

**LATVIA – SECOND REPORT**

**REVIEW OF CODE AND ITS RELATIONSHIP WITH THE LAW and  
OVERVIEW OF IMPLEMENTATION OF CODE**

**PROJECT:**

**INTRODUCTION OF CODE OF ETHICS FOR MEMBERS OF PARLIAMENT [SAEIMA]**

**FUNDER: WORLD BANK**

**SUPERVISING AGENCY: CORRUPTION PREVENTION AND COMBATING BUREAU,  
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## 1. STRUCTURE OF THIS REPORT

1,1 The report will cover five areas:

### A CODE

- a reaffirmation of the role and purpose of codes for public officials;
- the identification of the characteristics of an effective code.

### THE SAEIMA CODE

- an evaluation of the current Code of Conduct for members of the Saeima in terms of its potential for effective implementation;

### THE CODE AND THE LAW

- an overview of Latvian legal norms that could overlap with the ethics code norms.

### REVISING THE CODE

- what should the code cover?
- should the code be mandatory or discretionary?
- what should the sanctions be?
- what are the mechanisms for implementing and enforcing the code?
- what should be the institutional arrangements that have been put in place to support the implementation of the Code of Conduct;

### EVALUATION SUMMARY

Reflecting the terms of Reference, summaries on:

- the compulsory or the permissive nature of the ethics code
- the possibility and nature of sanctions;
- the administering body, development of advisory mechanism.
- possible considerations which could be relevant for Latvia, taking into account the whole information
- a short overview of the issues that could be regulated by the ethics code of the Saeima;
- an overview of Latvian legal norms that could overlap with the ethics code norms and the norms that could be clashing;
- an overview of the areas potentially regulated by the ethics code where there is or is not a sufficient legal regulation.

1.4 **This report should be read in conjunction with the First Report**

## 2. A CODE: OVERVIEW OF THE PURPOSE AND COMPONENTS OF A CODE

### 2.1 WHAT IS A CODE?

2.1.1 The term code of conduct tends to be used to cover all aspects or components of integrity and ethics issues. In practice, what is normally called a code should be separated as follows:

**Ethics Code** – that part of the Code that lays down the general expectations and standards of the organisation – its Principles or Statement of Values. These might cover such aspects as acting to promote the public reputation of the Saeima or working in the public interest. These are translated into aspects of conduct.

**Code of Conduct** – this part of a Code translates the statement of values into components that specify what any person subject to the code can and cannot do in order. This turns the statement of values into actions which, in turn, can be monitored, approved or sanctioned. The components can cover, for example, a statement/values relating to promoting the public reputation of the Saeima by requiring that members not being drunk, not taking drugs, not making certain types of speeches. Acting in the public interest might cover the requirements on the registration and disclosure of any interests that could reasonably be assumed to conflict with a public office.

**Sanctions for Breaking a Code** – the punishments available to the organisation for breaches of the Code of Conduct (but not the Code of Ethics).

**Procedures** – governing (1) how the Code is implemented, through training, registration and disclosure and (2) who may complain of a breach and in what format. What are the inquiry processes and how are decisions made, enforced and reviewed.

2.1.2 For the purposes of this report, the full code will be referred to as a *Code of Conduct*.

### 2.2 THE GENERAL ROLE AND PURPOSE OF CODES OF CONDUCT

2.2.1 The first report stated that codes of conduct are essentially the terms and conditions of parliamentary service and must state both how individuals must behave and how the institution wishes those individuals collectively to reflect its purpose and the expectations of the public. As such codes tend to be compulsory for all those who enter a Legislature as part of their oath of taking office. It is important, however, to accept that codes of conduct cannot create honesty; nor can they prevent deliberate dishonest or corrupt behaviour. Rather, they are a framework of reference embodying uniform minimum standards.

2.2.2 A code is intended to improve public confidence in the quality and transparency of decision-making or the level of service, and also help ensure ethical and fair treatment of colleagues, officials and the public. It gives guidance to legislators on their conduct and how to avoid any conflict of interest; it also explains to the citizen what are the professional standards of the institution. This should in turn, improve the reputation of the Legislature.

2.2.3 A code, unlike the criminal law, sets standards of conduct of how people *ought to behave* and it *may* set standards that are higher than those expected of members of the public.

2.2.4 A code should cover positive statements of professional standards, as well as guidance and requirements on compliance with those standards and on avoiding situations that may involve the criminal law, and how any allegation will be dealt with. The code thus will range from conflict of interests to issues of personal behaviour, going much further than a criminal law and dealing with what members must do as much as what they must not do.

2.2.5 *In essence the objectives of formulating and implementing a Code of Conduct for Members of the Saeima are:*

- *to create the ethical framework that lays down the values that will guide the conduct of Saeima and the behaviour of its members;*
- *to establish the standards of behaviour to be followed by the members of the Saeima;*
- *to demonstrate robust and transparent self-regulation;*
- *to improve public confidence in the quality and transparency of the decision-making processes of the Saeima;*
- *to affirm the integrity of the decisions of the Saeima;*
- *to guarantee the authority of the Saeima.*

## 2.3 THE CHARACTERISTICS OF AN EFFECTIVE CODE

2.3.1 A code, if it is to be capable of implementation and hold the potential for effectiveness, must be comprehensive, comprehensible and uncompromising. Overall an effective code must be predicated on the following principles:

- a code is about *conduct*; this must be clearly set in a context where ethics, conduct and misconduct are distinguished;
- a code is as much about encouraging the public to believe that those elected to public office will work for the public good and are acting in their interests as it is about providing the rules of membership of the Saeima;
- a code, to be seen as effective, must be clear about who judges the conduct, and how misconduct will be dealt with;
- a code is a beginning, not an end in itself. In other words, having spelt out how parliamentarians should or must conduct themselves, there must be training, review, inquiry and control aspects in place to develop the code as an integral part of parliamentary life;

2.3.2 *Thus an effective code would cover:*

- *the integrity of Saeimia;*
- *the primacy of the public interest over the furthering of private interests;*
- *disclosure of interest;*
- *personal behaviour, appearance and conduct during parliamentary business;*
- *conflict of interest (both legal and non-legal);*
- *independence of action (including bribery, gifts and personal benefits, sponsored travel/accommodation, paid advocacy);*
- *use of entitlements and public resources;*
- *honesty to Saeimia and the public;*
- *proper relations with Ministers and the public service;*
- *confidentiality of information;*
- *appropriate use of information and inside information;*

- *relations with public servants;*
- *duties as a Member of Saeima.*
- *a procedure for enforcement of the Code that ensures effective investigation and adjudication of complaints, is impartially administered and protects members who are the subject of an allegation (including trivial and vexatious complaints) in a similar way to a court or professional disciplinary body;*
- *a procedure that deals with the relationship between the Members and the law*
- *sanctions available to the Saeima..*

2.3.3 The use of a code, and the requirements to demonstrate compliance, must follow a simple framework – see *Table 1: Principles to Sanctions, the Links* - that provides the integrated approach required to design an effective code:

- the standard or value [the principle];
- to the means of demonstrating compliance with that standard [the conduct/requirement];
- to where the source of the requirements is located [the source]
- to who is responsible for enforcing the standards [monitoring/enforcement];
- to determining the seriousness of the offence [offence];
- to determining the sanction [sanction].

<i>Table 1: Principles to Sanctions, the Links</i>					
EXAMPLE OF PRINCIPLE	REQUIREMENT	SOURCE	MONITORING/ ENFORCEMENT	LEVEL OF OFFENCE	LEVEL OF SANCTION
<p><b>HONESTY/ SERVING THE PUBLIC INTEREST</b></p> <p>(Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest).</p>	<p>Register of declarations of interests for elected representatives</p> <p>Asset/Hospitality registers.</p>	Code	Commissioner/ Committee/ Law Agency	<p>1. Inappropriate</p> <p>2. Breach of procedure of Admin. Law.</p> <p>3. Breach of Criminal Law?</p>	<p>1. Verbal Warning.</p> <p>2. Written Warning</p> <p>3. Formal entry on record.</p> <p>4. Suspension</p> <p>5. Fine.</p> <p>6. Criminal Sanctions?</p>

### 3. THE CURRENT CODE

#### 3.1 EVALUATION OF THE CURRENT CODE FOR THE SAEIMA

3.1.1 Evaluation of the current Code for the members of the Saeima has been undertaken initially via the analysis of similar initiatives across European countries (see First Report; the Code does not, for example, have any obligation to declare non-parliamentary activities, paid or unpaid, professional interests, abusing MP status for private activities, etc). This analysis has in turn been supported by a direct investigation into the processes used for the drafting and development of the Latvian Code and an examination of the key individuals and groupings involved in the process.

3.1.2 The rationale for this approach lies in the following principles:

- a code should always be specifically designed for a particular Legislature but should draw on related experiences from other relevant countries;
- while codes often address universal themes or identify common standards, each individual institution should be based upon a tailored approach – realistic, simple, relevant, affordable and achievable. In this case it should be based around the Legislature’s unique circumstances, responsibilities and resources and acknowledge the political imperatives both of the institution itself and its external constituents and the wider civil society;
- as far as possible, adherence to the code should be part of the conditions of taking up office or standing for election (usually included in the requirements for all candidates to agree to when submitting election papers), involve regular training and, especially, the means to enforce its provisions.

3.1.3 In relation to the specific circumstances of Latvia, the investigation has confirmed that the following issues relevant to a consideration of the content of the Codes and its potential implementation:

- the process of drafting and redrafting the Code has led to a final version that leaves out much of the early material including a number of key areas of content;
- the final code now lacks both the comprehensiveness and quality of structure that characterised previous drafts;
- it describes itself as a Code of Ethics and not a Code of Conduct but fails to act effectively in either context;
- it does not deal with many of the components identified in Report I and noted above;
- it does not state its relationship with the criminal law;
- it is unclear on what constitutes breaches of the Code and how they will be dealt with.

3.1.4 Overall the investigation into Code concludes that:

- the Saeima appears to have considered codes of ethics and codes of conduct as being indistinguishable and interchangeable without recognising their differences and relationship and without addressing the values or underpinning general principles that serve to guide behaviour

- the resulting Code mixes standards of behaviour, including prescribed and proscribed actions but fails to establish an appropriate inquiry and sanctions regime to reinforce good conduct and penalise breaches of the code.
- the Code does not achieve the standard laid out in other European countries and is not linked in terms of its relations with the criminal law. Proposals for improving the Code itself and the arrangements for its implementation are included later in this report.

## 4. THE CODE AND THE LAW

4.1 The law relevant to the Code is:

### ***Prevention of Conflict of Interest in Activities of Public Officials***

4.2 The law as it stands is typical of such laws. It covers:

- Interests that are incompatible with public office;
- Interests and assets that must be publicly recorded, verified and declared;
- The banning of decisions, acts, etc., that benefit directly or indirectly, those interests.

4.3 There are four issues concerning the law and the Code.

4.3.1 First, as stated in the first report, and reiterated above in this report, codes of conduct may, in order to maintain public confidence in the integrity of public official and institutions, contain standards of behaviour that are higher and more general than those demanded by the criminal law. Law is very much about sanction – what cannot be done as a public officeholder. Codes are about what a public officeholder should do - and that includes means to demonstrate openness, personal responsibility and accountability.

4.3.2 Second, and related to this, is the fact that the law is about individual conflict of interest – linked directly or indirectly to the public official and usually involves direct or indirect financial gain. There areas of conflict – religious, sporting, family, party, for example, or oblique interests such as loans or family employment - that cannot be accommodated by the law or, in dealing with the ingenuity of those seeking to circumvent the law (and party funding legislation is a particularly relevant issue), requires and increasingly complicated and bureaucratic law which loses credibility and is difficult to implement

4.3.3 Third, there are two levels of conflict of interest – having an interest whose existence may conflict with public office – what might be termed ‘passive’ conflict - and using that office to benefit that interest – what might be termed ‘active’ conflict. There is no reason for public officials do not have or cannot have such interests. Inheritance, previous employment, marriage, good investment, etc., can generate interests for any public official. For politicians in particular, such interests (such as farming) may be the main reason why they wish to stand for election.

There is no harm in this; democratic politics is about representation of interests, personal or on behalf of a group. The point about a conflict of interest is that it is a situation: an MP may own land but never allow ownership to influence his or her judgment in relation to their official duty but, on the other hand, he or she may. In other words, having an interest automatically creates the potential for a conflict of interest. The question is – should the active and passive aspects be treated differently?

The answer is yes. Active conflict is and should be a matter for criminal investigation. Passive conflict should be a matter for the professional standards of the organisation on the following basis:

- Interests change continuously. The Saeima needs to know this on a regular basis.
- The Saeima needs to know about any interest, even when registered, to ensure that such an interest is visible and known about at the relevant time (such as

speaking during a parliamentary debate) so that any other MP or the public can identify the interest and its relevance to the circumstances at the time. Whether or not a public official gains any financial benefit is immaterial. Finally, it is not always the responsibility of an MP or even the KNAB to decide on the relevance of an interest and whether or not it should be mentioned in relation to the business of the Saeima – this must be the responsibility of the Saeima itself.

- The Saeima has the primary responsibility to protect against such interests monopolising any part of the democratic process (such as allowing only farmers to sit on an agriculture committee or influencing legislation);
- The KNAB is an investigative agency. It should not always be expected to deal with the 'passive' side of conflict of interest and it should look to the Saeima to deal with the disciplinary aspects – such as failure to update or amend declarations;
- There must be arrangements to address interests acquired on taking up any public office. There is a clear distinction between interests held before taking up office, and interests acquired after taking office in that there greater suspicion will attach to the latter on the basis that the interest is only taken on *because* of the public office. Irrespective of the law – and laws do take time to amend – the Saeima must be in a position to decide if certain interests are irreconcilable with membership of the Saeima, or a committee or any other aspect of parliamentary activity;
- Finally, there are aspects of conflict of interest, such as pressure on ministries or use of inside information, that are a responsibility of the Saeima.

4.3.4 Fourth is the issue of investigation and immunity. While 'active' conflict of interest may fall within the responsibility of the criminal law, there are significant areas where the Saeima has a duty to lead. This is discussed in the next section.

## 5. DEVELOPING THE CODE AND ITS ARRANGEMENTS FOR IMPLEMENTATION

- 5.1 While it is possible to acknowledge the importance of the Saeima's passing of the Code of Conduct for members it is evident from the preceding critique that the current Code requires significant improvement if it is to be proved capable of meaningful implementation and capable of supporting actual improvements in ethical conduct. This improvement will involve a number of key dimensions:
- 5.2 First, the relationship between the law and the Code needs to be clarified and strengthened either by making the Code a legal requirement in itself and/or by making provision to give relevant legislation and an external agency the right to investigate allegations of potentially criminal behaviour.
- 5.2 The Code must address and distinguish between what are breaches of the law and what might be termed 'in-house' conduct – conduct to ensure that the legislature undertakes its business openly, transparently and in ways that give it credibility with the public. The link between the two is that the Code *must* declare as unacceptable any conduct that might be in breach of the criminal law. In other words, the Code has a strong preventative role by ensuring legislators avoid possible breaches of the law by not becoming involved in any activity that might be interpreted as against the intentions of the law.
- 5.4 Second, the Code should be about the conduct of legislature business and may vary according to those involved; members, committee members, committee chairs and members of the government conducting legislative business.
- 5.5 Third, the Code will cover specific areas – democratic values to be upheld; professional values in acting as legislators in various capacities; personal values that show respect and sensitivity to others; and conduct that ensures the separation of personal or partisan interests from those of the public interest.
- 5.6 Fourth, the Code must incorporate those aspects necessary to comply with the Law on Prevention of Conflict of Interest in Activities of Public Officials to avoid overlap, duplication, and differential requirements. It should be positive as well as prohibitive; it should include the good qualities of a member of the Saeima – what is expected - as well as those it wishes to regulate – what is not acceptable from a member.
- 5.7 Fifth, the Code must identify the conduct that it considers always unacceptable (for example, speaking or voting solely on the basis of payment) and conduct it considers acceptable but must be declared or registered (such as family financial interests that might be affected by legislative business). It must identify how it wishes members to personally behave. It must identify what behaviour or conduct it considers will reflect adversely on the overall credibility of the Saeima, including former members of the Saeima contacting current members and the conduct of those working for current members, whether or not paid from public funds.
- 5.8 Sixth, the Code must identify how it wishes evidence of a possible conflict of interest to be used within the Saeima – through registration, through disclosure, through rules on committee chairmanship or membership, etc. It must state the frequency the information must be updated and who should have access to the information (and through what medium).
- 5.9 Seventh, the code should be applicable in some form to any employee or researcher attached to any member and should also apply to officers of the Saeima and any staff employed by parliamentarians in any capacity.

## 6. DEVELOPING AN EFFECTIVE CODE OF CONDUCT FOR THE SAEIMIA

### 6.1 The Code should cover the following:

#### CODE

##### Statement of Values

1. Members must, in good faith, strive to maintain the public trust placed in them, and exercise the influence gained from their membership of the Saeima to advance the public interest.
2. Members must conduct themselves in accordance with the provisions and spirit of the Code of Conduct and ensure that their conduct does not bring the integrity of their office or the Saeima into serious disrepute.
3. (i) Members have a particular obligation to behave in a manner which is consistent with their roles as public representatives and legislators, save where there is a legitimate and sustainable conscientious objection.  
(ii) Members must interact with authorities involved with public administration and the enforcement of the law in a manner which is consistent with their roles as public representatives and legislators.

##### Conduct

4. (i) Members must base their conduct on a consideration of the public interest and are individually responsible for preventing conflicts of interest.  
(ii) Members must endeavour to arrange their private financial affairs to prevent such conflicts of interest arising and must take all reasonable steps to resolve any such conflict quickly and in a manner which is in the best interests of the public.
5. (i) A conflict of interest exists where a Member participates in or makes a decision in the execution of his or her office knowing that it will improperly and dishonestly further his or her private financial interest or another person's private financial interest directly or indirectly.  
(ii) A conflict of interest does not exist where the Member or other person benefits only as a member of the general public or a broad class of persons.
6. Members may not solicit, accept or receive any financial benefit or profit in exchange for promoting, or voting on, a Bill, a motion for a resolution or order or any question put to the Saeima or to any of its committees.
7. Members must fulfil conscientiously the requirements of the Saeima and of the law in respect of the registration and declaration of interests and, to assist them in so doing, should familiarise themselves with the relevant legislation and guidelines published from time to time by the Ethics Committee and the KNAB as appropriate.
8. (i) Members must not accept a gift that may pose a conflict of interest or which might interfere with the honest and impartial exercise of their official duties.  
(ii) Members may accept incidental gifts and customary hospitality, but must register these in a public register.
9. In performing their official duties, Members must apply public resources prudently and only for the purposes for which they are intended.
10. Members must not use official information which is not in the public domain, or information obtained in confidence in the course of their official duties, for personal gain or the personal gain of others.
11. In performing their official duties, Members must only contact ministries through ministers and in all matters act prudently and only for the purposes for which they are intended.
12. Members must co-operate with the KNAB when stated by the Ethics Committee and must cooperate with the Committee on Ethics inquiring into any matter under the Code, including the imposition of any sanction for any failure to follow the requirements of the Code.

### 6.2 The Code will require:

- A Register of Interests: which should be an expanded version of that compiled by the KNAB and will cover personal, association and other non-financial interests;
- Rules on disclosure of interest – requiring all members to disclose at the start of any speech, question or any communication any interest that might be considered relevant;

- Rules on appointment to committee chairs and membership – requiring all members to disclose any interests when considering or seeking membership or chair of any parliamentary committee;
- An induction/training programme – to be run by the clerk to the supervisory committee on the rules and procedures;
- A supervisory committee – a committee to receive allegations, take hearings on and adjudicate on any allegation of a breach of the Code with clear procedural and evidential regulations and comprising a mix of parliamentarians chosen by expertise and experience;
- An independent element – a ‘fact-finder’ (such as retired judge) to undertake any inquiry on behalf of the supervisory committee who will ensure a level of impartiality and independence to the inquiry process through: deciding whether or not the allegation falls within the rules, collecting evidence, deciding whether or not there is a case to answer before the committee or through the KNAB;
- A list of sanctions – to range from acquittal, through formal reprimand, periods of suspension from the Saeima, withdrawal of staff, a fine, to full disqualification from membership of the Saeima, recommended by the committee to the full Saeima.

6.2 For the Code itself to be effective, it must be accessible, fair and quick. Its purpose, contents and implementation should involve the widest group of stakeholders but ultimately be unanimously endorsed by all Saeima members. For a Code to be effective, it is important that:

6.2.1 the Code is compulsory. Members cannot choose their level of standard or be the judge on their own conduct, As noted above the Code is a framework of reference embodying uniform minimum standards and, as such, its is mandatory that all parliamentarians accept that (preferably as part of the oath of office);

6.2.2 the corollary of a mandatory Code is the power of sanction. The possibility and nature of sanctions is an integral part of any Code. Thus must be supplemented with clear guidelines on who will investigate allegations of breaches, what procedures apply, and what sanctions may apply and what redress is available.

6.2.3 for the investigations of allegations and the imposition of sanctions, there needs to be an administering legislative committee to deal with the declaration or registration of interests, and oversee receiving and investigating complaints. The investigation may be undertaken by an independent ‘fact-finder’ but it is the committee that must have the responsibility of sitting in judgement on the conduct or behaviour of their colleagues.

6.3 To ensure the Code balances positive and negative aspects, and to minimize the risk of breaching the requirements of the Code, the effective implementation of the Code will require:

- training for all members in its use;
- means of advice to members over the acceptability of an interest;
- means to collect, collate and record any interests or information required by the code through the KNAB;

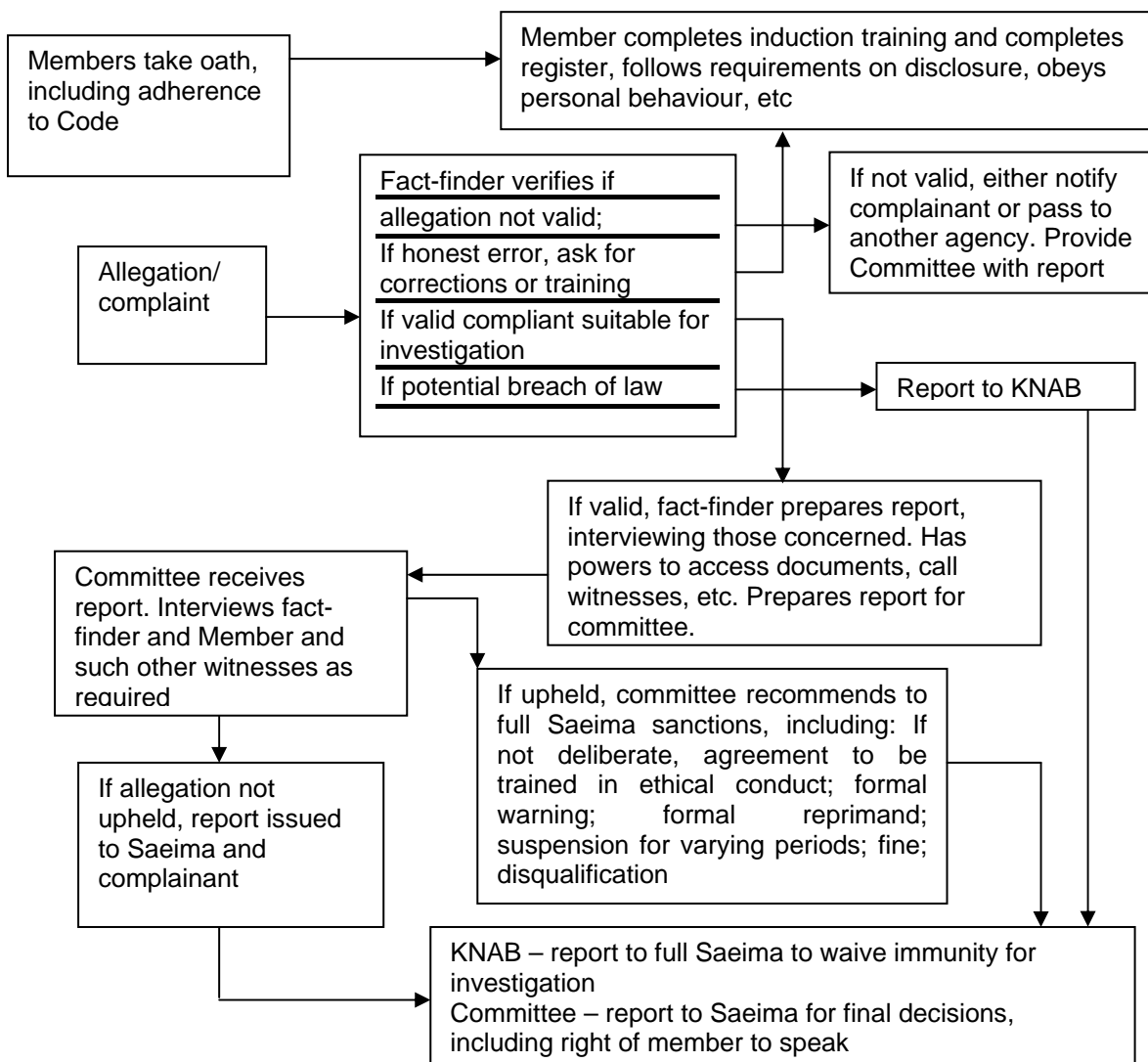
- means of verification of that information through the KNAB;
- means to receive complaints from colleagues and members of the public (including the indemnification of the latter and the means to address malicious and repetitive complaints);
- means to investigate and adjudicate on complaints that reflect rules of natural justice and human rights (including whether or not lawyers may participate);
- means for the publication of results;
- appeals procedure, including an independent element (including the possibility of judicial review).

6.4 The process to support implementation will also require:

- mechanisms to transfer initial findings of potentially criminal conduct to an external agency
- appropriate sanctions that do not conflict with rights of representation of the public.

6.5 Table 2 summarises the various institutional arrangements within the Saeima

**TABLE 2: The Flow Chart. WITHIN THE SAEIMA and FROM THE SAEIMA TO THE KNAB**



6.6 Since it is crucial that Members are subject to the procedures of the criminal law if there is evidence of a potential transgression, the process must also work in reverse – from the KNAB to the Saeima. The procedure to have immunity lifted should exist in a way that provides evidence that members are accountable to the criminal law, but that their general immunity is not jeopardised or that they are threatened by prejudicial or politically-motivated allegations. This may be achieved by a process within the Saeima.

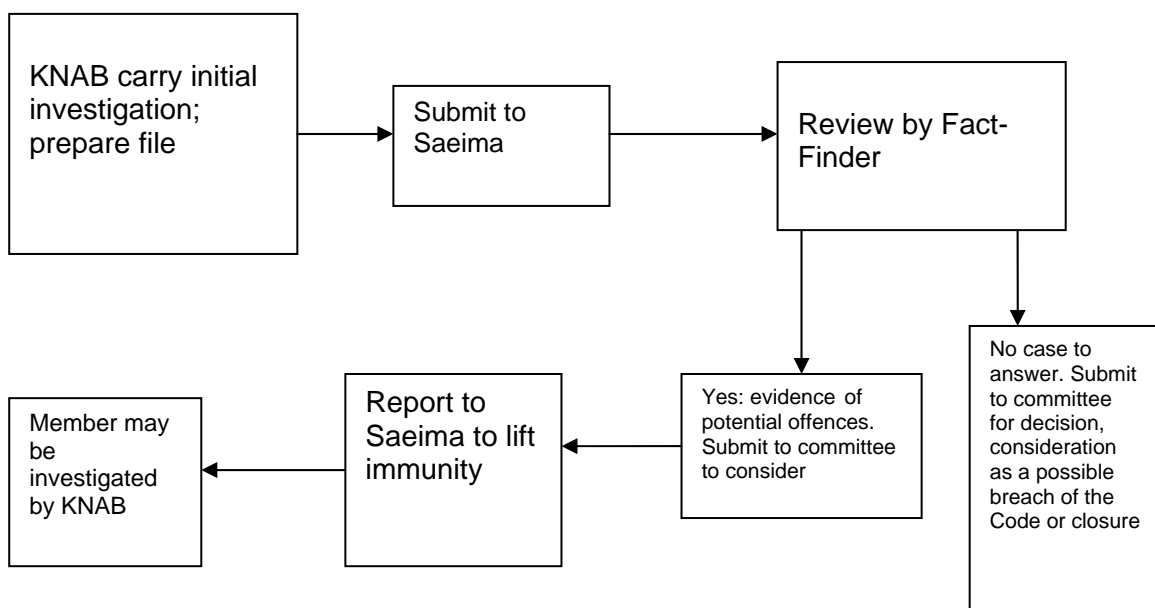
6.7 Improved arrangements for the investigation of members under the criminal law can be achieved as follows:

- all allegations under the law investigated by the KNAB;
- a evidential package is prepared;
- Saeima Committee of Mandates, Ethics and Submissions appoints a senior trusted fact-finder (such as a retired Superior Court judge) to review the package;
- the fact-finder recommends to the Committee that there may be a case to answer. Committee interviews Member to confirm or deny allegations. Committee confirms or rejects a decision to suspend the Member’s immunity, with publicly-stated reasons;
- the Committee’s recommendation on the lifting of the Member’s immunity submitted to the whole Saeima. If confirmed, the Member must participate in any investigation on the same basis as any other citizen, but may only be investigated by the KNAB for the allegations in the original file. Any further charges as a result of the investigation would require a submission for the extension of the lifting of immunity. The process must be completed in four weeks;

6.8 The KNAB may bring charges and the Member must submit to the criminal justice procedure.

6.9 Depending on the outcome, the Committee decides the Member’s status on the Saeima – see below. Table 3 outlines the process

**TABLE 3: The Flow Chart. FROM THE KNAB TO THE SAEIMA**



## 7. EVALUATION SUMMARY

7.1 The summary comments on the Terms of Reference issues are therefore as follows:

- the compulsory or the permissive nature of the ethics code  
recommendation – compulsory on all members
- the possibility and nature of sanctions  
recommendation – sanctions are required to ensure compliance. A full range is indicated above
- the administering body, development of advisory mechanism  
Recommendation – an ethics committee, a clerk to the committee to assist the committee, to record interests, to train members and to give guidance, and an independent fact-finder to carry out inquiries
- possible considerations which could be relevant for Latvia, taking into account the whole information  
recommendation - the current code does not represent good practice elsewhere in parliamentary democracies
- a short overview of the issues that could be regulated by the ethics code of the Saeima  
recommendation – a code as proposed above
- an overview of Latvian legal norms that could overlap with the ethics code norms and the norms that could be clashing  
recommendation – the law remains as it is but the Saeima has expanded requirements and deals with issues on aspects of conflict of interest, rather than the KNAB, but in turn introduces procedures to allow the KNAB to investigate 'active' conflict of interest
- an overview of the areas potentially regulated by the ethics code where there is or is not a sufficient legal regulation.  
Recommendation – there are none; the code is not suitable for its purpose at present

7.2 Overall the process will require:

- for individual parliamentarians:
  - a mandatory agreement to abide by the Code and its requirements;
  - a mandatory agreement to ethics education;
  - a mandatory agreement to register and allow published details of personal, family, associative, and staff financial interests;
  - a mandatory agreement to an independent element to adjudge on allegations;
  - a mandatory agreement that allegations concerning breaches of the criminal law be investigated by the KNAB;

- a mandatory agreement to the right of a duly authorized committee to investigate complaints verified as valid by the independent element;
  - a mandatory agreement to abide by any sanctions recommended by the committee and endorsed by the Saeimia;
- for the Saeima
    - an agreement to appoint an independent 'fact-finder', preferably a retired judge, to work as investigator to the legislative committee;
    - an agreement to appoint a registrar/official to manage register;
    - an agreement to establish a committee not only to review cases but also to review the overall process and to consider revisions to the Code and related procedures.
- 7.3 In this way, the relationship between the Code and the Law will be strengthened and avoid any accusation that the Code is used to shield legislators from the criminal law. It will emphasise that the Code is not a substitute for the criminal law, and make clear that its contents, processes and sanctions are not less than that to which members of the public are subject.
- 7.4 It will be the responsibility of the appropriate legislative body, commission or committee, with or without outside help, to draft a Code that covers this and links compliance requirements to offences. It will link this to the criminal law and thus to which agency on the outside will investigate the offences.
- 7.5 In this way, the Code will have two roles; translating into clear language what conduct is unacceptable for legislators and the reputation of the Saeima, conduct which, if undertaken, is not considered acceptable because it might lead to situations that could offend the criminal law, and conduct which does lead to situations that potentially do offend the criminal law. It makes plain that the Code is not a substitute for the criminal law, and vice versa, but that the Code recognizes and addresses potential overlaps and conflicts so that all aspects of the professional standards of the Legislature are delivered. It is this duality that makes a Code attractive and useful as the bridge between discretionary personal conduct and the criminal law. This needs to be the next step for the Saeima.

## 8. CONCLUSION: THE WAY FORWARD - DEVELOPING AN EFFECTIVE CODE OF CONDUCT OF THE SAEIMA

8.1 The Saeima has taken the first steps toward an effective Code. However, in the various versions of the proposed Code, some of the important themes and components have been lost. If compared to the various Codes in the First Report, it is clear what needs to be added, and why. Certainly, the Code as currently written does not make explicit democratic values to be upheld; professional values in acting as legislators; personal values that show respect and sensitivity to others; ethical values that ensure the separation of personal or partisan interests from those of the public interest; and compliance with the Law on Prevention of Conflict of Interest in Activities of Public Officials.

8.2 This does not mean that the Code is unacceptable but must be viewed as a start, and not an end. Specifically it must:

- address the five aspects (democratic values, professional values, personal values, ethical values and compliance with the law) noted above and draw on good practice material described in detail in the First Report to develop a comprehensive Code;
  - set in place arrangements to ensure its mandatory nature;
  - set in place appropriate disclosure, recording, complaints-handling, investigative, committee oversight and sanctions arrangements;
  - set in place appropriate arrangements to allow the KNAB to investigate breaches of the criminal law;
  - ensure that the Saeima as a legislative body acts as responsible for, and not subordinate to, the conduct of its members. The Legislature is the prime organ of the representation of the public, and not the creature of its members. As such it must give priority and precedence to the reputation and integrity of the institution and its place in an emerging democracy.
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