



# IMPLEMENTING THE OECD ANTI-BRIBERY CONVENTION



## PHASE 2 TWO-YEAR FOLLOW-UP REPORT: **Lithuania**

This report, submitted by Lithuania, provides information on the progress made by Lithuania in implementing the recommendations of its Phase 2 report. The OECD Working Group on Bribery's summary of and conclusions to the report were adopted on 12 December 2019.

The Phase 2 report evaluated and made recommendations on Lithuania's implementation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 2009 Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions. It was adopted by the OECD Working Group on Bribery on 15 December 2017.

This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.

## *Table of Contents*

<b>SUMMARY AND CONCLUSIONS BY THE WORKING GROUP ON BRIBERY .....</b>	<b>4</b>
<b>ANNEX: PHASE 2 EVALUATION OF LITHUANIA: WRITTEN FOLLOW-UP REPORT ...</b>	<b>10</b>

## *SUMMARY AND CONCLUSIONS BY THE WORKING GROUP ON BRIBERY*

### **Summary of findings**

In December 2019, Lithuania presented its written follow-up report to the OECD Working Group on Bribery in International Business Transactions (Working Group), outlining the steps taken to implement the recommendations and follow-up issues identified during the [Phase 2 evaluation](#) in December 2017. In light of the information provided, the Working Group concludes that Lithuania has fully implemented 16 of the 27 recommendations, partially implemented 8 recommendations and not implemented 1 recommendation. Recommendations 7c and 9b will be converted into follow-up issues that the Working Group will assess in future evaluations of Lithuania.

Overall, Lithuania has shown considerable progress in addressing the Working Group's concerns. In Lithuania's Phase 2 report, the Working Group noted that Lithuania had taken significant steps to strengthen its legislative framework to combat foreign bribery. However, the Working Group found that further efforts were needed to ensure effective enforcement of anti-bribery laws with regard to corporate liability and imposing sanctions for foreign bribery, including confiscation. Lithuania has two ongoing foreign bribery investigations; one dating from [Phase 2](#) (Case 2#) and another opened in 2018. The other foreign bribery investigation underway in Phase 2 (Case 1#) was terminated in 2019. Impressive efforts have been made to train judges, prosecutors and law enforcement officials on the foreign bribery offence, sanctions and corporate liability.

The Working Group's summary and conclusions with respect to Lithuania's Phase 2 recommendations are presented below. They should be read in conjunction with the report prepared by Lithuania, annexed to the present document.

### **Regarding prevention and awareness-raising:**

- ◆ *Recommendation 1(a) – Partially implemented:* Lithuania's Special Investigations Service (STT) has taken considerable steps to raise awareness of the foreign bribery offence across Lithuania, both in other government agencies and across the private sector. The STT undertook numerous trainings of public officials, law enforcement officials and accountants and auditors. Trainings were focused on the foreign bribery offence and the duty to report corruption. While the number of trainings and participants is impressive, Lithuania's efforts to address this recommendation appear to be insufficient. The awareness raising did not appear to encourage other Lithuanian government agencies (particularly those working with SOEs and SMEs) to conduct their own foreign bribery awareness raising activities. As in Phase 2, all of the activities appear to have been conducted by the STT.
- ◆ *Recommendation 1(b) – Partially implemented:* The STT continued its significant efforts on awareness-raising. However, there is no mention of the efforts made by NGOs or business organizations in this regard. Lithuania provided additional information noting that while no monitoring and evaluation of the effectiveness of trainings has been conducted to date, Lithuania plans to develop in 2020 a post-event-survey form and methodology to evaluate and monitor the

effectiveness of trainings. The Working Group welcomes this initiative and invites Lithuania to share the results of this evaluation framework, once it has been established.

- ◆ *Recommendation 1(c) – Fully implemented.* Lithuanian overseas embassies were instructed to regularly address the information on the corruption risks in their various interactions with Lithuanian business operating abroad. 320 diplomats participated in training sessions organised by the MFA with the participation of the STT, informing them about their obligation to provide information to Lithuanian businesses and their representatives operating abroad on the prevention of foreign bribery, and to report suspicions of corruption via available channels.

#### Regarding officially supported export credits:

- ◆ *Recommendation 2 – Fully implemented:* Information provided by Lithuania demonstrates that its export credit agency, INVEGA, is implementing the provisions of the 2006 OECD Recommendation of the Council on Bribery of Officially Supported Export Credits in its export credit guarantee agreements. The Working Group should evaluate INVEGA's implementation of the 2019 Export Credit Recommendation in future evaluations of Lithuania.

#### Regarding official development assistance:

- ◆ *Recommendation 3(a) – Fully implemented:* The insertion of a new clause in all ODA contracts ensures that there is now language on terminating or suspending an ODA Agreement if the implementing partner engaged in corruption during the course of the contract, and not only because of a prior conviction. This complies with paragraph 8 i) of the Recommendation of the Council for Development Co-operation Actors on Managing the Risk of Corruption.
- ◆ *Recommendation 3(b) – Fully implemented:* Lithuania (STT, MFA and CMPA) conducted various training initiatives targeting the relevant officials on the Anti-Bribery Convention and the OECD Recommendation of the Council for Development Co-operation Actors on Managing the Risk of Corruption. As these efforts are only recent, the Ministry of Foreign Affairs, CPMA and the STT should ensure that these activities are repeated and the Group should follow-up in future evaluations of Lithuania.

#### Regarding accounting requirements, external audit and internal company controls:

- ◆ *Recommendation 4(a) – Fully implemented:* The Law on Audit of Financial Statements was amended on 15 November 2018 (effective from 1 May 2019)<sup>1</sup> to introduce an obligation for auditors to report suspicions of foreign bribery to the STT and receive regular training on the offence; and task the Lithuanian Chamber of Auditors (LCA), in cooperation with the STT, to develop recommendations to auditors on the identification of cases of foreign bribery, provide guidance for this purpose, and monitor their implementation. Although these recommendations and guidance are yet to be finalised (a special working group in LCA initiated this work in September 2019), various training initiatives by the STT, the LCA and a regional accountants association on the offence and on detection have targeted auditors and accountants. The Working Group encourages Lithuania to complete the development of guidance and maintain these positive awareness-raising and training efforts.

---

<sup>1</sup> <https://www.e-tar.lt/portal/lt/legalAct/eceda120eef311e88568e724760eeafa>

- ◆ *Recommendation 4(b) – Partially implemented:* Lithuania reported steps to encourage companies to implement internal controls with a particular focus on preventing foreign bribery. An amendment to Resolution 665 (August 2019) requires state owned companies to implement effective internal controls, including on the prevention of foreign bribery and ensure that their subsidiaries comply with this provision. Efforts targeting other types of companies are unclear.
- ◆ *Recommendation 4(c) – Fully implemented:* As noted above, the amendments made to the Law on Audit of Financial Statements, now require all auditors (audit firms) to report suspected cases of foreign bribery to the STT. These amendments address the recommendation made to Lithuania to extend the scope of the reporting requirement to include suspicions of foreign bribery and extend its application to all auditors.

#### Regarding money laundering:

- ◆ *Recommendation 5(a) – Fully implemented:* The amendments to the AML/CFT Law adopted in June 2018 eliminate the exceptions concerning the definitions of “monetary operation” and “customer” and rectify the potential loopholes in the Law.
- ◆ *Recommendation 5(b) – Partially implemented:* Lithuania’s Financial Crime Investigation Service (FCIS) has conducted training for reporting entities on identifying payments to PEPs and enhanced CDD measures. However, the Working Group considers Lithuania could provide more specific guidance and training materials concerning identification and reporting of laundering of bribes or proceeds of bribery.
- ◆ *Recommendation 5(c) – Partially implemented:* Training on the reporting obligation was provided to accountants and auditors but not to an adequate extent to the legal profession. The Working Group highlights the need to make further efforts to raise awareness of the reporting obligation among the legal profession in light of its risk profile (as emphasised by the December 2018 MONEYVAL 5th Evaluation report of Lithuania) and encourages Lithuania to carry out the relevant activities planned in 2020 for that purpose.
- ◆ *Recommendation 5(d) – Fully implemented:* Lithuania appears to be making significant efforts to encourage broad STR reporting, in response to the recommendation.
- ◆ *Recommendation 5(e) – Fully implemented:* Following the Working Group’s recommendation, the Bank of Lithuania established a separate Anti-Money Laundering division under the Supervision Service Prudential Supervision Department, staffed by 10 full-time employees, with two more posts to be opened in 2020. The Bank of Lithuania is also developing IT tools for data collection and analysis.

#### Regarding capacity and independence:

- ◆ *Recommendation 6(a) – Fully implemented:* With respect to capacity and independence of law enforcement authorities, the Working Group congratulates the efforts made by the Government to support the work of the authorities on this regard. The STT’s budget and capabilities have been increased and two foreign bribery investigations have been opened since Phase 2.
- ◆ *Recommendation 6(b) – Fully implemented:* The amendments to the Seimas Statute removed the provisions that were found unconstitutional in 2015, as well as harmonised other provisions reflecting the Constitutional Court decision on the unconstitutionality of art. 206 (5) and (6) in the Statute of the Seimas (Convention Article 5 and Commentary 27).

### Regarding investigation and prosecution:

- ◆ *Recommendation 7(a) – Fully implemented:* The Prosecution Service issued informational report No. 17.9-13387 “Regarding Investigation of Foreign Bribery” which informed employees of the Prosecution Service and law enforcement authorities about their obligation to notify the Department and the STT about criminal offences related to foreign bribery. It would appear that the document has clarified the respective responsibilities of the STT and OCCI in foreign bribery cases.
- ◆ *Recommendation 7(b) – Partially implemented:* The FCIS Strategic Action Plan of 2020-2022 seems to be the result of reviewing the policy in respect of enforcement of money-laundering offences. Nevertheless, Lithuania has not provided sufficient information to demonstrate that it has clearly defined the competence of pre-trial investigation agencies in enforcement of foreign bribery-based money laundering. The FCIS has not referred any suspicions of foreign bribery to the STT since Phase 2, and therefore the Working Group has not been able to evaluate the implications of this situation in practice.
- ◆ *Recommendation 7(c) –* The Working Group was unable to determine whether investigations into accounting and auditing offences consider whether such offences are committed in the context of bribery of foreign public officials, due to a lack of cases. This recommendation will be converted into a follow-up issue, to be analysed in future evaluations as case law develops.

### Regarding the judiciary:

- ◆ *Recommendation 8(a) – Fully implemented:* Several training initiatives on the foreign bribery offence, as well as on the imposition of sanctions in corruption cases, have targeted judges.
- ◆ *Recommendation 8(b) - Partially implemented:* The procedure for selecting and appointing judges has been amended with a view to strengthening the independence of the Selection Commission and the role of the Judicial Council through amendments to the Law on Courts. These were adopted on 16 July 2019 and will come into effect on 1 January 2020.

### Regarding mutual legal assistance and extradition:

- ◆ *Recommendation 9(a) – Partially implemented:* Lithuania is collecting detailed statistics on MLA and extradition which would enable an assessment of the effectiveness and promptness of its cooperation in foreign bribery cases. The evaluation team recognises the efforts made to launch a new, more comprehensive module on international cooperation in criminal matters within the data management system of the Prosecution Service (Integrated Informational System of Criminal Process), which is due to operate in the beginning of 2020. This new system will facilitate faster and more efficient data generation and the Working Group looks forward to reviewing the results of the new system in future evaluations.
- ◆ *Recommendation 9(b) –* This recommendation cannot be assessed due to the lack of extradition cases involving the foreign bribery offence, and therefore will be converted into a follow-up issue to be reviewed in future evaluations as case law develops.

### Regarding the foreign bribery offence:

- ◆ *Recommendation 10 – Fully implemented:* The Prosecution Service has undertaken numerous efforts to train both prosecutors and judges to investigate and prosecute corruption-related criminal offences including bribery. Lithuania has stated that these trainings addressed the requisite intent for corruption offences and has clarified that the foreign bribery offence has been specifically addressed.

### Regarding liability of legal persons:

- ◆ *Recommendation 11 – Fully implemented:* Judges, prosecutors and law enforcement officers have received training on the liability of legal persons. In addition, on 8 November 2018, the Supreme Court published online “A review of court practice in applying criminal liability for legal persons”, a detailed document that codifies and summarises the courts’ practice from 2008 to 2018 on significant issues related to Article 20 of the Criminal Code and related provisions. Lithuania indicates that the review serves as an important tool for judges, prosecutors and investigators to understand the latest developments and interpretation of the case law on the liability of legal persons.

### Regarding sanctions and confiscation:

- ◆ *Recommendation 12(a) – Fully implemented:* Investigators and prosecutors received training on the foreign bribery offence, but it is unclear whether this training specifically covered confiscation. On 1 January 2019, Recommendations of the Prosecutor General on Financial Investigation entered into force. The purpose of these is to ensure compensation of damage caused by a criminal offence, effective identification and tracing of the property to be confiscated and potential transfer thereof to the possession of the State, as well as to establish procedures for opening, conducting and completing financial investigations and the tracing of assets. Without concrete information or statistics on whether confiscation has been imposed in bribery cases, it is difficult to fully assess the effectiveness of these efforts at this stage. Nevertheless, the Working Group considers it important to note the need to follow up on practice in future evaluations.
- ◆ *Recommendation 12(b) – Not implemented:* Lithuania has not taken steps to facilitate direct access by procurement authorities to corruption convictions of natural and legal persons and ensure effective exclusion from future procurement in accordance with the provisions of the Law on Public Procurement.

### Follow-up issues:

Regarding the follow-up issues, the Working Group notes that Lithuania has undertaken an impressive array of regulatory and institutional change to pave the way for the new whistleblower protection framework. The framework is being used and its effectiveness is being monitored. For that reason, follow-up issue 13(a) can be removed as a specific follow-up issue. At the same time, the Lithuanian authorities have taken important measures to institutionalise cooperation and ensure the non-deductibility of bribes. This is also being applied in practice in corruption cases. Tax non-deductibility is systematically followed up in Phase 3, therefore follow-up issue 13(d) can be removed. Finally, the transposition of the Constitutional Court decision ensures that the STT Director and Prosecutor General cannot be compelled to answer questions or provide information in relation to specific cases and for that

reason follow-up issue 13(h) can also be removed. Follow-up issues 13(b), 13(c), 13(e), 13(f), 13(g), 13(i), 13(j), 13(k), 13(l), 13(m), 13(n), 13(o), 13(p) and 13(q) remain outstanding.

### **Conclusions of the Working Group on Bribery**

Based on these findings, the Working Group concludes that recommendations 1(c), 2, 3(a), 3(b), 4(a), 4(c), 5(a), 5(d), 5(e), 6(a), 6(b), 7(a), 8(a), 10, 11 and 12(a) have been fully implemented. Recommendations 1(a), 1(b), 4(b), 5(b), 5(c), 7(b), 8(b) and 9(a) have been partially implemented. Recommendation 12(b) has not been implemented. Recommendations 7(c) and 9(b) will be converted into follow-up issues. Lithuania has addressed follow-up items 13(a), 13(d), 13(h), by the new whistleblower protection framework, measures to institutionalise cooperation and ensure the non-deductibility of bribes and by the transposition of the Constitutional Court decision. Remaining follow-up items, as well as recommendations that are either partially or not implemented will be followed up by the Working Group in the Phase 3 evaluation of Lithuania, currently scheduled for October 2022.

## *ANNEX: PHASE 2 EVALUATION OF LITHUANIA: WRITTEN FOLLOW-UP REPORT*

**Name of country:** LITHUANIA

**Date of approval of Phase 2 Report:** 15 December 2017

**Date of information:** 7 November 2019

### **Part I: Recommendations for Action**

#### **Text of recommendation:**

1. With respect to prevention and awareness-raising, the Working Group recommends that Lithuania: (a) encourage agencies working with Lithuanian business, especially SOEs and SMEs, to increase their efforts to raise awareness of the foreign bribery offence (2009 Recommendation III(i)).

#### **Actions taken as of the date of the follow-up report to implement this recommendation:**

Over the period of November 2018 to September 2019, a total number of around 200 public officials and individuals working in the field of audit and accounting were trained by the Special Investigation Service's experts in on corruption related matters, with a particular focus on foreign bribery offence, and were encouraged to report any discrepancies via available channels to law enforcement agencies, in particular Special Investigation Service.

Officials were trained from the following institutions:

- the State Tax Inspectorate (on 23 and 27 November 2018);
- the Lithuanian Chamber of Auditors (on 20 December 2018);
- the Authority of Audit, Accounting, Property Valuation and Insolvency Management under the Ministry of Finance (on 13 March 2019);
- the Association of Accountants of Alytus region (on 19 September 2019);
- annual seminar with internal auditors of various state and municipal institutions (on 14 June 2019).

Over the period of February 2018 to March 2019, a total number of 356 public or law enforcement officials from the following institutions were trained by the Special Investigation Service's experts on prevention and detection of corruption, with a particular focus on foreign bribery offence, and their duty to report on corruption:

- Customs Department and Customs Training Centre under the Ministry of Finance (on 27 February 2018, 27 March 2018, 24 April 2018, 15 May 2018, 11 September 2018, 6 March 2019, 18 April 2019, 24 September 2019);
- Migration Department under the Ministry of the Interior (on 3 May 2018);
- State Border Guard Service under the Ministry of the Interior (on 22 February 2019);
- Central Project Management Agency (on 21 March 2019).

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

1. With respect to prevention and awareness-raising, the Working Group recommends that Lithuania: (b) continue awareness raising efforts underway by STT, business organisations and NGOs, and monitor and evaluate the impact they are having on prevention and detection of foreign bribery (2009 Recommendation III(i)).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

Two international conferences on building of anti-corruption environment in public and private sectors were organised by the Special Investigation Service on 29 November 2018 and on 21 November 2019 (will take place soon) with more than 150 participants (in each) working on corruption prevention, integrity and compliance matters in various state and municipal agencies, as well as SOEs, business associations and relevant NGOs, present. Though discussions were of a broader scope, the 2018 Conference had one presentation on foreign bribery offence and on the OECD Anti-Bribery Convention; the 2019 Conference among other topics includes several presentations on whistleblowers' protection, as well as presentation of the new OECD Anti-Corruption and Integrity Guidelines for SOEs and other OECD related anticorruption legal instruments. Topic of foreign bribery was mentioned in a number of presentations.

On 7 December 2018, the Ministry of the Economy and Innovation in cooperation with the Special Investigation Service organised a seminar on building an anti-corruption environment for the representatives of SOEs and relevant authorities. The aim of this seminar was to raise awareness of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (further referred to as 'the Convention'), to provide information on recent actions taken in Lithuania to improve corruption prevention and to share good practices. Participants were acquainted with the content of the Convention and related OECD documents as well as recently revised the national Anti-Corruption Handbook for Business. The Ministry of Transport and Communications provided an example on measuring transparency in SOEs within the transport sector. The state-owned group of energy transmission and exchange companies EPSO-G shared experience in managing conflicts of interests. 56 participants representing major SOEs and responsible authorities attended the seminar.

Moreover, Lithuanian businesses such as "AB Lietuvos pastas", AB "Lietuvos geležinkeliai", AB "Ignitis grupė" and "Telia Company AB", were trained by the experts of the Special Investigation Service on corruption prevention in general and with particular focus on foreign bribery. The representatives were encouraged to report suspected instances of foreign bribery to the appropriate authorities. Trainings took place in March and September 2019 and total of around 60 business representatives were trained.

In order to raise awareness on whistleblowers' protection and to ensure its proper enforcement, the Special Investigation Service of the Republic of Lithuania together with the Ministry of Justice and the Prosecutor's General Office organised 2 regional discussions on topic of whistleblowers' protection (on 28 February 2019 in Vilnius and on 15 October 2019 in Klaipėda) for state and municipal public officials, responsible for this matter, as well as, representatives of state and municipal owned enterprises with around 50 participants in each event.

A similar discussion on whistleblowers' protection was also held on 10 May 2019 at the premises of the UAB 'Ignitis' (state owned enterprise) and was organised by the UAB 'Ignitis'. Participants from a number of SOEs, as well as state institutions, participated in the discussion.

The Special Investigation Service also organised 4 best-practice exchange meetings in 2019 with SOEs compliance officers on building anti-corruption environment and strengthening internal controls. The topics presented included a role of the hierarchy, anticorruption policy, corruption risk assessment and management of risks, conflicts of interests, internal reporting channels, as well as, practical examples

and best-practices. Speakers included representatives from private companies, SOEs, who have considerable experience in the area, as well as, experts from the Special Investigation Service. Between 10-20 SOEs were represented at each of the meetings.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

1. With respect to prevention and awareness-raising, the Working Group recommends that Lithuania: (c) ensure that foreign diplomatic representations, in their contacts with Lithuanian businesses operating overseas, i) disseminate information on the corruption risks in their country of operation and the legal consequences of foreign bribery under Lithuanian law, and ii) encourage Lithuanian businesses and individuals to report suspected instances of foreign bribery to the appropriate authorities (2009 Recommendation III(i) and (v)).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

In order to implement the i) recommendation to disseminate information on the corruption risks in their country of operation and legal consequences of foreign bribery under Lithuanian law, all Lithuania's diplomatic representations were provided with the brochure "If you are a civil servant faced with bribery - you must know the following" on 18 February 2019. The embassies were instructed to regularly address the information on the corruption risks in their various interactions with Lithuanian business operating abroad.

Furthermore, the embassies were authorized to collect information on the regulation of corruption in their countries of residence as well as the risk of corruption in those countries.

Regarding ii) recommendation, given the important role that embassies play in interacting with Lithuanian companies operating abroad, both in terms of awareness-raising as well as reporting suspicions of foreign bribery, the embassies were requested to inform STT on the suspected cases of bribery.

In addition, a total number of 320 diplomats have participated in several trainings organised by the MFA with participation of the Special Investigation Service, which included a topic on foreign bribery (trainings on 21 February 2018, 27 September 2018, 28 November 2018, 20 February 2019, 10 June 2019). Diplomats were informed about their obligation to provide information to Lithuanian businesses and their representatives operating abroad on the prevention of foreign bribery, and to monitor themselves and encourage others to report on discrepancies noted via available channels to report about corruption. In particular, on 20 February 2019 all diplomats received training on the risks of corruption before departing to the diplomatic representations. On 10 June 2019 information session "Risk factors of corruption in the work of diplomatic missions" was presented to Lithuanian diplomats, commercial attachés posted abroad during their annual meeting. An STT official carried out the training on this topic.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 2:**

With respect to officially supported export credits, the Working Group recommends that Lithuania implement fully the provisions contained in the 2006 OECD Recommendation of the Council on Bribery and Officially Supported Export Credits, and participate fully in the on-going discussions in the OECD Working Party on Export Credits and Credit Guarantees (ECG) to revise the 2006 Recommendation, so that any changes to its provisions might be replicated in the processes and procedures put in place by INVEGA (2009 Recommendation XII).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

We consider that when providing export guarantees INVEGA is fully implementing the provisions of the 2006 OECD Council Recommendation on bribery and officially supported export credits.

**The following provisions have been established within the context of implementing the said Recommendation:****1. When completing the application for export credit guarantee, the exporter points (declares) that he is informed about and agrees to the following provisions:**

- The exporter, whose operations will be involved in unauthorized activities, as defined in the Law on Prevention of Corruption and/or the Law on the Prevention of Money Laundering and Terrorist Financing of the Republic of Lithuania, will be notified to the law enforcement authorities.
- The exporter has to take control measures to combat and prevent corruption.
- If corruption practices are identified the export credit guarantee will not be issued. If an act of corruption is discovered later, the guarantee amount will not be paid, and in the case of the payment made it will be required to be returned.
- The exporter agrees, upon request by INVEGA, to provide information on the persons acting in his name and performing transactions relating to the guaranteed supplies of INVEGA, as well as on the amounts and the purpose of the commissions, fees and/or other payments paid and/or payable to those persons.

**2. During the time of the assessment of the application for an export guarantee by INVEGA:**

An assessment is made on whether the behaviour of buyers and exporters is not contrary to the OECD Council Recommendation on bribery and officially supported export credits. The assessment of the application shall verify if there is no negative business-related information on the clients for which the limits are planned to be issued, i.e. whether the buyers are not mentioned in the publicly available corruption-related sanction lists of financial institutions that are published on the OECD website. It is also checked whether the exporter is not mentioned in the publicly available corruption-related sanction lists of financial institutions, which are published on the OECD website. If such negative information is available, no export guarantee may be provided. Similarly, an export credit guarantee cannot be provided if the exporter indicates in his application that his activities are contrary to the OECD Council Recommendation on bribery and officially supported export credits. In such cases, the subsequent assessment of the application for an export credit guarantee shall not take place. Additionally, the exporter's reputation is assessed based on the information available in the INVEGA's database and contained in the report of the company providing creditworthiness assessment services as well as information available on the internet, in the press and in other publicly available information sources on whether information about bribery and corruption of the buyer exists. If the activities of the exporter or the buyer are contrary to the OECD Council Recommendation on bribery and officially supported export credits, no guarantee will be provided.

*Further related information concerning the steps taken by INVEGA to ensure internal processes and procedures to effectively prevent, identify and report the bribery of foreign public officials by applicants for, and recipients of, official export credit support is provided in the section **Follow-up 13(b)**.*

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

3. With respect to official development assistance (ODA), the Working Group recommends that Lithuania:

(a) include as a priority anti-corruption and sanctioning clauses in all ODA contracts (2016 Recommendation III.6).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

To date, anti-corruption and sanctioning clauses (not only because of a prior conviction, but also including corruption during the course of the contract) are incorporated into all ODA contracts signed by the Development Cooperation Department of the MOFA and development cooperation partners. The same applies to all Lithuanian diplomatic representations, carrying out development cooperation activities.

ODA contract template was changed with the following anti-corruption and sanctioning clauses:

“9. ODA Agreement may be terminated:

9.1.3. by a unilateral decision of the CPMA if:

a judgement of conviction was passed and became effective against the Project Promoter or the Project partner within the past 5 years and the afore-mentioned person has an unspent or unexpunged conviction;

a judgement of conviction was passed and became effective against the manager or a member of the management or supervisory body of the Project Promoter or the Project partner which is a legal person, another organization or a unit thereof or another person entitled to represent the economic entity or control it, take a decision, enter into a transaction in its name or an accountant (accountants) or other person(s) entitled to draw up and sign the accounting documents of the economic entity within the past 5 years and the afore-mentioned person has an unspent or unexpunged conviction;

a judgement of conviction was passed and became effective against the Project Promoter or the Project partner which is a legal person within the past 5 years;

participation in a criminal organization, formation or being in charge thereof; bribery, trading in influence, graft; fraud, misappropriation of property, squandering of property, misleading declaration about the activities of a legal entity, use of a credit, loan or targeted support not in accordance with its purpose or the established procedure, credit fraud, provision of inaccurate data on income, profit or assets, failure to file a tax return or to submit a report or another document, fraudulent management of accounts or abuse of office having the aim of threatening the financial interests of the European Union as defined in Article 1 of the Convention on the Protection of the European Communities' Financial Interests; criminal bankruptcy; acts of terrorism and crimes related to terrorist activity; laundering of crime-related property; trafficking in human beings, purchase or sale of a child; a crime committed by the entity (partner) from another country as defined in Article 57(1) of Directive 2014/24/EU, set out in the legal acts of other countries implementing the legal acts of the European Union;

9.1.4. by a unilateral decision of the CPMA if during the term of the Agreement the Project partner or persons involved in the Project activities are included in the lists of the Organization for Economic Cooperation and Development (hereinafter referred to as the “OECD”) available on the website of the OECD

9.1.5. by a unilateral decision of the CPMA if in the course of performance of the Agreement it becomes evident that the declaration of no criminal convictions for corruption criminal acts submitted in the partner countries of the Project Promoter and the Project partner(s) was false.

9.1.6. by a unilateral decision of the CPMA if, during the course of the Agreement, the Project Promoter or the Project partner, which is a natural person or a legal person, another organization or a unit thereof, or the manager or a member of the management or supervisory body of the Project Promoter or the Project partner which is a legal person, another organization or a unit thereof or another person entitled to represent the economic entity or control it, take a decision, enter into a transaction in its name or an accountant (accountants) or other person(s) entitled to draw up and sign the accounting documents of the economic entity, engaged in corruption or other criminal offence, specified in Clause 9.1.3., and for that a judgement of conviction was passed and became effective against the Project Promoter or the Partner

9.1.7. If the CPMA finds out about the circumstances constituting grounds for unilateral termination of the Agreement on the grounds provided for in paragraphs 9.1.3-9.1.6 hereof, it must notify the Project Promoter of termination of the Agreement in writing by giving a 20 calendar days' notice. In such case, the first calendar day following the date of receipt of the letter of termination of the Agreement from the CPMA shall be deemed to be the date of termination of the Agreement.

9.2. The Project Promoter shall certify that the Project Promoter and the persons involved in the Project activities are aware that, according to the laws of the Republic of Lithuania, the Project Promoter and the Project partners shall be prohibited from entering into any corruption agreements with the coordinators of the Programme, beneficiaries, the government officials and other and other third parties, and bribery of foreign officials in international business transactions gives rise to the same criminal liability of natural and legal persons as bribery abroad event if this is not deemed to be a crime in such country.”

All project applications have to be accompanied with the following applicants and their partners declarations:

**X. Declaration of a clean criminal record in respect of corruption-related criminal acts in the partner country (-ies) of the project implementer and project partner(s) (if any)\***

I represent hereby that no judgement of conviction was passed and became effective against the project implementer and project partner(s) in the partner country (-ies) (if any) and against the responsible persons of the project implementer and project partner(s) (if any) (i.e. the head, another member of a management or supervisory body or another person(s) who have the right to represent or control the project implementer and/or project partner, to make a decision on behalf thereof, to conclude a transaction, or the accountant(s) or another (other) person(s) who have the right to draw up and sign the accounting documents of the project implementer and/or project partner) within the past five years and these persons have no unspent or unexpunged conviction for the following criminal acts:

- 1) participation in a criminal organisation, formation or being in charge thereof;
- 2) bribery, trading in influence, or graft;
- 3) fraud, asset misappropriation, asset embezzlement, a false statement about the activities of a legal entity, the use of a credit, loan or targeted support other than in accordance with its intended purpose or the established procedure, credit fraud, provision of false data about income, profit or assets, failure to file a declaration, report or another document, fraudulent accounting practices or accounting abuse, when these offences impinge on the financial interests of the European Union as defined in Article 1 of the Convention on the Protection of the European Communities' Financial Interests;
- 4) criminal bankruptcy;
- 5) terrorist offences or offences linked to terrorist activities;
- 6) asset laundering;
- 7) trafficking in human beings, purchasing or selling a child;
- 8) criminal offence defined in the legal acts of other countries implementing the legal acts of the European Union referred to in Article 57(1) of Directive 2014/24/EU committed by the entity (partner) of another country;

I am informed that the project agreement may be terminated by a unilateral decision of the project administrator and the Project Promoter shall be obliged to repay all funds disbursed for the implementation of project by Ministry / diplomatic mission if during the course of performance of the Agreement it becomes evident that the declaration of no criminal convictions for corruption criminal acts submitted in the partner countries of the Project Promoter and the Project partner(s) was false and (or) a judgement of conviction for the criminal acts, specified above is passed and becomes effective against the Project Promoter or the Project partner, which is a natural person or a legal person, another organization or a unit thereof, or the manager or a member of the management or supervisory body of the Project Promoter or the Project partner which is a legal person, another organisation or a unit thereof or another person entitled to represent the economic entity or control it, take a decision, enter into a transaction in its name or an accountant (accountants) or other person(s) entitled to draw up and sign the accounting documents of the economic entity and (or) the Project Promoter or the Project partner, which is a natural person or a legal person, another organization or a unit thereof, or the manager or a member of the management or supervisory body of the Project Promoter or the Project partner which is a legal person, another organisation or a unit thereof or another person entitled to represent the economic entity or control it, take a decision, enter into a transaction in its name or an accountant (accountants) or other person(s) entitled to draw up and sign the accounting documents of the economic entity, is engaged in corruption or other criminal offence, specified above.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

3. With respect to official development assistance (ODA), the Working Group recommends that Lithuania:

(b) train and raise awareness among Lithuanian government officials and development cooperation partners and providers of the framework in place to prevent, detect, report and sanction bribery of foreign public officials in the context of development cooperation (2016 Recommendation III.3).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

In March, 2019 CPMA's lawyers working with ODA contracts and the head of the Lithuanian and Multilateral programs division attended training on the anti-corruption organized by the Special investigation service of the Republic of Lithuania. The employees transferred the acquired knowledge to the project managers.

In March, 2019 training for the project promoters (22 participants) on the implementation of the ODA projects was conducted. During the training CPMA presented the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and anti-corruption and sanctioning clauses incorporated into ODA contracts. Project managers and financiers of CPMA (who works with ODA contracts) also participated in this training.

Moreover, Project manager and financier of CPMA are regularly consulting project promoters.

Awareness raising and training activities on how to prevent, detect, report and sanction bribery of foreign public officials in the context of development cooperation were carried out also for Lithuanian diplomats and staff from Lithuania's overseas posts, responsible for development cooperation. Training was carried out by the STT official. (see more on implementation of the recommendation 1(c)).

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

4. With respect to accounting requirements, external audit and internal company controls, the Working Group recommends that Lithuania:

(a) work with the accounting and auditing profession to raise awareness of the foreign bribery offence and provide guidance on its role in the detection and reporting of suspected instances of foreign bribery (2009 Recommendation III(i)).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

1. The Ministry of Finance of the Republic of Lithuania in 2018 and 2019 applied to professional organizations uniting auditors and/or accountants and to the companies providing training courses/services for accountants and/or auditors. In the application the Ministry of Finance encouraged organisations and companies to organise training courses and/or to disseminate the information in the field of the foreign bribery offence and to highlight the role of auditors and accountants in the detection and reporting of suspected instances of foreign bribery.

The Accountants Association (in Alytus region) and the Lithuanian Chamber of Auditors are going to organise such training courses in November 2019.

In November this year the limited liability company Pačiolis UAB in its newspaper “Accounting: Accounting and Tax Review” is going to publish the article on the foreign bribery offence and on the Accountants’ and auditors’ role in detecting and reporting the suspected instances of foreign bribery.

In 2019 the Lithuanian Association of Accountants and Auditors prepared and published on its website a document designed to help the accountants in detecting possible cases of money laundering, sponsorship of terrorists and implementing the legal requirements for money laundering and/or terrorist financing prevention. This document also could help the accountants in detecting possible cases of foreign bribery, as it provides the criteria for identifying doubtful financial transactions.

2. The amendment to the Law on Audit of Financial Statements was adopted on 15 November 2018 (effective from 1 May 2019)<sup>2</sup> which established the following requirements:

1) the auditor must continuously develop his/her professional qualifications in professional development courses for auditors, including the issues of the foreign bribery offence, money laundering and terrorist financing prevention (Article 36 (2)(2));

2) the Lithuanian Chamber of Auditors (LCA) is responsible for the preparation of (in cooperation with the Special Investigation Service) the recommendations to its members (auditors) in order to identify the cases of bribery of foreign officials in international transactions, also to advise on the implementation of these recommendations and to monitor their implementation (Article 73(15)). In September 2019 a special working group was established in LCA in order to prepare the following recommendations;

3) the auditor (audit firm) must report to the Special Investigation Service the suspected cases of bribery of foreign officials in international transactions (Article 38 (11)).

3. Over the period of November 2018 to September 2019, a total number of around 200 public officials and individuals working in the field of audit and accounting were trained by the Special Investigation Service’s experts in on corruption related matters, with a particular focus on foreign bribery offence, and

<sup>2</sup> <https://www.e-tar.lt/portala/lt/legalAct/eceda120eef311e88568e724760eeafa>

were encouraged to report any discrepancies via available channels to law enforcement agencies, in particular Special Investigation Service.

In particular, the trainings included:

- the Lithuanian Chamber of Auditors (on 20 December 2018) – 12 participants;
- the Authority of Audit, Accounting, Property Valuation and Insolvency Management under the Ministry of Finance (on 13 March 2019) – 50 participants;
- the Association of Accountants of Alytus region (on 19 September 2019) – 20 participants;
- annual seminar of internal auditors from various state and municipal institutions (on 14 June 2019).

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

4. With respect to accounting requirements, external audit and internal company controls, the Working Group recommends that Lithuania:

(b) provide guidance to Lithuanian companies, including SOEs, on new rules on the creation of supervisory boards and audit committees and encourage them to implement internal company controls with a particular focus on preventing foreign bribery (2009 Recommendation III and X.C(i)).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

1) The Law on Audit of Financial Statements (amendment of 15 November 2018) establishes a new function for audit committees of the public interest entities<sup>3</sup> to monitor the effectiveness of the company's internal quality control and risk management systems designed to prevent corruption, bribery of foreign officials in international transactions, money laundering and terrorist financing (Article 69 (5) (3)).

2) The amendment to Government of Lithuania Resolution No. 665 "On the Description of the Procedure for the Implementation of the State Property and Non-Property Rights in State Owned Companies"<sup>4</sup> was adopted on 28 August 2019 which established that state owned companies should ensure the implementation of an effective internal control system that, among other tasks, includes the measures to prevent corruption and bribery of foreign officials in international transactions (paragraph 34). State owned companies also seek that their subsidiaries are in compliance with that provision (paragraph 35).

---

<sup>3</sup> 1) listed companies, 2) banks, 3) brokerage firms, 4) collective investment undertakings, pension funds, 5) management entities of subjects referred to in paragraph (4), 6) insurance companies 7) state and municipal owned entities which are considered as large undertakings under the Law on Financial Statements of Entities (when two of the

criteria are higher: assets — more than EUR 20, 000, 000 , annual net turnover — more than EUR 40, 000, 000 and the

number of employees — more than 250) 8) potable water suppliers and wastewater managers, surface wastewater managers, energy companies, whose services are subject to state regulated prices and which are considered as large undertakings under the Law on Financial Statements of Entities, also whose revenues from regulated activities amount

to more than half of the total revenue of the entity)

<sup>4</sup> <https://www.e-tar.lt/portal/lt/legalAct/TAR.6AF226769DB2/asr>

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation 4:**

4. With respect to accounting requirements, external audit and internal company controls, the Working Group recommends that Lithuania:

(c) extend the scope of the reporting requirement to suspicions of foreign bribery and consider extending its application to all auditors (2009 Recommendation III(iv) and X.B(v)).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

1. As mentioned under the action taken with regard to recommendation 4(a), according to the Law on Audit of Financial Statements the auditor (audit firm) must report to the Special Investigation Service the suspected cases of bribery of foreign officials in international transactions (Article 38 (11)).

2. In addition the Law on Financial Statements of Entities (hereinafter — FSE law) states (Article 23(4)) that public interest entities which are considered as large undertakings under the Law on Financial Statements of Entities in case the annual number of their employees exceeds 500 in their management report (provided together with their financial statements) include a social responsibility report.

Article 23<sup>2</sup>(1) of FSE law states that this report contains information of environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters.

Paragraph 2 of Article 23<sup>2</sup>(1) of FSE law provides for that the information referred to in paragraph 1 is provided to the extent necessary for an understanding of the undertaking's development, performance, position and impact of its activity and includes:

- 1) a brief description of the undertaking's business model;
- 2) a description of the policies pursued by the undertaking in relation to matters provided in paragraph 1, including a description of how this policy has been implemented;
- 3) the outcome of those policies pursued by the undertaking in relation to matters provided in paragraph 1;
- 4) principal risks related to matters pursued by the undertaking in relation to matters provided in paragraph 1 linked to the undertaking's operations, including its business relationships, products or services which are likely to cause adverse impacts on those areas, and how the undertaking manages those risks;
- 5) non-financial key performance indicators relevant to the particular business.

3. When carrying out the audit of financial statements of an entity, an auditor or an audit firm also (Law on Audit of Financial Statements, Article 32(2)):

- 1) expresses an opinion on whether the management report (which includes a social responsibility report) has been prepared in compliance with legal acts;
- 2) gives an opinion on whether the financial data presented in the management report is consistent with the data of the annual financial statements;
- 3) states whether, in the light of the knowledge and understanding of the undertaking and its environment obtained in the course of the audit of financial statements, any material misstatements have been identified in the management report. Where misstatements have been identified, an indication of the nature of any such misstatement is specified.

These requirements (indicated in paragraphs 1 and 2 of Article 23<sup>2</sup>(1) of FSE law) are mandatory to financial statements and their audits prepared for the financial year beginning on 1 January 2017 and later.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

5. With respect to money laundering, the Working Group recommends that Lithuania:

(a) amend the AML/CFT Law to eliminate the exceptions to the definitions of monetary operation and customer (Convention Article 7; 2009 Recommendation III(ii) and (vi)).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

Following the recommendations the Parliament of the Republic of Lithuania adopted the amendments to the Republic of Lithuania Law on the Prevention of Money Laundering and Terrorist Financing on 30 June 2018 eliminating the exceptions to the definitions of monetary operation and customer (Article 2 “Definitions”: “Monetary operation shall mean any payment, transfer or receipt of money” and “Customer shall mean a person performing monetary operations or concluding transactions with a financial institution or another obliged entity”).

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

5. With respect to money laundering, the Working Group recommends that Lithuania:

(b) ensure that Financial Crime Investigation Service (FCIS) guidance and training materials (e.g. typologies) issued under the revised AML/CFT Law contain information on the identification and reporting of laundering of bribes to foreign public officials, and their proceeds (Convention Article 7; 2009 Recommendation III(i)).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

The Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania (FCIS) acting as the Lithuanian FIU systemically provides methodological assistance and organizes training for the financial institutions and other obliged entities responsible for implementation of the prevention of money laundering and terrorist financing. The FCIS annually applies ten training involving as many entities as possible seeking to develop awareness of AML/CFT. During such training particular attention is given to the requirements of the identification of the politically exposed natural persons (PEPs) and the application of enhanced customer due diligence measures to all PEPs, irrespective of residency (the Republic of Lithuania, the European Union and international or foreign state institutions). Training material includes information on risks, vulnerabilities and trends significant in the suspicious transactions reports (STR) regime. Individuals who have or have had public office can pose a higher money laundering risk to the reporting institutions as their position may make them vulnerable to corruption. This risk also extends to members of their immediate families and to know close associates. In 2018 the FCIS organized 10 training and in 2019 – 8 training for the notaries, operators of crowdfunding platforms, fintech associations, the representatives from the banks, accounting and audit

associations, leasing companies, electronic money institutions, payment institutions, money remittance services and others. In 2018 a total of 327 people and in 2019 a total of 441 people were trained by the FCIS.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

5. With respect to money laundering, the Working Group recommends that Lithuania:  
(c) ensure that the FCIS continues efforts to raise awareness among the legal and accounting and audit profession of amendments to the AML/CFT Law including in relation to STR reporting obligations and the risks of foreign bribery-based money laundering (Convention Article 7; 2009 Recommendation III(i)).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

FCIS periodically initiates training for the legal and accounting and audit profession focusing on amendments to the AML/CFT Law including in relation to STR reporting obligations and the risks of foreign bribery-based money laundering. In 2018 Lithuania has undergone Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism of the European Council (MONEYVAL) evaluation and the report stated that lawyers and auditors were aware of their AML/CFT obligations.

Also see 5 (b).

In 2019 the FCIS trained 130 representatives of accounting and audit profession arranging 2 training.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

5. With respect to money laundering, the Working Group recommends that Lithuania:  
(d) encourage broad STR reporting, including by striking a balance between its emphasis on quality rather than quantity of STRs, which could result in lower levels of reporting and FCIS missing out on valuable intelligence (Convention Article 7; 2009 Recommendation III(i) and (iv)).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

The FCIS regularly arranges the meetings with the representatives of the financial institutions and other obliged entities seeking to achieve balance between quality and quantity of STRs, organizes the training emphasizing the examples of a poor quality of STRs and giving the advices on effective reporting as well as gives methodical assistance on a daily basis.

Statistics on training arranged by FCIS is provided in 5 (b). Moreover, approx. 20 meetings are organized each year seeking to improve the quality of STRs and approx. 100 representatives of the reporting institutions received a telephone consultation on a daily basis.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

5. With respect to money laundering, the Working Group recommends that Lithuania:  
(e) ensure that the Bank of Lithuania allocates sufficient resources to ensure more rigorous supervision of reporting entities (Convention Article 7; 2009 Recommendation III(iv)).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

The Bank of Lithuania has established the separate Anti-Money Laundering division under the Supervision Service Prudential Supervision Department as of February 2019. Dedicated staff for the supervision of financial institutions' controls on anti-money laundering and counter terrorist financing prevention comprises 10 full time employees. In the budgeting plans of the Bank of Lithuania 2 full time employees are being planned for the year 2020 for the above-mentioned division. Additionally, Bank of Lithuania develops IT tools for the effective data collection and data analysis from the reporting entities specifically as it concerns reporting on money laundering and terrorist financing risks.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

6. With respect to capacity and independence of law enforcement authorities, the Working Group recommends that Lithuania:  
(a) assess the STT budget, in light of its extensive mandate to prevent, educate, analyse, cooperate and investigate both domestic and foreign bribery, to ensure that adequate resources are provided to permit effective investigations of foreign bribery cases (Convention Article 5; Commentary 27; 2009 Recommendation II, V and Annex I.D).

**Actions taken as of the date of the follow-up report to implement this recommendation:  
Allocations from the State budget of the Republic of Lithuania to the STT**

2017	2018	2019
8.738.000 Eur	10.280.000 Eur	12.887.00 Eur
-	+ 17,6%	+ 25,4% (compared to 2018) + 47,5% (compared to 2017)

In 2018, 10.280.000 Eur were allocated from the State budget of the Republic of Lithuania to the STT. Compared to 2017, additional funds were allocated for the implementation of the new Law on the STT (thereinafter – the Law), which came into force on 1 January 2018. The Law provided for an increase of salaries to the officials of the STT. It allowed the working opportunities at the STT to become more motivational and competitive, and as a result to decrease in officer turnover. In addition, the Law clearly distinguished four directions of the activities of the STT. In addition to prosecution, corruption prevention and anti-corruption education, the Law provided for analytical anti-corruption intelligence as a new, fourth independent activity of the STT.

In 2019, 12.887.000 Eur were allocated from the State budget of the Republic of Lithuania to the STT. Compared to 2018, additional 2.200.000 Eur were funded for ‘a technical breakthrough’ – acquiring special IT and other tools to manage information related to analytical and research activities of the STT more effectively. Additional funds were also allocated to the STT for 10 additional positions and recruitment of new staff in order to strengthen analytical anticorruption intelligence and investigative activities of the STT. Advancement of technologies, optimization of the infrastructure of state

information system and transfer of public services to the cyberspace increase the risk of corruption crimes in this area. This may change the nature of well-established corruption mechanisms with an increasing use of information technology in criminal schemes. Therefore, the STT makes every effort to keep up with improving and modernizing technologies.

It should be noted that abovementioned information only covers funds from the State budget. The STT also implements various projects financed by the EU and other international organizations. For instance, this year the STT together with the European Anti-Fraud Office (OLAF) is implementing a project during which special tools for the analytical activities have been acquired through financial support from OLAF. Likewise, trainings for STT officials, as well as discussions and training courses for employees of other state and municipal institutions and stated-owned enterprises were organized while implementing the EU funded project in 2017-2019.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

6. With respect to capacity and independence of law enforcement authorities, the Working Group recommends that Lithuania:

(b) reflect the Constitutional Court decision on the unconstitutionality of art. 206 (5) and (6) in the Statute of the Seimas (Convention Article 5 and Commentary 27).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

The Seimas Statute No. XIII-964 on amending Articles 49, 591 and 206 of the Seimas Statute No. I-399 was adopted on 21 December 2017 and it entered into force on 23 December 2017.

The amendments to the Seimas Statute removed the provisions that were found unconstitutional by the 30 December 2015 decision of the Constitutional Court, as well as harmonised other provisions reflecting the Constitutional Court decision. In particular, Article 206 of the Seimas Statute now provides that annual activity reports of the Prosecution Service and other state institutions whose head is appointed by the Seimas or whose appointment is subject to approval of the Seimas, shall be heard by Seimas committees in accordance with the spheres of competence prescribed by this Statute. If necessary, the activity report of a state institution shall also be heard at a Seimas sitting. Following this presentation of the report at the committee and/or Seimas sitting, Seimas members may pose questions to the head of the state institution regarding the activity report of this institution.

It shall be also recalled that application of these Articles will be guided by the Constitutional Court's case law. In its 30 December 2015 decision the Constitutional Court clarified that: "when implementing the possibility implied by the Constitution to regulate by a law the regular obtaining of information from a state institution (except for the courts), inter alia, in the form of reports, which is significant for the implementation of its functions, the Seimas may establish that the Prosecutor General regularly under the general procedure submits the information on the activity of the Prosecution Service, inter alia, the annual activity report, to the Seimas; however, it may not establish such a legal regulation, under which the Prosecutor General would be obliged to provide the Seimas or the President of the Republic with the information not on the summarised aspects of the Prosecution Service as a whole, but namely on the fact how the prosecutors of the Office of the Prosecutor General and the territorial prosecutor's offices implement their constitutional functions." (full text of the ruling in English is here: <http://lrkt.lt/en/court-acts/search/170/ta1554/content>).

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

7. With respect to investigation and prosecution of foreign bribery and related offences, the Working Group recommends that Lithuania:

(a) take further steps to increase awareness among prosecutors and other pre-trial investigation agencies that all information relating to suspected foreign bribery should be systematically transmitted to GPO's OCCI and STT for investigation (Convention Article 5; Commentary 27; 2009 Recommendation II, V and Annex I.D).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

Considering the abovementioned recommendation, we would like to note that the competence of the Prosecution Service of the Republic of Lithuania (hereinafter the Prosecution Service) namely, divisions of Prosecutor General's Office and territorial prosecutor's offices including the competence of Department for Investigation of Organized Crimes and Corruption of the Prosecutor General's Office (hereinafter the Department) in dealing with foreign bribery in international transactions is defined in the Regulations on the Competence of Prosecutors and Prosecution Service of the Republic of Lithuania as approved by 17 April 2012 Order No. I-141 of the Prosecutor General of the Republic of Lithuania (hereinafter the Competence Regulations). This regulatory framework in the said legislative act is systematically updated, published in the register of legislation at [www.e-tar.lt](http://www.e-tar.lt) and is publicly accessible. Besides, with the view to ensure that employees of the Prosecution Service are aware of amendments made to the Competence Regulations, Competence Regulations and amendments thereto are published in the Document Management System of Prosecution Service.

Furthermore, competence of the Department and the Special Investigation Service of the Republic of Lithuania (hereinafter the STT) in dealing with foreign bribery in international business transactions is regulated by 20 April 2017 inter-institutional agreement on cooperation in disclosing cases of foreign bribery in international business transactions. Pursuant to this Agreement, Prosecutor General's Office is obliged while performing the functions prescribed to it by laws, upon receipt of relevant information to immediately transfer that information to the STT; also, when dealing with issues related to allocation of pre-trial investigations to pre-trial investigation authorities, joining or separation of pre-trial investigations and other organizational issues, Prosecutor General's Office is obliged to refer to 20 April 2017 Agreement and OECD Convention on Combating Bribery. With the view to ensure access to information covered by this Agreement, the wording of Agreement is published in the internal website of Prosecution Service, in the website that is accessible only to the employees and in the public website of Prosecution Service.

Besides, considering the recommendations presented by the Working Group, on 17 October 2019 Prosecution Service issued informational report No. 17.9-13387 "Regarding Investigation of Foreign Bribery" which informed employees of the Prosecution Service and law enforcement authorities about their obligation to notify the Department and the STT about criminal offences related to foreign bribery.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

7. With respect to investigation and prosecution of foreign bribery and related offences, the Working Group recommends that Lithuania:

(b) review its policy and resources for enforcement of the money laundering offence and clearly define the competence of pre-trial investigation agencies with respect to enforcement of foreign bribery-based money laundering (Convention Articles 5 and 7; Commentary 27; 2009 Recommendation II, V and Annex I.D).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

Following the Strategic Planning Methodology approved by the Resolution No 827 of the Government of the Republic of Lithuania dated 6 June 2002 the draft of the Strategic Action Plan of 2020–2022 of the sphere of administration of the Minister of the Interior of the Republic of Lithuania is prepared including the proposal provided by the Financial Crime Investigation Service under the Ministry of the Interior to incorporate the additional evaluation criteria related to unjust enrichment and legalization of property obtained by criminal means.

Also, on 20 April 2017 inter-institutional agreement on cooperation in disclosing foreign bribery in international business transactions was signed including the law enforcement institutions and Prosecutor General's Office.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

7. With respect to investigation and prosecution of foreign bribery and related offences, the Working Group recommends that Lithuania:

(c) ensure that suspected foreign bribery in the context of fraudulent or false accounting is fully investigated and prosecuted, where appropriate (Convention Articles 5 and 8; Commentary 27; 2009 Recommendation II, V and Annex I.D).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

On 20 April 2017 inter-institutional agreement on cooperation in disclosing foreign bribery in international business transactions was signed; under this Agreement, law enforcement authorities including Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania (hereinafter the FCIS) which investigates financial crimes are obliged to notify the Department and the STT about such criminal offences. It means that if FCIS identifies elements of a foreign bribery in cases of fraudulent or misleading accounting, it must inform all institutions which are included in the Agreement of 20 April 2017. As a result, the pre-trial investigation into crimes of financial nature which is conducted by FCIS is not terminated, suspended or prolonged, and corruption-related crimes are investigated by other competent authorities.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

8. With respect to the judiciary, the Working Group recommends that Lithuania:

(a) provide training to its judiciary on the Convention and in particular, its definition of the foreign bribery offence and its requirement for effective, proportionate and dissuasive sanctions (Convention Articles 5 and 3; Commentary 27; 2009 Recommendation II, V and Annex I.D).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

International training "Practical application of the provisions of OECD Anticorruption Convention" with a specific focus on foreign bribery offence was organized for judges on 4 December 2017 with participation of a well-known expert on corruption, former judge and prosecutor, and former Chair of the Adjudicatory Chamber of the FIFA Ethics Committee, Mr. Hans-Joachim Eckert.

These topics have been discussed in this training: "Introduction to the OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions", "The Relationship between Corruption Offences and Money Laundering", "Practical Advice on Police and Prosecution Investigations in Corruption and Money Laundering", "International Cooperation and mutual assistance in investigating corruption offenses", "Assistance and involvement of European authorities - Eurojust, Europol and customs services in crime investigations". Duration of training - 8 academic hours. 10 Lithuanian judges participated in the seminar.

In addition, these trainings for judges were organized:

"Imposition of penalties and criminal measures for corruption offenses" on 24 October 2018.

"Criminal liability for corruption offenses" on 3 of June 2019.

"Problems of imposition of penalties and criminal measures for corruption offenses" on 4 June 2019.

(See more information on these trainings for judges in Recommendation 10 and 11).

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

8. With respect to the judiciary, the Working Group recommends that Lithuania:

(b) pursue its reform of the procedure for selecting and appointing judges, to strengthen the independence of the Selection Commission and the role of the Judicial Council (Convention Article 5; Commentary 27 and 2009 Recommendation Annex I.D).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

By the amendments of the Law on Courts of the Republic of Lithuania which have been adopted on 16<sup>th</sup> July 2019 and will come into effect from 15<sup>th</sup> of January 2020 the role of the Judicial Council in the formation of the Selection Commission of Candidates to Judicial Office was strengthened. It was established that 3 members of the Commission will be appointed by the Judicial Council and 4 by the President of the Republic. Moreover, it is stipulated that only persons of impeccable reputation and for a maximum of two consecutive terms may be members of the Selection Commission. Amendments to the Law on Courts also provide opportunity for persons who participated in the selection procedure to appeal to the Supreme Court of Lithuania on the findings of the Selection Commission if there were material procedural irregularities during the selection process that could have affected the objective and impartial evaluation of the persons participating in the selection procedure.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

9. With respect to mutual legal assistance (MLA) and extradition, the Working Group recommends that Lithuania:

(a) maintain comprehensive statistics on the offences involved, assistance requested, and time required for execution of all incoming and outgoing MLA requests so as to identify more precisely the proportion of those requests that concern bribery of foreign public officials (Convention Article 9; 2009 Recommendation XIII).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

The Prosecutor General's Office of the Republic of Lithuania maintains the statistics on sent, received and executed requests for legal assistance and extradition in its separate Information Data System of Prosecution Service. However, the statistical data is not categorized by the legal qualification of the criminal act.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

All efforts are currently being made to launch a new module of International Cooperation in Criminal Matters within the data management system of the Prosecution Service (called Integrated Informational System of Criminal Process, whose users are prosecution offices, pre-trial investigation units and courts) as soon as possible. It is currently in the implementation stage and is due to operate in the beginning of 2020. This new module of International Cooperation will not only maintain the statistics on the type of offence, for which MLA or extradition request is requested or sent, but also on duration of its execution, type of assistance, the amount of value of assets frozen and confiscated, and other relevant information.

**Text of recommendation:**

9. With respect to mutual legal assistance (MLA) and extradition, the Working Group recommends that Lithuania:

(b) take all necessary measures to ensure that where a request for extradition of a person for suspected foreign bribery is prohibited or is refused solely on the ground that the person is a Lithuanian national, the case is submitted to the competent authorities for purposes of investigation, and prosecution, as appropriate (Convention Article 10).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

*Art. 9 of the Criminal Code and Art. 13 of the Constitution of the Republic of Lithuania prohibits to extradite its citizens to another state, unless an international treaty of the Republic of Lithuania establishes otherwise. Lithuania is currently able to extradite its citizens only based on the bilateral treaty with the USA or pursuant to an EAW.*

*However, after internal discussions among the prosecutors specialising in the field of the international cooperation in the criminal matters in the form of regional meeting (a regional meeting under the topic "Transfer of Information about the Criminal Act Committed Abroad – Difficulties and Possible Solutions" took place on 22/11/2018 in Vilnius) and informal gatherings, and having reviewed the national legislation in relation to this matter it has been agreed that the current wording of the Art. 68*

*Criminal Procedure Code is sufficient to serve regarding follow-up prosecutorial action on requests for extradition of Lithuanian citizens, which cannot be granted. This article regulates action by the GPO based on a request for prosecution by a foreign authority 'to initiate or to take over prosecution against a national of the Republic of Lithuania who committed a criminal act in a foreign state and returned to the Republic of Lithuania'. The conditions and procedure for initiating or taking over the prosecution are laid down in the CPC and in international agreements, such as bilateral treaties or 1972 European Convention on the Transfer of Proceedings in Criminal Matters.*

*See the extract of Art. 68 of the Code of the Criminal Procedure of the Republic of Lithuania below:*

*Article 68. Request to Initiate or to Take Over Prosecution*

*1. Reasons, conditions and procedure of initiating and taking over the prosecution shall be laid down in this Code and international agreements of the Republic of Lithuania.*

*2. A request of a foreign authority or an international organisation to initiate or to take over prosecution against a national of the Republic of Lithuania who committed a criminal act in a foreign state and returned to the Republic of Lithuania shall be examined by the Office of the Prosecutor General of the Republic of Lithuania in order to determine if the request is based on reasonable grounds. The results of the inquiry shall be communicated to the requesting foreign authority or an international organisation. Where criminal proceedings against the act of the person were taken in the Republic of Lithuania and a judgement was rendered and became effective, the communication together with a duly certified copy of the judgement translated into a foreign language shall be dispatched to the requesting foreign authority or international organisation.*

*3. Where a criminal act was committed in the territory of Lithuania by a foreign national who then departed to his home country, the file compiled on him by the pre-trial investigation institutions shall be dispatched to the office of the Prosecutor General of the Republic of Lithuania which shall determine whether a request should be transmitted to the appropriate foreign state to start or to take over proceedings against him.*

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

10. With respect to foreign bribery offence, the Working Group recommends that Lithuania undertake the necessary measures to raise awareness among prosecutors and judges of the requisite intent for the foreign bribery offence (CC art. 227(5)) (Convention Article 1; 2009 Recommendation III(i)).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

***Training of prosecutors and law enforcement officials:***

*In the context of the above-mentioned recommendations, it should be noted that since March 2017, the Prosecution Service has systematically organized training of prosecutors, other employees of Prosecution Service, judges, law enforcement officials on the disclosure, investigation and prosecution of corruption-related criminal offences including bribery. In the period from March 2017 to 18 October 2019, 27 training sessions were held with a total of 548 academic hours, which were attended by 571 prosecutors (training on various topics were attended by the same prosecutors), 493 law enforcement officials (training on various topics were attended by the same officials), and 16 civil servants. It should be noted that from the end of October 2019 to the end of December 2019, it is planned to organise 6*

*training sessions on “Development of competences of law enforcement officials in disclosure, investigation and prosecution of corruption-related criminal offences”.*

**Training of judiciary:**

Within the framework of Judicial Training Programs 2018-2019 and taking into account Phase 2 recommendation these relevant trainings for judges were organized:

- “Imposition of penalties and criminal measures for corruption offenses” (4 academic hours) on 24<sup>th</sup> October, 2018. This training was attended by 50 Judges from District and Regional Courts and 8 Assistants to Judges.
- “Criminal liability for corruption offenses” (6 academic hours) on 3<sup>rd</sup> June, 2019. This training was attended by 45 judges from District and Regional Courts.
- “Problems of Imposition of Penalties and Corruption Offenses” (4 academic hours) on 4<sup>th</sup> June, 2019. This training was attended by 45 judges from District and Regional Courts.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

11. With respect to liability of legal persons, the Working Group recommends that Lithuania provide guidance and training to practitioners on the practical application of Lithuania’s corporate criminal liability regime, especially CC art. 20(2), 20(3) and 20(4) (Convention Article 2; 2009 Recommendation III(i) and Annex I.B).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

***Training of prosecutors and law enforcement officials:***

*In the context of the above-mentioned recommendation, it should be noted that the Prosecution Service on 23 February 2017, 20 March 2017, 23 March 2017 and 9 November 2017 organized trainings of prosecutors, other employees of Prosecution Service, as well as judges, law enforcement officials on liability of legal persons. 4 training sessions were held with a total of 16 academic hours which were attended by 123 prosecutors, 3 law enforcement officials and 12 civil servants.*

**Training of judiciary:**

*Within the framework of Judicial Training Programs 2018-2019 and taking into account Phase 2 recommendation, the training for judges “Theoretical and practical aspects of the criminal liability of legal entities” (4 academic hours) was organized on 2 April 2019. This training was attended by 89 judges from District and Regional Courts as well as 1 assistant to Judge and 3 prosecutors.*

In addition, on 8 November 2018 the Supreme Court of Lithuania, which ensures uniform court practice on interpretation and application of law and regulations by the courts of general jurisdiction, has published the “**A review of court practice in applying criminal liability for legal persons**” at Bulletin “Court Practice No. 49”, which is publicly available on the Internet at:

<https://www.lat.lt/english/lat-praktika/teismu-praktikos-apzvalgos/naudziamuju-byly-apzvalgos/68>.

The Review (26 pages long) codifies and summarizes the court practice of 2008-2018 on significant issues of application of Article 20 of Criminal Code and other provisions related to it. The review contains chapters on the basis and conditions of criminal liability of legal persons, aspects of liability of a legal person who was reorganized or liquidated, questions of *non bis in idem*, release from criminal liability, as well as, conclusions.

This bulletin is important not only for the judges, but also for prosecutor's and pre-trial investigation officials as a tool for understanding the latest developments and interpretation of the case law on the liability of legal persons.

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

12. With respect to sanctions and confiscation for foreign bribery and related offences, the Working Group recommends that Lithuania:

(a) train investigators and prosecutors on confiscation, and take steps to ensure that law enforcement authorities and prosecutors routinely seek confiscation in foreign bribery cases (Convention Article 3(3); 2009 Recommendation III(i) and (ii)).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

*Similarly like for recommendation 10, it should be noted that since March 2017, the Prosecution Service has systematically organized training of prosecutors, other employees of Prosecution Service, judges, law enforcement officials on the disclosure, investigation and prosecution of corruption-related criminal offences including bribery. In the period from March 2017 to 18 October 2019, 27 training sessions were held with a total of 548 academic hours, which were attended by 571 prosecutors (training on various topics were attended by the same prosecutors), 493 law enforcement officials (training on various topics were attended by the same officials), and 16 civil servants. It should be noted that from the end of October 2019 to the end of December 2019, it is planned to organise 6 training sessions on "Development of competences of law enforcement officials in disclosure, investigation and prosecution of corruption-related criminal offences".*

*With regard to the requirement to ensure that law enforcement authorities and prosecutors regularly request confiscation, including in cases of foreign bribery, it should be stressed that on 1 January 2019 Recommendations on Financial Investigation (as approved by 27 June 2018 Order No. I-219 of the Prosecutor General of the Republic of Lithuania) entered into force. The purpose of these Recommendations is to ensure compensation of damage caused by a criminal offence, effective identification and tracing of the property to be confiscated and potential transfer thereof to the possession of the State, as well as to establish procedure for opening, conducting and completion of financial investigation and tracing of the assets. This legislative act is binding on both the officials carrying out the pre-trial investigation and the prosecutors running and organizing the pre-trial investigation.*

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

**Text of recommendation:**

12. With respect to sanctions and confiscation for foreign bribery and related offences, the Working Group recommends that Lithuania:

(b) facilitate direct access by procurement authorities to corruption convictions of natural and legal persons and ensure effective exclusion from future procurement in accordance with the provisions of the Law on Public Procurement (Convention Article 3(4); Commentary 24; 2009 Recommendation XI(i)).

**Actions taken as of the date of the follow-up report to implement this recommendation:**

**If no action has been taken to implement recommendation 1, please specify in the space below the measures you intend to take to comply with the recommendation and the timing of such measures or the reasons why no action will be taken:**

Currently information on corruption convictions (or absence of them) is obtained from the economic operator that is deemed to be a potential winner of a specific procurement.

Obtaining such certificate does not pose any obstacles for the economic operator. The only downside – such certificate is not fee-free (may cost up to 20 Eur). Public access on convictions is not possible due to the sensitivity of the information and obligations according to the General Data Protection Regulation. There is little to no chance of economic operator providing incorrect information on convictions (unless they would forge the document).

What is more, the exclusion ground, related to corruption convictions, are mandatory, meaning, the contracting authority is obliged to check the compliance of the potential winner.

Having in mind the aforementioned conditions, the access of public procurement authorities to such information for the time being does not pose major obstacles for effectively ensuring the exclusion from future procurement.

Links between Central public procurement information system and other state registers are foreseen with the creation of the CPP IS 2.0 (end of 2022 / start of 2023) (such investments to current CPP IS would be hard to justify economically), and even then the approach to obtaining this data will have to be handled very carefully, taking necessary measures to limit the usage of it for the sake of procurement only.

That will enable public buyers to check information on corruption convictions of natural and legal persons without having to ask any certificates from economic operators.

## Part II: Issues for Follow-up by the Working Group

### Text of issue for follow-up 13(a):

13. The Working Group will follow up on the issues below:

(a) follow up on legislative and institutional changes undertaken in preparation for the entry into force of the Law on Protection of Whistleblowers in January 2019 (2009 Recommendation III and IX(iii));

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

*On 1 January 2019 the Republic of Lithuania Law on Protection of Whistleblowers became effective. According to the Law, Prosecutor General's Office is the competent authority which takes decisions on the granting of the status of a whistleblower, and which shall examine or transmit to other authorities for examination the reports on irregularities, coordinate the process of protection of whistleblowers. Prosecutor General took the decision to entrust the function of protection of whistleblowers to the Internal Investigations Division of the Prosecutor General's Office.*

In June 2018 Prosecutor General passed the order on making some amendments to the Internal Regulations of Internal Investigations Division of the Prosecutor General's Office of the Republic of Lithuania. As a result, the Division was entrusted with a new function related to implementation of provisions of the Law on Protection of Whistleblowers. On the basis of such function, activities of the Internal Investigation Division include assessment of validity of reports presented by applying persons, transfer of such reports to relevant divisions of Prosecution Service or other competent authorities. In addition, this Division is responsible for summarising the practice of application of the Law on Protection of Whistleblowers, drafting the recommendations for improvement of the protection of whistleblowers, and compilation and publication of statistical data.

In June 2018 Prosecutor General passed the order on approving the procedure for submitting reports on irregularities in public institutions to the Prosecution Service of the Republic of Lithuania. It defines the procedure for receiving and recording of reports at the prosecutor's office, and provides for a clear procedure for examination of reports and assessment of information provided in the prosecutor's office, and procedure for examination of reports on possible adverse impact. The described procedure was supplemented with approved forms for recognizing a person as a whistle-blower and for not recognizing a person as a whistle-blower.

In addition, in December 2018, regulations of Commission for Compensation to the whistleblowers for valuable information and Commission for compensation to the whistle-blowers for negative effect incurred or possible consequences incurred because of the report submitted were drawn up and approved. These regulations define how the two Commissions are set up and how their activities are organized, and describe the procedure for examination of applications for compensation to be paid for valuable information, the procedure for taking decisions on payment of compensations and the payment of compensation to the whistle-blowers.

51 reports on potential infringements were received by 1 October 2019. After examination of these reports, 25 persons were recognized as whistleblowers, and 22 persons were not recognized as whistleblowers. Investigation of the information contained in the reports was entrusted to the divisions of Prosecution Service or to the competent authority. A total of 6 pre-trial investigations were initiated, 13 decisions to refuse initiation of the pre-trial investigation were issued, and official internal investigation were carried out to detect 3 infringements. As of 1 October 2019, 4 people applied for remuneration for the valuable information provided. As regards two whistleblowers, the Prosecutor General took the decision not to pay compensation to them, whereas 2 other applications are currently under examination.

The Law on Protection of Whistleblowers provides that prosecutor's decision can be appealed against to the administrative court by any person who has applied for the status of whistleblower and there was

the decision not to grant such status passed. Decisions on recognizing a person as a whistle-blower are not subject to appeal. As of 1 October 2019, 4 persons appealed the decision of non-recognition to Vilnius Regional Administrative Court. In the case of three persons, the judgments of the court of the first instance were already in place, which found that prosecutor's decisions on not recognizing the person as a whistle-blower were justified and that complaints are not be addressed. One of the decisions of the first instance court has been appealed before the higher instance court namely, the Supreme Administrative Court of Lithuania.

In order to raise awareness on whistleblowers' protection and to ensure its proper enforcement, the Special Investigation Service of the Republic of Lithuania together with the Ministry of Justice and the Prosecutor's General Office organised 2 regional discussions on topic of whistleblowers' protection (on 28 February 2019 in Vilnius and on 15 October 2019 in Klaipėda) for state and municipal public officials, responsible for this matter, as well as, representatives of state and municipal owned enterprises with around 50 participants in each event.

A similar discussion on whistleblowers' protection was also held on 10 May 2019 at the premises of the UAB 'Ignitis' (state owned enterprise) and was organised by the UAB 'Ignitis'. Participants from a number of SOEs, as well as state institutions, participated in the discussion.

**Text of issue for follow-up 13(b):**

13. The Working Group will follow up on the issues below:

(b) steps taken by INVEGA to ensure internal processes and procedures are introduced to effectively prevent, identify and report the bribery of foreign public officials by applicants for, and recipients of, official export credit support (2009 Recommendation XII);

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

The legal basis with respect to effectively prevent, identify and report the bribery of foreign public officials by applicants for, and recipients of, official export credit support is the Export Credit Guarantee Provisioning Regulations, approved by the Government of the Republic of Lithuania Resolution No 746 of 13 September 2017. Pursuant to this Resolution, an Export Credit Guarantee Contract is made for the purpose of the obligations related to the Export Credit Guarantee.

**The Export Credit Guarantee Contract provides that:**

1. The guarantee receiver and the persons participating in the joint activities are aware that, under the law of the Republic of Lithuania, the guarantee receiver and his activity partners are prohibited from any corrupt arrangements with business partners, clients, government officials and other third parties, and the bribery of foreign officials by means of concluding international business transactions shall be subject to the same criminal liability for natural and legal persons as the bribery of Lithuanian civil servants, and that criminal liability for foreign bribery occurs even if this is not an offence in that country.
2. If during the term of the guarantee contract cases of corruption are identified they will be notified to the law enforcement authorities of the Republic of Lithuania. The guarantee receiver must take steps to prevent corruption and inform law enforcement authorities about the corruption practices they have learned of.
3. By signing a guarantee contract the guarantee receiver undertakes to repay the guarantee amount if there has been corruption recorded in the activities of the guarantee receiver or its partner during the term of the guarantee contract.

3. The guarantee contract provides that no guarantee amount will be paid if the fact is determined that the guarantee receiver or his partner has participated in transactions that contain elements of corruption during the term of the guarantee contract.

**Text of issue for follow-up 13(c):**

13. The Working Group will follow up on the issues below:

(c) CPMA's relevant efforts to prevent, detect and report foreign bribery in the context of ODA-funded projects (2009 Recommendation III(i); 2016 Recommendation III.3);

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

In March 2019 CPMA lawyers attended training „The riskiest areas in terms of corruption”, “Risk factors and criminal activities using EU funds”, “The most common mechanisms of corruption”, “Principles and tools of creating an anti-corruption environment“ organized by the Special Investigation Service of the Republic of Lithuania. After the training, discussion-training for the CPMA staff working with the ODA contract was conducted.

As far as ODA project application and project contract templates have anti-corruption and sanctioning clauses, trained CPMA staff has sufficient competences to consult applicants and project promoters on these provisions and the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

No corruption cases were detected so far.

**Text of issue for follow-up 13(d):**

13. The Working Group will follow up on the issues below:

(d) STI's efforts to ensure post-conviction non-deductibility, as case law develops (2009 Tax Recommendation I(i));

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

**Legislative amendments adopted:**

The Agreement No (1.11-04-2) 23-6/8-8 between the State Tax Inspectorate and the Special Investigation Service of 25/26 January 2018 on the amendment of the State Tax Inspectorate and the Special Investigation Service cooperation treaty No (1.11-04-2)23-38/8-74 of 14 June 2013. The purpose of the amendment is to ensure the implementation of the non-deductibility of bribes in practice, including in relation to re-examining tax returns of individuals and companies that have been convicted of bribery.

**Statistics**

According to the Agreement between State Tax Inspectorates under the Ministry of Finance of the Republic of Lithuania (STI) and the Special Investigation Service of the Republic of Lithuania (STT), STI receives information from the STT about natural persons, suspected or charged with bribery. The data is analysed and risky natural persons are selected for individual evaluation.

In 2018, 29 natural persons were individually evaluated by Selection and audit support department. 13 natural persons were selected for monitoring actions: 12 natural persons monitoring actions were completed, 1 natural person's monitoring action is still ongoing. 5 natural persons were selected for

control procedures: 4 natural persons control procedures were completed; 1 natural person is still waiting for control procedure.

In one case, a person was accused in a corruption case of receiving a bribe of 5 000 euros in cash and a watch worth 5 175 euros in the course of his official duties. The taxpayer declared part of the bribe 5 176 euros as taxable income and paid the income tax, but the other part 5 000 euros was not declared by the taxpayer. During the monitoring actions the tax payer submitted a revised declaration in which he declared 5 000 euros and resulting in an additional payment of 750 euros.

In second case, it was found that a taxpayer convicted of receiving a bribe in previous periods also had 11 060 euros income of uncertain origin. The taxpayer submitted revised declarations in which he declared 11 060 euros and it resulted in an additional payment of 1 659 euros.

In other cases, the money of two persons receiving the bribe was confiscated, thus the persons were not considered to have received any income and no taxes were deducted.

In 2019, 6 natural persons were individually evaluated by Selection and audit support department. 1 natural person was selected for control procedure.

**Text of issue for follow-up 13(e):**

13. The Working Group will follow up on the issues below:

(e) Lithuania's provision of tax information to foreign authorities for use in foreign bribery investigations (2009 Tax Recommendation I(iii));

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

There were no actions on this matter during the period of 2018 – 2019 years.

**Text of issue for follow-up 13(f):**

13. The Working Group will follow up on the issues below:

(f) investigation and supervision of the audit profession by the Audit Authority and Chamber of Auditors (2009 Recommendation X.B(ii));

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

1) The Authority of Audit, Accounting, Property Valuation and Insolvency Management under the Ministry of Finance of the Republic of Lithuania (Audit Authority) has conducted in 2019 Audit Quality Inspections in a couple of audit firms. During the one of Inspections in audit firm „PricewaterhouseCoopers“, Audit Authority had identified a case where audit firm in 2017 documented a detection of a possible bribery of foreign officials in international transactions, but had not taken sufficient actions to raise awareness of relevant authorities and to disclose that according to the International Standards of Auditing. After the inspection, the audit firm was sanctioned by giving reprimands to the audit firm and to the auditor responsible for the related audit (The Resolution of Director of Audit Authority on 14<sup>th</sup> of October 2019 No. V3-17). The auditor has been also requested to

participate in additionally 4 hours courses on prevention of money laundering and bribery of foreign officials.

2) From the August of 2019 Audit Authority is conducting a review of the implementation of Lithuanian Chamber of Auditors (LCA) functions that are delegated to it by the Law on Audit of Financial Statements (effective from the 1<sup>st</sup> March 2019). LCA is responsible for preparing to its members (auditors) recommendations how to identify cases of bribery of foreign officials in international transactions, also to advice on the implementation of these recommendations and to monitor their implementation (Article 73 subparagraph 15 of the Law on Audit of Financial Statements). Preliminary findings of Audit Authority show that implementation of this function in LCA has just started. In the Review Report that should be finalized in November 2019, The Audit Authority plans to call LCA's attention to the implementation of this function, which shall be further reinforced and be functional.

**Text of issue for follow-up 13(g):**

(g) future enforcement of sanctions for STR reporting violations (Convention Article 7; 2009 Recommendation III(i); (iv) and (viii));

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

On 29 June 2017 the amendments to the Republic of Lithuania Law on the Prevention of Money Laundering and Terrorist Financing were adopted to provide the grounds for initiating as inspection relating to compliance with requirements of this Law. The supervisory authorities shall have the right to initiate inspections of implementation of the money laundering and/or terrorist financing prevention measures set out in this Law at their own initiative on the basis of the supervisory authorities' inspection plan (supervision plan). The supervisory authorities may also initiate inspections relating to possible breaches of this Law upon receiving a report or any other data in which the circumstances of the possible breaches of this Law are recorded.

While performing supervision of implementation of the prevention of money laundering and terrorist financing measures, in 2018 the Financial Crime Investigation Service under the Ministry of the Interior of the Republic of Lithuania, as planned, conducted 23 inspections of the companies. One fast-credit company, 2 electronic money institutions, 4 companies involved in trade on vehicles, whenever the payment is effected in cash, 16 companies providing the accounting and tax advisory services were inspected. The violations were determined in 15 companies, the protocols of administrative violation were established according to Article 188 of the Code of Administrative Violations (in 2017 – 8 protocols). In 2018 together with the Bank of Lithuania (BoL) 2 inspections were carried out at the electronic money institutions, during which the BoL imposed a fine.

On 18 April 2019 the Order on the Guidelines on the Method of Setting Fines Imposed pursuant to the Violations of the Republic of Lithuania Law on the Prevention of Money Laundering and Terrorist Financing was approved by the Director of the FCIS.

**Text of issue for follow-up 13(h):**

(h) the activities of the Seimas Anti-Corruption Commission to ensure that the STT Director and Prosecutor General cannot be compelled to answer questions or provide information in relation to specific cases (Convention Article 5; Commentary 27 and 2009 Recommendation Annex 1.D);

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

During the period 2018–2019 mainly topics relating to corruption prevention have been discussed at the meetings of the Seimas Anti-Corruption Commission, where from time to time expert-level officials (with functions not relating to pre-trial investigation or criminal intelligence) from the Special Investigation Service were invited to present their findings, such as, resulting from the anti-corruption legal assessments of legal acts, corruption risk assessments, anticorruption analytical intelligence surveys, etc. If the discussions were somehow related to the on-going pre-trial investigation, the meeting was organised with due respect to the confidentiality of the pre-trial investigation data and independence of the pre-trial investigating authority.

During the same period STT Director participated twice at the meetings of the Seimas Anti-Corruption Commission: one of them was devoted to the presentation of the STT annual report and one was devoted to presentation of one anticorruption analytical intelligence survey on relationship between public procurements at health care sector and sponsorship.

There have been no instances where STT Director or other STT officials would be compelled to answer questions or provide information in relation to specific cases.

During the same period the Prosecutor General was not invited and did not attend the meetings of the Seimas Anti-Corruption Commission.

It shall be also recalled that application of the Law on the Seimas Anti-Corruption Commission and the Commission's activities would be guided by the Constitutional Court's case law. In its 30 December 2015 decision the Constitutional Court clarified that: "when implementing the possibility implied by the Constitution to regulate by a law the regular obtaining of information from a state institution (except for the courts), inter alia, in the form of reports, which is significant for the implementation of its functions, the Seimas may establish that the Prosecutor General regularly under the general procedure submits the information on the activity of the Prosecution Service, inter alia, the annual activity report, to the Seimas; however, it may not establish such a legal regulation, under which the Prosecutor General would be obliged to provide the Seimas or the President of the Republic with the information not on the summarised aspects of the Prosecution Service as a whole, but namely on the fact how the prosecutors of the Office of the Prosecutor General and the territorial prosecutor's offices implement their constitutional functions." (full text of the ruling in English is here: <http://lrkt.lt/en/court-acts/search/170/ta1554/content>).

**Text of issue for follow-up 13(i):**

(i) ensure that STT investigators are in an open and constant dialogue with the supervising prosecutor in all foreign bribery cases (Convention Article 5; Commentary 27; 2009 Recommendation V and Annex I.D);

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

There are no new developments to be reported in this aspect.

Article 164 of the Code of Criminal Procedure establishes that pre-trial investigation shall be implemented by the pre-trial investigation officers and that prosecutor organizes and supervises the pre-trial investigation. Under this provision the pre-trial investigation officers from the STT are obliged to keep an open and constant dialogue with the supervising prosecutor irrespective of the nature of the investigation. Non-cooperation is impossible, since Article 170 of the Code of Criminal Procedure sets out competences of the prosecutor during pre-trial investigation, only a prosecutor may take main and fundamental decisions during pre-trial investigation, which is implemented by the pre-trial investigation officers, this prosecutor also ensures prosecuting function when the case is sent to the court.

**Text of issue for follow-up 13(j):**

(j) use of penal orders, expedited procedures and self-reporting pursuant to CC art. 62 in foreign bribery cases, as case law develops (Convention Article 3(1); 2009 Recommendation III(ii));

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

No new developments.

**Text of issue for follow-up 13(k):**

(k) future foreign bribery cases to ensure that the complexity of the cases does not pose an obstacle in terms of expiry of the limitation period (Convention Article 6);

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

No new developments.

**Text of issue for follow-up 13(l):**

(l) termination of pre-trial investigations due to investigation time limits and the application of CCP art. 215 in practice in foreign bribery cases (Convention Articles 5 and 6; Commentary 27; 2009 Recommendation Annex 1.D);

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

No new developments regarding termination of pre-trial investigations due to investigation time limits and the application of CCP art. 215 in practice in foreign bribery cases.

Currently there are two on-going criminal cases, which are related to foreign bribery.

Case 1

Pre-trial investigation is ongoing. There are 3 suspects in the case, one of whom is a public official, former Head of National Blood Center, and 5 criminal acts under investigation. Two of alleged criminal acts (trade in influence) under investigation are related to the activities aimed to unlawfully influence officials of the Republic of Latvia.

## Case 2

When conducting pre-trial investigation, different alleged criminal activities of 7 individuals were investigated, namely: false accounting, abuse of office, active bribery, trade in influence. One of the individuals under investigation is a Member of Lithuanian Parliament, who allegedly traded in influence having the intention to influence a foreign public official in favor of a Lithuanian company. On 25 June 2019 Parliament rejected the request of the Prosecutor's General to lift of immunity of the Member of Parliament to proceed further with the investigation. As a result, that part of the pre-trial investigation was terminated. Separated part of the pre-trial investigation on false accounting of another suspect was finalized and the case is sent to court. There is a possibility prescribed by the law to renew the investigation in regard Member of Parliament after his immunity expires.

**Text of issue for follow-up 13(m):**

(m) practical application of CC art. 230(2), particularly in cases of bribery of SOE officials (Convention Article 2; 2009 Recommendation Annex 1) ;

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

No new developments of the case law.

**Text of issue for follow-up 13(n):**

(n) corporate liability for the foreign bribery offence as practice develops (Convention Article 2; 2009 Recommendation Annex 1);

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

No new developments.

**Text of issue for follow-up 13(o):**

(o) interpretation of the intent element in future cases of foreign bribery-based money laundering (Convention Article 7);

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

No new developments.

**Text of issue for follow-up 13(p):**

(p) monitor the practice of prosecutors and judges in respectively seeking and imposing fines in foreign bribery cases to ensure that these are effective, proportionate and dissuasive (Convention Article 3);

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

There have been no convictions for foreign bribery offences during 2017–2019.

During 2017-2019 (I-III quarters) the courts have imposed these fines to natural persons for the (domestic) corruption offences that were investigated by the STT:

	<b>Year</b>	<b>Minimum</b>	<b>Average</b>	<b>Maximum</b>
<b>Fine (in EUR)</b>	<b>2019</b> (I-III Quarters)	188	9 547	40 000
	<b>2018</b>	753	9 029	37 660
	<b>2017</b>	753	6 176	22 596

During the same period one legal person was convicted in 2017 for (domestic) corruption offence(-s) and a fine of 22 596 EUR was imposed.

**Text of issue for follow-up 13(q):**

(q) foreign bribery case law to determine whether reduced sentences due to the length of criminal proceedings—or other mitigating circumstances inherent to bribery in international business—impact on the effective, proportionate, and dissuasive nature of the sanctions for the offence (Convention Articles 3 and 6).

**With regard to the issue identified above, describe any new case law, legislative, administrative, doctrinal or other relevant developments since the adoption of the report. Please provide relevant statistics as appropriate:**

No new developments.