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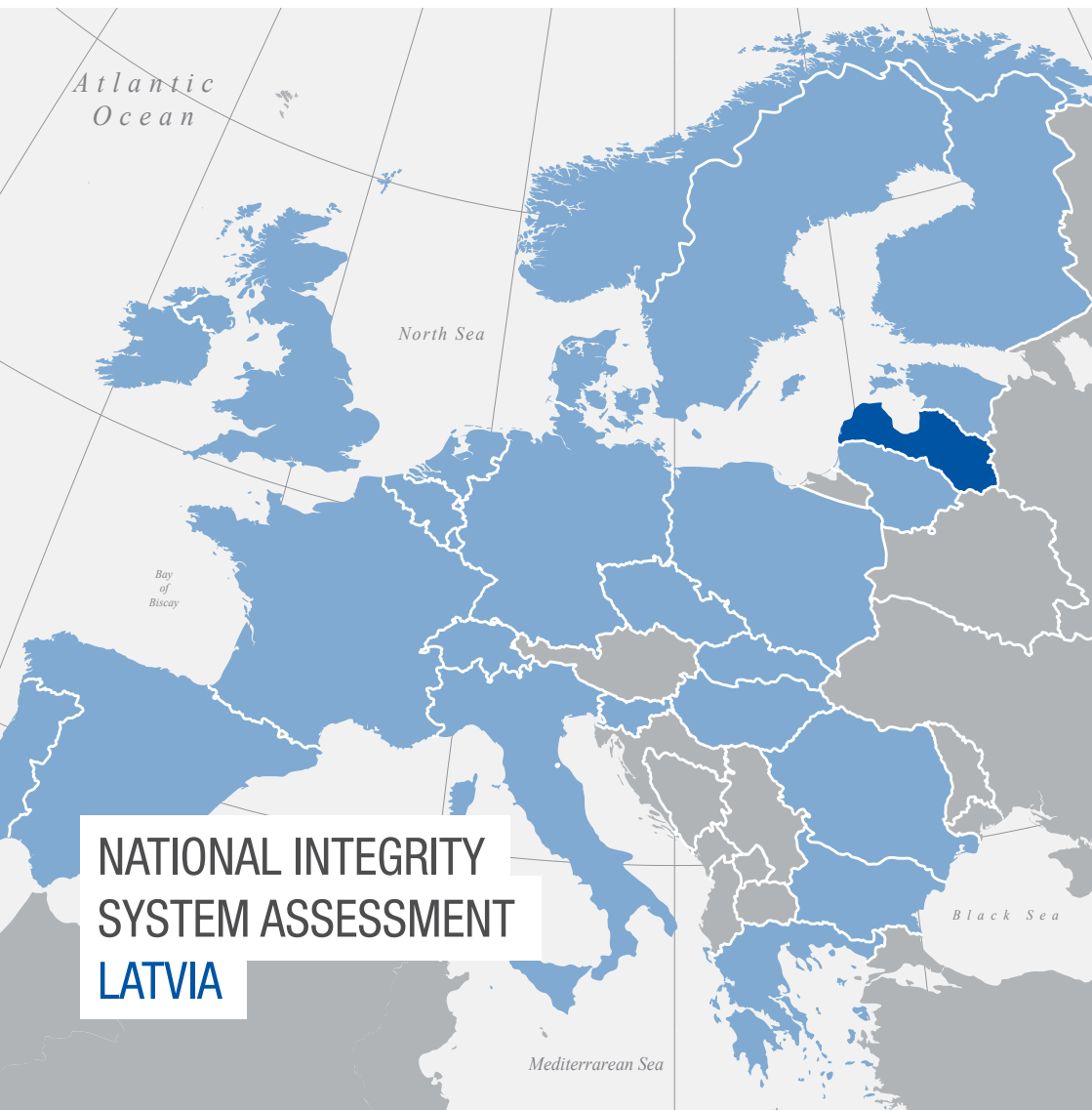
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NATIONAL INTEGRITY
SYSTEM ASSESSMENT
LATVIA

NATIONAL INTEGRITY SYSTEM ASSESSMENT

LATVIA 2011

Evidence - Based Action against Corruption:

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Quality control was accomplished by Suzanne Mulcahy, Transparency International Secretariat.

Research timeline

The National Integrity Study for Latvia was carried out in a period from January to August 2011. The assessment represents the current state of integrity institutions in Latvia, using information cited from the last three years (2008-2011). It reflects all major legislative changes as of 31 August 2011.

All the web sites/links in the references last accessed on 31 August 2011.

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LIST OF ACRONYMS AND ABBREVIATIONS

CC	Constitutional Court
CEC	Central Election Committee
COM	Cabinet of Ministers
CPCB	Corruption Prevention and Combating Bureau
CSOS	Civil Society Organisations
CSR	Corporate Social Responsibility
EU	European Union
EUI	Economist Intelligence Unit
GCB	Global Corruption Barometer
GDP	Gross Domestic Product
GRECO	Council of Europe's Group of States against Corruption
HDI	Human Development Index
ISB	Internal Security Bureau of the State Police
LCPCB	Law on Corruption Prevention and Combating Bureau
MP	Member of Parliament
NEMC	National Electronic Media Council
NGO	Non-governmental organization
PG	Prosecutor General
PGO	Prosecutor General's Office
PPO	Public Prosecutor's Office
PSB	Procurement Supervision Bureau
RP	Rules of Procedure
SAO	State Audit Office
SAOL	State Audit Office Law
SC	Supreme Court
SCH	State Chancellery
SP	State Police
SRS	State Revenue Service
ST	State Treasury
TI	Transparency International

I. EXECUTIVE SUMMARY

OVERVIEW

Latvia ensures fair protection for civil and political rights of citizens and guarantees the basics of a democratic political process. International organisations have acknowledged all elections since 1991 as free and fair. Most interest groups have at least some representation in the organized part of the civil society. Hence the country's political and societal foundations are rather strong.

On the downside, a financial crisis undermined the socio-economic foundations in 2009-2010 when many institutions forming the National Integrity System (hereinafter – NIS) were subject to drastic budget cuts. A part of the Latvian population continues to suffer from monetary poverty and therefore social inequality remains high. As for the socio-cultural foundations, a low level of interpersonal trust and unwillingness to engage in civil society activities characterize strongly. Latvian public has an ambiguous, in some cases tolerant, attitude towards corruption and lack of integrity.

The NIS assessment offers an evaluation of the legal basis and actual performance of 13 national governance institutions (pillars) which are responsible for counteracting corruption. The study is based on Transparency International (hereinafter - TI) global NIS methodology and reviews the period from January 2008 to August 2011.

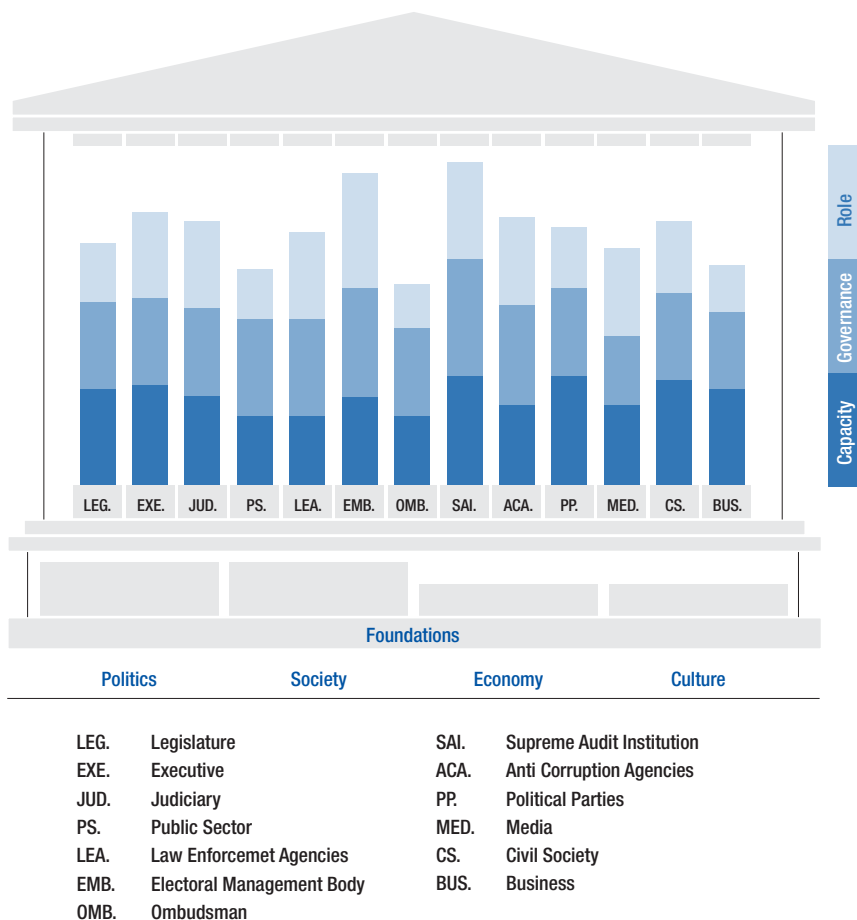
A common trait in most of the pillars is the strength of the legal system and weakness in implementing the legislation in practice. This gap between legislation and implementation significantly impacts on the overall integrity of the system.

Imperfect as they are, it is the executive and judiciary, which, together with the Corruption Prevention and Combating Bureau (hereafter – CPCB) and the State Audit Office (hereafter – SAO), form the stronger part of the state apparatus (see Figure No 1). Particularly the CPCB has managed to strengthen the struggle against corruption to a level unprecedented in Latvia (however, the possibility of a real breakthrough against political corruption is still an open issue). The second best performer – the Central Election Committee (hereafter – CEC) – stands somewhat apart. The CEC appears to have benefited from a lasting consensus of the political class to respect the integrity of elections.

Conspicuous weaknesses lie in the party-political sphere and the business sector. Low trust and perceived corruption (even if not always based on hard facts) damage political parties and the legislature. The latter manifests itself in the score of the business and, in part, also the media. Many businesses show disregard for corruption issues and struggle in a challenging economic environment. These traits have a negative bearing also on the autonomy and quality of many privately-owned media.

The business as well as the public sector and Ombudsman have earned the lowest scores. The principal stumbling block here is the role dimension, whose fulfilment is weakest compared to other pillars. Major drawbacks are lacking educational activities for the general public, little engagement by the business and few initiatives to work with the civil society on anti-corruption matters (for detailed scores see Annex NIS Assessment Scores).

Figure 1: NIS Assessment



The NIS is focused on the national level of governance, not regional and/or local. Since corruption risks at sub-national levels are often significant, TI is currently developing a methodology for the Local Integrity System Assessment. Such assessment, together with the NIS assessment, will help to understand the whole integrity system in a country.

STRENGTHS AND WEAKNESSES

Strengths

Many strengths of the NIS in Latvia are found in the legislative framework. Legal provisions provide full independence (i.e. adequate autonomy given the particular status of each of the institutions) of the legislature, executive, the SAO, political parties, civil society and business. Judicial independence is generally well-respected, too. Despite a number of confirmed or alleged attempts to undermine its independence, the CPCB has managed to keep up a reason-

able degree of professionalism and impartiality among its staff.

Also overall legal transparency requirements of the executive, judiciary, public sector, law enforcement agencies, the CEC, the SAO, the CPCB and parties are fully adequate. The Parliament practices a level of transparency, which is higher than the minimum standards required by the law. Court sittings are by default open to the public. Latvia has adequate rules governing the general oversight and transparency requirements of the business sector, too.

Laws contain most of the relevant elements to ensure public sector integrity, e.g. regulations on the conflict of interest and gifts. In the case of the CEC, notwithstanding the limited regulation of integrity, it has succeeded in ensuring a high level of integrity for all elections in Latvia. Despite the major resource cuts, public sector employees maintain a professional profile. Optimisation measures and structural reforms in the public sector allowed for a move to a more cost-effective public administration.

The regulatory framework is generally favourable for civil society organizations and most interest groups have at least some representation in the organized part of the civil society. Donors to organizations with the public benefit status receive major tax reductions. The last five years have shown increase in somewhat less formalized civil society activities against corruption.

Despite weaknesses related to political parties, regulatory framework envisages clear and comprehensive public disclosure procedures for both revenue and expenditure and parties are reasonably disciplined in terms of filling in and submitting the reports. In fact, as far as the legislative framework is concerned, the Latvian party financing system represents a major success story.

Weaknesses

Many elements of the NIS have been subject to budget cuts during consolidation of the state budget in 2009 and 2010, which brought both positive and negative effects. To guide budget reductions, an audit of the public sector functions was carried out. This helped to identify inefficiencies and possibilities to maintain or even enhance performance despite the cuts. Institutions reviewed their routines and reorganized structures. Overall they have been prompted to pay more attention to cost-effectiveness. As a result, optimisation measures and structural reforms in the public sector allowed moving to a more efficient public administration. The negative consequences are related to the reduction of salaries of civil servants and employees. Although some 20% of public sector employees have been dismissed, practically the same output is expected. From a human perspective, this bred de-motivation and overburden.

Political parties and Parliament are the least trusted of all institutions and sectors analysed within the framework of the NIS. The main reason is a public perception of widespread political corruption in these pillars. Another reason is that anti-corruption issues are marginalized in platforms of several major parties. Parties tend to have weak links to particular social groups - so different social interests are not widely represented. Several parties have also developed relations of patronage and clientelism. Meanwhile limitations of parties' financial transparency and accountability exist and most violations in the area of party/campaign finance were not criminalized by the end of the reference period. Moreover, during this period, the party system in Latvia was exclusively privately funded; hence, the influence of a few large donors was high. Hidden political advertising is a widespread problem before the elections.

Courts operate in a relatively transparent environment but there are several problems to be solved, such as cumbersome access to judgments. The Judiciary still does not enjoy a uniform

reputation of integrity partially because of unethical behaviour by few judges. Shortcomings in human resourcing are a persistent problem in courts affecting the whole of the court system leading to, for example, lengthy proceedings. Accountability of judges is poorer in practice than it would follow from the legal framework.

Legislation of whistleblowers protection needs urgent improvement. It is better in areas influenced by EU law such as labour legislation, however almost non-existent elsewhere. Practical implementation of whistleblower protection and shielding from victimization is problematic. Although it is unknown how much reporting would take place provided comprehensive protection existed, the current weakness is a constraint on detection and investigation of corruption offences, which largely depend on people's preparedness to cooperate.

A considerable number of public officials who occupy corruption-sensitive positions are subject to especially high corruption risks because of drastic salary cuts due to the economic crisis, for example, in the police. To improve the situation, police personnel takes up additional jobs and this is clearly not optimal for the national integrity system as a whole. As it stands, ethics-related training programs for the police and public prosecutors are scarce and police faces serious integrity problems. All in all the activities of law enforcement agencies in detecting and combating corruption have been effective but apparently too limited to achieve any major breakthrough in corruption patterns among higher-level/ political officials. In law enforcement agencies and elsewhere in the public administration, appointments of high-level public positions often require overt or tact political approval and qualification criteria are not the main determinant of selecting an individual.

Several weaknesses are found in the area of public information. Except courts, no agency is in charge of overseeing freedom of information. Although, the performance of the CPCB in preventing corruption is comprehensive and proactive, its educational activities target mainly public officials and outreach to the general public is sporadic. The media are in a difficult economic situation making it hard to resist pressures from advertisers and, in some cases, politically motivated owners. Overall the media inform the public on corruption and governance related issues regularly but the dominance of the government agenda and economic pressures are permanent challenge to the autonomy and quality of coverage.

Operation of business suffers from excessive administrative burden because state institutions are keen on controlling, but giving consultations remains a bottleneck. The high share of grey economy compromises both the overall transparency and accountability of the business sector. The legal requirement for the disclosure of beneficial owners of enterprises allows only controlling authorities to access this information and is hence quite limited.

KEY RECOMMENDATIONS AND REFORM PRIORITIES

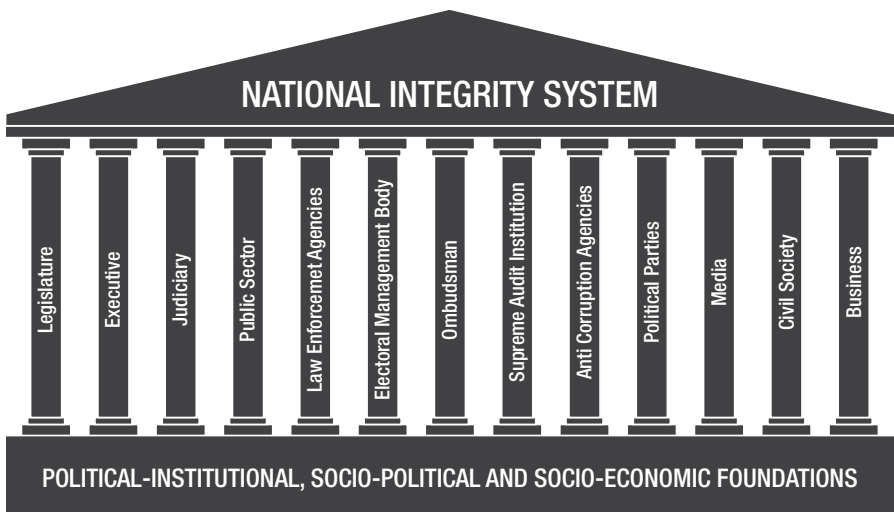
- Latvia needs to make further improvement in *de jure* and *de facto* transparency implementation. Institutional practice should be further improved starting from the Parliamentary commissions to line ministries and to state-owned enterprises.
- Independence of political parties from individual donors should be strengthened. State-funding for political parties needs to increase to cover all basic sustenance costs. This measure should be complemented by further decrease of individual donation limits.
- Codes of ethics should be implemented and enforced at all governmental levels. Cabinet of Ministers should approve and enforce a Code of Ethics that contains such measures as conflict of interest declarations and an effective mechanism to review possible violations. Effective operation of codes of ethics/conduct in other sectors

should be reviewed and their use strengthened.

- Framework for the protection of whistleblowers who report on corrupt behaviour must be improved. This should include protection against harassment, victimization and retaliation.
- Procedures and practice need to be re-examined to identify possibilities for greater effectiveness and speedier adjudication in the courts. Recommended measures include better planning of court schedules to avoid situations when the same lawyers are summoned to two court sittings simultaneously for two different cases, stronger control over the issuance of sick-leave certificates for defendants and lawyers (to reduce unjustified absences), broader use of the public prosecutor's injunction on sentence, which does not burden the court, etc.
- Main recruitment principles (e.g. conditions when open competition is required) should be defined for the whole of the public sector with due regard to inter alia ethics competence and reputation of candidates. Political influence or meddling in such competitions should be minimized.
- Update provisions of administrative liability in the area of public procurement and designate the Procurement Supervision Bureau as the institution in charge of applying the respective sanctions.
- The Central Election Commission should explore possibilities to develop electronic platforms for voting and other forms of citizens' participation.
- Cooperation between the State Audit Office and the Public Prosecutor's Office should be analysed and improved to translate more State Audit Office findings into investigations and punishment.
- The Corruption Prevention and Combating Bureau should be provided with certain guarantees against reduction in its budget funding. As a minimum, it should not be allowed to reduce its budget request before it is reviewed in the Cabinet of Ministers plus the Corruption Prevention and Combating Bureau should be guaranteed a possibility to defend its request in the government meeting.
- A broader range of violations in the area of party/campaign finance should be criminalized.
- Legislation should be amended to ensure public disclosure of the actual beneficial owners of the media. Candidates to the National Electronic Media Council should be screened by media professionals, e.g. with the help of open competition. Role of politicians in the selection and appointment of National Electronic Media Council members should be diminished.
- The state should have a funding program to help civil society organisations, which apply for support from international donors, to secure required co-financing. The process of awarding donations by state-owned companies to CSOs should be unified and made more objective. Distribution of these funds through the Society Integration Fund or other centralised mechanism should be considered.
- Wider reporting of Corporate Social Responsibility activities by companies should be encouraged. "White lists" of enterprises should be established and genuine benefits, for example, in public procurement, foreseen.

II. ABOUT THE NIS ASSESSMENT

Figure 1: national integrity system



A series of high profile corruption cases in the private and public sectors has highlighted the urgent need to confront corruption in Europe. Corruption undermines good governance, the rule of law and fundamental human rights. It cheats citizens, harms the private sector and distorts financial markets. Seventy eight per cent of Europeans surveyed for the EU Commission's 2009 Eurobarometer believed that corruption was a major problem for their country. This report is part of a pan-European anti-corruption initiative, supported by the DG Home Affairs of the European Commission. The initiative looks to assess systematically the National Integrity Systems (NIS) of 25 European States, and to advocate for sustainable and effective reform, as appropriate, in different countries.

DEFINING INTEGRITY

Stemming from the Latin adjective integer (whole, complete), integrity is the inner sense of "wholeness" deriving from qualities such as honesty and consistency of character. As such, one may judge that others "have integrity" to the extent that they behave according to the values, beliefs and principles they claim to hold.

In western ethics, integrity is often regarded as the opposite of hypocrisy, in that it regards internal consistency as a virtue, and suggests that parties holding apparently conflicting values should account for the discrepancy or alter their beliefs.

TI's plain language guide defines integrity as 'behaviours and actions consistent with a set of moral or ethical principles and standards, embraced by individuals as well as institutions that create a barrier to corruption'

The National Integrity System assessment approach used in this report provides a framework to analyse the effectiveness of a country's institutions in preventing and fighting corruption. A well-functioning NIS safeguards against corruption and contributes to the larger struggle against abuse of power, malfeasance and misappropriation in all its forms. When the NIS institutions are characterised by appropriate regulations and accountable behaviour, corruption is less likely to thrive, with positive knock-on effects for the goals of good governance, the rule of law and protection of fundamental human rights. Strengthening the NIS promotes better governance across all aspects of society and, ultimately, contributes to a more just society overall.

The NIS Assessment report of Latvia addresses 13 “pillars” or institutions believed to make up the integrity system of the country.

GOVERNMENT	PUBLIC SECTOR	NON-GOVERNMENTAL
Legislature Executive Judiciary	Public Administration Law Enforcement Agencies Electoral Management Body Ombudsman Supreme Audit Institution Anti-corruption Agencies	Media Civil Society Political Parties Business

Each of these 13 institutions is assessed along three dimensions that are essential to its ability to prevent corruption: First, its overall **capacity** in terms of resources and legal status, which underlies any effective institutional performance. Second, its internal **governance** regulations and practices, focusing on whether the institution is transparent, accountable and acts with integrity, all crucial elements to preventing the institution from engaging in corruption. Thirdly, the extent to which the institution fulfils its assigned **role** in the anti-corruption system, such as providing effective oversight of the government (for the legislature) or prosecuting corruption cases (for the law enforcement agencies). Together, these three dimensions cover the institution's ability to act (capacity), its internal performance (governance) and its external performance (role) with regard to the task of fighting corruption.

Each dimension is measured by a common set of indicators. The assessment examines both the legal framework of each pillar as well as the actual institutional practice, thereby highlighting discrepancies between the formal provisions and reality on the ground.

DIMENSION	INDICATORS (law, practice)
Capacity	Resources Independence
Governance	Transparency Accountability Integrity
Role within governance system	Between 1 and 3 indicators, specific to each pillar

The assessment does not seek to offer an in-depth evaluation of each pillar. Rather, it seeks breadth, covering all relevant pillars across a wide number of indicators in order to gain a view of the overall system. The assessment also looks at the interactions between institutions to understand why some are more robust than others and how they influence each other. The NIS presupposes that weaknesses in a single institution could lead to serious flaws in the entire sys-

tem. Understanding the interactions between pillars also helps to prioritize areas for reform. In order to take account of important contextual factors, the evaluation of the governance institutions is embedded in a concise analysis of the overall political, social, economic and cultural conditions, the *foundations*, on which these pillars are based.

METHODOLOGY

The NIS assessment is a qualitative research tool based on a combination of desk research and in-depth interviews. A final process of external validation and engagement with key stakeholders ensures that the findings are as relevant and accurate as possible before the assessment is published.

The assessment is guided by a set of “indicator score sheets” developed by the TI Secretariat. The sheets consist of a “scoring question” for each indicator, supported by further guiding questions and scoring guidelines for the minimum, mid-point and maximum scores. For example:

Sample indicator score sheet: Legislature Capacity – Independence (law)	
Scoring question	To what extent is the legislature independent and free from subordination to external actors by law?
Guiding questions	Can the legislature be dismissed? If yes, under which circumstances? Can the legislature recall itself outside normal session if circumstances so require? Does the legislature control its own agenda? Does it control the appointment/election of the Speaker and the appointments to committees? Can the legislature determine its own timetable? Can the legislature appoint its own technical staff? Do the police require special permission to enter the legislature?
Scoring guidelines	
Minimum score	(0) There are no laws which seek to ensure the independence of the legislature.
	(25)
Mid-point score	(50) While a number of laws/provisions exist, they do not cover all aspects of legislative independence and/or some provisions contain loopholes.
	(75)
Maximum score	(100) There are comprehensive laws seeking to ensure the independence of the legislature.

In total the assessment includes over 150 indicators, approximately 12 indicators per pillar. The guiding questions for each indicator were developed by examining international best practices, existing assessment tools for the respective pillar as well as using TI’s own experience, and by seeking input from international experts on the respective institution. The indicator score sheets provide guidance to the researcher, but when appropriate TI Latvia has provided additional information or left some questions unanswered, as not all guidance is relevant to the Latvian context. Due to the broad scope of the NIS assessment, the analysis of each pillar is necessarily brief (approximately 15 pages) and in some cases the research reveals a need for further in-depth research on specific issues which are beyond the scope of the NIS assessment. The full toolkit and score sheets are available on TI Latvia’s website, at www.delna.lv.

To answer the guiding questions, the lead researcher relied on three main sources of information: national legislation, secondary reports and research, and interviews with key experts.

Secondary sources included trusted reports by national civil society organizations, international organizations, governmental bodies, think tanks and academia.

A minimum of two key informants were interviewed for each pillar – at least one representing the institution under assessment and one expert external to it. Full citations are included in footnotes rather than endnotes, to be as transparent as possible regarding the sources of information used to justify the conclusions and scores.

THE SCORING SYSTEM

While the NIS is a qualitative assessment, numerical scores are assigned in order to summarise the information and help to highlight key weaknesses and strengths of the integrity system. The sheer length of the report can obscure a holistic perspective. Thus the scores are a way to see all 13 institutions, each assessed according to 12 or more indicators, as if from an aerial viewpoint. They prevent the reader from getting lost in the details and promote reflection on the system as a whole, rather than focusing only on its individual parts.

The scores are assigned by an in-country researcher on a 5-point scale in 25-point increments (0, 25, 50, 75, 100), validated by an in-country multi-stakeholder advisory group and finally vetted by TI Latvia. An aggregate score for each dimension is calculated (simple average of its constituent indicator scores) and the three dimension scores are then averaged to arrive at the overall score for each pillar. The difference in practice versus law can also be calculated at both dimension level and for an institution as a whole.

While the scoring methodology uses best practice standards in terms of expert selection, comparative anchors, transparency and validity checks, it gives the country teams the ultimate say about the scores. This fits also with the overall purpose of the assessment, to build momentum for anti-corruption policy change in the individual country. Since there is no international board which reviews and calibrates all scores to ensure that the same information, methodology, and judgment process have been used across countries, we do not produce any country rankings and do not recommend using the raw scores for cross-country comparisons.

CONSULTATIVE APPROACH AND VALIDATION OF FINDINGS

The NIS assessment process in Latvia had a strong consultative component, seeking to involve the key anti-corruption actors in government, civil society and other relevant sectors. This approach had two aims: to generate valid evidence and to engage a wide range of stakeholders with a view to building momentum, political will and civic demand for reform initiatives. The consultative approach had two main parts: a high-level Advisory Group and a National Stakeholder Workshop.

The members of the advisory group met twice on March 30 and June 30, 2011. The second meeting was entirely dedicated to the discussion of the key findings of the draft report and indicator scores. The meeting resulted in a number of further adjustments to scores and evidence. Final discretion over scores remained with TI Latvia.

On October 12, 2011 TI Latvia presented the methodology and emerging findings of the assessment at a National Stakeholder Workshop. The draft report was available in advance to participants and the workshop drew significant attendance from representatives of public and key governance institutions. The second half of the workshop was dedicated to working groups, where participants interacted with TI Latvia's research team members to provide feedback on each chapter and to discuss the overall scores. These working groups were also well attended. The workshop helped to further refine the report, particularly by adding and

prioritising recommendations.

Finally, the full report was reviewed and endorsed by the TI Secretariat, and an external academic reviewer provided an extensive set of comments and feedback.

BACKGROUND AND HISTORY OF THE NIS APPROACH

The concept of a “National Integrity System” originated within the TI movement in the 1990s as TI’s primary conceptual tool of how corruption could be best fought, and, ultimately, prevented. It made its first public appearance in the TI Sourcebook, which sought to draw together those actors and institutions which are crucial in fighting corruption, in a common analytical framework, called the “National Integrity System”. The initial approach suggested the use of ‘National Integrity Workshops’ to put this framework into practice. The focus on “integrity” signified the positive message that corruption can indeed be defeated if integrity reigns in all relevant aspects of public life. In the early 2000s, TI then developed a basic research methodology to study the main characteristics of actual National Integrity Systems in countries around the world via a desk study, no longer using the National Integrity Workshop approach. In 2008, TI engaged in a major overhaul of the research methodology, adding two crucial elements – the scoring system as well as consultative elements of an advisory group and reinstating the National Integrity Workshop, which had been part of the original approach.

While the conceptual foundations of the NIS approach originate in the TI Sourcebook, they are also closely intertwined with the wider and growing body of academic and policy literature on institutional anti-corruption theory and practice.¹ The NIS research approach is an integral component of TI’s overall portfolio of research tools which measure corruption and assess anti-corruption efforts. By offering an in-depth country-driven diagnosis of the main governance institutions, the NIS’s main aim is to provide a solid evidence-base for country-level advocacy actions on improving the anti-corruption mechanisms and their performance. It is complemented by other TI tools, which are more geared towards raising public awareness of corruption and its consequences via global rankings (e.g. Corruption Perception Index, Bribe Payers Index) or via reporting the views and experiences of the public (e.g. Global Corruption Barometer - GCB). In addition, the NIS approach fills an important gap in the larger field of international governance assessments, which are dominated by cross-country rankings and ratings (e.g. Global Integrity Index, Bertelsmann Transformation Index), donor-driven assessments (which are rarely made public) or country-specific case studies, by offering an in-depth yet systematic assessment of the anti-corruption system, which is based on a highly consultative multi-stakeholder approach. This unique combination of being driven by an independent local civil society organisation, involving consultations with all relevant stakeholders in-country, and being integrated into a global project architecture (which ensures effective technical assistance and quality control), makes the NIS approach a relevant tool to assess and, ultimately, further anti-corruption efforts in countries around the world.

¹ Rose Ackerman, *Susan Corruption and Government: Causes, Consequences, and Reform*, Cambridge: Cambridge University Press, 1999; OECD *Public Sector Integrity: A Framework for Assessment*, Paris: OECD publishing, 2005; Head, Brown and Connors (eds) *Promoting Integrity*, Surrey: Ashgate, 2008; Huberts, L. W. J. C., Anechiarico, F., & Six, F. *Local integrity systems: world cities fighting corruption and safeguarding integrity*. Den Haag: BJu Legal Publishers, 2008.

III. COUNTRY PROFILE — THE FOUNDATIONS FOR THE NATIONAL INTEGRITY SYSTEM

1. Political-institutional foundations

Score: 75 / 100

Latvia ensures reasonable protection of civil and political rights of citizens and the basics of a democratic political process are guaranteed. Occasional violations of these rights and processes happen but, regrettable as they are, usually these breaches do not place the fundamentals of democracy in jeopardy. Nations in Transit 2011 assigned Latvia with the third highest democracy score (behind only Estonia and Slovenia).² The Democracy Index of the Economist Intelligence Unit (hereinafter - EIU) is more critical and classifies Latvia as a flawed democracy although still in 2010 its rank was relatively high – 48 among 167 countries.³ Also all other assessments of democracy in Latvia place the country somewhere in the area between consolidated democracy and democracy with some flaws.

Political competition with the electoral process at its centre usually earns laudable assessments. International organizations “have declared all Latvian national and local elections since 1991 to have been both free and fair”.⁴ Out of five criteria used by the Democracy Index of the EIU, electoral process and pluralism scored highest in the case of Latvia. Irregularities do happen in elections but they never reach the level where the freedom and fairness of the whole process would be cast in doubt. International observers often identify the more than 300,000 non-citizen long-term residents as the single greatest challenge for free and fair political competition in Latvia.⁵ Otherwise civil liberties are another criterion where Latvia ranks high in the Democracy Index of the EIU (9.12 out of 10 in 2010).

Traditionally Latvia has had a harder time struggling to improve governance. The governance indicators of the World Bank show that Latvia has shown steady progress with the rule of law. However, as late as in 2009, its percentile ranking on this indicator was only 74.1.⁶ Governance effectiveness ranked even lower – at only 69.5.⁷ Meantime lately the government has been praised for its ability to bring the country out of a nearly catastrophic financial crisis and undertake major austerity measures.⁸

Still, in 2011, Latvia's political situation was far from stable. In reaction to a series of parliamentary moves that many deemed counterproductive to the rule of law, the President of the State

2 Nations in Transit 2011. Freedom House (2011). P.39. <http://www.freedomhouse.org/images/File/nit/2011/NIT-2011-Tables.pdf>

3 Democracy index 2010. The Economist Intelligence Unit (2010). P.4. http://graphics.eiu.com/PDF/Democracy_Index_2010_web.pdf

4 Bertelsmann Stiftung, BTI 2010 — Latvia Country Report. Gütersloh: Bertelsmann Stiftung, 2009. Political Participation. <http://www.bertelsmann-transformation-index.de/181.0.html?&L=1#chap2>

5 See, for example: Latvia. Parliamentary Elections 2 October 2010. OSCE/ODIHR Limited Election Observation Mission Final Report. P.1. <http://www.osce.org/odihr/elections/latvia/74785>

6 Worldwide Governance Indicators. The World Bank Group. http://info.worldbank.org/governance/wgi/sc_chart.asp

7 Worldwide Governance Indicators. The World Bank Group. http://info.worldbank.org/governance/wgi/sc_chart.asp

8 Foreign investors praise Latvia's progress in restoring growth and emphasize importance of euro adoption. Leta, 21 May 2011. <http://www.liaa.gov.lv/eng/home/news/ficil/>

(hereinafter - President) Valdis Zatlers initiated the dissolution of the legislature on 28 May 2011. In a speech accompanying the initiative, the President referred to the Saeima's refusal to lift the immunity against search in premises of a Member of Parliament (MP) A.Šlesers within an investigation carried out by the Corruption Prevention and Combating Bureau (hereinafter - CPCB), unreasoned failure to appoint two judges who had received all necessary clearance from judiciary institutions and a candidate for the post of the Prosecutor General (hereinafter - PG) nominated by the President of the Supreme Court (hereinafter - SC) as well as to the disproportionately strong political influence of the so-called oligarchs in general.⁹ The dissolution was confirmed by a popular vote in July 2011 directing the country towards early elections in September 2011. This was no surprise because the legislature enjoys little trust (only some 15% trusted the national parliament in November 2010).¹⁰ Parties, which were commonly associated with the *oligarchs*, suffered serious setbacks in the September 2011 elections but it remains to be seen whether these events bring about substantial changes and boost democratic engagement and integrity in the long term.

2. Socio-political foundations

Score: 75 / 100

Ever since the restoration of Latvia's independence in 1991, the division between ethnic Latvians and the Russian-speaking population remain the deepest political cleavage. Although tensions have eased over years, the description of the Bertelsmann Transformation Index 2010 still provides a telling picture: "A remaining concern is the de facto existence of two societies in Latvia. Russian speakers and Latvians occupy different information spaces, with language-specific newspapers, radio and TV channels, internet portals, and theatres for each community. Moreover, the higher production values of neighbouring Russian television also attract viewers. The impact of this was clearly seen in August 2008 following the Russian-Georgian conflict when the overwhelming majority of ethnic Latvians expressed sympathy for Georgians, while Russian speakers took the Russian side. This ethnic divide is also reflected in voting patterns – Russian speakers vote overwhelmingly for Russian-speaking parties, and Latvians for nationalist Latvian parties. This ethnic cleavage still dominates Latvian politics."¹¹ On the other hand, developments such as the election of a Russian-speaking politician a mayor of the capital city of Riga in 2009 provides evidence of somewhat increased power-sharing in Latvian politics.

Other social cleavages are less clear-cut in Latvia. Occasional juxtaposition of rural versus urban interests has hardly turned into any major theme in Latvia politics. Class and religious cleavages are even less salient. It is actually the often blurred division between "corrupt" and "honest" politicians that has been a major marker of Latvia politics ever since 2002 when the first major election campaign with anti-corruption slogans was successfully launched.

Otherwise the ideological profiles of most political parties tend to be obscure, designed to catch the broadest possible number of voters. Parties have weak links to particular social groups apart from the ethnic divide. Instead parties sometimes prefer clientelistic relations especially with local governments where some benefits from the state budget are traded for local support. Considering also the fact that political parties are less trusted (6% trust) than any state institution¹² and perceived as institutions most affected by corruption (score 4.0 on the

9 Valdis Zatlers ataiž 10. Saeimu (Valdis Zatlers Dissolves the 10th Saeima). Speech on the Latvian Television, 28 May 2011. <http://www.youtube.com/watch?v=RJQIJFIUsDE&feature=related>

10 Eurobarometer 74. 2010. gada rudens (Autumn of 2010). Nacionālais ziņojums Latvija (National Report Latvia). P.7. http://ec.europa.eu/public_opinion/archives/eb/eb74/eb74_lv_lv_nat.pdf

11 Bertelsmann Stiftung, BTI 2010 — Latvia Country Report. Gütersloh: Bertelsmann Stiftung, 2009. Rule of Law. <http://www.bertelsmann-transformation-index.de/181.0.html?&L=1#chap3>

12 Eurobarometer 74. 2010. gada rudens (Autumn of 2010). Nacionālais ziņojums Latvija (National Report Latvia). P.7. http://ec.europa.eu/public_opinion/archives/eb/eb74/eb74_lv_lv_nat.pdf

scale from 1 (not at all corrupt) to 5 (extremely corrupt)),¹³ they generally act as rather weak representatives of social interests.

The majority of Latvia's population does not participate in any civil society organizations. "A summer 2010 poll of Riga residents regarding their participation in civic activities during the previous three years found that just 12 percent of respondents could remember having contacted parliamentary deputies, ministers, or civil servants directly. In the same poll, [14] percent of respondents claimed to have joined NGOs or engaged in volunteer work."¹⁴ Mean-time the regulatory framework is generally favorable for civil society organizations and most interest groups have at least some representation in the organized part of the civil society. Despite the ethnic divide and considerable passiveness, one can say that the social fabric in Latvia is compatible with sustaining a stable and democratic political system.

3. Socio-economic foundations

Score: 50 / 100

The World Bank classifies Latvia as a high-income country with gross national income per capita at USD 12,390 as of 2009.¹⁵ However, Latvia suffered badly from the recent financial crisis with a drop in gross domestic product (hereafter – GDP) by 18.4% in 2009.¹⁶ It was the third poorest nation among EU members in 2010 by GDP per capita in Purchasing Power Standards.¹⁷ As a consequence, many elements of the national integrity system have been subject to budget cuts and have access to less resource than those of most other EU members.

The impact of the troubled macroeconomic situation is severed by the inequality of income. The Gini coefficient for Latvia was 3.7 in 2009, highest in the European Union (EU).¹⁸ Latvia also had the highest percentage (11%) of persons with an equivalised disposable income below 40% of the national median equivalised disposable income.¹⁹ Hence, in a European comparison, a large part of the population suffers from monetary poverty even if variables such as GDP per capita are controlled.

As of 2010, Latvia also had the third lowest Human Development Index rank in the EU (second lowest HDI rank for health). The HDI rank was comparatively better for education.²⁰

According to the Bertelsmann Stiftung, "Latvia has a comprehensive state-funded welfare system, although it is severely underfunded. This has led to a situation in which both formal and informal mixed public-private financing regimes have been established."²¹ Over years the provision of healthcare and higher education has gravitated towards a greater proportion of paid services. The trend even strengthened during the recent crisis especially in healthcare.

The overall socio-economic conditions and their deterioration in 2008-2010 led some experts to worry about potential shocks for democratic governance and various failed-state

13 Global Corruption Barometer 2010. Question 2: To what extent do you perceive the following institutions in this country to be affected by corruption? http://www.transparency.org/policy_research/surveys_indices/gcb/2010/results

14 "Katrs trešais rīdzinieks piedalījies aptaujās" (Every third Riga resident has participated in surveys). TVnet, 31 October 2010. http://www.tvnet.lv/zinas/latvija/352172-katrs_tresais_ridznieks_piedalijies_aptaujas Quoted from: <http://www.freedomhouse.org/images/File/nit/2011/NIT-2011-Latvia.pdf> The figure [14] replaced 13 in the quote based on the original source.

15 <http://data.worldbank.org/country/latvia>

16 Pērn IKP samazinājies par 18,4% (Last Year GDP Shrank by 18.4 %). 5 March 2010. <http://www.ekonomika.lv/pern-ikp-samazinajies-par-184/>

17 GDP per capita in PPS. Eurostat. <http://epp.eurostat.ec.europa.eu/tgm/graph.do?sessionId=9ea7d07d30e6152e0ba0bf2e45b6906afa0bf9b666d4.e340a8PchaTbyOLc3aNchuMb3eMe0?tab=graph&plugin=1&language=en&pcode=tsieb010&toolbox=type>

18 Gini coefficient (Source: SILC). Eurostat. <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&plugin=1&language=en&pcode=tessi190>

19 Dispersion around the at-risk-of-poverty threshold (Source: SILC). Eurostat. <http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&plugin=1&language=en&pcode=tessi126>

20 International Human Development Indicators. Public Data Explorer. UNDP. <http://hdr.undp.org/en/data/explorer/>

21 Bertelsmann Stiftung, BTI 2010 — Latvia Country Report. Gütersloh: Bertelsmann Stiftung, 2009. Welfare Regime. <http://www.bertelsmann-transformation-index.de/181.0.html?&L=1#chap10>

scenarios of development.²² The doomsday scenario did not really materialize but the country obviously continues to live with significant poverty and social inequality. There is a relatively sophisticated social safety net but it is clearly unable to provide any comprehensive coverage.

4. Socio-cultural foundations

Score: 50/100

The level of development of Latvian democratic institutions exceeds considerably the development of its political culture. Attitudes of the average citizen of Latvia differ from the democratic culture found in many older democracies and manifest, for example, in a low level of interpersonal trust and unwillingness to engage in civil society activities. Drawing of international comparative data, professor J. Rozenvalds concludes that „in regard to requirements for the „pro-democratic culture” [...], Latvia still finds itself closer to its former Soviet “sisters” Ukraine and Georgia, than to Sweden.”²³

Indeed in the Democracy Index of the Economist Intelligence, Latvia scores quite low according to the category “Political culture” – 5.63 out of 10.²⁴ According to the Legatum Prosperity Index 2011, Latvia ranked 96th in terms of social capital among 110 countries. The accompanying description reads: “Latvia has low social cohesion, with limited community and family networks. Only 16% of Latvians had donated to charity in the month prior to a 2009 survey, while 18% had volunteered their time over the same period, placing Latvia 88th and 62nd, respectively, on these variables. Informal social capital also seems poor, as only 13% of respondents claimed to trust others, and only one-third had helped a stranger in the previous month, placing the country in the bottom 20 of the Index for these two variables. [...] only around eight out of 10 Latvians feel they have someone to rely on in times of need, a rate which places the country 81st on this variable [data from the Gallup World Poll].”²⁵

The Latvian public has mixed attitudes toward political corruption and integrity. A representative survey commissioned by the Faculty of Social Sciences of the University of Latvia in 2010 revealed that 70 % of surveyed Latvian citizens fully or rather agreed that every individual, when being in a politician's post, would him/herself try to use it for private benefit. The figure was much lower but still impressive 40 % regarding the statement that it is possible to support a politician who steals but still takes care of the rest of the society. 37 % agreed that a politician's professional competence is more important than integrity.²⁶ Meantime many people blame corruption for economic hardships.²⁷ 90 % claim the involvement of a party's politicians in corruption would definitely or rather deter them from voting for this party even if it were otherwise acceptable.²⁸ Thus overall the public opinion is equivocal and ambivalent. A great deal of resentment against corruption cohabits with a great deal of tolerance for lack of integrity in politics.

22 Jībabs, I. Failed state. Latvija? (Failed State. Latvia?). Politika.lv, 21 April 2009. http://www.politika.lv/temas/politikas_kvalitate/failed_state_latvija/

23 See, for example: Rozenvalds, J. Latvia's Democracy between "Europeanization" and a Post-Soviet Heritage. Published in: Corruption "C No. 9. Centre for Public Policy "PROVIDUS" (2009). P. 29. http://corruption-c.wdfiles.com/local--files/corruption-c-no-9-2009-first-semiannum/ENG_Corrupt_2009%20%20pusg.pdf

24 Democracy index 2010. The Economist Intelligence Unit (2010). P.4. http://graphics.eiu.com/PDF/Democracy_Index_2010_web.pdf

25 The Legatum Prosperity Index 2011. Latvia. <http://www.prosperity.com/country.aspx?id=LV>

26 Kalniņš, V. Krīzes skartais paradokssālais eklektisms: Latvijas pilsoņu attieksmes pret politisko korupciju 2008. un 2010. gadā (The Paradoxical Eclectism Impacted by the Crisis: Attitudes of Latvian Citizens Towards Political Corruption in 2008 and 2010). Article presented in the 69th Conference of the University of Latvia.

27 DnB Nord Latvijas barometrs: Valsts budžets. Nr.18. 2009. gada oktobris. P.15. www.dnbord.lv/Download/Latvijas%20Barometrs/latvijas_barometrs_18.pdf

28 Kalniņš, V. Krīzes skartais paradokssālais eklektisms: Latvijas pilsoņu attieksmes pret politisko korupciju 2008. un 2010. gadā (The Paradoxical Eclectism Impacted by the Crisis: Attitudes of Latvian Citizens Towards Political Corruption in 2008 and 2010). Article presented in the 69th Conference of the University of Latvia.

IV. CORRUPTION PROFILE

Latvia is typically considered a country with considerable corruption. Latvia had the score of 4.3 and ranked 59 among 178 countries in the Corruption Perceptions Index (CPI) 2010.²⁹ This represents a drop compared to the score of 5.0 achieved in the CPI 2008. In the CPI 2010, five member states of the EU scored the same or below Latvia. The public opinion corroborates the sense of deterioration. In the GCB 2010, 55 % of those surveyed replied that in the past 3 years the level of corruption has increased.³⁰

International comparative data show that corruption for Latvia – otherwise a reasonably successful post-Soviet democracy – represents an obvious Achilles' heel. Among the six governance indicators used by the World Bank, Latvia has the lowest percentile rank on control of corruption.³¹ Also in the Nations in Transit report, Latvia permanently scores worst on corruption (score 3.50 compared to the overall democracy score of 2.14 in the 2011 report).³²

During the first decade of the XXI century a perception developed that administrative corruption has decreased strongly while the most acute problems remain on the political level. The perception about the political corruption (or the so-called state capture) is reflected in the data of the GCB 2010 where political institutions such as political parties and the parliament are perceived as most affected by corruption.³³ J.Dreifelds writes in the Nations in Transit 2011: "Since the beginning of the economic crisis, Latvia has become increasingly vulnerable to the influence of a small group of oligarchs. A number of these – most notably A.Lembergs and former Prime Minister A.Šķēle – have been subjects of repeated or ongoing corruption investigations by Latvia's CPCB."³⁴ In fact concerns about the concentration of political power into the hands of a small circle of economically mighty individuals were common also before the crisis: "According to a World Bank study, at the end of the 1990s Latvia was suffering from a severe case of state capture, or excessive influence of oligarchs over political parties and the media."³⁵

Worries about the power of oligarchs have become one of the major cleavages in Latvian politics, which culminated on May 28 as a decision of Latvia's President V.Zatlers to initiate the dissolution of the parliament elected as recently as in October 2010. "The trigger event was the parliament's failure to lift the immunity of the MP A.Šlesers in the proposed searching of his place of residence, [which] was requested as part of an unprecedented criminal investigation commenced on May 20

29 Corruption Perceptions Index 2010 results. http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results

30 Global Corruption Barometer 2010 report. http://www.transparency.org/policy_research/surveys_indices/gcb/2010/results

31 Worldwide Governance Indicators. The World Bank Group. http://info.worldbank.org/governance/wgi/sc_chart.asp

32 Score 1 indicates the highest progress. // Dreifelds, J. Latvia. Nations in Transit 2011. Freedom House (2011). <http://www.freedomhouse.org/images/Files/nit/2011/NIT-2011-Latvia.pdf>

33 Global Corruption Barometer 2010 report. http://www.transparency.org/policy_research/surveys_indices/gcb/2010/results

34 Dreifelds, J. Latvia. Nations in Transit 2011. Freedom House (2011). <http://www.freedomhouse.org/images/Files/nit/2011/NIT-2011-Latvia.pdf>

35 Rusu, A. Latvia. Civil Society against Corruption. September 2010. P.3. http://www.againstcorruption.eu/uploads/rapoarte_finale_PDF/Latvia.pdf

by CPCB. This investigation made major news because it involved the search of properties and company offices related to all of the unofficial trinity of Latvia's main oligarchs – A.Šlesers, A.Šķēle and A.Lembergs. The possible charges are multiple – money laundering, provision of false information in public officials' declarations, abuse of office, active and passive bribery as well as violations of conflict-of-interest rules.”³⁶ On July 23 a referendum supported the President's initiative and new elections, likely with strong presence of the anti-oligarch theme, will take place on September 17.

As far as administrative corruption is concerned, various indicators suggest that Latvia's situation has been improving steadily at least until the onset of the crisis. For one thing, there has been a strong decrease in the proportion of people who are prepared to give a bribe to a public official if it were relevant for their own or their relatives' interests and a problem would have been solved (from about 39 % in November 2007 to about 32 % in November 2009).³⁷ Since an average citizen would be most likely to bribe upon encountering administrative rather than political officials, this shows a decrease in the potential for administrative corruption.

According to the same research of 2009, during the two years preceding the study, it was most common for citizens to encounter the use of public resources such as appliances or cars for personal benefit (16 %) and nepotism where lucrative public employment is awarded to individuals linked to the superior official (15 %), followed by unofficial payments or gifts accepted by medical personnel (14 %) as well as situations where public officials, e.g. the Road Police officers allow violators to avoid punishment (11 %).³⁸ Thence, with caution, we can say that conflict-of-interest-related forms of conduct appear more widespread than bribery.

Apart from the GCB, there are no surveys ranking what particular institutions people perceive as most corrupt. In a survey of 2007, the following public institutions had the smallest number of people believing they were very/ rather honest: the government of Latvia (the Cabinet of Ministers), the Road Police, the parliament, the customs, the Privatization Agency, the State Police (hereinafter - SP), the Building Inspection, public officials with authority to issue licences, and courts.³⁹ Unsurprisingly one can see that, among administrative institutions, those that carry rather broad decision-making discretion and the authority that affects crucial interests of individuals and businesses dominate the list.

Unfortunately, we have practically no direct data about how the recent financial crisis has affected corruption practices. It is likely that current evidence of corruption patterns would differ substantially from that of 2007 and even 2009. The public has become more aware of corruption in all of its manifold forms but meantime tolerance thereof remains common. People have less financial means to pay in bribes but than again the relative gain from corruption has increased both for public officials with their reduced salaries and individuals from whom the regulatory burden imposed by the state has become harder to bear. According to the CPCB “the economic downside, misbalance between remuneration and entrusted authority of public administration employees, administrative burden incommensurable with socio-economic changes, and policy on sanctions have contributed to the aggravation of corruption risks and consequently increasing lower-level administrative corruption. Meantime weakened internal controls of institutions and deficiencies in the external control decrease the likelihood of punishment.”⁴⁰

36 Kalniņš, V. The Latvian Game Changer. Uncertain but Possible. Institute for Security & Development Policy. Policy Brief No 71, June 20, 2011. http://www.isdp.eu/images/stories/isdp-main-pdf/2011_kalniņš_the-latvian-game-changer.pdf

37 Attieksme pret korupciju Latvijā. Latvijas iedzīvotāju aptauja (Attitude toward Corruption in Latvia. Survey of Latvia's Population). SKDS, November 2009. P.9. http://delna.lv/wp-content/uploads/old_files/atskaite_korupcija_112009_1.pdf

38 Attieksme pret korupciju Latvijā. Latvijas iedzīvotāju aptauja (Attitude toward Corruption in Latvia. Survey of Latvia's Population). SKDS, November 2009. P.10. http://delna.lv/wp-content/uploads/old_files/atskaite_korupcija_112009_1.pdf

39 Attieksme pret korupciju Latvijā. Latvijas iedzīvotāju aptauja (Attitude toward Corruption in Latvia. Survey of Latvia's Population). SKDS, November – December 2007. P.12. http://www.knab.lv/uploads/free/aptauja/aptauja_2007_pieredze.pdf

40 Publiskais pārskats 2010 (Public report 2010). Corruption Prevention and Combating Bureau. P.4. http://www.knab.gov.lv/uploads/free/parskats/knab_parskats_2010.pdf

Little rigorous data exist about the causes and consequences of corruption in Latvia. The drop in the CPI since 2008 seems to have been triggered by the advent of the financial difficulties but also the growing sense of impunity by parts of the political class and backlash against anti-corruption efforts in 2005-2009. In the past, various other explanatory factors have been suggested – certain cultural traits (low level of interpersonal trust, preference for relations-based rather than rules-based social interactions), skewed political turnover due to the permanent placement of Russia-speaking parties in the opposition, extraordinary (even by standards of this region) drop in industrial output in beginning of the 1990s and consequent excessive dominance of a few branches of economy such as transit, etc. None of this is conclusive or backed properly by valid and reliable data.

Intuitively the nature of Latvian political parties appears to play a role here. Low membership, low confidence of the public and often opaque ideological orientation make all too easy for a few resourceful and motivated individuals to gain dominance in these organizations. According to professor J.Rozenvalds “Latvia has the lowest level of political participation among countries of the EU – only about 1 % of the population gets involved in parties’ activities. Thus parties are very small and they have little control from the population.”⁴¹ In the past Latvia had also some of the most expensive pre-election campaigns per voter in Europe, which strengthened bonds between parties and their private sponsors: “Latvian parties tend to over-rely on financing from wealthy business groups and sponsors, which alienates them from society, marginalizes the role of party members and makes them particularly susceptible to corruption.”⁴² State budget funding for parties has been adopted in the law but the actual payment has not commenced yet.

Whatever the exact causes, it remains to be seen whether the politically turbulent year of 2011 will bring any long-term harness on the notorious oligarch rule and political corruption. Not least the strength of the economic recovery will also likely affect behaviour on both the political and administrative levels.

41 Eksperti: pārmaiņas valstī nebūs, kamēr iedzīvotāji tās racionāli nepieprasis (Experts: There will Be No Changes in the State before the Population Demands Them Rationally). 19 April 2011. <http://www.esmaja.lv/?lapa=diskusija&id=3535>

42 Rusu, A. Latvia. Civil Society against Corruption. September 2010. P.14. http://www.againstcorruption.eu/uploads/rapoarte_finale_PDF/Latvia.pdf

V. ANTI-CORRUPTION ACTIVITIES

Latvia's anti-corruption legal framework and institutional setup contains most of the elements that are foreseen in international standards. The Criminal Law provisions are largely compliant with international standards although GRECO has indicated some deficiencies in the way Latvia criminalizes bribery, e.g. with regard to "the offering/promising and the request of an undue advantage".⁴³ There is a comprehensive, even if overly complex and rigid, law for the prevention of conflicts of interest and a complex set of regulations for the financing of political parties and campaign spending. Still, despite the relatively well-developed legal framework, legislative changes continue as well. For example, in 2010 the Political Organizations (Parties) Financing Law was amended to grant parties direct state funding starting with the year 2012.

The most rapid development of anti-corruption tools took place prior to Latvia's entry to the EU in 2004 when the EU and NATO acted as major champions of anti-corruption reforms. After that "Latvia experienced in full the „day after accession” syndrome. [...] After being the first coalition that wins re-election (by a slim majority) in the October 2006 parliamentary elections, the ruling parties become increasingly blatant and launched an immediate attack on various institutions. Describing the situation EIU (2007) notes: "The common theme seemed to be, first, a desire to limit scrutiny and weaken key institutions, and, second, a complete disregard for appearances". Thus, the Parliament's dedicated anticorruption committee [was] scrapped by shifting its functions into a body with a much wider remit; [...] an amendment of the national security laws is proposed (unsuccessfully) in order to allow ministers closer scrutiny of the anticorruption agency; the head of the KNAB [Latvian abbreviation for the Corruption Prevention and Combating Bureau] is sacked after a first failed attempt [...]"⁴⁴ The active phase of the backlash lasted from about 2005 till about 2009 when a change of the government coalition slightly sidelined the oligarch-controlled politicians. Still struggles along these lines continue into 2011 (see Chapter V Corruption profile).

The CPCB is the central institutional element in Latvia's anti-corruption system. It has gained prominence with *inter alia* a number of high profile investigations such as a major bribery case involving three former officials of the Riga Municipality detected in 2008, major bribery case in relation to public procurement by the Children's University Hospital involving the board members of the hospital detected in 2009, case for abuse of office, bribery and money laundering by a group of officials including the president of the state energy company "Latvenergo" detected in 2010.

Apart from investigations, anti-corruption has been a matter of a comprehensive policy since 1998 when the first State Program for the Prevention and Combating of Corruption was adopted. A series of successive anti-corruption strategies and action plans have been approved since then with the current strategy and action plan covering the period 2009-2013. The draft of the strategy was discussed with representatives of the civil society in a meeting of the CPCB's consultative public council on 13 November

43 Third Evaluation Round Compliance Report on Latvia. GRECO, 1 October 2010. P.11. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2010\)6_Latvia_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2010)6_Latvia_EN.pdf)

44 Rusu, A. Latvia. Civil Society against Corruption. September 2010. P.14. http://www.againstcorruption.eu/uploads/rapoarte_finale_PDF/Latvia.pdf

2008.⁴⁵ Otherwise it is safe to say that anti-corruption policy documents no longer attract the intense public interest like in the end of 1990s and first years of the XXI century.

According to the CPCB, in the period 1 January 2009 – 31 December 2010, out of 32 tasks of the action plan with concrete implementation deadlines 23 tasks had been fulfilled, 4 – fulfilled partially, 1 was being under implementation, 1 task – lost relevance and 3 tasks were not fulfilled.⁴⁶ So, at least quantitatively, the implementation of the policy has been adequate. The report of the CPCB describes the main problem for proper implementation of the action plan being “the varied experience of employees of public institutions and awareness about the importance and everyday application of anti-corruption activity plans. The anti-corruption plans of agencies and local governments should not become formalistic reporting documents but rather be used as practical instruments for the management of corruption risks, planning of anti-corruption activities and supervision of their implementation.”⁴⁷ These sentences contain a diplomatic indication of the often formalistic approach that public administration agencies have vis-à-vis anti-corruption activity plans, which all of them are required to develop and implement on a regular basis.

Latvia has two CSOs, which focus on anti-corruption constantly: Transparency International – Latvia (*Delna*) and a think tank – the Centre for Public Policy “Providus” (*Providus*).⁴⁸ The engagement of the rest of the civil society in anti-corruption-related policy reform initiatives is more sporadic.

Reforms of the party finance and campaign regulations have been one of areas where especially *Providus* has successfully participated in promoting change. For example, in 2007 *Providus* studied the issue of state funding of political parties. The study was then used in the Saeima and working group for the assessment of party finance regulations lead by the CPCB.⁴⁹ Eventually the law was amended to actually provide such state funding. A written opinion by *Providus*⁵⁰ was also one of the prompting factors, which lead to the Saeima's decision to lower the pre-election campaign expenditure cap for the early parliamentary elections to be held in Latvia in autumn 2011.⁵¹

One of many examples of policy reform engagement by *Delna* is the organization's efforts in 2009 to advocate a procedure for the selection of the director of CPCB that, at least in some vital elements, resemble an open competition.⁵² Due to the expected appointment of a new head of the CPCB, in 2011 *Delna* renewed advocacy activities to this end.

Since Latvia's accession to the EU and NATO, the involvement of international organizations and foreign countries has mostly subsided. The Soros Foundation is still a major donor and a key supporter of *Providus* and *Delna*. Also occasional anti-corruption projects are funded by the EU. Foreign embassies nowadays extend little financial support for such activities with, for example, the US embassy engaging in some limited awareness raising activities such as visits of relevant US experts and officials to Latvia. A couple of other international donors that fund civil society activities are Friedrich-Ebert-Stiftung and the Nordic Council of Ministers.

45 Agenda of the 34th meeting of the Public Consultative Council of the Corruption Prevention and Combating Bureau. 13 November 2008. http://www.knab.lv/uploads/free/skp_sedes/34_darba_kartiba.pdf

46 Informatīvais ziņojums „Korupcijas novēršanas un apkarošanas programmas 2009. – 2013.gadam īstenošana” (Information Report „Implementation of the Action Plan for the Prevention and Combating of Corruption for the Years 2009-2013”). http://www.knab.lv/uploads/free/valsts_programma/zino-knap_2010.pdf

47 Informatīvais ziņojums „Korupcijas novēršanas un apkarošanas programmas 2009. – 2013.gadam īstenošana” (Information Report „Implementation of the Action Plan for the Prevention and Combating of Corruption for the Years 2009-2013”). http://www.knab.lv/uploads/free/valsts_programma/zino-knap_2010.pdf

48 Nations in Transit 2010. Freedom House (2010). P.320.

49 2007. gada darbības pārskats un nākamā darbības gada darbības plāns (Activities Report for the Year 2007 and Activities Plan for the Next Year). Sabiedriskās politikas centrs “Providus”. http://www.fm.gov.lv/sls/atksaites/2007_717.pdf

50 Kažoka, I. Par priekšvēlēšanu agitāciju ārkārtas vēlēšanās (On Pre-election Agitation in Early Elections). *Providus*, 17 June 2011. <http://www.providus.lv/public/27516.html>

51 Uz pusi samazina tērīnu ‘griestus’ pirms Saeimas ārkārtas vēlēšanām; lielāku ‘cirpienu’ noraida (The Expenditure Cap Before Early Elections of the Saeima Cut by Half; a Greater Cut Rejected). *www.delfi.lv* 16 June 2011. <http://www.delfi.lv/news/referendums-2011/referendums/uz-pusi-samazina-terinu-griestus-pirms-saeimas-arkartas-velesanam-lielaku-cirpienu-noraida.d?id=39125709>

52 Iepriekšējā gada darbības pārskats un turpmākās darbības plāns (Activities Report for the Previous Year and Plan for Further Activities). *Biedrība “Sabiedrība par atklātību – Delna”*. 31 March 2010. Pp.2-3. http://www.fm.gov.lv/sls/atksaites/2009_483.pdf

VI. THE NATIONAL INTEGRITY SYSTEM IN LATVIA

1. LEGISLATURE

The Parliament (Saeima) lies at the centre of Latvia's purely parliamentary constitutional system. The legislature enjoys strong constitutional guarantees of its independence, which is observed in practice. Meanwhile and despite the general respect for constitutional provisions the executive dominates the actual policy making process while political parties usually maintain strong discipline over individual MPs. Although MPs are rarely prosecuted, the Latvian public generally distrusts the parliament and perceives the institution as highly affected by corruption. Many citizens remain sceptical even though the legislature adheres to rather high standards of transparency. The parliament's record in addressing anti-corruption measures is varied. During prolonged periods, anti-corruption has not been among the priorities of the parliamentary majority.

Legislature		Overall Pillar Score: 69 / 100	
	Indicator	Law	Practice
Capacity 81 / 100	Resources	100	75
	Independence	100	50
Governance 75 / 100	Transparency	75	75
	Accountability	75	75
	Integrity Mechanisms	75	75
Role 50 / 100	Executive Oversight	50	
	Legal Reforms	50	

Structure and organization

Constitutionally Latvia has a parliamentary system of governance with the Cabinet of Ministers (hereinafter - CoM) being responsible to the legislature. The unicameral legislature has a hundred members who are elected in proportional national elections once every four years. Upon initiative of the President, a referendum was held on 23 July 2011, which dissolved the Saeima (elected less than a year earlier, in October 2010). Early elections took place on 17 September 2011 (after the cut-off point for this research, which was the end of August 2011). Parties, which were commonly associated with the *oligarchs*, suffered serious setbacks in the election but it remains to be seen whether these events bring about substantial changes and

boost democratic engagement and integrity in the long term (see also: Country Profile – the Foundations for the National Integrity System; Political-institutional Foundations). The current Saeima has five political factions and 16 standing committees.

1.1. CAPACITY

1.1.1. Resources: law

Score: 100 / 100

To what extent are there provisions in place that provide the legislature with adequate financial, human and infrastructure resources to effectively carry out its duties?

According to the Law on Budget and Financial Management (hereafter – Budget Law) the legislature determines its own budget. Before the CoM submits the annual budget to the parliament, the legislature's initial request for budget allocation cannot be amended without the requestor's agreement (Budget Law: Section 19 Paragraph 4). The parliament then verifies and adopts the annual budget. The principle of the Saeima's financial independence is embedded also in the parliamentary Rules of Procedure (hereafter – RP; Section 183.1 Paragraph 1), which in Latvia have the status of the law.

As an emergency measure, under specific conditions of failure to fulfill state revenue plans, the CoM may suspend or reduce the budget allocation to the parliament only after an agreement from the Presidium of the Saeima has been received (Budget Law: Section 25 Paragraphs 2² and 2⁸).

According to the RP issues related to the financial management of the Saeima shall be decided by the Presidium on the basis of the proposals of the Administrative Committee. Finances shall be managed by the Presidium or a Saeima official appointed by the Presidium (RP: Section 184). The Saeima has full discretion as to the selection, appointment and recall of the members of the Presidium through simple majority vote. Therefore one can conclude that the authority of the Presidium in regard to the budget allocation and financial management is in full conformity with the principle of the Saeima's financial independence. The financial independence also implies the parliament's capacity to freely determine what human and infrastructure resources shall be available to it.

Overall legal provisions envisage full independence of the legislature in determining its resources as necessary for the effective discharge of its functions.

1.1.2. Resources: practice

Score: 75 / 100

To what extent does the legislature have adequate resources to carry out its duties in practice?

In terms of the overall budget, the parliament does enjoy full autonomy in its determination and occasional public discontent about too lavish funding has been virtually the only counterweight to the Saeima's willingness to spend. The Saeima budget for 2011 constitutes LVL 11,469,402 (approx. EUR 16 million), which equals approx. 0.33% of the main state budget.

The Saeima has adequate technical/ administrative support personnel. Each of the Saeima factions has a technical secretary and consultants (one consultant per every five MPs). Altogether they make up 27 staff positions. The Saeima committees have 51 consultants and 12 technical secretaries in total.⁵³ Moreover each of the MPs has a position of an assistant, which can be split between two part-time assistant (RP: Section 195 Paragraph 1). Overall the human resources are adequate as far as technical/ administrative support and some simpler expert support are concerned. According to M.Kučinskis, an MP since 2003, committee consultants

⁵³ Data provided in an electronic message by the Visitors' and Information Centre of the Saeima, 23 February 2011.

function more like support personnel rather than consultants in the true sense of the meaning with the exception of some individuals with rich experience.⁵⁴

In terms of expert support, the Legal Bureau of the Saeima plays a major role in ensuring the legal quality of new legislation. The Bureau's staff reviews legislative bills and participate in committee meetings on a regular basis. A significant limitation in Saeima's capacity is the lack of any policy analysis/ research unit although the parliamentary library does produce compilations of information upon specific requests. Apart from the mentioned legal support, a few skilled committee consultants and a certain number of specializing MPs, the Saeima has virtually no in-house policy expertise. Moreover there is little demand from MPs for the strengthening of such capacity.

The office space of the parliament is spread among several historical buildings. Although each of the committees and factions has a meeting room and some office space with several workstations, individual MPs who are not chairs of either a committee or faction and their assistants do not have private offices (their assistants often do not have even permanent workstations). The Saeima does not have adequate premises for larger open public events – hearings, seminars, etc.

Resources for transportation are adequate as the Saeima car park provides official cars to the members of the Presidium, chairs of committees and factions as well as additional cars for factions. Other MPs may apply for the use of official cars under certain conditions or receive monetary compensation for transportation if they live away from the capital.

Overall the resources of the parliament meet its demands reasonably. It is fully supported technically and administratively but its in-house policy expertise is weak. This affects the Saeima's policy making capacity adversely. The physical infrastructure is tight.

1.1.3. Independence: law

Score: 100 / 100

To what extent is the legislature independent and free from subordination to external actors by law?

The Latvian Constitution contains rather strong protection of the Saeima against dismissal. Unlike a number of democratic parliamentary systems, legislature cannot be dismissed by or upon proposal of the Prime Minister. The parliament can be dismissed in two ways before the expiry of its regular four-year term.

First, not less than one tenth of voters has the right to initiate a national referendum regarding dismissal of the Saeima. If the majority of voters and at least two thirds of the number of the voters who participated in the last elections of the Saeima vote for the dismissal of the Saeima, then the legislature shall be deemed dissolved (Constitution: Section 14).

Second, the President is entitled to propose the dissolution of the parliament. There is an important restraint though. Namely, following this proposal, again a national referendum shall be held. If in the referendum (where no minimum quorum is required) more than half of the votes are cast in favor of dissolution, the Saeima shall be considered dissolved and new elections called. If in the referendum more than half of the votes are cast against the dissolution of the Saeima, then the President shall be removed from office (Constitution: Section 48).

Draft laws may be submitted to the Saeima by the President, the Cabinet or committees of the Saeima, by not less than five members of the Saeima, or, in accordance with the procedures and in the cases provided for in this Constitution, by one-tenth of the electorate (Constitution: Section 65). Apart from this provision, the legislature holds exclusive control over its agenda. It is also the full discretion of the legislature to appoint MPs to its Presidium including the

54 Interview of Māris Kučinskis, Member of the Parliament, with author, Riga, 3 March, 2011.

Speaker (the Chairperson of the Saeima). The Presidium of the Saeima determines parliamentary session periods as well as convenes the Saeima for extraordinary meetings outside the sessions. (Constitution: Section 19) The Presidium must convene the Saeima for a meeting if the President, the Prime Minister or no less than one third of Saeima members so request (Constitution, Section 20).

MPs may not be called to account by any judicial, administrative or disciplinary process in connection with their voting or their views as expressed during the execution of their duties (defamatory statements constitute an exception under certain condition) (Constitution: Section 28).

MPs shall not be arrested, nor shall their premises be searched, nor shall their personal liberty be restricted in any way without the consent of the Saeima (except when apprehended in the act of committing a crime. The Presidium shall be notified within twenty-four hours of the arrest of any member of the Saeima; the Presidium shall raise the matter at the next meeting of the Saeima for decision as to whether the member shall continue to be held in detention or be released. When the Saeima is not in session, the Presidium shall decide whether the member of the Saeima shall remain in detention (Constitution: Section 29). Without the consent of the Saeima, criminal prosecution may not be commenced and administrative fines may not be levied against its members (Constitution: Section 30). MPs also have the right to refuse to give certain evidence (Constitution: Section 31).

Overall the Latvian Constitution provides the legislature with a high degree of independence and freedom from subordination.

1.1.4. Independence: practice

Score: 50/100

To what extent is the legislature free from subordination to external actors in practice?

Since the current constitutional system was renewed in 1993, Latvia has seen no instances of illegal interference by external state actors, e.g. the CoM in the activities of the legislature. However, the informal dominance of the executive in the legislative process is a prominent feature in the Latvian political system. During the 9th legislative period (7 November 2006 – 1 November 2010), the CoM submitted 1405 bills (more than 95% were actually adopted) compared to 294 submitted by MPs, 292 – by parliamentary committees and 2 – by the President.⁵⁵

Occasionally public debates do touch upon the issue of the executive dominance as a concern. For example, in 2007 experts concluded that “the opportunities of legislators to initiate, assess and improve legislation continue to be limited”.⁵⁶ However, such concerns never resulted in any change of practice. Several factors can explain it. For one, some degree of executive dominance is a rather common feature of parliamentary democracies. Second, such dominance was never based on breaches of constitutional or other legal norms. Third, the Saeima’s limited policy expertise makes it difficult to challenge government proposals.

Another aspect of the independence of MPs, which once in a while grabs public attention, is the party discipline, usually reinforced with a written agreement in the case of parties forming the ruling coalition. A well-known Latvian policy analyst I. Kažoka termed certain provisions of such contracts “legalized „voting machine”, which prompts the deputy to violate the Code of Ethics of Saeima members”. The provisions of the coalition agreement for the government led by Aigars Kalvītis (07 November 2006 – 20 December 2007) included an obligation for MPs not to initiate and support motions of non-confidence regarding particular ministers

⁵⁵ Statistics of the 9th Saeima. http://helios-web.saeima.lv/deputati/stat_9/Kopeja_statistika_9Saeima.pdf

⁵⁶ Golubeva, M., Reinholde, I. Efficiency and Accountability of Governance Structures. In: Rozenvalds, J. (ed.) How Democratic is Latvia. Monitoring of Democracy 2005-2007. Zinātne (2007). P.56.

and, before a decision in the coalition council [an extra legal body of the leaders of governing factions], not to initiate and support proposals to set up parliamentary investigations committees.⁵⁷ Such written agreements indeed challenge the parliamentary convention of the independence of members, which implies also the unacceptability of binding orders for MPs.

Meantime the Saeima cannot be described as being only passive and subservient at all times. M.Kučinskis mentioned reforms in the financing system of political parties and the territorial-administrative reform in Latvia as major examples when the parliament itself has initiated and/or shaped important legislation.⁵⁸

As far as the legislature's independence is concerned, much more public worry has attached to the often-suspected dependence of some parties and some MPs on outside private financial sources. In 2007 the EIU's report mentioned "the prevalence of high-level corruption in Latvian politics, which has long been vulnerable to "state capture" – excessive influence on the legislative process by certain business interests"⁵⁹ According to the Nations in Transit report "Latvia has become increasingly vulnerable to the influence of a small group of oligarchs"⁶⁰

Among instances of decisions allegedly steered by narrow outside interests, one could mention legislative amendments in the beginning of 2008, which would *inter alia* ease possibilities for MPs or persons authorized by them to access information gathered by security agencies and check the legality of special investigatory activities⁶¹ and the initiative of two MPs of the Greens and Farmers Union to amend the Law on Privatization of State and Municipal Property in June 2010, which would likely reduce state revenue by several million lats (the Saeima committee approved the bill for adoption in the course of urgency but it was withdrawn quickly after negative reactions from the public).⁶² Otherwise allegations of the Saeima working for shadowy interests of narrow groups have focused on the choice of individuals with no credentials of relevant experience in key state positions like a surgeon with virtually no record of political activity and self-admitted practice of accepting unofficial payments from patients V.Zatlers to the post of the President in 2007.⁶³ Another instance of this kind was the election of J.Jansons who had no professional record in the area of human rights to the post of the Ombudsman in 2011.⁶⁴

Political institutions such as the parliament are widely perceived as affected by corruption.⁶⁵ Following the rejection of a request to search premises of the MP A.Šlesers in a corruption-related investigation, the President V.Zatlers initiated the dissolution of the legislature on 28 May 2011. V.Zatlers referred to the dominance of oligarchs over the work of the Saeima, a position widely echoed in the public with 89 % of the economically active population believing that oligarchs influence the work of the Saeima, government and other state institutions.⁶⁶

57 Brīvību deputātiem! (Freedom for deputies!) Ivetā Kažoka's blog entry, 7 December 2007. <http://www.politika.lv/blogi/index.php?id=60516>

58 Interview with Māris Kučinskis, 3 March 2011.

59 The Economist Intelligence Unit's country report on Latvia (2007). Here quoted from Rusu, A. Latvia. Civil Society against Corruption. September 2010. P.5. http://www.againstcorruption.eu/uploads/rapoarte_finale_PDF/Latvia.pdf

60 Dreifelds, J. Latvia. Nations in Transit 2011. Freedom House (2011). <http://www.freedomhouse.org/images/File/nit/2011/NIT-2011-Latvia.pdf>

61 Ījabs, I. Ak, mirkli, apstājies: 9. Saeima in memoriam I (Beautiful Moment, Do not Pass Away!: 9th Saeima In Memoriam). Politika.lv, 31 August 2010. http://www.politika.lv/temas/ak_mirkli_apstajies_9_saeima_in_memoriam/

62 Lielajiem īpašniekiem labvēlīgie grozījumi zemes privatizācijā 2010.gadā (Amendments in the Privatization of Land Favorable to the Big Owners in 2010). Kandidāti uz dēlnas.lv Transparency International – Latvia. <http://www.kandidatuuzdelnas.lv/notikumi-2006-2011/likumu-grozijumi/lielajiem-ipasniekiem-labveligie-grozijumi-zemes-privatizacija-2010gada/>

63 Valsts prezidenta amatā ievēl Valdi Zatleru (Valdis Zatlers Elected to the Post of the President of State). Delfi.lv, 31 May 2007. <http://www.delfi.lv/archive/article.php?id=18051791>

64 Jaunais tiesībsargs – Juris Jansons (The New Ombudsman – Juris Jansons). Apollo, 3 March 2011. <http://www.apollo.lv/portal/news/articles/231235>

65 Global Corruption Barometer 2010 report. http://www.transparency.org/policy_research/surveys_indices/gcb/2010/results

66 89% iedzīvotāju domā, ka oligarhi ietekmē Saeimas un valdības darbu (89 % of the Population Think that Oligarchs Influence the Work of the Saeima and Government). Diena.lv, 7 June 2011. <http://www.diena.lv/sabiedriba/politika/89-proc-iedzivotaju-doma-ka-oligarhi-ietekme-saeimas-un-valdibas-darbu-13887326>

To conclude, the Saeima functions and forms its relations with other bodies well within the boundaries stipulated by the Constitution. Meantime its independence as a body and on the level of individual MPs suffers from the executive dominance, crude methods used to ensure party discipline and suspected disproportionately strong influence of certain business groups.

1.2. GOVERNANCE

1.2.1. Transparency: law

Score: 75 / 100

To what extent are there provisions in place to ensure that the public can obtain relevant and timely information on the activities and decision-making processes of the legislature?

Meetings of the Saeima are public (Constitution: Section 22) and they are broadcasted on the public radio (RP: Section 77, Paragraph 2). According to the RP plenary meetings are audio recorded and written transcripts are prepared based on these recording (Section 145). The transcripts are to be published in the official bulletin (RP: Section 147 Paragraph 1). The law does not oblige the Saeima explicitly to publish voting records with information on how individual MPs voted. The Saeima may decide by a majority vote of not less than two-thirds of the members present to sit in closed session (Constitution: Section 22).

Also committee meetings are open to the public unless the Saeima or the committee has decided otherwise (RP: Section 159). Physical access is subject to obtaining an entry pass to the parliament premises though. Meetings of those committees that are responsible for legislation are audio recorded but there is no requirement to publish these recordings (RP: Section 163 Paragraph 3).

The agendas of regular plenary meetings are to be announced at least 48 hours earlier (RP: Section 42 Paragraph 1). There is no corresponding formal requirement for committee agendas.

The work of journalists in the Saeima is subject to a regime of accreditation under provisions stipulate in regulations adopted by the CoM (Regulations No. 870, 24 October 2006, Procedure for the Accreditation of Mass Media Journalists and Other Representatives in Accrediting Institutions). To receive accreditation, the head of the respective media must submit an application and the journalist must submit a simple questionnaire. The accreditation can be withdrawn if the journalist *inter alia* publishes or disseminates inaccurate or false information. (Articles 18.5 and 18.6 of the Regulations)

No explicit legal provisions require the disclosure of draft bills or other Saeima documentation but such information could be requested under Section 100 of the Constitution guaranteeing the right to freedom of expression, which includes the right to freely receive, keep and distribute information and to express his or her views. The parliament is also subject to the constitutional provision guaranteeing everyone the right to address submissions to state or local government institutions and to receive a materially responsive reply (Constitution: Section 104).

Asset and income declarations of MPs shall be accessible to the public (apart from some private data, e.g. addresses of residence and properties) and the State Revenue Service (hereinafter -SRS) has the formal obligation to verify whether declarations have been submitted and filled according to the established order (law „On Prevention of Conflict of Interest in Activities of Public Officials” (hereafter – Conflict of Interest Law): Section 28, Paragraph 1). Meanwhile there is no legal requirement for MPs to state reasons for and disclose consultations that they have had in connection with proposed amendments to legislative bills already under review in the parliament. There is no register of lobbyists either.

During the last years, there has been growing criticism against secret votes, which are legally stipulated for the appointment of officials. In July 2011, the Saeima approved in the first reading a bill that would foresee open voting for the appointment of most of the officials.⁶⁷

Overall comprehensive legal provisions guarantee free access to the information about the functioning of the Saeima. Certain disclosure practices are not established in the law and only some minor aspects of transparency are not covered.

1.2.2. Transparency: practice

Score: 75 / 100

To what extent can the public obtain relevant and timely information on the activities and decision-making processes of the legislature in practice?

Access of the media to the legislature and possibilities of unhindered coverage have seldom been a matter of concern in Latvia since the renewal of the country's independence. Accreditations to media representatives are awarded free of charge and in a hurdle-free and non-discriminatory manner. The media usually do not complain about any obstacles in covering the activities of the Saeima. A notable exception was the withdrawal of accreditation for representatives of a far-right paper *DDD* in 2005. Later the court deemed this withdrawal illegal.⁶⁸

The website www.saeima.lv is the main tool for publishing the parliament's information. Apart from general information about the structure and membership of the legislature, the website provides access to a comprehensive and up-to-date data base of all bills and other motions under consideration in the Saeima. There it is possible to access the text of every bill since its submission to the parliament as well as their amendments in the course of various stages of adoption. Clear and up-to-date information is available regarding the stage in which a bill finds itself at any given time.⁶⁹

The website also contains video recordings and transcripts of all plenary sessions plus the results of all votes and, if the vote is open like in most cases, also the vote of every individual MP. Documents like written responses of government ministers to questions and interpellations of MPs are also accessible there. Agendas of committee meetings are routinely posted on the website about a week beforehand.⁷⁰ Agendas of plenary sittings are posted on the internet some two days before sittings.⁷¹

Declarations of MPs are routinely posted on the website of the SRS along with declarations of all other public officials.⁷² The main deficiency of the declarations system is associated with the general weakness of control over assets of physical persons in Latvia. Hence, at least theoretically, it is easy for public officials to hide their assets under the names of other individuals who do not have the obligation to file public officials' declarations. Attempts to introduce a general income and assets declaration for the population at large for taxation purposes have been made and failed repeatedly over many years.⁷³

Certain categories of public information are not posted on the internet but are to be re-

67 Aizklāto balsojumu atcelšana (The Abolition of Secret Votes). Kandidāti uz delnas.

<http://www.kandidatiuzdelnas.lv/notikumi-2006-2011/likumu-grozījumi/aizklato-balsojumu-atcelsana/>

68 Lēmumu apturēt akreditāciju Saeimā laikraksta "DDD" pārstāvēm atzist par prettiesisku (The Decision to Withdraw the Saeima Accreditation for Representatives of the Newspaper "DDD" Found Illegal). LETA, 15 December 2009. <http://www.diena.lv/sabiedriba/politika/lemumu-apturet-akreditaciju-saeima-laikraksta-ddd-parstavem-atzist-par-prettiesisku-704103>

69 The searchable database of legislative bills of the 10th Saeima is found here: <http://titania.saeima.lv/LIVS10/SaeimaLIVS10.nsf/webAll?OpenView>

70 Committee agendas of the 10th Saeima are found here: <http://titania.saeima.lv/livs/saeimasnotikumi.nsf/webComisDK?OpenView&restrictToCategory=22.08.2011&count=1000>

71 Plenary agendas of the 10th Saeima are found here: http://titania.saeima.lv/LIVS10/SaeimaLIVS2_DK.nsf/DK?ReadForm

72 The database of public officials' declarations is available here: http://www6.vid.gov.lv/VID_PDB/VAD

73 See, for example, one of numerous articles that have focused on the problem for many years: Vilks, A. Caurumi ienākumu kontrolē – kā nelāpīt, bet novērst? (Holes in the Control of Income – How to Prevent rather than Patch) Politika.lv, 6 October 2004. http://www.politika.lv/temas/tiesiska_valsts_un_korupcija/4276/

quested, e.g. protocols of committee meetings. One relatively important limitation to the Saeima transparency is that the state budget law provides only a very rough breakdown of the Saeima's expenditure and more detailed information is not published.

The Saeima has its Visitors and Information Centre, which *inter alia* organizes excursions to the parliament. While visiting the premises of the legislature is possible every working day and free of charge, an opportunity to follow a plenary meeting continuously in presence is not among the offered services. The centre is also in charge of collecting and forwarding queries by citizens. Such queries are answered as a rule although the quality of responses cannot be assessed here.

Overall the Saeima sticks to a high degree of transparency, which in practice is even higher than the minimum standards required by the law. Lately by far the most prominent transparency-related controversies have been instances of secret vote when appointing officials. This happened, for instance, in 2010 when the parliament failed to approve the incumbent PG for his second term in office. A number of MPs who pledged their support before the secret vote apparently did elect differently.⁷⁴ The case prompted a major public debate about the secretive manner of the work of parliamentarians even though their actions did not violate any legal provisions. Secret voting on appointments is a common parliamentary practice in many countries.⁷⁵

1.2.3. Accountability: law

Score: 75 / 100

To what extent are there provisions in place to ensure that the legislature has to report on and be answerable for its actions?

The Constitutional Court (hereinafter - CC) represents probably the most important restraint on the parliament's actions. Matters to be adjudicated in the CC include compliance of laws with the Constitution, compliance of international agreements signed or entered into by Latvia (also until the confirmation of the relevant agreements in the Saeima) with the Constitution, compliance of other regulatory enactments or parts thereof with the norms (acts) of a higher legal force, compliance of other acts of the Saeima and the Speaker of the Saeima, except for administrative acts, with law (Constitutional Court Law: Section 16). In cases of alleged infringement of fundamental rights, any person has the right to submit an application for adjudication in the CC.

Apart from transparency requirements, the Saeima does not have any explicit obligations to cooperate with NGOs or other citizen groups. On 30 March 2006 the Saeima adopted a declaration on cooperation with NGOs. In the declaration, the Saeima pledged *inter alia* to appoint coordinators for cooperation with NGOs in the legislature as a whole and in each of the committees, involve representatives of NGOs in the work of committees, set up a procedure for the review of proposals to improve bills and draft resolutions, organize a joint forum of NGOs and leaders of the parliament and its committees at least once a year. However, no provisions make it mandatory to either accept proposals by NGOs or provide explanations as to why a proposal has not been adopted.

Another accountability mechanism is provided in the constitutional provision, which allows the President, by means of a written and reasoned request to the Chairperson of the Saeima, require that a law adopted by the Saeima be reconsidered. Still, if the Saeima does not

74 Saeima neievēl Maizīti; ģenerālprokurors sola atklāt 'politisko spiedienu' (The Saeima Fails to Elect Maizītis; the Prosecutor General Pledges to Reveal the 'Political Pressure'). Delfi.lv, 15 April 2010. <http://www.delfi.lv/news/national/politics/saeima-neievēl-maiziti-ģenerālprokurors-sola-atklāt-politisko-spiedienu.d?id=31260525>

75 See, for example: Kažoka, I. Parlamentārā slepenība (Parliamentary Secrecy). Politika.lv 27 April 2010. http://www.politika.lv/temas/politikas_kvalitate/parlamentara_slepeniba/ and the press release of Transparency International – Delna, which required the termination of secret votes in the Saeima: „Pirmie 10 soļi, kā atgūt nozagto Latviju” (The First 10 Steps to Regain the Stolen Latvia). 1 June 2011. <http://delna.lv/raksti/category/preses-relizes/page/2/>

amend the law, the President may not raise objections a second time (Constitution: Section 71). Citizens may initiate a procedure to dissolve the legislature (Constitution: Section 14). While never used (this provision came into force only in November 2010), theoretically it has a potential to enhance the public accountability of the legislature.

Limitations in the accountability of the legislature include the lack of requirement for MPs to substantiate amendments that they propose to current bills and missing requirement to publish an audited report about the parliament's own budget discharge. To conclude, accountability requirement in the law are fairly strong but with a few loopholes.

1.2.4. Accountability (practice)

Score: **75** / 100

To what extent do the legislature and its members report on and answer for their actions in practice?

Constitutionally the legislature enjoys supremacy, which means *inter alia* that it does not have any explicit obligation to provide explanations about its decisions to other state bodies apart from the CC when a particular act is being challenged. Otherwise explanations can be requested and are provided to a greater or lesser degree in the less formal manner of public consultations and contacts with the media.

The CC provides the main channel for complaints against the legislature. In 2008 (the latest year about which the CC has compiled statistics) the court decided to initiate 18 cases where provisions of laws were challenged. In 9 of those cases provisions of law were deemed null and void.⁷⁶

According to the Global Integrity Report about Latvia "Since its establishment in 1996, the CC has completed reviews of approximately 65 cases where particular norms of laws adopted by the legislature have been disputed. When found to be inconsistent with the Constitution, the norms have been voided."⁷⁷ Overall the practice of the CC constitutes a major check on the Saeima legislative activity.

The President V.Zatlers (in office 2007-2011) returned 13 laws for a repeated review in the Saeima. In 11 out of these cases the Saeima took into account the President's objections fully or partially.⁷⁸ Although the Saeima does not have any formal requirement to explain the reasons for its support or opposition to the President's objections, in practice the said objections usually do prompt some public debates with inputs from the parliamentarians.⁷⁹ On 28 May 2011 V. Zatlers used the potent lever of initiating the dissolution of the Saeima, a move, which also exemplifies the accountability of the parliament.

The legislature practices public consultations. Their most common forms are the participation of NGOs in the Saeima committee meetings as well as meetings with individual MPs. Meetings with factions are also common. In a 2008 survey of 86 NGOs, 70% of organizations responded they had met individual MPs, another 70% – parliamentary committees, and 60% – factions. While the openness of committee meetings was mentioned most frequently (55%) as a factor facilitating cooperation, delayed access to information was mentioned most frequently (65%) as a factor hampering cooperation (true, the survey did not specify what kind of information was meant).⁸⁰ This serves as an indication that, apart from information disclosed in a routine manner, the Saeima is generally not very proactive in informing stakeholders in

76 Unpublished statistical data provided upon request by the Head of the Chancellery of the Constitutional Court Gunta Barkāne on 13 April 2011.

77 Global Integrity Report 2007. Scorecard on Latvia. <http://report.globalintegrity.org/Latvia/2007/scorecard/39>

78 Source: the website of the President of State. http://www.president.lv/pk/content/?cat_id=8309&lng=lv

79 See, for example: Sprance, I. *Dalēji noraida prezidenta iebildumus mediju likumā* (President's Objections to the Media Law Partially Rejected). *Ir.lv* 6 July 2010. <http://www.ir.lv/2010/7/6/daleji-noraida-prezidenta-iebildumus-mediju-likuma>

80 Survey carried out by Civil Alliance – Latvia, unpublished, provided in email on 21 February 2011.

particular sectors. Moreover the Saeima has no practice of hosting broader public hearings.

Overall the existing accountability mechanisms function adequately but it is still possible to avoid explanations regarding some controversial Saeima appointments to senior state offices and proposed legislative amendments to current bills. For example, in December 2010 the Saeima failed to elect a reputable candidate for the Supreme Court A.Judins who had received all clearance from judiciary bodies and in March 2011 elected an ombudsman with no credentials in human rights J.Jansons without facing any compelling need to provide reasons for the choices.

1.2.5. Integrity mechanisms: law

Score: **75** / 100

To what extent are there mechanisms in place to ensure the integrity of members of the legislature?

Latvia has a rather well-developed legal framework against corruption. The central piece of legislation is the Conflict of Interest Law. The law covers public officials from all branches of state authority including MPs. It includes an incompatibility clause allowing MPs to hold only a few types of positions/jobs in addition to their parliamentary office. The permitted additional jobs include offices held in accordance with laws or international agreements, offices in a trade union, an association or foundation, a political party or a religious organization, the job of a teacher, scientist, doctor, professional sportsperson and creative work, other offices or job in the Saeima or the Cabinet if such is specified in decisions of the Saeima and its institutions, or regulations or orders of the Cabinet, or offices held in international organizations and institutions if such has been determined by a decision of the Saeima, Cabinet regulations or orders (Conflict of Interest Law: Section 7, Paragraph 2).

Like all public officials, MPs shall not obtain income from capital shares and stock, as well as from any kind of securities in commercial companies that are registered in tax-free or low-tax countries and territories (Conflict of Interest Law: Section 9, Paragraph 3). During office and two years thereafter, MPs cannot be the shareholders, stockholders and partners of commercial companies or individual merchants that receive orders for procurement for state and local government needs, state financial resources, state-guaranteed credits or state privatization fund resources, except the cases where they are granted as a result of an open competition (Conflict of Interest Law: Section 10, Paragraphs 1 and 2).

Apart from the mentioned incompatibilities, MPs are largely exempt from prohibition to act in a conflict of interest. The law contains an explicit exemption from the conflict of interest prohibition when MPs participate in the adoption of Saeima administrative acts, normative acts, political decisions or their own salaries or appointments (Conflict of Interest Law: Section 11, Paragraphs 5 and 6). Reasons for such exception include the dominant formalistic approach to conflicts of interest in Latvia making it complicated to assess situations where the decision in question is of general nature (like most laws are) and does not have a designated addressee (which most laws do not have).

All public officials including MPs are subject to a restriction on accepting gifts. A public official fulfilling the duties of office is permitted to accept only diplomatic and official gifts, e.g. gifts by official representatives of foreign states or by the authority in which the relevant official serves (Conflict of Interest Law: Section 13.¹, Paragraph 1). Privately public officials are prohibited from accepting gifts if in relation to the donor the public official has in a period of two years prior to receipt of the gift carried out certain official functions. Public officials are also prohibited from carrying out such functions regarding persons from whom they have accepted gifts in a past period of two years (Conflict of Interest Law: Section 13.², Paragraphs 1 and 2).

The Conflict of Interest Law requires MPs to fill detailed declarations, which are made available to the public in the internet (apart from some private, e.g. addresses of residence and properties).

Otherwise MPs are subject to the Code of Ethics for Members of the Saeima of the Republic of Latvia. The Mandate, Ethics and Submissions Committee supervises the observance of the Code of Ethics. A specialized executive agency (CPCB) controls the implementation of the Conflict of Interest Law. The bureau has the authority to apply administrative fines to MPs subject to the consent of the Saeima. Under specific condition, breaches of the Conflict of Interest Law can result in criminal liability.

Meanwhile there is no legal requirement for MPs to state reasons for and disclose consultations that they have had in connection with proposed amendments to legislative bills already under review in the parliament. There is no register of lobbyists either.

Still, in general, the formal integrity framework for MPs is adequate and the nearly complete exemption from conflict of interest rules in relation to political decisions is one of the few loopholes of some significance.

1.2.6. Integrity mechanisms: practice

Score: 75/100

To what extent is the integrity of legislators ensured in practice?

According to Ivars Ījabs, an assistant professor of political science at the University of Latvia, since its adoption in 2006, the Code of Ethics has had a minimal impact on the environment in the legislature.⁸¹ Indeed, only two MPs have been sanctioned in accordance with the code for relatively marginal violations (one of them used an offensive expression in the address of his opponent MPs, another showed an offensive gesture to protesting people outside the parliament building). An oral warning was issued in the former case and a written warning plus respective public announcement in the plenary sitting and publication in the official bulletin in the latter case.

During the 2006-2010 and 2010-2011 parliamentary periods, the Saeima consented with administrative punishment of 26 MPs (some of them more than once) upon proposal of the CPCB. All in all, the Saeima satisfied all requests to punish MPs administratively.⁸² These situations did not involve any major corruption but often times rather conflict-of-interest-related cases, for example, MPs employing their relatives as assistants or renting residence premises from their relatives so as to be able to collect compensations for rent expenses; violations of incompatibility provisions, i.e. MPs held prohibited outside posts alongside their parliamentary seats; participation in decision making, which affected the MPs' own interests, e.g. regarding monetary compensations of certain expenses.

In this period, only once there was a request to permit the criminal indictment of an MP for forgery of election documentation. The Saeima agreed to the request. In May 2011, an extraordinary situation unfolded when permission was requested for the search of premises of a member of the Saeima A.Šlesers in a corruption-related investigation. The Saeima rejected the request. Overall the usefulness of the immunity of MPs against administrative punishment and search appears questionable because it breeds the sense about MPs being above the law while offering little benefit.

Despite few particular revelations of corruption crimes among members of the parlia-

81 Interview of Ivars Ījabs, Assistant Professor of political science at the University of Latvia, with author, Riga, 15 February, 2011

82 Data from the website of the Mandate, Ethics and Submissions Committee. <http://mandati.saeima.lv/lemuma-projekti/par-deputtu-saukanu-pie-administrativs-atbildib/82-9-saeima-deputtu-saukanu-pie-administrativs-atbildibas> <http://mandati.saeima.lv/lemuma-projekti/par-deputtu-saukanu-pie-administrativs-atbildib/157-10-saeima-par-deputatu-saukanu-pie-administrativs-atbildibas>

ment, the Saeima traditionally enjoys low public trust, which fell particularly low during the 2006-2010 and 2010-2011 parliamentary periods. Only some 15% trusted the national parliament in Latvia in November 2010.⁸³ This mistrust is likely caused by the wider perception of systemic corruption in the Latvian party system rather than particular offences committed by particular MPs. Moreover the economic crisis of 2008-2010 surely played a role in the public dissatisfaction too.

The data of mistrust are eloquently complemented by widespread opinions about the severity of political corruption in Latvia. According to the GCB 2010 in Latvia the parliament was perceived as an institution much affected by corruption (only political parties were perceived as even more affected).⁸⁴ So all in all there is little hard data about corruption of MPs but the public opinion regarding the institution's integrity remains highly skeptical.

1.3. ROLE

1.3.1. Executive oversight

Score: 50 / 100

To what extent does the legislature provide effective oversight of the executive?

The Saeima possesses most of the tools for executive oversight commonly found in democratic parliamentary systems. The Saeima has authority to appoint parliamentary investigatory committees for specified matters upon request by no less than one-third of MPs (Constitution: Section 26). The law does not specify the scope of authority of such committee in terms of subject matters that it may assume. Hence one can conclude that such committee would have the legitimate right to review any aspect of executive activity. Procedurally such committee has the right to invite and question also private persons and, if necessary, in cooperation with experts to audit government, local government and private establishments and enterprises, provided that the private establishments and enterprises directly or indirectly receive state subsidies, loans, government contracts or participate in the privatization of government or local government property (RP: Section 173, Paragraph 1).

In practice the use of parliamentary investigatory committees has been weak. No such committee was established in the 2002-2006 parliamentary period and only one – in the 2006-2010 parliamentary period. This committee was established as a reaction to an ethics and corruption-related scandal among judges. It produced a report of scandalously low quality⁸⁵ and was given extra time to complete its work only to dissolve a few months later with no result. Yet another investigatory committee was established in February 2011 about possible illegal actions in the nationalization and restructurization process of the *Parax* bank, which became practically insolvent during the recent financial crisis.

The Saeima has the right to submit to the Prime Minister or to an individual minister requests and questions which either they, or a responsible government official duly authorized by them, must answer. The Prime Minister or any Minister shall furnish the relevant documents and enactments requested by the Saeima or by any of its committees (Constitution: Section 26). Unlike investigatory committees, questions are still a widely used instrument. 253 questions were directed towards the Cabinet and its members in the 2006-2010 period. 36 requests were tabled but only one was approved by the parliament (since the RP link approval of a

83 Eurobarometer 74. 2010. gada rudens (Autumn of 2010). Nacionālais ziņojums Latvija (National Report Latvia). P.7. http://ec.europa.eu/public_opinion/archives/eb/eb74/eb74_lv_lv_nat.pdf Last accessed 4 March 2011.

84 Global Corruption Barometer 2010. Question 2: To what extent do you perceive the following institutions in this country to be affected by corruption? http://www.transparency.org/policy_research/surveys_indices/gcb/2010/results Last accessed on 4 March 2011.

85 For a critical review of the report see: Kalniņš, V., Litvins, G. Pat ja gribēja kā labāk, sanāca ... Jurista Vārds, 11 November 2008. <http://www.juristavards.lv/index.php?menu=DOC&id=183457>

request with a possible motion of non-confidence the ruling majority usually blocks requests). According to M.Kučinskis the significance of questions is limited in part because of the scheduled timing of answer sessions at 17:00 every Thursday, i.e. often several hours after the end of the plenary meeting when many MPs and many journalists have already left the parliament.⁸⁶

The Saeima has the authority to appoint a number of senior officials. In order to fulfill their duties, the Prime Minister and other Ministers must have the confidence of the Saeima and they shall be accountable to the Saeima for their actions. If the Saeima expresses no confidence in the Prime Minister, the entire CoM shall resign. If there is an expression of no confidence in an individual Minister, then the Minister shall resign and another person shall be invited to replace them by the Prime Minister (Constitution: Section 59). Other than that, the Saeima appoints also the President of State, the State Auditor, the PG, director of the Constitution protection Bureau, the head of the CPCB, judges, the Ombudsman, and a number of other officials. The Saeima's discretion is limited regarding some of these officials where the right to nominate a candidate is vested in another official, e.g. candidates for the post of the PG shall be nominated by the President of the Supreme Court.

The last time when Cabinet members had to resign due to non-confidence vote in the parliament was in 2004 when the Saeima rejected a draft state budget for the year 2005 (according to the RP rejection of the annual budget bill has the effect of expressed non-confidence in the Cabinet, Section 30). Otherwise successful non-confidence votes are uncommon and parties forming the governing coalition are usually the organizations that effectively control the actions of their ministers. Overall, given that the composition of the CoM is the function of the majority of the parliament and there is a natural party-political merger between the two, the oversight of the executive is not a priority for the Saeima (save for some opposition activity, which is limited partly because most major parliamentary actions, e.g. the expression of non-confidence, are subject to the majority vote anyway).

1.3.2. Legal reforms

Score: 50/100

To what extent does the legislature prioritize anti-corruption and governance as a concern in the country?

Latvia has had the main pillars of its anti-corruption legal framework in place since about 2002. The country has ratified the Council of Europe anti-corruption conventions and the UN Convention against Corruption. However, the anti-corruption legislation keeps on developing.

The record of the Saeima in the 2006-2010 parliamentary period was mixed. On the one hand, several important legislative steps were made. In November 2009, the parliament adopted extensive amendments to the Criminal Law extending the scope of liability for bribery in the private sector and among public sector employees who according to Latvian legislation are not public officials, e.g. medical personnel in state and municipal institutions. In June 2010, the parliament adopted amendments to the Political Parties Funding Law providing direct state funding to parties first in 2012. This is believed by some experts to be a measure, which reduces, even if minimally, the dependence of parties of special private interests.⁸⁷ Upon initiative of the President, the Saeima also amended the Constitution to allow citizens to initiate a procedure to dissolve the legislature, which at the time of adoption was widely regarded an important lever to enhance the public accountability of the legislature.

⁸⁶ Interview with Māris Kučinskis, 3 March 2011.

⁸⁷ Interview with Ivetta Kažoka, PROVIDUS' researcher on political party and electoral campaign regulation, 28 April 2011.

Meanwhile some sound legislative initiatives were bogged down. For example, for a long time the parliament failed to adopt amendments to the law, which would criminalize certain violations in the funding of political parties and thus allegedly facilitate the detection of such violations. A revelation by some MPs showed that the former chairperson of the parliament's Legal Committee allegedly stopped the progress of the bill by counterfeiting the protocol of the Legal Committee's meeting, which approved of the proposal.⁸⁸

However, the parliament's reluctance to further anti-corruption progress was seen most clearly in appointments to key positions. In 2009 the parliament appointed to the post of the head of the CPCB an individual with no previous anti-corruption credentials who later proved to be an unsuccessful manager, got engaged in prolonged and devastating conflicts within the institution and was finally dismissed from office in June 2011.⁸⁹ In 2010 the highly respected PG, under whom several important corruption-related prosecutions had taken place, did not receive necessary support for re-appointment for a second term.

The Saeima became more active in supporting initiatives to strengthen the rule of law after the President initiated its dissolution. Thus the Saeima adopted a bill criminalizing violations of party finance regulations if committed on a large scale bill in the first and second reading in July 2011 (final reading pending as of August 2011). In June 2011, the Saeima swiftly followed the recommendation of a committee headed by the PG and motion by the CoM and dismissed the widely criticized head of the CPCB Normunds Vīlnītis from office as unsuitable for the position.

During prolonged periods, anti-corruption efforts and strengthening of the rule of law in general have not been priorities for the Saeima majority. Although certain progressive amendments have been adopted, the net result of the Saeima activities in this field has been mediocre. The positive engagement of the Saeima strengthened after the President initiated its dissolution.

1.4. KEY RECOMMENDATIONS

- The Saeima should strengthen its in-house policy expertise by creating a special analytical unit with highly qualified personnel.
- The Saeima should introduce transparency provisions covering MPs' contacts with lobbyists.
- Transparency of the Saeima committees should be improved. Minutes and audio recordings of committee meetings should be archived and web-published. Moreover live videostreaming of committee meetings should be made available to the public.
- The Saeima budget expenditure should be subject to external auditing (or audited by the State Auditor's Office) and the results of such audits should be published. Both financial and regularity (performance) audits should be carried out.
- The Saeima should host broad public hearings on important issues. This would not only strengthen participation and accountability but also prompt the Saeima to better use policy expertise that is found in the civil society.
- MPs should be required to provide substantiation when they submit proposed amendments to bills already under review in the legislature.
- The usefulness of the immunity of MPs against administrative punishment and search

88 Pret Muižnieci sāk kriminālprocesu par iespējamo Juridiskās komisijas protokola viltojumu (Criminal Proceedings Initiated against Muižnieci for Possible Counterfeiting of the Protocol of the Legal Committee). [www.DELFI.lv](http://www.delfi.lv) 2 June 2011. <http://www.delfi.lv/news/national/criminal/pre-muiznieci-sak-kriminalprocesu-par-iespejamo-juridiskas-komisijas-protokola-vilttojumu.d?id=38869649>

89 Saeima atbrīvo Vīlnīti no KNAB vadītāja amata (Saeima Dismisses Vīlnītis from the Position of the Head of KNAB). [www.DELFI.lv](http://www.delfi.lv) 16 June 2011. <http://www.delfi.lv/news/national/politics/saeima-atbrivo-vilniti-no-knab-vaditaja-amata.d?id=39125165>

should be reexamined and possibly repealed in order to counter the sense about MPs being above the law (immunity against criminal prosecution could stay).

- It is important that the parliament prioritizes anti-corruption efforts and its members act so as to strengthen public trust. However, this recommendation falls outside what can be achieved in institutional terms and relate to wider characteristics of Latvia's party system and political culture.

2. EXECUTIVE

The Cabinet of Ministers (hereinafter - CoM) and its supporting body – the State Chancellery (hereinafter - SCh) – have undergone major resource cuts during Latvia's continuous efforts to consolidate the state budget in 2009 and 2010. The reduction of policy development and coordination functions of the SCh marked even a formally undeclared move towards the decentralization of the public sector governance (presumably to be compensated by the Suprasectorial Coordination Centre, which shall begin operation in 2012). The formal integrity framework for ministers is satisfactory. Meanwhile exposure by the media shows that various sorts of conflicts of interest and shuttling of ministers between their public roles and private business are commonplace. It also remains an issue of some controversy whether the existence of the Coalition Council, an extralegal body where a relatively narrow circle of politicians from ruling political parties meet regularly, represents an infringement on the competency of formal bodies.

Executive		Overall Pillar Score: 78 / 100	
	Indicator	Law	Practice
Capacity 83 / 100	Resources	-	75
	Independence	100	75
	Transparency	100	75
Governance 75 / 100	Accountability	100	50
	Integrity	75	50
Role 75 / 100	Public Sector Management	75	
	Legal System	75	

Structure and organization

The CoM is the supreme executive body. Constitutionally the CoM is responsible to the legislature and must enjoy its confidence in order to be able to operate. The CoM consists of the Prime Minister and ministers. The Prime Minister may invite one deputy Prime Minister and one or several ministers for special tasks. The Prime Minister may appoint also a state minister with competency limited to a specific area. As of August 2011, the CoM consisted of the Prime Minister and 13 ministers. In addition to the CoM meetings, draft legislative acts and policy documents are reviewed in two venues functioning under the auspices of the Cabinet. These are meetings of state secretaries (highest civil servants in ministries) where a broad circle of participants in advisory capacity may be present and the Committee of the CoM with participation of the CoM members, state secretaries, authors of draft documents and other stakeholders from public institutions and NGOs. Directly subordinated to the Prime Minister is the State Chancellery, an institution for the administrative support of the CoM as well as central planning, elaboration and coordination of the state policies (with special responsibility for the development policy of the state administration). The SCh includes also the Prime Min-

ister's Office with politically appointed advisors. The Sch supervises the State Administration School. Starting with the year 2012, a new institution under the Prime Minister – Suprasectorial Coordination Centre – shall be responsible for development planning, supervision of the implementation of policy planning documents and coordination.

2.1. CAPACITY

2.1.1. Resources: practice

Score: 75 / 100

To what extent does the executive have adequate resources to effectively carry out its duties?

In 2009 the executive did not suffer from budget cuts quite as much as a number of other public sector institutions but the reduction was still considerable. The budget for the operation of the CoM is LVL 2.3 million (approx. EUR 3.3 million) for the year 2011. It is considerably less than the budget of the legislature but roughly corresponds to the much smaller size of the CoM and its supporting body – the Sch.

Due to the shrinking funding, the number of employees in the Sch dropped from 156 at the end of 2008 to 129 at the end of 2009.⁹⁰ As the result, according to the head of the State Chancellery from 2000 to 2010 G.Veismane in practice the functions of the Sch have been largely reduced to the preparations of the meetings of the CoM and the Committee of the CoM, at least partially neglecting the planning and coordination functions. According to her judgement the available resources are sufficient given the *de facto* reduced functions.⁹¹

Considering that the policy development and coordination functions still remain within the formal competency of the Sch and, in an interview in April 2011, the current head of the State Chancellery E.Dreimane still maintained the importance of inter-sector coordination⁹², it can be concluded that this institution has some human-resource related shortages. E.Dreimane also stated that the Sch needed to strengthen its strategic analysis capacity.⁹³

True, in June 2011, the Development Planning Law was amended providing that, with the year 2012, a new institution under the Prime Minister – Suprasectorial Coordination Centre – shall be responsible for development planning, supervision of the implementation of policy planning documents and coordination.

2.1.2. Independence: law

Score: 100 / 100

To what extent is the executive independent by law?

According to the Constitution the CoM is an explicitly non-independent body: "In order to fulfil their duties, the Prime Minister and other Ministers must have the confidence of the Saeima and they shall be accountable to the Saeima for their actions." (Constitution: Section 59). Such provision is fully in line with the principles of democratic parliamentary states.

Other restrictions on the independence of the CoM include possibilities to challenge its decisions in the CC or the court of general jurisdiction if an administrative act is under question. Matters to be adjudicated in the CC include compliance of regulatory enactments or parts thereof with the norms (acts) of a higher legal force, compliance of other acts of the CoM and the Prime Minister, except for administrative acts, with law, compliance with law of such an

90 The Annual Report of the State Chancellery 2009, P.7. http://www.mk.gov.lv/file/files/aktuali/parskats_2009.pdf

91 Interview of Gunta Veismane, Head of the State Chancellery from 2000 to 2010, with author, Riga, 13 April 2011

92 Kažoka, I., Jākobsone, L. Premjera palīgs Nr. 1. (Prime Minister's Assistant No. 1. Interview with Elita Dreimane). Politika.lv, 27 April 2011. http://www.politika.lv/temas/politikas_kvalitate/premjera_paligs_nr_1/

93 Kažoka, I., Jākobsone, L. Premjera palīgs Nr. 1. (Prime Minister's Assistant No. 1. Interview with Elita Dreimane). Politika.lv, 27 April 2011. http://www.politika.lv/temas/politikas_kvalitate/premjera_paligs_nr_1/

order with which a Minister authorised by the CoMhas suspended a decision taken by a local government council (parish council) (Constitutional Court Law: Section 16). Thus the actions and decisions of the executive are subject to judicial review.

Since all of the legal restraints on the independence of the CoM are legitimate and fully compatible with principles of democratic parliamentary government, the highest score on the independence is assigned.

2.1.3. Independence: practice

Score: 75 / 100

To what extent is the executive independent in practice?

In practice, Latvia has a largely executive-dominated government system. Latvia's military structures are firmly subordinated to civil agencies. Therefore the illegitimate interference of other state bodies in the operation of the executive has never been an issue of concern.

It is an issue of some controversy whether the existence of the Coalition Council represents an infringement on the competency of formal bodies.⁹⁴ The Coalition Council is an extra-legal body where a relatively narrow circle of politicians from ruling political parties meets regularly and seeks inter-party agreements on political issues. It allows for building consensus among the leadership of the majority parties and hence smoother adoption of relevant decisions within the formal proceedings in the CoM and the Saeima.

In the past, some coalitions described the composition and functions of the Coalition Council in the so-called coalition agreements between ruling parties. The last such description of the Council was found in the coalition agreement for the CoM of Prime Minister A.Kalvītis in 2006. The agreement stipulated that the Coalition Council reviewed issues of the competence of Saeima or the government or other issues required for review by the Prime Minister or a coalition partner. The stated purpose of the Council was the cooperation of ruling factions.⁹⁵ Even though the current coalition agreement does not mention the Coalition Council, it keeps meeting once a week and remains a significant center of power largely outside public scrutiny. The coalition agreement of 2006 even included a provision making it a duty of Prime Minister to follow decisions of the Coalition Council.

2.2. GOVERNANCE

2.2.1. Transparency: law

Score: 100 / 100

To what extent are there regulations in place to ensure transparency in relevant activities of the executive?

The executive is subject to the general provisions of the Freedom of Information Law. The law divides all information, which is at the disposal of institutions, into two categories – generally accessible information and restricted access information (Freedom of Information Law: Section 3). The law specifies concrete reasons for classifying a piece of information as restricted access information.

The CoM Structure Law contains a few transparency provisions. Apart from a general clause that the CoM and subordinate agencies of state administration inform the public about

94 Brīvību deputātiem! (Freedom for deputies!) Iveta Kažoka's blog entry, 7 December 2007. <http://www.politika.lv/blogi/index.php?id=60516>
Db viedoklis: Latvijā pastāv parlamenta jeb koalīcijas padomes diktatūra (Opinion of DB: Dictatorship of the Parliament or Coalition Council Exists in Latvia). Db.lv, 18 March 2011. <http://www.db.lv/blogi-viedokli/db-viedoklis/db-viedoklis-latvija-pastav-parlamenta-jeb-koalīcijas-padomes-diktatūra-236746>

95 Latvijas Republikas valdības veidojošo 9. Saeimas frakciju Koalīcijas līgums (Coalition agreement of factions of the 9th Saeima that form the government of the Republic of Latvia). November 2006. <http://www.mk.gov.lv/lv/mk/vesture/kalvisa-valdiba-2/kalvisa-koalīcijas-līgums/>

their actions, the law stipulates that CoM meetings are open (though the Prime Minister may announce certain meetings or their parts closed) (The Cabinet of Ministers Structure Law: Section 29, Paragraphs 1 and 2). The agendas of meetings, publicly accessible draft legal acts and minutes of meetings shall be published on the website of the CoM (The Cabinet of Ministers Structure Law: Section 29, Paragraph 3). The law requires that CoM meetings are audio recorded. However, it leaves it up to the CoM to determine procedures for the use, storage and archiving of the said recordings (The Cabinet of Ministers Structure Law: Section 28, Paragraph 6). In order to hear the audio recording of an open part of a meeting of the CoM or its Committee, a person shall submit a written application to the Sch (Rules of Procedure of the Cabinet of Ministers, Article 201.⁵). Under specified conditions, also recordings of closed meetings shall be made available.

Asset and income declarations of members of the CoM as well as those of other officials shall be accessible to the public (apart from some private data, e.g. addresses of residence and properties). It is the responsibility of the SRS to publish these declarations on the internet.

The budget of the executive is made public in an annex of the annual Budget Law and explanations for budget programs are available on the website of the Ministry of Finance.⁹⁶ The State Administration Structure Law requires that public agencies/institutions (including ministries and Sch) publish the remuneration of their officials monthly and specify the name, title and paid amounts (State Administration Structure Law: Section 92, Paragraph 2).

2.2.2. Transparency: practice

Score: **75** / 100

To what extent is there transparency in relevant activities of the executive in practice?

In practice the executive fulfils all of the applicable legal obligations to publish information proactively in the joint website of the CoM and the Sch. A searchable database of proposed legal acts and their supporting documentation is available online (<http://www.mk.gov.lv/mk/tap/>) as are the agendas and protocols of the meetings of the Cabinet, CoM Committee and the Meeting of State Secretaries.

True the CoM enjoys and practices rather broad discretion to move issues, which are not draft regulatory acts, to the closed parts of its meetings. Also the use of urgency procedure (the need to follow this procedure must be substantiated but legal acts do not specify when exactly substantiation is sufficient⁹⁷) renders the process less transparent.

Also available is a public database of studies carried out or commissioned by state agencies. There is no practice to translate procedures and regulations into plain language to ensure that average citizens understand them.

Regarding requests for information under the Freedom of Information Law, in 2006 the Sch refused to disclose data on remuneration of individual officials. The requestor newspaper *Diena* filed a complaint to the court and won the case in the Senate (the supreme instance if court in Latvia) on 1 July 2010.⁹⁸ However, the relevance of this particular judgment is somewhat limited by virtue of the fact that the State Administration Structure Law was amended along the court proceedings and, as said above, now requires explicitly to publish the remuneration of officials monthly.

In another case, the Sch had refused to disclose who had classified a piece of information

96 Budžeta paskaidrojumi (Budget Explanations). http://www.fm.gov.lv/?lat/valsts_budzets/paskaidrojumi/

97 The Cabinet of Ministers Regulations No. 300 of 7 April 2009 "Rules of Procedure of the Cabinet of Ministers". Article 118.

98 Senāts atstāj negrozītu spriedumu, ar kuru Valsts kancelejai uzdots sniegt informāciju par izmaksātajām prēmijām (The Senate Leaves Without Amendment the Judgment, which Obliged the State Chancellery to Disclose Information about Bonuses Paid). Press release of the Supreme Court. 1 July 2010. <http://www.at.gov.lv/information/about-trials/2010/201007/20100701/>

as the state secret (the subject matter was a question what official, when and on what grounds classified decisions of the Prime Minister/ CoM to co-fund activities of the President from the budget of the Ministry of Defense). On 25 January 2011 the Senate ruled in favor of the petitioner and reiterated that only information included in the official list of state secrets can be classified as such and no arbitrary extension of this notion is allowed.⁹⁹

Overall the executive proactively publishes a wealth of information, which allows any citizen to gain a detailed and by and large comprehensive insight into the activities of the executive. However, in cases of some specific requests the SCh has been reluctant to disclose information and significant role of the secretive Coalition Council render the overall transparency of the executive suboptimal.

2.2.3. Accountability: law

Score: 100/100

To what extent are there provisions in place to ensure that members of the executive have to report and be answerable for their actions?

According to the Constitution the principal tools of oversight of the executive rest with the legislature. The Saeima possesses most of the tools for executive oversight commonly found in democratic parliamentary systems. The Saeima has authority to appoint parliamentary investigatory committees for specified matters upon request by no less than one-third of the MPs (Constitution: Section 26). Such committee would have the legitimate right to review any aspect of executive activity. The Saeima also has the right to submit to the Prime Minister or to an individual minister requests and questions which either they, or a responsible government official duly authorized by them, must answer.

According to the Rules of Procedure of the Saeima, not later than by 1 March, the Prime Minister shall submit to the Saeima the written annual report on the government's performance and its planned future activities (Section 118.¹ Paragraph 3). When the report is being examined at the Saeima sitting, first the Prime Minister shall be given the floor, and then a debate shall be opened (Section 118.¹ Paragraph 3). A corresponding reporting requirement is mirrored in the CoMStructure Law (Section 15, Paragraph 5). According to the Development Planning Law the report shall include also an overview of the operation of the state development planning system (Section 12, Paragraph 9).

As far as explanations are concerned, draft legal acts submitted for the review of the CoM shall be accompanied by an annotation (Rules of Procedure of the Cabinet of Ministers: Article 3). Annotations shall be prepared according to a pre-determined and rather complex form and will include justification for the necessity of the draft legal act, general impact assessment, assessment of impact on state and municipal budgets, impact on the legal system, correspondence to binding international norms, societal participation in the drafting of the act, impact of the implementation of the act on public institutions (Instruction of the CoMNo. 19, 15 December 2009, Procedure for the Initial Impact Assessment of a Draft Legal Act). However, not all kinds of draft acts require annotations to contain all of the mentioned parts.

Legal acts oblige the executive to consult with the public and/or special groups on development planning documents, i.e. official policy documents.¹⁰⁰ The law also allows the Prime Minister to invite social partners, representatives of civil society organizations, and experts to express their opinions during the meetings of the CoM (The Cabinet of Ministers Structure

99 Judgment in the case SKA – 166/2011. http://info-a.wdfiles.com/local--files/tiesu-prakse/LL%20par%20prezidenta%20izdevumiem%20vs%20VK.AL_2501_AT_SKA-0166-2011.pdf

100 Law on the Development Planning System; The Cabinet of Ministers Regulations No. 970 of 25 August 2009 „Procedure for Public Participation in the Process of Development Planning”.

Law: Sections 28, Paragraph 5).

A formalized arrangement exists between the CoM and the NGO sector based on the Cooperation Memorandum adopted on 15 June 2005 and signed by representatives of 57 organizations.¹⁰¹ A consultative council for the implementation of the memorandum was set up and includes 7 representatives of state institutions and 8 representatives of NGOs (the CoM Regulations of 10 January 2006 No. 22 “Statute of the Council for the Implementation of the Cooperation Memorandum between Non-governmental Organizations and the CoM of Ministers”, Article 6).

The Latvian law does not provide any immunity for members of the executive unless they combine their executive office with the position of an MP (according to tradition they usually do not combine these positions). Therefore a minister can be liable both administratively and criminally on the same terms as any citizen.

Thus overall accountability provisions of the executive are fully in line with accepted traditions in parliamentary democracies. Adequate provisions exist to ensure both the responsibility of the CoM vis-à-vis the legislature and involvement of the civil society in the activities of the executive.

2.2.4. Accountability: practice

Score: 50 / 100

To what extent is there effective oversight of executive activities in practice?

In practice, the oversight of the executive is not a priority for the Saeima. The use of parliamentary investigatory committees has been weak. No such committee was established in the 2002-2006 parliamentary period and only one – in the 2006-2010 parliamentary period. One new investigatory committee was established in February 2011 about possible illegal actions in the nationalization and restructurization process of the *Parex* bank, which became practically insolvent during the recent financial crisis.

Unlike investigatory committees, the legislature still uses questions widely. 253 questions were directed towards the CoM and its members in the 2006-2010 period. 36 requests about a wide range of issues were tabled but only one was approved by the parliament (since the RP of the Saeima link approval of a request with a possible motion of non-confidence the ruling majority usually blocks requests). The requests dealt with a wide range of issues including about the suspension of the head of the CPCB, supposedly inexpedient use of funds for construction projects of the Ministry of Culture, subsidies to the national air carrier *airBaltic*, etc. The only request, which was approved, dealt with the number and remuneration for board members of state-owned and municipal enterprises.¹⁰² The Prime Ministers delivers an annual report to the parliament (latest on 17 March 2011). The voluminous (about 100 pages in 2011) report is presented in an address to the plenary and describes the Prime Minister's view of current government agenda, achievements and plans.

Another mechanism of accountability is auditing. The State Audit Office shall present its opinion about annual reports of all ministries and other central state bodies (The State Audit Office Law: Section 3, Point 2) including the CoM. The task is duly fulfilled annually in practice and no indications exist of interference into the work of the State Audit Office. The opinions of The State Audit Office are often highly critical although the central executive (meaning the CoM and the sSch) is not usually found among the more heavily criticized institutions.

The so-called memorandum council of the CoM and the NGOs oversees the implementa-

101 Cooperation Memorandum of Non-governmental Organizations and the Cabinet of Ministers. 15 June 2005. http://www.mk.gov.lv/files/valsts_kanceleja/sab_lidzdaliba/sadarbibas_memorands.pdf

102 Source: database of the Saeima. http://titania.saeima.lv/LIVS/SaeimaLIVS_LmP.nsf/WEB_requests?OpenView&count=30&start=1

tion of the Memorandum. The council meets on a regular basis (10 meetings took place in 2010 and 8 meetings – in 2011 as of 31 August). The meetings cover a wide range of (sometimes narrow and technical) topics raised by various organizations. For example, the meeting on 1 April 2011 covered the following themes: the progress of activities of pedagogical-medical committees (they handle certain matters of education for minors and young adults with special needs), the register of craftsmen and their certification, the time schedule for the elaboration of documentation for the next planning period of EU structural funds), the EU structural funds projects implemented by NGOs and administered by the SCh, and a new civic participation model. According to G.Veismane the greatest gain from the participation was learning experience for the NGOs: “They learnt how to analyze processes and realized that they have the rights and opportunities to influence the decision-making process.” However, she also noted the relatively low actual priority assigned by the Prime Minister to cooperation with NGOs: “During the last government [Dombrovskis’ government: March 2009 – November 2010], the head of the Office [of the Prime Minister] came, I think, once [to the Council meeting].” The Prime Minister did attend the council at least once in 2011 on 7 April.¹⁰³

Sanctioning of ministers is rare. Latvia has seen almost no cases of criminal prosecutions against ministers. Since the restoration of Latvia’s independence, the only minister tried for in/activity in the ministerial office was Dainis Ģeģers, former Minister of Agriculture. The case was started in 1994 in relation to the management of foreign loans for which the state provided guarantees. The state suffered losses USD 54.5 million but the former minister was eventually acquitted in 2005.¹⁰⁴

It is a common situation also that annotations to legal acts are filled formalistically, for example, the line, where the draft’s impact on budget is to be indicated, sometimes states no impact even for legislative acts that surely would have such impact if adopted. For example, on 27 January 2011 the CoM approved the draft Law on the Declaration of the Property Situation of Physical Persons, which is meant to facilitate the SRS to assess the property of physical persons. Apparently the state does not expect any fiscal benefit from this activity though because the impact on state and municipal budgets is assessed as zero.¹⁰⁵

Overall outside actors such as MPs and NGOs either have little motivation or are too weak (particularly in the case of NGOs) to impose strong restraints on the executive. Meanwhile several accountability mechanisms are in use and no administrative hindrances are applied to the detriment thereof.

2.2.5. Integrity: law

Score: 75/100

To what extent are there mechanisms in place to ensure the integrity of members of the executive?

The central piece of integrity-ensuring legislation is the Conflict of Interest Law. The law covers public officials from all branches of state authority including members of the CoM. It includes an incompatibility clause allowing members of the CoM to hold only a few types of positions/jobs in addition to their ministerial office. The permitted additional jobs include

¹⁰³ Nevalstisko organizāciju un Ministru kabineta sadarbības memoranda īstenošanas padomes sēdes (Implementation Meetings of the Cooperation Memorandum of the Non-governmental Organizations and the Cabinet of Ministers). <http://mk.gov.lv/lv/sabiedribas-lidzdaliba/sadarbibas-memorands/padomes-sedes/>

¹⁰⁴ Bijušais ministrs Ģeģers no valsts saņēms 10 000 latu par morālo kaitējumu (Former Minister Ģeģers will Receive 10,000 Lats as Moral Compensation from the State). LETA, 2 June 2010. <http://www.diena.lv/sabiedriba/politika/bijusais-ministrs-gegers-no-valsts-sanems-10-000-latu-par-moralo-kaitojumu-736310>

¹⁰⁵ Initial impact assessment report of a draft legal act (annotation) for the draft law “Law on Declaration of the Property Situation of Physical Persons”. <http://www.mk.gov.lv/lv/mk/tap/?dateFrom=2010-09-16&dateTo=2011-09-16&text=Mantisk%C4%81+st%C4%81vok%C4%Bca&org=0&area=0&type=0>

offices held in accordance with laws or international agreements, offices in a trade union, an association or foundation, a political party or a religious organization, the job of a teacher, scientist, doctor, professional sportsperson and creative work, other offices or job in the Saeima or the CoM if such is specified in decisions of the Saeima and its institutions, or regulations or orders of the Cabinet, or offices held in international organizations and institutions if such has been determined by a decision of the Saeima, CoM regulations or orders (Conflict of Interest Law: Section 7, Paragraph 2).

Like all public officials, ministers shall not obtain income from capital shares and stock, as well as from any kind of securities in commercial companies that are registered in tax-free or low-tax countries and territories (Conflict of Interest Law: Section 9, Paragraph 3). During office and two years thereafter, they cannot be the shareholders, stockholders and partners of commercial companies or individual merchants that receive orders for procurement for state and local government needs, state financial resources, state-guaranteed credits or state privatization fund resources, except the cases where they are granted as a result of an open competition (Conflict of Interest Law: Section 10, Paragraphs 1 and 2).

Apart from the mentioned incompatibilities, members of the CoM are largely exempt from prohibition to act in a conflict of interest. The law contains an explicit exemption from the conflict of interest prohibition when ministers participate in the adoption of administrative acts of the Cabinet, normative acts, political decisions or their own salaries or appointments (Conflict of Interest Law: Section 11, Paragraphs 5 and 6).

All public officials including ministers are subject to a restriction on accepting gifts. A public official fulfilling the duties of office is permitted to accept only diplomatic and official gifts, e.g. gifts by official representatives of foreign states or by the authority in which the relevant official serves (Conflict of Interest Law: Section 13.¹, Paragraph 1). Privately public officials are prohibited from accepting gifts if in relation to the donor the public official has in a period of two years prior to receipt of the gift carried out certain official functions. Public officials are also prohibited to carry out such functions regarding persons from whom they have accepted gifts in a past period of two years (Conflict of Interest Law: Section 13.², Paragraphs 1 and 2).

The Conflict of Interest Law requires ministers to fill detailed declarations, which are made available to the public in the internet (apart from some private, e.g. addresses of residence and properties).

Otherwise the CoM has no code of conduct. In July 2009, the CoM gave the CPCB the task to draft a code of ethics for members of the CoM of Ministers. Such document was indeed drafted but has not been adopted due to equivocal political support.

The legal framework for whistleblower protection is weak. Little legal protection exists apart from the statement in the Labor Law that „It is prohibited to punish an employee or directly or indirectly cause other disadvantageous consequences when an employee has exercised his/her rights in a permissible manner within the framework of legal labor relations as well as when he/she informs competent authorities or public officials about suspicion of a criminal act or administrative violation at the workplace.” (Labor Law: Section 9, Paragraph 1). In April 2011, the Saeima amended the Conflict of Interest Law to provide some protection for employees and public officials who report on conflicts of interest of other public officials (Section 20, Paragraph 7; Section 21.1).

In general, the formal integrity framework for members of the CoM is satisfactory although the nearly complete exemption from the conflict of interest rules is an obvious flaw. The lack of code of ethics and insufficient whistleblowing protections are probably not so serious deficiencies as far as the CoM is concerned but still they should be remedied.

To what extent is the integrity of members of the executive ensured in practice?

The issue of executive officers alternating between ministerial and business positions, also known as the revolving door, is a source of concern in Latvia. For example, A.Šlesers – former Minister of Economy (26 November 1998 – 10 May 1999) and twice Minister of Transport (9 March 2004 – 17 March 2006, 7 November 2006 – 12 March 2009) – throughout his political career was also a major businessman. He has never been prosecuted but has been implicated in numerous acts of nepotism and deals with business partners. As the Minister of Transport, he oversaw the state-owned company *Latvian Post (Latvijas pasts)*, which tore down its former main building and leased the underlying land to A.Šlesers' former business partners. He also created a network of personally loyal people in the realm of the Ministry of Transport. Such people (including A.Šlesers' driver and the driver's son) – often without former credentials of professional qualification – were appointed to various lucrative posts in state-owned companies such as the International Airport of Riga, the Latvian Railway and its subsidiaries, the national air carrier *AirBaltic*, etc. The appointments often coincided with money donations to A.Šlesers' party.¹⁰⁶

Another long-time member of the CoM A.Kalvītis (Minister of Agriculture, 1 March 1999 – 5 May 2000; Minister of Economy, 5 May 2000 – 7 November 2002; Prime Minister, 2 December 2004 – 20 December 2007) has been active in promoting policies supportive of small hydroelectric plants, e.g. making the state power company "Latvenergo" pay double tariff for electricity generated by such plants. Meanwhile two such plants were owned by A.Kalvītis' wife.¹⁰⁷

Other ministers have had relatively smaller conflict-of-interest issues. For example, the current Minister of Foreign Affairs accepted a trip paid for by *British Aerospace Defence Systems Limited* in 2001 in his then capacity as the Minister of Defence (the company bid in a competition to provide radars for the Baltic air surveillance system BALTNET). In April 2008, the public learnt that the Minister of Special Tasks for Electronic Governance Ina Gudele had her birthday party expenses paid from the budget of her secretariat in the amount of LVL 800 (approx. EUR 1138). The minister resigned and a criminal investigation was launched.¹⁰⁸ More recently a controversy broke out regarding the Minister of Economy Artis Kampars who according to his public official's declaration received LVL 27 000 (approx. EUR 38 400) as a gift from his unemployed wife. Moreover an investor (unidentified for the public) allegedly made an advance payment LVL 35 000 (approx. EUR 49 800) to buy capital shares from Artis Kampars although according to public information the shares are still in the possession of the minister.¹⁰⁹ Overall the business activities of Artis Kampars had brought major losses and he himself complained publicly about his difficulties to support his family on several occasions. These facts, not fully explained by the minister, raised concerns about his vulnerable financial situation and associated corruption risks or even actual bribery.¹¹⁰

106 Kandidāti uz delnas (Candidates on the Palm). Transparency International – Latvia. [http://www.kandidatuzdelnas.lv/kandidati-un-partijas/75-ainars-slesers/3/Jemberga,S.Astonkajis\(TheOctopus\),Diena,18January2009.http://www.diena.lv/sabiedriba/astonkajis-646930](http://www.kandidatuzdelnas.lv/kandidati-un-partijas/75-ainars-slesers/3/Jemberga,S.Astonkajis(TheOctopus),Diena,18January2009.http://www.diena.lv/sabiedriba/astonkajis-646930)

107 Rulle, B. Lai arī dārga, „zaļā enerģija” ir modē (Although Expensive, the „Green Energy” is in Vogue). *Diena*.lv 13 November 2006. http://www.diena.lv/lat/politics/printed/lai_ar_i_daarga_zaljaa_energija_ir_modee

108 Sāk kriminālprocesu par Gudeles 'zemeņu tortes' lietu (Criminal Proceeding Started in the case of Gudele's "Strawberry Cake"). *Delfi*.lv 21 October 2008. <http://www.delfi.lv/news/national/criminal/sak-kriminalprocesu-par-gudeles-zemenu-tortes-lietu.d?id=22213601>

109 Sprance, I. Kamparam naudu avansā iedevis anonīms investors (An Anonymous Investor Gave Money to Kampars in Advance). *Ir.lv*, 8 April 2011. <http://www.ir.lv/2011/4/8/kamparam-naudu-avansa-iedevis-anonims-investors>

110 Nikolajeva, O. Vai ir saistība starp Kampara finansēm un Ķemeru sanatorijas privatizējāju? (Is There a Link Between the Finances of Kampars and the Privatizer of Ķemeri Sanatorium). *Pietiek.com*, 13 April 2011. http://pietiek.com/raksti/vai_ir_saistiba_starp_kampara_finansem_un_kemeru_sanatorijas_privatizetaju

Public protests took place also in March 2010 when the CoM decided to allow felling of about 70 trees in the protection zone of sea dunes in the property of – at the time – the vice-mayor of Riga A.Šlesers and his wife, MP Inese Šlesere.¹¹¹ Much of the public opinion tends to view such cases as undue privileges, not too remote from corruption.

Cases of whistleblowing regarding the activities of public officials of the executive are rare. One notable instance did take place when two employees of the SCh detected sign of a major criminal affair related to the introduction of the digital television in Latvia¹¹² (the case is still in the court). Eventually both of them had to leave their work at the SCh.

Meanwhile exposure by the media shows that various sorts of conflicts of interest and shuttling of ministers between their public roles and private business are commonplace. On the other hand there is no hard evidence of corruption of criminal nature among ministers.

2.3. ROLE

2.3.1. Public Sector Management: law and practice

Score: 75 / 100

To what extent is the executive committed to and engaged in developing a well-governed public sector?

According to the Constitution the administrative institutions of the State shall be under the authority of the CoM (Constitution: Section 58). This means that with a few exceptions, e.g. the Bank of Latvia, the executive holds control over the whole of the executive branch of authority. Formally the CoM as a whole and ministers individually possess all of the necessary legal means to be able to manage and supervise the work of the civil service.

In practice, the management of the civil service in 2009 and 2010 was marked by the single greatest concern, i.e. finding possibilities to save budgetary expenses. In this time, the executive embarked on the course of auditing state functions in order to find possibilities to optimize the use of administrative resources. According to official information in 2009 the SCh, together with ministries, carried out a review of all state functions. A reduction in state functions followed and allowed the state to cut expenditure by LVL 719 million (approx. 1.023 billion EUR) (the execution of some functions was delegated to non-governmental actors, some agencies were reorganized as well as other changes were made).¹¹³ A similar exercise was carried out in 2010: the Working Group for Functions Assessment was established, which included representatives of governmental institutions, business associations and trade unions. The Working Group submitted a report with proposals to optimize functions funded from the state budget to the Prime Minister in August 2010.¹¹⁴ Although optimizations proposals often met staunch opposition from concerned ministries and other state institutions, they did serve as basis for some budgetary savings.¹¹⁵

Otherwise the reduction of policy development and coordination functions of the SCh marked a formally undeclared move towards the decentralization of the public sector governance. According to G.Veismane it strengthened the policy making role of the Coalition

111 JAB apstrid valdības lēmumu par priežu izciršanu Šlesera īpašumā (JAB Appeals the Decision of the Government on the Felling of Pine Trees in the Property of Šlesers). LETA, 6 March 2010. <http://www.delfi.lv/news/national/politics/jab-apstrid-valdibas-lemumu-par-priezu-izciršanu-slesera-ipasuma.d?id=30386317>

112 Jemberga, S. Astonkājais (Octopus). Diena.lv, 18 January 2009. <http://www.diena.lv/sabiedriba/astonkajis-646930>

113 Sāk valsts funkciju izvērtēšanas pirmo posmu (The New Stage of the Evaluation of State Functions Started). 1 June 2010. <http://www.mk.gov.lv/lv/vk/funkciju-audita-komisija/jaunumi/010610/>

114 Funkciju izvērtēšanas darba grupa iesniedz priekšlikumus valsts funkciju optimizācijai (The Working Group for the Evaluation of Functions Submits Proposals for the Optimization of State Functions). 1 September 2009. <http://www.mk.gov.lv/lv/vk/funkciju-audita-komisija/jaunumi/310810/>

115 Kažoka, I., Jākobsone, L. Premjera palīgs Nr. 1. (Prime Minister's Assistant No. 1. Interview with Elita Dreimane). Politika.lv, 27 April 2011. http://www.politika.lv/temas/politikas_kvalitate/premjera_paligs_nr_1/

Council. In April 2011, also the current head of the State Chancellery E.Dreimane said that “the State Chancellery should increase its strategic analysis capacity. Earlier much time was devoted to the coordination and solving of technical issues. The initiatives of ministries in their relation to the Government Action Plan and previous policy planning documents were examined less.”¹¹⁶ It remains to be seen whether the future Suprasectorial Coordination Centre will address the existing weaknesses in planning and coordination.

On the level of individual ministers, formally they have the powers to issue orders to the state secretaries and other officials of ministries, revoke internal regulations and decisions by ministry officials (except administrative acts) or even personally take over the administrative leadership of a ministry (State Administration Structure Law: Section 19, Paragraph 2). In practice the ability to manage the civil service within their respective ministries varies widely depending on the personality and other circumstances of a particular minister. However, according to G.Veismane “there is no doubt that they [ministers] do demand effective work from their civil servants”.

The executive as a whole and ministers individually employ little tools to directly motivate the public service to work in a more transparent and inclusive manner. Public agencies do have performance indicators but there has been no requirement to include data on the fulfillment of the indicators in reports on the implementation of the budget to the Ministry of Finance.¹¹⁷ This situation compromised possibilities to take into account the achievement or failure to achieve performance indicators. On 23 August 2011, the CoM adopted an instruction that should remedy this problem.¹¹⁸

2.3.2. Legal System: law and practice

Score: 75/100

To what extent does the executive prioritise public accountability and the fight against corruption as a concern in the country?

The record of the executive in promoting public accountability and the fight against corruption is mixed. Two successive Prime Ministers A.Kalvītis (2004-2007) and Ivars Godmanis (2007-2009) actively used both legitimate means as well as (in the case of A.Kalvītis) means balancing on the border with illegality to remove from office the head of the CPCB A.Loskutovs. It is often said that it was the effectiveness of the CPCB that led to this animosity from the ruling politicians. The efforts succeeded in the summer of 2008 when a theft of confiscated money took place within the CPCB. In turn, the Prime Minister V.Dombrovskis was opposed to the next head of the CPCB N.Vilnītis (2009-2011) under whose leadership the agency sank into continuous conflicts between N.Vilnītis and a large part of the CPCB's staff (for more detail, see point 9.1.4 “Independence (practice)” of Pillar 9 “Anti-corruption Agencies”).

During the last several years the CoM has undertaken few anticorruption steps. In September 2009 the Committee of the CoM reviewed but did not approve the draft of the Ethics Guidelines for public administration and municipal officials who engage in political activities. The document dealt with issues like avoiding the use of the public office for the promotion of a political career and refraining from the use of public resources to campaign for political candidates.¹¹⁹ The CoM has also failed to adopt its own code of ethics although it was actu-

116 Kažoka, I., Jākobsone, L. Premjera palīgs Nr. 1. (Prime Minister's Assistant No. 1. Interview with Elita Dreimane). Politika.lv, 27 April 2011. http://www.politika.lv/temas/politikas_kvalitate/premjera_paligs_nr_1/

117 Ministriņām būs jāatskaitās par budžeta uzdevumu izpildi (Ministries will have to Account for the Fulfilment of Budget Tasks). Delfi.lv, 23 August 2011.

118 Instrukcija par valsts budžeta izpildes analīzi (Ordinance on the Analysis of the Implementation of the State Budget). Adopted by the Cabinet of Ministers on 23 August 2011.

119 Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. No. 10. Centre for Public Policy PROVIDUS (2010). P.10. <http://corruption-c.wdfiles.com/local--files/corruption-c-no-10-2009-second-semiannum/EN10>

ally drafted. Apart from general ethics norms, the document included “provisions such as the prohibition to use public administrative or personnel resources in support of ministers’ political parties (e.g. for election campaigning). Ministers would also be required to abstain from decision making where this could raise doubts about their objectivity and neutrality, to make public all information about contacts with lobbyists, etc.”¹²⁰

In July 2008 the CoM approved a Framework Document on the Need for Legislative Regulation of Lobbying in Latvia. The regulation would be incorporated in the codes of ethics of public institutions and in several legislative acts.¹²¹ Later in November 2009 these proposals were effectively abandoned by the CoM: “Although the government conceptually supported the requirement that information about lobbyists should be accessible to the public, it asked the CPCB to reassess possible solutions to make sure that information about lobbyists was made accessible, but agencies were not at the same time burdened with new functions.”¹²² Such a position was sufficient to logically block any further substantive proposals because all of them added at least some new task to public agencies. The revised policy planning document was approved by the Committee of the CoM on 29 August 2011.

On the more positive side, the CoM did support the introduction of state funding for political parties (often believed to be a means to limit the dependence of parties on a few private donors and adopted by the Saeima in 2010) and – more recently, 5 April 2011 – the draft law that would make all residents declare their assets above a certain threshold.¹²³ Such a measure, though controversial, is sometimes believed to prevent corrupt officials from using wealth of unexplained origin.

In June 2011, the CoM swiftly followed the recommendation of a committee headed by the PG and tabled a motion for the Saeima to dismiss the widely criticized head of the CPCB N.Vilnītis from office as unsuitable for the position.

Overall far from being a consequent anticorruption champion, the executive does make progressive moves from time to time.

2.4. KEY RECOMMENDATIONS

- The Suprasectorial Coordination Centre should be equipped with adequate capacity to carry out its planning, supervision and coordination functions.
- The procedure of urgency in the CoM should be subject to criteria that would reduce possibilities to use it with poor justification. A possibility to impose a cap on the proportion of motions to be reviewed as a matter of urgency should be discussed.
- Standards for the prevention of conflicts of interest in the CoM should be re-examined to control for at least the most risky situations, e.g. with the help of a requirement to declare conflicts of interest as they occur during deliberations and decision-making.
- The draft Code of Ethics of the CoM should also be re-examined and eventually adopted. So should be the guidelines for political activities of officials of the public administration.

120 Corruption “C”. Report on Corruption and Anticorruption Policy in Latvia. No. 10. Centre for Public Policy PROVIDUS (2010). P.12. <http://corruption-c.wdfiles.com/local--files/corruption-c-no-10-2009-second-semiannum/EN10>

121 Corruption “C”. Report on Corruption and Anticorruption Policy in Latvia. No. 10. Centre for Public Policy PROVIDUS (2010). P.9. <http://corruption-c.wdfiles.com/local--files/corruption-c-no-10-2009-second-semiannum/EN10>

122 Corruption “C”. Report on Corruption and Anticorruption Policy in Latvia. No. 10. Centre for Public Policy PROVIDUS (2010). P.13. <http://corruption-c.wdfiles.com/local--files/corruption-c-no-10-2009-second-semiannum/EN10>

123 Ārī valdība atbalsta ‘nulles deklarācijas’ ieviešanu ar nākamo gadu (The Government Also Supports the Introduction of “Zero Declarations” Starting with the Next Year). www.delfi.lv 5 April 2011. <http://www.delfi.lv/news/national/politics/ari-valdiba-atbalsta-nulles-deklaracijas-ieviesanu-ar-nakamo-gadu.d?id=37824607>

- As the financial crisis subdues, the executive should again assign due priority to anti-corruption issues and renew the momentum behind proposals to introduce a policy on lobbying, strengthen the management of corruption risks in the public sector, etc.
- Among issues that the executive should include in its agenda is the development and implementation of more comprehensive legal provisions for whistleblower protection in the public sector.

3. JUDICIARY

Judicial independence is generally well-respected in Latvia although the role of the executive and legislature in judicial appointments is slightly excessive. Latvian courts operate in a highly transparent environment but access to some judgments can be practically cumbersome. The current regulatory framework covers virtually all aspects of judges' integrity and there is little direct evidence of corruption in the courts. However, the Latvian judiciary still does not enjoy uniform reputation of integrity. The reasons for this are most likely both evidence of unethical behavior by some judges and lack of understanding in the public about the powers of the judiciary and limitations thereof. Courts are generally prepared to adjudicate corruption cases but their slowness obstructs justice in complicated matters involving large numbers or defendants and/or witnesses.

Judiciary		Overall Pillar Score: 75 / 100	
	Indicator	Law	Practice
Capacity 75 / 100	Resources	75	75
	Independence	75	75
	Transparency	100	75
Governance 75 / 100	Accountability	100	50
	Integrity Mechanism	75	50
Role 75 / 100	Executive Oversight	75	
	Corruption Prosecution	75	

Structure and organization

Latvia has a three-tier court system. District (city) courts serve as the first instance courts for civil and criminal matters. The administrative district court represents a different system being formally a single court, which operates in five places in Latvia. The next level is regional courts of which there are five regional courts for civil and criminal matters and the administrative regional court. Regional court may serve both as the court of first instance (in complex or voluminous matters) and the court of appeal. The SC consists of two Chambers (for civil and criminal matters) and the Senate (with separate departments for civil, criminal and administrative matters). The Chambers serve as the court of appeal in matters adjudicated in regional courts as courts of the first instance. The Senate represents the third instance, i.e. the instance of cassation. In addition, the CC reviews the conformity of legal acts and certain decisions of state bodies with provisions of higher legal strength.

3.1. CAPACITY

3.1.1. Resources: law

Score: **75** / 100

To what extent are there laws seeking to ensure appropriate salaries and working conditions of the judiciary?

In a controversial arrangement, the Law on Remuneration of Officials and Employees of State and Local Government Authorities governs the salaries of judicial officials – judges and

public prosecutors. The monthly salary of a district (city) court judge is equal to the maximum amount foreseen for heads of legal units in the state administration (Section 6.1, Paragraph 1). The salaries of other categories of judges are set as the said amount multiplied with coefficients from 1.1 (for example, for a deputy president of the district (city) court) to 2.62 for the President of the Constitutional Court (Section 6.¹, Paragraph 2). In addition, judges are guaranteed bonuses expressed as a percentage of their salary depending on their qualification grade (Section 15, Paragraph 4); true, the qualification grades were cancelled on 9 June 2011 (amendments not yet in force) and a new system of evaluation of professional performance of judges is to be introduced starting with 1 January 2013. In turn salaries of public prosecutors are tied to those of judges. The whole system of salaries is to adjust to inflation through a peg to the average monthly salary in Latvia in the year before last according to data of the Central Statistical Bureau.

The current system came about through a major controversy. In 2003 the Law of the Judiciary Authority was amended to include a system for determining and gradually increasing judges' salaries. Due to the heavy impact of the financial crisis on Latvia's economy, since November 2008, a series of amendments were made, which limited the growth of and eventually decreased the salaries. A group of judges challenged the amendments in the CC and, on 18 January 2010 and 22 June 2010, the court overruled several of these provisions. The current system described above represents a precarious compromise, which was adopted by the legislature in December 2010. In April 2011, a large part of judges and public prosecutors challenged the law yet again in the CC.¹²⁴ As of August 2011, the case was still in preparation.

In principle the fact that judges' salaries are determined in accordance with rules set in the law together with the possibility to review legal amendments in the CC provide certain guarantees against arbitrary reduction in salaries. However, the recent events show that even then deteriorating economic conditions can lead to a reduction of judges' income.

The Courts Administration (an executive agency under the Ministry of Justice) prepares the annual budget request for courts except for the SC and the CC. The Ministry of Justice solicits the opinion of the Judiciary Council about the budget request and then forwards the request and the opinion to the Ministry of Finance. The SC and the CC themselves prepare their budget requests. The SC also submits its request to the Judiciary Council for opinion. The opinion of the Judiciary Council is not binding (the Law on Judicial Authority: Section 50.²) but requests of the SC and CC may not be amended before the annual budget law is submitted to the CoM. Thus the judiciary does participate in the formation of its budget but it has no veto powers. Moreover there is no set proportion of the national budget earmarked for the judiciary.

Provisions of the Law of Budget and Financial Management, which govern drafting of the budget for *inter alia* the SC and the CC, were challenged in the CC. The court found that several independent bodies did not have adequate mechanisms to defend their budget requests in the CoM and the Saeima. On 25 November 2010, it ruled that several provisions of the laws were incompatible with the Constitution as long as these bodies were not guaranteed a chance to defend their budget requests in the CoM.¹²⁵ The Saeima amended the laws accordingly in June/July 2011 granting the SC and the CC the right to present its opinion to the CoM and en-

124 Ierosināta lieta par izmaiņām tiesnešu, zemesgrāmatu tiesnešu un prokuroru atalgojuma sistēmā (A Case Initiated about Amendments in the Remuneration System of Judges, Judges of the Land Registry and Public Prosecutors). Press release of the Constitutional Court, 9 May 2011. http://www.satv.tiesa.gov.lv/upload/pr_ierosin_tiesnesi_prokurori.htm

125 Par Likuma par budžetu un finanšu vadību 19.panta piektās daļas, Valsts kontroles likuma 44.panta otrās daļas un Tiesībsarga likuma 19.panta otrās daļas atbilstību Latvijas Republikas Satversmes 1., 83. un 87.pantam (About the Compliance of Section 19, Paragraph 5 of the Law on Budget and Financial Management, Section 44, Paragraph 2 of the State Audit Office Law and Section 19, Paragraph 2 of the Ombudsman Law with Sections 1, 83 and 87 of the Constitution of the Republic of Latvia). Judgment of the Constitutional Court, 25 November 2010.

sure that this opinion is forwarded also to the Saeima. Drafting of the state budget for 2012 will show what impact the amended procedure has.

3.1.2. Resources: practice

Score: 75 / 100

To what extent does the judiciary have adequate levels of financial resources, staffing, and infrastructure to operate effectively in practice?

The actual practice of budget making for the judiciary corresponds to the written procedure described above. Controversies about the involvement of the judiciary in the determination of funding arose in 2009 and 2010 when the salary system was reformed. According to I. Andžāne, the President of the Latvian Society of Judges and President of Bauska District Court: "The executive is not frank in its communication to the public about consultations with the judiciary. Draft laws were not submitted for deliberation to neither the Latvian Society of Judges nor the Society of Administrative judges; the Judges' Conference was not convened, which could discuss financial and social guarantees as well as other relevant matters of judges' work."¹²⁶

The actual adequacy of judges' salaries is a disputable issue. The ambiguity shows, for example, again in opinion by I. Andžāne in December 2010: "It is hard to say if the foreseen remuneration level for judges is competitive and adequate. It is even more difficult to say what it should be to guarantee judges' independence. The planned remuneration will motivate judges' assistants whose current salary is LVL 250 [per month; EUR 356] to run for the position of the judge. But it must be remembered that also lawyers who have worked continuously in various institutions with rather high salaries are among candidates for judges."¹²⁷

The lack of human resources is a persistent problem in Latvian courts. Based on responses by officials attached to the judiciary authority such as judges, public prosecutors, notaries, sworn lawyers and court bailiffs as well as executive officials such as the Minister of Justice, other officials of the Ministry of Justice and the Courts Administration, a recent piece of research noted that a lack of judges was the most significant problem affecting the whole of the court system. Among the negative consequences are overburdened judges, slow adjudication, and difficulties to ensure in-service education for judges.¹²⁸

The qualification of judges is generally regarded as good even if not excellent as noted in the same research: "In terms of qualification, judges assess themselves overall positively. Problems allegedly occur with new judges but that is mainly due to the lack of experience. [...] Also other respondents assess judges as competent. However, these statements are always followed by reservations mentioning judges whose qualification is inadequate."¹²⁹ Possibilities for in-career training are available particularly at the Latvian Judicial Training Centre. Still both supply and demand for training are not always sufficient. The frequently changing legislation makes it particularly complicated for judges to maintain their knowledge up-to-date. "Respondents attested to that judges quite often apply obsolete provisions of laws, not being aware of the latest amendments and supplements."¹³⁰

Latvian courts are fully computerized and judges are guaranteed at least a minimum support in terms of assistants and other administrative staff. Still the excessive difference between the salaries of

126 Likumdevējs nosaka tiesnešu algas: vai strīds ir galā (The Legislature Decides on Judges' Salaries: Is the Controversy Over?). Jurista Vārds, 28 December 2010. <http://www.juristavards.lv/index.php?menu=DOC&id=223211>

127 Likumdevējs nosaka tiesnešu algas: vai strīds ir galā (The Legislature Decides on Judges' Salaries: Is the Controversy Over?). Jurista Vārds, 28 December 2010. <http://www.juristavards.lv/index.php?menu=DOC&id=223211>

128 Osipova, S., Strupiņš, A., Rieba, A. Tiesu varas neatkarības un efektivitātes palielināšanas un nostiprināšanas reserves (Reserves for the Strengthening of the Independence and Effectiveness of the Judiciary Authority). Jurista Vārds, 9 March 2010. <http://www.juristavards.lv/?menu=DOC&id=206150>

129 Ibid.

130 Ibid.

judges and their assistants has been noted. A. Guljāns, the former President of the Supreme Court and current justice of the Senate noted: “The current remuneration of assistants does not match their effort and knowledge. It is also disproportionate in relation to the judge’s salary. The proportion should be different in favor of assistants.”¹³¹ Also Jānis Pleps, legal consultant of the Law Office of the Saeima admitted an excessive gap between the salaries of assistants and judges.¹³²

Thus the overall resource supply can be regarded as reasonably satisfactory given the Latvian economic context although the insufficient number of judges is often linked to the problem of major backlog in the Latvian court.¹³³ According to J. Pleps another problem is court buildings. Most of them are old and, especially outside Riga, not suited for the needs of the court.¹³⁴

3.1.3. Independence: law

Score: **75** / 100

To what extent is the judiciary independent by law?

The Latvian Constitution contains few provisions regarding the judiciary. It sets out the basic structure of the court system – district (city) courts, regional courts, the SC (Constitution: Section 82) and the Constitutional Court (Section 85). The Constitution states that judges shall be independent and subject only to the law (Constitution: Section 83). Other than that, the principle of judicial independence is guaranteed in Article 6 of the European Convention of Human Rights, which is binding for Latvia. Since the constitutional provisions are so concise, the possibility of amending them so as to limit the judicial independence is theoretical only. The Saeima may amend the Constitution in sittings at which at least two-thirds of the MPs participate. The amendments shall be passed in three readings by a majority of not less than two-thirds of the members present (Constitution: Section 76).

All judges are appointed by the legislature. Judges of district (city) courts and regional courts are appointed upon nomination by the Minister of Justice (Law on Judicial Authority: Section 60, Paragraph 1; Section 61). Justices of the Supreme Court are appointed upon nomination by the President of the Supreme Court (Law on Judicial Authority: Section 62). All nominations shall be carried based on opinion of the Judicial Qualification Board (Law on Judicial Authority: Sections 57 and 59). Judges of district (city) courts are first appointed for a period of three years. Upon expiration of this term, the Saeima votes on either appointment for life or additional fixed term of up to two years (Law on Judicial Authority: Section 60, Paragraphs 1 and 2). Judges of regional courts and the SC are appointed for life right from the beginning (Law on Judicial Authority: Sections 61 and 62).

In law, criteria for candidate judges are scarce and rather represent a set of formal qualifications. Judges shall be citizens of Latvia, highly qualified and honest lawyers (Law on Judicial Authority: Section 51, Paragraph 1). Candidates shall be selected in an open competition (Law on Judicial Authority: Section 51, Paragraph 3). Otherwise, for example, a candidate for a judge’s position in district (city) court must profess the Latvian language at the highest level, be at least 30 years of age, have the second level higher education diploma in law and the qualification of a lawyer recognised by the state, have worked for at least five years in a legal profession (a different wording of the previous two criteria will be in force from 1 January 2012), and have passed the qualification exam (Law on Judicial Authority: Section 52, Paragraph 1). Also a number of disqualifications exist, e.g. criminally punished persons cannot run for a judge’s position.

¹³¹ Interview of Andris Guljāns, the former President of the Supreme Court and current justice of the Senate, with author, Riga, 27 April 2011

¹³² Interview of Jānis Pleps, legal consultant of the Law Office of the Saeima, with author, Riga, 27 April 2011

¹³³ Nations in Transit 2010 report described the situation as follows: „The court system still suffers from a dearth of Supreme Court justices and a large backlog of cases. More judges cannot be appointed because of space limitation, though the Ministry of Justice is trying to alleviate this problem.”

// Nations in Transit 2010. Freedom House (2010). P.318.

¹³⁴ Interview with Jānis Pleps, 27 April 2011.

Two bodies evaluate candidates who are to become judges for the first time (except candidates for the SC and the CC). The first is the selection committee set up by the director of the Courts Administration. Since the Courts Administration is a part of the executive, this part of selection is effectively under control of the executive branch. The selection committee shall consist of a representative of the Ministry of Justice, two representatives of the Courts Administration, representative of the court for which the candidate applies and representative of a higher level court (CoM Regulations of 3 March 2009 No. 204 “Procedure for the Selection, Traineeship, and Qualification Exam for a Candidate for Judge’s Position”: Articles 10 – 10.4). The evaluations at the selection committee take place in two stages: structured interview and a test and essay. Evaluation criteria are set in regulations in rather high detail. For the best candidate a traineeship period is set and afterwards he/she takes the qualification exam with the second body – the Judicial Qualification Board consisting exclusively of judges from courts of various levels and branches (criminal, civil and administrative) (Law on Judicial Authority: Section 93, Paragraph 2). This examination is oral and much less formalized. All in all detailed professional criteria are set for new judges and an independent judicial body has a possibility to turn down candidates who do not demonstrate sufficient qualifications. However, no assessment of the integrity and reputation of candidates is foreseen.

Meanwhile politicians are in a position to turn down any candidate and they have no legal obligation to provide justification for such decision. This sounds like a point of concern but so far no remedies to this problem have been identified and suggested in Latvia (except for the idea that the vote of the legislature should not be required when an already-working judge moves from one level of the court system to another).

Once a judge has been appointed for life, he/she can be removed of precisely specified grounds only – upon own wish, due to his/her election/appointment to another office, due to health reasons that preclude continuing the job, due to reaching the statutory maximum age (65 or 70 years depending on the court level with possible extension by 2 years), if he/she has been convicted and the court judgment has entered into force, based on a decision the Judges Disciplinary Board (for grave disciplinary or ethics violations), and, from 1 January 2013, if a judge has received a repeated negative assessment in the evaluation of professional performance (Law on Judicial Authority: Sections 82 and 83).

The Criminal Law protects judges against interference in adjudication, namely, criminal liability is foreseen for influencing of a judge or lay judge in any manner in order to compromise legal adjudication or reach the adoption and promulgation of an illegal judgment or decision (Criminal Law, Section 295).

All in all the legal framework contains essential safeguards for judicial independence although the role of the executive and legislature in judicial appointments is excessive in some elements.

3.1.4. Independence: practice

Score: 75/100

To what extent does the judiciary operate without interference from the government or other actors?

There are few indications of any grave infringement of judiciary independence in the adjudication of cases. However, the dependency of the judiciary on the executive branch of authority is a commonly mentioned concern. The most acute issues are the dependency in the selection of candidate judges and budget creation.¹³⁵ Still, as far as the selection is concerned, it is the legislature rather than the executive that has appeared more problematic

135 See, for example: Osipova, S., Strupiņš, A., Rieba, A. Tiesu varas neatkarības un efektivitātes palielināšanas un nostiprināšanas reserves (Reserves for the Strengthening of the Independence and Effectiveness of the Judiciary Authority). Jurista Vārds, 9 March 2010. <http://www.juristavards.lv/?menu=DOC&id=206150>

from the point of view of respecting the judiciary independence.

The fact that the Saeima shall vote about any move of a judge from a lower to higher level court is often viewed by experts as excessive involvement of the legislature. As far as concrete situations are concerned, the Saeima failed to approve several candidates for judges' positions who satisfied all formal requirements and had passed successfully through all of the procedures prior to the final decision. Thus in October 2009 the Saeima failed to appoint a candidate for the SC. Some claimed that the reason for this decision was the judge's earlier decision to issue an arrest warrant for A.Lembergs – the mayor of the port-city Ventspils and allegedly one of the most influential individuals in Latvian politics.¹³⁶

Another candidate for the SC (a well-known expert of criminal law working for a non-governmental think tank) failed in the parliament in December 2010. Apart from the final vote by the legislature, the impartiality and professionalism of the pre-selection system of candidate judges have not been questioned in the last years. Perhaps most prominently this dubious role of the legislature manifested itself in April 2010 when the Saeima turned down the candidacy of J.Maizītis for the position of the Public Prosecutor General. J.Maizītis was nominated by the President of the Supreme Court for the third consecutive term and many believe the Saeima's decision was a reaction to his role in the prosecution of a number of allegedly corrupt high-level officials.¹³⁷ Since the vote on candidates is secret, it is impossible to challenge particular MPs with requirements to justify their choice.

A.Gulāns spoke of some sort of reprisal against candidates for judges' positions: "Down here we can select the best candidate. But he will go to the Saeima and there someone will not like him because he has said something at some time, has worked for some NGO or has already worked in some lower-level court and done something [disliked by some members of the Saeima]"¹³⁸ Meanwhile the removal of judges before the expiry of their legal tenure is uncommon and, when such has taken place, there have always been clear and legitimate grounds.

There are also signs of internal nepotism within the judiciary compromising the initial selection procedure of candidate judges at least to some extent. According to A.Gulāns it happens that the president of a court picks a candidate. The candidate then passes through all of the procedures but the initial moment is still the president of the court who picks the candidate in the first place.¹³⁹ A similar observation was also expressed by J.Pleps.¹⁴⁰

In order to strengthen the independence of the judiciary, the Judiciary Council was established in 2010. This body fills the earlier void arising from the fact that no institution could be legitimately viewed as representing the judicial authority as a whole. However, its powers are mostly consultative like providing an opinion of budget proposals. It also determines to which particular court an individual approved as a district (city) court or regional court judge will go (Law on Judicial Authority: Section 89.¹¹). The latter power is still a step toward greater judicial independence because before it was the legislature that always voted even if a judge was only transferred from one court to another on the same level.

External interference in the adjudication of particular cases is not perceived as an acute problem in Latvia. Occasional public comments by politicians that bordered with pressure on the courts were characteristic mainly of the 1990's. At least in the last five years, no person

136 Ločmele, N. WikiLeaks rožines (Raisins of WikiLeaks). Ir.lv. 3 September 2011. <http://www.ir.lv/blogi/politika/wikileaks-rozines>

137 Čika, I., LETA. Maizīti neievēlēja, iespējams, izmeklēšanas dēļ (Maizītis was not Elected Possibly because of Investigations). 17 April 2010. <http://www.ir.lv/2010/4/17/maiziti-neieveleēja-iespejams-izmeklešanas-deļ>

138 Interview with Andris Gulāns, 27 April 2011.

139 Ibid.

140 Interview with Jānis Pleps, 27 April 2011.

has been convicted for influencing a judge. Thus not only in law but also in practice appointments represent the main weakness for the judicial independence in Latvia. The overall fairly high level of independence is attested by the score on the judicial framework and independence by the Nations in Transit 2010 report, which stands at 1.75 with only Estonia having it better (on the scale from 7 to 1 with one representing the highest level of progress).¹⁴¹

3.2. GOVERNANCE

3.2.1. Transparency: law

Score: 100 / 100

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the judiciary?

Asset and income declarations of judges as well as those of other officials shall be accessible to the public (apart from some private data, e.g. addresses of residence and properties). It is the responsibility of the SRS to publish these declarations on the internet.

The Law on Judiciary Authority contains essential transparency provisions. A court adjudication taken during open court procedure, which is drawn up as a separate procedural document, shall be generally accessible. Moreover the introductory section and operative part of a court adjudication taken during closed session, if they are pronounced publicly, shall be generally accessible information (Law on Judiciary Authority: Section 28.², Paragraphs 1 and 2). Court materials examined during open court procedure shall be considered restricted information and shall be available after the coming into force of the final court adjudication in accordance with the Freedom of Information Law, i.e. it may be disclosed upon a motivated request (Law on Judiciary Authority: Section 28.³, Paragraph 1). A refusal of a court to issue the requested information may be contested in the Ministry of Justice in accordance with the Administrative Procedure Law. The decision of the Ministry of Justice may be appealed to the court (Law on Judiciary Authority: Section 28.⁵, Paragraph 1).

The electronic Court Information System, which contains full data about case movement, parties to cases and defendants as well as all court decisions, is declared restricted information (Law on Judiciary Authority: Section 28.⁶, Paragraph 7).

Court sittings are by default open to the public. Exceptions are permitted in cases prescribed by law only. Thus, for example, in criminal procedure court sittings are always closed if it is necessary for the protection of state or adoption secret. The court may decide to sit in camera also when the crime has been committed by a defendant below 16 years of age, when there is a sex crime, in order not to disclose intimate information of involved individuals, to protect professional or commercial secrets, or to ensure protection for persons involved in the criminal proceeding (Criminal Procedure Law: Section 450, Paragraphs 1, 2 and 3). Also the meeting of the Judiciary Council shall be open unless it decides otherwise (Law on Judiciary Authority: Section 89.⁹, Paragraph 6).

Overall legal provisions regarding court transparency are fully adequate and restrictions that do exist have legitimate grounds. It could only be debated if the Regulations of the CoM requiring the removal of all data that allows one to identify particular physical persons from rulings before they are disclosed to the public are not excessive (CoM Regulations of 10 February 2009 No. 123 “Regulations on the Publication of Court Information on the Internet and Processing of Court Rulings before Their Disclosure”: Article 12).

¹⁴¹ Nations in Transit 2010. Freedom House (2010). P.44. The report covers 29 countries and administrative areas in Central Europe and the Eurasian region of the former Soviet Union.

To what extent does the public have access to judicial information and activities in practice?

The Ministry of Justice and the Courts Administration provide relatively well-developed web services of judiciary information. The Latvian Courts Portal (www.tiesas.lv) contains information about the court system (including lists of courts, their contact information and judges), practical information for litigants (payable fees, jurisdiction rules, templates for certain documents, etc.), complete texts of judgments of administrative courts since 1 January 2007, database of case law, opinions of the Judges Ethics Committee, etc. However, some of the information resources are not up-to-date, e.g. there are no judicial statistics newer than 2009.

Much greater wealth of statistics is available on the website of Courts Information System (<http://court.jm.gov.lv/>). For example, regarding criminal cases it is possible to see up-to-date information about criminal cases adjudicated in the first instance broken down by Criminal Law sections and broader groups of Criminal Law sections, criminal cases reviewed in the appellate instance, application of intermittent sanctions and appeals thereof, number of convicted persons under the State Probation Service, number of convicted persons broken down by Criminal Law sections and broader groups of Criminal Law sections, number of convicted minors, broken down by Criminal Law sections and broader groups of Criminal Law sections, overview of applied punishments, number of suspended punishments broken down by Criminal Law sections, number of acquitted persons broken down by Criminal Law sections, and a number of other categories.

A third important web resource is the website of the SC (www.at.gov.lv), which also hosts a section of the Judiciary Council. The section contains decisions of the Judiciary Council (including its opinions about budget requests for courts), agendas of meetings, composition of the Council, etc. The website of the SC also contains information about disciplinarily punished judges and brief summaries of the substance of disciplinary matters. So overall it is possible for anyone to see the full picture of the court workload and results as well as everyone has full access to decisions of administrative courts. All appointments and transfers of judges are publicly seen on the websites of either the legislature or the SC (section of the Judiciary Council). Judgments of the CC are available on its website (www.satv.tiesas.gov.lv).¹⁴²

Meanwhile, except for the SC and the CC, the judiciary does not publish any annual reports and its budget expenditure is published only on the general level as seen in the annual budget law. Also the Judicial Qualification Board does not publish any reports. Moreover access to criminal and civil court decisions is practically complicated due to strict requirements against disclosure of private data. Due to this reason, judgments in civil and criminal matters are not available on the internet to the general public. Latvian courts do not have any automated system for removal of private data and, upon request, court employees remove them manually, which can be a significant workload in case of voluminous judgments or when a great number of judgments is requested. To recover the costs of this work, courts charge a legally established fee (LVL 0.37 (approx. EUR 0.50) per page¹⁴³), which again can turn into a barrier if a larger number of judgments is requested. Moreover according to J.Pleps the lack of publication of civil and criminal court judgements represents a significant deficiency as for the motivation to improve the quality of the judgments.¹⁴⁴

Overall Latvian courts operate in a highly transparent environment but access to some

142 Lietas (Cases). <http://www.satv.tiesas.gov.lv/?lang=1&mid=19>

143 Cabinet of Ministers Regulations of 21 November 2006 No. 947 "Regulations about the Kinds and Payment Procedure and Amount for Paid Services Provided by Courts": Appendix 1.

144 Interview with Jānis Pleps, 27 April 2011.

judgments can be practically cumbersome due to resource-related and legal obstacles. In a move, which somewhat reduced transparency, in about 2008/2009 the Judges Disciplinary Board decreased the amount of detail published about the substance of disciplinary cases against judges and removed all such information about disciplinary cases reviewed more than one year ago (information about what judge was punished with what sanction and brief description of the subject matter are still being published for matters less than one year old). The one year term corresponds to the legally established period after which a disciplinary sanction is considered extinguished.¹⁴⁵

3.2.3. Accountability: law

Score: 100 / 100

To what extent are there provisions in place to ensure that the judiciary has to report and be answerable for its actions?

According to the law court judgments shall contain reasons underlying their resolutions. For example, by default the motive part of a verdict of guilty in a criminal matter shall describe evidence on which the court bases its verdict, reasons why some evidence has been rejected, circumstances which strengthen or mitigate the responsibility of the defendant, reasons why parts of the indictment are not upheld (if such exist), reasons why the indictment has been amended (if has been amended), reasons for the choice of a particular punishment, other issues related to the implementation of the judgment if necessary (Criminal Procedure Law: Section 527, Paragraph 2). Shorter versions of judgments are done when there are settlements reached between the defendant and the public prosecutor.

No direct sanction is foreseen if a judge produces a poorly motivated decision. The standard remedy in such cases is appeal in one or two instances depending on the type of case and decision. Judges can be disciplinarily liable for *inter alia* deliberate breach of law in the course of adjudication, failure to fulfil his or her duties or gross negligence in the course of adjudication (Law on Judges Disciplinary Liability: Section 1, Paragraph 1). However, it is often a complicated and sensitive debate as to when a low-quality judgment constitutes sufficient grounds to qualify the activities of the judge as some of the above disciplinary violations. The law states explicitly that the amendment or annulment of a judgement by a higher court instance in itself does not constitute grounds for disciplinary punishment of a judge.

Moreover judges can be held disciplinarily liable for undignified conduct or gross violations of the Judges Code of Ethics, administrative offences, refusal to terminate membership in parties or other political organizations as well as breaches of the Law on Prevention of Conflict of Interest in the Activities of Public Officials (Law on Judges Disciplinary Liability: Section 1, Paragraph 1). Disciplinary violations are reviewed and punishments, e.g. reprimand or reduction in salary applied by the Judges Disciplinary Committee and appealed to the Disciplinary Court. Only judges sit on both bodies.

There is no special procedure for the review of complaints. If a potential complainant chooses not to rely on appeal procedures or the possibility to request removal of a particular judge from a particular case alone, it makes most sense to complain to one of the officials who have the authority to initiate disciplinary proceedings against a judge. Depending on the level of the court and the nature of the alleged violation, these can be the president of the given court, the president of a higher level court, the Judges Ethics Committee or the Minister of Justice. If the complaint contains information about a disciplinary violation, these officials have the right to forward such a case to the Judges Disciplinary Committee.

¹⁴⁵ Information about disciplinary cases is found here: <http://www.at.gov.lv/lv/disciplinary/reviews-2009/>

Judges enjoy immunity against administrative punishment (only the Judges Disciplinary Committee shall sanction judges for administrative violations) and criminal prosecution, which is possible only with agreement of the Saeima (Criminal Procedure Law: Section 120, Paragraph 2). All in all Latvia has fully adequate legal framework for the accountability of judges.

3.2.4. Accountability: practice

Score: 50 / 100

To what extent do members of the judiciary have to report and be answerable for their actions in practice?

In general judges honour the requirement to provide reasons for their decisions. However, opinions about the quality of decisions are equivocal. The Latvian Judicial Training Centre carried out a survey of 159 lawyers who have participated in court proceedings. Asked why they were dissatisfied with the work of the court, 32% said the reasons were unsatisfactory, inappropriate, poorly grounded decisions and sentences. 11% mentioned as the reason differing case law originating from different courts.¹⁴⁶ When asked more directly whether the text of decisions is understandable, 17 % rather disagreed or strongly disagreed. Opinions were even more critical regarding whether the reasoning of judgments was clear and understandable – 36% rather disagreed or strongly disagreed.¹⁴⁷ Interestingly the same study covered also a sample of 520 court clients who were lay persons. Among them only 14 % rather disagreed or strongly disagreed that the text of decisions was understandable.¹⁴⁸ Also on a number of other issues, opinions of the lay sample were more favourable than those of the lawyers. Moreover both A.Gulāns and J.Pleps expressed opinion that, despite deficiencies, the reasoning of judgments has been generally improving.

Disciplinary liability is the main mechanism for sanctioning judges. In 2010 the Judges Disciplinary Board reviewed five disciplinary cases against court judges (an additional one was against a judge of the Land Registry). One of the cases concerned a traffic violation by a judge. In another case a judge was reprimanded for a failure to ensure translated judgments for two defendants. One judge received a reproof for a failure to supervise her administrative staff properly, which resulted in a failure to inform a defendant duly, causing the application of the statute of limitation in a criminal case. The Disciplinary Board dropped two disciplinary cases for alleged gross negligence initiated by the Minister of Justice.¹⁴⁹ Overall the practice of the last few years show that disciplinary liability is applied mostly for violations of administrative character, e.g. missed deadlines or other failures to organize work.¹⁵⁰ There have been exceptions though. For example, in 2008 a judge was reprimanded for an unequivocally wrongly determined sentence. In 2006 the Disciplinary Board recommended a judge for dismissal due to his failure to assess duly the evidence presented by the prosecution in a major corruption case. As a result, the judge was actually removed from office.

The case law of the Judges Disciplinary Committee casts doubt on the adequacy of the judges' immunity against administrative punishment because it routinely chooses not to apply sanctions for judges found to have committed such violations (this includes mainly violations of traffic rules but also breaches of the Conflict of Interest Law).

146 Tiesas klientu vērtējums – ceļš uz tiesu darba pilnveidi (Assessment by Court Clients – a Way to Improve the Court Performance). Latvian Judicial Training Centre, 2011. P.25. http://www.itmc.lv/exchange/tiesu_darba_vertējuma_petijums_2010.pdf

147 Tiesas klientu vērtējums – ceļš uz tiesu darba pilnveidi (Assessment by Court Clients – a Way to Improve the Court Performance). Latvian Judicial Training Centre, 2011. P.31. http://www.itmc.lv/exchange/tiesu_darba_vertējuma_petijums_2010.pdf

148 Ibid. P.30.

149 Disciplinārārkolēģija. Izskatītās lietas. (Disciplinary Committee. Reviewed Cases.) <http://www.at.gov.lv/lv/disciplinary/reviews-2009/>

150 Ibid.

Although judges' performance is assessed before a higher qualification grade is awarded, according to interviewed judges poor performance rarely affect the decision to award the grade. Thus there is a degree of pure formalism in the award of qualification grades, for which judges become eligible after having served a certain number of years on the bench, although opinions differ as to exactly how formalistic the practice is.¹⁵¹ The Saeima has amended the Law on Judicial Authority introducing a new system (criteria and procedures) for the evaluation of professional performance of judges, which will enter into force on 1 January 2013.

Since there is no particular mechanism for the protection of complainants, the effectiveness of such protection cannot be assessed. A study of corruption risks in Riga Regional Court did show that judges sometimes viewed complaints like declarations of war and lawyers often said that a complaint against a judge means a conflict that is best to be avoided.¹⁵²

It is possible to conclude that the accountability of judges is poorer in practice than it would follow from the legal framework. Although opinions of court clients may often fall short of well-reasoned assessment, the critical views revealed by the survey do indicate reasons for concern.

3.2.5. Integrity mechanism: law

Score: 75 / 100

To what extent are there mechanisms in place to ensure the integrity of members of the judiciary?

Conflicts of interest of judges are regulated in twofold manner. Two main pieces of legislation in this area are the Conflict of Interest Law and laws governing criminal, civil and administrative procedures in the court.

The Conflict of Interest Law covers public officials from all branches of state authority including judges. It includes an incompatibility clause allowing judges to hold only a few types of positions/jobs in addition to their parliamentary office. The permitted additional jobs include offices held in accordance with laws, international agreements or regulations/ordinances of the CoM, the job of a teacher, scientist, doctor, professional sportsperson and creative work, and the work of an expert (consultant) performed in the administration of another state, international organisation or a representation (mission) thereof if it does not result in a conflict of interests and a written permit has been received (Conflict of Interest Law: Section 7, Paragraph 3).

Like all public officials, judges shall not obtain income from capital shares and stock, as well as from any kind of securities in commercial companies that are registered in tax-free or low-tax countries and territories (Conflict of Interest Law: Section 9, Paragraph 3). A public official, for two years after he/she has ceased to perform the duties of the relevant office, is prohibited to obtain the property of such merchant, as well as to become a shareholder, stockholder, partner or hold an office in those commercial companies, in relation to which during performing his/her duties this public official has taken decisions on procurement for state or local government needs, allocation of state or local government resources and state or local government privatisation fund resources or has performed supervision, control or punitive functions (Conflict of Interest Law: Section 10, Paragraph 7).

The Conflict of Interest Law contains also a number of more comprehensive provisions

151 Austere, L., Kalniņš, V. Ētikas jautājumi un korupcijas riski Rīgas apgabaltiesā (Ethics Issues and Corruption Risks in Riga Regional Court). P.12. http://www.providus.lv/upload_file/Publikācijas/2010/laba_parvaldiba/2010_Etikas%20un%20korupcijas%20riski%20Rīgas%20Apgabaltiesa_Kalnins_Austere.pdf

152 Austere, L., Kalniņš, V. Ētikas jautājumi un korupcijas riski Rīgas apgabaltiesā (Ethics Issues and Corruption Risks in Riga Regional Court). P.49. http://www.providus.lv/upload_file/Publikācijas/2010/laba_parvaldiba/2010_Etikas%20un%20korupcijas%20riski%20Rīgas%20Apgabaltiesa_Kalnins_Austere.pdf

against the conflict of interest. Thus like most other public officials a judge in his/her official capacity is prohibited to prepare or issue administrative acts, perform the supervision, control, inquiry or punitive functions, enter into contracts or perform other activities in which such he/she, his/her relatives or business partners are personally or financially interested (Conflict of Interest Law: Section 11, Paragraph 1).

The conflict of interest is also addressed in the Law on Judicial Authority, Criminal Procedure Law, Civil Procedure Law, and Administrative Procedure Law. In civil and administrative procedures, judges shall step down from a case when they are personally directly or indirectly interested in the outcome of a case or when other circumstances cause substantiated doubts about the impartiality of a judge. The provisions of the Criminal Procedure Law are even more detailed.

All public officials including judges are subject to a restriction on accepting gifts. A public official fulfilling the duties of office is permitted to accept only diplomatic and official gifts, e.g. gifts by official representatives of foreign states or by the authority in which the relevant official serves (Conflict of Interest Law: Section 13.¹, Paragraph 1). Privately public officials are prohibited from accepting gifts if in relation to the donor the public official has in a period of two years prior to receipt of the gift carried out certain official functions. Public officials are also prohibited to carry out such functions regarding persons from whom they have accepted gifts in a past period of two years (Conflict of Interest Law, Section 13.², Paragraphs 1 and 2).

The Conflict of Interest Law requires judges to fill detailed declarations, which are made available to the public in the internet (apart from some private, e.g. addresses of residence and properties).

The Judges Code of Ethics (hereafter – the Code) was adopted in 1995 and has not been amended since then. The Code itself is not a legal act but it is made legally binding by virtue of the fact that judges can be disciplinarily liable for gross violations of the Code (Law on Judges Disciplinary Liability: Section 1, Paragraph 1).

The Code covers a broad area of issues – general principles of conduct, requirements of impartiality, and standards for out-of-court and political activities. Although the Code is comprehensive in scope and its provisions fit well with international standards, its text is obsolete. Because legislation has developed since 1995, a number of norms in the Code contradict the current legal framework, e.g. it requires a judge to be suspended if he/she runs as a candidate in elections while the law prohibits such political activity altogether.

Still the current regulatory framework covers virtually all aspects of judges' integrity. The obsolete text of the Code remains the single most important flaw.

3.2.6. Integrity mechanism: practice

Score: 50 / 100

To what extent is the integrity of members of the judiciary ensured in practice?

Declarations of judges are routinely posted on the website of the SRS along with declarations of all other public officials. Despite its somewhat obsolete state, the Judges Code of Ethics is a functioning piece of regulation. Two main mechanisms for the implementation of the Code are the disciplinary liability and the activity of the Judges Ethics Committee.

In the period 2004-2007, 6 disciplinary actions were initiated for gross violations of the Code.¹⁵³ Together with some decline in the overall number of disciplinary cases, no proceedings on the grounds of ethics violations have been initiated in 2008-2010. One case related to being in court in an intoxicated state was reviewed in July 2011. Two examples of the earlier

¹⁵³ Kalniņš, V., Kažoka, I., Litvins, G. Tiesnešu ētika, kvalifikācija un atbildība Latvijā: kā neapstāties pie sasniegtā? (Ethics, Qualification and Responsibility of Judges in Latvia: How not to Stop with the Achievements) PROVIDUS (2008). P.79. <http://www.politika.lv/index.php?i=1387>

cases include a judge who adjudicated the divorce of his colleague judge from the same court (the Disciplinary Committee concluded that the divorce should have been handled in another court) and a judge who visited privately her friend – a sworn advocate – in the evening before the day when the judge was to preside a case where one of the parties was closely connected to the friend. Both of these judges were sanctioned with a reprimand for their actions.

The Judges Ethics Committee (hereafter – the Ethics Committee) is a relatively new body, which first convened in 2008. The main functions of the Ethics Committee include providing opinions and explanations regarding the interpretation and violations of ethical standards, developing the standards of judicial ethics rules and submit them for confirmation in the conference of judges, and deciding on the initiation of disciplinary proceedings (Law on Judiciary Authority: Section 91.²). The Ethics Committee has played an important role in the development of judicial ethics standards in Latvia by providing interpretations and explanations about issues such as considerations that are relevant in judges' social relations with practicing private lawyers, under what conditions a judge should step down from a case if he/she owns shares in one of the parties, what should be considered when a judge publishes scientific articles, what standards apply if a judge is presented a minor gift, what standards apply when a judge participates in internet-based social networks, and whether private insolvency is compatible with the office of a judge. The Ethics Committee opined also on a number of other instances where doubts existed on whether a judge should step down from a case.¹⁵⁴

The latter theme is particularly important because judges are often uncertain about what the right practice in deciding about stepping down is (judges' inquiries are actually the reason why the Ethics Committee has been so active in providing its opinions). In an earlier piece of research by *Providus*, interviewed lawyers mentioned also instances of inappropriate self-removal from cases, which the judge found too complicated or of too much controversial interest for the media.¹⁵⁵

Since 2004, three judges have been convicted of corruption.¹⁵⁶ Two of them were convicted for bribery and one – for the abuse of office and making an illegal decision. Though the cases could not be regarded large-scale corruption, neither in terms of the size of bribers nor the level of judges in the judicial hierarchy, they must be considered fairly serious given the significant role of a judge. Otherwise a major scandal occurred in 2007 “when illegal transcripts of old phone conversations (1998-2000) between Latvia's best-known senior lawyer, A.Grūtups, and half a dozen judges were published in a book titled *Tiesāšanās kā ķēķis (Legal Proceedings as a Kitchen)*. [...] The transcripts, which were validated as authentic by Prosecutor General J.Maizītis, included ethically questionable, pre-trial discussions and referred to “tea for two” meetings between Grūtups and judges to discuss specific cases in which he was involved.”¹⁵⁷

The reputation of the CC was affected when it was found that a judge Vineta Muižniece (appointed on 20 May 2010), in her previous capacity as an MP and Chair of the Legal Committee of the Saeima, allegedly stopped the progress of a bill, which would criminalize certain violations in the funding of political parties, by counterfeiting the protocol of the Legal Committee's meeting, which approved of the proposal. A criminal investigation has been opened

154 Meetings of the Judges Ethics Committee. <http://www.tiesas.lv/index.php?id=3093>

155 Austere, L., Kalniņš, V. *Ētikas jautājumi un korupcijas riski Rīgas apgabaltiesā (Ethics Issues and Corruption Risks in Riga Regional Court)*. P.48. http://www.providus.lv/upload_file/Publikācijas/2010/laba_parvaldiba/2010_Etikas%20un%20korupcijas%20riski%20Rīgas%20Apgabaltiesa_Kalniņš_Austere.pdf

156 Trial Statistics for Offences Committed in Public Service in Latvia 2004 – 2009. Corruption °C/ PROVIDUS. <http://corruption-c.wikidot.com/stat2009-vize>

157 Nations in Transit 2008. Freedom House (2008). P.344.

on this matter.¹⁵⁸ The CC suspended the powers of V.Muižniece in June 2011.¹⁵⁹

The Latvian courts enjoy rather low public trust. In 2010, 36 % of Latvia's citizens trusted the courts/ national judiciary system.¹⁶⁰ Still, on the other hand, according to the GCB 2010 in Latvia the judiciary was perceived as less affected by corruption (score 3.2 on the scale from 1 (not at all corrupt) to 5 (extremely corrupt)) than political parties (score 4.0), the parliament (score 3.7) and public officials in general (score 3.6).¹⁶¹

Taken together, the mentioned facts allow one to conclude that, with little direct evidence of corruption, the Latvian judiciary still does not enjoy uniform reputation of integrity. The reasons for this are most likely evidence of unethical behavior by some judges (e.g. the President of the Supreme Court has been spotted to have parked his car illegally¹⁶²), a few indications of corruption and lack of understanding in the public about the powers of the judiciary and limitations thereof.

3.3. ROLE

3.3.1. Executive oversight

Score: 75 / 100

To what extent does the judiciary provide effective oversight of the executive?

Two main mechanisms for judicial oversight of the executive and the public administration at large are the administrative courts and the CC.

The administrative courts were created in 2004 for adjudicating disputes between citizens and state institutions. Since then the administrative courts have become very popular among clients of state institutions. Their record is controversial though. Most of administrative judges were freshly recruited for the administrative courts and thus brought in much of contemporary legal thought and democratic culture sometimes lacking in the *old* – criminal and civil courts. There is no evidence of any systematic bias in the practice of administrative courts in favour of public bodies rather than citizens.

Meanwhile the success of the system has had its negative side effect, i.e. excessive case burden and backlogs. *Providus* legal expert Gatis Litvins wrote in 2009: “The length of adjudication in the Administrative District Court and Administrative Regional Court keeps increasing with each year. In 2005, the Administrative District Court reviewed 63% of cases in 6 to 12 months time but already in 2008 39% of cases were reviewed in 18 to 24 months time and 25 % of cases were reviewed in 12 to 18 months time. A similar trend is to be seen in the Administrative Regional Court.”¹⁶³ The situation has eased somewhat since 2009 but remains challenging. “We cannot react effectively to some problems or mistakes in the public administration, especially in relation to matters at the State Revenue Service, actions by local governments. The individual has to wait very long for the court decision,” said A.Gulāns.¹⁶⁴

158 Pret Muižnieci sāk kriminālprocesu par iespējamo Juridiskās komisijas protokola viltojumu (Criminal Proceedings Initiated against Muižniece for Possible Counterfeiting of the Protocol of the Legal Committee). www.DELFI.lv 2 June 2011. <http://www.delfi.lv/news/national/criminal/pre-muiznieci-sak-kriminalprocesu-par-iespejamo-juridiskas-komisijas-protokola-viltojumu.d?id=38869649>

159 ST aptur Muižnieces pilnvaras (The Constitutional Courts Suspends the Powers of Vineta Muižniece). BNS, 3 June 2011. <http://www.diena.lv/sabiedriba/zinas/st-aptur-muiznieces-pilnvaras-13886976>

160 Eurobarometer 74. 2010. gada rudens (Autumn of 2010). Nacionālais ziņojums Latvija (National Report Latvia). P.7. http://ec.europa.eu/public_opinion/archives/eb/eb74/eb74_lv_nat.pdf

161 Global Corruption Barometer 2010. Question 2: To what extent do you perceive the following institutions in this country to be affected by corruption? http://www.transparency.org/policy_research/surveys_indices/gcb/2010/results

162 FOTO: Bičkovičs atstāj auto aiz zīmes “Apstāties aizliegts” (Photo: Bičkovičs Parks His Car under “No Parking” Sign). Leta, 2 March 2010. <http://www.diena.lv/latvija/politika/foto-bickovics-atstaj-auto-aiz-zimes-apstaties-ai-13886976>

163 Litvins, G. Administratīvo tiesu efektivitāte Latvijā un Lietuvā (The Effectiveness of Administrative Courts in Latvia and Lithuania). Jurista Vārds, 19 May 2009. <http://www.juristavards.lv/index.php?menu=DOC&id=191889>

164 Interview with Andris Gulāns, 27 April 2011.

Although it is mostly the provisions of laws adopted by the legislature that get challenged in the CC, the court also reviews complaints about regulations issued by the CoM. In 2010, it handed down three judgments regarding regulations of the CoM and struck down the regulations in one case (the regulations provided restrictions on food rations for imprisoned persons).¹⁶⁵

Overall the judiciary provides strong oversight on the executive and the public administration at large but its effectiveness is obstructed strongly by the length of proceedings.

3.3.2. Corruption Prosecution

Score: **75** / 100

To what extent is the judiciary committed to fighting corruption through prosecution and other activities?

Under this pillar, only adjudication of corruption cases will be reviewed with prosecutions left to the pillar 5 “Law Enforcement Agencies”. In general corruption cases are reviewed in courts on a regular basis although the number of such cases declined between 2007 and 2009. In 2007, 129 persons were tried for criminal offences committed in public service (110 were actually convicted). In 2009, these figures had dropped to 60 and 48 respectively.¹⁶⁶

There have been some controversial opinions regarding whether sentencing practice in corruption-related cases is correct. Nevertheless courts do hand down harsh sentences from time to time. For example, in March 2011 Riga Regional court adjudicated a major bribery case involving former officials of the City Development Department of Riga Municipality. The former head of the Department was sentenced with 8 years in prison, his deputy – 6 years, and the head of the administration of the Department – 3 years.¹⁶⁷

It is impossible to come to a single conclusion why the numbers of tried individuals dropped so dramatically but it is certainly not because of the courts’ performance as they adjudicate all cases put forward by public prosecutors. More likely explanations are related to the economic boom and rising public sector salaries right before the financial crisis as well as perhaps some changes in investigatory activities by law enforcement institutions. Official statistics regarding convictions are available split by the Sections of the Criminal Law but they do not reveal what officials (e.g. police officers, customs officers) are implicated.

Overall the judiciary tends to be cautious in promoting anti-corruption measures. At least in part, it can be explained by the concern that too active and involvement in suggesting new measures would at some point compromise the impartiality of the judiciary if any disputes in this area arose.

Similarly to the administrative courts, the length of adjudications is the single most important obstacle to the effective review of complex corruption cases (the majority of corruption-related cases is relatively simple and adjudicated within reasonable time limits). The director of studies at *Freedom House* Christopher Walker recently wrote: “In Latvia, for instance, two major cases of alleged corruption linger in the court of first instance since 2007 and 2008, respectively. One case concerns an affair relating to the introduction of digital broadcasting in Latvia allegedly involving a prominent oligarch, A.Šķēle; the other involves A.Lembergs, another major oligarch who has been charged with bribery, money laundering and other offenses. An appeal is also still pending in administrative cases where the People’s Party was

¹⁶⁵ Pārskats par Satversmes tiesas darbu 2010. gadā (Report on the Work of the Constitutional Court in 2010). http://www.satv.tiesa.gov.lv/upload/parskats_ST_2010.pdf

¹⁶⁶ Trial Statistics for Offences Committed in Public Service in Latvia 2004 – 2009. Corruption °C/ PROVIDUS. <http://corruption-c.wikidot.com/stat2009-vize>

¹⁶⁷ Štrāmam un Strancim piespriež bargus cietumsodus (Strams and Strancis Receive Harsh Prison Sentences). Kasjauns.lv 11 March 2011. <http://www.kasjauns.lv/iv/zinas/42260/stramam-un-strancim-piespriež-bargus-cietumsodus>

financed approximately 2 million USD and LPP/LC, a party formed by the merger of several parties in recent years, approximately 1 million USD for campaign overspending in the 2006 election cycle.”¹⁶⁸

Courts are generally prepared to adjudicate corruption cases but their slowness obstructs justice in complicated matters involving large numbers of defendants and/or witnesses.

3.4. KEY RECOMMENDATIONS

- The capacity and mandate of the Judiciary Council should be gradually expanded to give it some more tangible role in the selection of candidate judges and preparation of the budget proposal for courts. Executive staff should be provided to support the work of the Judiciary Council.
- Secret vote on candidate judges in the Saeima should be abolished.
- The Judges Ethics Committee together with the whole profession of judges should draft a new Judges Code of Ethics to bring it fully in line with current international standards, legal provisions and the accumulated experience in Latvia.
- Either the Judges Disciplinary Committee should reconsider its excessively liberal approach to judges’ administrative violations or the judges’ immunity against administrative punishment should be lifted.
- Procedures and practice need to be re-examined to identify possibilities for greater effectiveness and speedier adjudication. Recommended measures include better planning of court sittings simultaneously for two different cases, introduction of quantitative performance indicators for courts and judges to motivate for speedier work, stronger control over the issuance of sick-leave certificates for defendants and lawyers (to reduce unjustified absences), broader use of the public prosecutor’s injunction on sentence, which does not burden the court, etc.
- Proactive publication of criminal and civil courts judgments should be strongly expanded.

¹⁶⁸ Walker, C. The Perpetual Battle. Corruption in the Former Soviet Union and the New EU Members. Corruption °C. Paper No. 12 (2011). P.13. <http://korupcijas-c.wdfiles.com/local--files/start/KC12E.pdf>

4. PUBLIC SECTOR

Most of the public sector struggles with major budget restraints but the problem is made even worse by suboptimal structural adjustment to the new conditions and insufficient assessment of needs for resources. Overall civil servants and the rest of employees of the public sector maintain a professional profile but their capacity to withstand political pressures is limited. The public sector as a whole is fairly transparent although scarce whistleblower protections, some doubts about the effectiveness of the internal audit and overburdened administrative courts hamper accountability. Nevertheless the existing framework still allows for reasonably strong answerability and laws contain most of the relevant elements to ensure public sector integrity. However, apart from the CPCB, state institutions rarely run any education programs for the broader public about corruption-related issues and rarely engage in initiatives to work with business and civil society on anti-corruption matters.

Public Sector		Overall Pillar Score: 61 / 100	
	Indicator	Law	Practice
Capacity 58 / 100	Resources	-	50
	Independence	75	50
	Transparency	100	75
Governance 83 / 100	Accountability	75	75
	Integrity Mechanisms	100	75
	Public Education		25
Role 42 / 100	Cooperate with public institutions, CSOs and private agencies in preventing/ addressing corruption		25
	Reduce Corruption Risks by Safeguarding Integrity in Public Procurement		75

Structure and organization

Ministries (currently 13) and their subordinate agencies form the core of the state public sector. In addition, there are a number of autonomous institutions, e.g. the Bank of Latvia and the Public Utilities Commission. An extended public sector covers also state education institutions and, depending on the conceptual approach, also state-owned companies (although the latter operate largely according to the private law principles). This pillar report focuses mostly on the public administration, i.e. the ministries and their subordinate agencies not covered under other pillars.

4.1. CAPACITY

4.1.1. Resources: practice

Score: **50** / 100

To what extent does the public sector have adequate resources to effectively carry out its duties?

Most of the public sector suffered major budget cuts in 2009 and 2010. According the Ministry of Finance, since 2008, the number of state administration employees has been reduced

by 20% on average and the state budget funding for remuneration – by 17% (from LVL 895.2 million (approx. EUR 1,274 million) to LVL 565.4 million (approx. EUR 804 million)).¹⁶⁹ In some institutions, salary cuts reached as much as 30 – 40%.¹⁷⁰ According to the CPCB “a considerable number of public officials who occupy corruption-sensitive positions and often carry out supervision, control or punitive functions even on sole discretion have such low remuneration, which is insufficient even for payment for all household utility services and sustenance for themselves and their family members. Right now the magnitude of the corruption-risk factor is not considered in the determination of remuneration for public officials in Latvia”.¹⁷¹

One can argue credibly that the current resource deficit has an almost debilitating effect on some public sector functions. B.Pētersone, Director of the School of Public Administration and former Deputy Director of the State Chancellery, drew attention to fact that, largely due to EU membership, there are not so many functions of the public sector that Latvia could abandon: “Minus 20-something percent of employees must deliver practically the same output as before. From a human perspective there are demotivation and overburden.”¹⁷² On the other hand, optimisation measures and structural reforms in the public sector allowed moving to more efficient public administration. Agencies have reviewed their routines and reorganized structures. Overall they have been prompted to pay more attention to cost-effectiveness.¹⁷³

Meanwhile, there is also criticism that not all of the public administration was rationally reorganized to avoid duplication of functions and achieve savings where such are possible. B.Pētersone continues: “The other side is that not in all cases the structure has not been rationalized and duplication has not been prevented where they should have been. In the first circle of budget reduction in the year 2008, resources have been saved on the basis of purely mechanical cuts. [...] Politically linked people occupy positions of directors and that is a reason why whole institutions are being preserved. Plus the lack of political will is related also to fear from hostile reactions or ministers simply preserving their agencies as the domains of political power and influence.”¹⁷⁴ I.Reinholde, Assistant Professor of the University of Latvia in public administration, emphasized the problem that the actual costs of many public sector functions have not been calculated: “There is an awful lot of complaining about the lack of money but, when you ask if they know the actual cost of their services, answers tend to be very general or there are no answers at all. [...] They have not calculated how much money would be needed because the service costs what it costs.”¹⁷⁵ To address this problem, during 2009 – 2011, the SCh developed a new IT tool providing information on costs of all state functions and services in the budget of the actual year and previous 3 years.

Thus the Latvian public sector struggles with major budget restraints but the problem is made even worse by suboptimal structural adjustment to the new conditions, particularly because in many cases the implementation of more efficient structures and redesigning of

169 Luksa, M. Valsts pārvalde – mazāka, bet vai efektīvā? (State Administration – Smaller. But Is It Effective?) LV portāls. 15 June 2011. <http://www.portalslv.lv/index.php?menu=doc&id=231642>

170 Konceptija par korupcijas risku samazināšanu valsts pārvaldes iestādēs un pašvaldībās (Framework Paper for the Reduction of Corruption Risks in the Institutions of State Administration and Local Governments). Korupcijas novēršanas un apkarošanas birojs (2010). P.17. http://www.knab.lv/uploads/free/koncepcijas/koncepcija_korupcijas_risku_samazinasaana.pdf

171 Konceptija par korupcijas risku samazināšanu valsts pārvaldes iestādēs un pašvaldībās (Framework Paper for the Reduction of Corruption Risks in the Institutions of State Administration and Local Governments). Korupcijas novēršanas un apkarošanas birojs (2010). Pp.17-18. http://www.knab.lv/uploads/free/koncepcijas/koncepcija_korupcijas_risku_samazinasaana.pdf

172 Interview of Baiba Pētersone, Director of the School of Public Administration and former Deputy Director of the State Chancellery, with author, Riga, 20 June 2011.

173 Ziņojums par rekomendācijām. Nodevums pētījumā “Iekšējās kontroles sistēmas uzraudzības novērtējums un rekomendāciju izstrāde” (Report on Recommendations. Submission in Research “Assessment of Internal Control System Supervision and Elaboration of Recommendations”). Nikolo grupa (2011). P.23. http://www.mk.gov.lv/file/iles/ESfondi/2011/gala%20ziņojums_3006.pdf

174 Interview with B.Pētersone, 20 June 2011.

175 Interview of Iveta Reinholde, Assistant Professor of the University of Latvia in public administration with author, Riga, 13 June 2011.

services request investment in IT systems that are not always possible under circumstances of budget cuts.

4.1.2. Independence: law

Score: 75 / 100

To what extent is the independence of the public sector safeguarded by law?

The law differentiates between political public officials (elected or appointed according to political criteria) and administrative public officials (civil servants or employees appointed or employed according to professional criteria) (State Administration Structure Law: Section 1, Points 9 and 10). Political public officials cover a narrow layer of officials such as ministers, parliamentary secretaries, assistants and advisors to ministers.

Otherwise it is important to distinguish between civil servants and the rest of public sector employees.¹⁷⁶ By default, vacancies for positions of civil servants must be filled with the help of an open competition (State Civil Service Law: Section 8) although exceptions are foreseen, too. For other positions in the public sector, there is no general requirement to hire personnel in an open competition and no uniform system for the appointment and promotion of employees. Hence these processes are subject to risk of excessive discretion, including due to political interference.

As far as civil servants are concerned, the law obliges them to adhere to political neutrality. A civil servant shall fulfil his/her duties according to professional criteria and shall be independent from political influence in decision making (State Civil Service Law: Section 15, Paragraph 1, Point 2). However, there is no dedicated institution to protect public sector employees against arbitrary dismissals or political interference. The SCh has only a general mandate to coordinate the career development of civil servants (Civil Service Law: Section 4, Paragraph 2, Point 2). When disputes about dismissals of civil servants or other public officials whose employment is not governed by the labour law do occur, they are settled in accordance with the administrative procedure and usually end in the administrative court.

Latvia has no legal regulations governing interaction between lobbyists and political or administrative public officials although some institutions have internal rules. Apart from this deficiency and the vaguely regulated recruitment for non-civil-servant positions, the independence guarantees of the public sector appear to be in line with standards usually found in European countries.

4.1.3. Independence (practice)

Score: 50 / 100

To what extent is the public sector free from external interference in its activities?

For the most part, administrative officials of ministries remain in their positions after changes of governments but still some exchange of higher-level administrative officials does happen. According to B.Pētersone: “A transfer procedure is used and a common agreement found in such cases. There have been cases of rotation, let’s say, from the Ministry of Finance to the Ministry of Culture.”¹⁷⁷

U.Sics, former official at the State Chancellery and currently private consultant, is sceptical about safeguards against political interference: “I cannot imagine an important office where a competition would not be accompanied by informal consultations about who could win the

¹⁷⁶ A civil servant is a person who in an institution of the direct administration, forms the policy or development strategy of a sector, co-ordinates the activity of a sector, distributes or controls financial resources, formulates regulatory enactments or controls the observance thereof, prepares or issues administrative acts, and prepares or makes other decisions related to the rights of individuals (Civil Service Law: Section 3, Paragraph 1).

¹⁷⁷ Interview with Baiba Pētersone, 20 June 2011.

competition. [...] As a civil servant you cannot act in a really neutral manner. You can choose between two strategies. You choose either a silent regime and try avoiding decisions where you feel something is wrong or you simply participate. Once in a while there happen to be people who act independently and try to protect their agencies. [...] But if you start counteracting some political decisions, sooner or later they will find under you some cashier who has placed something in a safe wrongly or whatever else.”¹⁷⁸ By and large also B.Pētersone un I.Reinholde agreed with the description of the situation that higher-level appointments do tend to require political approval.

Most public officials and all employees of the public sector are allowed to be members of political parties. A number of senior public officials may not occupy official positions in political parties (the Law on Prevention of Conflict of Interest in the Activities of Public Officials (hereafter – Conflict of Interest Law): Section 7, Paragraphs 3, 4, 7 and 14). Anyway the engagement of civil servants in partisan activities is not regarded as a common problem in Latvia. Overall civil servants and the rest of employees of the public sector maintain a professional rather than political profile but their capacity to withstand political pressures, even if of dubious legitimacy, is limited.

4.2. GOVERNANCE

4.2.1. Transparency: law

Score: 100 / 100

To what extent are there provisions in place to ensure transparency in financial, human resource and information management of the public sector?

The Conflict of Interest Law obliges all public officials to submit asset and income declarations annually (currently there are some 57,000 public officials).¹⁷⁹ In many institutions, the status of a public official covers not only senior but also lower levels of staff. The declarations shall be accessible to the public (apart from some private data, e.g. addresses of residence and properties). It is the responsibility of the SRS to publish these declarations on the internet. Regarding most public officials, currently the SRS shall also verify whether declarations have been submitted and filled in accordance with the set procedure while the CPCB shall control if the declared information indicates violations of conflict-of interest provisions (Conflict of Interest Law: Section 28, Paragraphs 1 and 2).

The legal framework for public information management is rather complex. Some of the main legal acts are the State Administration Structure Law, which governs exchange of information between agencies, the CoM 28 September 2010 Regulations No. 916 “Procedure for the Creation and Processing of Documents”, the CoM 28 June 2005 Regulations No. 473 governing the creation and circulation of electronic documents, the Freedom of Information Law, the CoM 6 March 2007 Regulations No. 171 “Procedure on How Agencies Post Information on the Internet”, the Law on the State Secret, etc.

According to the regulations each administrative agency shall have a website to be updated at least once a week (Procedure on How Agencies Post Information on the Internet: Points 3 and 4). It is required that an agency publishes fairly detailed information in pre-defined categories – general information about the agency, contacts, services provided by the agency, news including employment opportunities, sector policy, the EU (covering EU issues related to the agencies competence), international cooperation, legal acts and development planning docu-

¹⁷⁸ Interview of Uģis Šics, former official at the State Chancellery and currently private consultant with author, Riga, 20 April 2011.

¹⁷⁹ No nākamā gada KNAB varēs pārbaudīt tikai 300 no 57 000 valsts amatpersonu deklarācijām (With the Next Year, the CPCB will Be Able to Verify Only 300 out of 57,000 Declarations of Public Officials). LETA. 12 June 2011. <http://www.delfi.lv/news/national/politics/no-nakama-gada-knab-vares-parbaudit-tikai-300-no-57-000-valsts-amatpersonu-deklaracijam.d?id=39046278>

ments, publications and statistics, e.g. annual public reports and research, links, information in other languages, public procurement, public participation, e.g. information about public hearings, easy language section and information about salaries of public officials (Procedure on How Agencies Post Information on the Internet: Points 10 and 11).

The Public Procurement Law (hereafter – Procurement Law) requires publication of notices both before carrying out procurement and about results of procurement procedures. The Procurement Supervision Bureau (hereinafter - PSB) shall publish also notices about complaints concerning procurement proceedings and results of the review of such complaints. The public procurement sections of websites shall contain information about signed public procurement contracts indicating what is being procured, the name of the provider, contract amount, contract execution deadline, etc. (Procedure on How Agencies Post Information on the Internet: Point 11.13).

By default, only vacancies in the civil service shall be always (with a few exceptions) filled with the help of an open competition (State Civil Service Law: Section 8) and *ipso facto* advertised publicly although exceptions are foreseen, too. Regarding hiring to positions that are not a part of the civil service, there is no general requirement to advertise vacancies publicly. However, in general the legal framework foresees a high level of transparency of the public sector.

4.2.2. Transparency: practice

Score: 75 / 100

To what extent are the provisions on transparency in financial, human resource and information management in the public sector effectively implemented?

In general, the provisions of the Freedom of Information Law appear to be implemented reasonably well. A study of 2008 where requests for information were sent to all Latvian ministries found the following: “In replying to the request many institutions show a high standard of complying to the principle of good administration. The answers received reveal that institutions frequently create a new set of data in order to fulfil the request, especially when it concerns the statistical information on the work or internal procedures of the institution.”¹⁸⁰

The state nearly always respects its legal duties to publish information proactively. Thus the declarations system for public officials is generally well-run and all of the data that public officials declare are actually published. The PSB duly publishes all of the legally required announcements on its website.¹⁸¹

However, no comprehensive data exist about the frequency of unsubstantiated refusals to satisfy requests for information. This lack of data is in part due to the non-existence of any supervisory agency for the implementation of the Freedom of Information Law. The lack of such supervision also attests to the low political priority of the implementation of this law.

Access to public-sector information is a matter of rather frequent litigation. Although naturally each case has its own merits, it is quite common for petitioners to win in such matters. To give a couple of recent examples, on 26 May 2011, the Senate of the Supreme Court ruled against the Bank of Latvia stating that it had no grounds to refuse the disclosure of the salaries of its management.¹⁸² On 21 March 2011, the Senate ruled that the SRS shall disclose information about particular taxpayers if an applicant has a sufficiently grounded interest in receiving the information (in this case the applicant was an insolvency practitioner) and the rights or

180 Austere, L. Access to Public Information in Latvia. Published in: Access to Public Information and the New EU Member States. The Institute for Public Policy (2008). P.51. <http://info-a.wdfiles.com/local--files/resursi/PASOS%20FOI%20report%202008>

181 Iepirkumu izziņošana (Announcing Procurements) <http://www.iub.gov.lv/node/115>

182 Judgment in the case No. A42924309, SKA- 421/2011. 26 May 2011. http://www.tiesas.lv/files/AL/2011/05_2011/26_05_2011/AL_2605_AT_SKA-0421-2011.pdf

legitimate interests of the particular taxpayers would not be seriously trenches upon.¹⁸³

Meanwhile new initiatives to increase transparency also take place. The IT tool of the SCh, which was mentioned under 4.1.1 “Resources (Practice)”, would feature a website on the functions of the public sector with necessary data to allow everyone to learn what functions are funded from the state budget and what particular amounts are allocated, compare funding for different functions and see the overall distribution of funds.¹⁸⁴

Thus, although the litigations show that public agencies do not always fulfil all of the disclosure provisions correctly, the public sector as a whole is fairly transparent.

4.2.3. Accountability: law

Score: **75** / 100

To what extent are there provisions in place to ensure that public sector employees have to report and be answerable for their actions?

Latvia's policy on whistleblowing is limited. According to the Labour Law, „it is prohibited to punish an employee or directly or indirectly cause other disadvantageous consequences when an employee has exercised his/her rights in a permissible manner within the framework of legal labour relations as well as when he/she informs competent authorities or public officials about suspicion of a criminal act or administrative violation at the workplace.” (Labour Law: Section 9, Paragraph 1). This law does not contain any confidentiality requirements concerning the identity of a whistleblower; it only covers reporting to the competent authorities rather than, for example, the media; no administrative sanctions are foreseen for public officials who would breach this provision, etc.¹⁸⁵ In April 2011, the Saeima amended the Conflict of Interest Law to prohibit, for example, heads of agencies from disclosing the identity of a public official or employee who has reported on conflicts of interest. It is also prohibited to cause unfavorable consequences for such persons without objective grounds (Section 20, Paragraph 7). However, it does not apply to those who report, for example, on bribery or abuse of office.

The law provides an opportunity to hand in complaints and other submissions in written, in spoken and electronically (Law on Submissions: Section 3, Paragraph 3). However, if a complaint is submitted electronically but without a secure e-signature, the complainant cannot sue the agency in the administrative court for a failure to reply (Law on Submissions: Section 2, Paragraph 4). An agency shall provide a substantive reply within reasonable time, considering the urgency of the issue but no later than one month from the receipt of the submission unless the law foresees otherwise (Law on Submissions: Section 5, Paragraph 3).

Ministries and, under certain conditions, also other state agencies shall set up internal audit units. Institutions, which are subordinate to ministries, normally get audited by the auditors of the ministries, thus making the audit system semi-centralized. Internal audit shall produce an opinion or consultation by an internal auditor with the aim to improve the performance of the internal control system in a ministry or other agency (Internal Audit Law: Section 1, Point 3). Internal auditing shall assess action plans of agencies, methods and procedures for effective performance and provide recommendations for the improvement of effectiveness (State Administration Structure Law: Section 93, Paragraph 3).

Most public sector agencies do not have a duty to report to the Saeima regularly. However, the Saeima committees have the right to invite to their sittings responsible representatives

183 Judgment in the case No. A420574710, SKA-254/2011. 21 March 2011. http://www.tiesas.lv/files/AL/2011/03_2011/21_03_2011/AL_2103_AT_SKA-0254-2011.pdf

184 Jaunumi. Jūnijs. (News. June.). Info_a website. <http://info-a.wikidot.com/>

185 For a more detailed review of recommended principles for whistleblower legislation, see: Alternative to Silence. Whistleblower Protection in 10 European Countries. Transparency International (2009). Pp. 44-46.

from the relevant ministries or local government authorities to furnish explanations (Constitution: Section 25).

As far criminal liability is concerned, the Criminal Law differentiates between public officials and other public sector employees. Public officials (representatives of state authority, as well as every person who permanently or temporarily performs his or her duties in the state or local government service and who has the right to make decisions binding on other persons, or who has the right to perform any functions regarding supervision, control, inquiry, or punishment or to deal with the property or financial resources of the state or local government – the Criminal Law: Section 316) can be charged with bribery, abuse of office and other corruption-related crimes by and large in line with international standards for criminalization of corruption. Other employees of state or local-government agencies can be charged with soliciting or acceptance of illegal benefits (Criminal Law: Section 326.²⁾). The definition of the crime resembles that of passive bribery but some details of qualification and sanctions differ.

A long-term problem regarding the accountability of procurement officials is the obsolete provisions that stipulate administrative liability for violations in this area (Code of Administrative Violations: Sections 166.²¹, 166.²², 166.²³, 166.²⁴, 166.²⁵) and the lack of a designated institution with a mandate to apply these administrative sanctions. As a result they are never applied. Procurement officials remain mostly unpunished where violations have taken place but do not amount to a criminal offence.

The mentioned mechanisms together with roles performed by the State Audit Office and administrative courts form an accountability framework, which is quite comprehensive notwithstanding a few deficiencies.

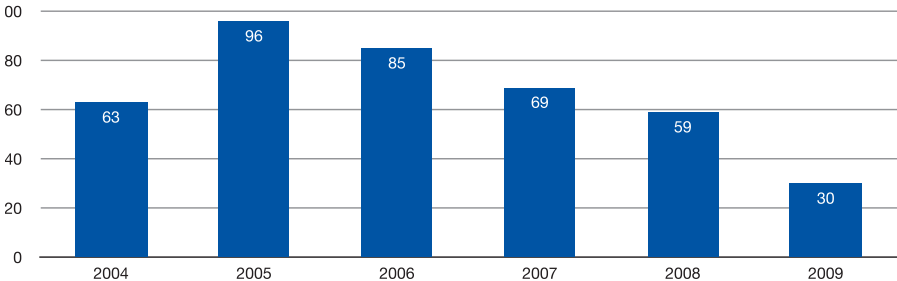
4.2.4 Accountability: practice

Score: 75 / 100

To what extent do public sector employees have to report and be answerable for their actions in practice?

The number of convicted public officials varies with a gradual decline since 2005 (see Graph 1). If not to count institutions, which are reviewed under separate pillars, customs officials have been convicted for corruption-related offences most frequently (58 convictions in the court of first instance in 2004-2009), then follow officials of the State Boarder Guard Service (24 convictions) and the SRS excluding the customs, which is a part thereof (12 convictions).¹⁸⁶ Although it is hard to assess what proportion of actual corruption offences gets detected and prosecuted, the enforcement does appear to act as a restraint of at least some effectiveness.

Chart 1. Number of Public Officials Convicted in the Court of First Instance



¹⁸⁶ <http://korupcijas-c.wikidot.com/stat2009-viz>

Otherwise administrative sanctions function as a restraint especially in conflict-of-interest matters (see Heading 4.2.6. “Integrity Mechanisms (practice)”). No institution gathers data on disciplinary proceedings against public officials. Anecdotal evidence shows that civil servants are indeed sanctioned disciplinarily¹⁸⁷ but it is impossible to give any general assessment of the effectiveness of disciplinary responsibility.

The interviewed experts expressed somewhat critical opinions about the role played by the internal audit. According to B.Pētersone, where the internal audit is subordinate to the head of the agency, responsiveness to audit findings is entirely up to the will of the head. This problem has been minimized at least partially by centralizing the audit function on the level of ministries, turning it into external audit vis-à-vis subordinate agencies.¹⁸⁸ According to I.Reinholde the auditors also have some qualifications problems. They tend to be unable to suggest new initiatives for the development of the agency and only focus on whether existing rules are being complied with.¹⁸⁹ As a reaction to reduced budgetary funding, several agencies have suspended the development and implementation of risk-management systems.¹⁹⁰

In addition to the above, the administrative courts represent one of the strongest accountability mechanisms over the public sector. On the one hand, the case law of the administrative courts is often regarded as being of high quality. Meanwhile the success of the system has had its negative side effect, i.e. excessive case burden and backlogs (see Pillar III “Judiciary”, heading 3.3.1. for more information). In the cases of public procurement, the review of complaints by the PSB is an important accountability mechanism (the Bureau made decisions regarding 350 applications in 2010).¹⁹¹

Weak whistleblower protections, some doubts about the effectiveness of the internal audit and overburdened administrative courts hamper proper accountability of the public sector. Nevertheless the existing framework still allows for reasonably strong accountability.

4.2.5. Integrity Mechanisms: law

Score: 100/100

To what extent are there provisions in place to ensure the integrity of public sector employees?

Apart from the Criminal Law, which criminalizes both active and passive bribery, the central piece of integrity-ensuring legislation for the public sector is Conflict of Interest Law. The law includes an incompatibility clause restricting civil servants’ and other public officials’ additional occupations and imposing a permission regime. The permitted additional jobs for civil servants include offices held in conformity with laws, and CoM regulations and orders; the work of teacher, scientist, professional sportsperson and creative work; office in trade union; other work/ economic activities if combination thereof does not result in a conflict of interests and written permission of a superior has been received (Conflict of Interest Law: Section 7, Paragraph 6).

Public officials shall not obtain income from capital shares and stock, as well as from any kind of securities in commercial companies that are registered in tax-free or low-tax countries

187 See, for example: Jakānam piemērots disciplinārsods – mēnešalgas samazināšana (Disciplinary Penalty Applied to Jakāns – Reduction in Monthly Wage), nra.lv 11 February 2010. <http://zinas.nra.lv/latvija/16127-jakanam-piemerots-disciplinarsods-menesalgas-samazinanas.htm>

188 Interview with Baiba Pētersone, 20 June 2011.

189 Interview with I.Reinholde, 13 June 2011.

190 Ziņojums par rekomendācijām. Nodēvums pētījumā “Iekšējās kontroles sistēmas uzraudzības novērtējums un rekomendāciju izstrāde” (Report on Recommendations. Submission in Research „Assessment of Internal Control System Supervision and Elaboration of Recommendations”). Nikolo grupa (2011). P.16. http://www.mk.gov.lv/file/files/ESfondi/2011/gala%20ziņojums_3006.pdf

191 Pārskats par iepirkumu uzraudzības biroja darbu 2010.gadā (Report on the Performance of the Procurement Supervision Bureau in 2010). http://www.iub.gov.lv/files/upload/IUB_Vadibas_zinojums_2010.doc

and territories (Conflict of Interest Law: Section 9, Paragraph 3).

Like most public officials, civil servants are prohibited to prepare or issue administrative acts, perform the supervision, control, inquiry or punitive functions, enter into contracts or perform other activities in which such public officials, their relatives or counterparties are personally or financially interested (Conflict of Interest Law: Section 11, Paragraph 1).

All public officials are subject to a restriction on accepting gifts. A public official fulfilling the duties of office is permitted to accept only diplomatic and official gifts, e.g. gifts by official representatives of foreign states or by the authority in which the relevant official serves (Conflict of Interest Law: Section 13.¹, Paragraph 1). Privately public officials are prohibited from accepting gifts if in relation to the donor the public official has in a period of two years prior to receipt of the gift carried out certain official functions. Public officials are also prohibited to carry out such functions regarding persons from whom they have accepted gifts in a past period of two years (Section 13.², Paragraphs 1 and 2).

For civil servants, an instruction of the CoM “The Principles of Conduct of a Civil Servant” provides some of the key tenets of behaviour. The concise document stipulates some fairly general points, e.g. the requirement to act so as to strengthen the public trust in the state administration, politeness and respect in relations with other servants and the public, the basic principles for the avoiding of conflicts of interest, etc.¹⁹² Apart from this instruction, many ministries and other public agencies have their own codes of ethics/ conduct. However, the absence of all-encompassing requirements to follow certain ethics principles in the whole of the public sector (not just among civil servants) can be considered a flaw.

According to the Procurement Law the commissioning party shall exclude a candidate or applicant from further participation in a procurement procedure, as well as shall not review the tender of an applicant when, pursuant to a court judgment, which has come into effect, the candidate or applicant has been found guilty of committing *inter alia* a criminal offence of corruptive nature (Section 39, Paragraph 1, Point 1). The law also contains specific conflict-of-interest provisions for members of the procurement commission and experts, including a requirement to sign a statement that there are no such circumstances, due to which it might be regarded that they are interested in selecting or activities of a particular candidate or applicant or that they are connected to them (Procurement Law: Section 23).

The legal framework for ensuring public sector integrity does have certain relatively minor deficiencies, e.g. the Conflict of Interest Law has been criticized for excessive complexity and rigidity. GRECO has indicated some deficiencies in the way Latvia criminalizes bribery, e.g. with regard to “the offering/promising and the request of an undue advantage”.¹⁹³ However, overall, laws contain all of the main elements to ensure public sector integrity according to current international standards.

4.2.6. Integrity Mechanisms: practice

Score: **75**/100

To what extent is the integrity of public sector employees ensured in practice?

The public sector as a whole is perceived as somewhat less corrupt than political parties and the parliament. According to the GCB 2010 in Latvia public officials in general were perceived as slightly less affected by corruption (score 3.6 where 5 means extremely corrupt) than

192 Ierādņa uzvedības principi (The Principles of Conduct of a Civil Servant). Ministru Kabineta 09.01.2001 instrukcija Nr. 1. <http://www.likumi.lv/doc.php?id=1574>

193 Third Evaluation Round Compliance Report on Latvia. GRECO, 1 October 2010. P.11. [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3\(2010\)6_Latvia_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoRC3(2010)6_Latvia_EN.pdf)

the parliament (3.7) and political parties (4.0).¹⁹⁴

As far as the implementation of the integrity framework is concerned, the most tangible data are the number of administrative sanctions applied to public officials for conflict-of-interest-related violations. The CPCB applies administrative sanctions to tens of public officials every year for conflict-of-interest-related violations. In 2010, 20 officials of state agencies were fined (this figure excludes officials of local governments, the SP and the National Defence Forces).¹⁹⁵

Little evidence exists about the effectiveness of codes of conduct in the public sector. According to B.Pētersone: "Such codes exist in most agencies but I am not sure about their practicability. I have not seen it in practice."¹⁹⁶ Also I.Reinholde was unable to give an example of a public sector agency where the application of a code of ethics has been discussed internally; instead there are "numerous agencies with ethics commissions that have never convened".¹⁹⁷ Some of the public sector managers have little enthusiasm to engage in reducing corruption risks in their agencies. There is an opinion that the CPCB is the specialised agency and hence preventive activities are up the CPCB.¹⁹⁸

Despite reduced budgetary funding, training on the application of the Conflict of Interest Law and professional ethics of public officials has been provided rather extensively. For example, in 2009 the CPCB organized 47 seminars. 77% of them were held for state and municipal public officials. The most frequently covered topics include the application of the Conflict of Interest Law, professional ethics of public officials, and internal control and anti-corruption measures of public institutions. Despite the limited resources of the CPCB, in 2010 it actually provided a record number of 86 seminars.¹⁹⁹

4.3. ROLE

4.3.1. Public Education

Score: 25 / 100

To what extent does the public sector inform and educate the public on its role in fighting corruption?

Apart from the CPCB (see Pillar 9), state institutions run no education activities for the general public about corruption-related issues. Occasional education activities may be targeted at the employees of these institutions. The School of Public Administration includes well-attended training courses on corruption and conflict of interest in its curriculum but also these are meant primarily for public sector employees.

In 2009, 90.8% of Latvia's residents knew something/ had heard about the CPCB. 16.5 % replied that they would report to the CPCB, 14.8 % – to the police and/or public prosecutor's office if they personally encountered corruption. The latter two figures may appear low but they are caused most likely by widespread passiveness of the public and not so much by not knowing where to report.²⁰⁰

194 Global Corruption Barometer 2010. Question 2: To what extent do you perceive the following institutions in this country to be affected by corruption? http://www.transparency.org/policy_research/surveys_indices/gcb/2010/results Last accessed on 4 March 2011.

195 Korupcijas novēršanas un apkarošanas biroja lēmumi administratīvo pārkāpumu lietās 2010.gadā (Decisions of the Corruption Prevention and Combating Bureau in Cases of Administrative Violations in 2010). <http://www.knab.lv/lv/prevention/conflict/offences/article.php?id=308227>

196 Interview with Baiba Pētersone, 20 June 2011.

197 Interview with I.Reinholde, 13 June 2011.

198 Vadītāju interviju analīze. Nodrevums pētījumā "Iekšējās kontroles sistēmas uzraudzības novērtējums un rekomendāciju izstrāde" (Analysis of Interviews with Managers. Submission in Research „Assessment of Internal Control System Supervision and Elaboration of Recommendations”). Nikolo grupa (2011). P.6. <http://www.mk.gov.lv/file/files/ESfondi/2011/vaditaju%20interviju%20analize.pdf>

199 Sabiedrības informēšana un izglītošana par pretkorupcijas jautājumiem (Informing and Education of the Public about Anti-corruption Issues). Material provided via e-mail by Diāna Kurpniece, Head of the Prevention Department of CPCB on 10 January 2011.

200 Attieksme pret korupciju Latvijā. Latvijas iedzīvotāju aptauja (Attitude toward Corruption in Latvia. Survey of Latvia's Population). SKDS, November

Given the near complete absence of anti-corruption education activities for the broader public (apart from the CPCB), the rating is correspondingly low.

4.3.2. Cooperate with public institutions, CSOs and private agencies in preventing/ addressing corruption

Score: 25 / 100

To what extent does the public sector work with public watchdog agencies, business and civil society on anti-corruption initiatives?

Apart from the CPCB, other law enforcement institutions and the judiciary (see respective pillars), very few initiatives of public sector agencies to work with public watchdog agencies, business and civil society on anti-corruption matters have taken place. Corruption is often viewed as a specific problem whose solution shall be handed to a specialized institution – the CPCB,²⁰¹ thus seemingly freeing the other agencies from responsibility for activities in this area.

One rare example is cooperation between *Delna* and the Ministry of Culture in concluding an integrity pact and monitoring corruption risks in the construction of the National Library of Latvia. The cooperation started in 2005 and, in the process, *Delna* has issued a number of recommendations, e.g. for the Ministry of Culture to ensure access to information about subcontractors of the project to enable *Delna* to make sure they follow good business practice and implement anti-corruption declarations.²⁰² According to K.Petermanis, Director of *Delna*: “The co-operation has had its ups and downs throughout years. In 2005 the Ministry of Culture viewed it largely as a PR activity. When the J3B agency [a dedicated state agency for the construction of three major culture infrastructure projects] launched the actual project of the National Library and a couple of other major projects, *Delna*’s participation became almost unwelcome. Now, when the J3B agency has been abolished and the ministry has taken over the library project, the cooperation is almost as intended in the integrity pact, only hindered by the small number of the ministry’s staff, a direct result of the economic crisis.”²⁰³

4.3.3. Reduce Corruption Risks by Safeguarding Integrity in Public Procurement

Score: 75 / 100

To what extent is there an effective framework in place to safeguard integrity in public procurement procedures, including meaningful sanctions for improper conduct by both suppliers and public officials, and review and complaint mechanisms?

Above specific thresholds, open and closed bidding²⁰⁴ could be regarded as default procurements methods. The use of other procurement methods such as a price quotation, negotiated procedure, and design competition is subject to narrowly-defined conditions specified in the law (Procurement Law: Sections 62, 63, 64.¹, 70). In 2009, open bidding was used in 520 and closed bidding in 10 out of the total of 1393 state procurements above the thresholds (the rest of procurements were done by the other methods).²⁰⁵

209. Pp. 15, 18. http://delna.lv/wp-content/uploads/old_files/atskaite_korupcija_112009_1.pdf

201 Ziņojums par rekomendācijām. Nodevums pētījumā “Iekšējās kontroles sistēmas uzraudzības novērtējums un rekomendāciju izstrāde” (Report on Recommendations. Submission in Research „Assessment of Internal Control System Supervision and Elaboration of Recommendations”). Nikolo grupa (2011). P.16. http://www.mk.gov.lv/file/files/ESfondi/2011/gala%20ziņojums_3006.pdf

202 Information about monitoring of the Latvian National Library project on the website of Transparency International – Latvia (*Delna*). <http://delna.lv/raksti/category/darbibas-jomas/lnb-uzraudziba/>

203 Interview of Kristaps Petermanis, Director of Transparency International Latvia – *Delna*, with author, Riga, 1 July 2011

204 All interested suppliers may request the right to participate, however, tenders may only be submitted by those candidates, which are invited by the commissioning party according to set requirements (Procurement Law: Sections 50 and 54).

205 Statistisko pārskatu apkopojums par 2009. gada Latvijas Republikā veiktajiem publiskajiem iepirkumiem (Summary of Statistical Reports About Public Procurements Carried Out in the Republic of Latvia in 2009). Iepirkumu uzraudzības birojs (2010). P.16.

The law provides two general criteria for the selection of tenders – the economically most advantageous tender or the tender with the lowest price. In case the economically most advantageous tender is selected, the commissioning party shall indicate in the public notice all evaluation criteria in the order of significance thereof, the proportion and numerical value of the criteria, as well as shall indicate in the procurement documents the selection algorithm of a tender in accordance with these criteria and a description of how each evaluation criterion indicated will be evaluated (Procurement Law: Section 46). It is hard to assess the exact extent to which objectivity in procurement is secured in practice. However, the public has a certain degree of doubt. In 2009, 7.4 % of surveyed Latvia's residents responded as having personally experienced advantages in public procurement extended to those who pay bribes or are privately linked to the officials in charge.²⁰⁶

Several control mechanisms apply to public procurement. However, specific control responsibility in this area rests with the PSB, which shall *inter alia* monitor the conformity of the procurement procedures with the requirements of the law and examine complaints regarding violations of the procurement procedure. It shall also compile and analyse statistical information regarding procurements as well as prepare reports regarding these; provide methodological assistance and consultations, organise training for commissioning parties, sellers of goods, lessors, performers of works and providers of services; publish the notices specified in the law in the internet and send them for publication in the Official Journal of the EU (Procurement Law: Section 81).

The PSB is an ordinary state administration agency subordinate to the Ministry of Finance and as such it does not enjoy any special independence guarantees (Procurement Law: Section 80, Paragraph 1). As of end of 2010, it had 42 staff positions.²⁰⁷ The agency does work under certain resource strain but its tasks appear to be manageable.

The CoM shall designate centralized procurement institutions, which shall carry out procurement for the needs of other commissioning parties, define categories of goods and services to be procured in this way and cases when procurement with the help of the centralized procurement institution is mandatory (Procurement Law: Section 1, Point 1; Section 16, Paragraphs 2.¹ and 2.²). In practice, the State Regional Development Agency runs the centralized e-procurement system for goods such as office supplies, software, computer hardware and a few other (Annex 1 to the CoM 28 December 2010 Regulations No. 1241 on Centralized Electronic Procurements).

The law is rather laconic as far as qualifications of procurement officials are concerned. When establishing the procurement commission, it shall be ensured that this commission is competent in the field of the procurement, regarding which a contract is being entered into. The procurement commission, upon performing its duties, is entitled to invite experts (Procurement Law: Section 22, Paragraph 2).

According to the law the same commission shall ensure the development of procurement procedure documents, record the progress of the procurement process and shall be responsible for the course of the procurement procedure (Procurement Law: Section 23, Paragraph 4). In accordance with the Conflict of Interest Law, public officials are not allowed to carry out any control duties over themselves (Conflict of Interest Law: Section 11, Paragraph 1). Hence all controls over the work of members of a procurement commission shall be carried out by other

http://www.iub.gov.lv/files/upload/2010_statistisko_parskatu_apkopojums.pdf

206 Attieksme pret korupciju Latvijā. Latvijas iedzīvotāju aptauja (Attitude toward Corruption in Latvia. Survey of Latvia's Population). SKDS, November 2009. P. 11. http://delna.lv/wp-content/uploads/old_files/atksaite_korupcija_112009_1.pdf

207 Pārskats par iepirkumu uzraudzības biroja darbu 2010.gadā (Report on the Performance of the Procurement Supervision Bureau in 2010). http://www.iub.gov.lv/files/upload/IUB_Vadibas_zinojums_2010.doc

staff of the same or a different agency.

The commissioning party shall post questions of potential bidders and respective answers/ additional information on the internet where the procurement documents are found. If the commissioning party amends procurement documents, it shall post information about such amendments on the internet no later than one day after a notice of amendments has been submitted to the PSB for publication (Procurement Law: Section 30, Paragraphs 4 and 5). Within three days, the commissioning party shall inform all bidders about its decision regarding the award of a contract. No later than three working days after having informed the bidders, the commissioning party shall submit for publication a notice about the results of the procurement procedure (Procurement Law: Section 27, Paragraph 1; Section 32, Paragraph 2). The legal requirements to publish information and inform the involved parties are normally honoured in practice.

A person who is or has been interested in acquiring the right to enter into a procurement contract or who is qualifying for winning is entitled to submit a complaint to the PSB (Procurement Law: Section 83, Paragraphs 1 and 2). In 2010, the PSB accepted 595 such applications for review and adopted decisions regarding 350 of these applications.²⁰⁸ There are no specific civil or social control mechanisms in the law apart from transparency requirements, which facilitate possibilities of the media and general public to follow procurement activities. Otherwise the procurement framework is by and large adequate (except for the impossibility to apply administrative liability – see under point 4.2.3).

4.4. KEY RECOMMENDATIONS

- Main recruitment principles (e.g. conditions when open competition is required) should be defined for the whole of the public sector with due regard to *inter alia* reputation and ethics competence of candidates.
- Adopt and implement more comprehensive legal provisions for whistleblower protection in the public sector.
- Define a circle of corruption-risk-prone positions in the public sector. The risk should be taken into account in the design of remuneration and control systems, including selective review of annual asset and income declarations.
- Update provisions of administrative liability in the area of public procurement and designate the Procurement Supervision Bureau as the institutions in charge of applying the respective sanctions.
- A broad public debate is necessary about the further development of the public procurement system and practice so as to limit risks of corruption and unfair competition.

208 Pārskats par iepirkumu uzraudzības biroja darbu 2010.gadā (Report on the Performance of the Procurement Supervision Bureau in 2010). http://www.iub.gov.lv/files/upload/IUB_Vadibas_zinojums_2010.doc

5. LAW ENFORCEMENT AGENCIES

Both the State Police (hereinafter - SP) and the Public Prosecutor's Office (hereinafter - PPO) are in a challenging situation in terms of resources. Meanwhile legal provisions ensure reasonable independence for the respective institutions although there is little protection against arbitrary appointments and dismissals in the SP. The Internal Security Bureau (hereafter - ISB) of the SP appears a fairly efficient complaint handling body but it is often doubted whether complaining to the immediate superior of the police officer whose actions are in question is effective. Despite the impression that, on the central level, the SP pays due attention to the issues of corruption and unethical behavior, the police faces serious integrity problems. Ethics-related training programs for the police and public prosecutors are scarce. All in all the activities of law enforcement agencies in detecting and combating corruption have been effective but apparently too limited to achieve major any breakthrough in Latvia's corruption patterns among higher-level/ political officials.

Law Enforcement Agencies		Overall Pillar Score: 72 / 100	
	Indicator	Law	Practice
Capacity 58 / 100	Resources	-	50
	Independence	75	50
	Transparency	100	75
Governance 83 / 100	Accountability	100	75
	Integrity Mechanisms	100	50
Role 75 / 100	Corruption Prosecution	75	

Structure and organization

The law enforcement is a complex area. Criminal investigations can be carried out by the State Police, the Security Police, the Financial Police, the Military Police, the Prison Administration, the CPCB (reviewed under pillar 9: Anti-Corruption Agencies), customs agencies, and the State Boarder Guard (Criminal Procedure Law: Section 386).

Most of these agencies carry out a certain anti-corruption role. However, due to resource and volume limitations of this study, the pillar focuses on only one of the investigation agencies, i.e. the State Police (hereinafter - SP), which has the broadest competence. The SP is an agency under the supervision of the Minister of Interior. It has wide functions in the maintenance of public order and crime investigation. Since January 2010, the SP is organized into five regional departments. Moreover there are a number of main departments on the central level.

Moreover the pillar reviews the PPO, which belongs to the judiciary authority. In the Latvian system its primary functions are prosecution and subsequent bringing of criminal cases for trial as well as supervision of investigatory institutions such as the SP and the CPCB. It consists of the PGO, five regional offices and the Specialized Prosecutor's Office for Organized Crime and Other Sectors. In addition, at the PGO there is the Service for the Prevention of Legalization of Criminally Obtained Funds.

5.1. CAPACITY

5.1.1. Resources: practice

Score: 50 / 100

To what extent do law enforcement agencies have adequate levels of financial resources, staffing, and infrastructure to operate effectively in practice?

Among public officials there is a widely held opinion that the SP is lacking all kinds of resources, be it human or technical.²⁰⁹ Due to the financial crisis, the budget of the SP has been cut drastically from LVL 96 million (approx. EUR 137 million) in 2008 to LVL 64 million (approx. EUR 91 million) in 2011.²¹⁰ More than 1800 employees (out of the total of approx. 8000) left the police in 2009 and 2010²¹¹ either because reduced salaries did not satisfy them anymore or they were laid off due to the reduction of the total police force.

As of the beginning of 2011, the average monthly salary in the SP was approx. LVL 300 (approx. EUR 427),²¹² which is obviously insufficient for the attraction of qualified staff. Before his appointment in August 2011, the Head of the State Police Ints Ķūzis said that slowing down the trend of police officers leaving their police jobs would be his first task in office.²¹³

A side-effect of the unattractiveness of the police jobs and the remuneration is difficulties in applying sufficiently high qualification requirements for recruits. Another side effect thereof is the common practice of the police personnel to take up additional jobs in private security companies and elsewhere. This practice spurred a sharp controversy especially after, in January 2011, a group of police officers committed an armored burglary in a gambling house and shot dead one police officer who tried to detain them and injured another two.²¹⁴ Afterwards the Police leadership decided to curb side jobs by mandatory replacement of 24 hour shifts with 12 hour shifts (the 24 hour shifts meant that officers had 72 hour periods off duty allowing them to do side jobs). The United Trade Union of the Police strongly opposed the move claiming that the police salaries are not sufficient to support families²¹⁵ and the decision was partially reversed in July 2011.²¹⁶

The technical equipment of the police has been perceived less of a problem in part due to investment in the pre-crisis years. Still the physical infrastructure of police offices and detention facilities is poor in some areas. Improvements in this area have slowed down. For example, Latvia's international lenders objected to the project of the Ministry of Interior to construct a complex of administrative building for the Vidzeme regional police headquarters.²¹⁷

Exact assessments of how sufficient are resources for the SP are complicated by the fact that the structure of the Police was recently thoroughly reformed (it was consolidated into five regional branches). Moreover it is unclear what level of performance is expected from the police.²¹⁸ The former teacher at the Police Academy, current researcher at *Providus* and advisor

209 For example, such opinion is held by Aldis Lieljūksis, former Head of the State Police 1993-1998 and 2006-2009, interviewed on 12 May 2011. At the time of the interview, Aldis Lieljūksis was a Deputy Head of the State Fire and Rescue Service.

210 Klavis, A. Drošība uz pusslodzīti (Half-time Safety). Ir. No. 12 (2011). P.17. <http://www.ir.lv/2011/3/22/drosiba-uz-pusslodziti>

211 Ibid.

212 Ibid. P.18.

213 Bērziņa, V. Ķūzis: policistu atalgojumā valda haoss (Ķūzis: a Mess Reigns in the Remuneration of Policemen). Ir.lv 27 July 2011. <http://www.ir.lv/2011/7/27/kuzi-virza-apstiprinasanai-valsts-polijas-prieksnieka-amata>

214 Jēkabpīlī uzbrukumā ievainots arī spēļu zāles darbinieks (An Employee of the Gambling House also Injured in the Assault in Jēkabpils). LETA, 25 January 2011. <http://www.delfi.lv/news/national/criminal/jekabpili-uzbrukuma-ievainots-ari-spelu-zales-darbinieks.d?id=36444987>

215 Policisti nav mierā ar 12ha darba režīmu (Police Officers Are not Content with the 12 Hour Work Regime). <http://www.policistuarodbiedriba.lv/index2.php?lang=lv>

216 Policijas darbinieki atkal varēs strādāt 24 stundu režīmā (The Police Employees will be Able to Work According to 24-Hour Schedule Again). LETA, 27 July 2011. <http://www.delfi.lv/news/national/politics/policijas-darbinieki-atkal-vares-stradat-24-stundu-rezima.d?id=39810141>

217 Aizdevēji liedz publiski privātajā partnerībā būvēt jauno policijas ēku Valmierā (Lenders Prohibit the Construction of the New Police Building in Valmiera in Public-Private Partnership). Delfi.lv, 15 April 2011. <http://www.delfi.lv/news/national/politics/aizdeveji-liedz-publiski-privataja-partneriba-buvet-jauno-policijas-eku-valmiera.d?id=38026809>

218 Interview of Aldis Lieljūksis, former Head of the State Police 1993-1998 and 2006-2009, at the time of the interview, - Deputy Head of the State

to the Minister of Justice I.Kronberga notes: “It is extremely difficult to say whether the budget is sufficient or not because the Police still has not worked enough within the new arrangement of five regions.”²¹⁹ Still the former Head of the State Police (1993-1998 and 2006-2009) A.Lieljuksis claims that a major mismatch between workload and capacity remains and one could punish any single police investigator because all of them have backlogs of criminal cases so large that there is no way to handle it all.²²⁰

The difficulties of the public prosecutor’s office are somewhat milder but still pressing. According the former Public Prosecutor General J.Maizītis: “We would like very much to increase the number of detections and investigations of complicated economic crime. First of all such cases get stuck in investigation institutions but also here in the prosecutor’s office we have few colleagues who are able and motivated to work with them. Unfortunately, at the moment we have lost also possibilities to motivate employees financially. [...] We lack possibilities to motivate for work people with higher job intensity than their colleagues in positions of the same level.”²²¹ Also the current Prosecutor General Ē.Kalnmeiers has talked in public about insufficient skills to handle matters involving financial crime.²²²

Overall both the SP and, to a somewhat lesser degree, the PPO are in a challenging situation in terms of resources. Since possibilities to increase budgets radically are unrealistic, handling the situation requires especially skilled leadership.

5.1.2. Independence: law

Score: 75 / 100

To what extent are law enforcement agencies independent by law?

In Latvia, in terms of independence, it is necessary to differentiate between the SP and the PPO. The former is an agency under the Ministry of Interior while the latter belongs to the Judiciary Authority and thus enjoys a considerably higher degree of independence (however, the PPO is not anchored in the Constitution).

The SP is under the supervision of the Minister of Interior (Law on the Police: Section 15). The essence of supervision in the Latvian legislation is the right of a higher institution or official to examine the lawfulness of decisions taken by a lower institution or official and to revoke unlawful decisions, as well as to issue an order to take a decision in case of unlawful failure to act (State Administrative Structure Law: Section 7, Paragraph 5). The Minister of Interior has the right to initiate disciplinary proceedings against the head of the State Police (State Administrative Structure Law: Section 36, Paragraph 1).

The Minister of Interior appoints the head of the State Police (also heads of the Security Police and the State Boarder Guard) after the candidate has been approved by the CoM (Law on Career Course of Service of Officials of Ministry of Interior and Prison Administration: Section 9, Paragraph 4). An official of an institution of the system of the Ministry of the Interior who has a higher education and whose length of service in the system of the Ministry of the Interior is not less than 5 years may apply for the position of the head of the State Police. The candidate is required to have a legal education (Law on Career Course of Service of Officials of Ministry of Interior and Prison Administration: Section 9, Paragraph 5).

Fire and Rescue Service, with author, Riga, 12 May 2011.

219 Interview of Ilona Kronberga, lawyer and researcher in Providus with author, Riga, 18 April 2011.

220 Interview with Aldis Lieljuksis, 12 May 2011.

221 Esmu gatavs trešo reizi kandidēt uz šo amatu (I Am Prepared to Run for This Office for the Third Time – interview with Jānis Maizītis). Jurista Vārds, 16 March 2010. <http://www.juristavards.lv/index.php?menu=DOC&id=206532>

222 Mače, Z. Kalnmeiers: dažreiz aizdomājos – kam man tas viss bija vajadzīgs? (Kalnmeiers: I Sometimes Think – Why Did I Need All of This?) www.DELFI.lv 17 September 2010. <http://www.delfi.lv/news/conference/interviews/delfi-intervija-kalnmeiers-dazreiz-aizdomajos-kam-man-tas-viss-bija-vajadzigs.d?id=34133543>

In his/her activities, a public prosecutor shall be independent from the influence of other authorities, administrative agencies and public officials. He/she shall be subject only to the law. The legislature, the CoM, state and municipal institutions, all enterprises and organizations as well as physical persons shall be prohibited from interfering into the discharge of investigatory or other functions of the public prosecutor's office. A public prosecutor who is higher in hierarchy may take over any case but he/she has no right to order a public prosecutor to commit acts against his/her conviction (Law on Public Prosecutor's Office: Section 6, Paragraphs 1, 2 and 4).

The law stipulates few requirements for the qualification of candidates for the position of a public prosecutor. A candidate for the position of public prosecutor must be a citizen of Latvia who has higher education in law, has spent a probation period in the public prosecutor's office, fulfilled the probation program and passed a qualification exam (Law on Public Prosecutor's Office: Section 33, Paragraph 1). The procedure for the probation and qualification exam is determined by the Council of the Public Prosecutor General (Law on Public Prosecutor's Office: Section 33, Paragraph 2). A person who has no less than three years experience in the position of a public prosecutor or judge can be appointed a district/city chief prosecutor (Law on Public Prosecutor's Office: Section 34, Paragraph 1). Further requirements of the length of experience are set for other prosecutorial posts. The law provides also certain disqualification criteria for all public prosecutors.

As the PG may be appointed a person who (1) has worked as a justice of the CC for no less than three years; (2) after 1 January 1993 has worked as a justice of the SC for no less than three years and who has at least the third qualification grade; has worked as a judge of a regional court for no less than three years and who has at least the third qualification grade; after 26 September 1990 has held the office of a public prosecutor in institutions of the PPO for no less than five years (Law on Public Prosecutor's Office: Section 34, Paragraph 1).

The Saeima appoints the Public Prosecutor General upon nomination of the President of the Supreme Court for a period of five years (Law on Public Prosecutor's Office: Section 38, Paragraph 1). The rest of public prosecutors are appointed by the Public Prosecutor General considering the opinion of the Attestation Committee (Law on Public Prosecutor's Office: Section 38, Paragraphs 2 and 3).

All of these provisions, taken together, ensure reasonable independence for the respective institutions although there is little protection against arbitrary appointments and dismissals in the SP.

5.1.3. Independence: practice

Score: 50/100

To what extent are law enforcement agencies independent in practice?

As far as appointments and dismissals are concerned, practical possibilities of the police officials (and officials of the public administration as a whole for that matter) to withstand political pressures are weak. According to I.Kronberga, if the head of the State Police is informally asked to leave the office, he may refuse but then "follow disciplinary proceedings, budget cuts, defamation, etc. If you are asked to leave, you have two alternatives. The first is to sign your resignation and leave. [...] The second is to choose a slow and torturous *death* [in figurative sense] knowing that you will never leave in a beautiful way." ²²³ Allegedly no head of the State Police has ever chosen the second alternative.

Meanwhile the public prosecutor's office, which handles the most politically sensitive matters, is relatively better protected. The President of the Supreme Court who nominates a

²²³ Interview with Ilona Kronberga, 18 April 2011.

candidate for the position of the PG is bound only by the scarce criteria in the law. In March 2010, when TI – Latvia (*Delna*) asked him what criteria he would use to assess candidates, the President of the Supreme Court Ivars Bičkovičs gave a fairly general answer: “When evaluating persons who are eligible candidates for the position of the PG according to the Law on Public Prosecutor’s Office, I assess how suited for the office is one person or another. Among other things, I consider the potential candidate’s professionalism, work experience, knowledge of the prosecutor’s office’s work, view of problems and their solutions, ability to make important decisions independently, capacity to withstand interference, skills and experience in leading large staff, personal characteristics as well as the outlook to actually be appointed.”²²⁴

Concerns about external interference in ongoing investigations by the SP or the PPO are relatively rare in Latvia. The former PG reiterated on several occasions that open pressure from politicians is a thing of the first years of the century and he has not encountered anything like that in recent years.²²⁵ I.Kronberga is of similar opinion about the SP.²²⁶

Thus, despite certain risks, there is no evidence of outside interference in the activities of law enforcement agencies being a major problem in Latvia.

5.2. GOVERNANCE

5.2.1. Transparency: law

Score: 100 / 100

To what extent are there provisions in place to ensure that the public can access the relevant information on law enforcement agency activities?

First in 2005 the Senate of the Supreme Court established that as far as disclosure of final decisions in criminal proceedings are concerned, the public prosecutor’s office does not act as a judiciary authority but rather as an administrative agency. Hence the Freedom of Information Law applies. It also applies to all of the police institutions.

Nevertheless the disclosure of information about investigations is limited. Materials of criminal cases constitute investigation secret and are available to officials involved in the criminal case as well as persons to whom such materials are presented in the procedure prescribed in the Criminal Procedure Law (Section 375, Paragraph 1). After the end of criminal proceedings and the entry into force of the final decision (including the decision to terminate the procedure without prosecution), employees of courts, public prosecutor’s office and investigatory institutions, persons whose rights were affected within the given process as well as persons who carry out scientific research may acquaint themselves with the materials of the criminal case. All final decisions in criminal cases are available to the public (Criminal Procedure Law: Section 375, Paragraph 2).

The Law on the Police contains a general clause that, for the service interests of the Police, it shall inform state and municipal institutions as well as the population about its activities. However, it also exempts from disclosure state or other legally protected secrets, data from pre-trial investigation without a permission from a public prosecutor or investigator, information that compromises the presumption of innocence, and information that violates the privacy or dignity of persons (Law on the Police: Section 6).

224 AT priekšsēdētājs atbildē Delnai norāda kritērijus, saskaņā ar kuriem nākamnedēļ nosauks ģenerālprokurora kandidāta vārdu (In an Answer to Delna, the President of the Supreme Court Describes Criteria for the Announcement of Candidate for the Prosecutor General Next Week). Statement by TI-Latvia, 18 March 2010. http://delna.lv/raksti/AT_priekssedetajs_atbilde_Delnai_norada_kriterijus_saskana_ar_kuriem_nakamnedel_nosauks_generalprokurora_kandidata_vardu/

225 Zāīte, I. Maizītis: politiskais spiediens uz ģenerālprokuroru “ir vēsture” (Maizītis: Political Pressure on the Public Prosecutor General „Is History”). nra.lv, 24 March 2010. <http://zinas.nra.lv/latvija/politika/19225-maizitis-politiskais-spiediens-uz-generalprokuroru-ir-vesture.htm?act=print>

226 Interview with Ilona Kronberga, 18 April 2011.

During the pre-trial phase, the victim has the right to access the register of the criminal procedure (it shows officials involved in the procedure and allows the victim to object against a particular person in case of a conflict of interest), see the decision to require forensic expertise if such expertise is to be done upon his/her own application, upon completion of the pre-trial phase obtain copies of or see the documents of the criminal file directly related to the act that caused harm to the victim, and require an investigation judge provide materials about special investigation techniques, which are not made a part of the criminal file (Criminal Procedure Law: Section 98, Paragraph 1).

The law requires all police officers and public prosecutors to fill detailed declarations upon assuming the office, then annually and upon leaving the office. The declarations shall be made available to the public in the internet (apart from some private, e.g. addresses of residence and properties). Overall the existing limitations to the disclosure of information are adequate and based on the need to protect legitimate interests.

5.2.2. Transparency: practice

Score: 75 / 100

To what extent is there transparency in the activities and decision-making processes of law enforcement agencies in practice?

The issue of transparency in law-enforcement institutions in Latvia is not much studied. Both the SP and PPO publish annual reports and information that describes generally the crime situation and investigations/ prosecutions. In a study carried out by *Providus* in 2008 the Ministry of Interior did provide information, which was requested to test the functioning of the freedom of information provisions.²²⁷

In fact, what has been problematized in Latvia, is leaking of too much information in the public about on-going investigations. For example, in March 2006 a television show *De facto* broadcast transcripts of one-year-old telephone conversations of individuals engaged in bribery in order to ensure the election of a specific person to the post of the mayor of Jūrmala. The disclosure took place before the case was tried (eventually this proved one of the few successful prosecutions for political corruption in Latvia).²²⁸ Several media outlets have gained access to and published various information from the files of a criminal case against the prosecuted mayor of Venstpils A.Lembergs, often considered one of the most influential oligarchs in Latvia (as of mid-2011, the case was still being tried in the court of first instance).²²⁹ A whole complex of legal and social considerations have marked ensuing controversies about the permissible limits of such disclosures.²³⁰

The declarations system for public officials is generally well-run (even though its effectiveness is diminished by the general weakness of control over assets of physical persons in Latvia – see pillar 1 “Legislature”: 1.2.2 “Transparency (practice)” for more detail). All of the declared data, which shall be published, are actually published.

The overall score assigned for this criterion is less than the maximum not so much because

227 Alexandru, V., Austere, L., Frantescu, D., Spok, R. Access to Public Information and the New EU Member States. A Transnational Approach. The Institute for Public Policy (2008). <http://info-a.wdfiles.com/local--files/resursi/PASOS%20FOI%20report%202008>

228 ‘Balsu pirkšanu’ Jūrmalas mēra vēlēšanās Milušs apspriedis ar Šleseru un Šķēli (Milušs Discussed the Purchase of Votes in the Election of the Mayor of Jūrmala with Šlesers and Šķēle). Delfi.lv, 13 March 2006. <http://www.delfi.lv/news/national/politics/balsu-pirkšanu-jurmala-mera-velšanas-miluss-apspriedis-ar-sleseru-un-skelli.d?id=13867418> AT Senāts noraida kasācijas sūdzības Jūrmalgeitas lietā (The Senate of the Supreme Court Turns Down the Appeal in the Jūrmalgeita Case). Delfi.lv, 25 August 2008. <http://www.delfi.lv/news/national/criminal/at-senats-noraida-kasacias-sudzibas-jurmalgaitas-lieta.d?id=21782763>

229 Anrijs Lembergs atzīts par cietušo ‘rokasgramata.com’ kriminālprocesā (Anrijs Lembergs Recognised as Victim in the Criminal Proceedings of ‘rokasgramata.com’). LETA, 26 August 2010. <http://www.delfi.lv/news/national/criminal/anrijs-lembergs-atzits-par-cietuso-rokasgramatacom-kriminalprocesa.d?id=33765485>

230 For one piece of analysis of this issue in the context of the practice of the European Court of Human Rights see: Kažoka, I. Cilvēka tiesības uz informācijas nopludināšanu? (Human Rights to Leak Information?) Politika.lv, 11 September 2007. http://www.politika.lv/temas/mediju_kritika/14433/

of concrete indications for insufficient transparency but rather due to the ambiguous practical situation as to what information about on-going investigations and on-going criminal trials shall be public.

5.2.3. Accountability: law

Score: 100 / 100

To what extent are there provisions in place to ensure that law enforcement agencies have to report and be answerable for their actions?

The Criminal Procedure Law defines what is to be included in the public prosecutor's decision to prosecute a person. Such decision shall specify the person to be prosecuted, the circumstances of each of the alleged crimes that constitute grounds for the legal qualification, the legal qualification, victims, and other persons prosecuted for participation in the same criminal act (Criminal Procedure Law: Section 405, Paragraph 1). The public prosecutor shall issue a copy of the decision to prosecute to the defendant (Criminal Procedure Law: Section 406, Paragraph 1). There is no obligation to issue the decision to prosecute to the victim. Since non-prosecution does not involve making any formal decision, there is no obligation to inform anybody thereof.

If the relevant public official finds no grounds for the launch of criminal proceedings, he/she makes a decision to refuse such launch. Such a decision may be made as a resolution, i.e. without giving reasons. It shall be communicated to the person who submitted a notice about an alleged criminal act (Criminal Procedure Law: Section 373, Paragraph 1). Victims or institutions, which produced the crime notice (except for medical personnel or institutions), may appeal a decision to refuse the launch of criminal proceeding to a public prosecutor. A public prosecutor shall review such an appeal within 10 days or, in exceptional cases, within 30 days. Such a decision can no more be appealed (Criminal Procedure Law: Section 373, Paragraphs 5, 6, and 7).

The law does not provide for any specific complaint mechanism about misconduct in the actions of the police or public prosecutor's office. Such complaints are governed by provisions that apply to complaints and submissions to state institutions in general. The SP has created the ISB, which is directly subordinated to the head of the State Police. The police disseminate widely information about the possibilities to file complaints to the ISB (in parallel there is also the default possibility to submit a complaint to the immediate superior of the police officer whose actions are in question). The ISB carries out in-service checks about violations committed by police officers as well as criminal investigations.

Corruption crime of law-enforcement officials can be investigated by the SP (usually it will be the ISB when the actions of the SP officials are in question) or the CPCB, which is a somewhat autonomous agency outside the system of the Ministry of Interior. Police officers do not enjoy any immunity against criminal investigation and prosecution. A public prosecutor can be detained, searched, taken into custody or prosecuted in the usual legal procedure with an immediate notice to the PG (Criminal Procedure Law: Section 120, Paragraph 4).

5.2.4. Accountability: practice

Score: 75 / 100

To what extent do law enforcement agencies have to report and be answerable for their actions in practice?

The public prosecutor's office accounts publicly mainly through two kinds of publications on its website. One is monthly statistical reports about numbers and kinds of criminal cases handled by the public prosecutor's office at various stages (initiation, finished pre-trial investigation, forwarding to the court, etc.). The other is annual reports that contain both an overview of the crime situ-

ation regarding various categories of crime in time series over a number of years as well as a short description of the prosecutor's office's priorities in the given year.²³¹

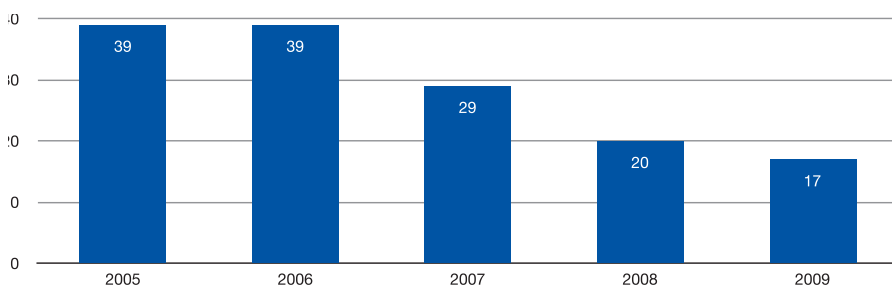
Overall the ISB is a fairly efficient complaint handling body. During the research it was not possible to identify instances of delayed review of complaints. Meanwhile the number of complaints/applications received by the ISB has been increasing from 542 in 2003 to the maximum number 1164 in 2010.²³² Given that the public trust in the police has been on the increase,²³³ the growth of the number of applications is likely to be explained by better awareness about the possibility to file an application with the ISB.

In 2010 the ISB detained 28 police employees on suspicion of criminal acts, initiated 63 criminal proceedings, and forwarded 32 criminal cases for prosecution.²³⁴ Even though it is hard to assess with any accuracy whether all of the investigations proceed with due rigor, the ISB is clearly an important disciplining tool within the SP.

It is often doubted whether complaining to the immediate superior of the police officer whose actions are in question is effective. Thus in a case *Jasinskis v. Latvia* the European Court of Human Rights considered "that the investigation that was carried out by the Balvi District Police Department cannot be said to have been effective since it did not comply with the minimum standard of independence of the investigators." The court also found that the subsequent investigation by the ISB was defective for several reasons.²³⁵ It is hard to say to what extent the defects identified in the given case are to be generalized but the judgment clearly reflects existing risks.

Law enforcement officials are not immune from criminal proceedings. In fact police officers are the single largest group of public officials convicted for corruption-related crime like bribery, abuse of office, inaction in office, forgery of official documents, etc. True the trend of prosecutions is declining (see Graph 1). According to statistical data produced by PROVIDUS, the number of convictions of police officers for such offences in the court of first instance declined strongly between 2005 (39) and 2009 (17). The conviction of public prosecutors is much rarer with three of them convicted during the same period.²³⁶ PROVIDUS has not calculated yet the data from 2010.

Chart 2. Number of convictions of police officers for corruption-related offences in the court of first instance



Where complaints contain evidence of possible criminal acts of police officers, decisions to initiate or refuse initiation of criminal proceedings follow. These are reviewed by the public

231 All of the mentioned publications are found here: <http://www.prokuratūra.gov.lv/?sadala=6>

232 Data provided by the ISB on 29 November 2011.

233 Eurobarometer 74. 2010. gada rudens (Autumn of 2010). Nacionālais ziņojums Latvijā (National Report Latvia). P.7. http://ec.europa.eu/public_opinion/archives/eb/eb74/eb74_lv_lv_nat.pdf

234 Presentation by the head of the ISB of the SP Kristaps Kalniņš, 21 April 2011.

235 *Jasinskis v. Latvia*. Application no. 45744/08. Judgment, 21 December 2010. Final 21/03/2011.

236 Trial Statistics for Offences Committed in Public Service in Latvia 2004 – 2009. Corruption °C/ PROVIDUS. <http://corruption-c.wikidot.com/stat2009-vize>

prosecutor's office. According to the Prosecutor General Ē.Kalnmeiers he has issued an order adding priorities for supervising prosecutors, which include supervision of criminal proceedings managed by investigators of the ISB.²³⁷ The prosecutorial control at least partly compensates for the fact that the ISB does not provide a really independent complaint mechanism due to its subordination. Until now the role of the Ombudsman Office has not been utilized fully to scrutinize the handling of complaints within the SP (for more on this see pillar 7 "Ombudsman").

5.2.5. Integrity mechanisms: law

Score: 100 / 100

To what extent is the integrity of law enforcement agencies ensured by law?

The State Police adopted its Code of Professional Ethics and Conduct on 31 May 2005. The Council of the Prosecutor General adopted the Code of Ethics of Public Prosecutors of Latvia on 17 June 1998. While the language of the codes is fairly general they do cover most relevant issues such as the conflict of interest. Violations of the codes may lead to disciplinary sanctions.

The central piece of integrity-ensuring legislation for officers of the SP and public prosecutors is the Conflict of Interest Law. The law makes it a legal obligation for public officials to act in accordance with codes of ethics of their respective professions (Section 22).

This law also includes an incompatibility clause restricting police officers' additional occupations and imposing a permission regime. The permitted additional jobs include offices held in conformity with laws, and Cabinet regulations and orders; the work of teacher, scientist, doctor, professional sportsperson and creative work; other work/ economic activities if combination thereof does not result in a conflict of interests and written permission of a superior has been received (Conflict of Interest Law: Section 7, Paragraph 6). Restrictions are even stricter for public prosecutors (Conflict of Interest Law: Section 7, Paragraph 3).

Like all public officials, police officers and public prosecutors shall not obtain income from capital shares and stock, as well as from any kind of securities in commercial companies that are registered in tax-free or low-tax countries and territories (Conflict of Interest Law: Section 9, Paragraph 3).

Like most public officials, police officers and public prosecutors are prohibited to prepare or issue administrative acts, perform the supervision, control, inquiry or punitive functions, enter into contracts or perform other activities in which such public officials, their relatives or counterparties are personally or financially interested (Conflict of Interest Law: Section 11, Paragraph 1). Further conflict of interest regulations are provided in the Criminal Procedure Law.

All public officials including police officers and public prosecutors are subject to a restriction on accepting gifts. A public official fulfilling the duties of office is permitted to accept only diplomatic and official gifts, e.g. gifts by official representatives of foreign states or by the authority in which the relevant official serves (Conflict of Interest Law: Section 13.¹, Paragraph 1). Privately public officials are prohibited from accepting gifts if in relation to the donor the public official has in a period of two years prior to receipt of the gift carried out certain official functions. Public officials are also prohibited to carry out such functions regarding persons from whom they have accepted gifts in a past period of two years (Section 13.², Paragraphs 1 and 2).

237 Būtišķi sarūk noziedzība, prokuratūra turpina strādāt. Virsprokuroru sanāksmē analizē 2010. gada darba rezultātus (Crime Declines Considerably, the Prosecutor's Office Continues Working. The Work Results of 2010 Analyzed at the Meeting of Senior Prosecutors). Jurista Vārds, No. 8., 22 February 2011. <http://www.juristavards.lv/?menu=doc&id=226053>

To what extent is the integrity of members of law enforcement agencies ensured in practice?

Despite the general impression that, at least on the central level, the SP pays due attention to the issues of corruption and unethical behavior as well as to introducing preventive measures, the police faces serious integrity problems.

Official data show that in 2009, one police officer was disciplinarily punished for abuse of office with avaricious intent, 80 – for conflicts of interests, 53 – for breaches of norms of professional ethics and conduct, 1 – for unwarranted disclosure of service information or loss of the carrier (e.g. a portable memory) of such information.²³⁸ These apparently high numbers of sanctioned police officers attest at least *prima facie* to two characteristics. First, internal controls do function within the SP even if with too *prima facie* much reliance on repression. Second is insufficient internalization by police officers of integrity standards and the mission of the police. “Police officers themselves tell that a part of police persons’ understanding about values and learning is rather formalistic. To do an ordinary job in the police, secondary education alone suffices. Plus, in order to earn something additional in side-jobs, a trained body and a gun is all that’s required, the boss will think instead of the police persons. Therefore the fact that the police accept and employ people who are so far from realizing the tasks of the agency that pays them salaries gives grounds for concern.”²³⁹

The former head of the State Police A. Velšs has analyzed crime committed by police officers in the period 1999–2009. His data show that 193 employees of the SP have been convicted during this period and 102 of them had received more than 5 in-service awards prior to their crimes.²⁴⁰ This raises questions if the current awards practice within the Police is adequate to ensure an incentive system conducive to ethical and otherwise appropriate professional conduct.

According to the PGO, 62 public prosecutors have been disciplinarily punished during the last five years. The violations mostly involved breaches of the criminal procedure. However, in some cases sanctions have been applied for breaches of the Code of Ethics of Public Prosecutors, e.g. a public prosecutor allowed a person who is involved in criminal proceedings lead by this same prosecutor to use his premises.²⁴¹

Ethics-related training programs for the police and public prosecutors are generally scarce. In 2010 the State Police College organized training on corruption and forms of its manifestation in just one of its eight training locations.²⁴²

5.3. ROLE**5.3.1. Corruption prosecution**

Score: 75 / 100

To what extent do law enforcement agencies detect and investigate corruption cases in the country?

The police and the CPCB have fully adequate powers to apply proper investigative techniques. According to the former PG, possibilities to employ special investigation techniques are almost too extensive (meaning possibilities to use them even before criminal proceeding are

238 Pārskats par Valsts policijā ierosinātajām disciplinārietiām un saistībā ar tām pieņemtajiem lēmumiem 2009. gadā (Overview of Disciplinary Matters Initiated in the State Police and Decisions Made in Relation Thereof in 2009). http://www.vp.gov.lv/doc_upl/p3.xls

239 Kronberga, I. Kad policiju apriņ tukšums (When Emptiness Devours the Police). Politika.lv, 28 January 2011. http://www.politika.lv/temas/tiesiska_valsts_un_korupcija/kad_policiju_apriņ_tukšums/

240 Data presented by Artis Velšs during a meeting with NGOs on 21 April 2011.

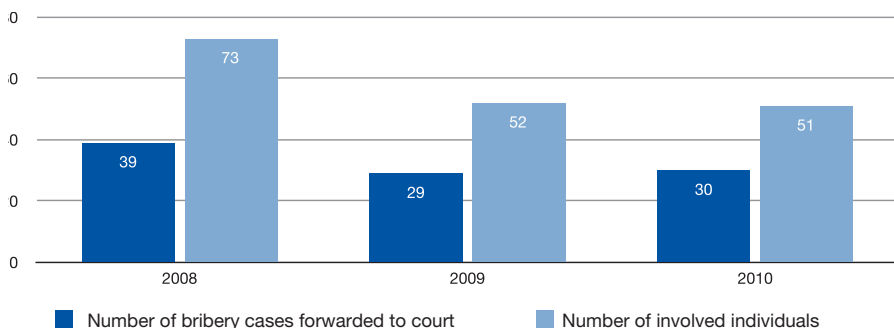
241 A letter from M. Vāciete, public prosecutor of the Performance Analysis and Management Department of the Prosecutor General's Office of Latvia. No. 1/1-11-17-11, 12 May 2011.

242 Valsts policijas koledžas darbības rezultātu pārskats par 2010. gadu (Report on Activity Results of the State Police College for the Year 2010). http://www.policijas.skola.gov.lv/doc_upl/vpk_darba_parskats_2010.pdf

initiated).²⁴³ A side effect of the establishment of the CPCB is near complete loss of interest of the SP in combating corruption (apart from activities to uphold integrity in its own ranks).²⁴⁴

The PGO's data show the number of criminal cases and the number of prosecuted persons sent to the court on bribery-related charges (passive bribery, misappropriation of a bribe, intermediation in bribery and active bribery) – see Graph 2. In 2010 there were an additional 10 cases involving 11 persons finished with a prosecutor's injunction on sentence.

Chart 3. Number of criminal cases and the number of prosecuted persons sent to the court on bribery-related charges²⁴⁵



For sure the majority of prosecuted cases involve relatively low-level corruption. Thus in the period 2004-2009, convictions were issued within 246 criminal cases related to bribery and in 54 of these cases the total amount of bribes exceeded LVL 1000 (approx. EUR 1400) with LVL 80 000 (approx. EUR 110,000) being the largest bribe.²⁴⁶

All in all the activities of law enforcement agencies in detecting and combating corruption have been effective but apparently too limited to achieve any major breakthrough in Latvia's corruption patterns among higher-level/ political officials.

5.4. KEY RECOMMENDATIONS

- It is essential to raise the competitiveness of the position of a police officer to attract more and stronger potential candidates, allow for stricter selection criteria and reduce incentives for police officers to engage in outside jobs.
- The State Police should strengthen training of police officers in the fields of anti-corruption and professional ethics. Ethical conduct should be among key criteria in granting awards to and promoting police officers in their careers.
- The Ombudsman Office should scrutinize systematically how law enforcement agencies handle complaints about actions of their officials particularly where fundamental rights of individuals appear to be infringed upon.
- Investigation agencies and the Public Prosecutor's Office should strengthen their capacity to investigate and prosecute complex economic crime.
- The Judiciary Council should have the authority to nominate a candidate for the position of the Prosecutor General in order to make the selection more inclusive and open.

²⁴³ Phone interview with Jānis Maizītis, the Prosecutor General from 2000 to 2010. 20 April 2011.

²⁴⁴ Interview with Aldis Lieljuksis, 12 May 2011.

²⁴⁵ Email message from the prosecutor of the Department for Performance Analysis and Management Viktors Ruselevičs. 19 April 2011.

²⁴⁶ Trial Statistics for Offences Committed in Public Service in Latvia 2004 – 2009. Corruption °C/ PROVIDUS. <http://corruption-c.wikidot.com/stat2009-vize>

6. ELECTORAL MANAGEMENT BODY

The resources of the Central Election Committee (hereafter – CEC) in particular and the whole election administration in general are sufficient for fulfilling their duties but the decentralized and *ad hoc* character of the mid-lower levels of the system do represent slight challenges in ensuring adequate quality of human resources. Still the CEC is a remarkable state body in that it enjoys the reputation of a largely impartial and trustable institution in the absence of any obvious formal safeguards against political interference. The election administration operates with high integrity but it is achieved mainly through tradition and leadership efforts rather than with the help of extensive regulation. The CEC has succeeded in ensuring a high level of integrity for all elections in Latvia.

Electoral Management Body		Overall Pillar Score: 89 / 100	
	Indicator	Law	Practice
Capacity 75 / 100	Resources	-	75
	Independence	50	100
	Transparency	100	100
Governance 92 / 100	Accountability	100	100
	Integrity	75	75
Role 100 / 100	Campaign Regulation	N/A	
	Election Administration	100	

Structure and organization

Latvia has a three-level election administration system. The CEC is an independent institution established by the Saeima. Its mandate is to organize elections of the Saeima, the European Parliament and municipal councils as well as referenda and collection of voters' signatures in cases prescribed in the law. The CEC oversees 9 city election committees and 109 county election committees (municipal election committees). These, in turn, set up and supervise polling station committees. The CEC distributes budgetary funding to other election committees, issues directions to municipal election committees regarding the course of elections, reviews any outstanding issues related to the election process, etc.

6.1. CAPACITY

6.1.1. Resources: practice

Score: **75** / 100

To what extent does the electoral management body (CEC) have adequate resources to achieve its goals in practice?

In Latvia's decentralized system of election management, the CEC distributes state budget funding among other election committees (Law on the Central Election Committee (hereafter – Law on the CEC): Section 6, Point 1). The funding of elections has been increasing over recent

years. According to the annual budget laws of respective years the cost of parliamentary elections increased from LVL 1,650,519 (approx. EUR 2.3 million) in 2006 to LVL 2,153,950 (approx. EUR 3.1 million) in 2010. The cost of elections of the European Parliament increased from LVL 1,231,093 (approx. EUR 1.8 million) in 2004 to 2,391,296 (approx. EUR 3.4 million) in 2009. Therefore the performance of the CEC is not threatened directly by insufficient budget.

The municipal election committees are formally permanent bodies elected for a period of four years. Still their workload varies depending on the election periods. Polling Station Committees are set up by the municipal committees approximately a month before elections. So the number of permanent full-time staff in the election administration is small. Essentially only the staff of the CEC works permanently and full time (three members of the CEC plus seven administrative staff members²⁴⁷). Additional short time staff is employed for particular elections. The chairperson of the CEC Arnis Cimdars did voice concerns in relation to the decreasing readiness of people with sufficient skills to take up short-term jobs that can be time-demanding while being remunerated below the national average.²⁴⁸

The main exercises for members of election committees are training seminars before elections where all chairpersons and/ or secretaries of committees plus additional committee members participate.²⁴⁹ Before the 2010 parliamentary elections, the seminar series took place between 18 August and 21 September.²⁵⁰ Two of the full-time members of the CEC have long experience in the organization of elections. The current chairperson of the CEC holds this office since 1997. His deputy has participated in the organization of elections on the municipal level since 1997.²⁵¹ The third full-time member of the CEC (elected on 7 April 2011) has no previous experience in the work of election committees.²⁵²

To conclude, the resources of the CEC in particular and the whole election administration in general are sufficient for fulfilling their duties but the decentralized and *ad hoc* character of the system do represent slight challenges in ensuring adequate quality of human resources.

6.1.2. Independence: law

Score: 50/100

To what extent is the electoral management body independent by law?

The CEC is a permanent state institution functioning on the basis of the Law on the CEC. It is one of the few state institutions outside the administrative hierarchy headed by the CoM. 8 out of 9 committee members including the chairperson are elected by the Saeima, 1 – by the SC. No criteria exist for the candidates to the CEC apart from the requirement that they are eligible voters (the member from the SC shall be a judge) (the Law on the CEC: Section 2). The Saeima may recall a member of CEC upon a motion by no less than 10 MPs or an application to resign by the CEC member him/herself. The Saeima may recall the members at will with no justification required.

No explicit impartiality requirements are defined for the CEC. Three of the CEC members who work full time have the formal status of public officials and hence are subject to the impartiality and conflict of interest prevention rules defined in the Law on Prevention of Conflict of Interest in the Activities of Public Officials (the Law on the CEC: Section 16.¹, Paragraph 1). Apart from the CEC members, the institution has a small administrative staff. The law does not differentiate the powers of the CEC members from those of the administrative staff.

247 CEC staff. <http://web.cvk.lv/pub/public/28761.html>

248 Interview of Arnis Cimdars, Chairperson of the CEC with author, Riga, 8 April 2011.

249 Ibid.

250 10. Saeimas vēlēšanas 2010. gada 2. oktobrī. Vēlēšanu rezultāti. (Election of the 10th Saeima on 2 October 2010. Election Results.) Latvijas Republikas Centrālā vēlēšanu komisija (2011). P.9 – 10. http://web.cvk.lv/pub/upload_file/Sa10/10Saeimasvelesanurezultati_gala.pdf

251 Raimonds Olehno, Deputy Chairperson of the CEC. <http://web.cvk.lv/pub/public/29859.html>

252 Kārlis Kamradzis, Secretary of the CEC. <http://web.cvk.lv/pub/public/29904.html>

Members of municipal elections committees can be nominated by political parties (also by members of respective municipal councils and no less than 10 citizens of Latvia) (Law on Election Committees of Republic Cities and Counties and Polling Station Committees: Section 7, Paragraph 1). According to A.Cimdars an important element in ensuring professionalism is that municipal election committees rather than just parties may nominate candidates for polling station committees.²⁵³

6.1.3. Independence: practice

Score: 100 / 100

To what extent does the electoral management body function independently practice?

The CEC is a remarkable state body in that it enjoys the reputation of a largely impartial and trustable institution in the absence of any obvious formal safeguards against political interference. It is impossible to recall any partisan statements by any of the CEC members as well as it is impossible to recall any attempts by political parties to exert undue influence on the CEC.²⁵⁴

Although public opinion surveys of the last few years do not cover direct questions regarding the independence, impartiality, accountability and efficiency of the CEC, there are data showing the relatively high satisfaction with the election process. In a survey carried out after the parliamentary elections of 2010, 86.6% of the surveyed citizens of Latvia (n=847) answered that, in the elections of the 10th Saeima, they did not encounter any problems related to the work of the polling station.²⁵⁵ In the same survey citizens were asked if they believed votes were counted honestly in the polling station where they voted in the elections of the 10th Saeima. 75 % of respondents replied that votes were definitely counted honestly or it was more likely that they were counted honestly rather than not.²⁵⁶

It is unusual to replace members of the CEC before the end of their tenure. In the period 2007 – 2011 only the member appointed by the SC was replaced due to retirement.²⁵⁷ Only one member was replaced in the period 2003 – 2007 due to his standing as a candidate for Riga municipal elections.²⁵⁸ The current chairperson of the CEC holds the office since 1997. Initially he was a member of a political party but left the party in 1998 and has not renewed any party-related political activity since then. In principle, remaining in the same post for more than ten years could in itself represent a risk of excessive routine, reduced ability to notice flaws in the performance of the CEC and nepotism. However, the last re-appointment of A.Cimdars in April 2011 was perceived in public with very little controversy.

Also the administrative staff of the CEC is rather stable. According to the annual report of the CEC for the year 2009 seven out of ten staff members had worked at the Committee seven years or more.²⁵⁹

6.2. GOVERNANCE

6.2.1. Transparency: law

Score: 100 / 100

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the CEC?

The CEC meetings are open to representatives from state and municipal institutions as well as accredited media representatives. The CEC shall inform voters about procedure for

253 Interview with Arnis Cimdars, 8 April 2011.

254 Interview with Ivēta Kažoka, PROVIDUS' researcher on political party and electoral campaign regulation, 28 April 2011.

255 Veletāju attieksmju pētījums 2010 (Survey of Voter Attitudes 2010). SKDS, October 2010. P.11. http://web.cvk.lv/pub/upload_file/atksaite_CVK_102010.pdf

256 Ibid. P.16.

257 Centrālā vēlēšanu komisija no 2007.-2011.gadam (The Central Election Committee from 2007 to 2011). <http://web.cvk.lv/pub/public/29427.html>

258 Centrālā vēlēšanu komisija no 2003.-2007.gadam (The Central Election Committee from 2003 to 2007) <http://web.cvk.lv/pub/public/28784.html>

259 Centrālās vēlēšanu komisijas 2009. gada publiskais pārskats (Public Report of the Central Election Committee for the Year 2009). P.11. http://web.cvk.lv/pub/upload_file/Publiskais_parskats_2009.pdf

elections, referenda and initiation of legislative bills, compile and publish results of elections or referenda, inform the public about its activity and decisions through printed media, television and radio (Law on the CEC: Section 6, Points 7² and 7³; Section 14).

Full election results (including results for each candidate of each candidates' list in each polling station) shall be compiled, published in a separate publication within six months since elections and made available in state libraries (The Saeima Election Law: Section 49). Plus election committees are covered by the general provisions of the Freedom of Information Law.

Election committees have no competency in the area of candidate and political party finance and respective provisions to the transparency thereof will be reviewed under pillar 10 on political parties.

Overall the transparency provisions are somewhat obsolete (note the lack of mention of the internet) but they do cover all relevant aspects of the election administration.

6.2.2. Transparency: practice

Score: 100 / 100

To what extent are reports and decisions of the electoral management body made public in practice?

The Central Election Committee upholds high standards of transparency and maintains a rich website (www.cvk.lv). The website has a separate division for each elections, which contains explanations about voting procedures and possibilities to become an election observer, locations and working hours of polling stations in Latvia and abroad, procedures of vote counting and calculation of results, candidate lists and political platforms, all applicable legal acts and extensive data about election results by election constituencies and polling stations. The website also has a rather extensive part written in the easy language for people with cognitive impairment.

Since the restoration of independence, Latvia has not experienced any serious ambiguities regarding information about registration for elections, possibilities to exercise voting rights, dates of elections, etc. The CEC maintains a phone line for inquires during elections (for parliamentary elections of 2010 it started operating on 1 September, i.e. a month before elections on 2 October).²⁶⁰

6.2.3. Accountability: law

Score: 100 / 100

To what extent are there provisions in place to ensure that the CEC has to report and be answerable for its actions?

Submitters of candidate lists have the right of redress in the court. For example, a decision of the CEC to register a list of candidates or refuse such registration as well as to remove a candidate from a registered list (due to ineligibility to stand for elections) can be appealed in the court within three working days after the decision (The Saeima Election Law: Section 13.¹). Submitters may also appeal the approval of a vote-counting protocol (first to the CEC, then to the court) and the approval of the results of whole elections in the court (The Saeima Election Law: Section 35.¹; Section 51, Paragraph 1).

Full election results (including results for each candidate of each candidates' list in each polling station) shall be compiled, published in a separate publication within six months since elections and made available in state libraries (The Saeima Election Law: Section 49).

Like all public agencies, the CEC shall prepare an annual public report and an annual

260 10. Saeimas vēlēšanas 2010. gada 2. oktobrī. Vēlēšanu rezultāti. (Election of the 10th Saeima on 2 October 2010. Election Results.) Latvijas Republikas Centrālā vēlēšanu komisija (2011). P.9. http://web.cvk.lv/pub/upload_file/Sa10/10Saeimasvelesanurezultati_gala.pdf

report for the State Treasury to be audited by the SAO (Budget Law: Section 14, Paragraph 3; Section 30, Paragraphs 1 and 3).

6.2.4. Accountability: practice

Score: 100 / 100

To what extent does the CEC have to report and be answerable for its actions in practice?

The CEC regularly prepares and publishes all of the reports required by legislation. The CEC contracts sworn auditors to audit expenditure of municipal election committees. The State Audit Office audits the annual report of the CEC. Regarding the CEC report of 2010, the State Audit Office concluded that it has been prepared according to existing legal provisions and did not comprise significant discrepancies or omissions.²⁶¹

In practice it is not common to dispute whole elections in the court. It happened once in 2006 when four political parties, which did not gain representation, disputed election results due to the activities of two non-governmental organizations. The two organizations, each related to their own party, advertised extensively for the respective lists of candidates thus allowing the parties to circumvent the legally established expenditure cap. The SC upheld the election results but ruled that the expenditure of the NGOs was rightly regarded as part of the parties' pre-election campaign.²⁶² According to the law such violations carry administrative fines up to LVL 10,000. Plus, in case of illegal donations or overspending of campaign expenditure limits, an obligation to pay an equivalent amount of money to the state budget is foreseen. The parties involved in the particular case were handed penalties but appealed them and the cases are still pending in the court (for more information on this problem see pillar 10 on political parties: 10.2.3 Accountability (law) and 10.2.4 Accountability (practice)).

Otherwise it is more common to have disputes regarding the removal of concrete candidates from election lists. Thus, before the parliamentary elections in 2010, the CEC removed six candidates from the lists (five of them in relation to past criminal offences and one for a failure to leave the office of a judge before becoming a candidate). Three of the candidates appealed their removal in the court and one was reinstated in the list.²⁶³ Overall no reasons exist to doubt the effectiveness and fairness of the court appeal possibilities.

All in all the CEC can be regarded as an example of best practice in terms of transparency and public accountability.

6.2.5. Integrity: law

Score: 75 / 100

To what extent are there mechanisms in place to ensure the integrity of the electoral management body?

Only three out of nine members of the CEC have the formal status of public officials (the chair, deputy chair and secretary). Other employees can become public officials formally if they are included in a public procurement commission. For those who are public officials, the comprehensive provisions of the Conflict of Interest Law, including rules on gifts, apply. For the rest of the members and employees of the CEC and lower-level committees, explicit ethics provisions are scarce.

261 Latvijas Republikas Valsts kontrole. Revīzijas ziņojums par Centrālās vēlēšanu komisijas 2010.gada pārskata sagatavošanas pareizību (Audit Report about the Correctness of the Preparation of the 2010 Report of the Central Election Committee). 21 April 2011. P.3. http://www.lrvk.gov.lv/upload/zin_CVK_21Apr2011.pdf

262 Judgment of the Department of Administrative Cases of the Senate in the case No. SA-5/2006, 3 November 2006. <http://www.at.gov.lv/files/archive/departments/2006/ad031106.doc>

263 10. Saeimas vēlēšanas 2010. gada 2. oktobrī. Vēlēšanu rezultāti. (Election of the 10th Saeima on 2 October 2010. Election Results.) Latvijas Republikas Centrālā vēlēšanu komisija (2011). P.5. http://web.cvk.lv/pub/upload_file/Sa10/10Saeimasvelesanurezultati_gala.pdf

Members of polling station committees have to sign an application, which among other things list a commitment to act according to laws and instructions and decisions from the CEC.²⁶⁴ Election candidates, members of the European Parliament, MPs or deputies of the council of the respective municipality are not allowed to become members of a polling station committee.²⁶⁵

Otherwise legal restraints stem from the Code of Administrative Violations providing for administrative liability for a failure to follow decisions of election committees (Section 204.¹) and the Criminal Law providing for criminal liability for hindering the execution of electoral rights (Section 90) and for forgery of election results, intentionally erroneous vote count and violation of secret voting if committed by a public official or member of an election committee (Section 92).

Thus mechanisms to ensure integrity of electoral staff are limited (e.g. no code of conduct, few provisions concerning the conflict of interest, no rules on gifts except for those who are deemed public officials). However, they must be assessed also against the practice, which shows little ground for concerns about the integrity of the electoral process.

6.2.6 Integrity: practice

Score: 75 / 100

To what extent is the integrity of the electoral management body ensured in practice?

In a rare instance of election fraud where election staff was involved, the chairperson of Kubuļu parish J.Boldāns urged election committee members to falsify election results and thus ensured his own election to the parliament in 2006. The fraud was detected because one of the members of the municipal election committee reported to law-enforcement institutions. Boldāns' mandate of a MP was suspended and he was later convicted.²⁶⁶ This is the only identifiable instance of intentional attempt to corrupt the election process.

In an interview A.Cimdars explained his view of how the integrity is maintained despite limited formal regulations: "Municipal election committees, when thinking about whom to invite to polling station committees, realize that they themselves would have to be accountable for how polling stations will do their job. If a cheat becomes a member, there will be a criminal matter in the worst case. Meanwhile they also want to be sure that the person would do the job according to the law without a supervisor standing beside them."²⁶⁷

A.Cimdars also stressed the importance of the messages that the CEC and himself spread. One of the emphases is on resolving any disputes in polling stations without the staff entrenching in staunch positions and without subsequent litigation whenever possible. If a conflict occurs and a polling station committee is not fully sure about the right course of action, they are to contact a superior committee, directly the CEC or A.Cimdars personally on the cell phone.²⁶⁸

Apart from the Boldāns case, the election administration operates with high integrity but it is achieved mainly through tradition and leadership efforts rather than with the help of extensive regulation.

264 10. Saeimas vēlēšanu iecirkņa komisijas locekļa kandidāta pieteikums (Application of a Candidate for a Member of a Polling Station Committee in Elections of the 10th Saeima). Published in: Normatīvie dokumenti. 10. Saeimas vēlēšanas (Regulatory Enactments. Elections of the 10th Saeima). (2010) P.45.

265 Instrukcija „Vēlēšanu iecirkņu komisiju izveidošana republikas pilsētās un novados” (Instruction „The Establishment of Polling Station Committees in Republican Cities and Counties”). Approved by the CEC on 3 June 2010. Published in: Normatīvie dokumenti. 10. Saeimas vēlēšanas (Regulatory Enactments. Elections of the 10th Saeima). (2010) Pp.43-44.

266 Kandidāti uz dēlnas.lv Transparency International – Latvia. <http://www.kandidatiuzdelnas.lv/notikumi-2006-2010/partiju-parkapumi-velesanu-apstridesana/9saeimas-velesanu-rezultatu-viltosana-kubulos-jboldana-lieta/>

267 Interview with Artis Cimdars, 8 April 2011.

268 Ibid.

6.3. ROLE

6.3.1. Campaign regulation

Score: N/A

Does the electoral management body effectively regulate candidate and political party finance?

The CEC has no competency in the area of candidate and political party finance. It is a function of primarily the CPCB as well as the National Council for Electronic Mass Media (for more information see pillars 9 on anti-corruption agencies and 10 on political parties).

6.3.2. Election Administration

Score: 100 / 100

Does the CEC ensure the integrity of the electoral process?

Latvia's electoral process is generally regarded as laudable. According to the OSCE report about Latvia's parliamentary elections in 2010 "The Central Election Commission administered the elections in a transparent and efficient manner, and held its sessions in a collegial atmosphere. Municipal Election Commissions visited by the OSCE/ODIHR [Limited Election Observation Mission] performed their duties efficiently and in a timely manner. OSCE/ODIHR [Limited Election Observation Mission] interlocutors in general expressed trust in the impartiality and professionalism of the election administration."²⁶⁹ According to the Democracy Index 2010 by the EIU Latvia's overall democracy score is only 7.05 out of 10 but the score for electoral process and pluralism is as high as 9.58.²⁷⁰

Meanwhile errors in counting votes do occur. In parliamentary elections of 2010, errors in data took place in 43 out of 949 polling stations and affected the number of votes cast for particular election candidates.²⁷¹ Still they were reportedly corrected and all in all did not lead to questioning of the trustfulness of election results.

Latvia does not use a voter register for parliamentary elections. Therefore anyone who arrives to the polling station with a valid Latvian citizen's passport can vote (passports are stamped to exclude multiple voting). This excludes citizens who do not hold valid passports but it cannot be tied to any specific social group.

The OSCE report noted about the 2010 elections: „The CEC conducted an extensive voter education campaign which included public notices, press releases, posters explaining procedures, educational clips on public and private broadcasters, newspaper advertisements, and media interviews with the chairperson, including in Russian language. The CEC established a 24-hour telephone hotline where information was provided both in Latvian and Russian languages, and which voters could also call to make complaints. The CEC website contained comprehensive, updated information in Latvian, as well as summaries in Russian and English.”²⁷²

Observers from political parties, the CEC, municipal election committees and mass media representatives are allowed to be present during voting at polling stations, during preliminary vote counting in polling stations (The Saeima Election Law: Section 18, Paragraph 2; Section 29, Paragraph 2). Before sensitive material is sent to the CEC, observers may stamp or sign the tamper-proof packages (The Saeima Election Law: Section 36).

All in all the CEC has succeeded in ensuring a high level of integrity for all elections in Latvia.

²⁶⁹ Latvia. Parliamentary Elections 2 October 2010.

OSCE/ODIHR Limited Election Observation Mission Final Report. P.1. <http://www.osce.org/odihr/elections/latvia/74785>

²⁷⁰ Democracy index 2010. The Economist Intelligence Unit (2010). http://graphics.eiu.com/PDF/Democracy_Index_2010_web.pdf

²⁷¹ Cimdars: kļūdas balsu skaitīšanā vēlēšanu iecirkņos ir normas robežās (Cimdars: Errors in Counting Cotes in Polling Stations within Normal Limits). LETA, 6 October 2010.

<http://www.delfi.lv/news/national/politics/cimdars-kludas-balsu-skaitisana-velesanu-iecirknos-ir-normas-robezās.d?id=34491711>

²⁷² Latvia. Parliamentary Elections 2 October 2010.

OSCE/ODIHR Limited Election Observation Mission Final Report. P.7. <http://www.osce.org/odihr/elections/latvia/74785>

6.4. KEY RECOMMENDATIONS

- The CEC should explore possibilities to develop electronic platforms for voting (e.g. electronic registration of voters and vote counting in polling stations, internet voting) and other forms of citizens' participation such as signature collection.
- A voter register for parliamentary elections should be introduced in order to ensure more accurate and reliable control of voter eligibility.
- Care should be taken to strengthen qualifications of Polling Station Committee members.

7. OMBUDSMAN

The Ombudsman's Office finds itself in a challenging situation with its scarce financial and human resources. The law provides reasonable guarantees of independence for the Ombudsman. However, it does not seem that the legislative majority has ever aimed at appointing the most professional, independent and active candidate for the position. The Ombudsman's Office is not viewed as an institution with high corruption-related risks for its staff and the lack of integrity of the Ombudsman or employees of the Ombudsman's Office is not among the usual concerns voiced about this institution. The Ombudsman's Office has been dealing with complaints in a professional and timely manner but its influence has been held back by the low public profile, questioned personal authority of the Ombudsman as well as weak public outreach activities.

Ombudsman		Overall Pillar Score: 54 / 100	
	Indicator	Law	Practice
Capacity 50 / 100	Resources	-	25
	Independence	75	50
	Transparency	75	75
Governance 75 / 100	Accountability	75	75
	Integrity Mechanisms	75	75
Role 38 / 100	Investigation	50	
	Promoting Good Practice	25	

Structure and organization

The Ombudsman's main tasks are the promotion of human rights as well as legally functioning and efficient state administration, which follows good governance principles. The Ombudsman is elected by the Saeima. The Ombudsman is independent in its actions and subject to law only. No person or authority has the right to interfere with the performance of the Ombudsman's functions. The Ombudsman shall have a deputy. According to the law the Ombudsman's Office shall support the activities of the Ombudsman. Currently the Ombudsman's Office employs about 40 staff. The Ombudsman's Office is located in Riga with no regional branches.

7.1. CAPACITY

7.1.1. Resources: practice

Score: **25** / 100

To what extent does an ombudsman or its equivalent have adequate resources to achieve its goals in practice?

The budget of the Ombudsman's Office has been cut down drastically from approx. LVL 1.3 million (approx. EUR 1.85 million) in 2008 to approx. LVL 0.56 million (approx. EUR 0.8 million) in 2010²⁷³ and LVL 0.58 in 2011 (approx. EUR 0.8 million) (Law on State Budget for

273 Latvijas Republikas tiesībsarga 2010. gada pārskats (Report of the Ombudsman of the Republic of Latvia for the Year 2010). P.128. http://www.tiesibsargs.lv/lat/publikācijas/gada_zinojumi/?doc=654

the Year 2011: Appendix 4). On 25 November 2010, the CC ruled that the Ombudsman's Office and a few other independent bodies must be guaranteed a chance to defend their budget requests in the CoM.²⁷⁴ However, this has no immediate bearing on the current difficult situation of the Ombudsman's Bureau.

The cuts were accommodated through the reduction of (mainly administrative support) staff, reduced salaries and reduced performance outputs. The number of employees decreased from 51 at the end of 2008 to 40 at the end of 2010.²⁷⁵ The number of initiated inspections decreased from 741 in 2008 to 294 in 2010 and the number of completed inspections – from 412 in 2008 to 185 in 2010.²⁷⁶

The qualification of the staff of the Ombudsman's Office remains a matter of some controversy. According to A.Dāce who worked with the Ombudsman's Office from its establishment in 2007 till 2010 the overall level of qualification is inadequate. By her account, only a few senior legal counsels profess the English language and only one expert has a Master's degree in human rights.²⁷⁷ Meanwhile according to the Deputy Ombudsman V.Slaidiņa the overall qualification, including in human rights, is fairly sufficient.²⁷⁸ In the absence of any independent evaluation, this issue remains open. Still it is safe to argue that the Ombudsman's Office finds itself in a challenging situation with its scarce financial and human resources (even if not in terms of qualification then in terms of number).

7.1.2. Independence: law

Score: 75/100

To what extent is the ombudsman independent by law?

The legal basis of the Ombudsman is the Ombudsman Law. There is no mention of the Ombudsman in the Constitution. The law declares the Ombudsman's independence and subordination only to the law (Ombudsman Law: Section 4, Paragraph 1). The political neutrality of the Ombudsman is emphasised through the incompatibility of this office with belonging to political parties (Ombudsman Law: Section 4, Paragraph 2).

The law contains several qualification criteria for the Ombudsman: Latvian citizenship, unimpeachable reputation, at least 30 years of age, higher education, knowledge and work experience in the field of protection of rights, according to criteria set in the law eligibility to receive a permit for access to the official secret (Ombudsman Law: Section 5, Paragraph 2). Still these qualification criteria are not elaborated in any greater detail and the Saeima otherwise has full discretion as to the appointment with simple majority in secret vote (Ombudsman Law: Section 5, Paragraph 1; The Saeima Rules of Procedure: Section 31, Paragraph 4). The tenure of the Ombudsman is five years, i.e. one year more than the four-year tenure of the Parliament and he/she may be appointed repeatedly (Ombudsman Law: Section 7). The Saeima may remove the Ombudsman upon his/her own wish, due to his/her inability to perform duties because of health reasons, due to a disreputable act incompatible with the status of the Ombudsman, when he/she fails to fulfil duties unjustifiably, and when he/she has been appointed to another office (Ombudsman Law: Section 10, Paragraph 1). His/her powers terminate also when he/she has

274 Par Likuma par budžetu un finanšu vadību 19.panta piektās daļas, Valsts kontroles likuma 44.panta otrās daļas un Tiesībsarga likuma 19.panta otrās daļas atbilstību Latvijas Republikas Satversmes 1., 83. un 87.pantam (About the Compliance of Section 19, Paragraph 5 of the Law on Budget and Financial Management, Section 44, Paragraph 2 of the State Audit Office Law and Section 19, Paragraph 2 of the Ombudsman Law with Sections 1, 83 and 87 of the Constitution of the Republic of Latvia). Judgment of the Constitutional Court, 25 November 2010.

275 Latvijas Republikas tiesībsarga 2010. gada pārskats (Report of the Ombudsman of the Republic of Latvia for the Year 2010). P.128. http://www.tiesibsargs.lv/lat/publikacijas/gada_zinojumi/?doc=654

276 Latvijas Republikas tiesībsarga 2010. gada pārskats (Report of the Ombudsman of the Republic of Latvia for the Year 2010). P.140. http://www.tiesibsargs.lv/lat/publikacijas/gada_zinojumi/?doc=654

277 Interview of Anija Dāce, former Head of the Human Rights Department of the Ombudsman's Office, with author, Riga, 26 May 2011.

278 Interview of Vēlga Slaidiņa, Deputy Ombudsman, with author, Riga, 15 June 2011.

been convicted for a criminal offence and the judgment has entered into force (Ombudsman Law: Section 9, Paragraph 1, Point 3). The Ombudsman may be administratively punished, prosecuted or detained with the agreement of the Saeima only (Ombudsman Law: Section 4, Paragraphs 3 and 4; Criminal Procedure Law: Section 120, Paragraph 2).

The Ombudsman's salary is set at the average monthly salary in Latvia multiplied by 3.41 (the Law on Remuneration of Officials and Employees of State and Local Government Authorities: Section 6, Paragraph 2). This level is slightly below that of ministers for whom the coefficient is 3.648 (Law on Remuneration of Officials and Employees of State and Local Government Authorities: Section 6, Paragraph 2).

The Ombudsman approves the structure and internal regulations of the Ombudsman's Office (Ombudsman Law: Section 18, Paragraph 2). It is the Ombudsman's sole power to determine procedure for the appointment and removal of the Ombudsman's Office's staff as long as general legal principles are complied with. The law does not contain any explicit provisions for the judicial review of the Ombudsman's actions in the court. On the contrary, the Senate of the Supreme Court ruled that actions of the Ombudsman, which are carried within inspection matters, are not subject to control of administrative courts.²⁷⁹ Persons, who fail to provide the information of the kind and scope required by the Ombudsman or provide false information, are subject to legal liability (Ombudsman Law: Section 27, Paragraph 4).

To conclude, the Ombudsman Law provides reasonable guarantees of independence for the Ombudsman. However, they leave rather broad discretion for the legislature to choose a candidate for the post. The lack of constitutional provisions on the Ombudsman represents a failure to emphasise fully the symbolic importance of the institution and, at least theoretically, leaves it less protected against attempts to reduce its independence.

7.1.3. Independence: practice

Score: 50 / 100

To what extent is the ombudsman independent in practice?

The professionalism and non-partisan manner of operation of the Ombudsman is a matter of some controversy. On the one hand, since the establishment of the Ombudsman, no apparent instances of outside political interference in the activities of the Ombudsman are known. The Ombudsman has never been involved in legally prohibited activities or directly compromised his independence. Thus, in principle, it is hard to identify any concrete hindrances for the Ombudsman to act professionally and impartially.

On the other hand, both the former Ombudsman Romāns Apsītis (in office 1 March 2007 – 28 February 2011) and current Ombudsman J.Jansons have been viewed by some like potentially passive and/or politically complaisant candidates by virtue of their non-existent previous engagement as human rights champions. R.Apsītis technically did have necessary professional credentials (he used to be a MP and the Minister of Justice and, from 1996 to 2007, a judge of the Constitutional Court²⁸⁰) and the reputation of personal integrity. Still his relatively old age (68 years upon election) and low-key public profile made sceptics think that the candidate was selected precisely for somewhat dormant performance. The expectations were at least partially fulfilled. In 2009, 26 out of 45 staff members of the Ombudsman's office signed a petition calling on Romāns Apsītis to resign.²⁸¹ Allegations in the petition included mismanagement

279 Decision of the Department of Administrative Cases of the Senate in the case No. SKA-679, 14 December 2007.

[http://www.at.gov.lv/files/archive/departament3/2007/ska-679-07_tiesibsargs\[2\].doc](http://www.at.gov.lv/files/archive/departament3/2007/ska-679-07_tiesibsargs[2].doc)

280 Līdzšinējais tiesībsargs (Former Ombudsman). The website of the Ombudsman's Office.

http://www.tiesibsargs.lv/lat/tiesibsargs/bijusie_tiesibargi/

281 Tiesībsarga biroja darbinieki prasa Apsīša atkāpšanos (Employees of the Ombudsman's Office Request Apsītis to Resign). Apollo, 2 July 2009.

<http://www.apollo.lv/portal/news/articles/171950>

of budgetary funds, failure to pay attention to the employees' opinion, Romāns Apsītis' and his legal advisor's weak understanding of human rights, interference by third parties in the decision-making (and the preponderance of R.Apsītis to obey wishes from, for example, the Chancellery of the President of State²⁸²) and retaliations against the staff.²⁸³

While it cannot be asserted that all of the allegations were fully justified, according to the media at least some of the dissenting employees were laid off with the pretence of budgetary cuts.²⁸⁴ V.Slaidiņa has a different take on the conflict and explains it as a collision of different view on the proper role of the Ombudsman: "The basic objection was against the insufficiently active work of the Ombudsman. This was a collision of two conceptual views. The Ombudsman was a professor, academician and lawyer. It was very important for him that all opinions are legally well grounded. Instead [the dissenting staff who came over from the State Human Rights Bureau²⁸⁵] were used to focusing more on alerting the public rather than on deep legal analysis. However, the Ombudsman, himself being earlier a judge of the CC, often saw that the public got alerted but in the end everything proved in order."²⁸⁶ According to V.Slaidiņa also the alleged preponderance to succumb to outside pressure was in fact just the refusal of the Ombudsman to approve of some opinions issued independently by the former Deputy Ombudsman.

The current Ombudsman J.Jansons was elected on 3 March 2011 and, as of August 2011, it was still early to give any conclusive assessment of his performance. J.Jansons has virtually no professional record in the area of human rights and his last occupation before the election was a liquidator of a municipal health insurance company.²⁸⁷ In a secret vote of the Parliament, he won over the alternative candidate – a judge of the administrative court and university lecturer on administrative law and international human rights.

Even if the details of the mentioned conflict can be subject to different interpretations, all in all there are grounds to doubt the legislature's will to select professional, independent and active candidates for the position of the Ombudsman.

7.2. GOVERNANCE

7.2.1. Transparency: law

Score: **75** / 100

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the ombudsman?

The Ombudsman's Office shall not disclose information regarding the submitter or other persons, if this is necessary for the protection of the rights of such persons, except when the relevant information is requested by the performer of the criminal procedures (Ombudsman Law: Section 23, Paragraph 6). Explicit transparency requirements regarding the Ombudsman are scarce. Once a year, the Ombudsman shall provide the Saeima and the President with a written report regarding the activities of the Ombudsman's Office (the contents of the report are not pre-specified in any greater detail). Otherwise the Ombudsman has the right but no obligation to provide the Saeima and other institutions or international organisations with reports in respect of specific issues (Ombudsman Law: Section 15). Apart from these explicit provisions, the Ombudsman is subject to the general provisions

282 Interview with Annija Dāce, 26 May 2011.

283 Dzērve, L. Tiesībsargs amatu pamest negrasās (The Ombudsman is not Going to Resign). Diena.lv 11 July 2011. <http://www.diena.lv/lat/politics/hot/tiesibsargs-amatu-pamest-negrasas?comments=2>

284 Tiesībsargs Romāns Apsītis atļaiž sev netikamos? (Does the Ombudsman Romāns Apsītis Fire the Ones He Dislikes?) LNT, 3 November 2009. http://www.tvnet.lv/zinas/latvija/323964-tiesibsargs_romans_apsitis_atlaid_sev_netikamos

285 The State Human Rights Bureau was Latvia's equivalent to the Ombudsman from 1995 to 2007.

286 Interview with Velga Slaidiņa, 15 June 2011.

287 Jaunais tiesībsargs – Juris Jansons (The New Ombudsman – Juris Jansons). Apollo, 3 March 2011. <http://www.apollo.lv/portal/news/articles/231235>

of the Freedom of Information Law. The law divides all information, which is at the disposal of institutions, into two categories – generally accessible information and restricted access information (the Freedom of Information Law: Section 3). The law specifies concrete reasons for classifying a piece of information as restricted access information.

The Ombudsman may establish advisory councils as well as working groups for the development of specific projects or the preparation of issues (Ombudsman Law: Section 14, Paragraph 1).

Asset and income declarations of the Ombudsman and other public officials of the Ombudsman's office shall be accessible to the public (apart from some private data, e.g. addresses of residence and properties). It is the responsibility of the SRS to publish these declarations on the internet.

All in all the transparency requirements for the Ombudsman Office are in line with generally acceptable standards in Latvia but the number and scope of explicit disclosure requirements are scarce.

7.2.2. Transparency: practice

Score: 75 / 100

To what extent is there transparency in the activities and decision-making processes of the ombudsman in practice?

The Ombudsman Office' duly complies with the few explicit transparency requirements found in the law and publishes such information on its website (www.tiesibsargs.lv). The Ombudsman's annual report features a catalogue of rights (e.g. access to justice, the right to individual freedom, the right to privacy, prohibition of discrimination, good governance, etc.) with rather detailed description in more than a hundred pages of complaints received, inspections opened by the Ombudsman and reactions of other state institutions to opinions of the Ombudsman. The annual report also contains information about the Ombudsman's Office's resources, quantitative performance indicators (including received applications, number of inspections initiated, number of inspections completed, number of refusals to initiate an inspection, etc.) and full texts of important opinions.²⁸⁸

Opinions of the Ombudsman are also published on the website although the intensity of publication varies. As of 3 May 2011, there were 21 opinions of 2008 published, 4 opinions of 2009, 44 opinions of 2010, and 4 opinions of 2011.²⁸⁹ Several parts of the website were obsolete though. Chapters such as "research" and "articles and interviews" did not contain any information newer than 2008 or 2009. The Ombudsman does involve outside experts and NGOs in its activities such as the Ombudsman's annual conference but overall such involvement has not appeared to be highly prioritized. However, this might be changing. In May 2011, J.Jansons held public consultations with NGOs about the Ombudsman's strategy document for the years 2011-2013.²⁹⁰ In August 2011, the Ombudsman set up an advisory council with representatives of a number of NGOs on access to education. As of August 2011, other events with involvement of the civil society had taken place or were planned as well.

7.2.3. Accountability: law

Score: 75 / 100

To what extent are there provisions in place to ensure that the ombudsman has to report and be answerable for its actions?

Since the Saeima may remove the Ombudsman in cases prescribed by the Ombudsman Law and the Ombudsman provides the Saeima and the President with reports annually, it

²⁸⁸ Annual reports of the Ombudsman's Office are found here: http://www.tiesibsargs.lv/lat/publikacijas/gada_zinojumi/

²⁸⁹ Opinions of the Ombudsman's Office are found here: http://www.tiesibsargs.lv/lat/petijumi_un_viedokli/viedokli/

²⁹⁰ Tiesibsargs aicina NVO sniegt priekšlikumus (The Ombudsman Invites NGOs to Submit Proposals). Website of the Ombudsman's Office, 2 May 2011. <http://www.tiesibsargs.lv/lat/tiesibsargs/jaunumi/?doc=290>

could be said that the Ombudsman is accountable first of all to the legislature and then to the President. As said above, the law does not specify what exactly must be included in the reports except that it must describe the activities of the Ombudsman Office.

The Rules of Procedure of the Saeima describe the procedure of reviewing the report in the legislature. Once the report is submitted, its copies of the report shall be distributed to MPs without delay. Unless a proposal or request to convene an extraordinary Saeima session or sitting has been submitted, the Presidium shall put the annual report on the work of the Ombudsman's Office on the agenda of a Saeima sitting scheduled not earlier than 10 days and not later than 20 days after the receipt of the annual report. During the review of the report, the Ombudsman shall be given the floor and then a debate shall be opened (Section 131.¹).

The law does not contain any explicit provisions for the judicial review of the Ombudsman's actions in the court. As mentioned above, the Senate of the Supreme Court ruled that actions of the Ombudsman, which are carried within inspection matters, are not subject to control of administrative courts.²⁹¹

Latvia's policy on whistle blowing is limited. According to the Labor Law, „it is prohibited to punish an employee or directly or indirectly cause other disadvantageous consequences when an employee has exercised his/her rights in a permissible manner within the framework of legal labor relations as well as when he/she informs competent authorities or public officials about suspicion of a criminal act or administrative violation at the workplace.” (Labor Law: Section 9, Paragraph 1). This law does not contain any confidentiality requirements concerning the identity of a whistleblower; it only covers reporting to the competent authorities rather than, for example, the media; no administrative sanctions are foreseen for public officials who would breach this provision, etc.²⁹² In April 2011, the Saeima amended the Conflict of Interest Law to prohibit, for example, heads of agencies from disclosing the identity of a public official or employee who has reported on conflicts of interest. It is also prohibited to cause unfavorable consequences for such persons without objective grounds (Section 20, Paragraph 7). However, it does not apply to those who report, for example, on bribery or abuse of office.

7.2.4. Accountability: practice

Score: 75 / 100

To what extent does the ombudsman report and is answerable for its actions in practice?

The Ombudsman reports to the Saeima and the President as required by the Ombudsman Law. The contents of the reports were described already under heading 7.2.2 “Transparency (practice)” above. The report does not provoke broad debate. The presentation of the 2010 report at the Saeima plenary on 24 February 2011 prompted four MPs (including two from the opposition) to speak. All of them generally praised the work of Romāns Apsītis.²⁹³

It is impossible to speak about the effectiveness of whistleblowing policy because such policy hardly exists and no practice of implementation of the April 2011 amendments to the Conflict of Interest Law has accumulated. As said above, there are indications that some of the staff was probably laid off due to their criticism against the former Ombudsman Romāns Apsītis.²⁹⁴

291 Decision of the Department of Administrative Cases of the Senate in the case No. SKA-679, 14 December 2007. [http://www.at.gov.lv/files/archive/departments3/2007/ska-679-07_tiesibsargs\[2\].doc](http://www.at.gov.lv/files/archive/departments3/2007/ska-679-07_tiesibsargs[2].doc)

292 For a more detailed review of recommended principles for whistleblower legislation, see: Alternative to Silence. Whistleblower Protection in 10 European Countries. Transparency International (2009). Pp. 44-46.

293 Transcript of the Plenary Meeting of the Saeima of 24 February 2011. <http://www.saeima.lv/lv/transcripts/view/46>

294 Tiesībsargs Romāns Apsītis atlaiz sev netikamos? (Does the Ombudsman Romāns Apsītis Fire the Ones He Dislikes?) LNT, 3 November 2009. http://www.tvnet.lv/zinas/atvija/323964-tiesibsargs_romans_apsitis_atlaiz_sev_netikamos

To what extent are there provisions in place to ensure the integrity of the ombudsman?

The Ombudsman's Office has a Code of Staff Conduct although, as for other state institutions, the central piece of integrity-ensuring legislation is the Conflict of Interest Law. The law includes an incompatibility clause allowing the Ombudsman and his/her deputy to hold only a few types of additional positions/jobs. The permitted additional jobs include offices held in accordance with laws, international agreements or regulations/ordinances of the CoM, the job of a teacher, scientist, doctor, professional sportsperson and creative work, and the work of an expert (consultant) performed in the administration of another state, international organisation or a representation (mission) thereof if it does not result in a conflict of interests and a written permit has been received (Conflict of Interest Law: Section 7, Paragraph 3).

Like all public officials, the Ombudsman and other officials of the Ombudsman's Office shall not obtain income from capital shares and stock, as well as from any kind of securities in commercial companies that are registered in tax-free or low-tax countries and territories (Conflict of Interest Law: Section 9, Paragraph 3). A public official, for two years after he or she has ceased to perform the duties of the relevant office, is prohibited to obtain the property of such merchant, as well as to become a shareholder, stockholder, partner or hold an office in those commercial companies, in relation to which during performing his/her duties this public official has taken decisions on procurement for state or local government needs, allocation of state or local government resources and state or local government privatisation fund resources or has performed supervision, control or punitive functions (Conflict of Interest Law: Section 10, Paragraph 3).

The Conflict of Interest Law contains also a number of more comprehensive provisions against the conflict of interest. Thus, like most other public officials, the Ombudsman and other officials of the Ombudsman's Office in their official capacity are prohibited to prepare or issue administrative acts, perform the supervision, control, inquiry or punitive functions, enter into contracts or perform other activities in which they, their relatives or business partners are personally or financially interested (Conflict of Interest Law: Section 11, Paragraph 1).

All public officials are subject to a restriction on accepting gifts. A public official fulfilling the duties of office is permitted to accept only diplomatic and official gifts, e.g. gifts by official representatives of foreign states or by the authority in which the relevant official serves (Conflict of Interest Law: Section 13.¹, Paragraph 1). Privately public officials are prohibited from accepting gifts if in relation to the donor the public official has in a period of two years prior to receipt of the gift carried out certain official functions. Public officials are also prohibited to carry out such functions regarding persons from whom they have accepted gifts in a past period of two years (Conflict of Interest Law: Section 13.², Paragraphs 1 and 2).

The Criminal Law provides liability for a person who commits disclosure of non-disclosable information which is not an official secret if the person is a public official who has been warned concerning the non-disclosability of the information or who in accordance with the law is liable for the storage of information (Section 329). This provision would apply if the Ombudsman or other official of the Ombudsman's Office disclosed information regarding the submitter of an application or other persons in contrary to the confidentiality clause of the Ombudsman's Law.

In general, the formal integrity framework for the Ombudsman and other officials of the Ombudsman's office is adequate.

To what extent is the integrity of the ombudsman ensured in practice?

The Ombudsman's Office is not viewed as an institution with high corruption-related risks for its staff. The lack of integrity of the Ombudsman or employees of the Ombudsman's Office is not among the usual concerns voiced about this institution. The director of the Latvian Centre for Human Rights Ilze Brands-Kehre described the situation as follows: "So far the Ombudsman's Office has acted with integrity although occupied itself mainly with the review of complaints."²⁹⁵

Apart from disciplinary measures against two staff members of the Ombudsman's Office during the conflict described under the heading 7.1.3., V.Slaidiņa knew of no other instances of disciplinary sanctions.²⁹⁶ In fact the only serious allegations of integrity-compromising conduct are those accusing Romāns Apsītis of succumbing to pressures from officials of some other public bodies. These allegations have not been verified independently though.

7.3. ROLE**7.3.1. Investigation***To what extent is the ombudsman active and effective in dealing with complaints from the public?*

Lodging complaints to the Ombudsman is reasonably easy. As an option, applicants have a possibility to use a downloadable form, which should help focusing their complaints. The form requires to describe what, where and when has happened, what the negative consequences of the events are, where else applications or complaints concerning the case have been submitted, what additional documents could be useful for the review of the case, what rights of the applicant have been infringed upon.²⁹⁷ Meanwhile the Ombudsman's website explicitly warns that they cannot review complaints received via e-mail unless they have a secure electronic signature attached²⁹⁸ – a tool used by a small minority of the population. However, according to V.Slaidiņa the Ombudsman's Office does answer ordinary electronic applications but classifies them as inquiries.²⁹⁹

In 2010, the Ombudsman received 1359 written applications and 294 inspection cases were initiated – a considerable drop compared to 2008 (respectively 2502 and 741) and 2009 (respectively 1986 and 609).³⁰⁰ It is impossible to say conclusively what has determined the drop but the generally low visibility of the institution, controversies among the staff and perhaps also growing awareness about the advisory rather than mandatory character of the Ombudsman's opinions may have contributed.

However, experts tend to criticize the passive manner of work of the Ombudsman's Office. As quoted above, I.Brands-Kehre spoke about the pre-occupation of the Ombudsman's Office with the review of complaints while "one should promote a more serious role for the institution – to look into flaws of the legislation and propose amendments".³⁰¹ The official figures confirm the reactive character of the Ombudsman's work – in 2009 the Ombudsman initiated 588 inspections and only

295 Brands - Kehre: tiesībsargs varētu būt arī politologs (Brands - Kehre: the Ombudsman Could also be a Political Scientist). Diena.lv, 12 February 2011. <http://www.diena.lv/lat/politics/hot/brands-kehre-tiesibsargs-varetu-but-ari-politologs>

296 Interview with Velga Slaidiņa, 15 June 2011.

297 Veidlapa sūdzības iesniegšanai Tiesībsargam (Form for Lodging a Complaint to the Ombudsman). http://www.tiesibsargs.lv/lat/iesniegt_sudzibu_tiesibsargam/iesnieguma_veidlapas_paraugs/

298 Iesniegt sūdzību Tiesībsargam (To Submit a Complaint to the Ombudsman). 19 December 2007.

http://www.tiesibsargs.lv/lat/iesniegt_sudzibu_tiesibsargam/

299 Interview with Velga Slaidiņa, 15 June 2011.

300 Latvijas Republikas tiesībsarga 2010. gada pārskats (Report of the Ombudsman of the Republic of Latvia for the Year 2010). P.140. http://www.tiesibsargs.lv/lat/publikacijas/gada_zinojumi/?doc=654

301 Brands - Kehre: tiesībsargs varētu būt arī politologs (Brands - Kehre: the Ombudsman Could also be a Political Scientist). Diena.lv 12 February 2011. <http://www.diena.lv/lat/politics/hot/brands-kehre-tiesibsargs-varetu-but-ari-politologs>

21 inspections were started on the Ombudsman's own initiative.³⁰² Also the Ombudsman has submitted quite a number of opinions (20 opinions in 2010 alone) about cases reviewed in the CC³⁰³ but, as of August 2011, only twice did the Ombudsman use its right to submit a case to the CC on its own initiative.

A.Dāce maintained that it was a deliberate choice of Romāns Apsītis to refrain from proactive performance in front of the public eyes.³⁰⁴ The current Ombudsman – according to both V.Slaidiņa and A.Dāce – is allegedly intent on playing a more visible and active public role. J.Jansons himself hinted at a possibly more active role in saying: “It is important to express opinion in the media. If an issue has reached a certain level of acuteness and nothing is being done, one has to involve experts.”³⁰⁵

The Ombudsman's Office's public outreach activities are rather weak. In 2010, the Ombudsman's Office closed the Public Relations Department and the Consultants Department. The outreach activities of the Ombudsman's Office were limited to participation in a bike tour organized by the Latvian Red Cross, a visit to an asylum-seekers centre, a one-day event organized by school students in Riga and a couple of other events including the Ombudsman's annual conference.³⁰⁶ J.Bojāre, Financial Management Specialist of the Ombudsman's Office blames the budget cuts for the limited public outreach: “If the law does not say that we may stop answering complaints by citizens or otherwise cut down the amount of work, how could we ensure publicity free of charge?”³⁰⁷

To conclude, the Ombudsman's Office has been dealing with complaints in a professional and timely manner but its influence has been held back by the low public profile, questioned personal authority of the Ombudsman as well as weak public outreach activities.

7.3.2. Promoting good practice

Score: 25 / 100

To what extent is the ombudsman active and effective in raising awareness within government and the public about standards of ethical behaviour?

The jurisdiction of the Ombudsman covers all public bodies and officials on both national and municipal levels (Ombudsman Law: Section 2, Paragraph 2). Experts have repeatedly pointed to the narrow interpretation of good governance by the Ombudsman and overall weak efforts to improve governance. In January 2011, researchers of *Providus* M.Golubeva and I.Kažoka wrote: “Judging from annual reports, the Ombudsman thinks that bad governance manifests itself in two ways only – when an institution violates legal norms (for example, fails to provide substantial answers to submissions) and when an employee has acted rudely toward a visitor. [...] Not a word mentions that good governance is not only a narrow legal term but it covers also issues of more efficient organization of the activities of the state administration, transparency, responsibility, openness to civic participation, responsiveness and „friendliness” toward visitors, inclusive approach in both staffing policy and work with clients.”³⁰⁸

The current Ombudsman has explained his views about good governance in some-

302 Latvijas Republikas tiesībsargs. Gada ziņojums 2009. (Report of the Ombudsman of the Republic of Latvia for the Year 2009). P.121. http://www.tiesibsargs.lv/lat/publikacijas/gada_zinojumi/?doc=625

303 Dimitrovs, A. Tiesībsargs – zudis, bet atrodams (Ombudsman Lost – but Can Be Found). Politika.lv, 22 February 2011. http://www.politika.lv/temas/cilvektiesibas/tiesibsargs_zudis_bet_atrodams/#1

304 Interview with Annija Dāce, 26 May 2011.

305 Čālte, A. Tiesībsargs: jauni aizsākumi, prioritātes, plāni (The Ombudsman: New Beginnings, Priorities, Plans. Interview with J.Jansons). LV portāls, 13 June 2011. <http://www.portalslv.lv/index.php?menu=doc&id=231539>

306 Latvijas Republikas tiesībsarga 2010. gada pārskats (Report of the Ombudsman of the Republic of Latvia for the Year 2010). Pp.129-130. http://www.tiesibsargs.lv/lat/publikacijas/gada_zinojumi/?doc=654

307 Interview of Jolanta Bojāre, Financial Management Specialist of the Ombudsman's Office, with author, Riga, 15 June 2011.

308 Golubeva, M., Kažoka, I. Miskastes princips (The Principle of Garbage Can). Politika.lv, 31 January 2011. http://www.politika.lv/temas/cilvektiesibas/18873/#_start

what broader terms, especially emphasizing the length of administrative procedures: “Good governance means the state providing services to an individual in quickly, effectively and transparently.”³⁰⁹ The approach of the Ombudsman toward good governance may be changing but surely it remains to be seen what happens in the longer run.

The Ombudsman’s Office does not publish any data about how well public institutions implement its recommendations. There appears to be a consensus that state institutions are not very active in implementing the Ombudsman’s recommendations. According to A.Dāce there is no tracking system for the fulfilment of the recommendations except regarding prison institutions where actual improvements were seen³¹⁰ (for example, sinks installed in some confinement cells³¹¹ and government funding allocated for better separation of toilets from the rest of the cells³¹²). V.Slaidiņa mentioned also social issues such as ensuring decent standards of housing provided by local governments where the Ombudsman’s Office has had some success.³¹³ However, her overall assessment is modest and she grades the level of implementation of the Ombudsman’s opinions between two and three on a five-point scale.³¹⁴

The prorektor of Riga Graduate School of Law and long-term lecturer on human rights M.Mits emphasises that it is hard for the Ombudsman institution to reach its goals if the person chosen for the Ombudsman lacks personal authority in the matters of human rights: “The head of this institution has always been a person who fails to meet requirements for the perfect Ombudsman.”³¹⁵ Given the fact that the Ombudsman does not have any hard levers of influence on state institutions, the strength of the Ombudsman as a promoter of good practice remains yet to be realized.

7.4. KEY RECOMMENDATIONS

- The status of the Ombudsman should be anchored in the Constitution in order to emphasise the symbolic importance of the institution and strengthen its independence.
- As a check on the discretion of the Saeima, procedure for the appointment of the Ombudsman should require candidates to be vetted by a committee consisting of public-sector professionals related to the competence areas of the Ombudsman with participation of observers from the civil society.
- With various means, the Ombudsman should increase the visibility of the institution to make more people aware of its existence and possibilities to seek help there.
- The Ombudsman should balance the roles of a professional legal reviewer of complaints and a pro-active champion for improvements in securing individual rights and principles of good governance. The Ombudsman should also be more active in proposing legislative changes to fill gaps it has identified in case work.
- The Ombudsman should continue and strengthen the practice of involving CSOs in deliberations on relevant policy documents and acute issues.

309 Cāfite, A. Tiesībsargs: jauni aizsākumi, prioritātes, plāni (The Ombudsman: New Beginnings, Priorities, Plans. Interview with J.Jansons). LV portāls, 13 June 2011. <http://www.portalslv.lv/index.php?menu=doc&id=231539>

310 Interview with Annija Dāce, 26 May 2011.

311 Latvijas Republikas tiesībsarga 2010. gada pārskats (Report of the Ombudsman of the Republic of Latvia for the Year 2010). P.26. http://www.tiesibsargs.lv/lat/publikacijas/gada_zinojumi/?doc=654

312 Valdība piešķir 344 tūkstošus, lai palielinātu tualetes sienas aiztūrešanas vietas (The Government Allocates 344 Thousand to Increase Toilet Walls in Sites of Detention). Apollo, 14 June 2011. <http://www.apollo.lv/portals/news/articles/241098>

313 Interview with Velga Slaidiņa, 15 June 2011.

314 Interview with Velga Slaidiņa, 15 June 2011.

315 Interview of Mārtiņš Mits, the Prorektor of Riga Graduate School of Law and long-term lecturer on human rights, with author, Riga, 23 May 2011.

8. SUPREME AUDIT INSTITUTION

The State Audit Office (hereafter – the SAO) suffered heavily from cuts in the state budget in 2009 and 2010. It has resources to fulfil the minimum requirements of the law but possibilities for additional audits and development are poor. The Auditor General and members of the SAO Council enjoy strong protection against their early removal and the overall legal guarantees of independence are adequate. The law contains comprehensive transparency provisions for the SAO regarding both findings in audited entities and the SAO's own performance. Moreover the website of the SAO provides great wealth of information about the financial management and performance of the public sector both on the state and municipal levels. The SAO has full authority to oversee all public financial operations except the Saeima and it always reports the results to the audited entities and other bodies stipulated by law. Although recommendations by the SAO are acted upon and certainly contribute to improved practices across the public sector, their implementation cannot be taken for granted in all cases.

Supreme Audit Institution		Overall Pillar Score: 92 / 100	
	Indicator	Law	Practice
Capacity 92 / 100	Resources	-	75
	Independence	100	100
	Transparency	100	100
Governance 100 / 100	Accountability	100	100
	Integrity Mechanisms	100	100
	Effective Financial Audits	100	
Role 83 / 100	Detecting and Sanctioning Misbehavior	75	
	Improving financial management	75	

Structure and organization

The SAO is an independent and collegial body enshrined in the Constitution. The SAO performs financial and regularity (performance) audits and examines expenditure of the state and municipal budgets, resources of state or municipal enterprises, actions with property of the said entities, and utilization of the resources of the EU and other international organizations included in the budgets of the state or municipalities. The SAO consists of the Auditor General, the Council of the SAO, audit departments and support units. The Council of the SAO consists of the Auditor General and six heads of audit departments.

8.1. CAPACITY

8.1.1. Resources: practice

Score: **75** / 100

To what extent does the audit institution have adequate resources to achieve its goals in practice?

Like most other public institutions, the SAO underwent considerable budget cuts in 2009 and 2010. The overall funding fell almost by half from LVL 4,796,742 (approx. EUR 6.8 mil-

lion) in 2008³¹⁶ to LVL 2,672,573 (approx. EUR 3.8 million) in 2010.³¹⁷ The Auditor General manages the budget of the SAO (State Audit Office Law – hereafter SAOL: Section 8, Paragraph 1, Point 5).

The SAO cannot apply directly for the Saeima to request necessary annual funding. Provisions of SAOL and the Law of Budget and Financial Management, which govern drafting of the budget for the SAO, were challenged in the CC. The court found that the SAO and a few other independent bodies did not have adequate mechanisms to defend their budget requests in the CoM and the Saeima. On 25 November 2010, it ruled that several provisions of the laws were incompatible with the Constitution as long as these bodies were not guaranteed a chance to defend their budget requests in the CoM.³¹⁸ The Saeima amended the laws accordingly in June/July 2011 granting the SAO the right to present its opinion to the CoM and ensuring that this opinion is forwarded to the Saeima. Drafting of the state budget for 2012 will show what impact the amended procedure has.

According to the Auditor General I.Sudraba “The budget support is sufficient for us to fulfil the minimum requirements of the law, i.e. to provide opinions about the annual reports of the central government institutions and about the consolidated report of the whole of the central government and municipalities. It is insufficient in order for us to cover more broadly the issues of legality and expediency in various policy areas in both the central government and municipalities.”³¹⁹ The number of regularity (performance) audits carried out in the period when no financial audits are done has dropped from 32 in 2008 to only 12 audits commenced in 2011.³²⁰

The budget cuts made the SAO reduce the number of employees. Thus the number of positions was 163 in the end of 2009, down by 32 compared to 2008.³²¹ According to the SAO’s own assessment at the end of 2009 “differences in the professionalism of employees linger on. Some employees have increased their professionalism considerably through experience in auditing, training, exchange of experience and self-education while some others have yet to improve their qualification.”³²² Given the budget cuts since then and the description of the situation by the Auditor General, the mentioned problem is unlikely to have been resolved. Still, overall the SAO does have resources to perform its mandatory tasks.

8.1.2. Independence: law

Score: 100 / 100

To what extent is there formal operational independence of the audit institution?

According to the Constitution the SAO shall be an independent collegial institution (Section 87). State auditors shall be appointed to their office and confirmed pursuant to the same procedures as judges, but only for a fixed period of time, during which they may be removed from office only by a judgment of the Court (Section 88). Further relations between the SAO

316 Latvijas Republikas Valsts kontroles publiskais gada pārskats 2009 (The Public Annual Report of the State Audit Office of the Republic of Latvia 2009). P.57. http://www.lrvk.gov.lv/upload/GP_6Aug2009_LV.pdf

317 Latvijas Republikas Valsts kontroles publiskais gada pārskats 2010 (The Public Annual Report of the State Audit Office of the Republic of Latvia 2010). P.48. http://www.lrvk.gov.lv/upload/GP_2010_1Jul2011_LV.pdf

318 Par Likuma par budžetu un finanšu vadību 19.panta piektās daļas, Valsts kontroles likuma 44.panta otrās daļas un Tiesībsarga likuma 19.panta otrās daļas atbilstību Latvijas Republikas Satversmes 1., 83. un 87.pantam (About the Compliance of Section 19, Paragraph 5 of the Law on Budget and Financial Management, Section 44, Paragraph 2 of the State Audit Office Law and Section 19, Paragraph 2 of the Ombudsman Law with Sections 1, 83 and 87 of the Constitution of the Republic of Latvia). Judgment of the Constitutional Court, 25 November 2010.

319 Interview of Inguna Sudraba, Auditor General, with author, Riga, 16 May 2011.

320 Data provided by Inguna Sudraba as a comment to this study on 8 June 2011.

321 Latvijas Republikas Valsts kontroles publiskais gada pārskats 2009 (The Public Annual Report of the State Audit Office of the Republic of Latvia 2009). P.7. http://www.lrvk.gov.lv/upload/GP_6Aug2009_LV.pdf

Latvijas Republikas Valsts kontroles publiskais gada pārskats 2010 (The Public Annual Report of the State Audit Office of the Republic of Latvia 2010). P.7. http://www.lrvk.gov.lv/upload/GP_2010_1Jul2011_LV.pdf

322 Valsts kontroles darbības stratēģija 2010.-2013.gadam (Strategy for the Activities of the State Audit Office for the Years 2010-2012). Approved on 7 December 2009. <http://www.lrvk.gov.lv/index.php?id=2116>

and the legislature are regulated in SAOL and other laws.

The Council of the SAO shall approve annual audit plans and the strategic development plan (SAOL: Section 11, Point 2). After the Council of the SAO has approved the annual audit plan, the Auditor General shall send to the Saeima an expanded report regarding the planned audit directions, without naming the audited entities (SAOL: Section 60). Thus the only legal limitation to the SAO's independence in determining its audit plan is rather broad requirements as to mandatory audits, i.e. the SAO shall prepare its opinion about the report on the financial year submitted by the Minister of Finance as well as opinions regarding the correctness of the annual accounts of all ministries and other state central institutions (SAOL: Section 3, Points 1 and 3; The Budget and Financial Management Law: Section 30, Paragraph 3; Section 32). The Auditor General also determines the audit standards, methodology and quality requirements to be used by the SAO (SAOL: Section 8, Paragraph 1, Point 11).

The Saeima appoints the Auditor General and members of the Council of SAO. All of them are appointed for a term of four years for no more than two consecutive terms (SAOL: Section 26, Paragraphs 1 and 3; Section 27). Legally established qualification requirements are rather general and provide that candidates for the offices of the Auditor General, member of the Council of the SAO and head of a sector of an audit department shall have obtained higher education and their professional qualification and work experience of the last five years shall be appropriate for the performance of the tasks of the SAO (SAOL: Section 30, Paragraph 1). To ensure the political impartiality of these officials, individuals who have been members of the CoM or have held elected offices in political parties during the last three years shall not be eligible candidates (SAOL: Section 30, Paragraph 2). For their term of office, they shall discontinue activities in parties (SAOL: Section 31).

The Auditor General and members of the Council of the SAO enjoy strong protection against their early removal as this can be done only in the case of conviction in a criminal case by a court of law (SAOL: Section 29, Paragraph 1). On the other hand, these officials do not have any immunity against criminal charges or administrative sanctions. Still the overall legal guarantees of independence are adequate.

8.1.3. Independence: practice

Score: 100 / 100

To what extent is the audit institution free from external interference in the performance of its work in practice?

According to both the law (the Constitution and SAOL) and common public perception the SAO is a politically impartial body. Currently the Auditor General I.Sudraba is serving her second term in office and most members of the Council of the SAO do get their nominations for the second time (two consecutive terms in office are allowed). Actually no cases are known when the Saeima had rejected a candidate nominated by the Auditor General.

I.Sudraba denies any facts of attempted political influence on the activities of the SAO.³²³ One case is known where attempts to hinder auditing took place. In 2007 the Ministry of Transport denied the SAO access to information about activities of public institutions in relation to the movement of goods across border-control points between Latvia and Russia. The SAO submitted protest to the PPO, which ordered the ministry to disclose the required information. The then Minister of Transport A.Šlesers even claimed that the information would be used for private needs of the Auditor General. In 2011, the court demanded the former minister to pay LVL 5,000 (approx. EUR 7,100) for moral damage, withdraw the claim and

³²³ Interview with Inguna Sudraba, 16 May 2011.

bring apologies, which he did accordingly.³²⁴

In a few other cases, politicians and other public officials have expressed critical remarks in the address of the SAO. For example, in a reaction to the report of the SAO about the state's takeover of the *Parex* bank, the head of the Financial and Capital Market Commission I. Krūmane called the conclusions of the SAO misled and incompetent.³²⁵ Regardless of the grounds of such criticism, it has not amounted to any illegitimate pressure on the work of the SAO.

8.2. GOVERNANCE

8.2.1. Transparency: law

Score: 100 / 100

To what extent are there provisions in place to ensure that the public can obtain relevant information on the relevant activities and decisions by the SAO?

The law obliges the SAO to produce a variety of reports. In particular, the SAO shall:

Each year provide an opinion for the Saeima regarding the financial year report concerning the implementation of the state budget;

Each year provide opinions regarding the correctness of the preparation of annual reports by ministries and other central state institutions;

Submit a report to both to the Saeima and the CoM regarding financial audits in such entities for which an opinion with annotations or a negative opinion has been issued, or for which the SAO has refused to issue an opinion; regarding all regularity (performance) audits; regarding especially important and significant findings;

Notify the state institutions as to findings that affect the activities of these institutions, as well as law enforcement institutions regarding violations of legal norms found in audits (SAOL: Section 3).

Moreover the SAO shall submit its own annual financial accounts together with the opinion of a sworn auditor to the Saeima and to the State Treasury (SAOL: Section 45, Paragraph 2). The Saeima is not obliged to debate any of these reports but it may do so.

The Council of the SAO meets *in camera* but the minutes of such meetings shall be regarded as information of general access, i.e. freely available upon request (SAOL: Section 12). After the Council has approved the annual audit plan, the Auditor General shall send to the Saeima an expanded report regarding the planned audit directions, without identifying the audited entities (SAOL: Section 60).

The SAO shall disclose reports of completed audits after their coming into force (except for information of restricted access according to the law) and the opinion regarding the financial year report concerning the implementation of the state budget after it has been submitted to the Saeima (SAOL: Section 58).

To conclude the law contains comprehensive transparency provisions for the SAO regarding both findings in audited entities and the SAO's own performance.

8.2.2. Transparency: practice

Score: 100 / 100

To what extent is there transparency in the activities and decisions of the audit institution in practice?

The SAO always prepares all of the legally required documents in due time and submits them to recipients specified in the law. All of the audit reports are available online³²⁶ and,

324 Šlesers maksās Sudrabai 5000 latu, bet paliks pie sava viedokļa (Šlesers will Pay 5000 Lats to Sudraba but will Stick to His Opinion). Delfi.lv, 29 March 2011. <http://www.delfi.lv/news/national/politics/slesers-maksas-sudrabai-5000-latu-bet-paliks-pie-sava-viedokla.d?id=37670665>

Šlesers publiski atvainojas Sudrabai par goda un cieņas aizskaršanu (Šlesers Apologises Publicly to Sudraba for Defamation). Delfi.lv, 26 April 2011. <http://www.delfi.lv/news/national/politics/slesers-publiski-atvainojas-sudrabai-par-goda-un-cienas-aizskarsanu.d?id=38198107>

325 Krūmane: Sudraba ir tikpat lidzatlīdzīga par Parex pārņemšanu (Krūmane: Sudraba is Equally Co-responsible for the Takeover of Parex). db.lv, 4 October 2009. <http://www.db.lv/citas-zinas/krumane-sudraba-ir-tikpat-lidzatlidziga-par-parex-par-remšanu-132295>

326 Revīzijas ziņojumi (Audit Reports). <http://www.lrvk.gov.lv/index.php?id=1759>

even reports containing information of restricted access, are usually published with just the classified data deleted. Reports provide high level of detail as to the goals, methods, findings, conclusions and recommendations of each audit.

The website of the SAO also contains both the so-called public and financial annual reports of the SAO. Annual public reports describe the objectives, tasks and structure of the SAO, progress in the implementation of the SAO's plan of strategic development, review of the most important audit findings, and priorities for the next year.³²⁷

Overall the website of the SAO provides great wealth of information about the financial management and performance of the public sector both on the state and municipal levels.

8.2.3. Accountability: law

Score: 100 / 100

To what extent are there provisions in place to ensure that the SAO has to report and be answerable for its actions?

Like all public agencies, the SAO shall prepare an annual public report until 1 July of the next year and an annual report for the State Treasury (Budget Law: Section 14, Paragraph 3; Section 30, Paragraphs 1 and 3). The annual public report shall describe the legal status, policy sector and functions, goals, financial resources, performance results, staff number, turnover and characteristics such as education, public information activities and cooperation with the non-governmental sector, main tasks for the coming year, etc.³²⁸

As already stated under 8.2.1., the SAO shall submit its annual financial accounts together with the opinion of a sworn auditor to the Saeima and to the State Treasury. The Saeima shall choose the sworn auditor to audit the annual financial accounts of the SAO in a competition (SAOL: Section 45).

The SAO completes its audits with approval of the audit report by one of the audit departments. The approval decision is then forwarded to the audited entity. The entity may appeal against the decision in the Council of the SAO. The Council shall review such complaint within 30 days. If it is impossible to meet this term due to objective reasons, it is possible to extend the deadline for no more than 6 months. A representative of the complainant may participate in the meeting of the Council where the complaint is considered and provide explanations. The decision of the Council is final and enters into force on the day of adoption (SAOL: Section 55; Section 64).

If the complaint is rejected and the decision concerns the rights or legal interests of a physical person, a further appeal to the administrative court is possible (it is also possible in a case when an audit report is approved by the Council from the very beginning, i.e. when the respective audit department has a split opinion) (SAOL: Section 65).

All in all accountability provisions of the SAO appear to be comprehensive in scope and adequate.

8.2.4. Accountability: practice

Score: 100 / 100

To what extent does the SAO have to report and be answerable for its actions in practice?

The SAO does fulfil all of the legally prescribed accountability requirements. Annual reports of the SAO are submitted to the Saeima and its Public Expenditure and Audit Committee. Then, in a meeting of the Committee, the Auditor General presents performance results of

327 Latvijas Republikas Valsts kontroles publiskais gada pārskats 2010 (The Public Annual Report of the State Audit Office of the Republic of Latvia 2010). http://www.lrvk.gov.lv/upload/GP_2010_1Jul2011_LV.pdf

328 Cabinet of Ministers Regulations of 5 May 2010 No. 413 "Regulations on Annual Public Reports".

the SAO for the previous year.³²⁹ Otherwise parliamentary debates, minor as they are, do take place also about the financial year report concerning the implementation of the state budget but this is a report created by SAO rather than about the SAO.³³⁰

Audited entities do challenge audits to the Council of SAO about three-four times a year. According to the Auditor General audit reports are deliberately drafted so as to avoid any infringement on the rights or rightful interests (i.e. the legal grounds for filing complaints) of the audited entities and hence have rejected all of the complaints. In some cases, details have been corrected in audit reports without amending the conclusions thereof.³³¹

Still despite the fact that audited entities generally do not succeed in challenging conclusions of the SAO formally, their reactions, which are sometimes critical, pressure the SAO to back up its resolutions with proper findings.

8.2.5. Integrity mechanisms: law

Score: 100 / 100

To what extent are there mechanisms in place to ensure the integrity of the audit institution?

The SAO has a detailed code of ethics. It covers themes such as integrity and impartiality, professional conduct with adequate care and attention, confidentiality, loyalty to the SAO, sense of responsibility, independence, internal and external communication standards (including giving notification if an employee knows of circumstances that may cause for him/her a conflict of interest), and conflict-of-interest provisions such as restrictions to accept gifts from persons who could somehow influence the discharge of their official duties. Breaches of the code of ethics may carry disciplinary punishment.³³²

As for other state institutions, the central piece of integrity-ensuring legislation is the Conflict of Interest Law. The law includes an incompatibility clause allowing the Auditor General, member of the Council of the SAO and head of a sector of an audit department to hold only a few types of additional positions. The permitted additional jobs include offices held in accordance with laws, international agreements or regulations/ordinances of the CoM, the job of a teacher, scientist, doctor, professional sportsperson and creative work, and the work of an expert (consultant) performed in the administration of another state, international organisation or a representation (mission) thereof if it does not result in a conflict of interests and a written permit has been received (Conflict of Interest Law: Section 7, Paragraph 3).

Like all public officials, the SAO officials shall not obtain income from capital shares and stock, as well as from any kind of securities in commercial companies that are registered in tax-free or low-tax countries and territories (Conflict of Interest Law: Section 9, Paragraph 3). A public official, for two years after he or she has ceased to perform the duties of the relevant office, is prohibited to obtain the property of such merchant, as well as to become a shareholder, stockholder, partner or hold an office in those commercial companies, in relation to which during performing his or her duties this public official has taken decisions on procurement for state or local government needs, allocation of state or local government resources and state or local government privatisation fund resources or has performed supervision, control or punitive functions (Conflict of Interest Law: Section 10, Paragraph 7).

The Conflict of Interest Law contains also a number of more comprehensive provisions against the conflict of interest. Thus, like most other public officials, the SAO officials in their official capacity are prohibited to prepare or issue administrative acts, perform the supervision, control, inquiry or punitive functions, enter into contracts or perform other activities in which they, their relatives or business

329 Information provided by Inguna Sudraba as a comment to this study on 8 June 2011.

330 Einārs Cilinskis, one of the MP described the approval of this report in following manner: "Apparently the Saeima has developed practice whereby this decision is regarded as pure formality where the government must not tell anything, it does not have to attend the Saeima meeting when these issues are reviewed and MPs simply vote." Transcript of the Saeima plenary meeting, 2 December 2010. <http://www.saeima.lv/lv/transcripts/view/29>

331 Interview with Inguna Sudraba, 16 May 2011.

332 Valsts kontroles ētikas kodekss (The Code of Ethics of the State Audit Office). Approved on 17 July 2006. <http://www.lrvk.gov.lv/index.php?id=606>

partners are personally or financially interested (Conflict of Interest Law: Section 11, Paragraph 1).

All public officials are subject to a restriction on accepting gifts. A public official fulfilling the duties of office is permitted to accept only diplomatic and official gifts, e.g. gifts by official representatives of foreign states or by the authority in which the relevant official serves (Conflict of Interest Law: Section 13.¹, Paragraph 1). Privately public officials are prohibited from accepting gifts if in relation to the donor the public official has in a period of two years prior to receipt of the gift carried out certain official functions. Public officials are also prohibited to carry out such functions regarding persons from whom they have accepted gifts in a past period of two years (Section 13.², Paragraphs 1 and 2).

To conclude, the formal integrity framework for the SAO is adequate.

8.2.6. Integrity mechanisms: practice

Score: 100 / 100

To what extent is the integrity of the audit institution ensured in practice?

In addition to explicit legal requirements such as to submit public officials' declarations, annually every employee of the SAO is required to sign a confirmation of not having any conflict of interest. According to the Auditor General sanctioning for breaches of the Code of Ethics is rare and the few cases have taken place several years ago.³³³

According to data about convicted public officials for the years 2004-2009 no official of the SAO has been convicted for criminal offence in relation to actions in the service.³³⁴ No evidence was found of such convictions of the SAO officials before or after this period. According to the data of the CPCB, as of 28 April 2011, no official of the SAO has been punished administratively for violations of the Conflict of Interest Law since 2007. No evidence of earlier application of such punishments exist either.³³⁵

In a representative survey of 2007, the average assessment of the SAO was 2.66 on a scale where 1 represents a maximally honest institution and 5 – maximally dishonest institution. To place this result in a perspective, only the church, State Fire and Rescue Service, CPCB, radio and television scored better, with many institutions scoring by far worse – the State Revenue Service (2.94), the State Police (3.35), courts (3.56) and the government (3.75).³³⁶ No comparable data of more recent origin were found during the research.

In brief, there are no indications of any serious integrity-related flaws in the SAO.

8.3. ROLE

8.3.1. Effective financial audits

Score: 100 / 100

To what extent does the audit institution provide effective audits of public expenditure?

According to the Latvian terminology the SAO distinguishes between financial audits and regularity (performance) audits where the latter focuses *inter alia* on the efficiency and effectiveness of the audited entity or function. In 2010 the SAO completed 26 financial audits and 17 regularity (performance) audits.³³⁷ Audits about the annual reports of state institutions are completed and published mostly around April of the following year. As a rule they are detailed and comprehensive.

333 Interview with Inguna Sudraba, 16 May 2011.

334 Trial Statistics for Offences Committed in Public Service in Latvia 2004 – 2009. Corruption °C/ PROVIDUS. <http://corruption-c.wikidot.com/stat2009-vize>

335 Administratīvie pārkāpumi (Administrative Violations). <http://www.knab.lv/lv/prevention/conflict/offences/?page=0>

336 Attieksme pret korupciju Latvijā (Attitude toward Corruption in Latvia). SKDS, November-December 2007. P.13. http://www.knab.lv/uploads/free/aptaujas/aptauja_2007_pieredze.pdf

337 Latvijas Republikas Valsts kontroles publiskais gada pārskats 2010 (The Public Annual Report of the State Audit Office of the Republic of Latvia 2010). P.15. http://www.lrvk.gov.lv/upload/GP_2010_1.Jul2011_LV.pdf

The SAO assesses internal control systems of the audited entities. For example, the audit about the correctness of the annual report of the year 2010 of the Ministry of Finance found that the allocation of responsibility within the SRS failed to ensure sufficient control of material assets.³³⁸ The audit about the correctness of the annual report of the year 2010 of the Ministry of Agriculture found that procedures of the Rural Support Service did not ensure sufficient control over the allocation of the EU funds for area payments.³³⁹ The Ministry of Environment had failed to implement an earlier recommendation of the SAO and did not ensure control over the use of budget subsidy to the state company “The Latvian Centre for Environment, Geology and Meteorology”, which resulted in the expense of LVL 13,272 (approx. EUR 18,900) not in accordance with stated goals.³⁴⁰

Recommendations of the SAO sometimes aim to achieve virtually zero-level risks in the audited entities, which may require too costly internal controls. Occasionally this approach prompts legitimate counter arguments from audited entities. On the other hand, the work of auditors is complicated by virtue of the fact that some public agencies lack their own internal control standards and hence auditors lack benchmarks for assessment.³⁴¹ Overall the SAO has full authority to oversee all public financial operations except the Saeima and it always reports the results to the audited entities and other bodies stipulated by law.

8.3.2. Detecting and sanctioning misbehaviour

Score: 75 / 100

Does the audit institution detect and investigate misbehaviour of public officeholders?

If necessary for the discharge of their duties, authorised officials of the SAO may without hindrance visit institutions and companies irrespective of their subordination and ownership and request all necessary information. They also shall have access to the information of the audited entity, which the SAO considers necessary for the performance of the audit. Files of audited entities that contain information of restricted access or the state secret shall be examined by the SAO employees authorised for each separate case (SAOL: Sections 49 and 51). According to the Auditor General the necessary access is always granted with few extremely rare exceptions.³⁴²

In line with what is common for auditors, the mandate of the SAO is limited as far as the assessment of responsibility of particular officials is concerned. The statutory objective of the activities of the SAO is to ascertain whether actions of audited entities with their resources are lawful, correct, economical and efficient, as well as provide recommendations for the rectification of discovered deficiencies (SAOL: Section 2, Paragraph 2). The law authorizes the SAO to notify law enforcement institutions regarding violations of legal norms detected in audits (SAOL: Section 3, Point 4). I.Sudraba explained further: “When we find that, for example, a contract has been concluded illegally, we do state that the director of the agency has exceeded his authority and done an illegal contract. What we do not do is to assess the level of his liability, circumstances that may have facilitated the act or identify other persons who may be involved in the violation.”³⁴³

The SAO has a database where all notifications to the PPO are registered in order to allow

338 Revīzijas ziņojums Nr. 5.1-2-22/2010 „Par Finanšu ministrijas 2010.gada pārskata sagatavošanas pareizību” (Audit Report about the Correctness of the Annual Report of the Year 2010 of the Ministry of Finance). 29 April 2011. P.20. http://www.lrvk.gov.lv/upload/zin_FM_29Apr2011.pdf

339 Revīzijas ziņojums Nr. 5.1.-2-24/2010 „Par Zemkopības ministrijas 2010.gada pārskata sagatavošanas pareizību” (Audit Report about the Correctness of the Annual Report of the Year 2010 of the Ministry of Agriculture). 29 April 2011. P.5. http://www.lrvk.gov.lv/upload/ZM_zinojums_29Apr2011.pdf

340 Revīzijas ziņojums Nr. 5.1-2-39/2010 „Par Vides ministrijas 2010.gada pārskata sagatavošanas pareizību” (Audit Report about the Correctness of the Annual Report of the Year 2010 of the Ministry of Environment). 29 April 2011. P.8. http://www.lrvk.gov.lv/upload/zin_VIDM_29Apr2011.pdf

341 Interview of Nata Lasmane, Head of the Audit Department of the Ministry of Finance, with author, Riga, 21 June 2011.

342 Interview with Inguna Sudraba, 16 May 2011.

343 Interview with Inguna Sudraba, 16 May 2011.

the SAO to track what happens to the materials forwarded with such notifications. According to the Auditor General the SAO inquires with law enforcement institutions once in six months about the progress of the files. In 2008 the SAO notified the PPO about the results of 19 audits. Based on them, 2 officials were punished administratively (a few more could not be held administratively liable due to the statute of limitation) and 3 criminal cases were under investigation as of 10 May 2011. In 2009, 31 notifications were sent. 3 officials were punished administratively and 6 criminal cases were under investigation. In 2010, 10 notifications were sent. 1 official was punished administratively and 4 criminal cases were under investigation.³⁴⁴ Actual convictions in criminal cases originating from findings by the SAO are uncommon though.

To sum up, the SAO does detect irregularities and violations by public officials quite often but investigations as to the possible guilt and liability are carried by the SP, CPCB or other institutions as assigned by the PPO. The score for this indicator does not reflect any particular flaw with the activities of the SAO but rather the plain observation that relatively few officials are sanctioned in relation to irregularities found by the auditors.

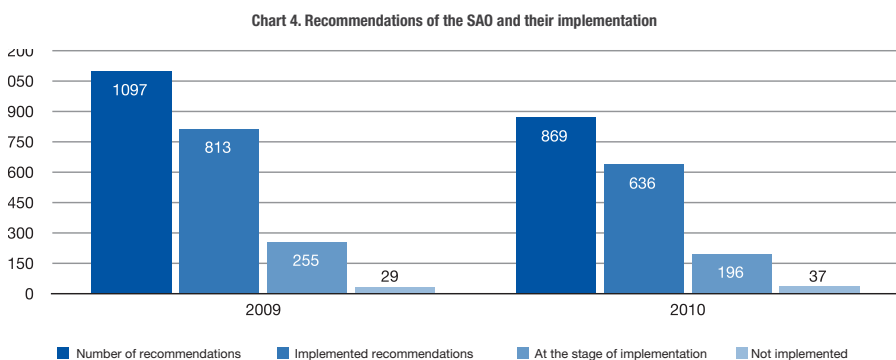
8.3.3. Improving financial management

Score: **75** / 100

To what extent is the SAO effective in improving the financial management of government?

The SAO has the right to issue recommendations to audited entities to rectify discovered deficiencies, as well as to specify a time period by which the audited entity shall notify in writing regarding the rectification of the deficiency (SAOL: Section 56).

Speaking about practice, typically the SAO proposes numerous recommendations in its audit reports. The recommendations target a variety of issues – improvements in legislation, accounting practice, internal control system, quality and accessibility of public services, improvements in the usage of information technologies and the efficiency of the use of public funds. The SAO's own data about the implementation of its recommendations are presented in Graph 2.³⁴⁵



Although generally recommendations of the SAO are regarded as well-grounded, occasional disputes do occur. For example, in 2010 the Road Traffic Safety Department (a state company responsible for the registration and technical inspection of motor vehicles, issuance

344 Informācija par Valsts kontroles ziņojumiem Ģenerālprokuratūrai (Information about Reports of the State Audit Office to the Prosecutor General's Office). 10 May 2011. Unpublished document by the SAO.

345 Latvijas Republikas Valsts kontroles publiskais gada pārskats 2009 (The Public Annual Report of the State Audit Office of the Republic of Latvia 2009). P.9. http://www.lrvk.gov.lv/upload/GP_6Aug2009_LV.pdf Data on 2010 provided by Inguna Sudraba as a comment to this study on 8 June 2011.

of driver's licences, etc.) objected to the opinion of the SAO that some of the Department's price tariffs are inadequate.³⁴⁶

According to the Auditor General the Public Expenditure and Audit Committee of the Saeima is an important counterpart of the SAO in ensuring the implementation of recommendations. Every Wednesday the committee reviews results of audits of the State Audit Office. The committee also hears the audited entities and demands that they be represented by officials of the management level. The committee sets deadlines by which the audited entities shall report on the implementation. Then the SAO also provides its opinion as to whether any flaws remain.³⁴⁷

In some instances the Saeima as a whole has reacted to recommendations by the SAO. Thus, after the review of reports by the SAO about the implementation of the state and municipal budgets, the Saeima repeatedly (on 29 October 2009 and 2 December 2010) adopted resolutions requiring the CoM to define criteria for returns on capital invested in state-owned enterprises and improve management reports included in the annual reports of such enterprises.³⁴⁸ On the downside, the resolutions of the Saeima have not been implemented fully yet. So although recommendations by the SAO are acted upon and certainly contribute to improved practices across the public sector, their implementation cannot be taken for granted in all cases.

8.4. KEY RECOMMENDATIONS

- In terms of resources, it is essential to maintain the capacity of the SAO on the level, which allows it to engage in regularity (performance) audits no less than it carries out the mandatory financial audits.
- Efforts should continue to strengthen cooperation with the Public Prosecutor's Office so as to facilitate prosecution where criminal offences are suspected by the SAO.

346 CSDD noraida VK pārmetumus un nesaskata kļūdas savā darbībā (The Road Traffic Safety Department Rejects reproaches by the SAO and Does not Acknowledge Mistakes in Its Activities). Diena.lv, 13 December 2010. <http://www.diena.lv/lat/politics/hot/valsts-kontrole-csdd-pakalpojumu-tarifi-ir-nepamatoti>

347 Interview with Inguna Sudraba, 16 May 2011.

348 Latvijas Republikas Saeima. „Paziņojums par trūkumu novēršanu valsts budžeta līdzekļu finanšu vadībā” (Resolution about Rectification of Flaws in the Financial Management of State Budget Funds). 29 October 2009. Saeimas paziņojums „Par ekonomisku, efektīvu un lietderīgu rīcību ar valsts budžeta līdzekļiem” (About Efficient, Effective and Purposeful Handling of State Budget Funds). 2 December 2010.

9. ANTI-CORRUPTION AGENCIES

Despite largely political appointment procedure for the director and on-going conflicts both internally and with political supervisors, the CPCB has managed to keep up a reasonable degree of professionalism and impartiality among its staff. There have been a number of confirmed or alleged attempts to undermine the independence of the CPCB. At the time of completing this report in August 2011, major controversies had just subsided regarding the alleged mismanagement and legal violations by the former director of the CPCB N.Vilnitis, openly loathed by a major part of the institution's staff and dismissed from office on 16 June 2011. The performance of the CPCB in preventing corruption is comprehensive and proactive while educational activities target mainly public officials with sporadic outreach to the broader public. Otherwise the CPCB is the institution that brought about a major breakthrough in tackling serious corruption-related crime in Latvia. The CPCB has been determined in going after suspected perpetrators on increasingly high levels of administrative and, to a lesser degree, also political levels although the quantitative results of the last few years are slightly sluggish.

Anti-Corruption Agencies		Overall Pillar Score: 76 / 100	
	Indicator	Law	Practice
Capacity 69 / 100	Resources	75	75
	Independence	75	50
	Transparency	100	75
Governance 83 / 100	Accountability	100	75
	Integrity Mechanisms	100	50
Role 75 / 100	Prevention	75	
	Education	75	
	Investigation	75	

Structure and organization

The CPCB is a state administration body under the supervision of the Prime Minister established in 2002. The CPCB has broad powers in prevention of corruption, investigation, control of financing of political parties and the related field of control of pre-election agitation. However, it does not have powers to prosecute. According to the law the CPCB consists of the central apparatus and regional departments although in practice no units exist outside the capital. The CPCB is led by its director who together with his/her deputies and heads of the departments of the central apparatus form the council of the CPCB vested with consultative functions.

9.1. CAPACITY

9.1.1. Resources: law

Score: **75** / 100

To what extent are there provisions in place that provide the CPCB with adequate resources to effectively carry out its duties?

The CPCB is an autonomous state administration body and as such has its own budget

determined in the annual budget law. The director of the CPCB shall prepare and submit a draft request for state budgetary funding directly to the CoM (Law on Corruption Prevention and Combating Bureau (hereafter – LCPCB): Section 4, Paragraph 3, Point 15). Otherwise the budget proposal of the CPCB is dealt with according to the ordinary procedure with no formal guarantees of funding stability. There is no formal (or informal for that matter) connection between budgetary funding and the CPCB's performance indicators. The CPCB does not have any opportunities to acquire extra non-budgetary funding. All in all the CPCB has a clearly delineated budget but no guarantees for maintained or increasing funding.

9.1.2. Resources (practice)

Score: **75** / 100

To what extent does the CPCB have adequate resources to achieve its goals in practice?

The budget of the CPCB was reduced during the state budget consolidation from LVL 3.65 million (approx. EUR 5.2 million) in 2008 to LVL 2.37 million (approx. EUR 3.4 million) in 2011. Meanwhile it appears that the institution has been using its funding in a suboptimal manner. The former director of the CPCB N.Vilnitis (in office 12 March 2009 – 16 June 2011) claimed that the reduced funding represented a problem: “The funding is insufficient. The remuneration of the staff has been cut down almost by half, which does not motivate for performance. [...] We are able to function but we do not have enough funds to develop. We do not carry out sociological research. We also cannot develop to a sufficient degree our technical equipment.”³⁴⁹ Still the CPCB actually used only 81 % of its funding in 2009³⁵⁰ and 89% – in 2010³⁵¹. The unused amounts were repaid back into the state budget. Hence not just the budget cuts *per se* but also flaws in expending the funds appear to hurt the institution. Moreover the budget allocation in itself is still considerable for an agency with a relatively narrow mandate.

Despite the budget cuts, the turnover of the personnel has not increased radically although a few qualified professionals left the CPCB due to either wage reduction or internal conflicts in the institution (see 9.1.4.). Between 1 July 2010 and 31 December 2010, 8 staff members were recruited and 6 left the job (the total of 141 personnel worked at the CPCB as of 31 December 2010).³⁵² A similar level of turnover was seen also in 2008 and 2009.³⁵³

The parliament appoints the director of the CPCB upon proposal from the CoM. The selection process of the director of the CPCB contains a combination of an open competition and political decision. The law provides an open competition as an option (i.e. the government could still choose to pick any qualified candidate at will) but, in practice, a competition or a similar procedure has been used always when a new director was to be recruited. As of August 2011, the Saeima was considering amendments to the law to make open competition mandatory.

Three competitions (or similar procedures) were held in 2002 (the government failed to

349 Interview with Normunds Vilnitis, Director of the Corruption Prevention and Combating Bureau (2009–2011), 5 May 2011.

350 Korupcijas novēršanas un apkarošanas biroja publiskais pārskats 2009 (Public Report of the Corruption Prevention and Combating Bureau 2009). P.36. http://www.knab.lv/uploads/free/parskati/knab_parskats_2009_final.pdf

351 Korupcijas novēršanas un apkarošanas birojs. Publiskais pārskats 2010 (Corruption Prevention and Combating Bureau. Public Report 2010). P.37. http://www.knab.lv/uploads/free/parskati/knab_parskats_2010.pdf

352 Informatīvais ziņojums „Par Korupcijas novēršanas un apkarošanas biroja darbību no 2010.gada 1.jūlija līdz 2010.gada 31.decembrim” (Information Report “About the Performance of the Corruption Prevention and Combating Bureau from 1 July 2010 to 31 December 2010”). P.31. http://www.knab.lv/uploads/free/zinojumi/knabzino_010211.pdf

353 Informatīvais ziņojums „Par Korupcijas novēršanas un apkarošanas biroja darbību no 2009.gada 1.jūlija līdz 31.decembrim” (Information Report “About the Performance of the Corruption Prevention and Combating Bureau from 1 July to 31 December 2009”). P.22.

http://www.knab.lv/uploads/free/zinojumi/knabzino_080210.pdf Informatīvais ziņojums „Par Korupcijas novēršanas un apkarošanas biroja darbību no 2008.gada 1.jūlija līdz 31.decembrim” (Information Report “About the Performance of the Corruption Prevention and Combating Bureau from 1 July to 31 December 2008”). P.33. http://www.knab.lv/uploads/free/zinojumi/knabzino_020209.pdf

approve the winners of the first two), one in 2003, one in 2004, one in 2008/2009³⁵⁴ and finally the latest one is open for applications till 19 September 2011. In only three of the cases did the CoM and subsequently the Saeima support a candidate recommended by the competition committee or officials who were consulted.³⁵⁵ Despite the relatively open procedures, the appointment of the director of the CPCB has been always an object of intense political bargaining, occasional stalemates and open public controversy.

The current competition committee consists of the Director of the State Chancellery, a justice of the Senate of the Supreme Court, a chief prosecutor from the PGO, Director of the Bureau for the Protection of the Constitution, and the Head of the Security Police.³⁵⁶ Legal analyst A. Grišāne of *Delna* lauded the procedure because it is indeed an open competition, a politically impartial committee of professionals will evaluate applicants and clear criteria of evaluation have been set.³⁵⁷ In particular, demonstrated understanding about the competencies of the CPCB and its directors is to be assessed.

Still reputation or ethics record are not among criteria for officials of the CPCB found in the law. According to the former Director of the CPCB N. Vilnītis in practice “we try to assess carefully the reputation and possible violations of ethical character of newcomers – in other words, any type of signals that problems could arise in the future. We have a procedure for acceptance where we try to gather maximum amount of open and classified information about the previous work record of the individual.”³⁵⁸ On the other hand, a number of senior officials of the CPCB have claimed that N. Vilnītis practiced recruiting staff with dubious qualifications and with no competition.³⁵⁹

The CPCB does provide some training opportunities for its staff members (often in co-operation with foreign partners) but there is no permanent training program or course for the newly recruited.

To conclude, the resources of the CPCB are enough for the maintenance of certain effectiveness but they do remain stretched. In the past, the appointment of the director of the CPCB has been largely political. Nevertheless so far the agency manages to keep up a reasonable degree of professionalism and impartiality among its staff despite alleged nepotism practiced by the former director.

9.1.3. Independence: law

Score: 75 / 100

To what extent is the CPCB independent by law?

The CPCB is a state administration body under the supervision of the Prime Minister (LCPCB: Section 2, Paragraph 1). The essence of supervision in the Latvian legislation is the right of a higher institution or official to examine the lawfulness of decisions taken by a lower institution or official and to revoke unlawful decisions, as well as to issue an order to take a decision in case of unlawful failure to act (State Administrative Structure Law: Section 7, Para-

354 Korupcijas novēršanas un apkarošanas biroja darbības monitorings (Monitoring of the Activities of the Corruption Prevention and Combating Bureau). Sabiedrība par atklātību – Delna. P.9. http://www.delna.lv/data/user_files/Delna_petijums_KNAB-Liepa.pdf

355 The procedure was described in the Cabinet of Ministers Ordinance No. 13 of 21 October 2008 “Procedure for Proposing a Motion for the Appointment of the Director of the Corruption Prevention and Combating Bureau”.

356 The Cabinet of Ministers Ordinance No. 387 of 17 August 2011 “On the Evaluation Committee of Applicants to the Position of the Director of the Corruption Prevention and Combating Bureau”.

357 Valdība izsludina konkursu uz KNAB vadītāja amatu; pretendents meklēs mēnesi (The Government Announces a Competition for the Post of the Head of KNAB; the Search for Applicants will Last a Month). Delfi.lv, 16 August 2011. <http://www.delfi.lv/news/national/politics/kalnmeiera-komisija-rosina-atbrivot-no-amata-knab-sefu-vilniti.d?id=39104925>

358 Interview with Normunds Vilnītis, 5 May 2011.

359 Rulle, B. Tumšās aizdomu ēnas pār Vilniti: pilns KNAB darbinieku iesniegums (Dark Shadows of Suspicion Over Vilnītis: Full Application of the CPCB Officials). Pietiek.com, 3 December 2010. http://www.pietiek.com/raksti/tumsas_aizdomu_enas_par_vilniti_pilns_knab_darbinieku_iesniegums

graph 5). The Prime Minister does not possess the right to initiate disciplinary proceedings against the director of the CPCB.³⁶⁰

The law contains mainly formal qualifications required for a person to be eligible to become an official of the CPCB. Among those that come closest to being criteria of integrity and professionalism are a higher education and accumulated work experience appropriate for the position; lack of criminal record; compliance with the requirements of the law to receive the special permission for access to a state secret (LCPCB: Section 4, Paragraph 2; Section 5, Paragraph 3). Amendments as to these requirements were being considered by the Saeima as of August 2011. Officials of the CPCB may not participate in the activities of political parties and may be dismissed if they do join a party (LCPCB: Section 5, Paragraph 6; Section 13, Paragraph 2).

The director of the CPCB shall be appointed for the duration of five years and there are no formal restrictions as for his/her reappointment (LCPCB: Section 4, Paragraph 1). The law contains an exhaustive list of cases when a public official of the CPCB may be dismissed. Among those that are potentially sensitive are: due to the liquidation of the CPCB or the particular position or due to reduction in the number of officials of the CPCB; if a dismissal is applied as a disciplinary sanction; and if a person is unsuitable for the position (LCPCB: Section 5, Paragraph 6). In order to establish whether the director of the CPCB is unsuitable for the position (and also in a couple of other cases when he/she could be dismissed), a committee shall be established, headed by the PG or a duly authorised chief prosecutor (LCPCB: Section 5, Paragraph 7). Following the opinion of the committee, the CoM may propose the parliament to dismiss the director. Officials of the CPCB cannot be prosecuted, detained or searched without authorization by the PG (LCPCB: Section 12, Paragraph 3).

The supervisor of the CPCB has a duly limited authority to interfere in the activities of the CPCB and discretionary dismissal of the officials of the CPCB has been made difficult. However, the status of the CPCB and the appointment/dismissal powers of the executive and legislature allow considerable room at least for attempted interference.

9.1.4. Independence: practice

Score: 50 / 100

To what extent is the CPCB independent in practice?

During its relatively recent history, the CPCB has accumulated a rich record of tensions with its supervisors as well as internally. On the level political rhetoric, a number of hints at the possibility to dismantle the CPCB and distribute its functions among other agencies have been voiced over years, for example, by the former Chair of the National Security Committee of the Saeima Dzintars Jaundžeikars.³⁶¹ However, they have not materialized in any policy documents or bills.

What follows is a short description of some of the main events necessarily failing to reflect many struggles on different levels and within a variety of legal procedures. The director of the CPCB A.Loskutovs (2004-2008) found himself in a constant conflict with the Prime Minister A.Kalvītis (2004-2007). In 2005, A.Kalvītis initiated disciplinary proceedings against A.Loskutovs over the decision of the latter to suspend the head of the Investigation Department of the CPCB Ilmārs Bode. A row over Ilmārs Bode continued for several years with

360 Judgment of the Administrative District Court in the case No. A42672507. 19 November 2009. http://www.tiesas.lv/files/AL/2009/11_2009/19_11_2009/AL_1911_raj_A-1841-09_11.pdf

361 See, for example: Radovics, V. Jaundžeikars: KNAB ir jālikvidē (Jaundžeikars: KNAB Must Be Liquidated). Nra.lv, 22 May 2008. <http://www.diena.lv/jaundzeikars-knab-jareorganize-606259> Zoldners, A. Ādamsons: KNAB funkcijas būtu jāpilda citām iestādēm (Ādamsons: Other Agencies should Carry out Functions of KNAB). Apollo, 4 December 2008. <http://www.apollo.lv/portals/news/articles/143263>

A.Kalvītis issuing a reprimand to A.Loskutovs (later the court cancelled the reprimand).³⁶² Meanwhile Ilmārs Bode was convicted for abuse of office, then acquitted in the court of appeal and currently the case is pending for review in the Senate of the Supreme Court.

In 2007, A.Kalvītis suspended, reprimanded and eventually initiated the dismissal procedure against A.Loskutovs for violations in financial accounting at the CPCB. On this occasion, A.Loskutovs remained in office due to mass popular protests in the autumn of 2007. However, A.Loskutovs was actually dismissed in 2008 because of a theft of money within the CPCB. A.Loskutovs was not personally implicated in the crime but he was accused of a failure to introduce proper internal controls. Although the eventual dismissal could be regarded as grounded appropriately and carried in accordance with the law, previous actions against A.Loskutovs often were of questionable legality. In particular, on 19 November 2009 the administrative court decided that the Prime Minister did not have the authority to sanction the director of the CPCB disciplinarily.³⁶³

The parliament appointed the new director of the CPCB N.Vilnītis on 12 March 2009. N.Vilnītis' time in office was marked by a continuous conflict with his two deputy directors and a large part of the staff of the CPCB. N.Vilnītis engaged in numerous disciplinary procedures against his subordinates in some cases for apparently trivial reasons, for example, he disciplined the head of the Department for Prevention of Corruption because an interpreter arrived a few minutes late for a meeting between N.Vilnītis and the US ambassador. A long-term official of the Department of Internal Security was imposed a much harsher sanction (lowering in position for three years) than suggested by the Disciplinary Commission for a delay in the development of the internal anti-corruption plan of the CPCB.³⁶⁴ There have been unverified allegations that N.Vilnītis has illegally leaked investigation secrets and prompted his subordinates to engage in illegal wire tapping of several politicians.³⁶⁵

The internal conflicts peaked when the two deputy directors and several heads of departments submitted an application to the Prime Minister and Prosecutor General describing 76 alleged violations of varying gravity by N.Vilnītis. The allegations included leaking investigation secrets, ungrounded orders to carry investigatory activities against particular politicians, discretionary cancellation of administrative proceedings for conflicts of interest and many other violations of legal provisions or instances of poor management.³⁶⁶

N.Vilnītis denied any allegations of illegal actions and explained internal tensions by conflicting visions regarding how the CPCB should operate: "When I came to the bureau, I started giving some directions that more work should be done regionally, more attention should be paid to the private-sector corruption and I even dared to discuss the issue of political parties. [N.Vilnītis suggested the idea that the CPCB should no longer carry out the function of controlling party finances]. Internally here two teams operated independently – preventers and combaters. People had become used to this working manner, wanted it to go on and found any other ideas harmful and undesirable. My initial attempt was to unite the two teams in a single whole in a very diplo-

362 For a review of conflicts between Aleksejs Loskutovs and Aigars Kalvītis in the period up to the end of 2007 see: Stafecka, L. KNAB neatkarība: dažas problēmas un iespējamie risinājumi (The Independence of the CPCB: Some Problems and Possible Solutions). Published in: Korupcijas "C. Pārskats par korupciju un pretkorupcijas politiku Latvijā. Nr.6. 2007. gada otrais pusgads (2008). Pp. 40-57. <http://korupcijas-c.wdfiles.com/local--files/korupcijas-c-nr-6-2007-gada-otrais-pusgads/Nr%206%20LV>

363 Judgment of the Administrative District Court in the case No. A42672507. 19 November 2009. http://www.tiesas.lv/files/AL/2009/11_2009/19_11_2009/AL_1911_raj_A-1841-09_11.pdf

364 PROVIDUS un Delnas vēstule Ministru prezidentam Valdim Dombrovskim (Letter by PROVIDUS and Delna to the Prime Minister Valdis Dombrovskis). 3 November 2010. http://www.politika.lv/temas/tiesiska_valsts_un_korupcija/18814/

365 Atklāti politiķi, kuru noklausīšanās kāri pārmeta Vilnītim (Politicians Revealed over Whose Wire Tapping Intent Vilnītis Reproached). Ir.lv, 28 April 2011. <http://www.ir.lv/2011/4/28/atklati-politiki-kuru-noklausinasas-kari-parmeta-vilniti>

366 Rulle, B. Tumšās aizdomu ēnas pār Vilnīti: pilns KNAB darbinieku iesniegums (Dark Shadows of Suspicion Over Vilnītis: Full Application of the CPCB Officials). Pietiek.com 3 December 2010. http://www.pietiek.com/raksti/tumsas_aizdomu_enas_par_vilniti_pilns_knab_darbinieku_iesniegums

matic manner. I must admit I did not really succeed. If there are three leaders in the team, one of them leads into one direction and the others have completely different opinions, and no one hides the differences neither internally nor in public, this is what feeds the conflict.”³⁶⁷

A policy analyst of the *Providus* I.Kažoka is of different opinion about the roots of the conflict: “My impression is that the argumentation of the staff is much more convincing and they do try to debate issues while N.Vilnītis thinks he has the prerogative of pure dictate. The main reason for objections is the management style of N.Vilnītis, all of the disciplinary proceedings, some for pure nonsense, directed by all means just to achieve the intended outcome. Plus, judging from the letter of the staff³⁶⁸, there are grounds to think that Vilnītis has dishonest motives.”³⁶⁹ On 13 May 2011 N.Vilnītis dismissed the long-term deputy director of the CPCB Alvis Vilks based on alleged negligence and inactivity in relation to a Phare project of 2003 implemented by the CPCB.³⁷⁰ He was reinstated in office on 29 June 2011.

Meanwhile in 2010 a less intensive but still tangible conflict developed also between N.Vilnītis and the Prime Minister V.Dombrovskis over changes to the internal structure of the CPCB that would remove some of the investigation capacity from the competence of a deputy director and apparently disperse the function. On this issue, a prolonged legal controversy involving also the PGO took place.

On 15 June 2011, a committee headed by the PG proposed to dismiss N.Vilnītis from office as unsuitable for the position. The CoM and the Saeima followed the proposal on the very next day, a decision likely facilitated by the 28-May decision of the President V.Zatlers to initiate the dissolution of the parliament due to worries about the power of oligarchs in Latvian politics.

The overall situation shows a number of confirmed or alleged attempts to undermine the independence of the CPCB. Still, as will be seen under heading 9.3.3., the CPCB has managed to retain a reasonably high degree of autonomy and professionalism in investigations against high-level corrupt officials.

9.2. GOVERNANCE

9.2.1. Transparency: law

Score: 100 / 100

To what extent are there provisions in place to ensure that the public can obtain relevant information on the activities and decision-making processes of the CPCB?

As far as the law is concerned, the CPCB is covered by the general freedom of information provisions. Otherwise, the CPCB shall prepare public reports, analytical materials on particular issues and draft certain policy planning documents.

Apart from annual reports that any public agency shall prepare, the director of the CPCB is obliged to submit a report of the activities of the CPCB to the CoM and the Saeima at least once in six months (LCPCB: Section 4, Paragraph 3, Point 14). However, the law does not determine the contents of these reports. Moreover there is a generic obligation to inform the public about trends of corruption, detected cases of corruption, measures to prevent and combat corruption as well as about detected violations of rules on the financing of political parties and rules on pre-election campaigns (LCPCB: Section 7, Paragraph 1, Point 13; Section 9, Point 9; Section 9.¹, Point 6). In the area of party finance, disclosure obligations are specified in greater detail in the Political Organizations (Parties) Financing Law (for more information

367 Interview with Normunds Vilnītis, 5 May 2011.

368 Here Ivetta Kažoka refers to the application of deputy directors and several heads of departments of the CPCB to the Prime Minister and Prosecutor General describing 76 alleged violations by Mr. Vilnītis.

369 Interview of Ivetta Kažoka, *Providus* researcher on political party and electoral campaign regulation, with author, Riga, 28 April 2011.

370 KNAB priekšnieka vietnieks Vilks atbrīvots no amata (Deputy Director of KNAB Vilks Dismissed from Office). BNS/LETA, 13 May 2011. [http://www.tvnet.lv/zinas/latvija/377414-*knab_prieksnieka_vietnieks_vilks_atbrivots_no_amata*](http://www.tvnet.lv/zinas/latvija/377414-<i>knab_prieksnieka_vietnieks_vilks_atbrivots_no_amata</i>)

about these provisions see Pillar 10 “Political parties”).

Otherwise the law obliges the CPCB to carry out a number of analytical tasks such as the compilation and analysis of information about declarations submitted by public officials, violations related to these declarations and failure to follow incompatibilities defined in the law. The CPCB shall analyse the practice of state agencies in preventing corruption and instances of corruption and submit proposals to the respective ministry and the SCh for the elimination of deficiencies (LCPCB: Section 7, Paragraph 1, Points 7 and 8). The CPCB shall also analyse legal acts and their drafts, offer amendments thereof and propose new legislation (LCPCB: Section 7, Paragraph 1, Point 10; Section 9, Point 6).

In terms of policy documents, the CPCB shall draft the Strategy for the Prevention and Combating of Corruption and a respective state program to be approved by the CoM (LCPCB: Section 7, Paragraph 1, Point 1).

All in all the law contains adequate transparency requirements for the CPCB.

9.2.2. Transparency: practice

Score: 75 / 100

To what extent is there transparency in the activities and decision-making processes of CPCB in practice?

In terms of published information, the CPCB is by far the most transparent law enforcement agency and among the most transparent public agencies in general in Latvia. The website of the CPCB (www.knab.lv) contains a wealth of information such as statutorily prescribed reports on the activities of the CPCB, additional special detailed reports about detected administrative violations (mostly in the area of conflict of interest)³⁷¹, court judgments in cases of conflicts of interest³⁷², criminal cases forwarded for prosecution and judgments in criminal cases that have entered into force³⁷³, commentaries and answers to questions about conflict-of-interest provisions³⁷⁴, on-line tests for public officials³⁷⁵, on-line data base of party finances³⁷⁶, guidance for parties and their sponsors about how to comply with legal norms³⁷⁷, etc.

The annual public report contains the latest data on public perceptions of corruption, brief description of draft legal acts and policy documents prepared by the CPCB, description of the type and number of educational activities, description of the number and types of detected violations of conflict of interest rules and fines applied, overview of cases where public officials have been called to civil liability in association with conflicts of interest, overview of criminal procedures initiated by the CPCB and cases forwarded for prosecution sorted by the relevant sections of the Criminal Law and by sector where the concerned public officials worked (the report also explains the subject matter of the more important cases), overview of donations received by political parties, detected violations of party finance and campaign rules, applied fines and amounts of money requested to be returned to either donors or the state, etc. Wherever appropriate, the report contains data series since the beginning of the CPCB's activities.³⁷⁸

On the more controversial side, in summer of 2010 N.Vilnitis issued a prohibition to the

371 Administratīvie pārkāpumi (Administrative violations). <http://www.knab.lv/lv/prevention/conflict/offences/>

372 Tiesu prakse (Court practice). http://www.knab.lv/lv/prevention/conflict/court_decision/

373 KNAB darbības rezultāti (Performance results of the CPCB). http://www.knab.lv/lv/combating/offences/enforcement_results/

374 Likuma normu skaidrojumi (Explanations of legal provisions). <http://www.knab.lv/lv/education/interpretations/>

375 Testi (Tests). <http://www.knab.lv/lv/education/tests/>

376 Partiju finanšu datubāze (Party finance database). <http://www.knab.lv/lv/finances/db/>

377 Informācija partijām (Information for parties). http://www.knab.lv/lv/finances/for_parties/; Informācija ziedotājiem (Information for donors). http://www.knab.lv/lv/finances/for_donators/

378 Korupcijas novēršanas un apkarošanas biroja publiskais pārskats 2009 (The Public Report of the Corruption Prevention and Combating Bureau 2009). http://www.knab.lv/uploads/free/parskati/knab_parskats_2009_final.pdf

employees of the CPCB including his deputies to express the opinion of the CPCB to the media without his prior authorization.³⁷⁹ The move was apparently meant to contain information about internal conflicts among officials of the CPCB and was supported by some politicians.³⁸⁰ As far as spoken communication is concerned, the openness level of the CPCB reduced. N.Vilnītis also refused to disclose to the public reasons why he dismissed the long-term deputy director Alvis Vilks on 13 May 2011.

I.Kažoka was very critical about the decline in the CPCB's communication under N.Vilnītis: "Previously the CPCB participated actively in various public debates. You don't find them in the public realm any more as the carrier of the message: we can be trusted, we are professionals, we care about the fight against corruption."³⁸¹ Generally the CPCB remains a highly transparent institution compared to other law-enforcement bodies and hopefully the level of communication will return to the CPCB's own practice in the earlier past.

9.2.3. Accountability: law

Score: 100 / 100

To what extent are there provisions in place to ensure that the CPCB has to report and be answerable for its actions?

The CPCB has a rather complex system of accountability. In the narrower sense, the CPCB is accountable to the Prime Minister by virtue of the fact that it is placed under the supervision of the Prime Minister (LCPCB: Section 2, Paragraph 1). In a broader sense, the CPCB is accountable to both the CoM and the Saeima. This double line of accountability manifests itself in the obligation of the director of the CPCB to submit a report of the activities of the CPCB to the CoM and the Saeima at least once in six months (LCPCB: Section 4, Paragraph 3, Point 14). Such accountability is strengthened by the fact that these two bodies play a pivotal role in the appointment and removal of the director of the CPCB. A third line of accountability runs toward the PGO, which supervises the activities of the CPCB (just like those of other criminal investigation agencies) according to the Criminal Procedure Law. The PG also has an important role in the removal of the director of the CPCB (see 9.1.2.). No law provides detailed requirements as to what information about investigations is to be reported to the public though.

Like all public agencies, the CPCB shall prepare an annual public report and an annual report for the State Treasury to be audited by the State Audit Office (State Administration Structure Law: Section 94; Budget Law: Section 14, Paragraph 3; Section 30, Paragraphs 1 and 3). The State Audit Office shall present its opinion about annual reports of all ministries and other central state bodies (The State Audit Office Law: Section 3, Point 2) including the CPCB.

The CPCB does not have any special complaints mechanism. Administrative acts or action by the CPCB officials can be appealed to the director of CPCB, administrative acts and actions of the director – to the administrative court (LCPCB: Section 10.¹, Paragraph 2). Actions committed within the criminal procedure can be appealed to the public prosecutor in cases and procedure provided in the law.

Since the legal framework for whistleblower protection is limited, people who report corruption to the CPCB are granted anonymity on the basis of internal regulations of the CPCB. The CPCB pledges not to disclose data about submitters of reports to any third parties including the suspected individuals.³⁸²

379 Laikraksts: Strīkei aizliedz sniegt interviju (Newspaper: Strike Prohibited from Giving an Interview). www.DELFI.lv 3 July 2010. <http://www.delfi.lv/news/national/politics/laikraksts-strikei-aiizliedz-sniegt-interviju.d?id=32820587>

380 KNAB priekšnieka vietniecei Strīkei aizliedz sniegt intervijas (The Deputy Director of KNAB Strike Forbidden to Give Interviews). Zemgales Ziņas, 3 July 2010. http://www.tvnet.lv/zinas/latvija/337233-knab_prieksnieka_vietniecei_strikei_aiizliedz_sniegt_intervijas

381 Interview with Iveta Kažoka, 19 May 2011.

382 Ziņojumu centrs (Reporting centre). http://www.knab.lv/lv/combating/report_centre/

The CPCB has two consultative bodies. One is the public consultative council where representatives of non-governmental organizations participate. The council shall participate in assessments of corruption risks, deliberate on relevant policy documents, issue recommendations and carry out a number of other tasks.³⁸³ Another body is the Foreign Advisory Panel where representatives of foreign embassies and international organizations participate.

To conclude, the CPCB has an adequate accountability framework.

9.2.4. Accountability: practice

Score: 75 / 100

To what extent does the CPCB have to report and be answerable for its actions in practice?

The CPCB prepares and regularly submits all of the legally required reports. In addition, it publishes and posts on the internet a variety of other reports not specifically stipulated in the law. The level of detail in all of the reports exceeds any minimum standards that could be inferred from the law. The director of the CPCB and other officials make appearances in relevant parliamentary committees when issues concerning the work of the CPCB are deliberated upon.

The judicial review of the actions and decisions of the CPCB is carried out by administrative courts. While there is little ground to doubt the integrity and qualification of administrative courts to carry out the task, excessive case burden and backlogs threaten the effectiveness of the review as already described under the Pillar 3 on judiciary.

As far as audit is concerned, opinions of The State Audit Office have been critical about the CPCB. Its critical findings served as a reason for the attempted dismissal of director of the CPCB in 2007. In May 2011, the SAO handed a submission to the PPO concerning illegal handling of funds intended for special investigatory activities in the CPCB.³⁸⁴

There have been varied assessments of the effectiveness of the Public Consultative Council. Over time, the number of its meetings has gone down – from 9 meetings in 2006 to only two meetings per year in 2008-2010.³⁸⁵ During the last years the Council has not adopted any formal recommendations. The ambiguous role of the Council was aptly summarized already back in 2006: “[...] the Council hardly functions as a link between the [CPCB] and the wider society, it rather functions as a limited link between the [CPCB] and a small segment of the civil society. Still it is a successful instrument to draw attention to and channel in the public agenda serious corruption-related problems. To some extent, the Council legitimizes the initiatives of the [CPCB] as they have been discussed and supported among NGOs or professional associations involved in anti-corruption.”³⁸⁶ Although the Council still serves as a specialized discussion forum, its role has diminished in comparison to the past.

There is little direct evidence that reporting to the CPCB is a risky step due to subsequent retaliations although sometimes whistleblowers can be identified by knowing who in principle could be able to report a violation. Alleged leaks of information by N.Vilnītis also increased uncertainty in this regard. Overall the CPCB has been reasonably accountable for its actions although some deficiencies exist.

383 The Bylaw of the Public Consultative Council of the Corruption Prevention and Combating Bureau, 12 August 2009. http://www.knab.lv/uploads/free/skp_sedes/skp_nolikums_120809.pdf

384 VK vērsās prokuratūrā par iespējamām pārkāpumiem KNAB (The State Audit Office Turns to the Prosecutor's Office about Alleged Violations in the CPCB). [www.delfi.lv](http://www.delfi.lv/news/national/politics/vk-versas-prokuratura-par-iespejamam-parkapumiem-knab.d?id=38555831), 17 May 2011. <http://www.delfi.lv/news/national/politics/vk-versas-prokuratura-par-iespejamam-parkapumiem-knab.d?id=38555831>

385 Sabiedriskā konsultatīvā padome (Public Consultative Council) <http://www.knab.lv/lv/knab/advisory/council/>

386 Timofejevs, P. KNAB attiecības ar sabiedrību no 2003. līdz 2006. gadam (Relations of the CPCB with the Public in 2003-2006). Published in Korupcijas “C”. Pārskats par korupciju un pretkorupcijas politiku Latvijā. Nr. 4, 2006. gada otrais pusgads (2007). P.52. <http://korupcijas-c.wdfiles.com/local--files/korupcijas-c-nr-4-2006-gada-otrais-pusgads/Nr%204%20LV>

To what extent are there mechanisms in place to ensure the integrity of members of the CPCB?

The CPCB's new Code of Ethics (hereafter – the Code) was approved in April 2009. The Code itself is not a legal act but LCPCB (Section 11, Paragraph 1) and the Conflict of Interest Law; Section 22) create a legal obligation to follow it. The Code postulates justice, responsibility, impartiality and independence as the main ethics principles for the employees of the CPCB. The Ethics Commission supervises the observance of the Code.³⁸⁷ While generally containing adequate provisions regarding relations with lobbyists, gifts, conflicts of interest and other issues, the Code has been criticized for not making whistleblowing an ethical obligation and for missing procedures for the protection of whistleblowers.³⁸⁸ The laws do not explicitly require integrity screening during recruitment of the CPCB's staff although according to the former Director of the CPCB such screening was being ensured.³⁸⁹

Similarly as for other state institutions, the central piece of integrity-ensuring legislation is the Conflict of Interest Law. The law includes an incompatibility clause allowing the Director of the CPCB, deputies' director, heads of departments of the central apparatus, heads of regional departments and investigators to hold only a few types of additional positions/jobs. The permitted additional jobs include offices held in accordance with laws, international agreements or regulations/ordinances of the CoM, the job of a teacher, scientist, doctor, professional sportsperson and creative work, and the work of an expert (consultant) performed in the administration of another state, international organisation or a representation (mission) thereof if it does not result in a conflict of interests and a written permit has been received (Conflict of Interest Law: Section 7, Paragraph 3). Other public officials of the CPCB have somewhat more liberal incompatibility rules with a requirement to obtain permission from superiors in specified cases.

Like all public officials, officials of the CPCB shall not obtain income from capital shares and stock, as well as from any kind of securities in commercial companies that are registered in tax-free or low-tax countries and territories (Conflict of Interest Law: Section 9, Paragraph 3). A public official, for two years after he/she has ceased to perform the duties of the relevant office, is prohibited to obtain the property of such merchant, as well as to become a shareholder, stockholder, partner or hold an office in those commercial companies, in relation to which during performing his/her duties this public official has taken decisions on procurement for state or local government needs, allocation of state or local government resources and state or local government privatisation fund resources or has performed supervision, control or punitive functions (Conflict of Interest Law: Section 10, Paragraph 7).

The Conflict of Interest Law contains also a number of more comprehensive provisions against the conflict of interest. Thus, like most other public officials, officials of the CPCB in their official capacity are prohibited to prepare or issue administrative acts, perform the supervision, control, inquiry or punitive functions, enter into contracts or perform other activities in which they, their relatives or business partners are personally or financially interested (Conflict of Interest Law: Section 11, Paragraph 1).

All public officials are subject to a restriction on accepting gifts. A public official fulfilling the duties of office is permitted to accept only diplomatic and official gifts, e.g. gifts by official representatives of foreign states or by the authority in which the relevant official serves (Conflict of In-

387 Korupcijas novēršanas un apkarošanas biroja ētikas kodekss (The Code of Ethics of the Corruption Prevention and Combating Bureau). http://www.knab.lv/lv/knab/code_of_ethics/

388 Korupcijas novēršanas un apkarošanas biroja darbības monitorings (Monitoring of the Activities of the Corruption Prevention and Combating Bureau). Sabiedrība par atklātību – Delna. P.19. http://www.delna.lv/data/user_files/Delna_petijums_KNAB-Liepa.pdf

389 Interview with Normunds Viliņits, 5 May 2011.

terest Law: Section 13.¹, Paragraph 1). Privately public officials are prohibited from accepting gifts if in relation to the donor the public official has in a period of two years prior to receipt of the gift carried out certain official functions. Public officials are also prohibited to carry out such functions regarding persons from whom they have accepted gifts in a past period of two years (Section 13.², Paragraphs 1 and 2).

The law requires all public officials to fill detailed declarations upon assuming the office, then annually and upon leaving the office. The declarations of the CPCB officials shall be made available to the public in the internet (apart from some private, e.g. addresses of residence and properties).

9.2.6. Integrity Mechanisms: practice

Score: **50** / 100

To what extent is the integrity of members of the CPCB ensured in practice?

Occasionally the CPCB has had integrity-related problems internally. The most serious case was detected in 2009, when an employee of the Department for the Maintenance of Secrecy misappropriated more than LVL 100,000 (approx. EUR 142,000). He and the Head of the Department have been sentenced with prison terms – respectively 6 and 3 years (as of August 2011 an appeal was still pending regarding the former Head of the Department). In 2008, the Head of the Investigation Department was convicted for abuse of office in relation to alleged leak of information about ongoing investigatory activities, then acquitted in the court of appeal. However, in June 2011 the Senate of the Supreme Court (the instance of cassation) decided to hand the case for a new trial.³⁹⁰

I.Kažoka sees reasons for concern about the internal integrity of the CPCB: “If it was possible to steal money under Loskutovs and no one noticed it, questions arise about how effective the internal security system is. New guidelines have been drafted to prevent such situations. But it is almost impossible to tell from outside whether they succeed or not. The very fact that the State Audit Office has discovered again something about the funds for special investigation activities gives grounds for concern about whether everything is in order.”³⁹¹ Moreover several allegations (even if not all of them entirely verified) against N.Vilnītis implied obviously unethical and illegal actions (leaking of information about ongoing investigations, etc.).³⁹²

Although recently no data have been published, sanctions against the CPCB officials for breaches of the Code have been relatively rare according to N.Vilnītis.³⁹³ Some training about ethics does take place although mainly of *ad-hoc* character.

To conclude, although the staff of the CPCB appears to have a generally solid level of integrity, several instances of actual or alleged corrupt/ unethical behaviour have taken place.

9.3.ROLE

9.3.1. Prevention

Score: **75** / 100

To what extent does the CPCB engage in preventive activities regarding fighting corruption?

The competences of the CPCB are formally divided into prevention, combating (investigation, etc.), control of financing of political parties and the related field of control of pre-election agitation.

390 Bijuša KNAB darbinieka Bodes lietu nodod jaunai izskatīšanai (The Case of the Former Employee of KNAB Bode Handed for a New Trial). Ir.lv, 10 June 2011. <http://www.ir.lv/2011/6/10/bijusa-knab-darbinieka-bodes-lietu-nodod-jaunai-izskatisanai>

391 Interview with Iveta Kažoka, 19 May 2011.

392 Rulle, B. Tumšas aizdomu ēnas pār Vilnīti: pilns KNAB darbinieku iesniegums (Dark Shadows of Suspicion Over Vilnītis: Full Application of the CPCB Officials). Pietiek.com 3 December 2010. http://www.pietiek.com/raksti/tumsas_aizdomu_enas_par_vilniti_pilns_knab_darbinieku_iesniegums

393 Interview with Normunds Vilnītis, 5 May 2011.

Some of the main functions in prevention are following: develop corruption prevention and combating strategy and draw up a national programme to be approved by the CoM, coordinate co-operation among the institutions referred to in the national programme, analyse the practice of state authorities in preventing corruption and the detected cases of corruption, submit recommendations to the relevant ministry and the Sch for the rectification of deficiencies found, develop methodology for corruption prevention and combating in the state and local government institutions and in the private sector, analyse regulatory enactments and draft regulatory enactments as well as propose to make amendments therein, submit recommendations for drafting new regulatory enactments, carry out public opinion surveys and analysis (LCPCB: Section 7, Paragraph 1).

The CPCB has been very active in drafting policy planning documents and legislative bills. The CPCB or working groups led by the CPCB have elaborated policy planning documents on strengthened control of income of physical persons (approved by the CoM in 2005 but not implemented until now), legal regulation of lobbying (approved by the CoM in 2008 but only minor measures implemented until now, document revised and re-approved in 2011), financing of political parties with one of the proposed solution being public funding for parties (approved by the CoM in 2009, budgetary funding for parties actually adopted in the legislation), regulations for the prevention of conflicts of interest of public officials with a special focus on whistleblower protection (approved by the CoM in 2009, partially introduced in the Conflict of Interest Law in April 2011), the status of the CPCB with the aim to strengthen its independence (not approved by the CoM of Ministers), reduction of corruption risks in state authorities and municipalities (announced in the meeting of state secretaries in December 2010).³⁹⁴

The CPCB has drafted also a number of legal bills. The initiatives of the CPCB often receive weak political support. For example, in June 2009 the CoM approved amendments to the Criminal Law criminalizing violations of party finance regulations if committed on a large scale.³⁹⁵ However, the Legal Committee of the Saeima suspended the bill under controversial circumstances. Criminal proceedings have been initiated regarding the former chair of the committee Vineta Muižniece (later elected a judge of the CC) who allegedly counterfeited the record of the committee meeting to stop the bill.³⁹⁶ The Saeima adopted an analogous bill in the first and second reading in July 2011 (final reading pending as of August 2011).

The CPCB has been fairly active in analytical work and providing guidance to other public institutions. Until budgetary cuts, the CPCB commissioned several public opinion surveys to assess the prevalence and perception of corruption in Latvia. Currently no funds for such surveys are provided. Still some six or seven staff members within the CPCB have been assigned to research and analysis³⁹⁷, which appears to be an adequate number against the total of 141 employees.

The CPCB has prepared and published recommendations for the prevention of corruption risks in law enforcement agencies, prevention of corruption risks in the issuance of building permits in municipalities, guidelines for the elaboration of the plan of anti-corruption measures in public agencies, etc.³⁹⁸ The former Director of the CPCB described demand for guidance being greatest from public officials who request explanations regarding conflicts of interest and application of respective restrictions: "Before making decisions, people assess pos-

394 Koncepcijas (Framework Policy Documents). http://www.knab.lv/lv/legislations/policy_planning/concept/

395 Grozījumi Krimināllikumā (Amendments to the Criminal Law). 2 June 2009. <http://www.knab.lv/lv/legislations/projects/article.php?id=216177>

396 Pret Muižniecei sāk kriminālprocesu par iespējamo Juridiskās komisijas protokola viltojumu (Criminal Proceedings Started against Muižniece for Alleged Counterfeiting of the Minutes of the Legal Committee). Delfi.lv, 2 June 2011. <http://www.delfi.lv/news/national/criminal/pre-muizniecei-sak-kriminalprocesu-par-iespejamo-juridiskas-komisijas-protokola-vilttojumu.d?id=38869649>

397 Interview with Normunds Vilnītis, 5 May 2011.

398 Iekšējā kontrole (Internal Control). http://www.knab.lv/lv/prevention/internal_control/

sible risks of ending up in conflict-of-interest situations.”³⁹⁹

Overall the performance of the CPCB in prevention is comprehensive and proactive but the political context has been often unfavourable to policy proposals of the CPCB. Moreover during the tenure of N.Vilnitis the CPCB became less active in pushing ahead with its policy agenda.

9.3.2. Education

Score: 75/100

To what extent does the CPCB engage in educational activities regarding fighting corruption?

The CPCB has the function of educating the public in the area of the law and ethics (LCP-CB: Section 7, Paragraph 1, Point 12). In practice, two directions of the educational activities of the CPCB can be distinguished – education of public officials and education of the broader public.

In a situation of much reduced budgetary funding, the training of officials has been prioritized. For example, in 2009 the CPCB organized 47 seminars. 77% of them were held for state and municipal public officials. The most frequently covered topics include the application of the Conflict of Interest Law, professional ethics of public officials, and internal control and anti-corruption measures of public institutions. Despite the limited resources of the CPCB, in 2010 it actually provided a record number of 86 seminars.⁴⁰⁰

In 2007, the CPCB ran a social advertising campaign “Corruption is the Prostitution of Power” but, due to the high costs of such campaign, it was rather limited in scale. Otherwise press releases, information leaflets and several competitions of drawings and essays on the anti-corruption theme have been among the tools of the CPCB to reach the broader public and the youth in particular. Even in the pre-crisis years, available resources for such broad outreach were rather scarce⁴⁰¹ and now they are even more limited.

It is quite difficult to evaluate the impact of educational activities particularly because the public's perceptions are shaped by a variety of factors where the activities of the CPCB will necessarily be just one of many. A survey of state and Riga municipality officials carried out by *Delna* in 2009 shows that respondents who have participated in training organized by the CPCB assess their knowledge about issues of corruption prevention higher by 1 point in a 10-point scale compared to those who have not participated (7.5 and 6.4 respectively).⁴⁰²

The CPCB has been active and presumably effective in educating public officials but its activities toward the education of the broader public have been sporadic.

9.3.3. Investigation

Score: 75/100

To what extent does the CPCB engage in investigation regarding alleged corruption?

According to the law the CPCB carries out two functions under the heading combating corruption: enforcement of administrative liability on public officials (mainly for violations related to the conflict of interest) and investigation of criminal offences in the service of state authorities (e.g. all forms of public-sector-related bribery and abuse of office) if they are related to corruption (LCPCB: Section 8, Paragraph 1). The powers of the CPCB are similar to

399 Interview with Normunds Vilnitis, 5 May 2011.

400 Sabiedrības informēšana un izglītošana par pretkorupcijas jautājumiem (Informing and Education of the Public about Anti-corruption Issues). Material provided via e-mail by Diāna Kurpniece, Head of the Prevention Department of CPCB on 10 January 2011.

401 Timofejevs, P. KNAB attiecības ar sabiedrību no 2003. līdz 2006. gadam (Relations of the CPCB with the Public in 2003-2006). Published in Korupcijas “C. Pārskats par korupciju un pretkorupcijas politiku Latvijā. Nr. 4, 2006. gada otrais pusgads (2007). P.57. <http://korupcijas-c.wdfiles.com/local--files/korupcijas-c-nr-4-2006-gada-otrais-pusgads/Nr%204%20LV>

402 Korupcijas novēršanas un apkarošanas biroja darbības monitorings (Monitoring of the Activities of the Corruption Prevention and Combating Bureau). Sabiedrība par atklātību – Delna. Pp.52-53. http://www.delna.lv/data/user_files/Delna_petijums_KNAB-Liepa.pdf

those of the police and are fully adequate for successful investigations. There is an overlap of competences between the CPCB and the SP in that the latter has the authority to investigate any crime including those specified in the LCPCB. However, the competence of the CPCB is defined very clearly and hence the said overlap has hardly created any practical difficulties.

The CPCB applies administrative sanctions to tens of public officials every year for conflict-of-interest-related violations. In 2010, 86 public officials were fined with the total of fines equalling LVL 5,860 (approx. EUR 8,300). Moreover 7 of these officials were requested to pay damages to the state in the total amount of LVL 28,390 (approx. EUR 40,400).⁴⁰³

Although the criminal investigations of the CPCB have hardly reached the very top levels of political corruption, several of them have been of unprecedented importance in Latvia's post-Soviet history. Among the major investigations by the CPCB are:

Case for fraud and other crime related to the introduction of digital broadcasting in Latvia allegedly involving also a prominent Latvian oligarch although he has not been prosecuted (case detected in 2003, no judgment as of August 2011)⁴⁰⁴;

Attempted bribery of a member of Jūrmala (a sea resort town near the capital) municipal-ity council for a vote on the appointment of the mayor of the town (case detected in 2005, one of the implicated individuals received a prison sentence)⁴⁰⁵;

Bribe taking by two judges including the president of a district court (cases detected in 2006, the court handed down lengthy prison sentences to both of the accused judges)⁴⁰⁶;

A major bribery case involving former officials of the Riga Municipality⁴⁰⁷ (the case detected in 2008, the court of first instance handed down prison sentences for all of the involved officials)⁴⁰⁸;

A major bribery case in relation to public procurement by the Children's University Hospital involving the board members of the hospital. The bribery is believed to be a part of an illicit funding scheme for one of the ruling political parties of the time (case detected in 2009, one individual convicted with a public prosecutor's injunction on sentence, regarding eight defendants the case pending in court)⁴⁰⁹;

A case for abuse of office, bribery and money laundering by a group of officials including the president of the state energy company "Latvenergo" (case detected in 2010, no court judgment as of August 2011)⁴¹⁰.

In quantitative terms, the number of criminal cases that the CPCB forwarded for prosecution peaked in 2006 with 41 cases. Then it dropped and stayed at 15 – 18 cases per year in 2007–2010. Still the number of suspected persons have stayed relatively high (this is a *prima facie* indication of the growing complexity of the cases) – see Graph 3. From 2003 till the

403 Korupcijas novēršanas un apkarošanas biroja lēmumi administratīvo pārkāpumu lietās 2010.gadā (Decisions of the Corruption Prevention and Combating Bureau in Cases of Administrative Violations in 2010). <http://www.knab.lv/lv/prevention/conflict/offences/article.php?id=308227>

404 Digitālās televīzijas krimināllieta kust pavisam lēni (The Digital Television Criminal Case Proceeds Very Slowly). TVNET/LETA/BNS, 1 April 2011. http://www.tvnet.lv/zinas/kriminalzinas/372162-digitalas_televizijas_kriminallieta_kust_pavisam_leni

405 AT Senāts noraida kasācijas sūdzības Jūrmalgeitas lietā (The Senate of the Supreme Court Turns down Complaints of Cassation in the Jūrmalgeita Case). LEA, 25 August 2008.

http://www.tvnet.lv/zinas/kriminalzinas/289504-at_senats_noraida_kasacijas_sudzibas_jurmalgeitas_lieta

406 Senāts negroza apelācijas instances tiesas spriedumu Polikarpovas lietā (The Senate Does Not Amend the Judgment of the Court of Appellate Instance in the Case of Polikarpova). Press release of the Supreme Court, 9 June 2011. <http://www.at.gov.lv/information/about-trials/2011/201106/20110609/>

407 Kriminālvajāšanas uzsākšanai nosūtītie kriminālprocesi 2008.gadā (Criminal Matters Sent for Prosecution in 2008). http://www.knab.lv/lv/combating/offences/enforcement_results/article.php?id=120482

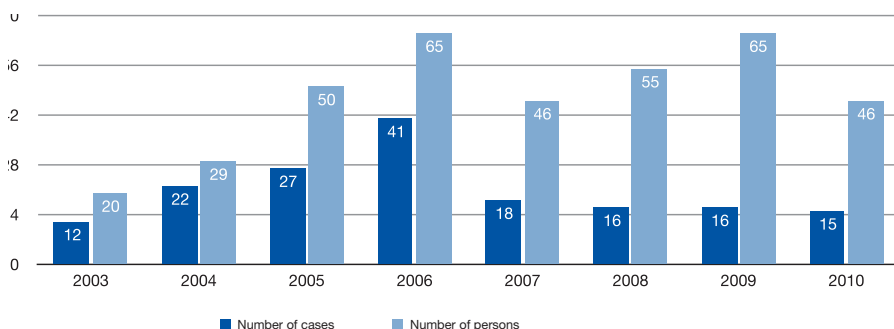
408 Rīgas domes amatpersonu kukuļošanas lietā bargi sodi (Harsh Sentences in the Bribery Case of Officials of Riga City Council). Ir.lv, 11 March 2011. <http://www.ir.lv/2011/3/11/rigas-domes-amatpersonu-kukulosanas-lieta-bargi-sodi>

409 Tiesai nodota Bērnu slimnīcas amatpersonu lieta (The Case of Officials of the Children's Hospital Handed to the Court). Delfi.lv, 14 July 2011. <http://www.delfi.lv/news/national/criminal/tiesai-nodota-bernu-slimnīcas-amatpersonu-lieta.d?id=39401959>

410 "Latvenergo" lietā KNAB aizdomas tur 17 cilvēkus (In "Latvenergo" Case KNAB Suspects 17 Individuals). Ir.lv, 5 July 2011. <http://www.ir.lv/2011/7/5/latvenergo-amatpersonu-lieta-knab-aizdomas-tur-17-cilvekus>

beginning of 2011, 95 judgments in criminal cases investigated by the CPCB had entered into force regarding 153 individuals (out of those, 15 judgments regarding 30 individuals in 2010 alone). 87% of those individuals were found guilty, 10% acquitted.⁴¹¹

Chart 5. The number of criminal cases that the CPCB forwarded for prosecution and the number suspected persons⁴¹²



Overall the numbers of investigations do not show any considerable decline in the performance of the CPCB although the trend is slightly sluggish. Still the CPCB is the institution that brought about a major breakthrough in investigating serious corruption-related crime in Latvia. The CPCB has been determined in going after suspected perpetrators on increasingly high levels of administrative and, to a lesser degree, also political levels.

9.4. KEY RECOMMENDATIONS

- Given the overall success of the CPCB, it must be kept as a single agency, without reducing its functions.
- It is essential that both political supervisors and officials of the CPCB refrain from activities that can be viewed as infringements on the duly independent discharge of investigating and other functions of the institution.
- Also in the future, the CoM must ensure that its regulations provide clear and professionally relevant evaluation criteria as well as an overall transparent procedure for the selection of candidates to the post of the director of the CPCB. Discussion should be continued on whether and when to allow candidacy of persons who are affiliated to political parties prior to assuming the post.
- The CPCB should be provided with certain guarantees against reduction in its budget funding. As a minimum, it should not be allowed to reduce its budget request before it is reviewed in the CoM plus the CPCB should be guaranteed a possibility to defend its request in the government meeting.
- The CPCB should restart its proactive public communication practice where it stands as an anti-corruption champion and publicly visible initiator and pursuer of anti-corruption initiatives. One of the goals of the communication should be the dissemination of information about the CPCB's activities to make it more difficult for the

411 Informatīvais ziņojums „Par Korupcijas novēršanas un apkarošanas biroja darbību no 2010.gada 1.jūlija līdz 2010.gada 31.decembrim” (Information Report “About the Performance of the Corruption Prevention and Combating Bureau from 1 July 2010 to 31 December 2010”), P.25. http://www.knab.lv/uploads/free/zinojumi/knabzino_010211.pdf

412 Informatīvais ziņojums „Par Korupcijas novēršanas un apkarošanas biroja darbību no 2010.gada 1.jūlija līdz 2010.gada 31.decembrim” (Information Report “About the Performance of the Corruption Prevention and Combating Bureau from 1 July 2010 to 31 December 2010”), P.21. http://www.knab.lv/uploads/free/zinojumi/knabzino_010211.pdf

broader public to accept politically charged attacks against the institution.

- Stronger protection for individuals who report to the CPCB should be provided in the law. The CPCB should rigorously avoid any situations where leakage of investigation secrets could be suspected.
- The CPCB should strengthen its cooperation with other institutions, especially the SP and the Security Police, to involve them in combating corruption. Cases of petty corruption should be primarily investigated by these institutions to free more of the CPCB resources to deal with political and medium-level corruption.
- The CPCB should reinvigorate efforts to utilize the Public Consultative Council by proposing relevant items to its agenda more frequently and trying to attract more participants with interest in the areas of the work of the CPCB.

10. POLITICAL PARTIES

The Latvian legislative framework contains adequate guarantees for the freedom of association in parties. Until now Latvia has had an almost exclusively privately funded party system with major funding differences between parties. Meanwhile this has not undermined the overall competitive nature of the party system. The law provides clear and comprehensive public disclosure procedures for both revenue and expenditure of parties. However, limitations of transparency also exist, for example, parties often try to circumvent accountability and expenditure limits by paying unofficially for media coverage. Latvian parties tend to have weak links to particular social groups apart from the ethnic divide. Considering also the fact that parties are less trusted than any state institution, they generally act as rather weak representatives of social interests. Several major parties have rather marginalized the anti-corruption theme in their policy platforms.

Political Parties		Overall Pillar Score: 73 / 100	
	Indicator	Law	Practice
Capacity 94 / 100	Resources	100	75
	Independence	100	100
	Transparency	100	75
Governance 75 / 100	Accountability	75	75
	Integrity Mechanisms	75	50
Role 50 / 100	Interest aggregation and representation	50	
	Anti-corruption commitment	50	

Structure and organization

Latvia has a competitive political party system. According to official data 60 registered parties or their unions existed as of August 2011.⁴¹³ However, a much smaller number of parties participate in national elections. 13 lists of candidates competed in the parliamentary elections of 2010. Five of them overcame the election threshold – the coalition *Unity* (a single party since 6 August 2011), the coalition *Harmony Centre*, the Union of Greens and Farmers, the coalition *For Good Latvia*, and the coalition *All for Latvia/For Fatherland and Freedom/LNNK*. The coalition *Unity* and the Union of Greens and Farmers formed the governing coalition as of May 2011. The political landscape changed in the summer of 2011 with early parliamentary election that took place on 17 September. The former President V.Zatlers formed the Zatlers' Reform Party and the previously mighty but then largely weakened People's Party (part of the coalition *For Good Latvia*) dissolved itself.

10.1. CAPACITY

10.1.1. Resources: law

Score: **100** / 100

To what extent does the legal framework provide an environment conducive to the formation and operations of political parties?

There is no mention of political parties in Latvia's Constitution apart from the right for everyone to assemble in societies, political parties and other public associations (Constitution: Section 102).

⁴¹³ List of registered parties and their unions from the website of the Register of Enterprises: <http://www.ur.gov.lv/?a=185&v=lv>

The Political Party Law (hereafter – Party Law) together with the Political Organizations (Parties) Financing Law (hereafter – Parties Financing Law) are the central pieces of legislation covering parties. Establishing a political party is reasonably easy in Latvia. A political party can be established with no fewer than 200 founders who must be citizens of Latvia. Two or more parties may form a party union (Party Law: Section 12, Paragraphs 1 and 2). In order to establish a party, its founders' assembly adopts a formal decision to this end, accepts the party political programme and statutes, and elects the board and audit body (Party Law: Section 13, Paragraph 1). A fee is payable for an entry in the parties register. The fee shall not exceed the administrative expenses related to the decision to register a party and entering respective information in the register (Party Law: Section 23, Paragraphs 1 and 3). For the registration of a party, the fee is currently set at LVL 19 (approx. EUR 27). Decisions of the party register can be appealed within the register and to the administrative court (Party Law: Section 20, Paragraph 7).

The law is somewhat ambiguous as to what parties may not be established based on ideological considerations. The law prohibits such names, abbreviations and symbols of parties that contain names of military formations or names of such organizations that are recognized as criminal or anti-constitutional. They shall not induce positive attitude toward violence (Party Law: Section 6, Paragraph 4, Point 1). Neither shall such names, abbreviations and symbols coincide with those of organizations with aims or activities against the independence, sovereignty of security of Latvia (Party Law: Section 4, Paragraph 2).

According to Parties Financing Law political parties will receive direct state funding starting with the year 2012. The parties that received no less than 2 % of votes in the previous parliamentary elections will be eligible to receive LVL 0.5 (approx. EUR 0.7) per year per each vote (Party Financing Law: Section 7.1, Paragraph 1). Otherwise the only form of state support is airtime of altogether 20 minutes in the Latvian public television and radio for each of the lists of candidates (Law on Pre-election Campaign before the Saeima Elections and Elections to the European Parliament: Section 5, Paragraph 1).

To conclude the legislative framework does contain necessary guarantees for the freedom of association in parties and adequate provisions for state support and campaign. However, the planned state funding may prove too small to offset excessive dependence on private donors.

10.1.2. Resources: practice

Score: 75 / 100

To what extent do the financial resources available to political parties allow for effective political competition?

So far the state has not provided any direct funds to political parties. Therefore they are fully dependant on private donations which vary tremendously from party to party. According to declared data, the amounts of money raised by parties for the campaign of parliamentary elections of 2010 varied from LVL 1,030,660 (approx. EUR 1.5. million) to LVL 200 (approx. EUR 285). 6 out of 13 parties (or party unions) raised more than LVL 100,000 (approx. EUR 140.000).⁴¹⁴ To raise considerable funds, parties tend to depend on a few larger donors. Thus, for the six richest parties, the proportions of funding provided by 30 largest donors varied from 42 to 93 %.⁴¹⁵ The wealth of the party is not related to its opposition status, its size in terms of membership or novelty. Out of the six richest parties, three were in opposition before the 2010 elections. Rather it appears that the party's

414 Kažoka, I. Kas būtu jāuzlabo Latvijas partiju finanšu un priekšvēlēšanu agitācijas regulējuma? (What Should Be Improved in Latvia's Regulations of Party Finance and Pre-election Campaign) 25 January 2011. P.37. http://www.providus.lv/upload_file/Jaunumi/2010/ZinjojumsPartijuFinanses2011gatavs2.pdf

415 Kažoka, I. Kas būtu jāuzlabo Latvijas partiju finanšu un priekšvēlēšanu agitācijas regulējuma? (What Should Be Improved in Latvia's Regulations of Party Finance and Pre-election Campaign) 25 January 2011. P.38. http://www.providus.lv/upload_file/Jaunumi/2010/ZinjojumsPartijuFinanses2011gatavs2.pdf

credibility as a successful election runner plays some role for the attraction of funds.

Since in practice direct state funding is still a matter of the future, it is impossible to say what the exact proportion between public and private funding will be. Given the data for the campaign expenditure for 2010 and the formula for public funding in the law, the *Providus* calculated what the proportion of public funding would have been in 2010. The proportion varied from 4 % to 29 % for the five parties, which were actually elected to the parliament (all of them were among the richest six).⁴¹⁶

The airtime, which has been the only state support to parties until now, has been provided in accordance to the law. However, the timing and form of these broadcasts have made them of relatively little relevance. Otherwise parties are free to buy airtime within legally established expenditure limits. If one party has bought airtime, the law obliges the broadcaster to provide airtime of “the same duration, during a possibly equivalent time slot” and for the price stipulated by the respective broadcasting organisation publicly (Law on Pre-election Campaign before the Saeima Elections and Elections to the European Parliament: Section 7, Paragraphs 1 and 2). There have been no complaints regarding any violations of this principle. Occasionally candidates use administrative resources of municipalities or other public bodies under their control. For example, such bodies happen to run their own publicity campaigns before elections designed so as to provide publicity more or less directly also for the candidates.⁴¹⁷

All in all Latvia has had an almost exclusively privately funded party system with major funding differences between parties and strong dominance of relatively few major donors. Meanwhile these characteristics have not undermined the overall competitive nature of Latvia's party system.

10.1.3. Independence: law

Score: 100 / 100

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of political parties?

Within the boundaries of their respective competencies, the CPCB, the State Revenue Service, the Party Register Body and other agencies as stipulated in the law supervise and control the activity of a party. If one of the said agencies finds that a party fails to follow legal norms or its activity does not conform to its statutes, it issues a written warning. The allowed time for the correction of irregularities shall be no less than 15 days and no more than 6 months. (Party Law: Section 38, Paragraphs 1, 2, and 3).

Particularly the CPCB has a number functions in the area of party finance and campaigns. The CPCB may request evidence from party donors, attesting to the legality of the origin of the donation (Party Financing Law: Section 2, Paragraphs 4 and 5). The CPCB verifies parties' declarations of election revenue and expenditure and their annual reports (Party Financing Law: Section 8.2, Paragraph 3; Section 8.5, Paragraph 4). Surveillance possibilities are limited though by virtue of the fact that most violations in the area of party/campaign finance are not criminalized and hence no special investigation techniques are allowed (only funding through intermediaries is criminalized – Criminal Law: Section 288.³).

The CPCB drafted amendments to the Criminal Law criminalizing violations of party finance regulations if committed on a large scale.⁴¹⁸ However, the Legal Committee of the Saeima suspended the bill under controversial circumstances (the former chair of the committee Vineta Muižniece alleg-

416 Kažoka, I. Kas būtu jāuzlabo Latvijas partiju finanšu un priekšvēlēšanu aģitācijas regulējumā? (What Should Be Improved in Latvia's Regulations of Party Finance and Pre-election Campaign) 25 January 2011. P.41. http://www.providus.lv/upload_file/Jaunumi/2010/ZinjojumsPartijuFinanses2011gatavs2.pdf

417 Kažoka, I. Kas būtu jāuzlabo Latvijas partiju finanšu un priekšvēlēšanu aģitācijas regulējumā? (What Should Be Improved in Latvia's Regulations of Party Finance and Pre-election Campaign) 25 January 2011. Pp. 46-49. http://www.providus.lv/upload_file/Jaunumi/2010/ZinjojumsPartijuFinanses2011gatavs2.pdf

418 Grozījumi Krimināllikumā (Amendments to the Criminal Law). 2 June 2009. <http://www.knab.lv/lv/legislations/projects/article.php?id=216177>

edly counterfeited the record of the committee meeting to stop the bill in 2010).⁴¹⁹ The Saeima adopted an analogous bill in the first and second reading in July 2011 (final reading pending as of August 2011).

The court can suspend the activities of a party for no more than six months if the party fails to correct violations within the stipulated time, if it has not convened its highest decision-making body (members assembly) at least once in the calendar year, if within six month since a drop of membership to 150 members the party has failed to increase the number of members to the legally stipulated minimum, and if the party has not paid into state budget illegally obtained funds within the legally stipulated time (Party Law: Section 39, Paragraph 1).

The court may terminate the operation of a party if the party does not suspend its activities as ordered by a court or fails to correct the respective violation of the law, if a party violates the law repeatedly within a year since the receipt of a warning or in other situations prescribed by the law (Party Law: Section 45, Paragraph 1).

A number of provisions are aimed at limiting the influence of major donors on political parties. The main kinds of such provisions are (1) restrictions on donations (only physical persons are allowed to donate and donations from one person for one party shall not exceed 100 minimum monthly wages per year, financing of parties through intermediaries is prohibited) and (2) a cap is imposed on a wide range of parties' expenses in the period of 120 days before elections (Party Financing Law: Section 4, Paragraph 2; Section 6, Paragraph 3; Section 8.⁴). The cap was approx. LVL 571,000 (approx. EUR 800,000) for parliamentary elections of 2010 (it was reduced for the early elections of 2011 due to a shorter campaign period).

10.1.4. Independence: practice

Score: 100 / 100

To what extent are political parties free from unwarranted external interference in their activities in practice?

No party of any significance has been involuntarily dissolved in Latvia since September of 1991 when the Communist Party of Latvia was prohibited. A few minor parties have been suspended or dissolved due to their failure to submit legally prescribed reports or declarations or fulfil other statutory obligations, for example, the court terminated the activities of the Women's Party (in 2005), the Latvians' Party (in 2005) and the Sports Party (in 2007).⁴²⁰ In most of these cases, all political activities of any significance of the parties had ceased already before respective court decisions and they have never had any representation in the national parliament.

10.2. GOVERNANCE

10.2.1. Transparency: law

Score: 100 / 100

To what extent are there regulations in place that require parties to make their financial information publicly available?

The law imposes comprehensive transparency requirements on political parties. Parties produce two kinds of reports – (1) declarations of election revenue and expenditure and (2) annual reports. No later than 10 days after the reception of declarations/reports, the CPCB publishes them in the official bulletin and the CPCB's website (Party Financing Law: Section 9,

419 Pret Muižnieci sāk kriminālprocesu par iespējamo Juridiskās komisijas protokola viltojumu (Criminal Proceedings Started against Muižnieci for Alleged Counterfeiting of the Minutes of the Legal Committee). Delfi.lv, 2 June 2011. <http://www.delfi.lv/news/national/criminal/pre-muiznieci-sak-kriminalprocesu-par-iespejamo-juridiskas-komisijas-protokola-vilttojumu.d?id=38869649>

420 KNAB administratīvi soda 19 partijas (The KNAB Applies Administrative Sanctions to 19 Parties). Press release, 2 September 2005. <http://www.knab.gov.lv/lv/knab/press/article.php?id=30011>

17 politiskajām organizācijām (partijām) sākti likvidācijas process (Liquidation Procedures Started for 17 Political Organizations (Parties)). The Ministry of Justice, 14 July 2008. http://www.tm.gov.lv/lv/jaunumi/pi_info.html?news_id=2297

Paragraph 3). Plus every person is guaranteed the right to request the declarations and reports at either the CPCB or the respective party. No later than 15 days after the receipt of a donation, a party shall inform the CPCB thereof. The CPCB shall publish such information on its website (Party Financing Law: Section 4, Paragraph 3). All in all the regulatory framework envisages clear and comprehensive public disclosure procedures for both revenue and expenditure of political parties in a timely manner.

10.2.2. Transparency: practice

Score: 75 / 100

To what extent can the public obtain relevant financial information from political parties?

All of the information, which is to be published according to the law, is concentrated on the website of the CPCB. The database of donations provides searchable and up-to-date data about the recipient, source, value, and date of donations.⁴²¹ When writing this report in August 2011, as recent as one day old information was available. Similar online databases were available about membership dues paid to parties⁴²² and party declarations and annual reports.⁴²³

However, some limitations of transparency also exist, one of the most serious being that often times persons, who are not related formally to the party, place advertising or carry out other activities for the benefit of the party without granting a formal donation and with the aim to avoid financial transparency and accountability.⁴²⁴

10.2.3. Accountability: law

Score: 75 / 100

To what extent are there provisions governing financial oversight of political parties by a designated state body?

The law imposes comprehensive reporting requirements on political parties. Within 30 days after elections, political parties shall submit declarations of election revenue and expenditure to the CPCB. The declarations shall contain all revenue and expenditure incurred in the period of 120 days before the elections in relation to advertising, mail services, preparation of advertising materials, planning and organizing of election campaign, salaries of campaign staff and other payments to physical persons, rent of any movable goods or real estate for the campaign, publishing for campaign needs, funding for charity and the like, and other expenses related to the campaign. The CPCB shall verify the declarations and inform the public about any violations found simultaneously about all of the parties (Party Financing Law: Section 8.²). Political parties also submit their annual reports to the CPCB and a copy thereof to the SRS (Party Financing Law: Section 8.⁵, Paragraph 2).

Respective obligations are backed by mainly administrative sanctions. The Code of Administrative Violations comprises provisions with sanctions for a number of violations in the area of party finance, e.g. for a failure to observe the procedures for completing or submission of a declaration of election revenue and expenditure, for provision of false data in a declaration, for failure to observe provisions for the publication of a statement regarding a received or unaccepted donation, for acceptance of a donation of a prohibited kind, for acceptance of a donation in cash, which exceeds one minimum salary, for a failure to observe restrictions for the amount of pre-election expenses, for funding a party through an intermediary and for

421 <http://www.knab.lv/lv/finances/db/donations/>

422 <http://www.knab.lv/lv/finances/db/subscriptions/>

423 <http://www.knab.lv/lv/finances/db/declaration/>

424 Kažoka, I. Kas būtu jāuzlabo Latvijas partiju finanšu un priekšvēlēšanu aģitācijas regulējums? (What Should Be Improved in Latvia's Regulations of Party Finance and Pre-election Campaign) 25 January 2011. P.55. http://www.providus.lv/upload_file/Jaunumi/2010/ZinpojumsPartijuFinances2011/gatavs2.pdf

a number of other violations. The sanctions may reach as high as LVL 10 000 (approx. EUR 14,000) if a violation has been committed repeatedly within one year (The Code of Administrative procedure: Section 166.34).

Even though for certain violations, e.g. overspending of campaign expenditure limits, not only administrative sanctions but also an obligation to pay an equivalent amount of money to the state budget is foreseen, the sanctions do not represent a sufficient deterrent. The OECD report about Latvia's parliamentary elections in 2010 recommended: "The law could envisage stronger sanctions for campaign violations to be applied by the [CPCB] incrementally so as to serve as effective deterrent against infringements."⁴²⁵

Moreover broadcasting and printed media shall submit a notice about planned placement of campaign agitation material to the CPCB indicating *inter alia* the client, timing of placement of each agitation material and contract amount (Law on Pre-election Campaign before the Saeima Elections and Elections to the European Parliament: Section 26; Section 27). Parties and candidates shall submit similar information upon agreement to place/distribute other kinds of agitation material. The purpose of such reporting is to facilitate the monitoring of campaign expenses. If during the campaign, the CPCB finds that a party has placed agitation material in excess of the legally established expenditure cap, the director of the CPCB shall prohibit further paid agitation for the concerned party. Such prohibition can be appealed in the court, which shall review the case within three days since the reception of respective application (Law on Pre-election Campaign before the Saeima Elections and Elections to the European Parliament: Section 33, Paragraphs 3, 5 and 6).

A major loophole perhaps not so much for accountability as for limiting the influence of major donors is that the expenditure cap covers some types of expenses that do not form a very important part of the overall expenditure, e.g. postal expenses but omits items that are often very expensive, e.g. large public events and preparation of advertising/ campaign material.⁴²⁶

10.2.4. Accountability: practice

Score: 75 / 100

To what extent is there effective financial oversight of political parties in practice?

In the parliamentary elections of 2006, two non-governmental organizations, each related to their own party, advertised extensively for the respective lists of candidates thus allowing the parties to circumvent the legally established expenditure cap. The CPCB ordered the two parties to pay amounts of respectively about 1 million LVL (approx. EUR 1,400,000) and about half a million LVL (approx. EUR 700,000), i.e. equivalent to the illegally obtained donations and excess in expenditure to the state budget. The parties appealed the respective decisions in the court where the cases are still pending.

All political parties of significance are reasonably disciplined in terms of filling in and submitting their reports. However, violations do occur. In April 2011, the CPCB published the results of the verification of the accuracy and legality of parties' annual reports and accepted donations in 2009. According to the CPCB the majority of parties had filled in their reports correctly. In the course of verification the CPCB had adopted 20 decisions making 14 parties or their coalitions return illegal donations to the donors of the total amount of LVL 42,091.04 (approx. EUR 60,000). In the majority of cases the donors did not have respective legal income

⁴²⁵ Latvia. Parliamentary Elections 2 October 2010. OSCE/ODIHR Limited Election Observation Mission Final Report. P.18. <http://www.osce.org/odihr/elections/latvia/74785>

⁴²⁶ Kažoka, I. Kas būtu jāuzlabo Latvijas partiju finanšu un priekšvēlēšanu agitācijas regulējums? (What Should Be Improved in Latvia's Regulations of Party Finance and Pre-election Campaign) 25 January 2011. Pp.8-9. http://www.providus.lv/upload_file/Jaunumi/2010/ZinjoumsPartijuFinanses2011gatavs2.pdf

during the previous three years, which is one of the legal prerequisites for being allowed to donate to a party. The CPCB imposed administrative fines on six parties for failure to follow financing rules and on 13 parties for failure to submit reports and information about donors in due time. Other administrative sanctions were also applied.⁴²⁷

Because advertising is one of the most expensive items of campaign expenditure, parties often try to circumvent accountability and expenditure limit by paying unofficially for media coverage and thus receiving promotional publicity, which is not designated as such. Monitoring by *Providus* showed that the so-called hidden advertising was a widespread problem in the campaign before parliamentary elections of 2010.⁴²⁸ A few examples included interviewing representatives from only two election lists on virtually any issue covered on television by the First Baltic Channel a few days before elections⁴²⁹ and numerous openly flattering articles and broadcasts on particular candidates by several media.⁴³⁰

10.2.5. Integrity: law

Score: 75 / 100

To what extent are there organisational regulations regarding the internal democratic governance of the main political parties?

According to the law political parties have two management bodies – the members' assembly (or an elected body of representatives, e.g. a congress) and the board (Section 32). The members' assembly shall elect and recall members of the board and other institutions unless the statutes of the party determine otherwise (Section 33, Paragraph 3, Point 2). The members' assembly has the right to decide also other matters, which are in the competency of the board or other party's institutions (Section 33, Paragraph 4). These provisions ensure that that party leadership is under control of the party membership as a whole. Only the members' assembly may amend the statutes and program of the party and, unless the statutes foresee otherwise, adopt pre-election program for elections to the Saeima or the European Parliament (Section 33, Paragraph 3, Point 4).

Meanwhile procedure for the nomination and approval of elections candidates shall be determined in the party statutes (Section 14, Paragraph 2, Point 14). The centralization of this procedure varies from party to party. Thus in the once powerful People's Party (part of the coalition *For Good Latvia*, the party suddenly dissolved itself in July 2011), the board determined deadlines and format for the nomination of election candidates. Although, in addition to board members, also the chair of the party, parliamentary faction and party's departments could propose candidates, it had to be the board, which approved candidates' lists.⁴³¹ In the Civic Union party (one of the partners in the *Unity* coalition, a single party since 6 August 2011), the procedure was more decentralized. Regional departments and the board nominated candidates and the board drafted lists for elections to the Saeima and the European Parliament. However, it was the regions' council, which consisted of heads and representatives of regional departments, chairs and deputy chairs of municipal councils, board members, MPs, ministers, parliamentary s, and members of the European Parliament of the party, which gave final approval for the candidates' lists.⁴³²

427 KNAB informē par partiju finansēšanas noteikumu ievērošanu 2009.gadā (). Press release. The Corruption Prevention and Combating Bureau, 19 April 2011. <http://www.knab.lv/lv/knab/press/article.php?id=323259>

428 Kažoka, I. Kas būtu jāuzlabo Latvijas partiju finanšu un priekšvēlēšanu agitācijas regulējumā? (What Should Be Improved in Latvia's Regulations of Party Finance and Pre-election Campaign) 25 January 2011. P.9. http://www.providus.lv/upload_file/Jaunumi/2010/ZinrojumsPartijuFinanses2011gatsvs2.pdf

429 Zombēšana Pirmajā Baltijas kanālā (Zombing on the First Baltic Channel). Blog „Slēptā reklāma?” (Hidden Advertising?). 5 October 2010. <http://www.politika.lv/blog/index.php?id=62068>

430 Bez mēra sajūtas (With no Sense of Measure). Blog „Slēptā reklāma?” (Hidden Advertising?). 30 September 2010. <http://www.politika.lv/blog/index.php?id=62051>

431 Tautas partijas statūti (Statutes of the People's Party). As amended on 21 November 2009. <http://www.tautaspartija.lv/mes/statuti>

432 Partijas „Pilsoniskā savienība” statūti (Statutes of the Party “Civic Union”). As amended on 16 April 2011. <http://www.pilsoniska-savieniba.lv/?s=1225757073&ln=lv>

Thus, while the legal framework does grant the members' assembly or a congress the ultimate control over the party, these bodies are not guaranteed the right to decide directly on the final composition of election lists (hence the score for this indicators is less than the maximum).

10.2.6. Integrity: practice

Score: 50 / 100

To what extent is there effective internal democratic governance of political parties in practice?

Earlier research by Transparency International – Latvia found that a rather narrow circle of people determined who would be candidates on election lists for local elections in Riga (the capital) and Jūrmala (a sea resort town near Riga) in 2009.⁴³³ The rather late drafting of the candidate lists further complicated the involvement of the wider membership. Researchers interviewed party representatives 2 to 3 weeks before the official submission of election lists to the Central Election Committee. The majority of the interviewees were themselves involved in the formation of the lists but refused to disclose any candidate names considered. Such practice effectively precludes any broader debate about candidates.⁴³⁴

Still according to the MP from the *Unity* A. Latkovskis the formation of candidate lists within in the former *New Era* party (one of the partners in the *Unity* coalition, a single party since 6 August 2011) was more inclusive than drafting of political platforms. In the *New Era* the board was the central body, which debated candidates. Before such debate, regional units of the party were invited to propose their election candidates. Then the board drew up the lists with the visibility of candidates being among the main criteria for selection. Finally the lists were passed on to the council – a body of 46 members as of April 2011 where mostly the leaders of the regional units sat. The council gave the final approval. No vote of the general meeting of party members was practiced. Political platforms were usually prepared in a centralized manner and people with experience in the legislature or executive dominated the process.⁴³⁵

The political scientist J. Ikstens described the situation as varying from party to party but overall “boards decide many political questions of everyday nature. Such issues are discussed and then decided. Somebody wins and somebody loses if split opinions exist. Then there are the very delicate issues like fundraising and nominations for ministers or other important offices. Even many board members are often unaware about details of these matters. It is some two, three or four people who know it all thoroughly. In the so-called oligarch parties [usually controlled by a single wealthy individual – author’s remark], just one individual sees the whole picture. Selection of election candidates is somewhere in between. Some candidates just have to be there. Other positions are more open prompting internal manoeuvring and intrigues.”⁴³⁶

So the regulatory framework by no means guarantees democratic process in every political party. Virtually all parties have issues that are not subject to democratic decision-making but the strength of internal democracy varies widely.

Moreover political parties are widely perceived as corrupt institutions. According to the GCB 2010 in Latvia political parties were perceived as institutions most affected by corruption (score 4.0 on the scale from 1 (not at all corrupt) to 5 (extremely corrupt)).⁴³⁷

433 Cik demokrātiskas ir Latvijas politiskās partijas? Vēlēšanu sarakstu veidošana pirms 2009. gada pašvaldību vēlēšanām. Transparency International – Latvia, Delna (2009). <http://www.politika.lv/index.php?f=1499> P.6.

434 Cik demokrātiskas ir Latvijas politiskās partijas? Vēlēšanu sarakstu veidošana pirms 2009. gada pašvaldību vēlēšanām. Transparency International – Latvia, Delna (2009). <http://www.politika.lv/index.php?f=1499> P.8.

435 Interview of Ainars Latkovskis, Member of Parliament, with author, Riga, 12 April 2011.

436 Interview of Jānis Ikstens, political scientist, Associate Professor of the University of Latvia, with author, Riga, 26 May 2011.

437 Global Corruption Barometer 2010. Question 2: To what extent do you perceive the following institutions in this country to be affected by corruption? http://www.transparency.org/policy_research/surveys_indices/gcb/2010/results

10.3. ROLE

10.3.1. Interest aggregation and representation

Score: 50 / 100

To what extent do political parties aggregate and represent relevant social interests in the political sphere?

The Latvian party terrain is constantly shifting. Some major changes like a new party entering the legislature, a previously parliamentary party dropping out of the parliament or some parties merging or splitting take place before every parliamentary election. Although it is possible to identify a few major themes in some parties' political platforms, e.g. promotion of the interests of the Russian-speaking minority, Latvian nationalism or anticorruption, the ideological profiles of most parties tend to be obscure, designed to catch the broadest possible number of voters.

J. Ikstens reiterates the well-known observation that “in broad terms, we have Latvian parties and Russian parties [the coalition *Harmony Centre*]. This division is just a little bit less clear-cut now than earlier. If we talk about some socio-economic interests, the picture is much less clear. We have an agrarian party [the Farmer's Union of Latvia, part of the Union of Greens and Farmers], which, with qualifications, can be regarded as representing the agrarian sector, particularly its weaker segment. The People's Party was a typical party of entrepreneurs. The Latvian First Party [part of the coalition *For Good Latvia* where the dissolved People's Party also formed a part] is a kind of similar with a flavour of the clergy. We do not have any classic workers' or simply social democratic party.”⁴³⁸ Also A. Latkovskis confirms that it is extremely difficult to associate particular political parties with particular social groups.⁴³⁹

Thus overall Latvian political parties have weak links to particular social groups apart from the ethnic divide. Instead parties sometimes prefer clientelistic relations especially with local governments where some benefits from the state budget are traded for local support. Already back in 2005 the Human Development Report noted: “On the one hand, the activities of parties on the local level can offer new opportunities to marginalized municipalities. But the parties can also try to impose on municipalities their agenda or even develop relations of patronage and clientelism.”⁴⁴⁰ Considering also the fact that political parties are less trusted (6% trust) than any state institution,⁴⁴¹ they generally act as rather weak representatives of social interests.

10.3.2. Anti-corruption commitment

Score: 50 / 100

To what extent do political parties give due attention to public accountability and the fight against corruption?

For the parliamentary elections of 2010 no party had raised anticorruption as its main campaign slogan. Actually five out of six pre-election frontrunners had marginalized anticorruption in their programs or did not mention it at all. Only the *Unity* (at the time, a union of three parties) had a more elaborate anti-corruption chapter in their pre-election platform.⁴⁴² Also according to J. Ikstens “the anti-corruption issue has lost its topicality considerably.”⁴⁴³

438 Interview with Jānis Ikstens, 26 May 2011.

439 Interview with Ainars Latkovskis, 12 April 2011.

440 Latvija. Pārskats par tautas attīstību 2004/2005 (Latvia. Human Development Report 2004/2005). ANO Attīstības programma, LU Sociālo un politisko pētījumu institūts (2005). P.92. http://www.lu.lv/fileadmin/user_upload/lu_portal/projekti/citi_projekti/parskats_par_attistibu.pdf

441 Eurobarometer 74. 2010. gada rudens (Autumn of 2010). Nacionālais ziņojums Latvija (National Report Latvia). P.7. http://ec.europa.eu/public_opinion/archives/eb/eb74/eb74_lv_lv_nat.pdf

442 Kalniņš, V. Pretkorupcijas marginalizācija. Politika.lv, 24 August 2010. http://www.politika.lv/temas/pretkorupcijas_marginalizacija/

443 Interview with Jānis Ikstens, 26 May 2011.

However, even the *Unity* did not raise the issue as its first priority. As A.Latkovskis said: “This time we were elected based on hope to overcome the financial crisis. [...] No one has deserted anticorruption. But it is no longer the number one priority.”⁴⁴⁴ Moreover the ability of the *Unity* to maintain anticorruption as a priority has appeared compromised by some ethics problems among its own politicians and – what is even more important – shaky support from its coalition partners in the current Saeima. In short, most political parties have rather marginalized the anti-corruption theme in their policy platforms and agendas.

The situation has changed slightly during the summer of 2011. In reaction to a series of parliamentary moves that many deemed counterproductive to the rule of law, the President V.Zatlers initiated the dissolution of the legislature on May 28. The dissolution was confirmed by a popular vote in July directing the country towards early elections on 17 September. These events and the rapid formation of V.Zatlers’ own political party (Zatlers’ Reform Party) helped raising the problems of dominance of the few so-called oligarchs and political corruption at large higher on the public agenda. Countering the excessive political influence of a few narrow groups is a major theme in the program of the Zatlers’ Reform Party.⁴⁴⁵

Lately also the parties represented in the current Saeima have reacted with increased support to anti-corruption policies (note the swift removal of the controversial Director of the CPCB N.Vilnitis on 16 June (see Pillar 9 “Anti-corruption Agencies” for more detail) and adoption in the first and second readings of amendments criminalizing several types of violations in the financing of political parties in July 2011).

10.4. KEY RECOMMENDATIONS

- A broader range of violations in the area of party/campaign finance should be criminalized.
- The planned state funding to political parties should be increased in order to secure better chances to offset excessive dependence of parties on private donors. Meanwhile the need for private donations should also be reduced by either decreasing the campaign expenditure limits or limiting the most expensive campaign elements, e.g. prohibiting certain forms of advertising for several weeks before elections.
- The campaign expenditure limit should apply to all major expenses, e.g. large public events and preparation of advertising/ campaign material, which are not covered currently.
- The permissible amount of donations from one source per year should be reduced because the current limit stands excessively far above the average income in Latvia and allows for too much dominance of a narrow circle of donors.
- Expedited court procedure for violations of party financing and campaign rules should be considered. Major violations should carry partial or full loss of state funding.
- Political parties should afford greater prominence to anti-corruption issues in their political platforms and agendas.
- The Party Law should require that electoral lists always be approved by the members’ assembly or congress of a party.

⁴⁴⁴ Interview with Ainars Latkovskis, 12 April 2011.

⁴⁴⁵ Program of the Zatlers’ Reform Party. <http://reformupartija.lv/programma/>

11. MEDIA

The regulatory framework for the media is favorable for operation of all kinds of broadcasting and printed media. However, the politicized appointment of the National Electronic Media Council (hereafter – the NEMC) and its broad discretion represent the main risk to the independence of the mass media as far as the legal framework is concerned. Economically, much of Latvia's media are in a difficult situation making it hard to resist pressures from advertisers and, in some cases, politically motivated owners. The low level of transparency of most media organizations exacerbates these problems. Despite its relatively limited niche in the media scene, investigative journalism has been playing a major role in Latvia's public life and continues to do so. Overall the media inform the public on corruption and governance related issues regularly but the dominance of the government agenda and economic pressures are permanent challenge to the autonomy and quality of coverage.

Media		Overall Pillar Score: 67 / 100	
	Indicator	Law	Practice
Capacity 69 / 100	Resources	100	50
	Independence	75	50
	Transparency	25	25
Governance 58 / 100	Accountability	75	75
	Integrity Mechanisms	75	75
	Investigate and Expose Cases of Corruption Practice	75	
Role 75 / 100	Inform Public on Corruption and its Impact	75	
	Inform Public on Governance Issues	75	

Structure and organization

Latvia's public broadcaster consists of two separate legal entities: *Latvian Television* and *Latvian Radio*. In addition, there is a large number of cross-border, national and regional private television stations and several radio stations. LNT and TV3 are the two private televisions with the nationwide reach and the highest number of viewers but the cable and satellite broadcasters retransmitting programs of Russia's TV stations take up large viewership among Latvia's Russian speaking population. *Latvijas Avīze*, *Diena* and *Neatkarīgā Rīta Avīze* are three nationwide daily newspapers published in Latvian and there are also several dailies published in Russian.

Over a number of years Latvia has seen growing closeness of the ownership/ management of some private media with parts of the national political elite, usually in secretive manner. As a reaction, several independent media outlets such as the weekly magazine *Ir* and the investigative website *Pietiek.com* emerged in 2010. Several other major internet portals such as *Delfi.lv*, *Apollo.lv*, and *Tvnet.lv* are established firmly on the media scene.

11.1. CAPACITY

11.1.1. Resources: law

Score: 100 / 100

To what extent does the legal framework provide an environment conducive to a diverse independent media?

The enterprise register shall carry out registration of mass media (Law on Press and Other Mass Media (hereafter – Press Law): Section 9). The NEMC issues broadcasting rights, broadcasting permits and retranslation permits (Electronic Media Law: Section 15; Section 18, Paragraph 1; Section 19, Paragraph 1). All of the respective decisions can be appealed. Apart from the registration procedure, no licensing is required for the printed media. The legal status of the Internet media is unclear and they do not necessarily register themselves as mass media.

The award of broadcasting rights is subject to specific criteria decided by the NEMC (see 11.1.3 “Independence (law)”). The law defines the creation and dissemination of programs under the so-called public commission as the main task of the public electronic media (Electronic Media Law: Section 5, Paragraph 3) and, for this, the state budget funding is provided (Section 70, Paragraph 1, Item 1). By and large the regulatory framework for the media is favorable for the operation of all kinds of broadcasting and printed media.

The Press Law contains a general provision prohibiting the monopolization of the press and other mass media (Section 1) and else the general competition law applies. Until now there have been no complaints or investigations over the issue in the Competition Council. No regulations exist for the entry into the journalistic profession.

11.1.2. Resources: practice

Score: 50 / 100

To what extent is there a diverse independent media providing a variety of perspectives?

Latvia has rather broad diversity of media outlets in terms of the format (broadcasting, internet, printed), territorial coverage (national and regional) and language (Latvian and Russian). According to A. Rožukalne, journalist and leader of a study program on journalism and communication at Rīga Stradiņš University, “problems start with the coverage of the political spectrum. Of course, stances of the representatives of main political views are covered but we increasingly lack truly independent media organizations. [...] Market rules do not function because media organizations, which are linked to politicians or their associates, receive financial support. It is difficult to compete with them in the free market if you do not have such support from sponsors.”⁴⁴⁶

Subsidies for the public broadcasters and advertising revenues for all national commercial media fell sharply in 2009 and 2010. This situation makes it particularly hard for journalists who “have little job security or protection from employer abuses. Unions are weak or nonexistent, and journalist remuneration is low, with veteran journalists typically earning only about US\$ 900-1000 (EUR 650-750) per month before income taxes of 26 percent. Consequently, many reporters are forced to moonlight in other jobs, and there is significant turnover, with experienced journalists often leaving to work for public relations firms.”⁴⁴⁷ The financial crisis prompted most employers to decrease journalists’ salaries.

There are also mutually reinforcing trends when, on the one hand, publishers tend to see less value in professional skills and intellectual capacity of journalists and, on the other hand, young people who start their careers find it increasingly difficult even to write professionally

⁴⁴⁶ Interview with Anda Rožukalne, journalist and leader of a study program on journalism and communication at Rīga Stradiņš University, 27 May 2011.

⁴⁴⁷ Dreifelds, J. Latvia. In: Nations in Transit 2011. Freedom House (2011). <http://www.freedomhouse.org/images/File/nit/2011/NIT-2011-Latvia.pdf>

(especially among Russian-speaking journalists).⁴⁴⁸ All of this leads to staffing of some media outlets with underqualified people and little rewards for the remaining high-level professionals.

These and other factors affect the quality of media contents negatively. According to Aleksandrs Krasnitskis, journalist since 1990, former news editor in several newspapers and former Editor-in-chief of the Russian-language daily *Telegraf* (2009-2010), low quality is typical for all of the media in Latvia except for “two or three projects”, for example, the weekly magazine *Ir* and internet portal *Delfi* even though the financial sustainability of the former is in a precarious state.⁴⁴⁹

To conclude, the media in Latvia face deficits of all kinds of resources.

11.1.3. Independence: law

Score: **75** / 100

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of the media?

According to the Constitution everyone has the right to freedom of expression, which includes the right to freely receive, keep and distribute information and to express his or her views. Censorship is prohibited (Constitution: Section 100). Freedom of the press and prohibition of censorship are postulated also in Press Law (Section 1). The law places responsibility for the contents of the respective media on the editor-in-chief (Press Law: Section 16). However, the claimants often target individual journalists with the criminal and civil cases which due to the lengthy and rigid judiciary process is occasionally heard long after the person has left the profession. In the summer of 2011, a controversy broke out regarding the bill on the Emergency Situation and State of Exception prepared by the Ministry of Defense (not adopted as August 2011). The criticism targeted, for example, the broad discretion of the CoM to terminate the publication of a media.⁴⁵⁰

The Press Law does not guarantee editorial independence (Section 15) and it depends on the understanding between the owners of the respective media outlet and its journalists. A journalist has the right to refuse the preparation and publishing of a material if it conflicts with his/her views and, prior to publication, delete his/her signature from material if its content has been distorted as a result of editing (Press Law: Section 24, Points 4 and 5). However, overall the legal protection for editorial independence is weak.

The state may censor the mass media or suspend the issuing thereof, impose seizure upon the products of the mass media, the means of manufacture and copying thereof if internal unrest, which endangers the existing political system in the state or any part thereof, has arisen or is in danger of arising (Law on State of Exception, Section 2, Point 2; Section 13, Paragraph 2, Point 2). Only the court may order the disclosure of a source in order to protect important interests of an individual or the public subject to the principle of proportionality (Press Law: Section 22). Although there is little case law regarding the application of this section, some instances have been perceived controversially like in 2006 when the court ordered the *Latvian Television* to disclose sources of information about protocols of search in the office of the company *Ventspils nafta*.⁴⁵¹

The Freedom of Information Law guarantees access to information. The law divides all information, which is at the disposal of institutions, into two categories – generally accessible information and restricted access information (Freedom of Information Law: Section 3). The law specifies

448 Interview of Aleksandrs Krasnitskis (Alexander (Alex) Krasnitsky), journalist, with author, 6 July 2011.

449 Interview with Aleksandrs Krasnitskis, 6 July 2011.

450 Kučs, A. Ārkārtas likums ārkārtas kārtībā (Emergency Law in Emergency Procedure). *Ir.lv*, 19 July 2011. <http://www.ir.lv/2011/7/19/arkartas-likums-arkartas-kartiba>

451 Liek atklāt avotus LTV šīzetam par kratišanu “Ventspils naftas” birojā (Order to Disclose Sources for the Program of LTV about the Search in the Office of “Ventspils nafta”). LETA, 28 September 2006. http://www.tvnet.lv/zinas/latvija/197352-liek_atklat_avotus_ltv_sizetam_par_kratisanu_vents_pils_naftas_biroja

concrete reasons for classifying a piece of information as restricted access information.

Individuals who believe they have suffered from defamation may request the editor of the respective media to apologize and/or recall the defamatory information. If the editor refuses to do so, the applicant may sue the media organization in the civil-law court (Press Law: Section 21). Moreover, the law criminalizes defamation in the mass media with possible sanctions being custodial arrest for no more than 3 months, community service or a fine (Criminal Law: Section 157, Paragraph 2).

Electronic media are supervised by the NEMC. Although its five members may not be officials of political parties, they are elected by the Saeima bound by just a few general eligibility criteria (Electronic Media Law, Section 56, Paragraphs 1, 3 and 4). For the broadcasting media other than the public media, broadcasting rights are awarded in a competition. Competition requirements for the program may apply to its contents, e.g. the language, format and other requirements set by the NEMC (Electronic Media Law, Section 16, Paragraph 2, Point 2). Thus the NEMC enjoys fairly broad discretion as to what the particular content-related criteria shall be. The potential for the politicization of the NEMC and its broad discretion represent the main risk to the independence of the mass media as far as the legal framework is concerned.

It has also been argued that the NEMC finds itself in a conflict of interest because it simultaneously supervises the whole sector of electronic media (both public and private) and acts specifically as a representative of the owner of the public electronic media.⁴⁵²

11.1.4. Independence: practice

Score: 50/100

To what extent is the media free from unwarranted external interference in its work in practice?

In general the media in Latvia are considered rather independent, especially as far as interference from the government is concerned. Latvia's media are classified as free in the Freedom of the Press index by Freedom House. However, Latvia's rating declined in 2010 "to reflect a drop in advertising revenues as well as the nontransparent sale of a major newspaper" and was considerably lower than those of Estonia and Lithuania.⁴⁵³ According to another publication of this organization, Nations in Transit 2011, "Media independence in the country is limited largely by libel considerations and market pressures."⁴⁵⁴

A worrying incident took place in 2007 when the chair of the NEMC Ābrams Kleckins allegedly on the orders of unnamed government minister requested the Latvian Television to remove the screening of the film "Putin's System" from the program on the day of parliamentary elections in Russia.⁴⁵⁵ Although the film was screened a few days later, a public controversy regarding this event lasted for several months. Despite some calls for Ā.Kleckins to resign, he still occupied the position of the chair of the NEMC as of August 2011. Occasional other instances of state interference have taken place before and after this incident, although they mostly fall short of open orders or sanctions for journalists.

The politicized appointment procedure and role of the NEMC has been a key concern over many years.⁴⁵⁶ The public media (television and radio) can be manipulated with the help of budget alloca-

452 Konstitucionālo tiesību komisijas Viedoklis par sabiedrisko elektronisko plašsaziņas līdzekļu tiesisko regulējumu demokrātiskas valsts iekārtā (Opinion of the Commission of Constitutional Law on the Legal Regulation of the Public Electronic Mass Media in a Democratic State System). 24 May 2010. P.23. http://www.president.lv/pk/content/?cat_id=7402

Beitika, I. Maigais klēpja sargsuns (The Gentle Lap-Watchdog). Politika.lv, 28 July 2009. http://www.politika.lv/temas/mediju_kritika/17533/

453 Map of Press Freedom. 2010 Edition. <http://www.freedomhouse.org/template.cfm?page=251&country=7858&year=2010>

454 Dreifelds, J. Latvia. In: Nations in Transit 2011. Freedom House (2011). <http://www.freedomhouse.org/images/File/nit/2011/NIT-2011-Latvia.pdf>

455 Kleckins: par «Putina sistēmu» bija zvans no valdības (Kleckins: There Was a Call from the Government about the "Putin's System"). V-Diena, 30 March 2008. <http://www.diena.lv/sabiedriba/politika/kleckins-par-putina-sistemu-bija-zvans-no-valdibas-38438>

456 See, for example: Beitika, I. Maigais klēpja sargsuns (The Gentle Lap-Watchdog). Politika.lv, 28 July 2009. http://www.politika.lv/temas/mediju_kritika/17533/

tions. “Media managers have spoken of clear messages that they receive: if you are angry and uncompromising, your budget request might not be fully satisfied.”⁴⁵⁷ State institutions have vast opportunities to influence the agenda of the media also by virtue of producing *prima facie* newsworthy data, which allows the media to fill their content easily without the need to search for information on their own. A.Krasņitskis calls, for example, the news service of the Latvian public television “the mouth-piece of the establishment” – “As long as there are the government, parliament, ministries, something happens there. Even if it’s extremely boring, it’s something that can be shown.”⁴⁵⁸

Economic conditions represent probably the most formidable obstacle to editorial independence. According to A.Rožukalne, “Fear exists in relation to finances and instability. Most media organizations have given up stable employment relations with journalists. [...] This makes them as a whole more open to various influences and distortions.”⁴⁵⁹ In conditions of social insecurity, journalists are vulnerable from pressures from media owners: “There are numerous instances of political influences. There are influential media, which belong to politicians or associated individuals who have got money from politicians to buy the media.”⁴⁶⁰

A public relations practitioner who wished to remain anonymous described some differences between the Latvian-language and Russian-language media. In the former, most of the printed media is controlled by oligarchs and, if a journalist covers issues not in the area of direct interest by the oligarch controlling his/her media outlet, it is possible to work almost as if you were free. The Russian-language media used to have little connection to any oligarchs but economic difficulties made them lower their journalistic standards. They started publishing hidden advertising including articles paid for by politicians. Finally they also started searching possibilities to align with some oligarchs. Right now they have no objections whatsoever against hidden advertising – be it commercial or political.⁴⁶¹ The relative power of some politicians vis-à-vis the media is exemplified by instances where the politicians openly choose journalists with whom they are willing to speak and publicly refuse to face those whom they do not like.⁴⁶²

On the positive side, violent crime against journalists is very rare. The media have full freedom to access and use all kinds of information sources (even if some ambiguities with the application of the Freedom of Information Law exist, e.g. regarding information of state-owned enterprises⁴⁶³), the sittings of the government and parliament are public, and the demands for the disclosure of the particular information (party donors, monthly wages of civil servants, income declarations of the state officials, public procurement) are set very high. Media criticism of the government and particular politicians is common.

11.2. GOVERNANCE

11.2.1. Transparency: law

Score: 25 / 100

To what extent are there provisions to ensure transparency in the activities of the media?

In July 2011, the Saeima amended the Commercial Law to strengthen requirements re-

457 Interview of Anda Rožukalne, journalist and leader of a study program on journalism and communication at Riga Stradiņš University, with author, 27 May 2011.

458 Interview with Aleksandrs Krasņitskis, 6 July 2011.

459 Interview with Anda Rožukalne, 27 May 2011.

460 Interview with Anda Rožukalne, 27 May 2011.

461 Confidential interview with a PR practitioner.

462 Buholcs, J. Veiklie mediju dresētāji (The Skilled Tamers of the Media). Politika.lv, 20 June 2011. http://www.politika.lv/temas/mediju_kritika/veiklie_mediju_dresetaji/

463 Austere, L. Tiesības uz informāciju un valsts vai pašvaldību kapitālsabiedrības (The Right to Information in State or Municipal Enterprises). In: Kalniņš, V., Litvins, G. Augošas vērtības meklējums. Valsts un pašvaldību kapitālsabiedrības: rīcībpolitika un prakses izvērtējums (In Search of Growing Value. State and Municipal Enterprises: Assessment of the Policy and Practice). Providus (2011). Pp. 44-46. http://www.politika.lv/temas/tiesiska_valsts_un_korupcija/18984/

garding the disclosure of physical persons who are the beneficial owners of companies. This includes also media companies although the primary purpose of the amendments was to achieve greater transparency of companies whose parent companies are registered in off-shore territories. However, this information shall not be disclosed to the general public but just to law enforcement and controlling institutions (Commercial Law: Section 17.¹). Hence the new provisions add little value for media users in the absence of an explicit requirement to disclose beneficial owners of the media to the public.

Media companies are subject to the same transparency requirements that apply to any company in accordance with the company law, i.e. only the official owners – physical persons or legal entities – are to be disclosed.

No legal requirements for the transparency of the internal operation of the media exist. Many media organizations adopt and some also publish codes of ethics/conduct (see 11.2.5 “Integrity Mechanisms (Law)”), which spell out some principles of reporting and editorial policies. The publisher of the weekly magazine *Ir* has published a manifesto, which proclaims its key values, e.g. fundamental individual rights, freedom of speech, and democracy.⁴⁶⁴ Its website also contains a list of shareholders – physical persons, all identified by names.⁴⁶⁵

Otherwise some of the media rather tend to impose confidentiality provisions on their employees. For example, the Code of Conduct of the *Latvian Television* contains a number of provisions, which restrict and impose significant precautionary requirement on journalists’ communication in social networks such as *Twitter.com*. For example, the code prohibits dissemination of information that could help competitors of the *Latvian Television* as well as expressions of approval or disapproval of political organizations, companies or service providers.⁴⁶⁶ According to A.Rožukalne confidentiality clauses are also common in employment contracts: “We have journalists and editors whose contracts contain such strict confidentiality clauses about inside information as if they worked for a bank or some secret institution.”⁴⁶⁷

Thus the overall legal and voluntary regulatory framework for the transparency of media organizations is weak.

11.2.2. Transparency: practice

Score: 25 / 100

To what extent is there transparency in the media in practice?

The media usually do not disclose information about their owners. For most of the media, owners are known unofficially only.⁴⁶⁸ It is uncommon for the media to disclose any specific information about their staffing and editorial policies. Some of the media do not even publish their codes of conduct, for example, the “daily newspaper *Diena* claims to have a code of ethics – however it is not published”⁴⁶⁹ (true, it is possible to find this code on the website of the Latvian Press Publishers Association⁴⁷⁰). It is rare to publish contact details of individual editors as is done on the website of *Latvijas Avīze*.⁴⁷¹

464 Manifests (Manifesto). <http://www.ir.lv/manifests/>

465 Par *ir.lv* (About *ir.lv*). <http://www.ir.lv/par>

466 Rīcības kodekss (Code of Conduct). 2010. Point 12.6. http://www.ltv.lv/files/ltv_ricibas_kodekss.doc#_Toc281471005

467 Interview with Anda Rožukalne, 27 May 2011.

468 Interview with Anda Rožukalne, 27 May 2011.

469 Bettels, T., Fengler, S., Sträter, A., Trilling, M. Transparency or Bluff? An EJO Study. European Journalism Observatory, 12 June 2011. <http://en.ejo.ch/?p=3118#more-3118>

470 Laikraksta DIENA žurnālistu ētikas kodekss (The Code of Ethics of Journalists of the Newspaper „Diena”). <http://www.lpia.lv/?id=349>

471 Kontakti (Contacts). http://la.lv/index.php?option=com_content&view=article&layout=simple&id=18104

To what extent are there legal provisions to ensure that media outlets are answerable for their activities?

Latvia has no regulatory or oversight body for printed media. The NEMC is an independent institution, which shall represent the public interest in the area of electronic media and supervise the observance of the Constitution and other legal norms in the operation of electronic media (Electronic Media Law: Section 57, Paragraph 1). The mandate of the NEMC includes the award of broadcasting rights, broadcasting permits and retranslation permits in accordance with the procedure in the law, monitoring of the observance of rules regarding advertising (both commercial and political), promotion of the media policy in accordance with Latvia's national interests, verification of complaints about the electronic media, selective inspections of the contents and quality of broadcasted programs, drafting and approval of the National Strategy for the Development of the Electronic Media Branch (Electronic Media Law: Section 15; Section 18, Paragraph 1; Section 19, Paragraph 1; Section 60). The NEMC has additional powers regarding public electronic media, e.g. the approval of annual plans of programs and appointment of board members of the media organizations (Electronic Media Law: Section 62).

Electronic media organizations shall submit vast documentation about their programs to the NEMC when they apply for permits. The NEMC may request recordings of programs when complaints have been received, documents attesting that media organizations follow rules on advertising, financial reports if the respective media request or receive funding from the state or municipal budgets or waivers of payments (Electronic Media Law: Section 60, Point 6 and 7; Section 61, Point 2). Media organizations also shall report to the NEMC their prices for paid political advertising before elections as well as reports about pre-election advertising within two weeks after elections (Law on Pre-election Campaign before the Saeima Elections and Elections to the European Parliament: Section 7, Paragraphs 1 and 2.⁴⁷¹; Section 26, Paragraph 2; Section 30, Paragraph 1).

Individuals who believe that counterfactual or defamatory information has been published may request the editor of the respective media to apologize and/or recall the defamatory information. The editor must review such request within 7 days since its receipt. If the editor refuses to satisfy the request, the applicant may sue the media organization in the civil-law court (Press Law: Section 21). Similar procedures are found also in the Electronic Media Law (Sections 50, 51, 52). Slightly conflicting provisions apply for the time within which information must be recalled – immediately according to the Press Law and no later than on the 5th day according to the Electronic Media Law (Section 51, Paragraph 3). The Electronic Media Law also contains a possibility for a person who believes that false information has been broadcast to demand broadcasting of his/her answer (Electronic Media Law: Section 50, Paragraph 1; Section 52). The recall, apology or answer of the concerned person shall be published or broadcast in a way that is similar to the publication or broadcasting of the contested piece of information (Press Law: Section 21; Electronic Media Law: Section 51, Paragraph 3; Section 52, Paragraph 5). All in all this allows for adequate protection of persons against erroneous media coverage.

A flaw in the accountability of the public electronic media is the lack of criteria for the evaluation of the quality of the contents created as part of the public commission.⁴⁷²

472 Konceptcija par jauna Latvijas Sabiedriskā elektroniskā medija izveidi (Framework Policy Document on the Establishment of a New Latvian Public Electronic Media Organization). Announced at the Meeting of the State Secretaries on 13 October 2011. P.15.

<http://www.mk.gov.lv/lv/mk/tap/?dateFrom=2010-11-29&dateTo=2011-11-29&text=Sabiedrisk%C4%81+elektronisk%C4%81+medija+&org=0&area=0&type=0>

To what extent can media outlets be held accountable in practice?

The NEMC carries out its supervisory functions with reasonable effectiveness. Since 2010, it has a public advisory body where representatives from civil society and professional organizations participate (Electronic Media Law: Section 63, Paragraph 2). Although the Public Consultative Council has so far convened only a few times, a representative of the Latvian Association of Journalists to the Council Dita Arāja is skeptical about its potential: “I think it is unable to accomplish a lot of things because it assembles a lot of people from a wide variety of non-governmental organizations and municipalities and it is very difficult to find any common denominator. [...] The current danger is that it is just a cover for the NEMC. The NEMC could say that it has consulted with the public, the public has requested the use of proper Latvian language and hence the NEMC will ensure this rather than politically independent, strong and professional public media.”⁴⁷³ A.Rožukalne lauded this idea of participation but also expressed doubts about its effectiveness.

Latvian journalists show generally little activity in the blogosphere and internet forums. “In difference from other countries where it is professionals – journalists and editors – who create the major part of opinion and professional debates in the blogosphere, they are the most silent people in Latvia. [...] The interaction is very weak between the readers/viewers and journalists as a professional rank. [...] It is a question of tradition and journalists really do not consider it to be important. They are overloaded with their direct work duties and have no resource for this additional activity.”⁴⁷⁴ According to A.Krasņitskis, it is also common for journalists to write blogs under pseudonyms so as to be able to express views not approved by the publishers of their media.⁴⁷⁵

The Latvian media have no ombudsmen. However, corrections and recalls of erroneous information do happen. For example, the daily *Latvijas Avīze* covered an incident on 16 March 2011 when, during an exchange among opposing groups of public protesters, a young woman spat on an elderly opponent. The newspaper disclosed the identity of the young individual and later discovered that they had identified a wrong person. After having realized the error, the paper withdrew the publication and expressed apologies.⁴⁷⁶

Overall it can be concluded that the accountability framework of the Latvian media functions satisfactorily.

11.2.5. Integrity mechanisms: law

To what extent are there provisions in place to ensure the integrity of media employees?

The Latvian media do not have a sector-wide code of ethics/conduct. Latvia has two somewhat competing professional organizations for journalists and other media professionals. Each of them – the Latvian Journalists Union and the Latvian Association of Journalists – has its own code. Taken together, these organizations cover most of the national media outlets.

The Code of Ethics of the Latvian Journalists covers such themes as the freedom of the press; truthfulness, reliability, objectivity and clarity of reported information; an imperative for a journalist to abstain from assignments against his/her conviction; protection of the confidentiality of sources

473 Interview with Dita Arāja, 29 June 2011.

474 Interview with Anda Rožukalne, 27 May 2011.

475 Interview with Aleksandrs Krasņitskis, 6 July 2011.

476 Laikraksts “Latvijas Avīze” atsauc rakstu “Sirmgalves apsplaudītāja - topošā pedagoge” (Newspaper “Latvijas Avīze” Withdraws the Article “The One Who Spit on the Old Lady – the Future Teacher”). LETA, 30 March 2011. <http://159.148.1.102/lv/zinas/43832/laikraksts-latvijas-avize-atsauc-rakstu-sirmgalves-apsplauditaja---toposa-pedagoge>

(unless the court requires the disclosure), separation of facts and commentaries, separation of editorial material and advertisements, etc.⁴⁷⁷

The Code of Ethics of the Latvian Association of Journalists covers similar themes although it is generally more liberal and more rigorous in defending journalists' freedom, e.g. the duty to protect sources has no exceptions mentioned.⁴⁷⁸ The latter code does not include such precautionary provisions as the requirement to avoid manipulations with illustrations and prohibition to declare directly or indirectly someone guilty before a court judgment. The Code of Ethics of the Latvian Association of Journalists is mandatory for members of the association (shall be signed upon admission) although it has no legal force. The Ethics Commission reviews breaches of the code. The website of the association contains materials regarding one case (note that the association was established recently – on 24 November 2010) that has been reviewed by the Ethics Commission. No breach was found in this case.⁴⁷⁹

Several media organizations, e.g. the news agencies LETA and BNS, the public *Latvian Television* and *Latvian Radio* have their own codes of ethics/conduct. The Code of Conduct of the *Latvian Television* is probably the most extensive document of its kind in Latvia. It is binding for all journalists of the *Latvian Television* and describes in great detail rules regarding such topics as professional standards (accuracy, objectivity, reliability, variety of opinion, balanced coverage, etc.); methods of information gathering including concerns for the inviolability of the privacy and handling of the identity of suspected criminals and victims of crime; protection of sources; use of hidden information gathering methods; handling of leaked official/ secret information; processing of images; showing of sexual or violent images; handling of attempted interference in the editorial work, conflicts of interest, etc.⁴⁸⁰ Still this Code on Conduct is quite recent (adopted in 2010) and no cases of its application have been publicized as of August 2011.

Thus, while not all of the media outlets have their regulations on ethics and conduct, such codes are common and a major part of media professionals are covered. It is less common to have ethics commissions or any other institutionalized structures for the implementation of the codes. The level of detail also varies strongly.

11.2.6. Integrity mechanisms: practice

Score: 75 / 100

To what extent is the integrity of media employees ensured in practice?

The professional organizations of journalists are generally viewed as weak.⁴⁸¹ Of Latvia's two professional organizations for journalists, the Latvian Journalists Union is the older one. A split in its ranks regarding the mission of the organization led to the establishment of an alternative – the Latvian Association of Journalists. Overall there is fairly little evidence of these organizations acting as credible defenders of journalists vis-à-vis various pressures (including from their employers) or implementers of ethics regulations.

Like in other areas, the actual implementation and perceived importance of codes of ethics/conduct are limited. In 2008, interviews with the editors of the two news agencies LETA and BNS showed: "Although both of the agencies have written codes of ethics, their importance in everyday decision making is not particularly great. Much more consideration is shown for

477 Latvijas žurnālistu ētikas kodekss (The Code of Ethics of Latvian Journalists). Adopted on 28 April 1992. <http://www.zurnalistusavieniba.lv/?p=3519&pp=3768&lang=923>

478 Ētikas kodekss (Code of Ethics). The Latvian Association of Journalists. <http://www.latvijaszurnalisti.lv/etikas-komisija/etikas-kodekss/>

479 Ētikas komisijas lēmumi (Decisions of the Ethics Commission). <http://www.latvijaszurnalisti.lv/etikas-komisijas-lemumi/>

480 Rīcības kodekss (Code of Conduct). 2010. http://www.ltv.lv/files/ltv_ricibas_kodekss.doc#_Toc281471005

481 Dreifelds, J. Latvia. In: Nations in Transit 2011. Freedom House (2011).

<http://www.freedomhouse.org/images/File/nit/2011/NIT-2011-Latvia.pdf>

the journalists' own "internal sense" about the correctness of action.⁴⁸² A.Rožukalne believes that journalists do try to follow the codes but "discussions about ethics are rare. Occasional discussions have focused on how to cover crime victims and especially children as crime victims, how much private information about politicians may be published".⁴⁸³

Hidden advertising – both commercial and political – is one of the most serious systematic challenges to the integrity of the media.⁴⁸⁴ A PR practitioner interviewed for this study talked about two worrying trends: right after the financial crisis businesses, including even Latvian subsidiaries of reputable Scandinavian banks, rushed to buy hidden advertising in the media and even state agencies have begun purchasing favourable media coverage.⁴⁸⁵

Overall journalists stick to the standard of using multiple sources and reflecting both sides of an issue. Despite limited application of codes of ethics/ conduct to particular cases, the integrity of journalists on the individual level appears reasonably good (especially when considering that deals on paid publicity are usually handled by advertising departments of media outlets rather than journalists directly).

11.3. ROLE

11.3.1. Investigate and expose cases of corruption practice

Score: 75 / 100

To what extent is the media active and successful in investigating and exposing cases of corruption?

Resource demanding as it is, investigative journalism is not a key part of the work of most media. There are two weekly investigative TV shows – *De Facto* on the Latvian Television and *Nekā Personīga* on TV3 (on air since 2008 and created by journalists who left the *Latvian Television* after attempts by its management to tame their politically sensitive work). Investigative journalism is practiced also by the *Latvian Radio* and the weekly magazine *Ir*. The latest major addition to the investigative journalism scene in the website *Pietiek.com* launched in 2010 by a few journalists and dedicated mostly to exposing misconduct by public officials.

Although investigative media outlets are limited in number, their findings are widely disseminated also by other media. According to A.Rožukalne "One could say that we have no more than 20 investigative journalists. [...] On the other hand, the revelations of these few media are widely disseminated as news. If there is a case, it is not just one piece of news or story."⁴⁸⁶ Even though much of the media are controlled by powerful vested interests, the multitude of owners ensures that, whenever a corruption-related scandal surfaces, one or another newspaper will cover it.⁴⁸⁷

What follows are a few examples of the media disclosure of corrupt or unethical activities by politicians and other public officials. In 2006 the *De Facto* program aired the contents of tapped telephone conversations among several individuals including some influential political figures in connection with bribery for a vote on appointing the mayor of the resort town of Jūrmala. The transcripts revealed how two of the so-called oligarchs at least indirectly facili-

482 Glika, K., Rūklis, K. Sajūta, kam (ne)juzticāties (The Sense Whom to (Dis)trust). *Politika.lv*, 16 September 2008. http://www.politika.lv/temas/mediju_kritika/16748/

483 Interview with Anda Rožukalne, 27 May 2011.

484 For information about political hidden advertising see: Kažoka, I. Kas būtu jāuzlabo Latvijas partiju finanšu un priekšvēlēšanu aģitācijas regulējumā? (What Should Be Improved in Latvia's Regulations of Party Finance and Pre-election Campaign). 25 January 2011. P.9. http://www.providus.lv/upload_file/Jaunumi/2010/ZinojumsPartijuFinanses2011gatavs2.pdf
See also the blog: Blog „Slēptā reklāma?” (Hidden Advertising?). <http://www.politika.lv/blogi/index.php?id=61863>

485 Confidential interview with a PR practitioner.

486 Interview with Anda Rožukalne, 27 May 2011.

487 Interview with Aleksandrs Krasņitskis, 6 July 2011.

tated or followed the course of the corrupt deal.⁴⁸⁸ In April 2007, a journalist of the Latvian Television Jānis Domburs disclosed a secret agreement between the Latvian Social Democratic Workers Party and a group of businessmen from Ventspils. The party undertook several political commitments in return for a money donation.⁴⁸⁹ In 2009, the newspaper *Diena* described the vast nepotism network created by the Minister of Transportation A.Šlesers.⁴⁹⁰ The magazine *Ir* has analyzed in great detail the national air carrier *AirBaltic* and how the conflicts of interest of its president Bertolt Flick could lead to the loss of value of the state-majority-owned company.⁴⁹¹ The independent journalist Lato Lapsa (key founder of the website *Pietiek.com*) has been publishing in-depth critical research as books about several of the most prominent Latvian politicians, including about the long-time unofficial trinity of Latvian oligarchs A.Lembergs, A.Šķēle and A.Šlesers.

Thus, despite its relatively limited niche in the media scene, investigative journalism has been playing a major role in Latvia's public life and continues to do so.

11.3.2. Inform public on corruption and its impact

Score: 75 / 100

To what extent is the media active and successful in informing the public on corruption and its impact on the country?

During the last decade the media has lost much of the more abstract interest in the issue of corruption, its extent, causes and consequences. Due to the important investigative role (see 11.3.1 "Investigate and expose cases of corruption practice" above), it would be wrong to conclude that the Latvia media do not inform the public about corruption. Still most of the coverage focuses on disclosing particular corruption affairs. As A.Rožukalne puts it, the investigating programs "cause anxiety among those who could become their heroes."⁴⁹²

There is also no particular financial support for the coverage of corruption issues as private media outlets must achieve viewership ratings no matter what they focus on. Meanwhile, in the public media, the key factor of success in covering corruption is the private motivation and sense of mission of individual journalists rather than support from the management.

Some media outlets such as *Neatkarīgā Rīta Avīze* occasionally cast doubts about the importance of the fight against corruption. A notable example here is the views of its deputy Editor-in-Chief J.Paiders who defends publicly the argument that combating of corruption is an ideology with no firm scientific grounds.⁴⁹³

11.3.3. Inform public on governance issues

Score: 75 / 100

To what extent is the media active and successful in informing the public on the activities of the government and other governance actors?

The media do cover government activities on a regular basis. However, according to A.Rožukalne "this information comes mainly from the state institutions themselves. The me-

488 'Balsu pirkšanu' Jūrmalas mēra vēlēšanās Milušs apspriedis ar Šleseru un Šķēli (Milušs Discussed the Purchase of Votes in the Election of the Mayor of Jūrmala with Šlesers and Šķēle). Delfi.lv, 13 March 2006. <http://www.delfi.lv/news/national/politics/balsu-pirkšanu-jurmalas-mera-velesanas-miluss-apspriedis-ar-sleseru-un-skeli.d?id=13867418>

489 LSDSP un Lemberga slepenā vienošanās (The Secret Agreement of LSDSP and Lembergs). Kandidatizudelnas.lv <http://www.kandidatizudelnas.lv/notikumi-2006-2010/liekkie-korupcijas-skandali/lspd-un-lemberga-slepena-vienosanas/>

490 Jemberga, S. Astonkājis (Octopus). Diena.lv, 18 January 2009. <http://www.diena.lv/sabiedriba/astonkajis-646930>

491 Jemberga, S. Filks un neziniši (Flick and Dunnos). Ir, No. 20, 19-25 August 2010.

492 Interview with Anda Rožukalne, 27 May 2011.

493 Paiders, J. Korupcijas apkarošana ir ideoloģija, kurai nav stingra zinātniska pamata (Combating of Corruption is an Ideology with no Firm Scientific Grounds). Presentation in conference „Risks of Corruption in a Municipality. The Conflict of Interests and Its Prevention”, 5 November 2011. <http://www.riga.lv/NR/rdonlyres/DC1005C6-C9AD-43CD-9222-BD6518DF5251/30796/6JPaiders05112010.pdf>

dia do try to screen this information more or less objectively but the governmental agenda still dominates heavily”.⁴⁹⁴ A.Krasņitskis corroborates this observation: “You have to write or show something. If you don’t have anything, then at least the Prime Minister is signing some treaty with a faraway country. OK, that’s at least something to show.”⁴⁹⁵

Still such observations cannot be generalized easily because the quality of coverage varies strongly from media to media. Commercialization makes the media compete for viewers/readers and “more audience can be attracted with the help of attractive stories, personalization of politics rather than a discussion about undeniably complicated economic issues”.⁴⁹⁶

Overall the media do inform the public on governance issues regularly but the dominance of government agenda and economic pressures are permanent challenges to the autonomy and quality of coverage.

11.4. KEY RECOMMENDATIONS

- The appointment procedure of the NEMC should include a rigorous screening of candidates by media professionals, e.g. with the help of open competition.
- The funding mechanism for the public media must be reformed so as to increase transparency and limit undue influence through budget formation – possible solutions could be subscription charges or a specific duty on the advertising revenue of private broadcasters.⁴⁹⁷
- The Saeima should adopt amendments to the Press Law requiring the public disclosure of the beneficial owners of the media.
- The journalists’ organizations should strengthen efforts to cover a greater share of media professionals, promote high professional standards of journalism, protect journalists against mistreatment by employers and educate the broader public about the importance of quality journalism.

494 Interview with Anda Rožukalne, 27 May 2011.

495 Interview with Aleksandrs Krasņitskis, 6 July 2011.

496 Dreijere, V. Politizklaide (Politentertainment). Politika.lv, 17 March 2009. http://www.politika.lv/temas/mediju_kritika/politizklaide/

497 See: Konstitucionālo tiesību komisijas Viedoklis par sabiedrisko elektronisko plašsaziņas līdzekļu tiesisko regulējumu demokrātiskas valsts iekārtā (Opinion of the Commission of Constitutional Law on the Legal Regulation of the Public Electronic Mass Media in a Democratic State System). 24 May 2010. P.19. http://www.president.lv/pk/content/?cat_id=7402

12. CIVIL SOCIETY

Overall the Latvian legal framework for CSOs is rather liberal. Donors to organizations with the public benefit status receive major tax reductions. Still the resources of most organizations are modest. Otherwise legal restrictions as to the ideology or mode of operation of associations are strictly limited. While the state almost never uses its power to attack or harass CSOs, various forms of subtler manipulation are common. Reliance of some CSOs on state support renders positions of some of them vulnerable and subordinate to the government. Latvia has two CSOs, which focus on anti-corruption constantly: Transparency International – Latvia (*Delna*) and a think tank – the Centre for Public Policy *Providus*. Both of these organizations have been engaged in a number of advocacy efforts aimed at policy reforms concerning particular issues. Still a number of other organizations carry out activities, which strengthen government accountability, for example, the Civic Alliance Latvia. This is an umbrella organization for the civil society sector, which focuses on building favourable environment for the associations and foundations by advocating on behalf of CSOs and civil society. Meanwhile the last five years have shown increase in somewhat less formalized civil society activities against corruption.

Civil Society

Overall Pillar Score: **75** / 100

	Indicator	Law	Practice
Capacity 88 / 100	Resources	100	75
	Independence	100	75
Governance 75 / 100	Transparency	-	75
	Accountability	-	75
	Integrity Mechanisms	-	75
Role 63 / 100	Hold Government Accountable		75
	Policy Reform		50

Structure and organization⁴⁹⁸

13,284 CSOs were registered in Latvia in February 2011 although the number of actually working organizations is somewhat smaller. The largest share, (39 %) of the CSOs act in the area of culture and recreation, followed by development and management (21 %), and legislation, interest advocacy and politics (11 %). It is the latter group where anti-corruption organizations belong. Over half of all CSOs are registered in Riga or Riga region. 1622 organizations have been awarded the status of a public benefit organization.⁴⁹⁹ Donors to such organisations are entitled to substantial tax reduction (for legal entities the tax is discounted by up to 85 % of the donated amount).

⁴⁹⁸ The paragraph has been drafted on the basis of the following source: Pārskats par NVO sektoru Latvijā (Report on the NGO Sector in Latvia). Baltic Institute of Social Sciences (2011). http://isif.lv/files/pics/Atbalstite_projekti/EEZ_Norv_fin_instr/BISS-NVO_sektors_BISS_27_04_final.pdf

⁴⁹⁹ SLO registers (Register of Public Benefit Organizations). http://www.fm.gov.lv/?lat=sabiedriskas_labuma_status/sloregisters

12.1. CAPACITY

12.1.1. Resources: law

Score: 100 / 100

To what extent does the legal framework provide an environment conducive to civil society?

The Constitution guarantees everyone the right to form and join associations, political parties and other public organizations (Section 102). Other Constitutional rights and liberties make up the necessary framework to allow CSOs adequate freedom to engage in advocacy and criticize the government.

The establishment and registration of an association or foundation is easy. An application for registration shall be signed by all founders or at least two authorised individuals (different rules apply for testamentary foundations), which effectively means that the minimum number of members is two. The decision to register an association, refuse or suspend the registration shall be made within 7 days since the receipt of the application (Associations and Foundations Law: Section 17, Paragraphs 2 and 3). The applicant may appeal the decision of the official of the registering agency according to procedure prescribed in the law (Associations and Foundations Law: Section 17, Paragraph 8). For the registration of an association or foundation, the duty is currently set at LVL 8 (approx. EUR 11) (CoM 15 April 2004 Regulations No. 308 on the State Duty for Making an Entry in the Register of Associations and Foundations: Article 2.1). There are no prohibitions for unregistered organizations but they naturally cannot assume legal obligations and do not enjoy any rights in their capacity as entities.

Associations are subject to the same tax regime, e.g. taxes on salaries as any other legal entity. However, there is a special category – public benefit organizations. Organizations that carry out “public benefit activities”, e.g. in the fields of charity, protection of human rights, development of the civil society, education, science, culture, health, support for sports, etc. may apply for the status of a “public benefit organization” (Public Benefit Organizations Law: Section 2, Paragraph 1; Section 3). The SRS grants the status based on opinion of the Public Benefit Committee (Public Benefit Organizations Law: Section 6, Paragraph 2; Section 7, Paragraph 4).

The law provides major tax relief (the tax is discounted by up to 85 % of the donated amount) for companies that donate to public benefit organizations (Law on Enterprise Income Tax: Section 20,¹ Paragraphs 1 and 2). The discount is less generous for donors who are physical persons. In this case the amounts, from which the income tax is deducted, are discounted by the amount donated (although the discount may not exceed 20 % of the payer's income) (Law on Individual Income Tax: Section 10, Paragraph 1). Given that the areas of activities counted as public benefit are quite broad, this tax exemption system can be regarded as generally very favourable to CSOs.

Overall the legal framework for CSOs is rather liberal and the public benefit status provides major incentives to donors.

12.1.2. Resources: practice

Score: 75 / 100

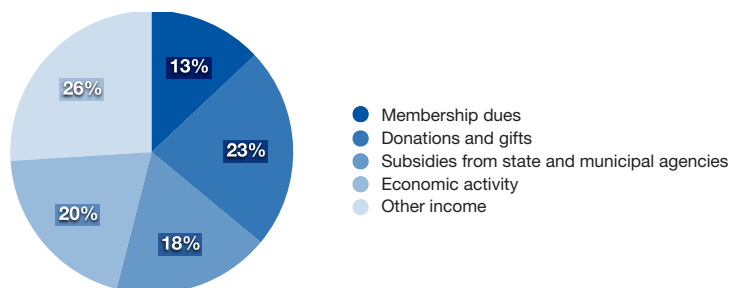
To what extent do CSOs have adequate financial and human resources to function and operate effectively?

In the context of the Central and Eastern Europe, Latvia's CSOs sector appears to be reasonably sustainable. The 2009 NGO Sustainability Index Score for Latvia was 2.7 with “7 indicating a low or poor level of development and 1 indicating a very advanced NGO sector”.⁵⁰⁰

500 The 2009 NGO Sustainability Index for Central and Eastern Europe and Eurasia. USAID (2010). http://www.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/2009/complete_document.pdf

As a sector, CSOs rely on a variety of sources – see Graph 4. Meanwhile according to the Director of the Civil Alliance – Latvia R.Pīpiķe “when you look at some individual organizations, you see that they still depend on one or a few sources of finance”. The proportion of local and foreign funding sources varies depending on the field of activities of CSOs. According to both of the interviewed experts R.Pīpiķe and A.Putniņa (assistant professor in anthropology, the University of Latvia) public interest advocacy CSOs still depend largely on foreign funding. “My impression is that, before joining the EU, the American foundations somehow supported us but now we have the European Economic Area support and interest advocacy still is supported thanks to the foreign funding. There is no government support for advocacy.”⁵⁰¹

Chart 6. Structure of CSOs' Revenue in 2009⁵⁰²



Domestically it is much easier to attract philanthropic donations for areas such as charities and sports than for interest advocacy, for example, in the area of anti-corruption. Also a major share of donors who use the tax exemption for public benefit organizations supports sports. A former member of the Public Benefit Committee Z.Miezaine admits that it is not always easy to ensure that tax exemptions are granted only to such donations, which promote the wider public good. For example, sports organizations often combine business activity with public benefit activity. Here the challenge is to make sure that tax exemptions are not used to finance losses from entrepreneurial activity.⁵⁰³ Overall this issue is one of the most common concerns regarding state support with the help of the status of public benefit organizations.

The overall activity of philanthropic donors is reasonably high. As the 2009 NGO Sustainability Index puts it: “Despite the economic downturn, philanthropic organizations have experienced excellent results in collecting donations from the general public for specific projects.”⁵⁰⁴ Still the resources of most organizations are modest. At least a half of Latvia's CSOs relies on volunteer work⁵⁰⁵ and the need to rely on volunteer work alone is sometimes viewed as a weakness. According to R.Pīpiķe “there are organizations that are very good at using volunteer work.”⁵⁰⁶ Nevertheless attracting volunteers is often a serious challenge. On the positive note, “people who are good lawyers and good

501 Interview of Aivita Putniņa, assistant professor in anthropology, the University of Latvia, with author, Riga, 13 June 2011.

502 Data of the State Revenue Service based on annual reports of associations and foundations. Taken from: Pārskats par NVO sektoru Latvijā (Report on the NGO Sector in Latvia). Baltic Institute of Social Sciences (2011). Pp.66-67. http://isif.lv/files/pics/Atbalsttie_projekti/EEZ_Norv_fin_instr/BISS-NVO_sektors_BISS_27_04_final.pdf

503 Interview of Zinta Miezaine, chairperson of the board of the association Workshop of Solutions and former member of the Public Benefit Committee (until March 2011), with author, Riga, 10 November 2011

504 The 2009 NGO Sustainability Index for Central and Eastern Europe and Eurasia. USAID (2010). P.138. http://www.usaid.gov/locations/europe_eurasia/dem_gov/ngoindex/2009/complete_document.pdf

505 Pārskats par NVO sektoru Latvijā (Report on the NGO Sector in Latvia). Baltic Institute of Social Sciences (2011). P.15. http://isif.lv/files/pics/Atbalsttie_projekti/EEZ_Norv_fin_instr/BISS-NVO_sektors_BISS_27_04_final.pdf

506 Interview with Rasma Pīpiķe, 18 May 2011.

PR practitioners have become socially active. Hence I think it has become easier to agree with them that they do something *pro bono*. It is increasingly popular.⁵⁰⁷ Also the number of CSOs that hire at least one paid employee has been increasing gradually from 1899 in 2005 to 2565 in 2009. In 2009, 27 % of CSOs had at least one paid employee.⁵⁰⁸ Nevertheless smaller CSOs find it difficult to cope with such administrative requirements as, for example, the duty to run double entry bookkeeping. For them this is a significant and not clearly useful burden. On 21 July 2011, an amendment to the Law on Accounting was announced at the Meeting of State Secretaries which, if adopted, would lift this duty for organizations with turnover below LVL 25,000 (approx. EUR 35,500).

12.1.3. Independence: law

Score: 100 / 100

To what extent are there legal safeguards to prevent unwarranted external interference in the activities of CSOs?

Apart from constitutional provisions, the Associations and Foundations Law explicitly affirms the right of organizations to perform activities which are not in contradiction with law, especially to distribute freely information regarding their own activities, to establish their own publications and other mass media, to organise meetings, street processions and pickets, as well as to perform other public activities (Section 10, Paragraph 1).

However, the Constitution does contain a provision that certain rights of persons may be subject to restrictions in circumstances provided for by law in order to protect the rights of other people, the democratic structure of the state, and public safety, welfare and morals (Section 116). Further restrictions are provided for in the Law on State of Exception.

Otherwise legal restrictions as to the ideology or mode of operation of associations are strictly limited. For example, the name or symbols of an organization shall not be contrary to regulatory enactments and good morals, e.g. they shall not comprise the name or symbols of a military body or such organisation or group which has been recognised as criminal or anti-constitutional. Neither shall they create a positive attitude toward violence (Associations and Foundations Law: Section 6, Paragraph 1). An association and a foundation are prohibited from arming their members or other persons, organising military training for them and establishing militarised units (the Associations and Foundations Law: Section 11). No regulations stipulate state membership on CSO boards or allow for mandatory state attendance at CSO meetings.

12.1.4. Independence: practice

Score: 75 / 100

To what extent can civil society exist and function without undue external interference?

In general CSOs are free to operate without illegitimate government interference. No examples of public officials intimidating, harassing or attacking civil society actors could be identified for this study, at least not in the recent years. Some representatives of the political class and media outlets once in a while criticize CSOs (particularly those involved in anti-corruption activities) and promote conspiracy theories regarding organizations, which receive support from the network funded by George Soros.⁵⁰⁹ However, this rhetoric rarely comes close to threats to use the state apparatus to harass these CSOs.

More tangible forms of interference are occasional manipulation within participatory arrange-

507 Interview with Rasma Pipiķe, 18 May 2011.

508 Pārskats par NVO sektoru Latvijā (Report on the NGO Sector in Latvia). Baltic Institute of Social Sciences (2011). P.82. http://lsif.lv/files/pics/Atbalsttie_projektu/EEZ_Norv_fin_inst/BISS-NVO_sektors_BISS_27_04_final.pdf

509 See, for example: Dreilblats, U. Kad Latvija ieraudzija Sorosisma būtību (When Latvia Noticed the Essence of the Sorosism). Nra.lv, 8 August 2011. <http://zinas.nra.lv/latvija/53186-kad-latvija-ieraudzija-sorosisma-butibu.htm>

ments, e.g. withholding of information. As R.Pīpiķe explained, “once in a while information is not provided to those who could potentially have a dissenting opinion. I know that the Ministry of Agriculture deals with major frictions. They may have agreed with the Cooperation Council of Agriculturists’ Organizations but, at the same time, they would not give information to the Latvian Rural Forum where they know dissenting opinion exists. Similar problems exist also in other ministries, for example, the Ministry of Education and Science.”⁵¹⁰ Also A.Putniņa talks of the problem of favouritism for selected organizations, for example, in relation to the family policy program where specific CSOs are assigned a role in its implementation while other organizations with different views are not even invited to participate in deliberations of the policy.⁵¹¹

Another way of manipulation is through state funding where CSOs silence their criticism and demands vis-à-vis state agencies because of real or perceived prospects of losing the support. Occasionally individuals withhold their opinion in order not to jeopardize commissions that their organizations receive from the state.⁵¹² R.Pīpiķe: “Several years ago I talked with education organizations and asked why they did not go to the Ministry of Education and Science and did not pressure it more.” The answer was: “Yes, but we eat from their hand.”⁵¹³

Donations by state-owned companies are a particularly vulnerable form of public support. For example, the company *Latvijas Valsts meži* (*Latvian State Forests*) allegedly donated money to associations of individuals related to the party in charge of the Ministry of Agriculture, which oversees the company.⁵¹⁴

Still the extent of possible manipulations surely depends also on the character of the leaders of the recipient organizations. A considerable part of public support for CSOs is administered by the Society Integration Fund (hereafter – SIF). There are no publicly-known cases of non-transparent or biased allocation of support by the SIF but the high proportion of politicians in the Council of the SIF (six out of 18 members shall be ministers, five shall be representatives of Latvia’s planning regions most of whom are local politicians – Law on Society Integration Fund: Section 9, Paragraph 1) makes it at least potentially vulnerable to partisan influences.

Attacks against civil society actors are uncommon although, for example, activists for the rights of sexual minorities have been facing threats and attacks. The state has undertaken at least the minimum of necessary legal action regarding these violations but otherwise, as far as homophobic assaults are concerned, “it attempts rather to keep a neutral position and separate the two sides rather than solve the conflict.”⁵¹⁵

Thus, while the state almost never uses its power to attack or harass CSOs, various forms of subtler manipulation are common. Reliance of some CSOs on state support renders positions of some of them vulnerable and subordinate to the government.

12.2. GOVERNANCE

12.2.1. Transparency: practice

Score: 75 / 100

To what extent is there transparency in CSOs?

Associations and foundations shall prepare annual reports and submit them to the SRS (Associations and Foundations Law: Section 52). The Enterprise Register shall en-

510 Interview with Rasma Pīpiķe, 18 May 2011.

511 Interview with Aivita Putniņa, assistant professor in anthropology, the University of Latvia, 13 June 2011.

512 Interview with Aivita Putniņa, 13 June 2011.

513 Interview with Rasma Pīpiķe, 18 May 2011.

514 Raidījums: Latvijas Valsts meži ziedo ZZS deputāta biedrībai (“Latvian State Forests” Donates to an Association of a Deputy from ZZS). Delfi.lv. 9 January 2011. <http://www.delfi.lv/news/national/politics/raidijums-latvijas-valsts-mezi-ziedo-zzs-deputata-biedribai.d?id=36152662>

515 Interview with Aivita Putniņa, 13 June 2011.

sure public access to the annual reports (CoM 3 October 2006 Regulations No. 808 on Annual Report of Associations, Foundations and Trade Unions: Article 61.1). The annual report shall provide a clear overview of the means, their sources and financial condition of an organization on the last day of the reporting year as well as economic transactions, revenue and expenditure in the reporting year (CoM 3 October 2006 Regulations No. 808: Article 4).

The adherence of CSOs to the requirements is not always perfect. Not all organizations submit annual reports although the trend is improving (currently about 90 % of CSOs are said to do it).⁵¹⁶ Some CSOs post their annual reports on their own websites. However, the amount of voluntarily disclosure varies among organizations from almost none to comprehensive information.⁵¹⁷ According to A.Putniņa, “At least in the sector of anti-violence and health, non-governmental organizations maintain very good records and substantial transparency in their websites.” Reports of organizations, which profile themselves as advocates of the public interest, are usually easily available.⁵¹⁸

Overall, apart from the minimum transparency standards imposed by the state, the transparency of CSOs varies widely. CSOs which advocate for the public good tend to be more transparent. The strongest transparency requirements apply to the public benefit organizations because the State Revenue Services publishes their annual activities reports on the internet.⁵¹⁹

12.2.2. Accountability: practice

Score: 75 / 100

To what extent are CSOs answerable to their constituencies?

The role of boards and membership in providing oversight varies from organization to organization. In some organizations the importance of the supervisory board is not appreciated: “Even in very large organizations it happens that members of the supervisory board have not even read the statutes of the organization. [...] People used to have the perception that being on the supervisory board is a matter of honour.”⁵²⁰ However, this should not be taken as the dominant perception.

Often it is the small size and lack of salaried employees that practically blur the lines between the formal institutions within an organization. Except for the large organizations, “it is rather so that the supervisory board and the executive board are mobilized as part of a common resource to enable the organization to do any work at all. Since the resource is scarce, the work is not paid and organizations are not particularly hierarchic. Both the director and the subordinates do the job. It is rather a common effort, which does not follow the classic scheme from a handbook.”⁵²¹

Occasionally organizations involve individuals from outside in their supervisory boards because of strategic considerations. “When we [the Civic Alliance – Latvia] decided to develop cooperation with the Saeima, we strategically chose to have [a Member of Parliament] in our supervisory board. [...] His experience was very useful for our cooperation with the Saeima.”⁵²² The *Providus* has two representatives from the business sector on its supervisory board with the idea to facilitate understanding and relations between the organization and the business community.

516 Interview with Rasma Pipiķe, 18 May 2011.

517 Interview with Rasma Pipiķe, 18 May 2011.

518 Interview with Aivita Putniņa, 13 June 2011.

519 SLO registers (Register of Public Benefit Organizations). http://www.fm.gov.lv/?lat=sabiedriska_labuma_statuss/sloregistrs

520 Interview with Rasma Pipiķe, 18 May 2011.

521 Interview with Aivita Putniņa, 13 June 2011.

522 Interview with Rasma Pipiķe, 18 May 2011.

As a special accountability mechanism for the public benefit organizations, is the requirement to submit an activities report annually to the State Revenue Service. The Public Benefit Committee reviews the activities report, the annual report as well as data on paid taxes and assesses the correspondence of the organization's activities with the essence of public benefit activity (Public Benefit Organizations Law: Section 13, Paragraphs 1 and 3).

Overall the largely informal workings of CSOs and their often modest resources lead to limited formal accountability. However, the public benefit organizations and organizations with richer resources tend to adhere with stricter accountability practice.

12.2.3. Integrity: practice

Score: **75** / 100

To what extent is the integrity of CSOs ensured in practice?

There is no code of conduct for the whole of the CSO sector but some individual organizations do have such codes. For example, the Civic Alliance – Latvia has a code of ethics, which focuses largely on the culture of politeness and covers themes such as verbal and non-verbal communication, conduct during business meetings, and conversations over the phone.⁵²³ This organization also has special rules for members of the supervisory board, for example, a special conflict of interest provision prohibits members from participating in decision making concerning their own remuneration.⁵²⁴

There are no systematic data about ethics-related practices across the CSO sector but examples certainly exist where issues of ethics and professional conduct are debated. Often these are related to tactics and strategies employed by advocacy organizations and touch upon dilemmas or possible compromises arising in contacts with politicians, e.g. some women's/gender equality organizations have had debates on whether it is acceptable to align with a staunchly conservative and otherwise antagonistic political party on the issue of introducing penalties for buyers of sexual services.⁵²⁵ Another example is the Centre "Dardedze" (organization for the protection of children against violence) and its Council of Honour, which debates the work directions and strategies of the organization.⁵²⁶

R.Pīpiķe talked about management systems that are present in more professionalized organizations: "I know that some organizations, for example, "Papardes zieds" have the ISO 9001 certificate. We [the Civic Alliance - Latvia] also have a management system but we don't have it registered. I think organizations that have professionalized themselves have some internal quality management system."⁵²⁷ Such management systems can be regarded as a disciplining factor with implications for maintaining integrity.

The lack of corruption-related events in CSOs and rare occurrence of other integrity-related scandals can be taken as indirect evidence of reasonably high integrity in the sector although the lack of sector-wide data invites treating any conclusions with some caution. On the downside, a recent opinion poll shows that the number of people who trust associations/foundations is smaller than the number of people who distrust these organizations.⁵²⁸ However, the reasons for such attitudes are unclear and they cannot be necessarily linked to perceived lack of integrity.

523 Biedrības „Latvijas Pilsoniskā aliance” ētikas kodekss (The Code of Ethics of the Association „Civic Alliance – Latvia”).

524 Padomes locekļu darba un izdevumu samaksa (Remuneration for Members of the Supervisory Board and Reimbursement of Expenses). Adopted on 1 November 2006.

525 Interview with Aivita Putniņa, 13 June 2011.

526 Interview with Aivita Putniņa, 13 June 2011.

527 Interview with Rasma Pīpiķe, 18 May 2011.

528 Sabiedrības viedoklis par NVO sektoru Latvijā (The Public Opinion about the NGO Sector in Latvia). Latvijas Fakti, March 2011. P.24. http://lsif.lv/files/pics/petijumi_2011/Zinojums_lv_27.04.2011_s-ed.pdf

12.3. ROLE

12.3.1. Hold government accountable

Score: 75 / 100

To what extent is civil society active and successful in holding government accountable for its actions?

Latvia has two CSOs, which focus on anti-corruption constantly: Transparency International – Latvia (*Delna*) and a think tank – the Centre for Public Policy *Providus*.⁵²⁹ These two organizations have accumulated a long record of advocacy activities on issues such as party and campaign finance regulations and monitoring of campaign expenditure, the legal framework and functioning of the CPCB, appointment of officials in positions important for the rule of law and anti-corruption, etc.

Apart from focusing directly on anti-corruption, there are also other CSO activities, which promote government accountability. For example, the so-called memorandum council of the CoM and the NGOs meets on a regular basis and discusses a wide variety of policy issues (see Pillar 2 “Executive”, indicators 2.2.3 and 2.2.4 “Accountability” for more detail). Although corruption is not among priority topics of the council, it plays its role through, for example, commencing in 2011 an evaluation of public participation practice at ministries.⁵³⁰ Representatives of CSOs sit also in the Supervision Committee of the EU Funds.⁵³¹

The engagement of the rest of the civil society in specifically anti-corruption-related policy reform initiatives is more sporadic. Overall there is widespread pessimism about possibilities for the civil society to promote the struggle against corruption. In March – April 2011, a survey of 284 CSOs showed a widespread lack of belief in the ability of CSOs to promote change in the reduction of corruption. On a 5-point scale where 1 means no influence at all, 49 % chose the answer 1 and 22 % chose the answer 2. Only 7 % chose the answer 5 (it is possible to influence very much).⁵³²

Meanwhile the last five years have shown increase in somewhat less formalized civil society activities against corruption. In November 2007, some 7500 people gathered in a protest meeting prompted *inter alia* by the government's attempts to remove the widely trusted head of the CPCB.⁵³³ In June 2011, a meeting against the so-called oligarchs (a common reference to three influential Latvian politicians and business tycoons) gathered some 5000 individuals (the event was prompted by the President V.Zatlers' move to initiate the dissolution of the oligarch dominated legislature).⁵³⁴ Some relatively loose civil society groups have been highly active behind these events. Still, by the end of August 2011, most of the energy had shifted to the realm of political parties and the civil society had calmed down to the usual levels of activity.

12.3.2. Policy reform

Score: 50 / 100

To what extent is civil society actively engaged in policy reform initiatives on anti-corruption?

Delna and *Providus* have been the only permanent participants in policy reform processes in the area of anti-corruption. Both of these organizations have been engaged in a number of advocacy efforts aimed at policy reforms concerning particular anti-corruption issues.

529 Nations in Transit 2010. Freedom House (2010). P.320.

530 Uzaičinām nevalstiskās organizācijas 29.jūnija Memoranda padomes sēdē iesaistīties Zemkopības ministrijas līdzdalības prakses izvērtēšanai (We Invite Non-governmental Organizations to Participate in the Evaluation of Participation Practice at the Ministry of Agriculture at the Meeting of the Memorandum Council on 29 June). The State Chancellery. <http://www.mk.gov.lv/lv/sabiedribas-lidzdaliba/sabiedribas-lidzdalibas-jaunumi/020611-vk/>

531 Uzraudzības komiteja (Supervision Committee). <http://www.esfondi.lv/page.php?id=490>

532 Pārskats par NVO sektoru Latvijā (Report on the NGO Sector in Latvia). Baltic Institute of Social Sciences (2011). P.42. http://isif.lv/files/pics/Atbalsttie_projekti/EEZ_Norv_fin_instr/BISS-NVO_sektors_BISS_27_04_final.pdf

533 Ar kopīgu aicinājumu atbildēt par Latvijas nākotni beidzas tautas sapulce (The People's Meeting Ends with a Common Call Be Responsible for Latvia's Future). www.delfi.lv 3 November 2007. <http://www.delfi.lv/news/national/politics/ar-kopigu-aicinajumu-atbildet-par-latvijas-nakotni-beidzas-tautas-sapulce-papildinats.d?id=19405488>

534 “Oligarhu kapusvētkos” pateicas Lembergam, Šķelem un Šleseram ‘par mācību’ (Lembergs, Šķele and Šlesers Receive Thanks for Teaching in the “Oligarchs’ Funeral Feast”). www.delfi.lv 8 June 2011. <http://www.delfi.lv/news/referendums-2011/referendums/oligarhu-kapusvetkos-pateicas-lembergam-skelem-un-sleseram-par-macibu-plkst2005.d?id=38982183>

Reforms of the party finance and campaign regulations have been one of such areas where especially *Providus* has successfully participated in promoting change. For example, in 2007 *Providus* studied the issue of state funding of political parties. The results of this analysis were then used in the Saeima and working group for the assessment of party finance regulations lead by the CPCB.⁵³⁵ Eventually the law was amended to actually provide such state funding at least partially in line with recommendations from the study. A written opinion by *Providus*⁵³⁶ was also one of the prompting factors, which lead to the Saeima's decision to lower the pre-election campaign expenditure cap for the early parliamentary elections to be held in Latvia in September 2011.⁵³⁷

One of many examples of policy reform engagement by *Delna* is the organization's efforts in 2009⁵³⁸ and 2011⁵³⁹ to advocate for a more open and competitive procedure for the selection of the Director of the CPCB.

Occasionally also other organizations have been active in promoting changes that directly or indirectly help tackling corruption. One of such organizations is the Electoral Reform Society, which in 2007 proposed to prohibit candidates for parliamentary elections to run in several electoral districts at the same time and thus limit certain opportunities for manipulation. The proposal was adopted by the Saeima in 2009.⁵⁴⁰

Since Latvia's accession to the EU, there have been prolonged periods of the government's and parliamentary majority's unwillingness to respond to calls to strengthen anti-corruption measures. Therefore the overall success of CSOs in promoting policy reforms has been changing with obvious ups and downs.

12.4. KEY RECOMMENDATIONS

- The amendment to the Law on Accounting should be adopted lifting the requirement to run double-entry bookkeeping for organizations with turnover below a certain threshold.
- The state should have a funding program to help CSOs, which apply for support from international donors, to secure required co-financing.
- The government should always follow clear and transparent criteria for its decisions to fund or reject funding to particular CSO in order to limit the risk of manipulation against politically inconvenient organizations.
- The presence of politicians among members of the Council of the SIF should be reviewed and possibly decreased.
- Procedure of donations to CSOs by state-owned companies should be unified and made more impartial. Distribution of these funds through the SIF or some other centralized arrangement should be considered.
- The CSO sector should consider drafting and adopting a voluntary model code of ethics and transparency standards for CSOs. The existence of a code of ethics should be considered as a possible precondition if a CSO is to receive financial support from public funds.

535 2007. gada darbības pārskats un nākamā darbības gada darbības plāns (Activities Report for the Year 2007 and Activities Plan for the Next Year). Sabiedriskās politikas centrs *Providus*. http://www.fm.gov.lv/sls/ataskaite/2007_717.pdf

536 Kažoka, I. Par priekšvēlēšanu aģitāciju ārkārtas vēlēšanās (On Pre-election Agitation in Early Elections). *Providus*, 17 June 2011. <http://www.providus.lv/public/27516.html>

537 Uz pusi samazina tēriņu 'griestus' pirms Saeimas ārkārtas vēlēšanām; lielāku 'cirpienu' noraida (The Expenditure Cap Before Early Elections of the Saeima Cut by Half; a Greater Cut Rejected). *www.delfi.lv* 16 June 2011. <http://www.delfi.lv/news/referendums-2011/referendums/uz-pusi-samazina-terinu-griestus-pirms-saeimas-arkartas-velesanam-lielaku-cirpienu-noraida.d?id=39125709>

538 Iepriekšējā gada darbības pārskats un turpmākās darbības plāns (Activities Report for the Previous Year and Plan for Further Activities). *Biedriba "Sabiedrība par atklātību – Delna"*. 31 March 2010. Pp.2-3. http://www.fm.gov.lv/sls/ataskaite/2009_483.pdf

539 Petermanis, K. Vēstule V.Dombrovskim par KNAB priekšnieka atlases procesa pilnveidošanu (Letter to V.Dombrovskis about Improving the Selection Process of the Director of KNAB). *Delna*, 29 June 2011. <http://delna.lv/raksti/vestule-v-dombrovskim-par-knab-prieksnieka-atlases-procesa-pilnveidosanu/>

540 Current progress. The Electoral Reform Society. <http://www.velref.lv/en/page/198/196>

13. BUSINESS

Overall Latvia has a favorable legislative framework for the operation of business although complaints about administrative hurdles are quite common. All administrative acts of state agencies can be appealed. However, in practice one can expect lengthy proceedings in the court. While legal transparency requirements for the business sector are generally adequate, there is a general preponderance among Latvian companies to operate in a somewhat secretive manner. The dominant patterns of corruption are characteristic with a degree of collusion between some entrepreneurs and corrupt public officials rather than extorting and conflicting interaction (although cases of requesting bribes are known as well). All in all, while the business sector and associations are hardly on the forefront among anti-corruption policy champions, a certain degree of engagement has been seen continuously. Still it almost never amounts to what could be called a joint business-civil society initiative.

Business		Overall Pillar Score: 62 / 100	
	Indicator	Law	Practice
Capacity 81 / 100	Resources	75	75
	Independence	100	75
	Transparency	75	50
Governance 67 / 100	Accountability	100	50
	Integrity Mechanisms	75	50
Role 38 / 100	Anti-Corruption Policy Engagement	50	
	Support for/Engagement with Civil Society	25	

Structure and organization

Latvia is a functioning market economy and hence the private business plays a major role in the country. Most of Latvia's gross domestic product (GDP) comes from services (74.4% est. for 2010), with industry following with 21.7% and agriculture – 4.0%.⁵⁴¹ There are various assessments of the share of the grey economy and the World Bank estimates it at 42% of GDP.⁵⁴² The company with limited liability is the most common form of enterprise in Latvia (112,811 registered as of 6 July 2011). Individual entrepreneurs come second (13,510), followed by joint stock companies (917).⁵⁴³

541 Latvia. The World Factbook. Central Intelligence Agency. As of 7 September 2011. <https://www.cia.gov/library/publications/the-world-factbook/geos/lg.html>

542 Latvia County Assessment. Transition Report 2010: Recovery and Reform. European Bank for Reconstruction and Development (2010). <http://www.ebrd.com/pages/research/publications/flagships/transition/latvia.shtml>

543 Komercreģistrā registrēto komersantu un to filiāļu sadalījums pa uzņēmējdarbības formām (The Breakdown of Entrepreneurs and Their Branches Registered in the Commercial Register by the Form of Entrepreneurship). Lursoft statistika.

<http://www.lursoft.lv/lursoft-statistika/Komercregistra-registreto-komersantu-un-to-filialu-sadalijums-pa-uznemejdarbibas-formam&id=197>

13. 1. CAPACITY

13.1.1. Resources law

Score: 75 / 100

To what extent does the legal framework offer an enabling environment for the formation and operations of individual businesses?

Overall Latvia has a favorable legislative framework for the operation of business. As of 2011, its ranking on the ease of doing business was 24 (out of 183 countries).⁵⁴⁴ However, starting a business is ranked lower – just 53. The number of procedures in starting a business is five and the required time is 16 days.⁵⁴⁵

As far as insolvency is concerned, Latvia “introduced a new out-of-court procedure in 2009.”⁵⁴⁶ The Doing Business 2011 report mentions Latvia among countries that have improved the most in closing business. However, the ranking for closing business still remains lower (80) than for starting a business.⁵⁴⁷ The ranking for the enforcement of contracts is high (14) with 27 procedures and 309 days required.⁵⁴⁸

According to the interviewed experts the operation of business still suffers from excessive administrative burden. According to the Head of Economics Department of the Stockholm School of Economics in Riga M.Hansen, one has to do a lot of reporting for the State Revenue Service. Even in a tiny business, there’s no chance to manage without a professional accountant.⁵⁴⁹ The Corporate Social Responsibility and Communications Expert of the Latvian Confederation of Employers A.Alksne emphasized the problems of redundancy in state controls: “[For example] when we started looking at the state budget to see what we could stop doing, we found that three different agencies verify water in schools.”⁵⁵⁰

Also the CPCB has acknowledged that excessive administrative barriers, controls and official discretion in applying sanctions lead to heightened corruption risks. For example, in Riga, placing an advertising stand for two months regarding premises for rent requires approval by eight different officials.⁵⁵¹ Apparently such a situation creates an incentive to circumvent certain requirements with the help of a bribe especially in times when entrepreneurs experience economic difficulties.

To conclude, there is still a potential for further streamlining in the regulatory environment of the business.

13.1.2. Resources: practice

Score: 75 / 100

To what extent are individual businesses able in practice to form and operate effectively?

In practice, state agencies generally adhere to the legally prescribed procedures. According to A.Alksne “Right now a business can be registered in a maximum of five days, minimum –

544 Doing Business 2011. The World Bank and the International Finance Corporation (2010). P.4. <http://www.doingbusiness.org/~media/FDPDKM/Doing%20Business/Documents/Annual-Reports/English/DB11-FullReport.pdf>

545 Doing Business 2011. The World Bank and the International Finance Corporation (2010). P.175. <http://www.doingbusiness.org/~media/FDPDKM/Doing%20Business/Documents/Annual-Reports/English/DB11-FullReport.pdf>

546 Doing Business 2011. The World Bank and the International Finance Corporation (2010). P.77. <http://www.doingbusiness.org/~media/FDPDKM/Doing%20Business/Documents/Annual-Reports/English/DB11-FullReport.pdf>

547 Doing Business 2011. The World Bank and the International Finance Corporation (2010). P.175. <http://www.doingbusiness.org/~media/FDPDKM/Doing%20Business/Documents/Annual-Reports/English/DB11-FullReport.pdf>

548 Doing Business 2011. The World Bank and the International Finance Corporation (2010). P.175. <http://www.doingbusiness.org/~media/FDPDKM/Doing%20Business/Documents/Annual-Reports/English/DB11-FullReport.pdf>

549 Interview of Morten Hansen, Head of Economics Department of the Stockholm School of Economics in Riga, with author, Riga, 11 May 2011

550 Interview of Agnese Alksne, Corporate Social Responsibility and Communications Expert of the Latvian Confederation of Employers, with author, Riga, 16 May 2011.

551 Konceptcija par korupcijas risku samazināšanu valsts pārvaldes iestādēs un pašvaldībās (Framework Paper for the Reduction of Corruption Risks in the Institutions of State Administration and Local Governments). Korupcijas novēršanas un apkarošanas birojs (2010). Pp. 21-24.

http://www.knab.lv/uploads/tree/konceptijas/konceptija_korupcijas_risku_samazinanasana.pdf

two days.”⁵⁵² M.Hansen corroborates the differences in the ease/ difficulty of starting a business and winding it up (already mentioned under 13.1.1 “Resources (law)”).⁵⁵³

However, objections are occasionally raised about approaches that the agencies use within the existing regulatory framework. A.Alksne talked about practical difficulties, which arise in interaction between businesses and the state. Even a micro enterprise has to employ an accountant because of the electronic declaration system, which should be made more user-friendly.⁵⁵⁴ A problem is related also to the Enterprise Register and some other state agencies, which provide services, because they have no right to provide consultations. Elsewhere asking questions may result in more controls: “In the State Revenue Service, if you go and ask some questions, you know you’ll have an audit next week. All enterprises know it. Therefore they don’t ask questions.”⁵⁵⁵

All administrative acts of state agencies can be appealed within the hierarchy of the public administration and/or in the administrative court. However, in practice one can expect lengthy proceedings in the court.

13.1.3. Independence: law

Score: 100 / 100

To what extent are there legal safeguards to prevent unwarranted external interference in activities of private businesses?

Occasional complaints about the excessive discretion of civil servants in relations with the business are heard in the public realm.⁵⁵⁶ However, often enough they are not sufficiently specific to allow one to determine whether it is the law or its wrongful implementation where the problems are.

The Administrative Procedure Law provides for appeal procedures (Sections 76, 91 and others). They constitute the main mechanism for the business (as well as other individuals and organizations) to seek redress in cases of infringement on their rights in the course of registration, licensing and many other interactions with public officials. If a public agency has carried an illegal decision or action and thus caused a loss or damage to an individual or company, a claim for compensation can be made (Administrative Procedure Law: Chapter 8; Law on Compensation for Damages Caused by Agencies of the State Administration).

In case of suspected criminal activity of public officials, e.g. extortion of bribes, businesses are to use reporting possibilities open for any citizen, for example, in the CPCB.

Overall Latvia has all of the usual legal safeguards to prevent unwarranted external interference in activities of private businesses.

13.1.4. Independence: practice

Score: 75 / 100

To what extent is the business sector free from unwarranted external interference in its work in practice?

Latvia lacks recent quantitative data about the abuse of office or other types of corruption of government officials. In a survey in the end of 2007, 13.8 % of respondents who dealt with obtaining permits or licenses (for commercial activity, building, reconstruction of apartments, etc.) indicated that they had to make unofficial payments in excess of LVL 5 (approx. EUR 7). This was

⁵⁵² Interview with Agnese Alksne, 16 May 2011.

⁵⁵³ Interview with Morten Hansen, 11 May 2011.

⁵⁵⁴ Interview with Agnese Alksne, 16 May 2011.

⁵⁵⁵ Interview with Agnese Alksne, 16 May 2011.

⁵⁵⁶ Sauks pie atbildības patvaļīgus valsts ierēdņus (Arbitrary Civil Servants Will Be Called to Account). Nodokļu maksātāju biedrība, 18 February 2009. <http://nodoklumaksataji.wordpress.com/tag/ierednu-patval/>

more frequent than in relations with customs but less frequent than in relations with the Traffic Police.⁵⁵⁷ Although recipients of permits and licenses are not only entrepreneurs, such data show that apparently, at least in some areas, the business can be expected to make unofficial payments.

Some criminal cases reveal anecdotal evidence of businesses expected to pay bribes to officials. For example, on several occasions bribes were requested and accepted in relation to several building projects in a case reviewed in March 2011 by the Riga Regional court. The case involved three former officials of the City Development Department of Riga Municipality.⁵⁵⁸ A major bribery case in relation to public procurement by the Children's University Hospital involving the board members of the hospital.⁵⁵⁹ The dominant patterns of corruption are characteristic with a degree of collusion between some entrepreneurs and corrupt public officials rather than extorting and conflicting interaction (although some cases of requesting bribes, e.g. by Financial Police officers are known as well).

It is common for the business sector to complain about the performance of the State Revenue Service. Most often these complaints do not blame officials for abuse of office or bribery but rather criticize their unfriendly procedures and manner of work. A. Alksne mentioned several issues of concern such as the unpreparedness of the SRS to negotiate with companies that face difficulties with making due payments and delayed return of VAT advance payments.⁵⁶⁰

The administrative courts system, which is the main avenue of redress against the public-sector irregularities, has become notorious with its excessive case burden and backlogs. Length of court procedures (mentioned above in Section 3. Judiciary: 3.3. Role) makes this avenue of redress often completely unpractical for the business.

GOVERNANCE

13.2.1. Transparency: law

Score: 75 / 100

To what extent are there provisions to ensure transparency in the activities of the business sector?

All companies shall prepare and submit annual reports. An annual report shall include a financial report and management report. The financial report shall include a balance sheet, a profit or loss account, a cash flow statement, a statement of changes in equity and an annex (Annual Reports Law: Terminology). The management report shall provide clear information about the company's development, financial condition and performance results, substantial risks and uncertainties, main non-financial indicators, etc. (Annual Reports Law: Section 55).

Annual reports of all businesses that exceed at least two of three criteria (balance sheet total — LVL 250,000 (approx. EUR 355,000), net turnover — LVL 500,000 (approx. EUR 710,000), average number of employees in the reporting year — 25) shall be verified by a sworn auditor (Annual Reports Law: Section 62, Paragraph 1). The Enterprise Register shall ensure public access to the annual reports and opinions by sworn auditors (Annual Reports Law: Section 66, Paragraph 4).

The Annual Reports Law, the CoM 21 June 2011 Regulations No. 488 on the Application of the Annual Reports Law and other normative acts mandate the use of Latvian accounting

557 Latvijas iedzīvotāju aptauja "Attieksme pret korupciju Latvijā" (Survey of Latvia's residents „Attitude Towards Corruption in Latvia”), SKDS, November – December 2007. P.38. http://www.knab.lv/uploads/free/aptaujas/aptauja_2007_pieredze.pdf

558 Strāmam un Strancim piespriež bargus cietumsodus (Strams and Strancis Receive Harsh Prison Sentences). Kasjauns.lv, 11 March 2011. <http://www.kasjauns.lv/lv/zinas/42260/stramam-un-strancim-piesprie-z-bargus-cietumsodus>

559 Raidījums: atbrīvoti BKUS skandālā iesaistītie uzņēmēji (Entrepreneurs Implicated in the Scandal of the Children's University Hospital Released). Delfi.lv, 21 February 2010. <http://www.delfi.lv/news/national/politics/raidijums-atbrivoti-bkus-skandala-iesaistitie-uznemeji.d?id=30089809>
Tiesai nodota Bērnu slimnīcas amatpersonu lieta (The Case of Officials of the Children's Hospital Handed to the Court). Delfi.lv, 14 July 2011. <http://www.delfi.lv/news/national/criminal/tiesai-nodota-bernu-slimnecas-amatpersonu-lieta.d?id=39401959>

560 Interview with Agnese Alksne, 16 May 2011.

standards, which are available *inter alia* on the website of the Ministry of Finance.⁵⁶¹

Companies, whose transferable securities have been admitted to the regulated market, shall prepare consolidated financial reports in accordance with the Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards.

In July 2011, the Saeima amended the Commercial Law to strengthen requirements regarding the disclosure of physical persons who are the beneficial owners of companies. The primary purpose of the amendments was to achieve greater transparency of enterprises whose parent companies are registered in off-shore territories. However, this information shall be disclosed to controlling authorities only rather than the general public (Commercial Law: Section 17.¹). Hence this does not facilitate the transparency of the business sector other than in situations of official control activity. Anyway the novelty of the said amendment precludes any conclusions about the effectiveness of its implementation.

Overall the transparency standards for the business are in line with international standards and practice in Europe. Insufficient requirements for the disclosure of beneficial owners of enterprises are the main drawback as far as transparency in law is concerned.

13.2.2. Transparency: practice

Score: 50 / 100

To what extent is there transparency in the business sector in practice?

Names of company owners, officials and annual reports are available upon request in the Enterprise Register⁵⁶² and, at a higher cost, from the online database run by the *Lursoft* company.⁵⁶³ However, it is not always possible to know the beneficial owners of a company if they are registered in some of the so called off-shore countries (the practical effects of the July amendments to the Commercial Law (see 13.2.1 “Transparency (law)”) are unclear yet). The SRS carries out selective audits of the accounts of enterprises as a part of its tax collection function.

Some (usually larger) corporations do report on their corporate social responsibility (CSR) and sustainability. See, for example, the relevant sections of the websites of companies participating to the UN Global Compact *Cemex*⁵⁶⁴, *Grindex*⁵⁶⁵ and also non-participating companies such as the state energy company *Latvenergo*⁵⁶⁶, *Swedbank*⁵⁶⁷ and *Latvija Statoil*⁵⁶⁸ (mother companies of the latter two do participate in the UN Global Compact). However, it is rare that countering corruption is mentioned in any meaningful way as a part of a company's CSR activities or that companies disclose anything about their integrity policies (a few exceptions are described under 13. Business: 13.2.5 “Integrity mechanisms (law)”).

Also the level of detail in reporting about CSR varies from highly informative reports to merely general phrases. Even some of the companies that participate to the UN Global Compact do so in a formalistic manner especially as far as anti-corruption is concerned.

To mention an initiative on the national level, in 2010 the Confederation of Employers and the Free Trade Union Confederation launched the Sustainability Index. 70 Latvian enterprises

561 Latvijas grāmatvedības standarti (Latvian Accounting Standards). http://www.fm.gov.lv/?lat/gramatvedibas_politika/latvijas_gramatvedibas_standarti

562 Informācijas pieprasīšana no Uzņēmumu reģistra (Requesting Information from the Enterprise Register). <http://www.ur.gov.lv/infoapieprasana.html>

563 Visu Latvijā reģistrēto uzņēmumu datu bāze (Database of All Enterprises Registered in Latvia). Lursoft. http://www.lursoft.lv/uznemumu_datu_bazes.html

564 Ilgtspējīgums (Sustainability) http://www.cemex.lv/su/su_lp.asp

565 Korporatīvā sociālā atbildība (Corporate Social Responsibility). <http://www.grindex.lv/lv/par-grindeks/korporativa-sociala-atbildiba>

566 Korporatīvā sociālā atbildība (Corporate Social Responsibility). http://www.latvenergo.lv/portal/page?_pageid=73,1326876&_dad=portal&_schema=PORTAL

567 Sponsorišana un korporatīvā sociālā atbildība (Sponsoring and Corporate Social Responsibility). <http://www.swedbank.lv/docs/sponsorsana.php>

568 Latvija Statoil korporatīvā sociālā atbildība (Corporate Social Responsibility of Latvia Statoil) http://www.statoil.lv/lv/sociala_atbildiba/

participated in 2010 and 50 in 2011. They were evaluated according to a set of criteria, including many related to CSR.⁵⁶⁹

While transparency of the business sector is generally adequate, voluntary reporting about CSR activities and especially companies' anti-corruption standards should be practiced more broadly. Apart from the observance of statutory requirements, both of the experts interviewed for this pillar M.Hansen and A.Alksne talked about the general preponderance of Latvian companies to operate in a somewhat secretive manner. Given the high share of grey economy (42% of GDP⁵⁷⁰), the overall level of transparency is to be considered quite low.

13.2.3. Accountability: law

Score: 100 / 100

To what extent are there rules and laws governing oversight of the business sector and governing corporate governance of individual companies?

Latvia has adequate rules governing the general oversight of the business sector and governance of privately-owned companies. The company with limited liability is the most common form of enterprise, individual entrepreneurs come second, followed by joint stock companies.

Governance institutions of a company with limited liability are the participants' assembly and executive board as well as supervisory board, which is optional (Commercial Law: Section 209). Only the participants' assembly may elect and withdraw members of the supervisory and executive boards as well as elect and withdraw an auditor, controller of the enterprise and insolvency practitioner. The participants' assembly may also decide on raising a claim against a member of the supervisory or executive board, founder or participant (Commercial Law: Section 210, Paragraph 1).

Overall the law provides adequate obligations for the executive board to report to the supervisory board. To control for conflicts of interest, the executive board shall report to the participants' assembly about concluded transactions between the enterprise and any of its participants and members of the supervisory or executive board (Commercial Law: Section 221, Paragraph 5).

The two-tier governance system with both a supervisory and executive board is mandatory for joint-stock companies (Commercial Law: Section 266). The supervisory board may at any time request a report from the executive board about the state of the company, review all actions of the executive board and verify documents and property of the company (Commercial Law: Section 293, Paragraphs 1 and 2). Overall there is a fairly simple vertical hierarchy of reporting and supervision.

The Financial and Capital Market Commission "carries out the supervision of Latvian banks, insurance companies and insurance brokerage companies, participants of financial instruments market, as well as private pension funds"⁵⁷¹

13.2.4. Accountability: practice

Score: 50 / 100

To what extent is there effective corporate governance in companies in practice?

Recent assessments of the practice of governance of Latvian privately-owned companies are scarce. In a short assessment of the legal framework of corporate governance in Latvia in 2009, it was admitted that "Currently the main issue regarding corporate governance relates

569 The website of the Sustainability Index: www.ilgtspejasindekss.lv

570 Latvia County Assessment. Transition Report 2010: Recovery and Reform. European Bank for Reconstruction and Development (2010). <http://www.ebrd.com/pages/research/publications/flagships/transition/latvia.shtml>

571 The website of the Financial and Capital Market Commission: <http://www.fktk.lv>

[to] the governance arrangements of the state owned companies.”⁵⁷² The Riga Stock Exchange has published recommendations for the implementation of principles of corporate governance and sticks to the “comply or explain” principle regarding listed companies.⁵⁷³

Also research by the *Providus* shows that the governance of state-owned companies suffers from sometimes inadequate administrative capacity available for the implementation of the state’s ownership function (by default the state secretaries of ministries fulfill the functions of the participants’ or shareholders’ assembly), politicized appointments of company officials, common lack of goals for the companies, etc.⁵⁷⁴

Issues of public oversight earned some attention with the onset of the recent economic crisis. According to M.Hansen it would have been beneficial if some state oversight body had issued earlier warning signs about excessive lending by banks before the crisis and, in particular, about expected difficulties of the major *Parax* bank, which was nationalized in 2008.⁵⁷⁵

To conclude, as far as legally operating companies are concerned, the most acute accountability deficiencies are found in the sector of state-owned companies. Still, like transparency, the overall accountability also suffers from the high share of grey economy.

13.2.5. Integrity mechanisms: law

Score: 75 / 100

To what extent are there mechanisms in place to ensure the integrity of all those acting in the business sector?

The Commercial Law contains basic conflict-of-interest provisions. Otherwise some business associations have codes of conduct, for example, the Latvian Builders Association⁵⁷⁶, the Latvian Game Business Association⁵⁷⁷ or the Latvian Association of Commercial Banks, which has the Good Practice Code for Leasing Companies.⁵⁷⁸ For example, the Code of Ethics of the Latvian Builders Association postulates commonly met principles of honesty, objectivity, trust and loyalty. There is a prohibition for members of the association to become knowingly involved in activities compromising their profession, enterprise, organizations, agency or the association. Members and staff of the association shall not accept valuable gifts that could or could be viewed to influence their professional judgment. They shall not use confidential information for private benefit, against the law or so as to cause losses to their companies, organizations, agencies or recipients of their services.⁵⁷⁹ However, these codes do not necessarily cover all of the relevant anti-corruption issues such as conflict of interest, bribery, good commercial practices, gifts and entertainment policies.

There are also individual companies that have codes of ethics, conduct or practice although no data exist as to what proportion of companies have them or what proportion of such codes

572 The International Comparative Legal Guide to Corporate Governance 2009. Chapter 17. Latvia. P.95. http://www.borenium.lv/static/CG09_Chapter17_Latvia.pdf

573 Principles of Corporate Governance and Recommendations on Their Implementation. NASDAQ OMX RIGA, AS (2008). http://bicg.corporategovernance.lt/uploads/docs/corp_gov_feb2009_eng.pdf

574 Kalniņš, V., Litvins, G. Augošās vērtības meklējums. Valsts un pašvaldību kapitālsabiedrības: rīcībpolitikas un prakses izvērtējums (In Search of Growing Value. State and Municipal Companies: Assessment of Policy and Practice). Sabiedriskās politikas centrs PROVIDUS (2011). http://www.politika.lv/temas/tiesiska_valsts_un_korupcija/18984/

575 Interview with Morten Hansen, 11 May 2011.

576 LBA Ētikas kodekss (The Code of Ethics of LBA). Adopted on 28 March 2001. As amended on 22 February 2006. http://www.building.lv/news/408-new_version/88529-lba-etikas-kodeks

577 Biedrības „Latvijas Spēļu biznesa asociācija” pašregulējošais ētikas kodekss (Self-regulatory Code of Ethics of the Association “Latvian Game Business Association”). <http://www.lbsa.lv/lv/code>

578 Lizinga kompāniju labās prakses kodekss (The Good Practice Code of Leasing Companies). Adopted on 3 May 2006. <http://www.bankasoc.lv/lka/LabasPraksesKodekss.html>

579 LBA Ētikas kodekss (The Code of Ethics of LBA). Adopted on 28 March 2001. As amended on 22 February 2006. http://www.building.lv/news/408-new_version/88529-lba-etikas-kodeks

addresses corruption or conflicts of interest. For example, one of the Latvian participants to the UN Global Compact *Zygon Baltic Consulting Ltd* cites its Code of Good Working Practice as one of the means to counter corruption.⁵⁸⁰ Also other branches of international companies in Latvia such as *Swedbank*⁵⁸¹ and *Statoil*⁵⁸² have codes/ approved practices addressing the issues of conflicts of interest and/ corruption in explicit detail. However, as far as the law is concerned, there is no requirement for bidders for public contracts to have ethics or similar programs in place.

The Criminal Law criminalizes active bribery of foreign public officials as well as active and passive bribery in the private sector (Criminal Law: Sections 198 and 199; Section 316, Paragraph 3). Criminal sanctions can be applied also to legal entities (Criminal Law: Section 12, Paragraph 2; Chapter VIII¹).

In June 2011, the government considered the introduction of the so-called white list of trustworthy enterprises.⁵⁸³ However, no legal acts to this end had been adopted as of the end of August.

The overall integrity framework for the business sector is uneven and varies strongly from sector to sector and from company to company.

13.2.6. Integrity mechanisms: practice

Score: 50 / 100

To what extent is the integrity of those working in the business sector ensured in practice?

The business/ private sector as a whole is perceived as generally less corrupt than the public sector. According to the GCB 2010 in Latvia the business/ private sector was perceived as less affected by corruption (score 3.0 where 5 means extremely corrupt) than the judiciary (3.2) and the police (4.0).⁵⁸⁴ However, the score was even better for the military and the education system.

Nearly no data exist about the functioning of the integrity mechanisms in practice in the business sector. Anecdotal evidence allows one to identify practices of particular companies. For example, in one of the very rare public discussion on business integrity, the executive director of *Latio nekustamie īpašumi* (*Latio Real Estate*) Edgars Šins used to explain how the company used highly specialized personnel whose knowledge should help the achievement of results without bribery. Another means was the centralization of financial operations, which prevented money from being put in an envelope and handed to a partner.⁵⁸⁵

It is impossible to detect the exact spread of bribery by business. Hence one has to do with anecdotal evidence that becomes known from actual criminal cases sent for prosecution and handled by courts. It is common to talk about corruption risks in public procurement. This problem affects particularly such branches of economy that largely depend on sales and services provided to the state, e.g. construction, pharmacy, vehicle trade, etc. However, there are virtually no data to back up such concerns.

The detection of private sector bribery cases is rare. No representatives of Latvian compa-

580 Communication on Progress 2009, Joint Latvian – UK company Zygon Baltic Consulting Ltd (January, 2010). http://www.unglobalcompact.org/system/attachments/4493/original/ZBC_COP.pdf?1265982396

581 Apskats par interešu konfliktu novēršanai veiktajiem organizatoriskajiem un administratīvajiem pasākumiem (Review of Organizational and Administrative Measures to Prevent Conflicts of Interest). <http://www.swedbank.lv/docs/etika.php>

582 Uzņēmējdarbības prakses kodekss! (Entrepreneurship Practice Code) Latvija Statoil. http://www.statoil.lv/lv/par_mums/vertibas/uznemejdarbibas-prakses-kodekss/

583 Rosina 'baltajā sarakstā' iekļaut uzņēmumus ar vismaz 3 miljonu latu neto apgrozījumu (Inclusion of Enterprises with the Net Turnover of at Least 3 Million Lats in the 'White List' Proposed). Delfi.lv, 30 June 2011. http://business.delfi.lv/biznesa_vida/rosina-baltaja-saraksta-ieklauc-uznenumus-ar-vismaz-3-miljonu-latu-neto-apgroziju-u.d?id=39332473

584 Global Corruption Barometer 2010. Question 2: To what extent do you perceive the following institutions in this country to be affected by corruption? http://www.transparency.org/policy_research/surveys_indices/gcb/2010/results

585 Biznesa ētika: Baltijas un Ziemeļvalstu dialogi (Business Ethics: Dialogue of Baltic and Scandinavian Countries). Sabiedrība par atklātību – Delna, SAP (2005). P.16. http://delna.lv/wp-content/uploads/old_files/Delna_zinojums_LAT.pdf

nies have been prosecuted for bribing foreign public officials. There is no blacklist of companies that have engaged in corrupt practices.

The score on integrity mechanisms in practice has been reduced in part because of the generally low practical transparency and accountability of the business sector at large. Here the assumption is that integrity mechanisms cannot be isolated and remain effective in such environment.

13.3. ROLE

13.3.1. Anti-Corruption policy engagement

Score: 50 / 100

To what extent is the business sector active in engaging the domestic government on anti-corruption?

Business associations occasionally voice concerns about corruption and/ or call for the strengthening of anti-corruption measures in their contacts with the government and communication with the broader public. For example, in 2010 the chair of the Latvian Chamber of Commerce and Industry Žaneta Jaunzeme – Grende publicly talked about some businesspeople having been forced to pay for the adoption of political decisions.⁵⁸⁶ The Foreign Investors Council in Latvia has maintained the issues of transparency and corruption on its agenda in interaction with the government continuously for many years even if keeping a relatively low public profile and adhering to rather non-controversial style of public communication. Representatives of a number of business associations also participate in the Public Consultative Council of the CPCB.

As of 30 June 2011, the UN Global Compact had 12 participants from Latvia (two academic participants, one business association, two companies, six SMEs (one of them non-communicating) and one micro enterprise). This number is much smaller than in Lithuania (60 participants in total) but much bigger than the number of participants in Estonia – three.⁵⁸⁷ 24 organizations have signed a Latvian memorandum on CSR principles.⁵⁸⁸

All in all, while the business sector and associations are hardly on the forefront among anti-corruption policy champions, a certain degree of engagement has been seen continuously.

13.3.2. Support for/engagement with civil society

Score: 25 / 100

To what extent does the business sector engage with/provide support to civil society on its task of combating corruption?

Representatives of the business sector occasionally participate in anti-corruption events organized by civil society organizations. However, such participation almost never amounts to what could be called a joint business-civil society initiative.

Financial support from the business sector for civil-society anti-corruption initiatives is sporadic and usually quite small. For example, in 2010 *Delna* received LVL 1,016 (approx. EUR 1,400) in donations from legal entities, which are registered in Latvia, and LVL 5,177 (approx. EUR 7,400) from physical persons residing in Latvia some of whom are entrepreneurs.⁵⁸⁹

586 LTRK: uzņēmējiem prasa maksāt par politiskiem lēmumiem; vārdus neatklāj (LTRK: Entrepreneurs Are Requested to Pay for Political Decisions). Delfi.lv, 15 April 2010. <http://www.delfi.lv/news/national/politics/trk-uznemejiem-prasa-maksat-par-politiskiem-lemumiem-vardus-neatklaj.d?id=31261407>

587 United Nations Global Compact. Participant Search. <http://www.unglobalcompact.org/participants/search>

588 Bizness konkurētspējas atjaunošanai. Latvijas Darba devēju konfederācijas darbības stratēģijas 2009.-2013. gadam īstenošana 2010. gadā un prioritātes 2011. gadā (Implementation of the Strategy for 2009-2013 of the Latvian Confederation of Employers in 2010 and Priorities for 2011). P.32.

589 Biedrība "Sabiedrība par atklātību - Delna" 2010. gada pārskats (Annual Report 2010 of the Association "Sabiedrība par atklātību - Delna"). http://www.scribd.com/fullscreen/56795175?access_key=key-2jyspb6h5x94slwb226v

In times of social turmoil related to public integrity and corruption issues, occasional larger donations take place like the LVL 10,000 (approx. EUR 14,200) granted by one company to *Delna* in 2011.⁵⁹⁰ The donation was spent to organize a protest outside the Saeima regarding the secretive and allegedly oligarch-dominated election of the President of State on 2 June 2011 and carry out pre-election awareness-raising activities. Also the other active anti-corruption organization – *Providus* – has received only six private sector donations between LVL 1,000 and 6,000 (approx. EUR 1,400 – 8,500) in the period 2006 - 2010.⁵⁹¹

Overall the engagement and support of the business sector with/ for the civil society is weak.

13.4. KEY RECOMMENDATIONS

- The government should review the user-friendliness of state agencies' services for the business on a regular basis and focus particularly on improved consultation opportunities.
- Further possibilities to strengthen the disclosure of beneficial owners of companies should be considered at least making the currently required information publicly accessible.
- The government and/or non-governmental experts should carry out in-depth assessment of whether the fight against private-sector corruption should be enhanced by respective state agencies.
- More companies should choose to report about their CSR (including anti-corruption) activities. Business associations should promote such engagement and reporting as well as the idea of CSR in general. The planned so-called white list of trustable enterprises should contain also CSR criteria.
- Components on integrity should be included in business and management programs in education institutions.

⁵⁹⁰ Interview with the Director of Delna K.Petermanis, 1 July 2011.

⁵⁹¹ Providus līdzšinējie ziedotāji (Donators to Providus). <http://www.providus.lv/public/27441.html>

VII. CONCLUSION

The overall picture in Latvia shows a general weakness in the party-political sphere and the business sector. The former is exemplified by the relatively low scores of political parties and the legislature. The latter manifests itself in the score of the business and, in part, also the media. Imperfect as they are, it is the executive and judiciary, which, together with the CPCB and the SAO, form the stronger part of the state apparatus. The important second high performer – the CEC – stands somewhat apart. The CEC appears to have benefited from a lasting consensus of the political class to respect the integrity of elections.

As can be expected, the individual pillars are not isolated. Both positive and negative spillover effects are seen. For example, the relatively robust performance of the CPCB has been vital in strengthening the transparency and accountability of political parties. Similarly the strong performance of the SAO has contributed to the transparency and accountability of the public sector as a whole. The performance of the CEC has surely prevented the legislature from losing the remaining bits of trust that it has. In instances where individuals have been brought successfully to criminal justice for corruption offences, such achievement has been possible only because institutions from three pillars – the CPCB (Anti-Corruption Agencies), the Public Prosecutor's Office (Law Enforcement Agencies) and the court (Judiciary) have been up to their respective tasks.

On the other hand, negative spillovers abound, too. Surely, the poor transparency and civic role of the business contribute to weaknesses in the privately owned media. Meanwhile the publicly owned media suffers from vulnerability vis-à-vis their supervisors appointed politically by the legislature. The inclination of the political class to stretch its boundaries of authority damages also such parameters as the independence of executive bodies within the law enforcement pillar and the public sector at large. In turn, the relative disengagement of the whole public sector into anti-corruption activities places an inflated responsibility on a single agency – the CPCB – and represents a drag on the achievement of general strategic goals against corruption. Although Latvia's democratic processes are recognized universally as at least satisfactory, it is the further development of democratic controls and active citizenship that hold key to improvements regarding many of the shortcomings identified in this study.

It has to be noted that several pillars show major discrepancies between their legal framework and assessments of practice. For example, for many pillars, independence scores in law are higher than independence scores in practice (only for the CEC it is opposite). For the most part, this signifies Latvia's difficulties to ensure checks on political actors to the extent that the legislation foresees. Similarly, the near-perfectly designed provisions of transparency and integrity of the executive, judiciary, law enforcement agencies and the CPCB are in an obvious mismatch with the practice. This shows that, in many areas, remedies have to be sought in the

realms of public-sector culture and party-political relationships rather than in new regulation. In part, this situation can be explained by Latvia's efforts to bring its legislation up to the European standards in the years preceding its admission to the European Union in 2004. Apparently, attitudes and practices could not change as fast as the legal texts.

The weakest pillars of NIS in Latvia are Business, Public Sector and the Ombudsman. The operation of business still suffers from excessive administrative burden because state institutions are keen on controlling while giving consultations remains a bottleneck. The high share of grey economy compromises both the overall transparency and accountability of the business sector. The legal requirement for the disclosure of beneficial owners of enterprises allows only controlling authorities to access this information and is hence quite limited. Finally, it is the weak involvement of the business in anti-corruption activities that drags down the total score for this pillar.

As far as the public sector is concerned, a considerable number of public officials who occupy corruption-sensitive positions are subject to especially dangerous corruption risks because of drastic salary cuts due to the economic crisis. Appointments of high-level public positions require overt or tact political approval, and qualification criteria are not the main determinant of selecting an individual. However, the greatest drag on the pillar score of the public sector is its failure to engage in public education and cooperate with CSOs and other private parties in addressing corruption issues. Therefore the government should adjust its anti-corruption strategy so as to activate all public agencies in accordance with their roles, risks and possibilities.

Regarding the Ombudsman, it does not seem that the legislative majority has ever aimed at appointing the most professional, independent and active candidate for the position. The Ombudsman's Office's influence has been held back by the low public profile, questioned personal authority of the Ombudsman as well as weak public outreach activities.

Finally, although the media are not among the top-three underperformers, their low independence, resources and transparency are worrying. Apparently the state cannot do much about the resourcing of private media but further efforts are needed to limit the potential for political interference in the work of the public media and strengthen statutory requirements for media transparency. For the time being, Latvia has not lost the minimum necessary critical mass of media professionals capable of overseeing the performance of public institutions but such state of affairs cannot be taken for granted in the overall precarious situation.

The Supreme Audit Institution, the Electoral Management Body and – with a considerably lower score – also the Executive are Latvia's strongest pillars. Legal provisions provide full independence (i.e. adequate autonomy given the particular status of each of the institutions), adequate transparency and accountability of the executive and the SAO. The website of the SAO provides great wealth of information about the financial management and performance of the public sector both on the state and municipal levels. The SAO has full authority to oversee all public financial operations except the Saeima and it always reports the results to the audited entities and other bodies stipulated by law. Although recommendations by the SAO are acted upon and certainly contribute to improved practices across the public sector, their implementation cannot be taken for granted in all cases.

Although the accountability and especially the integrity of the executive are quite weak, other indicators compensate for these low scores. However, this should not turn attention away from the observation that various sorts of conflicts of interest and shuttling of ministers between their public roles and private business are commonplace.

Independence provisions of the CEC are much weaker but in practice its autonomy enjoys

an unusual political respect. The election administration operates with high integrity but it is achieved mainly through tradition and leadership efforts rather than with the help of extensive regulation. The CEC has succeeded in ensuring a high level of integrity for all elections in Latvia.

The NIS analysis for Latvia shows the results of a remarkable institution-building effort of about two decades. All of the 13 pillars have at least some capacity to carry out their roles and usually they do perform their tasks at least to some degree. The recent financial crisis did have a damaging effect on some pillars but it also prompted some citizens to rethink the importance of the state and their own role in democratic politics. If, on the one hand, such rethink proves sustainable and growing and, on the other hand, Latvia's is spared from repeated economic calamities, the NIS temple for Latvia has every opportunity to turn more level. For it is changing civic consciousness that can bring many of the practice indicators up to the same level as the finely designed legal framework in the books.

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ANNEXES

Annex No 1

NIS ASSESSMENT ADVISORY GROUP

Transparency International Latvia – Delna would like to thank the members of the NIS Assessment project Advisory Group for their involvement and observations:

Aleksejs Loskutovs	Member of Parliament
Baiba Pētersone	Head of the State Administration School
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Vita Tērauda	Director of the Centre for Public Policy Providus

PARTICIPANTS OF THE WORKSHOP: NATIONAL INTEGRITY IN LATVIA: A CHALLENGE

NAME, SURNAME	ORGANISATION	POSITION
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WORKSHOP: NATIONAL INTEGRITY IN LATVIA: A CHALLENGE?

The aim of the workshop:

To review the NIS Assessment Report, to build a common understanding of current situation regarding national integrity in Latvia, identify priority areas and formulate additional recommendations for policy reforms

Objectives of the workshop:

To introduce stakeholders with main findings of the NIS Assessment
 To discuss the conclusions and main drawbacks
 To agree on further advocacy steps for policy initiatives and reforms
 To gain stakeholders support for policy reforms

AGENDA

Wednesday, October 12, 2011

Hotel Alberts, Dzirnavu street 33, Riga, LV 1010

9:00 – 9:30	Registration
9:30 – 10:00	Welcome words and introductory information Kristaps Petermanis, Director of TI Latvia Sigita Ķirše, NIS Project coordinator
10:00 – 10:40	Overview: Purpose of the NIS Assessment, scoring, main findings Valts Kalniņš, Lead Researcher
10:40 – 11:00	Coffee break
11:00 – 13:00	Workshops: A: legislature, political parties; B: executive, public sector, supreme audit institution; C: law enforcement institutions, anti-corruption institution, judiciary; D: election management body, civil society, ombudsman; E: media, business
13:00 – 14:15	Lunch
14:15 – 15:30	Feedback from workshops: Weaknesses and additional recommendations (15 min. presentation for each workshop)
15:30 – 16:10	Panel discussion: Key advocacy priorities Inese Voika, Chair of the Board of TI Latvia
16:10 – 16:30	Closing

NIS ASSESSMENT SCORES

Foundations	Politics	75
	Society	75
	Economy	50
	Culture	50
	Foundations Overall	63

Pillar Scoring Board	1-LEG.	2-EXE.	3-JUD.	4-PS.	5-LEA.	6-EMB.	7-OMB.	8-SAI.	9-ACA.	10-PP.	11-MED.	12-CS.	13-BUS.
Resources (law)	100	N/A	75	N/A	N/A	N/A	N/A	N/A	75	100	100	100	75
Resources (practice)	75	75	75	50	50	75	25	75	75	75	50	75	75
Independence (law)	100	100	75	75	75	50	75	100	75	100	75	100	100
Independence (practice)	50	75	75	50	50	100	50	100	50	100	50	75	75
Transparency (law)	75	100	100	100	100	100	75	100	100	100	25	N/A	75
Transparency (practice)	75	75	75	75	75	100	75	100	75	75	25	75	50
Accountability (law)	75	100	100	75	100	100	75	100	100	75	75	N/A	100
Accountability (practice)	75	50	50	75	75	100	75	100	75	75	75	75	50
Integrity mechanism (law)	75	75	75	100	100	75	75	100	100	75	75	N/A	75
Integrity mechanism (practice)	75	50	50	75	50	75	75	100	50	50	75	75	50
Pillar specific 1	50	75	75	25	75	N/A	50	100	75	50	75	75	50
Pillar specific 2	50	75	75	25	-	100	25	75	75	50	75	50	25
Pillar specific 3	-	-	-	75	-	-	-	75	75	-	75	-	-
Capacity	81	83	75	58	58	75	50	92	69	94	69	88	81
Governance	75	75	75	83	83	92	75	100	83	75	58	75	67
Role	50	75	75	42	75	100	38	83	75	50	75	63	38
Overall Pillar Score	69	78	75	61	72	89	54	92	76	73	67	75	62

REVIEW OF THE NATIONAL INTEGRITY SYSTEM ASSESSMENT, LATVIA 2011

The Employers' Confederation of Latvia has read the report and in general considers it to be a comprehensible document that describes the overall situation in the country regarding the fight against corruption from both the legal and practical side. Overall, the author has selected the most colourful events that have prompted a debate in the media over a longer period of time, as well as caused a wide response from the society, thus they are considered topical.

It is important to note that while the author is referring to the economic crisis and the impact of the increasing shadow economy on the risk of corruption, he has not stated that it is the main reason for the corruption increase. This indicates a systemic understanding of the problem.

Facts and key developments

The author has used references from the latest sources and compared publicly available studies conducted over a course of several years. The annex also includes editorial corrections and additions to the introductory section on the government assessment for implementation of structural reforms, comments on supplementing the organised civil society section with successful social dialogue practices involving employers and trade unions in the consultation process, which is clear and transparent, as well as comments related to the business environment assessment on data updates and corporate social responsibility practices.

It should be emphasised that, in our opinion, the only section which has not been reviewed critically enough, is the section on judicial power, which has received a high score in the practice assessment of the fight against corruption. The Employers' Confederation of Latvia would like to suggest that the judicial power pillar be updated by stating that the problems of the judicial power associated with the inability to complete legal actions must be solved by reducing the chances to artificially extend the duration of legal actions.

Compliance

The study includes all of the thirteen pillars in the light of the main study topic of corruption. Recommendations for improvements of each pillar have been expressed consecutively and they do not conflict with the proposals of the persons interviewed and the author's analysis. At the same time, the summary points out two pillars as the weakest ones – the area of political parties and business.

I would like to comment more on the business pillar, which is presented in the summary as one of the weakest links in combating corruption. As stated in the analysis, corruption results in disorganised public administration and relationship with the controlling authorities and institutions, which by their nature should be supportive in order for a business to be able to carry out economic activity, but in the practice they are not. The existence of corruption is only a consequence of interaction between a business and these institutions.

It is not profitable for a business to engage in corruptive deals, as it raises project budgets and poses a high risk of harming one's corporate or personal reputation, if such transactions are discovered. Good public administration, respect for the laws and prevention of different

law interpretations will reduce the risk of corruption and enable honest businesses that engage in socially responsible practices to participate in public procurement for a more economically advantageous price and put their relationship with the state authorities in order.

It is important for the author to supplement their findings with a realisation that the existence of corruption in dealings of businesses with the state or local government institutions is only a consequence of disorderly processes in the country.

Recommendation for further analysis – include the local government level in the assessment of anti-corruption measures. The situation of local governments is closely related to the public administration pillar assessment problems, as local government institutions are the closest to citizens and businesses.

Facts / evidence

Taking into account that this is not an academic study but a qualitative analysis of the situation, each pillar follows a certain analysis design – there are two organisation representatives as opinion leaders who have expressed their opinion in other forums and interviews, legislative analysis and publication references on the topics and events chosen as the most outstanding examples.

Contentiousness / controversy

While reading the study, no conflicting assertions or interpretations were found in the areas known to the Employers' Confederation of Latvia. References to sources used in the analysis are valid.

Libel/defamation

The study is based on the analysis and interviews with experts who operate with both the facts and assumptions that are based on the positions and actions of organisations represented by them, as well as on personal experience. The persons interviewed are mostly publicly recognised as competent opinion leaders, who have already publicly expressed their views on the problems analysed.

10 January 2012

INTERVIEWEES OF THE NIS ASSESSMENT

PILLAR	PRACTITIONER	EXTERNAL EXPERT
Legislature	Māris Kučinskis , Member of Parliament	Ivars Ijabs , Associate Professor of Political Science, University of Latvia
Executive Public Sector	Gunta Veismane , former (2000-2010) Head of the State Chancellery Baiba Pētersone , Director of the School of Public Administration and former Deputy Director of the State Chancellery	Uģis Šics , former official at the State Chancellery, currently a private consultant with specialization on public administration Iveta Reinholde , Assistant Professor of the University of Latvia in public administration
Judiciary	Andris Guljāns , the former President of the Supreme Court of the Republic of Latvia, currently the Senator of the Department of Administrative Cases of the Supreme Court	Jānis Pleps , legal consultant of the Law Office of the Saeima, Lecturer at the University of Latvia and Business School "Turība"
Law Enforcement Agencies	Aldis Lieljuksis , former Chief of the State Police, Deputy Chief of the State Fire and Rescue Service Jānis Maizītis , former Prosecutor General (2000–2010)	Ilona Kronberga , former teacher at the Police Academy, current researcher at Centre for Public Policy PROVIDUS and advisor to the Minister of Justice
Electoral Management Body	Arnis Cimdars , Chair of the Central Election Committee	Iveta Kažoka , researcher at Centre for Public Policy PROVIDUS
Ombudsman	Annija Dāce (Mazapša) , former official at the Ombudsman's Office Jolanta Bojāre , Financial Management Specialist at the Ombudsman's Office Velga Slaidiņa , Senior Legal Advisor at the Ombudsman's Office	Mārtiņš Mīts , pro-rector, Riga Graduate School of Law and long-term lecturer on human rights
Supreme Audit Institution	Inguna Sudraba , Auditor General	Nata Lasmane , Director of the Audit Department at the Ministry of Finance
Anti-Corruption Agency	Normunds Vilnītis , Director of the Corruption Prevention and Combating Bureau	Iveta Kažoka , researcher at Centre for Public Policy PROVIDUS
Political Parties	Ainars Latkovskis , Member of Parliament	Jānis Ikstens , Professor of Political Science, University of Latvia
Media	Aleksandrs Krasnitskis , former editor of the Russian Media Telegraf	Anda Rožukalne , Leader of a study program on journalism and communication at Riga Stradiņš University
Civil Society	Rasma Pīpiķe , Director of the organization "Civic Alliance – Latvia" Zinta Miežaine , chairperson of the board of the association Workshop of Solutions and former member of the Public Benefit Committee (until March 2011)	Aivita Putniņa , Assistant professor in anthropology, the University of Latvia
Business	Agnese Alksne , Corporate Social Responsibility and Communications Expert of the Latvian Confederation of Employers	Morten Hansen , Head of Economics Department, Stockholm School of Economics in Riga, Vice-President of the Latvian European Community Studies Association, Research Associate at BICEPS and Research Fellow at the Centre for European and Transition Studies at University of Latvia Kristaps Petermanis , Director of Transparency International Latvia - Delna

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