



Enforcement of administrative fines

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Audit report

Enforcement of administrative fines

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Performance audit “Enforcement of administrative fines”

The audit was performed by Senior State Auditor Sarmīte Baltusa, Senior State Auditor Diāna Žunna, Information System Auditors Jānis Silinieks and Valentīns Persaņs, Senior State Auditors-Lawyers Iveta Laicāne (up to 11 Dec 2023) and Ilona Kronberga (from 11 Dec 2023), responsible Head of Sector Kaiva Skalbiņa, and Department Director Kristīne Jaunzeme based on audit schedule No 2.4.1-25/2023 of the Second Audit Department of the State Audit Office of Latvia of 1 June 2023.

The audited entities: Ministry of the Interior, Ministry of Justice, and Ministry of Finance.

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Dear Reader,

The State Audit Office of Latvia has concluded a focused performance audit, in which we assessed one of the stages of the administrative violation process, the enforcement of administrative fines. During the audit, we evaluated whether the established enforcement system of administrative fines functioned effectively and whether enforcement was ensured with the least possible consumption of resources.

During the audit, we have concluded that red tape and the amount of work of state institutions in the enforcement of administrative fines has generally increased, but the indicators of the payment of administrative fines do not improve significantly. Accordingly, state institutions do more, but the result is the same.

There are 1,570 employees of various levels and competences in 27 state institutions engaged in the function of enforcing administrative fines in the direct state administration, for 98% of which that is one of many other duties. By centralizing the administrative fine enforcement function, 73 full-time employees would be needed for its execution, and according to the auditors' estimates, their number could be further reduced by almost half.

This would both save state budget resources and accumulate the competences necessary for the performance of the function in one place and ensure a fairer treatment of administratively fined individuals and prevent violations of the principle of good governance in the current practice of state institutions when the transfer of administrative fines for enforcement in different terms results in different consequences and costs for private individuals. Likewise, the further arrangement, digitization, automation of processes and maximum elimination of manual work are solutions for the enforcement of administrative fines with the least possible consumption of state resources.

After the Law on Administrative Responsibility took effect on 1 July 2020, the scope of work of the State Police,



ensuring the enforcement of administrative fines, has increased five times, mainly due to changes in the deadlines for the transfer of administrative fines to forced enforcement. The State Police must carry out a series of administrative actions that previously did not have to be carried out, and voluntary payment of administrative fines for violations in road traffic is no longer encouraged by restrictions on the receipt of services, which would allow both the payment of fines and the limited human resources of the State Police to be used to ensure public order and public safety.

The audit findings highlight the importance of ex-ante assessments and ex-post evaluations when implementing new regulation and reforms. When carrying out the initial impact assessment of the Law on Administrative Responsibility, unfortunately, the impact on administrative procedures, functions of state institutions, resources and their costs, and their commensurability with the goal to be achieved, was not assessed upon its merits. The ex-post evaluation of the new regulation was not carried out within the set deadline, although it would have allowed to evaluate the effectiveness of the enforcement of administrative fines, to identify shortcomings and problematic issues, and to prompt the necessary improvements in a timely manner.

We thank the colleagues of the Ministry of Justice, the Ministry of the Interior, the Ministry of Finance, the State Police, the State Treasury, the State Revenue Service and all 27 state institutions involved in the audit for their cooperation during the audit!

Respectfully
Ms Kristīne Jaunzeme
Department Director

Summary

With the Law on Administrative Liability (hereinafter referred to as the Law) taking effect on 1 July 2020, several changes were determined in the process of enforcement of administrative fines. Although an ex-ante initial impact assessment¹ of the Law predicted that the day-to-day functions of state administration institutions and courts would not be affected financially and additional resources were not planned, more resources are needed for the implementation of the new enforcement regulation of administrative fines.

The amount of work in the enforcement of administrative fines has increased, but the results have not improved. The work of the State Police was the most affected.

Since 90% of all imposed fines are for administrative violations in road traffic, the new regulation on the enforcement of administrative fines has had the greatest impact on the work of the State Police. Previously, fines for violations in road traffic were handed over for enforcement if they were not paid within a year from the day the decision on imposing a fine came into force, and the violator was prevented from receiving certain services related to participation in road traffic until the fine was paid. In this way, both effective enforcement of fines and economical use of state budget funds were ensured by organizing the enforcement of administrative fines.

After the Law on Administrative Liability, the scope of work of the State Police has increased five times while ensuring the enforcement of administrative fines. The significant increase in the volume of work is related to the regulation of the Law, which provides for the transfer of administrative fines for enforcement within a month from the day when the decision on the penalty came into force, and restrictions on the receipt of services. Accordingly, it requires a series of administrative steps that previously did not have to be performed.

Although the State Police invests significantly more resources in providing the enforcement of administrative fines, the results do not improve much: 79% of the imposed fines were voluntarily paid in 2018 and 2019 (including 85% of fines imposed for road traffic violations), but only 71% of the imposed fines were voluntarily paid in 2021 and 2022 (including 73% of fines imposed for traffic violations).

There were 16% of all imposed administrative fines not paid at all in 2018 and 2019 (including 13% of fines imposed for road traffic violations), while 14% were not paid in 2021 and 2022 (including 12% of fines imposed for road traffic violations). After the introduction of average speed cameras on the roads in Latvia in 2023, the proportion of administrative fines for road traffic violations continues to increase, and the already limited human resources of the State Police must be employed in ensuring the enforcement of administrative fines, although fewer resources could be involved in the performance of this function without worsening the results, and these human resources could be directed to areas more important to public safety and public order. To facilitate the faster transfer of unpaid fines for road traffic violations to enforcement, the State Police additionally involved 23 officials from 2022, employees are involved in overtime work, and it is planned to attract additional resources to ensure the enforcement of administrative fines.

When drafting a new regulation, it is important to assess the proportionality of the

requirements and costs compared to the benefits.

In the assessment of the auditors, if the ex-ante initial impact assessment report of the Law and during the development of the Law the proportionality of the requirements and costs compared to the benefits provided by the achievement of the goal, the impact on administrative procedures and their costs, as well as the impact on the functions and human resources of state administrative institutions would be assessed essentially, most likely, the order of enforcement of administrative fines for road traffic violations would not have been changed. In addition, it is important to note that the previous procedure for enforcing administrative fines for road traffic violations, which stimulated the voluntary payment of administrative fines by restricting the receipt of services in the relevant area in case the fine was not paid within the specified period, was evaluated as a good practice in the initial impact assessment report of the Law. However, instead of extending this good practice to other areas as well, an opposite approach was chosen for the Law by abandoning such good practice for voluntary payment of administrative fines with less consumption of public administration resources.

With the existing resources, the state institutions are not able to fulfil the requirements of the Law to transfer decisions for enforcement immediately. The principle of equality and good governance is not respected.

During the audit, 10² out of 27 state institutions that impose administrative fines (excluding local and regional governments that are not included in the audit sample) admitted that their workload increased. Other changes that affected the increase in the work not only of the State Police, but also of other state institutions, are related to the introduction of the principle “one offense, one punishment”. Previously, when several violations were committed, an individual received the punishment for the most serious violation, but currently for each violation separately after the Law took effect. Also, a requirement came into effect along with the Law entering into force that the decision on an administrative fine for a foreigner, which could not be enforced in Latvia, would be handed over for enforcement in the relevant Member State of the European Union.

With existing resources, state institutions are currently unable to meet the statutory requirement that enforcement be initiated immediately after the expiration of the voluntary enforcement period. State institutions can enforce only 12% of the unpaid fines immediately. Depending on a state institution, the average number of days that fines are transferred to enforcement after the expiration of the voluntary enforcement period varies from a few days to several months. In this way, the principle of equality is not respected, as well as the principle of good governance is violated by not ensuring fair procedures within a reasonable time.

Centralization of the function of enforcement of fines at the national level would save resources and ensure more equal treatment of offenders.

Control of the enforcement of fines in state institutions is carried out by a total of 1,570 employees of various statuses and competencies, and 98% of them do not have this as their main task. In addition, most (79%) of these employees are officials, that is, civil servants of the state, officials with a special rank, military personnel, etc. For instance, senior inspectors of the

State Police, senior customs experts, senior customs supervisors and chief tax inspectors of the State Revenue Service, customer service specialists of the Office of Citizenship and Migration Affairs, state environmental inspectors of the Nature Protection Board. The State Audit Office of Latvia considers that those performing the basic functions of state institutions, who have specific knowledge and skills in a specific field, should not perform support functions.

A centralized function of controlling the enforcement of fines would not only free the state institutions from uncharacteristic functions and allow the limited resources to be devoted to better performance of basic functions but would also save resources in the country as a whole. This would allow for faster achievement of the goal of fine enforcement and would ensure more equal treatment of all fined persons. Competence would be concentrated in one place, and it would speed up the process of enforcement of fines in general and especially regarding the transfer of fines imposed on foreigners for enforcement abroad, which is a complicated and laborious process. A total of 73 full-time employees are currently needed for the control of the enforcement of administrative fines in the country. According to the auditors' estimates, the number of employees (full-time) could be reduced by at least 34 employees (full-time) after the centralization of the fines enforcement function.

Automated administration of fines enforcement should be promoted, and e-services should be developed.

The amount of resources needed to control the enforcement of fines could also be reduced by improving the procedure for paying fines and further automation of processes. Although the Ministry of the Interior, the State Police and the Ministry of Justice continue their work constantly to ensure the automatic linking of payments to the accounts of the State Treasury with the applied fine in the Administrative Violations Process Support System (hereinafter referred to as the AVPSS), the involvement of approximately 40,000 officials is required for manual recognition and linking of payments annually.

Largely automatic payment recognition is influenced by the selected payment method and indication of correct and errorless information in a payment document. A large number of unrecognized payments shows that the identification and linking of payments will continue to require significant involvement of officials if a system for paying fines is not created in which only specific solutions can be used, namely, the developed e-service or, for example, scanning a barcode or QR code for drafting a payment order, which would provide all the necessary information for its payment and recognition initially. Refusal of the opportunity for penalized persons to create payment orders manually in an internet bank would reduce the risks of errors in the payment process significantly.

In 2022, the improvement of the AVPSS has started in order to reduce the resources consumed by the state institutions and to ensure partial automation of the forced enforcement process, that is, the exchange of information with sworn bailiffs will be partially automated and the verification of information in other state information systems will be automated. According to the auditors' calculations, the improvements will speed up the transfer of unpaid fines for enforcement and will allow state institutions to save up to 62% of the time required for the transfer of fines for enforcement. It is essential that the developed improvements are implemented in the production environment as soon as possible.

Recommendations

The Ministry of Justice should evaluate the possibilities of how to promote the voluntary execution of fines by reducing the resources of the state budget institutions necessary to ensure the control of the enforcement of fines.

Taking into account the goals of the modernization of the state administration and in order to free the state institutions from performing functions that are not characteristic of them, while promoting the performance of their basic functions, the Ministry of Justice should evaluate the possibilities of centralizing the function of enforcing fines in cooperation with the Ministry of Finance and the Ministry of the Interior.

To prevent the making of erroneous fine payments and the spending of state resources on the recognition of these payments as far as possible, the Ministry of Finance should evaluate alternative solutions for the payment of fines, including by evaluating the possibilities of renouncing the payment methods associated with manual typing of payment orders in cooperation with the Ministry of the Interior and the Ministry of Justice.

To organize the work purposefully and introduce the developed functionality of the AVPSS for the automation of the process of enforcement of fines, the Ministry of the Interior and the Ministry of Justice must agree on a specific deadline when the use of the developed data exchange functionality will begin.

References

¹ Ex-ante initial impact assessment report (annotation) of the draft Law on Administrative Violations Procedure (draft law No 16/Lp12, available at: <https://titania.saeima.lv/LIVS12/SaeimaLIVS12.nsf/webSasaiste?OpenView&restricttocategory=16/Lp12>, resource viewed on 22 December 2023).

² State Police, State Border Guard, Office of Citizenship and Migration Affairs, Procurement Supervision Office, Public Utilities Regulatory Commission, State Labour Inspectorate, Health Inspectorate, Nature Protection Board, State Children's Rights Protection Inspectorate, and State Forest Service.