and this offence has not been committed. An abettor shall not be held criminally liable if he or she has voluntarily refused to provide the promised assistance before the commencement of the criminal offence.

75(b). If the answer to any of the questions above is “Yes, in part” or “No”, please explain how these conducts are treated under your country’s legal framework.

76. States are invited to provide any information on any additional criminal offences that may be established under their country’s legal framework to enforce the provisions of the Firearms Protocol (art. 34, para. 3, of the Convention, in conjunction with art. 1, para. 2, of the Firearms Protocol):

Acts related to the failure to keep records of firearms and, where appropriate and feasible, their parts and components and ammunition, and the falsification and destruction of such records, when committed intentionally (art. 7 of the Firearms Protocol)

Criminalization of acts of intentionally giving false or misleading information likely to unduly influence the issuance of the required licence or authorization for either the manufacture or assembly of firearms, their parts and components or ammunition or for actions referred to under article 3, paragraph (e), of the Firearms Protocol, including, when requested by law, end use or end user certificates

x Criminalization of acts related to the intentional falsification or misuse of documents for the purpose of achieving the issuance of the required licence or authorization for either the manufacture or assembly of firearms, their parts and components or ammunition or for actions referred to under article 3, paragraph (e), of the Firearms Protocol, including, when requested by law, end use or end user certificates

x Criminalization of acts related to the intentional possession or use of fraudulent licences or authorizations in relation to the manufacture or assembly of firearms, their parts and components or ammunition or for actions referred to under article 3, paragraph (e), of the Firearms Protocol, including, when requested by law, fraudulent end use or end user certificates

Criminalization of intentional acts related to the illicit reactivation of deactivated firearms, consistent with article 9, paragraphs (a) to (c), of the Firearms Protocol

x Criminalization of the illicit brokering of firearms, their parts and components or ammunition and failure to provide required information about brokering activities (see also art. 15)

Other(s) (please specify)

76(a). Please explain and cite the applicable laws and regulations and/or other measures, including the applicable sanctions.

Section 20. Joint Participation

(1) An act or failure to act committed knowingly by which a person (joint participant) has jointly with another person (perpetrator) participated in the commission of an intentional criminal offence, but he himself or she herself has not been the direct perpetrator of it

shall be considered to be joint participation. Organisers, instigators, and abettors are joint participants in a criminal offence.

(2) A person who has organised or directed the commission of a criminal offence shall be considered to be an organiser.

(3) A person who has encouraged another person to commit a criminal offence shall be considered to be an instigator.

(4) A person who has knowingly promoted the commission of a criminal offence, providing advice, direction, or means, or removing impediments for the commission of such, as well as a person who has previously promised to conceal the perpetrator or joint participant, the instrumentalities or means for committing the criminal offence, the trail of the criminal offence or the objects acquired by criminal means or has previously promised to acquire or to dispose of these objects, shall be considered to be an abettor.

(5) A joint participant shall be held liable in accordance with the same Section of this Law which provides for the liability of the perpetrator.

(6) Individual constituent elements of a criminal offence that refer to a perpetrator or joint participant do not affect the liability of other participants or joint participants.

(7) If a joint participant has not had the knowledge of a criminal offence committed by a perpetrator or other joint participants, he or she shall not be held criminally liable for such.

(8) If the perpetrator has not completed the offence for reasons independent of his or her will, the joint participants are liable for joint participation in the relevant attempted offence. If the perpetrator has not commenced commission of the offence, the joint participants are liable for preparation for the relevant offence.

(9) Voluntary withdrawal, by an organiser or instigator from completing of commission of a criminal offence, shall be considered as such only in cases when he or she, in due time, has done everything possible to prevent the commission with his or her joint participation of the contemplated criminal offence and this offence has not been committed. An abettor shall not be held criminally liable if he or she has voluntarily refused to provide the promised assistance before the commencement of the criminal offence.

Criminal Law Section 275. Forgery of a Document, Seal and Stamp and Use and Disposal of a Forged Document, Seal and Stamp

(1) For a person who commits forgery of a document conferring rights or a release from obligations, of a seal or a stamp, as well as commits using or selling a forged document, seal or stamp,

the applicable punishment is the deprivation of liberty for a period of up to one year or temporary deprivation of liberty, or community service, or a fine.

(2) For the commission of the same acts, if they have been committed for the purpose of acquiring property, or if they have been committed by a group of persons according to a prior agreement, or if substantial harm has been caused thereby to the State power or administrative order or to interests of a person protected by law,

the applicable punishment is the deprivation of liberty for a period of up to four years or temporary deprivation of liberty, or community service, or a fine.

Criminalization: cases and judgments

77. If possible, provide examples, relevant cases or judgments of successful implementation and enforcement for each of the criminal offences reviewed above.

The criminal investigation of July 2016 according to the Criminal Law Section 233.2.

During 2 authorized searches found and seized an amount of FA and explosives in Dobele Municipality in Latvia: a machine gun, 13 pistols, 2 rifles, an automatic gun, 56 kg explosives, 730 different calibre patrons, 7 FA parts. As well as after the seizure another item founded and handled by the Latvian National Guard (S-MINEs, 2 hand grenades F-1, etc.)

The suspect has been convicted of forced labour in the amount of 200 hours.

The criminal investigation of March 2017 according to the Criminal Law Section 233.2.

State Police in cooperation with State Border Guard carried out the search in Vecbiepalga Municipality. The following items found and seized: 3853 pieces of different calibre ammunition; FOUR 4 pistols; 6 hand grenades F-1; 9 pieces of explosive artillery charges; 200 gr of propellant powder, 152 essential FA parts. As well 120 different type of explosive devices, some of the because of security reasons handed to the Latvian National Guard, for example, air bomb SC 50(CONTAINS SV 25KG.) ; 8 hand grenades F-1; 6 hand grenades RG-42, miscellaneous parts of ammunition and explosives containing compounds – 64 pieces, etc.

The suspect convicted - Basic penalty: deprivation of liberty for 9 months.

Type of execution – the sentence is conditional on a probationary period of 1 year.

The are some more examples of similar criminal cases according to Criminal Law Section 233.2.

By the judgment of the Riga District Court of September 2, 2015, in the criminal case No.11840003912 three persons were found guilty and sentenced for the fact that person E in an organized group transported, stored, repaired and manufactured firearms without a relevant permit, as well as purchased and stored firearm ammunition without a relevant permit, but person G and person F in an organized group without a relevant permit kept and supported unauthorized transportation, repair and manufacture of firearms, and supported the acquisition and possession of ammunition for firearms without a relevant permit. By such acts, the persons committed a criminal offence provided for in Section 233, Paragraph three of the Criminal Law.

By the same judgment, the persons were found guilty and punished for the fact that person E in an organized group illegally moved weapons, the circulation of which is specially regulated, across the state border of the Republic of Latvia but person F and person G in an organized group supported the illegal transfer of weapons, the circulation of which is specially regulated, across the state border of the Republic of Latvia. With such actions, the persons committed a criminal offence provided for in Section 190.1, Paragraph three of the Criminal Law.

Difficulties encountered

78. Does your country encounter difficulties in implementing the provisions of the Firearms Protocol?

No

Yes

Yes, in part

78(a) . If the answer is “Yes” or “Yes, in part”, please explain.

79. Has your country assessed the effectiveness of its measures against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition?

No

Yes

79(a) . If the answer is “Yes”, please explain and cite any relevant document(s) (e.g., assessments, gap analysis, reports of other international and regional review mechanisms, policy studies, etc.).

80. Does your country have a national strategy or action plan to counter the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition or to implement relevant regional or international instruments in this field?

No

Yes

80(a) . If the answer is “Yes”, please cite the relevant strategy or action plan, providing a short explanation of their scope, and/or other measure(s).

81. If your country’s domestic legal framework has not been adapted to the Protocol requirements, please specify what steps remain to be taken.

81(a) . Are there any difficulties with regard to the adoption of new national legislation or the implementation of national legislation?

No

Yes

81(a)(i). If the answer is “Yes”, does any of the below apply?

Problems with the formulation of legislation

Need for institutional reforms or the establishment of new institutions

Need for further implementing legislation (laws, regulations, decrees, etc.)

Difficulties encountered by practitioners in using legislation

Lack of awareness

Lack of inter-agency coordination

Specificities of the legal framework

Lack of technical knowledge and skills

Limited or no cooperation from other States

Limited resources for implementation

Other issues (please specify)

Need for technical assistance

82. Does your country require technical assistance to overcome difficulties in implementing the Protocol?

No

Yes

82(a). If the answer is “Yes”, please indicate the type of assistance required:

Assessment of criminal justice response to the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition and its links to other serious crimes

Legal advice or legislative reforms and regulations

Model legislation, regulations or agreements

Establishment of competent authorities, national focal points or points of contacts on firearms

Institution-building or the strengthening of existing institutions

Development of strategies, policies or action plans

Dissemination of good practices or lessons learned

Capacity-building through the training of criminal justice practitioners and/or the training of trainers

Prevention and awareness-raising

On-site assistance by a mentor or relevant expert

Border control and risk assessment

Standard operating procedures

Detection of illicit trafficking flows at border crossings, by postal services or by means of the Internet

Information exchange

Investigation and prosecution

Measures to enhance regional and international cooperation

Establishment or development of information technology infrastructure, such as record-keeping systems, digital templates and tools, databases or communication tools

Collection and analysis of firearms trafficking data

Other areas (please specify). Please prioritize the technical assistance needs and refer to the specific provisions of the Protocol when providing information.

82(b). Technological assistance and equipment:

Marking

Record-keeping systems

Identification and tracing of firearms

Transfer controls

Collection campaigns

Deactivation and destruction

Stockpile management

question_82b_option_8

82(c). Is your country already receiving technical assistance in those areas?

No

Yes

82(c)(i). If the answer is “Yes”, please specify the area of assistance and who is providing it.

82(d). Please describe practices in your country that you consider to be good practices in relation to the control of firearms and to prevent and combat the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, which might be of interest to other States in their efforts to implement the Firearms Protocol.

82(e). Please provide any other information that you believe is important to consider regarding aspects of, or difficulties in, the implementation of the Protocol other than those mentioned above.