



Latvijas Republikas
Valsts kontrole

**RECOVERY OF THE
LOSSES
CAUSED AS A RESULT OF
UNLAWFUL ACTIONS**

10.11.2022.

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State Audit Office
of the Republic of Latvia

STATUS AND MANDATE



An independent, collegial SAI and one of the authorities specified in the Satversme (Constitution) of the Republic of Latvia



Aims to establish whether public resources are being spent legally, correctly, efficiently, and in compliance with public interests



Does not have the right to make decisions on punishing guilty officials



Notifies state institutions of findings which affect the activities of these institutions, as well as law enforcement authorities of the violations of legal provision detected during an audit

PURPOSE:

TO RECOVER THE LOSSES CAUSED BY A PUBLIC PERSON AS A RESULTAT OF UNLAWFUL ACTIONS



WHY?

At the initiative of SAI Latvia, an investigation was carried out in 2014/2015 which concluded that the recovery of losses established in the audits of SAI Latvia takes place only in certain cases, and it should be more intensive and on more significant issues.

Institutions carried out inspections on



29 audits

as a result of which



2006 - 2014

3 officials were dismissed

7 employees were terminated

4 officials were demoted

30 officials were subject to
another disciplinary sanction



BUT losses were recovered only in a few cases

ACTION BY THE LEGISLATURE

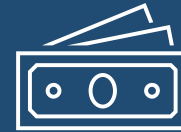


New function provided by Law of SAI Latvia



AFTER 31 JULY 2019


To initiate the process of recovery of losses and to take a decision regarding the recovery of losses



Applicable in relation to audits which have commenced after 31 July 2019

The new regulation has been applied in 17 cases for more than 195 000 euro (* until 01.11.2022.)

WHAT WE WANT TO ACHIEVE?



The losses caused to public funds (resources) is indeed recovered, and not only in *small cases*

To promote responsibility and understanding that any action with the financial resources and property of a public person shall conform to the objectives provided for in external laws and regulations, and also the procedures laid down in the laws and regulations

It is important:

- to understand the right things to do to prevent such cases
- to strengthen attitude - any illegal action in the public sector is not tolerated



STEPS IN THE PROCESS PROVIDED

BY LAW

Any unlawful actions involving funds or property of a public person or public enterprise are established during an audit

Council of the SAI takes the decision to initiate the reimbursement of the losses caused as a result of unlawful actions by sending it to the audited entity and its supreme institution (shareholder)

Audited entity shall assess the liability of officials and employees within six months after receiving the decision of the SAI and shall submit information about the results of their evaluation

SAI Latvia shall review the information and, if necessary, request additional information, receive documents, as well as clarification from any individual for the preparation of the decision



Within four months from the day of receiving the information, the Council of SAI Latvia shall take a decision by assessing the opinion of the individual as follows:

to RECOVER losses
when the preconditions
for the recovery of
losses (provided by the
Law) are met

NOT TO RECOVER losses if:

- the recovery has been or is being made under other proceedings fully or partly, a limitation period has set in
- the preconditions for the recovery of losses (provided by the Law) have not been established

to SUSPEND
examination of the matter
until the audited entity
has taken the activities
specified in laws and
regulations in order for it
to recover losses on its
own or to reach the
agreement on the
voluntary reimbursement
thereof

THE LAW PROVIDES



Losses shall be recovered if not more than four years have passed from committing the violation

Termination of service, employment shall not be grounds for not recovering the losses

Losses shall be reimbursed if they have been caused due to gross negligence or action has occurred due to a malicious intent

Decision on the recovery of losses may be appealed in accordance with the Administrative Procedure Law

Execution shall be ensured through the bailiff



STATISTICS



17 processes have been initiated for 195 438 *euro* recovery – 4 processes in 2021 and 13 in 2022:

- ✓ **63 612 *euro* have been recovered in the budget as a result of two initiated processes**
- ✓ **in two cases the recovery of losses continues within the framework of other processes (criminal proceedings and civil proceedings)**
- ✓ **in other cases, the audited entities continue the evaluation to find out the persons responsible for the losses and to recover the losses**

An additional 13 cases amounting to a total of 16 000 *euro* have been recovered without starting the process - in cases when the amount of losses is small, we inform the audited entities already during the audit about the violation and the obligation to demand compensation for losses from the responsible persons

EXAMPLES OF VIOLATIONS RESULTING IN LOSSES



- **violations in paying remuneration to officials – supplements, bonuses, extra payments paid in a larger amount, as provided by the Law, or in cases where it is not permitted by Law**
- **compensation was paid to employees for the restriction of competition for the time when employees were re-hired**
- **rent discounts granted to individuals in cases where it is not permitted by Law**
- **officials have violated the prohibition provided by the Law to buy a service for an increased price**
- **the authority concluded agreements with officials on such services regarding issues which are the specific duty of that official of the respective authority, and on that basis paid an additional amount to the salary**



CHALLENGES:

➔ To improve the process so that it can be implemented with as few resources as possible

➔ To encourage the development of good practice in institutions for evaluating the responsibility of officials for the obligation to compensate the losses



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Thanks! Any questions?