

Delegation to Riga (Latvia)

30-31 August 2018

MISSION REPORT



Special Committee on Financial Crimes, Tax Evasion and Tax Avoidance
(TAX3)

1. Programme

Thursday, 30 August 2018

Time	Institution/Host	Address/Tel	Subject
<i>13:45 bus leaving the airport. Transfer to the passenger terminal of the port.</i>			
14:00 - 16:15	Meeting with free ports authorities (including visit of free port) Mr Ansis Zeltins, CEO Edgars Suna, Deputy CEO and the Customs representatives: Mr Lauris Krivans, Head of the Customs Clearance Unit and Customs Process Management and Maris Purins, Deputy Head of Customs Control Points of Riga Customs Control Points' Division of the National Customs Board	Visit of the freeport by boat (20 minutes) followed by meeting.) Transparency of customs freeports
Transfer to EP premises: 30 minutes			
16:45 - 17.45	Meeting with relevant banks involved in ML issues as well as resident banks: The Finance Latvia Association (Association of Latvian Commercial Banks until July 2018) (Board and Council Members invited, main speakers Ms Sanda Liepina and Mr Janis Brazovskis; Swedbank and Luminor bank represented by this	EPLO office in Riga, Aspazijas bulvris 28, Centra rajons, Riga, LV-1050) Compliance with Anti Money Laundering rules

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Time	Institution/Host	Address/Tel	Subject
	entity) ABLV Bank liquidator team represented by Andris Kovaļuks, Arvīds Kostomarovs and Eva Berlaus		
17.50 – 18.50	Meeting with stakeholders: Ms Sanita Jemberga, Mr Juris Paiders, Ms Liene Gatere	EPLO office in Riga, Aspazijas bulvāris 28, Centra rajons, Rīga, LV-1050	J Fight against money laundering, corruption J Golden visas permits J Fight against aggressive tax planning and tax evasion
19:00 - 19.45	Register of Enterprises, responsible for the beneficial ownership register (Ms Guna Paidere, Chief State Notary; Ms Laima Letina, Deputy Head of Legal department)	EPLO office in Riga, Aspazijas bulvāris 28, Centra rajons, Rīga, LV-1050	J Beneficial ownership register
<i>Transfer to the hotel and own arrangements for dinner</i>			

Friday 31st August 2018

<i>Transfer from the hotel to the EP Premises: 30 minutes. Depart from the hotel at 8:15</i>			
8:45 - 10:00	Meeting with representatives of AML authorities (Mr Peters Putnins, Chairman, Financial and Capital Market Commission; Ms Ilze Znotina, Chairperson, Office for Prevention of Laundering of Proceeds Derived from Criminal Activity (FIU Latvia)) and Bank of Latvia (Ms Zoja Razmusa, Deputy Governor, currently acting	EPLO office in Riga, Aspazijas bulvāris 28, Centra rajons, Rīga, LV-1050	J Anti Money Laundering enforcement J Banking supervision

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Time	Institution/Host	Address/Tel	Subject
	Governor)		
Transfer to the Parliament of Latvia and security checks: 30 minutes			
10:30 - 11:45	Meeting with National Parliament representatives Defence, Internal Affairs and Corruption Prevention Committee (Mr Ainars Latkovskis, Chairman) Budget and Finance Committee; (Mr. Imants Paršnieks, Deputy Chairman, Mr. Ints Dīderis, Secretary)	J. Kaba iela 11, Red Hall, Centra rajons, Rīga, LV-1050, Latvia	J Fight against Money Laundering J Taxation policy
12.15 – 13:00	Meeting with Minister of Finances (Ms Dana Reizniece-Ozola) and the acting director general of the State Revenue Service (Ms Dace Peļķe)	Smilšu iela 1, Centra rajons, Rīga, LV-1050, Latvia	J Fight against Money Laundering J Fight against aggressive tax planning and tax evasion
13:00	<i>End of mission</i>		
13:15 - 13:30	Press conference	EPLO office in Riga, Aspazijas bulvāris 28, Centra rajons, Rīga, LV-1050	Only for the Chair and the Co-rapporteurs

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1. LIST OF PARTICIPANTS

Members	Group
Petr JEZEK, Chair	ALDE
Ana GOMES	S&D
Jeppe KOFOD	S&D
Dariusz ROSATI	EPP
Emil RADEV	EPP
Wolf KLINZ	ALDE
Molly SCOTT CATO	Greens
Paloma LOPEZ BERMEJO	GUE
Mario BORGHEZIO	ENF

Accompanying Members	Group
Krišjānis KARIŠ	EPP
Roberts ZĻE	ECR

TAX3 Secretariat
Benoit WETS
Gabriel ALVAREZ RECARTE

Political advisers	Group
Eriks DAUKSTS	EPP
Ance GULBE	ECR
Frantisek NEJEDLY	Greens
Petra SOLLI	ALDE
Veronica GRONDONA	GUE/NGL

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Barbara MAZZOTTI	ENF
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European Parliament Office in Latvia (Riga)
Marta RIBELE
Jelena GLAZOVA

2. KEY MESSAGES

KEY FINDINGS AND RECOMMENDATIONS FROM DELEGATION VISIT:

- The Port Authority does not check the origin of funds invested in the Port. However, the Port Authority claims that this check is made by the bank of the company investing in the Port. Customs only is allowed to make checks on goods entering the Freeport. 60 customs officials are based in the free port. Goods stay in the Freeport for a short period of time; the Freeport is not used for long-term storage of goods. However, there were situations when a company was not accepted to conclude a contract with the Freeport because of risk of money laundering.
- Fight against ML is very high on the political agenda. Many reforms have been undertaken in the recent years and months with already concrete results visible (decrease of shell companies and non-residents funds).
- Latvia was not the final destination of dirty money. Latvia was a state of transit and funds that left Latvia are now elsewhere in the EU and Europe. Destination countries include Cyprus, Malta, Austria and in particular Switzerland and the UK.
- Latvia has introduced a law banning shell companies that exist for money transfer rather than real economic activity. Many institutions met recommend this law being introduced at EU level. Many also recommend AML being regulated in Europe by a Regulation instead of a Directive to ensure consistency. They also favour the set-up of an EU FIU.
- Latvia introduced a public, online beneficial ownership register at the end of 2017. Every legal person has to register. It is a criminal offence to fill in wrong information in the register. The quality of data is reduced when it comes to non-residents owners.
- The Moneyval report is in general positive on national laws introduced in Latvia but very negative on the implementation and enforcement sides.
- The Golden Visas programme is declining because it is more expensive than in other EU countries. Latvian experts regret that no information has been made public on who obtained visas in the framework of the Golden Visas programme.
- Many persons met call for the fight against money laundering to be dealt with at EU level, which could also include the ECB.

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- The Chair of the FIU calls for the EU to issue a stronger list of high risk countries. CIS countries are not considered as high risk countries by FATF, so they were not considered as risky by banks.
- VAT fraud is a usual practice in the construction materials sector. The representatives of the Parliament regretted that Latvia was not authorised to introduce a reverse charge mechanism.
- There is media freedom, ideas can be published and there is plurality in Latvia, however strategic lawsuits are often used against journalists.

2.1. Meeting with the Freeport Riga Authorities.

The Freeport is managed by the Port Authority which is a public company funded through cargo fees and land revenue. Any company can request authorisation to operate in the Specific Economic Zone by presenting to the Port Authority a business plan and commitments to invest in infrastructure in the Freeport (investment is needed, re using existing infrastructure is not sufficient).

If the business plan is accepted and on the basis of a bank statement certifying the company soundness, the Port Authority delivers a certificate which gives right to tax reductions of up to 80% of corporate and property taxes. (Up to a limit equivalent to half the amount of the investment). This can result in an effective Corporate Income Tax (CIT) of 3.6% approximately.

The Port Authority does not check the origin of funds invested in the port. However, the Port Authority claims that this check is made by the bank of the company. Reference is made to only one company which was refused license 5 years ago because of the suspicious origin of the funds.

Customs only is allowed to make checks on goods entering the Freeport. 60 customs officials are based in the free port. Goods stay in the Freeport for a short period of time, the Freeport is not used for long-term storage of goods. Goods that are in the Free port are mainly energy products, with 65% of the total (Coal from Russia - oil) - containers and timber products (11% of the total). There is no high value/ luxury goods stored in the Freeport.

60% of Investors are foreigners and they come mainly from CIS countries.

2.2. Meeting with relevant banks involved in Money Laundering issues as well as resident banks.

The Finance Latvia Association attempts to self-regulate the banking sector. The Association explains that they took several initiatives to counter money

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laundering possibilities in the Latvian financial system. Lots of documentation was distributed to participants to explain the “proposals for sustainable development of the financial industry” as regards requirement for employees of financial institutions, exchange of information, limiting cooperation with shell companies among other measures.

The Finance Latvia Association notes that they have observed a substantial reduction in the foreign deposits.

The Finance Latvia Association considers that much of the dirty money left the country but it ended elsewhere in other Member States which have not implemented the latest AML legislation on time or in other European countries. They acknowledge that much work is still ahead of them (as demonstrated by the recent Moneyval report).

The ABLV liquidator explained the liquidation process which aims at ensuring that no dirty money will be given back. Moreover, he pointed out that ABLV judicially challenged the ECB’s declaration of 23 February 2018 that ABLV Bank would be failing or would likely to fail in accordance with the Single Resolution Mechanism Regulation since ABLV possessed at that time still a cash reserve of more than 1 billion EUR.

They explained that they had opted for self-liquidation because it was the only solution that does not involve going to trial.

The banking sector considers that AML was not a priority for many years, neither for them nor for ECB and national supervisors. They mentioned that AMLD4 is not yet implemented in all member states. They have now taken action and consider that the “ABLV” business model is dead. Huge progress has been done to reduce the amount of foreign funds into the Latvian banking sector. According to experts, Latvia was not the final destination of dirty money. Latvia was a state of transit and funds are now elsewhere in the EU.

The banking sector mentioned that before closing foreign shell companies riskier accounts, they interrogated their clients regarding where they would bring their money. Their clients informed they would be going to Austria, Cyprus, Switzerland, UK, and Malta, (in the beginning also to Bulgaria and Romania but this corridor was shut down).

At the question why the Latvian authorities took action only after the US FinCEN acted on the ABLV case, experts said that US standards are much stricter than European ones. Most of Latvian banks apply EU rules but are far from applying the US ones. They also mentioned that according to the ECB, the EU system is guaranteed by the US one.

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Experts recommend to apply the Latvian law on shell companies throughout Europe. They recommend AML being regulated in Europe by a Regulation instead of a Directive in order to ensure a uniform implementation and common way of reporting. They also favour the set-up of an EU FIU.

2.3. Meeting with Stakeholders.

Meeting with:

-) Sanita Jemberga, Editor-in-Chief of Re: baltica journalism center
-) Juris Paiders, Chairman of the Board of the Latvian Journalist's Union
-) Liene Gatere, Executive Director in Transparency International DELNA

Juris Paiders considers that the most corrupt sector in Latvia is the bankruptcy management/liquidation sector; and that it is not clear that self-liquidation is the best in the case of ABLV.

He also mentioned that the problem of shell companies went back to 7 years ago when all banks promoted shell companies.

Regarding broader issues, Mr Paiders mentioned that a historical problem in Latvia is that foreign investment does not pay taxes for 5 years while citizens do.

Finally, Mr Paiders mentioned a question of fairness: local Latvian banks were sanctioned, while other EU banks (mainly Scandinavian) presenting the same deficiencies were not.

Sanita Jemberga recommends that money laundering is tackled seriously at EU level. According to her, not only Latvian banks pose huge problems in terms of ML. She favours the set-up of a pan-European body to tackle ML. She considers that Latvian authorities would never have closed ABLV at own initiative, without action from the US part. She highlights that the Moneyval report is globally positive on national laws introduced in Latvia but very negative on the implementation and enforcement sides.

On the Golden Visas programme, she considers that it is dead, also because it became too expensive for potential candidates.

She considers that the true test to show that everything is fine now in Latvia will be the ABLV liquidation: the liquidator has to ensure that every euro that will leave ABLV is clean.

She mentioned that the companies laundering the money from Latvia are in the UK.

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Liene Gatere (Transparency International) supports the set-up of an EU FIU and asks for more regulation/ supervision of intermediaries who bring clients to banks. She considers that tax evasion is still a big problem in Latvia and points out the lack of resources in the Ministry of Finances. She regrets that no proper sanctions were applied to people convicted of ML. She also highlights the big gap between what Latvia considers sufficient to start prosecution compared to the US. She recommends the quick adoption of whistleblowing directive.

She also expressed concerns regarding the self-liquidation of ABLV: there is an agenda to finalize quickly, when in practice, investigating and sanctioning money laundering cases takes time.

Experts regret that no information has been made public on who obtained visa in the framework of the Golden Visa programme and fear that no supervision was made in this area. They praise the Latvian UBO register and consider that UBO information should be public and free of charge.

Also, the efforts to prosecute the cases are not very convincing. It seems as if there were crimes but no criminals. The fact that the crimes are not being prosecuted creates a feeling of injustice in the society. Experts express hope that the investigation and eventual prosecution of the former governor of the Central Bank will be fair and unbiased.

Regarding whistle-blower and journalist's protection, there is media freedom, ideas can be published and there is plurality in Latvia. However strategic lawsuits are often used against journalists. Both Juris Paiders and Sanita Jemberga mentioned that the limitations to publish as journalists are determined by the use of the judicial system against journalists. Both of them have trials against them in criminal courts for articles published and questions asked. Moreover, Liene Gatere mentioned the need for a whistle-blower protection directive at EU level; and also, that what happened in Malta could happen anywhere in the EU.

2.4. Meeting with the Register of Enterprises, responsible for the beneficial ownership register - Meeting with Guna Paidere, Chief State Notary.

The beneficial ownership register was launched at the end of 2017. The registers fees vary from 5.69 euros to 18 euros and the public access of the register information is also under a fee below the administrative costs. Every legal person has to register. So far, 75% of legal persons have submitted the required information while 25% of the information is still outstanding. Guidelines were published to explain how to determine the real UBO. It is a criminal offence to fill in wrong information in the register. UBO is public for

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all cases. There is only one exception for disclosure: if the beneficial owner is younger than 18.

Regarding Family trusts, Latvian legislation does not allow them so there is no register for them. However, in the cases in which a family trust is the legal owner of an asset, member or owner through which the control of UBO is exercised will be indicated in the register of legal entities. Additionally, if the family trust will open an account in Latvia, information about family trust will be included in account register in accordance with Account Register Law.

If the bank cannot find an UBO, it has to register the Senior Manager.

The Chief State Notary considers that the quality of data is good but acknowledges lower quality when it comes to non-residents and complex structures. They will use a specific tool to scan foreign passports.

There is a real estate property register in Latvia as well as bank account register. They are however not public and they depend on different institutions.

The Chief State Notary explains that the Moneyval report covers the period until last November, right before the opening of the new register. She considers that huge progress has been made since then.

2.5. Meeting with the Anti Money Laundering authorities and the Central Bank of Latvia

Meeting with:

-) Peter Putnins, Chairman of the Financial and Capital Market Commission
-) Zoja Razmusa, Deputy Governor of the Central Bank of Latvia
-) Ilze Znotina, Chairman of the Office for Prevention of Laundering of Proceeds Derived from Criminal Activity (FIU Latvia)

The Deputy Governor of the Central Bank of Latvia explains that the business model to date of banks serving non-resident clients is not viable.

She explains the reform of the financial sector started 3 years ago and will continue. She highlights that the Moneyval report is not negative on the legal framework but calls for more efficiency and effectiveness in implementation/enforcement.

She advocates the set-up of an EU FIU because of globalisation of crimes. Also, the national FIU capacities should be strengthened across the EU and they should be better coordinated. Smaller EU states have become the

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targets for money launderers because they lack the capacity to police illegal money flows adequately.

She also mentioned that in the year 2000 the supervision was removed from the control of central banks.

Finally, she indicated that cleaning the banking system from foreign shell companies had only an impact of 0.5% GDP.

Peters Putnins, Chairman of the Financial and Capital Market Commission, presents the results of their “de risking approach”:

- J Decrease from 53% of foreign deposits in the Latvian banking system in 2015 to 21% in 2018. Today, EU and local deposits represent 90% of the deposits’ base. Foreign deposits were reduced by 500 million Euros in 5 months.
- J Share of shell companies deposits in total deposits decreased from 14.4% in February 2018 to 5,3% in July 2018.

He also explains the new law to ban shell companies in the banking system: indicating that a shell company is a company registered in a country where no requirements to file annual reports exist, with which there is no exchange of information, and has no substantial activity. He mentioned however, that there are risky countries within the EU too, but that they cannot discriminate deposits from such countries as they are part of the EU.

Mr. Putnins also mentioned that there is a concentration problem in the Latvian banking sector. Banks having foreign clients had only few shareholders, which were also involved in the management of the bank. As long as this business model continues, such concentration will be a problem.

The Chair of the Latvian FIU, Ilze Znotina, calls for a stronger EU list of high risk countries. CIS countries are not considered as high risk countries by FATF, so they did not consider money originating from these countries as risky.

She considers that Latvia is only one piece of the puzzle. According to her, there are problems also in Estonia, Malta, Cyprus, Denmark, among other EU countries; ABLV is not the only bank with recent ML problems; there is Danske Bank, Pilatus, Versobank and others. She hopes the ABLV case will help serve as an update for the national risk assessment framework.

She calls for more harmonisation of EU rules but she does not advocate for an EU FIU. She however considers that the FIU role in the fight against ML should be strengthened and that AML regulations should be improved.

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She praises the work of the Egmont group which is very effective and sufficient. She regrets the lack of cooperation with Russia, Azerbaijan and CIS countries in general.

Regarding this year's amount of STRs, she mentioned they amounted to 377, but so far, 355 relate to previous years. It has been noted that there STRs can be filed in by obliged entities as a defensive measure and therefore probably not useful. However, if they receive more STRs (notably in the framework of the ABLV liquidation), they would not be able to analyse them, reason for which they will hire external consultants.

Experts point out that there are lots of British shell companies present in Latvia. They consider that Latvia is the entry gate into EU. Money is in transit to other EU countries. The UK is an important destination but also the Czech Republic is increasing in importance

2.6. Meeting with National Parliament representatives (Latvijas Republikas Saeima)

Meetings with:

-) Ainar Latkovskis, Chairman of the Defence, Internal Affairs and Corruption Prevention Committee
-) Imants Paradnieks, Deputy Chairman of the Budget and Finance (Taxation) Committee
-) Ints Dalderis, Member of Parliament

The Moneyval report points out that legislation is not a problem in Latvia. The Parliament representatives confirm that there has always been broad support in the Latvian parliament for AML legislation.

They note that the VAT fraud in Latvia is very large, in particular the carousel fraud type. They call for Latvia to be authorised to apply the VAT reverse charge mechanism in the construction materials sector. They regret that the Commission not only refused the authorisation but also launched an infringement procedure against Latvia.

They call for equal treatment when it comes to blaming countries for lack of enforcement in the fight against money laundering. They consider that Latvia is not alone with ML problems. They complain that other countries (notably Estonia) are treated more favourably.

They explain that law enforcement authorities (namely through a change of police commissioner) and supervision authorities (FCMC) (through a change of Chair) have also been reformed and results start to appear.



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They note that cooperation with FIUs of certain CIS countries is much more difficult than cooperation with such units within the EU.

Staff working in public authorities frequently lack sufficient knowledge. After having received training, skilled staff is being attracted by banks.

Mr Latkovskis believes that laundered money has not been directly used to sponsor political parties. Mr Dalderis, however, notes that the owners of certain banks involved in ML have been keen financiers of certain political parties.

They explain that Latvia faced a huge financial crisis in 2008, reason why Russian money and transactions were welcome. Also, given the huge crisis, authorities unfortunately cut resources available for investigations.

They highlight the difficulties they face to control excise goods (mainly cigarettes) entering into Latvia (and the whole EU) from Belarus.

They also mentioned the problem of the shadow economy, and that Latvia has been fighting against this problem, particularly in the construction, electronic and lottery sectors. They have also introduced a tax on lottery winnings.

The national Parliament has not yet started activities in examining the issue of crypto currencies.

The Parliament has not created an inquiry committee to analyse the Panama Papers nor the Paradise Papers.

They mentioned that they have dedicated more resources to tackle tax avoidance, but that there is a need for more controls and they need the support of the EU in order to be more efficient in this fight.

Introduction of Financial transaction tax is a discussable idea; Mr Paradnieks notes, however, that it would not work well if Latvia unilaterally introduced such tax.

2.7. Meeting with the Minister of Finances and the Acting Director General of the State Revenue Service

Meetings with:

-) Dana Reizniece-Ozola, Minister of Finances
-) Dace Peleka, Acting Director General of the State Revenue Service

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Fight against ML is very high on the political agenda. The banking sector is now sound, well capitalised and liquid thanks to reforms launched in recent times.

-) Banks no longer can perform any operations with high risk clients' accounts.
-) Better access to information on beneficial ownership (7000 out of 10000 companies have already filled in information in the register).
-) Many additional measures were taken and are part of an action plan that was adopted on 21 March 2018.
-) The State Revenue Service increased its staff capacity in the fight AML in 2017. A full department was created on 1 September 2017 (currently 21 persons, with the objective of 25).

She however acknowledges that external pressure was needed to make the reform launched and work.

The Moneyval report is to be seen as not fully up-to-date (some of the recommendations have been implemented in the recent months or weeks) but as valuable information in view of future reforms. Police and other Law Enforcement Authorities will be strengthened.

She considers that an AML body at EU level could be useful since in the current situation ECB supervises the largest entities from a prudential point of view whereas the supervision with regard to AML remains the responsibility for national authorities. At least a better information exchange is necessary as a first step. Investigations and prosecution have been more effective in the last years.

The Minister calls for some improvements at EU level indicating that ML should be regulated by a Regulations, not a Directive.

More clarity should be given on when and how to revoke a banking licence particularly when banks have subsidiaries in different countries, such as the ABLV in Luxembourg. She also mentioned that part of the behaviour of the banking sector in Latvia can be explained for a need to support the development of a local banking sector after the behaviour of the Nordic banks during the crisis. The peak of the problem was evidenced when the OECD alerted them about the fact that Latvia could be promoting a behaviour that could contribute to an international risk.



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In order to reduce risk of ML Latvia is considering introducing a license for real estate agents, tax consultants, outsourced accountants and legal service providers.

Latvia prefers a more efficient exchange of information than the CCCTB.

Tax competition is so big that they cannot increase taxes too much as they would risk losing market. The Minister noted that there were not many alternatives left for a country such as Latvia that has been left without a productive sector.

The Golden Visa programme (approved by the national Parliament) was a wrong political decision. The Minister states that part of the national parliament is still in favour of Golden Visas.

The Golden Visa scheme was analysed at FIU level in cooperation with security police, and they came to the conclusion that the programme poses security risks.