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Abbreviations

| | |
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| CC | – Criminal Code of Latvia |
| CCP | – customs checkpoint |
| CEE | – Central and Eastern Europe |
| CL | – Criminal Law of Latvia |
| DLRTC | – Digital Latvian Radio and Television Centre |
| ECJ | – European Court of Justice |
| EU | – European Union |
| FPD | – Financial Police Department |
| GRECO | – Group of States against Corruption |
| KNAB | – Corruption Prevention and Combating Bureau |
| MT | – Ministry of Transport |
| NSC | – National Security Council |
| OECD | – Organization for Economic Co-operation and Development |
| RCDD | – Riga City Development Department |
| SP | – State Police |
| SRS | – State Revenue Service |

Preface

This is already the second issue of *Corruption °C* in a row during whose preparation the Corruption Prevention and Combating Bureau (*KNAB*) operated without a head appointed by the Parliament. One of the themes covered in this issue is difficulties that specialized anticorruption institutions face in Central and Eastern European countries that acceded the European Union several years ago. The article written by the internationally recognized Slovenian expert Goran Klemenčič and myself clearly shows that political backlash against this type of agencies is no exclusive feature of Latvia.

During the last decade various types of institutions for the prevention and/or investigation of corruption have been set up in the majority of the *new* European countries. Moreover institutional specialization in this area is no longer pure discretion of the country in question but rather a mandatory requirement of international treaties. The cases of Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia and other countries show that the prospects of this still rather new experiment – to tackle corruption with the help of a specialized institution – remain mixed in this region.

Any generalization about a group of countries so large and diverse is necessarily imprecise. Still it is possible to identify both negative and positive features present in many, though certainly not all of these states. On the one hand, reduced international monitoring that followed accession to the European Union allowed political elites behave more aggressively and try to draw lines how far corruption investigations can go. This results in either tacit unwillingness to cross the line or open clashes between politicians and anti-corruption institutions. In the latter case, even if institutions withhold pressures and maintain their autonomy, a risk of at least perceived politicization increases and prolonged confrontation with the government politicians may feed the appearance of proximity to the political opposition.

On the other hand, several possible failure scenarios have been avoided. Most (although surely not all) such bodies have avoided being abused as a tool against political opponents and they have received considerable resources. Therefore the experiment with establishing anti-corruption agencies has for the time being avoided an overall failure although their sustainability and effects on the overall corruption situation are under a question. The year 2009 and appointment of the next head of *KNAB* will largely clarify the prospects in the case of Latvia.

In line with the wisdom that successful prevention and combating of corruption depend on numerous characteristics of a given society, this report looks also at broader tendencies in the society and public administration in Latvia. 2009 is a year of at least two – municipal and European parliament – elections in Latvia. *Providus* wanted to find out how prepared are Latvian voters to punish corrupt political parties in elections and how important is corruption problem among other issues of concern for citizens when they go to polls. Therefore *Providus* commissioned a survey whose results are briefly reviewed in Chapter 2.

It appears that, when assessing a party, citizens pay more attention to a virtually technocratic capacity to solve problems, leaving the honesty of political parties as well as their ideological stances as second-order priorities. Almost all Latvian citizens hold negative attitudes toward corruption but meantime they find themselves in constant competition with other considerations on what is important as well as with widespread perception of corruption as a universally integral part of human mentality.

Speaking about public administration, this *Corruption °C* turns to the State Police. Linda Austere has compiled opinions of police officers about factors conducive to corruption risks in the police and their ideas about how to reduce these risks. The article concludes that insufficient communication dwarfs the effectiveness of corruption prevention measures already undertaken within the State Police. The average police officer is only partially aware of what steps have been made to reduce corruption and meantime believes that his/her own ideas to this end would be of little interest to anyone. This is a vivid illustration that neither in the whole state apparatus nor in a separate agency may corruption be effectively controlled with the efforts by just a few isolated institutions or officials.

Valts Kalniņš,
Corruption °C editor

1. The Fight against Corruption in Facts: July – November 2008

This chapter provides a chronological overview of the most significant events related to the prevention of corruption. As in all issues of *Corruption °C*, an account is given of those cases in which the Latvian Corruption Prevention and Combating Bureau (*KNAB*) has sent materials to the Prosecutor's Office to begin prosecution. There is also information published by the Prosecutor's Office on the initiation of criminal proceedings and on the charges laid. This chapter closes with information on the review of various draft policy documents, laws and regulations at a state secretary meeting, as well as within the Cabinet of Ministers (government) and the *Saeima* (parliament).

The search for candidates for the director of *KNAB* and the development of the selection procedure, with still no appointment by the end of November 2008, has yielded a contradictory assessment. At the beginning of July, the government rejected an amendment to the law regulating *KNAB* that would have led to a public tender for selecting the organization's next director. In October, the Cabinet adopted an instruction that allows candidates to announce their candidacy for the position themselves. The Prime Minister must ask the Prosecutor-General, the director of the Bureau for the Protection of the Constitution and the chairman of the Supreme Court to provide their opinions of the candidates. These opinions are not binding and the Cabinet decides which candidates should be evaluated at a National Security Council (NSC) meeting. After the NSC meeting, the Prime Minister nominates one candidate for discussion at a Cabinet meeting, followed by a recommendation to the *Saeima* to appoint the new head of *KNAB*.

Prime Minister Ivars Godmanis has said publicly that the existing staff of the Bureau will not be nominated for the directorship of *KNAB*. However, Jūta Striķe, the deputy head of *KNAB*, is within the current applicant pool.¹

¹ Fifteen more candidates had applied – Aivars Tirumnieks, the senior inspector of the First Department of the Short-term Detention Bureau of the Riga Regional Police Public Order Unit; Artūrs Zvejsalnieks, a former employee of the Security Police (admitted to the legal profession in November); Jānis Ādamsons, a former member of the parliament; Artis Stucka, the deputy state secretary for monitoring local municipalities in the Ministry of

In November *KNAB* completed a probe into party declarations of income and expenditure for the year 2006 and ordered the Prime Minister's party (*LPP/LC*) to pay 528 870.01 LVL (752 514 EUR) into the state budget. In spite of the applicable pre-election expenditure limit of 279 631.20 LVL (397 879 EUR), *KNAB* found that the Latvia's First Party and Latvian Way coalition had spent a total of 701 857.45 LVL (998 652 EUR) of expenditure before the 2006 elections of the 9th *Saeima*.²

At the end of November, the Riga Regional Court sentenced Ilmārs Bode, the former head of *KNAB* investigation department. Bode's case had led to a conflict between Aleksejs Loskutovs, the former head of *KNAB*, and Aigars Kalvītis, the Prime Minister at the time, when Kalvītis objected to Bode's suspension from duty and disciplinary punishment for disclosure of confidential information and abuse of office. For these violations, Bode was given a fine amounting to 80 minimal wages (12 800 LVL or 18 300 EUR). The court also prohibited Bode from running for election for three years. Bode had disclosed information about phone tapping against Irēna Poļikarpova, the chairwoman of the Riga City Vidzeme District Court, and had disclosed information regarding a confidential document to this judge as well.

During an ongoing search for a director of *KNAB*, the relations between *KNAB* and the State Revenue Service (SRS) worsened. Between August and October, the SRS began criminal proceedings against several *KNAB* officials for presenting false information on their official income declarations, for earning income that may have exceeded the amount that they had officially declared and other offences. In October, *KNAB* sent a letter requesting that the Prosecutor-General assess whether the SRS Financial Police had acted unlawfully and unjustly by beginning criminal proceedings against the Bureau staff in an effort to influence its operations. *KNAB* gave several examples when criminal proceedings had not been started for similar offences with other officials. In addition, *KNAB* reproached

Regional Development; Sergejs Šutkovs, project manager for the construction of Riga Southern Bridge of the company *BMGS*; Armands Stumbergs, the chairman of the Court of Arbitration and the chairman of the board for the Chamber of Corporate Legal Solutions and Research; Raimonds Avdejevs, the deputy head of the state agency *Material Reserves*; Gunārs Cāzers, legal consultant of the individual merchant *Musa international*; Normunds Vilnītis, member of the board for *KKC Biznesa centrs, Ltd.* and *Komerckonsultāciju centrs, Ltd.*; Daniils Zimovs, legal advisor for a deputy of Jūrmala City Council; Aleksandrs Krasīņikovs, rector and the chairman of the board for *Rimpak Livonija, Ltd.*, acting researcher at the Legal Institute of the Faculty of European Studies of Riga Stradiņš University; Andrejs Mamikins, host of the interview show *Bez cenzūras* at *TV-5 Latvija*; Raimonds Rublovskis, head of the Strategic Planning Department of the Joint Headquarters of the National Armed Forces; Sandra Priedīte, administrator at the Document Copy Bureau of the *Saeima*; Kristīne Jarinovska, former state secretary in the Ministry of Education and Science.

² *LPP/LC līdz decembra vidum jāatmaksā valstij pusmiljonu latu* (LPP/LC is to repay half a million lats to the State by mid-December). LETA, 05.12.2008. <http://www.delfi.lv/archive/article.php?id=22569421> Last viewed on 03.01.2009.

the SRS for the publication of unverified assumptions. Some opinions expressed in public said that the SRS actions might be explained as a reaction to *KNAB* previous investigations against some SRS officials.

Criminal proceedings about which *KNAB* has published information³

This section summarizes only those criminal proceedings about which *KNAB* had published information by the beginning of December 2008, and concerns offences in state institutions. Similar criminal proceedings, not reviewed here, have also been initiated in other law-enforcement institutions.

The distribution of officials, who in accordance with the following criminal proceedings, may have committed criminal offences, is as follows:

- the director of SRS Customs Crime Department and seven other customs officials,
- two officials from the SRS Financial Police,
- three officials from the Riga City Council,
- two officials from other municipalities,
- a prosecutor,
- an official from the Ministry of Transport,
- an official from the motor vehicle technical inspection.

In October, a *KNAB* investigator sent materials of criminal proceedings begun in February 2008 to the Prosecutor's Office about bribery in the Riga City Council, bringing to justice three officials of the Riga City Development Department (RCDD) and four private persons.

In 2005, after receiving information about a plot of land for which the owner wished to obtain the right to build a significantly greater (than foreseen) number of floors and implement other changes, officials of the RCDD demanded a bribe of 1 000 000 EUR to ensure a change of the land exploitation status (part of the bribe, no less than 326 000 EUR, was received).

In 2007, after negotiations with other city officials, the three officials of the City Development Department demanded and received 60 000 EUR, in parts, through an intermediary for the adoption of a favourable ruling in support of the

³ This is an abbreviated version of the information sent by *KNAB* through its e-mail newsletter *KNAB Jaunumi* (*KNAB* news) and *KNAB* press releases. For more precise information, please see: <http://www.knab.lv/lv/knab/press/> Last viewed on 02.12.2008.

construction of a housing complex. The bribe was further passed on to unidentified officials in the Riga City Council. Later, through an intermediary, another 40 000 EUR were asked from the enterprise (of which 20 000 EUR were received).

In the third case (also in 2007), after agreeing with other officials from the Riga City Council, the officials of the RCDD requested an illegal payment from an enterprise of no less than 60 000 EUR for decisions in favour of the developers during the process of getting a building permit for the construction of a housing complex. Some time later, the total sum was increased to 80 000 EUR (out of this sum, partial amounts of 20 000 EUR and 45 000 EUR were handed over).

In the fourth case in 2007, regarding favourable decisions for the advancement of a project in the Riga City Council and its institutions for the construction of a housing complex, one of the RCDD officials demanded an illegal payment of 30 000 EUR through an intermediary. However, this sum was not paid to the intermediary.

On 17 October, *KNAB* employees detained a Jūrmala city prosecutor for extorting a bribe. The bribe was delivered through an intermediary, who was also detained. The bribe, amounting to 25 000 LVL, was requested so that the prosecutor could ensure a favourable ruling for a person going through a criminal procedure in connection with a physical assault against a person. *KNAB* detained the prosecutor after part of the bribe, amounting to 15 000 LVL, was received.

On 17 October, *KNAB* detained an investigator of the Latgale Regional Finance Police of the SRS for demanding a 5000 EUR bribe, through the involvement of an intermediary. The bribe was requested from a business representative to ensure that a criminal proceeding would not be initiated. *KNAB* also detained an individual suspected of working as an intermediary in this bribery case.

On 22 October, *KNAB* began criminal proceedings regarding the delivery of a 500 EUR bribe to officials from a municipal council building authority in Riga region. The bribe was intended to help attain approval for the technical project of a trade facility. The building authority informed *KNAB* about the fact of the money delivery. The *KNAB* investigator deemed the business representative to be a suspect in this bribery case.

At the end of October, a *KNAB* investigator sent materials to a prosecutor about criminal proceedings begun in April over a request of a 15 000 LVL bribe. The *KNAB* investigator proposed initiating criminal proceedings against the senior investigator of the SRS Financial Police Department (FPD) and four entrepreneurs. With the help of intermediaries, the FPD senior investigator demanded a bribe from one of the entrepreneurs for not initiating an audit of the enterprise's operations. The requested bribe was received and passed on within a two-day period in different Latvian cities. Furthermore, there were four business officials involved as intermediaries. The investigator used his professional skills for illegal operations and for hindering the detection of these activities. After accepting 8 000 LVL, the investigator was detained. The intermediaries misappropriated 7 000 LVL as part of the total amount demanded for further delivery to its recipient.

At the end of October, a *KNAB* investigator sent criminal proceeding materials to the Prosecutor's Office (initiated in October 2007) regarding bribery at the customs checkpoint in Terehova. The investigator suggested beginning the prosecution of 12 persons (including seven officials of the SRS Latgale Regional Customs Department – the deputy head of the Eastern Latgale Customs Checkpoint Department, two shift managers at the Terehova customs checkpoint (CCP) and four senior customs supervisors). The officials of the Terehova CCP received material benefits for themselves and their families in exchange for not controlling and checking vehicles and cargos. From May to October 2007, customs officers had formed and organized group of persons that was engaged in bribe-taking and the extortion of bribes in exchange for not performing control functions, processing customs procedures and not filing violations of customs regulations. An agreement was in place among several Latvian and foreign enterprises and customs officers. This agreement foresaw the precise amount of a bribe for certain illegal activities of customs officers and was related to the vehicles and cargos of these enterprises. The reward for these officials' activities was possibly paid several dozen times per day (from 100 to 200 USD on average per instance).

In November, *KNAB* investigators sent materials to the Prosecutor's Office over a criminal process started in June. The investigators were seeking the prosecution of the manager of the Jūrmala City Council Economics and Development Department for exceeding his official authority. The official, who was the municipality's only shareholder representative in *Jūrmalas slimnīca* (Jūrmala Hospital, Ltd.) and who was authorized to pass rulings at the company's shareholder meetings, carried out deliberate actions that exceeded his rights and scope of authority. His actions contravened the law on the Prevention of the Misappropriation of Financial Resources and Property in State and Local Governments. The city council official had made the decision to sign a settlement, as part of criminal case in which *Jūrmalas slimnīca* was claiming damages amounting to 23 660 LVL. As part of the settlement, the official agreed to a reduced compensation settlement of 11 000 LVL, resulting in losses of no less than 12 660 LVL.

In November, a *KNAB* investigator sent criminal proceeding materials to the Prosecutor's Office in order to initiate the prosecution of the former Customs Criminal Department director of the SRS. Between 2002 and 2007, the official used funding from the bank accounts of an offshore company and a private person, engaged in illegal financial transactions and failed to declare a large amount of income received. The official used credit cards from these two bank accounts to spend 93 858 LVL, and conducted nine undeclared transactions that exceeded 20 minimum monthly salaries.

On 19 November, *KNAB* sent criminal proceeding materials to the Prosecutor's Office regarding the taking of a 40 LVL bribe in order to initiate the prosecution of a motor vehicle technical inspection official (deputy shift manager). In the summer of 2008, the official ensured that an inspector would be available to issue a technical inspection sticker on a vehicle that was not in suitable technical condition.

On 22 November, *KNAB* sent criminal proceeding materials to the Prosecutor's Office in order to initiate the prosecution of an official from the Ministry of Transport (MT) and the executive director of an enterprise. In December of 2006, the responsible official at the MT prepared and submitted a request to the ministry's management for the approval of several lectures related to EU structural funds. For this service, the MT agreed to pay 3 870.40 LVL to the enterprise that is now being prosecuted. However, these budget resources were not used for the purposes stated in the contract, but were used instead for organizing the MT Christmas event. Although the terms of the contract were not fulfilled, the executive director of the enterprise prepared and submitted to the MT an inadequate acceptance certificate that gave his enterprise the right to receive payment from the ministry. In turn, the MT official, knowing that the content of the document did not correspond to the actual service delivered, submitted the document to the ministry's accounting department for the transfer of the money.

On 27 November, *KNAB* sent criminal proceeding materials to the Prosecutor's Office about taking of a 400 LVL bribe, in order to initiate the prosecution of a building authority official of the Krimulda Municipal Council of Riga region. In the autumn of 2007, the building authority official accepted an unlawful payment of 400 LVL from a landowner. The official participated in the regulatory development process linked to the use of the territory and to construction activities on this land. He also put together a municipal resolution plan concerning the use of this property, and pushed for its approval at a municipal council meeting.

Criminal proceedings concerning corrupt activities about which the Prosecutor's Office of the Republic of Latvia has publicized information⁴

On 1 July 2008, a prosecutor passed criminal proceedings to a court about theft, an attempt to deliberately damage someone else's property and other offences committed by the accused Raimonds Štālbergs, Edgars Gulbis and three other persons. E. Gulbis was accused of offences related to the incitement of bribery, misappropriation of a bribe, supporting an attempt to deliberately damage someone else's property, forgery of documents and the use of forged documents, an attempt to forge the materials of a criminal case and incitement to influence an expert so that a false statement is made, as well as deliberately giving false testimony during the pre-trial investigation. R. Štālbergs is accused of offences that are connected with the organisation of a theft, an attempt to organize the deliberate destruction of someone else's property, as well as theft of information containing commercial secrets. In addition, three other people are accused, of whom two were involved in the bribery episodes and one involved in the theft.

⁴ Data used from the Prosecutor's Office of the Republic of Latvia website: www.prokuratūra.gov.lv Last viewed on 02.12. 2008.

On 1 August, it was announced that the initiator of criminal proceedings against Aivars Lembergs, the chairman of Ventspils City Council, sent these proceedings to the Supreme Court to determine their jurisdiction. The municipal leader is being accused of repeated acceptance of bribes on a large scale (239 670 LVL) related to the extortion of bribes, and of laundering illegally obtained financial resources and other possessions on a large scale (4 916 900 LVL) as a member of a group. As an official, he is accused of preparing and submitting a falsified document, encouraging and participating in property deals that are prohibited due to his official status, deliberately abusing his office, deliberately using his authority while being in a conflict of interest, and deliberately giving false information in the declarations required by law. Also, two individuals were called to justice in this criminal process for consciously advancing the criminal operations of Aivars Lembergs. In the end, the case was handed to the Riga Regional Court for review.

On 26 September, a prosecutor brought to court the criminal proceedings of former *KNAB* officials Indra Veipa and Jānis Imša, who allegedly took possession of money that was serving as material evidence and that had been seized during criminal proceedings. Furthermore, I. Veipa was accused of inaction as a state official. According to the charges, J. Imša altogether took possession of 82 908 LVL, 24 500 EUR and 7 800 USD between January of 2004 and April of 2008. I. Veipa, was charged for the illegal possession of 14 270 LVL, 19 487 USD and 13 995 EUR during the period extending from November of 2007 through April of 2008.

In the beginning of October, a prosecutor submitted an appeal protest in a criminal case where judge Diāna Mašina – who had been accused of abuse of office and making of unlawful rulings – was put by a court of first instance on probation as a punishment. The prosecutor considers that the punishment set by the Riga Regional Court on 9 September 2008 does not correspond to the committed offences and that the purpose of the punishment stated in the Criminal Law – to punish offenders and to make sure that convicted and other persons abide by the law and refrain from committing criminal offences – cannot be served by applying probation as a punishment. Nor can the conditions indicated by the judicial council – that more than five years have passed since the committed offence and throughout this time D. Mašina has been free, and that with a decree of the *Saeima* she has been discharged from her position as a judge – provide sufficient reason for applying such a mild punishment.

On 20 October, based on information that had been received from *KNAB* and based on the law on the Prosecutor's Office concerning disgraceful behaviour that is not compatible with a prosecutor's position, Prosecutor-General Jānis Maizītis formally discharged Irina Bogdanova, a prosecutor at the Jūrmala city prosecutor's office, from her position. *KNAB* had detained the prosecutor for the extortion of bribes.

On 24 October, a prosecutor made the decision to bring to trial Pēteris Strancis (a former director of the Riga City Development Department), Vilnis Štrams (another former director of the RCDD) and Raimonds Janita (a former administration

manager of the RCDD) for accepting bribes following a previous agreement between the persons in the group. Charges were raised concerning four episodes of criminal offences (see this report's previous section: Criminal proceedings about which *KNAB* has published information concerning the month of October). In addition, charges for bribery were raised against three other individuals.

In November, a prosecutor brought to trial the case of the liquidation process of the Digital Latvian Radio and Television Centre (DLRTC). Māris Rutks, also Rutkis, Jānis Bokta, Uldis Lavrinovičs, Dzintars Zariņš and Andris Korlašs, as board members of the DLRTC parent company – the state joint stock company Latvian State Radio and Television Centre – are facing criminal charges for abuse of office. The liquidator of the DLRTC is also facing charges. The agreement signed by DLRTC, which foresaw the introduction of digital television in several stages and the delivery of various specified equipment for digital broadcasting in Latvia, gave rise to the so-called digital television case that was being reviewed in court during the preparation of the report.

In November, a prosecutor submitted a claim in the Sigulda City Court against Tālis Puķītis, the chairman of the Sigulda District Council and of the Riga Regional Council, for damages of 109 588 LVL incurred by the Sigulda municipality. On 2 July, 2008 a legal ruling came into force whereby T. Puķītis was sentenced for breaching his official duties and for incurring damages upon the Sigulda District Council to the amount of 109 588 LVL. The chairman of the council conceded that the 15 shares of *Siguldas senleja Ltd.*, owned by the Sigulda municipality had been sold in 2002 for a reduced price.

Legislation and policy documents

On 17 July, the *Saeima* accepted amendments in their final reading to the law on the Financing of Political Organizations (Parties). The amendments liberalize pre-election expenditure regulations, increasing the allowable size of pre-election expenditure per voter from the previous 0.20 LVL to the Central Bureau of Statistics' two-year-old published average salary, to which a coefficient of 0.0008 is applied (at the moment this sum exceeds 0.30 LVL). It also increases the sum that one person can donate to a party per year from 10 000 LVL to 100 minimal monthly salaries (16 000 LVL as of November 2008).

On 17 July, after the President of Latvia had sent back the law on the Legalization of Criminally Gained Resources and the Surveillance of Terrorism Financing for a second review, the *Saeima* adopted it in a final reading.

On 17 July, the *Saeima* rejected amendments to the law on *KNAB* that would have forced the Cabinet to hold an open competition for appointing the organization's director.

On 21 July, the Cabinet supported the framework document entitled "The Necessity for the Legal Regulation of Lobbying in Latvia," which included the recommendation to introduce requirements for institutions to publish informa-

tion about lobbyists in their codes of ethics. The framework document plans for officials to publish information about lobbyists and persons whom the lobbyists represent, the specific decision-making process or connected area where lobbying is taking place, and to list consultations held with lobbyists (in a consultative council, in a work group, or in any other way). Officials would have to ensure that all lobbyists who are interested in the resolution of a specific question be given an equal possibility to meet with decision-makers and preparers and to receive the information they require. It would be forbidden not to observe the principle of equality, to provide specific lobbyists with special advantages and to accept gifts, offers or other goods from lobbyists or from the organizations that are paying the lobbyists.

On 22 September, a Cabinet committee supported *KNAB* Political Party Financing Framework Document, which foresees a gradual move towards financing parties from the state budget after 2010, including pre-election campaign expenses. Parties that receive more than 2 percent of the vote in parliamentary elections would have the right to receive annual payment sums beginning in November 2010 amounting to 0.50 LVL for each vote received, if the party is not penalized for violations in party financing or pre-election agitation.

On 2 October, the *Saeima* accepted in its final reading the law on Term of Service Pensions for *KNAB* Officials. This law grants the right to a pension to *KNAB* officials who have served for 20 years or more and who have reached the age of 50, or who, independently of their age, have been laid off due to health reasons or due to downsizing of the workforce. The necessity of the law was based on the fact that unlike the case with other law-enforcement institutions, pensions had not been foreseen for *KNAB* officials, thus ending this unequal situation. It has to be noted that social guarantees have been considered an important factor for averting corruption.

On 2 October, the *Saeima* rejected a draft amendment to the law on *KNAB*, which would have demanded that candidates for the *KNAB* director's position have at least five years of previous work experience in *KNAB* or other law enforcement institutions.

On 27 October, a Cabinet committee adopted the amendments to the Law on Public Procurement, which plans to end the imposition of procurement procedures in those cases when the value of the goods or services offered does not exceed 92 755 LVL, and for construction costs that do not exceed 200 000 LVL. According to these amendments, in those instances when an institution wishes to buy goods or services with a value of between 1 000 LVL and 92 755 LVL, or to carry out construction work to the value of 200 000 LVL, information or an announcement about the contract will be published on the Procurement Supervisory Office website, along with the application deadline. The institution does not have to create a procurement commission, does not have to specify its evaluation and selection criteria, and the possibility to contest procurement conditions is not foreseen. *KNAB* expressed an opinion that the law amendments noticeably increase the possibility of corruption, because the greater part of

state and municipal procurements will take place without adequate controls, clear evaluation criteria and documentation. In addition, businesses will be excluded from the possibility of freely competing and disputing the procurement decisions that are taken.

On 28 October, the Cabinet accepted rules prepared by *KNAB* for the Cabinet concerning the Order by which gifts that are taken while fulfilling one's duties as a state official and that are the property of the state or municipal institutions, are registered, evaluated, used and purchased. It refers to gifts that are given by foreign officials or delegations to Latvian officials on official or work-related visits in Latvia or abroad, by foreign officials to state officials working in Latvian delegations, as well as to gifts given to state officials as state or municipal institution representatives on state holidays, days of remembrance and celebration. These types of gifts can be used for the needs of the institution in which the recipient of the gift holds his/her position, or can be given for the needs of another institution without reward. If the gift has artistic or cultural value, it is to be given to a museum. In other instances the officeholder is entitled to submit a request to buy the gift.

On 20 November, the *Saeima* accepted amendments in their second reading to the law on Pre-election Agitation Preceding Elections of the Saeima and the European Parliament, and the law on Pre-election Agitation Preceding Municipal Elections. The amendments envisage that on the day before and on the day of elections, pre-election agitation is forbidden in the media, public places and in a series of institutions. The regulation of pre-election agitation conducted by people who are not affiliated with any political organizations or unions is also foreseen. These people can use resources that do not exceed 15 minimal monthly salaries for pre-election agitation. Broadcast organizations or press publications that agree to distribute pre-election agitation materials must inform *KNAB*. In instances when the pre-election spending limit is exceeded, the bureau can forbid the carrying out of the further pre-election agitation for pay.

2. The Ends Justify the Corruption... up to a Point

Citizens' Attitudes and Readiness to Turn against Political Corruption in Elections

*Valts Kalniņš*¹

Some say that democracy imposes tight reins upon political corruption. The conventional argument sounds as follows: authoritarian leaders or governing groups can use their position for undue personal benefit, because they do not have to regularly be accountable to their citizens; whereas for democratic leaders or parties these opportunities are more limited, because in order to retain power, they must gain and keep the sympathy of their voters in competition with other politicians and parties.²

At first glance, this thesis might appear very convincing, as it is hard to find arguments that fundamentally overturn it. However, it is well known that political corruption also exists in countries where democracy is not seriously in question. In addition, there are known instances during free elections of noticeable electoral achievements being made by candidates and parties whose links with corruption are not a secret to the careful observer.

Such observations raise the issue of what additional elements are necessary for fully realizing the conventional thesis' optimism about democracy. In order for

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² This argument has been succinctly formulated by Rose-Ackerman, "The strength of the competitive political environment raises the stakes and reduces the likelihood of corruption. A competitive political system can be a check on corruption. For elected politicians the most immediate form of "punishment" occurs at the polls," in Rose-Ackerman, S. (1999). *Corruption and Government. Causes, Consequences and Reform*. Cambridge University Press, p. 127.

democracy to last and for corruption to decrease, the attitudes of voters are important. A corrupt party will fear losing an election mainly if corruption is truly seen as a sin in the eyes of voters and if these voters consequently turn away from the party. However, even if voters are disposed against corruption, a corrupt party may still have the chance of being elected. The negative trait of corruption may be balanced with other qualities, for example, a party's ideological closeness to voters on certain important issues, or its technocratic capacity to generate solutions to complicated and current policy matters. At other times, voters might have the conviction that corruption is found in all major political parties, and then the corruption factor can lose meaning during elections. The country's citizens will be weak corruption inhibitors if they pay scant attention to politics and political corruption and are poorly informed about them.

With three elections expected over the next two-year period, the Centre for Public Policy *Providus* commissioned a public opinion survey of Latvian citizens to find out the degree to which their beliefs and attitudes are favourable for elections working as an instrument to motivate political parties to avoid corruption.³

What do Latvia's citizens understand by the term "political corruption"?

Corruption can be defined in many ways and has many different characteristics. If one is not seeking to compare different corruption definitions and to analyse their specific advantages and disadvantages, then Clause 1 of Section 1 of the Law on the Corruption Prevention and Combating Bureau provides a useful definition: "For the purposes of this Law, corruption means bribery or any other action by a government official intended to gain a benefit or advantage for him/herself or other persons by means of his/her office or authority or by overextending the same."

This definition, of course, is not universal. For example, it does not consider private sector corruption and does not place emphasis on the actions of private persons as participants in the corruption process. However, there are three critical elements that constitute corruption: action, official status or powers that are used or exceeded, and ill-gotten gains. With regards to this definition, let us examine which situations Latvian citizens perceive as indicative of political corruption and what proportion of them do so. Survey respondents were presented with 13 situations, which they had to evaluate in terms of political corruption.

³ The survey was conducted by *SKDS* in September of 2008. N=883 Latvian citizens. The survey method was direct interviews at the respondents' places of residence.

Table 2.1.
Various views exist as to what constitutes political corruption.
Please indicate which of the below-mentioned situations could be considered
as political corruption, in your opinion. (% of respondents)

| | |
|---|------|
| The situation when a politician takes or asks for an unofficial payment to make a political decision | 71.2 |
| Appointing a person close to one's party to a lucrative, official, government-paid position | 52.7 |
| Expensive gifts (trips, cars, etc.) for politicians | 52.5 |
| The inexpedient use of government property (resources) | 48.7 |
| Greater financial support from the state budget to local governments that are led by people who are connected with a specific party | 48.1 |
| The support or adoption of political decisions that benefit companies belonging to people who are close to a specific party | 46.9 |
| The acceptance of illegal donations to finance a party's activities | 44.9 |
| The situation when a decision that benefits only a part of society is supported | 44.0 |
| Political decision-making that is influenced by lobbyists | 41.8 |
| The accordance of state funding without clear criteria | 36.1 |
| The expenditure of funding for pre-election campaigns that exceeds the sum permitted by law | 34.5 |
| Political decision-making without discussions with the general public | 30.9 |
| The adoption of a controversial political decision that is not sufficiently justified | 28.6 |
| Other | 0.7 |
| None of the above | 0.6 |

The case when politicians accept or ask for unofficial payments to make certain political decisions was most often seen by the survey's respondents as indicative of corruption. This situation fits with the most widely known corruption method – bribery – and also fits with the definition of corruption cited in the aforementioned law. It involves public officials' (politicians') actions (political decision-making) that are possible due to the officials' position of authority, and reception of ill-gotten gains. These elements are also apparent in several of the other situations that the respondents were asked to evaluate.

However, other situations have differing characteristics. Some apply not so much to individual officials as to their parties' activities. For example, when a greater proportion of state budget funding goes to those local governments that are run by the members of specific political parties, then the principal culprits are political parties as organizations, which may be using their position of authority to provide ill-gotten gains to select local governments and to the parties themselves. This specific situation was seen as a sign of political corruption by nearly half (48.1%) of respondents.

Still other situations could be classified as conflicts of interest, in which officials or parties make decisions that serve the interests of people who are close to these parties, but in which the parties themselves have not necessarily received any ill-gotten gains. For example, the practice of appointing a person close to one's party to a lucrative, official, government-paid position was deemed to be a corrupt practice by 52.7% of respondents. The distinction from corruption lies in the circumstances that ill-gotten gains are hinted at, but not proven beyond a doubt. Theoretically, the appointed person might indeed be the most professionally suitable for his or her new position and the "benefits" in terms of salary might be entirely commensurate with the responsibilities that this position entails.

There are also situations that may indicate corrupt activities, but that in themselves cannot be classified as undisputable instances of corruption. Politicians who receive gifts and other benefits may be suspected of receiving them in an ill-gotten manner through the use of their official status, although this may not necessarily be the case in all occasions. Over half (52.5%) of respondents saw the accordance of expensive gifts (trips, cars, etc.) to politicians as a sign of corruption. Similarly, unsuccessful activities that bring about losses to the state may generate suspicion but are not necessarily signs of corrupt activity. In this regard, nearly half of respondents (48.7%) viewed the inexpedient use of governmental assets (funds) as a sign of corruption.

Slightly less than half (44.9%) of respondents saw the unlawful reception of donations to finance party activities as a corrupt practice. An even smaller proportion (34.5%) thought the same about the expenditure of funding for pre-election campaigns that exceeds the sum permitted by law. These are special situations, because they may involve no activity of public officials. Nevertheless, they are deemed in international literature to be closely linked with corruption.

A substantial proportion of respondents (from 44.0 to 28.6%) see signs of corruption in situations, where political processes do not entirely conform to the principles of good governance (decisions with no clear criteria, which are not discussed or which are made with insufficient justification). This also applies to decisions that are made in the interests of narrow segments of society (decisions that benefit only a part of society or that are made under the influence of lobbyists). Even though corruption does motivate politicians to limit the avenues for discussion or to hamper the application of objective criteria, it is not the only reason why poorly justified, not discussed or irresponsible decisions are made. Besides, there is no way to avoid the fact that to a greater or lesser degree, decisions are taken to serve special interests or are made under the influence of lobbyists in every country of the world. Due to reasons that will not be discussed here, such situations cannot be automatically considered to be illegitimate.

Taking into account the different types of situations that Latvia's citizens may or may not see as indicative of corruption, it becomes clear that one or another party's association (or non-association) with corruption is also a subjective matter that depends on the perception of the voter.

The meaning of a party's corruptness or honesty

The influence of corruption as a factor in the behaviour of voters is likely to depend on the importance that citizens accord to a party's honesty or incorruptibility in the context of other considerations. This variable was measured with the help of two questions, one open-ended and one closed. The aim of the open-ended question was to find out the spontaneous reactions of respondents not influenced by pre-formulated answers. The closed question allowed us to learn the opinion of respondents about specific pre-defined factors.

In the open-ended question that did not offer answer variations for respondents to choose from, respondents were asked to name the three most important things that they would pay attention to when choosing which party to vote for if parliamentary elections were held today.

The most popular answer, expressed by 22.5% of respondents, was "the party's ability to solve the country's socio-economic problems." We shall consider this to be a clearly pragmatic answer, with the word "pragmatic" understood in this article as something that can lead to a desired goal, regardless of ethical considerations. It can be assumed that faith in a party's abilities also incorporates the presumption of its incorruptibility, to a greater or lesser degree, but that this assumption is only of secondary importance. The use of a party's ability to address the country's socio-economic problems as a voting criterion is not necessarily incompatible with some degree of corruption in the party.

In the next two most frequent answers, pragmatism is intertwined with more or less evident ethical considerations: "the party's accomplished works and fulfilled promises" (21.6%) and "the party's attitude towards the people and individuals" (17.1%). The party's honesty was directly mentioned by 13.1% of respondents and was the fifth most frequent answer. The fact that a party had not been involved in any corruption scandals was mentioned as a key issue by only 8.1% of respondents, leaving this answer ninth position, after such considerations as "the party ability to solve problems in specific sectors" (12.3%) and "the party politicians' knowledge and competence" (10.8%). Only 0.8% of respondents viewed the reputation of party financiers as being important, suggesting that information about party sponsors in itself might not play a large role in determining voters' choices. The question of the extent to which such considerations as "fulfilled promises" and "attitude towards the people" include an implicit evaluation on a party's honesty or incorruptibility is subject to interpretation.

The closed question⁴ offered answer options including pragmatic and efficiency-related considerations, along with party programme positions and ethical issues.

⁴ Usually a variety of considerations are seen as important in choosing which party to support in elections. Mark those three that you think are the most important.

Pragmatic efficiency considerations clearly dominated in answers to the aforementioned question: “the party’s ability to solve the country’s socio-economic problems” (55.2%), “party politicians’ knowledge and competence” (48.3%) and “the party’s ability to solve problems in specific sectors” (40.1%). Corruption-relevant issues: “the party has not been involved in corruption scandals” (25.3%) and “the party’s ability to promote the rule of law and democracy” (18.7%) were the fourth and sixth most popular. Overall, then, honesty and incorruptibility are important considerations for Latvian voters, but they (along with party programme positions) are secondary as compared with the party’s ability to function effectively (with effectiveness in this sense being understood from a technocratic viewpoint).

Table 2.2 shows, in descending order, the most frequently named considerations that were deemed to be important by the supporters of various parties (i.e. by those who answered how they would vote if parliamentary elections were to be held tomorrow). It can be seen that in their answers to the open-ended question (which did not feature a list of answers to choose from), supporters of the *LSDSP*, *TB/LNNK*, *TP*, *SC* and *D.LV* did not cite party honesty or the lack of a party’s involvement in corruption scandals as one of their five most important voting considerations.⁵

Honesty was most often mentioned by the supporters of *PCTVL*. It also ranked either fourth or fifth among supporters of the *SC*, *JL*, *LPP/LC*, *ZZS*, *VL*, *SCP*. Supporters of the *JL* and *LPP/LC* were the only ones who mentioned a party’s lack of involvement in corruption scandals as their fifth most important consideration. If they are not reminded, then citizens generally do not view the lack of involvement in corruption scandals as an important consideration. Moreover, it is difficult to discern the relationship between each party’s characteristics (such as membership in the current ruling coalition⁶) and the distribution of answers to this question.

⁵ Abbreviations of party names: *LSDSP* – Latvian Social-Democratic Workers’ Party; *PCTVL* – For Human Rights in a United Latvia; *SC* – Harmony Centre; *TB/LNNK* – Fatherland and Freedom; *JL* – New Era; *LPP/LC* – Latvia’s First Party/Latvia’s Way; *TP* – People’s Party; *ZZS* – Union of Greens and Farmers; *PS* – Civil Society Union; *VL* – Everything for Latvia; *SCP* – Society for Different Politics; *D.LV* – Democrats.lv (New Democrats).

⁶ In 2008, *TB/LNNK*, *LPP/LC*, *TP*, and *ZZS* formed the governing coalition.

Table 2.2.

Name the three most important things in a party that you would pay attention to when choosing which party to vote for if parliamentary elections were held today. (Distribution among supporters* of particular parties. 1 – most frequent answer, 5 – fifth most frequent answer to the open-ended question)

| Party | LSDSP | PCTVL | SC | TB/LNKK | JL | LPP/LC | TP | ZZS | PS | VL | SCP | D.IV |
|---|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|----------|
| Number of respondents who answered that they would vote for the party | 26 | 40 | 99 | 41 | 78 | 30 | 45 | 81 | 23 | 12 | 33 | 7 |
| The party's ability to solve the country's socio-economic problems | 1 | 4 | 2 | 2 | 2 | 5 | 4 | 3 | 1 | 1 | 1 | 1 |
| The party's accomplished works and fulfilled promises | 4 | 3 | 1 | 1 | 1 | 1 | 3 | 2 | 2/3** | 3/4 | | |
| The party's attitude towards the people and individuals | 3 | 1 | 3 | | | | 2 | 1 | 2/3 | 3/4 | 2/3 | 2/3/4 |
| The party programme and positions | | | 5 | 4 | 4 | 2 | 5 | 5 | | | 2/3 | |
| The party's honesty | | 2 | 4 | | 5 | 5 | | 4 | | 5 | 4 | |
| The party's ability to solve problems in specific sectors, such as health, education, the police or other areas | 5 | | 5 | | 3 | | | | 4/5 | 2 | 5 | 2/3/4 |
| The party politicians' knowledge and competence | 2 | | 5 | 5 | | 4 | 1 | | 4/5 | | | 5/6/7/8 |
| The party's list of members | | 5 | | 3 | | 3 | 5 | | | | | 5/6/7/8 |
| The party has not been involved in corruption scandals | | | | | 5 | 5 | | | | | | |
| Prominence of the party (well-known) | | | | | | | | | | | | 2/3/4 |
| The reputation of the party's financiers | | | | | | | | | | | | 5/6/7/8 |
| A results-oriented, practical party | | | | | | | | | | | | 5/6/7/8 |

* Supporters – those who answered they would vote for the party if parliamentary elections were held tomorrow.

** The appearance of several figures indicates that several answers were mentioned with the same frequency and that they share, for example, second and third place.

Table 2.3.

Usually a variety of considerations are seen as important in choosing which party to support in elections. Mark those three that you think are the most important. (Distribution among supporters* of particular parties. 1 – most frequent answer, 5 – fifth most frequent answer to the closed question)

| Party | LSDSP | PCTVL | SC | TB/LNNK | JL | LPP/LC | TP | ZZS | PS | VL | SCP | D.LV |
|---|-------|-------|-----|---------|----|--------|---------|-----|-----|----|-----|-------|
| Number of respondents who answered that they would vote for the party | 26 | 40 | 99 | 41 | 78 | 30 | 45 | 81 | 23 | 12 | 33 | 7 |
| The party politicians' knowledge and competence | 2 | 2/3** | 2/3 | 1 | 2 | 1 | 2 | 2 | 2/3 | 2 | 2 | 2/3/4 |
| The party programme and positions | 4 | 4 | 4/5 | 5 | | 4 | 4/5/6/7 | 4 | 5 | | 5 | |
| The party's ability to solve the country's socio-economic problems | 1 | 1 | 1 | 3 | 1 | 2 | 1 | 1 | 2/3 | 1 | 1 | 1 |
| The party's ability to promote the rule of law and democracy | | | | | 5 | | | 5 | | 5 | | |
| The party's ability to solve problems in specific sectors, such as health, education, the police or other areas | 3 | 2/3 | 2/3 | 2 | 3 | 3 | 3 | 3 | 1 | 3 | 4 | 2/3/4 |
| The party has not been involved in corruption scandals | 5 | | 4/5 | 4 | 4 | 5 | 4/5/6/7 | | 4 | 4 | 3 | |
| The prospect that people such as myself will benefit if the party comes to power | | | | | | | 4/5/6/7 | | | | | 2/3/4 |
| The prospect that my region will benefit if the party comes to power | | | | | | | 4/5/6/7 | | | | | |

* Supporters – those who answered they would vote for the party if parliamentary elections were held tomorrow.

** The appearance of several figures indicates that several answers were mentioned with the same frequency and that this frequency was divided, for example, into second and third place.

The fact that a party has not been involved in corruption scandals is mentioned more frequently when respondents are reminded by a respective response option. In comparing the answers to the open-ended and closed questions, no far-reaching conclusions can be reached, because in the second case each answer is individually affected by the restricted set of response options available. In this situation, the fact that a party has not been involved in corruption scandals was mentioned most often by *SCP* supporters (ranking in third position). For most of the supporters of other parties, this consideration ranked fourth or fifth. Among the supporters of three parties (*JL*, *ZZS* and *VL*), the ability of parties to promote the rule of law and democracy also featured as one of the top five listed considerations.

The information on the importance that voters placed at the abstract level to various considerations was complemented with answers about circumstances that might prevent the respondents from voting for an otherwise acceptable party. It is interesting to note that from this perspective, politicians' incorruptibility and honesty were deemed to be just as important as their perceived technical efficiency potential.

The importance of politicians' efficiency potential was reflected in the answer "the party leader is incompetent in issues that are important to the public" (seen as an inhibiting factor by 87.6% of respondents)⁷, while incorruptibility and honesty were deemed to be nearly as important in the answer "the party politicians are involved in corrupt activities" (chosen by 86.8% of respondents as an inhibiting factor) and "the party leaders have been caught lying" (chosen by 85.3%). Slightly more than three quarters of respondents (75.6%) indicated that they would be discouraged from voting for a particular party if it was found to violate pre-election campaign rules. Regarding party programme platforms, more than two thirds of respondents (69.2%) stated that they might refrain from voting for an otherwise acceptable party if "the party has formed a coalition with political forces that are unacceptable to me."

The importance that respondents placed upon incorruptibility and honesty in answering this question could well be explained by the fact that they had to express an opinion about each proposed answer, rather than choose the three most important considerations from a list. Here they did not have to restrict their choice and could view all of the listed answers as important if they wished. One can thus conclude that about 85% of Latvian citizens do accord concern to issues of corruption and lying among politicians, even if these considerations are generally not first on their priority scale.

⁷ Here and henceforth in this paragraph, the percentage figures apply to the answers: "would definitely dissuade me from voting for this party" and "would probably dissuade me from voting for this party."

Voter awareness

Whatever the voters' attitude towards honesty in a party and towards corruption as a factor in elections, these two considerations can gain additional prominence if voters are aware of corrupt practices. One of the aims of the survey was to measure citizens' awareness and to determine whether and how their degree of awareness might affect their behaviour in elections.

The respondents were asked to name three incidents of political corruption in Latvia. The events that they mentioned were classified either as involving real corruption in the opinion of experts (events referring to administrative and not political corruption were also included), or as events in which corruption could not be discerned. Then the respondents were divided into three categories: uninformed (did not answer or did not name any genuine case of corruption – 60.8%), informed (named one case of corruption – 21.0%) and well informed (named two or three cases of corruption – 18.2%). Under this classification system, less than half of Latvian citizens can be seen as being informed about corruption in the country. Clearly, the distribution of voters in each category is not the only issue that deserves attention. The correlation between the voters' degree of awareness, electoral choices and likely behaviour at elections is also of importance.

The breakdown of answers to the question of which political party the respondents would vote for is interesting when viewed from the perspective of whether the respondents are uninformed, informed or well informed. Table 2.4 shows the party ratings for respondents classified under these three categories. One noticeable trend is that the degree of support for such opposition political forces such as *JL*, *SCP* and *PS*, is greater among citizens who are better informed. In contrast, the popularity of *SC*, which is also in the opposition, is not necessarily related to the degree of voter awareness.⁸

For two of the ruling coalition parties – *TP* and *LPP/LC* – this relationship is reversed. In other words, for those citizens who are informed about corruption, these parties are less popular. This tendency of dwindling support among informed voters is also evident for the ruling *ZZS*, but is not as pronounced. The only ruling coalition party that has more support from well-informed citizens is *TB/LNNK*. Perhaps it is a coincidence, but support among well-informed voters is consistently lower for those two coalition parties – *TP* and *LPP/LC* – whose expenditures for the previous parliamentary election campaign were in greatest excess of the statutory spending limit.

⁸ In 2008, *TB/LNNK*, *LPP/LC*, *TP*, and *ZZS* formed the governing coalition. The parliamentary opposition consisted of *PCTVL*, *SC*, *JL*, *PS*, and *SCP*.

Table 2.4.
If parliamentary elections were held tomorrow, what party or electoral coalition would you vote for? (Answers by respondents' level of corruption awareness)

| Uninformed (n=530) | | Informed (n=185) | | Well-informed (n=168) | |
|-----------------------------------|-------|-----------------------------------|-------|-----------------------------------|-------|
| SC | 12.1% | SC | 17.4% | JL | 13.3% |
| ZZS | 10.3% | JL | 10.9% | SC | 8.9% |
| TP | 6.7% | SCP | 5.7% | ZZS | 7.8% |
| JL | 6.5% | TB/LNNK | 4.7% | SCP | 7.0% |
| PCTVL | 5.4% | PCTVL | 4.5% | TB/LNNK | 6.4% |
| TB/LNNK | 3.8% | PS | 4.1% | LSDSP | 6.1% |
| LPP/LC | 3.7% | ZZS | 4.0% | PS | 5.8% |
| LSDSP | 2.2% | LPP/LC | 2.6% | PCTVL | 4.7% |
| SCP | 1.5% | VL | 2.5% | TP | 4.6% |
| PS | 1.0% | LSDSP | 2.0% | LPP/LC | 2.4% |
| D.LV | 0.9% | TP | 0.5% | VL | 1.6% |
| VL | 0.7% | D.LV | 0.5% | D.LV | 0.6% |
| Will not participate in elections | 20.4% | Will not participate in elections | 11.9% | Will not participate in elections | 8.4% |

It is interesting to note that voters' awareness of corruption does not substantially affect the issues that they consider to be significant when choosing to vote for a party. In general, both when answering the open-ended question and when choosing from a list of response options, knowledgeable respondents were ready to name a greater number of crucial things or considerations that affected their choice than uninformed respondents.

However, there were some exceptions. Although political advertisements were not a prevalent consideration in any of the respondent categories, they occurred more often in the uninformed category (4.2%) than among the well informed (1.5%). Interestingly, the well-informed respondents often preferred more universal considerations, while considerations of a narrower character prevailed amongst the uninformed. In other words, among the considerations that were more often chosen by uninformed respondents were "the party's ability to solve problems in specific sectors, such as health, education, the police or other areas" (42.5% against 34.7%), "the prospect that people like me will benefit if the party comes to power" (15.1% against 9.0%), and "the prospect that my region/district will benefit if the party comes to power" (9.9% against 3.4%).⁹ An explanation of this trait cannot unequivocally be determined without thorough additional studies, but on a hypothetical level this might speak about uninformed respondents' inclination to favour specific, rather than abstract considerations or to harbour explicit hopes of receiving individual benefits from the State.

⁹ Other considerations, more popular among uninformed respondents than well-informed respondents, are "the party's prospects of entering the ruling coalition" (8.4% against 3.9%) and "the reputation of the party's financiers" (3.4% against 2.9%).

Tolerance of corruption

Clearly, there are citizens who, when choosing which party to vote for, do not rank the honesty and (in)corruptibility of parties as an important selection criterion. It is hard to say if these voters consider corruption to be a justified and generally accepted phenomenon, or if they have made a pragmatic choice and decided that the corruption of the party, unpleasant or unacceptable as it might be, is less important than the knowledge and ability of politicians to solve policy problems.

In order to establish the degree to which citizens consider corruption as being justified and/or a generally accepted phenomenon, respondents were asked to express their attitude towards eight statements that either indirectly justify corruption (“I might support a politician who steals, but who also works for the good of the rest of society”), acknowledge corruption as a generally accepted fact (“anyone finding themselves in a position of political authority would try to use it for their own, personal gain”), see corruption as insignificant (“a politician’s professional competence is more important than his or her honesty”) or information about corruption as being incomprehensible (“in political corruption cases, it is too difficult to understand who is guilty and who is not”).¹⁰

The respondents were asked to indicate their degree of (dis)agreement with the eight offered statements on a four-point scale (fully agree – 4 points, rather agree – 3 points, rather disagree – 2 points, fully disagree – 1 point). The number of points that each respondent could allocate thus ranged from eight (most intolerant of corruption) to 32 (most tolerant of corruption).¹¹ The answers “don’t know” were counted as 2.5 points. The respondents were divided into quintiles, based on the number of points that they allocated. The first quintile consisted of the least tolerant respondents, while the fifth quintile incorporated the most tolerant.

¹⁰ The complete list of statements is as follows:

- I might support a politician who steals, but who also works for the good of the rest of society.
- Everyone is corrupt in politics, nobody is much better than anyone else.
- In political corruption cases, it is too difficult to understand who is guilty and who is not.
- The information about political corruption cases is too biased and unreliable to understand who is guilty and who is not.
- Anyone finding themselves in a position of political authority would try to use it for their own personal gain.
- A politician’s professional competence is more important than his or her honesty.
- There are countries where political corruption is practically non-existent.
- I do not worry about irregularities in the financing of political parties.

¹¹ Answers regarding the statement: “There are countries where political corruption is practically non-existent” were ranked in reverse order: fully agree – 1 point, rather agree – 2 points, rather disagree – 3 points, fully disagree – 4 points.

Before returning to the respondent categories according to their levels of tolerance of corruption and to the impact of this degree of tolerance on their expected choice in elections, it is worth mentioning some other significant results that emerge from the respondents' answers. More than half of the respondents fully or partially agree to the generally accepted or, one might even say, the human nature of political corruption. For example, 56.1% respondents agreed that any person who found oneself in a position of political authority would also try to use it for their personal benefit. In addition, 53.2% of respondents agreed that "everyone is corrupt in politics, nobody is much better than anyone else."

These answers lead one to think that approximately half of the country's citizens might not be particularly sensitive to information about a party's or a candidate's level of corruption, because in their opinion, "everyone is like that" to a greater or lesser degree. Under such a mindset, pragmatically speaking, the degree of corruption is not a useful criterion for choosing which party to vote for. Nevertheless, other statements that indirectly justify corruption have significantly less supporters. Only 31.4% of respondents would agree to support a politician who steals, but who also works for the benefit of the rest of society, and only 26.5% agree with the statement that a politician's professional competence is more important than his or her honesty.

As when speaking about awareness, the degree of tolerance is also an important explanatory factor regarding one's attitude to particular parties. Table 2.5 presents the party ratings among respondents of the fifth quintile (most tolerant of corruption) and the first quintile (least tolerant of corruption). The differences in these two ratings are similar to the differences that are based on the respondents' level of awareness (Table 2.4).

Table 2.5.
If parliamentary elections were held tomorrow, what party or electoral coalition would you vote for? (Answers by respondents' level of tolerance of corruption)

| Fifth quintile (least tolerant) | | First quintile (most tolerant) | |
|-----------------------------------|-------|-----------------------------------|-------|
| ZZS | 12.9% | JL | 19.7% |
| SC | 10.6% | SC | 12.2% |
| JL | 8.8% | ZZS | 6.1% |
| PCTVL | 5.4% | PS | 6.1% |
| TP | 5.2% | SCP | 5.8% |
| LPP/LC | 4.6% | PCTVL | 4.9% |
| LSDSP | 4.2% | TB/LNNK | 3.6% |
| SCP | 3.6% | LPP/LC | 3.6% |
| TB/LNNK | 3.3% | TP | 3.3% |
| PS | 1.8% | VL | 2.1% |
| D.LV | 1.1% | LSDSP | 1.3% |
| VL | 0.0% | D.LV | 0.0% |
| Will not participate in elections | 19.7% | Will not participate in elections | 7.0% |

The issues that respondents deemed to be most important in choosing which party to vote for, differed between the most tolerant and the least tolerant respondents. It is not surprising that in the open-ended question, the fact that “the party has not been involved in corruption scandals” was deemed to be more important by those who were least tolerant of corruption (14.6%) than by those who were most tolerant (5.4%). A similar difference between the two groups could be seen in the question that provided a list of responses to choose from. A bit more than one third (35.4%) of those in the most non-tolerant quintile saw the party’s lack of involvement in corruption scandals as being important, while less than one quarter (24.7%) of those in the most tolerant quintile did so. Likewise, “the party’s ability to promote the rule of law and democracy” was deemed to be important by 29.9% of respondents in the non-tolerant quintile, but only by 11.5% of respondents in the tolerant quintile.

These results seem consistent with the intuitive notion that people who are tolerant of corruption assign lesser importance to corruption scandals and to the rule of law. At the same time, the tolerant group of respondents does not dismiss ethical considerations entirely. Furthermore, the tolerant group mentions some ethical prerequisites just as frequently as the intolerant quintile. Thus, in the open-ended question, a nearly equal proportion of the most tolerant (11.2%) and the least tolerant (11.0%) indicated “a party’s honesty” as something to which they pay attention. Likewise, “a party’s accomplished works and fulfilled promises” is only slightly less popular as a consideration among the most tolerant respondents (19.2%) than among the least tolerant ones (23.5%). Obviously, incorruptibility and the rule of law are only two of several ethically determined considerations and not always the dominating ones. For one portion of voters (although, possibly, a small one), the demand for honesty or promise keeping is not inseparably connected with the demand for non-existence of corruption or a party’s ability to promote the rule of law.

The most corrupt parties in the eyes of Latvia’s citizens

In order to verify voters’ attitudes towards the most corrupt political forces (as defined by the respondents in their own, subjective evaluations), the respondents were asked to name the three parties that they perceived as being the most corrupt. The most frequent choice was the ruling coalition’s *TP* (People’s Party), which was labelled as corrupt by approximately half of the respondents. Two other coalition parties (*LPP/LC* and *ZZS*) follow, but by a very wide margin, along with the opposition party *JL*. They were deemed by approximately one fifth (20.6% to 21.9%) of respondents as being amongst the most corrupt.

As Table 2.6 indicates, those parties that are deemed as the most corrupt have a significant number of supporters who, while being ready to vote for these parties, perceive them also as corrupt. For example, 22% of *TP* supporters also consider it to be among Latvia’s most corrupt parties.

Table 2.6.
Name three parties that, in your opinion, are most corrupt (Distribution of answers and respondents' attitudes towards these parties)

| Party | Named among the three most corrupt parties (% of respondents) | Would definitely not vote for the party (% of those who named this party among the most corrupt) | Party supporters who think that their preferred party is also the most corrupt (% of those who said that they would vote for that party) | Differences in ratings ¹² between the answers of non-informed and well-informed respondents (in percentage points) | Differences in ratings between the answers of tolerant and intolerant respondents towards corruption (in percentage points) |
|---------|---|--|--|---|---|
| TP | 52.4 | 46.4 | 22.0 | - 2.1 | - 1.9 |
| JL | 21.9 | 30.8 | 9.4 | + 6.8 | + 10.9 |
| LPP/LC | 21.8 | 28.9 | 6.1 | - 1.3 | - 1.0 |
| ZZS | 20.6 | 24.2 | 5.2 | - 2.5 | - 6.8 |
| TB/LNNK | 10.3 | 29.9 | 4.7 | + 2.6 | + 0.3 |
| PCTVL | 5.3 | 52.6 | 2.2 | - 0.7 | - 0.5 |
| SC | 4.5 | 40.1 | 1.1 | - 3.2 | + 9.1 |
| LSDSP | 3.3 | 22.9 | 0.0 | + 3.9 | - 2.9 |

Well-informed/non-tolerant and non-informed/tolerant respondents hold differing perceptions about the corruptibility of parties. The well informed and the non-tolerant consider *JL* to be corrupt less frequently than the non-informed and the tolerant. Among the well-informed respondents, *JL* came only fourth among those parties that were most frequently mentioned as corrupt (27.5% of these respondents named *JL* as one of the most corrupt parties). This indicator is significantly lower than for the three other parties that the well-informed respondents named as being among the most corrupt (*TP* – 85.7%, *LPP/LC* – 44.5%, *ZZS* – 44.2%). Respondents in the quintile that was most intolerant of corruption named the same parties as being the most corrupt and in similar sequence.

In comparing the party ratings that were derived from the responses of non-informed, well-informed, as well as tolerant and non-tolerant respondents towards corruption, one might have expected the most corrupt parties to be less popular among citizens who were well-informed and intolerant towards corruption. However, this was not entirely the case. While several parties frequently named as being corrupt (*TP*, *LPP/LC*, *ZZS*) were indeed less popular among respondents who were well-informed and intolerant of corruption, *JL*, as the second most frequently named “corrupt” party, was considerably more popular among the well-informed and non-tolerant of corruption.

¹² The rating is constituted from responses to the question: “If parliamentary elections were held tomorrow, what party or electoral coalition would you vote for?”

Conclusions

The conducted survey indicated that at least part of the voting population would be willing to turn against political corruption during elections. However, other significant traits showed that political parties can still count on the support of some voters, even if their politicians are implicated in corrupt activities.

Latvian citizens have different views of political corruption, and only part of them see corruption as solely involving politicians and parties that abuse their authority to obtain ill-gotten gains. Others are also ready to apply the notion of corruption to a wider range of political activities that displease them. Thus, even a generally honest party could gain the reputation of a corrupt political force in the eyes of a significant part of the country's citizens, if the party activities appeared favourable to some social groups but disadvantageous to others. The tendency to see political decisions as corrupt only because they are favourable to a certain part of the society encourages the view that every politician is corrupt, which makes it difficult to separate the grain from the chaff.

In evaluating political parties, citizens more frequently pay attention to these parties' almost technocratic ability to solve problems, while leaving questions about honesty, incorruptibility and ideology in the background. Nevertheless, honesty and incorruptibility were usually fourth or fifth on respondents' lists of important considerations, and while not among the main considerations, they might still weigh the scales in favour of one party or the other in cases of doubt.

The largest part of the country's citizens does not consider the absence of corruption scandals as an important factor to think about, especially if they are not specifically reminded about it (although in the latter case, party honesty is named as being important more often). At the same time, very few Latvian citizens are indifferent to corruption and political lies, even if these considerations are not the first ones in their priority list. The aforementioned findings show that it is important to remind Latvia's citizens about political corruption and its dangers, so that the prospect of losing elections because one is perceived as being corrupt serves as an effective restraint on corruption.

According to the survey, more than one half of Latvia's citizens are uninformed about corruption (most likely, many of them have heard at least superficially about some corruption scandals, but only scant memories remain). Only about one fifth are well informed. Although there is no objective standard for considering the level of awareness as being high or low (data from other countries would also be needed), it is worth noting that people's level of awareness significantly correlates with their readiness to vote for certain parties. Well-informed citizens are, on average, less supportive of parties from the governing coalition than uninformed citizens and they are more likely to vote for opposition parties. A similar picture appears when examining party ratings, if we take the quintiles of those who were most intolerant of corruption and who were most tolerant. The responses of well-informed citizens were similar to the

responses of those who were least tolerant of corruption. Therefore, we can conclude that during the course of the study, the influence of several governing coalition parties was partly based on voters' lack of awareness and tolerance of corruption.

While approximately half of Latvia's citizens are not informed about corruption, about the same number of citizens consider corruption to be a widespread trait that is characteristic of human beings. Less than half of the respondents who named a particular party among the most corrupt also said that they would definitely not vote for this party. Furthermore, among the supporters of certain parties, there is a small but measurable number who consider exactly these parties to be among the most corrupt.

The fact that citizens are ready to vote for political parties that they consider to be corrupt clearly shows that the negative attitude towards corruption in Latvia is in constant competition with other factors that are also considered to be important, as well as with the overall perception that corruption is a general, human trait. We may thus infer that in the opinion of Latvia's citizens, the ends sometimes justify political corruption, up to a point. The prospect of voters punishing corrupt parties at election time also depends on which aspect of their attitude one focuses upon. Overall, the opinion of voters can be compared to the metaphor of the glass, which, depending on one's point of view, is either half-full or half-empty.

3. The Human Face of Anticorruption in the Police

Communication Gap and Corruption Risk

Linda Austere¹

"I believe that in such cases [of corruption or suspected corruption], everything should be reflected in the files of the criminal case rather than in questionnaires." (From the questionnaire filled by a police officer, in response to a question about his experience with corruption within the police force.)

In the summer of 2008, the Latvian State Police (SP) published the results of a three-year study that sought to establish the reasons why a steady stream of police officers was choosing to leave the police force.² The study revealed that the departure of qualified police officers from the SP was not noticeably reduced either through salary rises or through the improvement of their work conditions (which were the two most frequently given reasons in surveys from 2005 and 2006). Over the term of three years, increasing significance was accorded to such general and non-material factors as professional motivation, interpersonal communication and the public image of the police in society. Nearly one fifth (18%) of the 171 surveyed police officers who had opted to leave the SP in 2007

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² Caune, D., Griškina, D. (2008). *Iemesli darbinieku izvēlei aiziet no dienesta Valsts Policijā* (Reasons why employees choose to leave active duty within the State Police). Study results and their analysis, p. 3. <http://www.vp.gov.lv/?sadala=401>. Last viewed on 13.12.2008. It must be noted, however, that this study was concluded before the major budget cuts announced by the Latvian government at the end of 2008. Among other things, these budget cuts foresee a considerable reduction in the number of State Police employees. Consequently, if a similar study had been conducted during the time that this article was written (December 2008), its results may already have been quite different.

cited the low prestige of the police in society as a motivating factor for their departure.³

This article is based on conversations with State Police officials in seminars devoted to averting conflicts of interest and addressing the problem of corruption within the SP.⁴ Over the course of these seminars, each participant was asked to analyse a number of court judgments regarding criminal cases about incidences of corruption within the SP. Participants were also asked to identify the corruption risks that may have given rise to the incidences that they were analysing, so as to raise awareness about these risks and reduce them and thus prevent the occurrence of similar cases of corruption in the future. Furthermore, each participant was asked to put forward any relevant legal or institutional measures that might help to reduce future risks of corruption within the police force.

This article compiles the self-assessments and analyses by State Police officers concerning the risks of corruption in their daily work. The manner in which the questioned police officials perceived and executed this unusual “exercise” varied, starting with scathing criticism about the investigation of concrete cases and the quality of court judgments passed, and ending with detailed and useful discussions and concrete recommendations for solving the problems that they had identified. In reading this article, it is important to recall that the State Police is already actively working to address a number of the corruption risks cited by the seminar participants and that several of the recommendations put forth by the participants have already been adopted or implemented within the police force. Nevertheless, any measures to reduce corruption will only be as effective as the extent to which they are endorsed by the parties concerned. For this reason, it was important to compile the participating police officers’ sometimes subjective opinions, which were simultaneously based upon their actual experiences at the workplace. Although the response by police officials to their assigned “exercise” during these seminars was mixed, the “exercise” itself was designed to promote the *involvement of the SP employees in the decision-making process*. This sense of involvement is seen as a motivational factor for inducing the SP employees to continue working in the police force over the long term, as indicated in the aforementioned study on *Reasons why employees choose to leave active duty within the State Police*.⁵

³ Caune, D., Griškina, D. (2008). *Iemesli darbinieku izvēlei aiziet no dienesta Valsts Policijā* (Reasons why employees choose to leave active duty within the State Police). Study results and their analysis on p. 3. <http://www.vp.gov.lv/?sadala=401>. Last viewed on 13.12.2008.

⁴ These seminars were organized in 2008 by the State Police College, in cooperation with the Centre for Public Policy *Providus*.

⁵ Caune, D., Griškina, D. (2008). Op. cit. Study results and their analysis, p. 10. <http://www.vp.gov.lv/?sadala=401>. Last viewed on 13.12.2008.

Corruption risks as a problem

Do employees of the State Police see corruption within the police force as a genuine problem that needs to be addressed? An opinion survey⁶ conducted by *Providus* revealed that out of 87 mid-level State Police managing officials and other employees, 26, or nearly one third, believe that corruption is a serious problem that affects the work environment and the quality of the work of the police. Fifty-four, or nearly two thirds of the respondents, expressed the opinion that although corruption is a problem, the public perception of its significance and extent are often exaggerated. Seven respondents, for their part, did not see corruption within the police as a problem. This study's data clearly indicate that a significant proportion of SP officials see the issue of corruption within the police force as mainly a problem of perception. In other words, they see the true problem as lying not within the police itself, but rather in the public perception of the police and in the public's inability to place its trust in the work of the State Police.

More extensive public opinion surveys confirm these misgivings on the part of police officials. The perception of corruption (corruptibility) and dishonesty in the work of the SP is relatively widespread. In answering the question "How would you evaluate the honesty of the following institutions/state bodies/enterprises from the viewpoint of corruption?" for a survey entitled *Attitudes toward corruption in Latvia*,⁷ more than one third of respondents (36.9%) rated the SP as a dishonest institution. It must be said, however, that about the same proportion of respondents (37.3%) had no definite opinion and saw the SP as being neither honest nor dishonest.⁸

Therefore, notwithstanding the less than optimistic results, one can detect a clearly positive potential in the development of the public perception of the SP. With regards to people's attitudes toward the State Police, it appears that the opinion of a wide range of respondents could be changed even by a relatively minor but positive experience in their contacts with the SP institutions and officials. This positive perception potential is also referred to in the conclusions of

⁶ *Providus* prepared opinion survey questionnaires that the State Police distributed at the beginning of 2008 to mid-level managing officials and other employees. The sample of the survey's participants did not represent the entire body of the SP officials, which is why the survey's results can be viewed as indicating certain specific trends, but not as a reflection of the opinion of all of the SP officials. The results of the survey have not been published.

⁷ SKDS Marketing and Public Opinion Research Centre. *Attitudes toward corruption in Latvia. Public opinion survey of Latvia's inhabitants. November/December 2007.* <http://www.knab.gov.lv/lv/education/research/>. Last viewed on 13.12.2008.

⁸ Only 1.7% of respondents viewed the State Police and its institutions as being "very honest," while 10.2% saw them as being "fairly honest." More than one quarter (29.9%) saw the SP as being "fairly dishonest," while 7.0% saw it as "very dishonest." Over one third of respondents (37.3%) believed that the State Police was "neither honest nor dishonest," while 13.9% did not know how to rate the SP or had no answer.

the State Police's study on the prestige of the police in society and on the ability of individual police officers to influence public perception:

*"The prestige of the police in society is specific in the sense that on the one hand, it is determined by such factors as salaries, the style of police uniforms, the condition of police buildings and other factors that individual police officers cannot influence. On the other hand, the public perception of the police is directly dependent upon the professionalism and ethics of the police officers themselves."*⁹

Most of the police officials who filled out the questionnaires prepared by *Providus* agreed with the opinion that, to a larger or smaller degree, corruption is a problem that the police should think about, if only to improve the police's communication with the public. In response to the question "What, in your opinion, gives rise to possible risks of corruption within the State Police?" the factors most often cited by police officials, who answered anonymously, are listed in Table 3.1.

Table 3.1.
What, in your opinion, gives rise to possible risks of corruption within the State Police?

| Contributing factor | Respondents (total = 87) |
|---|-----------------------------|
| Insufficient salaries | 81 |
| Work environment and inadequate facilities | 49 |
| Interpersonal relations both within and outside the police force | 43 |
| Shortcomings in the country's legislative enactments | 40 |
| Inadequate internal control mechanisms | 37 |
| Lack of information among the public about the work of the police | 33 |
| Overwork | 31 |
| Lack of knowledge and understanding about ethical norms and their application | 29 |
| Lack of information among the country's inhabitants about their own rights | 27 |
| Inadequate protection of confidential information | 22 |
| Lack of openness in the police's relations with the public | 17 |
| Inadequate flow of information within the police force itself | 14 |

⁹ Caune, D., Griškina, D. (2008). Op. cit. Study results and their analysis, p. 9.
<http://www.vp.gov.lv/?sadala=401>. Last viewed on 13.12.2008.

As indicated in the table, material factors such as salaries, social security and technical provisions at the workplace are among the most frequently cited with regard to corruption risks. They are also among the most important reasons given for early staff departures from the police force. (“The need to address various problems [financial, transport, etc.] outside the workplace often leads to situations when police officers acquire dependencies.”¹⁰) These are followed by a lack of interpersonal communication (both quantitative and qualitative) at the workplace, and at both the horizontal and vertical level (i.e. between commanding officers and their subordinates) (“orders are not questioned”), inadequate internal control mechanisms and deficiencies in their implementation (“mid-level commanding officers have never even heard about ethics,” “the higher authorities exert influence upon their subordinates in the investigation of criminal cases,” “place responsibility upon the shoulders of lower-standing officials, who know nothing about the case in question”), shortcomings in the country’s legislative enactments that do not permit the investigation of officials’ questionable activities to the required extent and that prevent a timely response to events (“the boundary between legitimate activity and bribery is not strictly defined by law”).

Police officials also point to risks that can arise when individuals do not know about their rights during encounters with the police. Another contributing risk, as police officials stated during the seminar discussions, is that both in the planning of government policies and in the internal work of the police, a great deal of attention is devoted to preventing bribe-taking, but not bribe-giving. (“People are being told about their rights, but what about their obligations?”) State Police officials also admitted to an additional and highly significant risk factor, which was not listed in the study survey and which could be termed as “the low quality of police personnel” (“their work experience is insufficient.” “Why is it that people who have been dismissed from their positions for compromising themselves – and *everybody* knows about it – are subsequently reinstated?”). This factor also includes the departure of qualified staff from the police force and the resulting degradation of the professional growth environment.

Although the study’s respondents were reluctant to do so, in some cases they shared their experience about the most frequently encountered legally or ethically unacceptable situations in the daily work of the police: offers to pay police officials for not writing up protocols or for failing to initiate criminal cases, “expressions of thanks” for ending criminal cases, conflicts of interest arising when officials take decisions that concern their relatives, friends or acquaintances.

During the seminar discussions, in assessing the risks of corruption and the ability of each individual official to influence or prevent them, the participants brought up the issue of unlawful orders (or unethical orders that run counter to

¹⁰ Here and further in the text, comments expressed by the SP respondents in the study’s written survey sheets or orally during the seminars will be appear in quotation marks “ ”.

the police force's internal policies) given by superior officers to their subordinates and the dilemmas connected with the execution or questioning of such orders, especially if they are given orally (thus rendering them practically impossible to prove). Allusions were also made to "barter" dealings between police officials and private entrepreneurs who were ready to "supplement the police's material and technical resources." In addition, unclear principles regarding the allocation of salary bonuses and regarding the hiring (as well as rehiring) of police staff were also mentioned as unresolved issues.

In discussions about which groups of SP officials face the greatest risk of engaging in corrupt and dishonest practices, it comes as no surprise that those who adopt "important decisions concerning lawbreakers" were cited first and foremost, along with those who work for the Road Traffic Police (which is a subsidiary department of the State Police).

Corruption risks outlined in conversations with employees of the State Police

The best solutions to problems can often be sought within the system itself. For this reason, the seminar participants were informed about concrete incidences of corruption (based on the court judgments passed in criminal cases concerning transgressions of the law in state institutions, such as bribe-taking and the abuse of one's position of authority). The participants were also asked to answer two questions:

- What risk factors under the current situation within the State Police might promote the occurrence of similar crimes of corruption in the future?
- What can be done by the SP and the heads of its structural units to prevent the occurrence of such crimes of corruption?

Listed below are the most significant (i.e. the most frequently mentioned and hotly debated) risks of corruption, or – as police officials themselves said – situations and conditions that might facilitate or induce employees of the SP to engage in dishonest and unethical practices.

Insufficient salaries and inadequate social security for police officials

"The rights and obligations that are placed upon officials do not correspond to what "the state actually thinks" about these officials," said a seminar participant, who noted that while salaries within the police force have indeed risen, they often do not reflect the true work load faced by the SP employees and are not comparable with salaries in the private sector. This view has also been expressed in the conclusions of the aforementioned SP study: "(...) salary levels are one of the main indicators that employees use to assess how important they

are to the organization and how highly their work is evaluated. At the same time, employees' efforts to increase their contribution to the organization are directly proportional to their perception of how highly they have been evaluated."¹¹

However, there is no consensus within the police force about the desired level of "commensurate" salaries and how to evaluate salary levels. Compared to the average salary in Latvia, the remuneration of police officers does not immediately strike one as being incommensurably low. Rather, any proposed sum represents a subjective evaluation of how much and how hard one has worked. This is not surprising in a situation when there are no clear criteria, or adequate results-based evaluation systems, for evaluating the work of the SP employees.

Inadequate controls over the activities of police officials

In analysing concrete examples of corruption and in evaluating the risks of corruption in their daily work, police staff often pointed to the lack of adequate internal control mechanisms as one of the principal risk factors within the State Police: "There is a control mechanism, but how should it be implemented and monitored?" Due to overwork or other reasons, the heads of a number of the SP structural units are unable to adequately control the activities of their subordinates. The accountability systems within the organization are weak and are not always implemented. For example, the investigation of criminal cases sometimes extends for unusually long periods of time. (This might be due to a lack of accountability by investigating officers to their superiors and to the criminal case's supervising prosecutor). Problems have also arisen in the work of certain patrol units of the Road Traffic Police (which might be due to a lack of accountability to office headquarters). In this regard, technical equipment is not a panacea if it proves to be inappropriate for implementing control mechanisms and if one can still circumvent the control mechanisms that this equipment has been designed to implement. One often cited example that illustrates the limits of the usefulness of technical equipment is the audio recording of police conversations and activities. Any staff member wishing to engage in illegal activities can circumvent this technical hurdle by communicating in a non-verbal manner when needed.

On the other hand, members of the SP have also alluded to the "fear factor" in their work place, which stems from the attitudes displayed by both senior commanding officers and other work colleagues in the police force. Depending on the situation, this "fear factor" can serve to either promote or to restrict corrupt practices within the police force. It is somewhat paradoxical that along with frequent references to the lack of control mechanisms, there were also complaints about excessive or inadequately explained (insufficiently justified) controls that appeared to be needlessly restrictive, thus generating a climate of tension and resentment.

¹¹ Caune, D., Griškina, D. (2008). Op. cit. Study results and their analysis, p. 8. <http://www.vp.gov.lv/?sadala=401>. Last viewed on 13.12.2008.

Insufficient or excessive regulation

The unregulated flow of internal information and documents is one cited example of insufficient regulation (one incident of corruption that was analysed during the seminars concerned the illegal alteration of the contents of a criminal case file after a decision had already been taken about the case).

Among the examples of excessive regulation mentioned by police officers, one can cite overly complex job descriptions and instructions, complicated procedures that restrict the ability of commanding officers to control the activities of their subordinates, and difficulties with the required procedures for launching or ending a criminal investigation.

Unaccountable superiors

Police staff mentioned that senior officers still have the ability to unjustifiably influence the decisions of their subordinates and to assume responsibilities that do not fall among their assigned tasks, such as the adoption of decisions concerning the launching or ending of criminal proceedings. A lack of accountability has also been observed in matters that concern the police force administration, such as the allocation of salary bonuses and the hiring or firing of police staff.

Excessive discretion

The above-listed question of accountability is also linked with the need to restrict police officials' discretion in certain cases, including occasional situations when the adoption of important decisions lies in the hands of a single person.

Risks of corruption not clearly defined

In order to effectively prevent corruption risks from occurring, these risks need to be clearly defined. There was a widespread view that the risks of corruption have not been clearly set forth and identified within the police force. Consequently, few pro-active measures to avert these risks have been taken by the SP leadership. The prevention of corruption lies in the hands of individual officials and is thus dependent upon their level of honesty.

Personnel selection difficulties

The selection and motivation of police personnel was defined as one of the most serious corruption risks. In this regard, police officials pointed to deficient hiring and career advancement criteria that are not based upon merit, a lack of competition for job positions, and difficulties in imposing sufficiently high standards in such fields as the level of education of job candidates. At the same time, inadequate salaries and social security were mentioned as the main reason behind the police's difficulties in recruiting qualified personnel.

Balancing experience and education

For the most part, the quality and motivation of police staff is closely linked with the quality of their education. Furthermore, the education level of job candidates is generally evaluated in accordance with set, academic standards. Nevertheless, the issue of balancing candidates' theoretical preparedness (i.e. formal education) and practical suitability for positions in the police force has become very pertinent ("formally he would be suited for work in the police, but actually he is a businessman"). Due to the difficulties in offering sufficiently enticing work conditions and due to the lack of sufficiently developed candidate assessment systems, insufficiently qualified or otherwise inappropriate people end up being hired into the police force.

Insufficiently developed work culture (mores) of police officials

In situations when the honesty of police officials is the only obstacle to corrupt or other dishonest practices, their work culture or professional mores can present a serious stumbling block. This factor is closely connected with the above-mentioned difficulties in finding people with the appropriate education and experience for work within the police force ("our employees have not been trained and educated to place sufficient importance upon the honour of their profession").

Shortcomings in personnel recruitment and management

The shortage of qualified personnel has resulted in unwarranted promotions and in the hiring of inappropriate staff so that job vacancies can be filled and so that these positions are not liquidated. However, by filling in vacant posts in this manner, it becomes more difficult to hire qualified staff when such are found. Seminar participants often pointed to the need for additional educational opportunities and to the lack of time available for engaging in extracurricular studies. In addition, the lack of motivational factors and growth prospects within the police force does not induce people to maintain an interest in retaining their positions.

Misuse of information

Police officials who took part in the seminars also spoke about shortcomings in the regulations for using and protecting information, including databases. Although it cannot be said with certainty that all of the seminar participants had detailed knowledge of these regulations, many of them were of the opinion that the data of individuals (physical persons) could be unjustifiably accessed and used. Access to databases has been accorded to too many police officials, as not all of them require this data to fulfil their duties. There are deficiencies in the database security system and the controls over its use are insufficient and ill considered. These deficiencies apply not only to information about individual persons, but also to information about criminal cases and to the course of their investigation by the police.

An insufficiently informed public and a widespread “law-breaking” mentality

Seminar participants were practically unanimous in citing people’s lack of knowledge about their rights as one of the most significant corruption risk factors. Many members of the general public possess insufficient knowledge of their rights at even the basic level, for example, during encounters with state officials, including police officers. The concept of a law-abiding state and society is not sufficiently entrenched among the country’s inhabitants either. For example, there is a widespread readiness to give bribes, as well as a “law-breaking” mentality that is further promoted by insufficient efforts to stem the practice of bribe giving.

Excessive passivity in attempts to curb bribe giving

The level of tolerance toward bribe giving is comparatively high in Latvian society. Efforts at education, prevention and combating corruption have been directed mainly against bribe-taking, while, in the opinion of many SP officials, bribe giving has been accorded scant attention. The police itself has also been passive in this regard, with few bribe-givers being arrested and brought to justice (“one should act regardless of the prospects of obtaining a conviction”), and with bribe-givers being sentenced more leniently than bribe-takers. According to data from the Latvian Court Information System, in 2007 slightly more than one-fifth (21.7%) of convicted bribe-takers received an actual prison sentence, while only 8.7% of convicted bribe-givers ended up behind bars (see Tables 5.8 and 5.9 in the Appendix of this report).

Disproportionately mild sanctions against wrongdoers

Seminar participants also mentioned situations when police officials who have committed major transgressions are not suspended from their positions while their case is being investigated. This represents an insufficient warning to other potential wrongdoers. In addition, internal investigations do not always take place when they should. This includes the period before the court passes its sentence, for regardless of the outcome, a criminal case has nevertheless been launched to investigate a serious crime. Those internal investigations that are conducted tend to be incomplete, with vital information still lacking about the conditions and events of the crime in question.

Latvia’s justice system was also criticized by seminar participants, who said that judges should act more preventively and pass sentences of greater quality, in the sense that similar crimes are qualified differently by different judges. In addition, the range of sentences varies widely for similar crimes committed by officials of similar rank. Sentences are not commensurate to the rank of the convicted official (i.e. high-level officials tend to receive more lenient sentences), and tend to be mild with regard to the seriousness of the crime that has been committed.

What can be done? Ideas for reducing the risks of corruption

Police officials who participated in the seminars provided a number of recommendations for preventing or at least reducing the identified risks of corruption. Some of their recommendations have already been implemented in part, for example, regarding technical equipment for monitoring police patrols and rules about the steps that police officials must take if they are offered or given bribes.

Control and monitoring of police activities

Patrol cars should be additionally equipped so that their location is always known back at headquarters. Road traffic police officers should be obliged to report to headquarters each time they pull over a driver and should cite their reason for doing so. Such steps would serve both as internal control mechanisms and as additional security measures for ensuring the patrol officers' safety.¹² Nevertheless, the implementation of such procedures should not be overbearing and should merely serve to ensure that headquarters know what each patrol is doing at a given time. They should not lead to the oppressive control of patrol officers' activities and to the excessive use of resources that would be best allocated elsewhere.

Work results

The State Police should work out a system of quantifiable performance indicators that would permit its leadership to evaluate the extent and degree to which assigned goals have been reached, as the provision of descriptive statistical data is not sufficient in itself. For example, the number of protocols written out or of criminal investigations launched does not in itself provide sufficient information about the extent to which the SP has fulfilled its assignments and attained its goals.

Regulations

The State Police internal and external regulations should be supplemented where necessary by the SP leadership. For example, restrictions should be introduced on the amount of cash that a police officer can carry on his/her person while at the workplace (it should be mentioned, however, the State Police has already assessed such a proposal and did not approve it due to doubts about whether such a measure would excessively infringe upon the rights of the police

¹² According to information given in December 2008 by Iveta Smoča, the Deputy Head of the State Police Internal Security Office, a new legal act entitled *Instruction on the organization of the Road Police activities* is being drafted. It would require giving an immediate notice to police duty headquarters about any vehicle pulled over on the road. Electronic message of 23.12.2008.

employee¹³). The rules and regulations for using technical equipment are also of importance. In addition, greater attention should be paid to the efficient division of competencies and functions, as well as to closer cooperation between various institutions such as the State Border Guards and the police.

Salaries and social security

Salaries should be commensurate with the responsibilities of each police official (one seminar participant proposed linking salaries with the fines that officials could impose upon offenders, thus making it irrational to offer bribes of such an amount that could still lead the official into temptation). Skilled and competent individuals should be offered competitive salaries, and efforts should be made to provide additional economic incentives such as living quarters for police officers, etc.

Recruiting and personnel policies

The State Police should set up criteria for evaluating the qualifications and suitability of potential job candidates. In the ideal case, salaries should be sufficiently competitive for the police to choose from a sufficient number of candidates (including for work positions at the highest level).

Ensuring the necessary flow of information at the workplace

A single or just a few officials should have access to and be responsible for the databases at the police's disposal. This or these persons should be able to verify for what purposes other officials wish to use this data ("requests for information should be justified and the appropriate technological tools should be introduced to control people's access to these databases").

Record-keeping

Documents should be registered in a timely manner and kept in the appropriate registers. Their flow should be more strictly controlled. Reasonable and realistic terms should be set for the investigation of criminal cases. One vital issue concerns the procedures for registering and safekeeping gathered objects (i.e. evidence), as well as the procedures for handing this evidence over to prosecutors assigned to continue criminal cases begun by the police. The ideas expressed here about the flow of information and record-keeping do not suggest that no relevant regulations exist within the State Police, but rather point to the perception of police officers that more detailed regulations could reduce the likelihood of dishonesty, at least in some cases.

¹³ Smoča, I., the Deputy Head of the State Police Internal Security Office. Electronic message of 23.12.2008.

Work culture and education of police officials

Police officials need to continue increasing their knowledge and to acquire a more deeply entrenched understanding about the nature of their duties. Such an understanding is a prerequisite for their further professional growth and stability.

Public relations

The State Police must be able to respond quickly when incomplete or inaccurate information about the SP appears in the mass media. It must be able to communicate its message clearly to the public and explain the facts in an understandable manner, so that further rumours and speculation do not arise.

Informing the public

It is important for members of the general public to be informed about their rights. A comprehensive approach is required, with the involvement of social and professional organizations. People should have access to information about the best way to act in certain situations. For example, they should know about the rights and obligations of both civilians and police officers. Foreign tourists and specific target groups (i.e. motor vehicle operators) should also be informed about where to turn to if they are asked to pay a bribe and where they can learn about their rights as individuals.

Informing the media

Media representatives are often misinformed about the nature and specifics of the State Police activities and about the information that they are entitled to (i.e. their right to obtain information). The further education of this target group might serve to improve the quality of journalists' work, along with the quality of the information that is available in the public space.

Exposing corrupt activities

It is necessary to provide financial incentives for State Police officials who are involved in the investigation and exposure of corrupt activities. Special measures should be introduced within the SP to apprehend bribe-takers. For example, an anti-bribery brigade could be created within the police to focus on this crime and police officials should be informed about how to act if they are offered or given a bribe.

Explicit warnings should be expressed as a preventative measure to officials who have committed less serious infractions of the type that may indicate actual illegal and corrupt activities. The expression of such warnings to infractors is closely connected with the need to identify not only corruption risks, but also possible warning signs of corruption or "red flags." For example, the appendix of the German *Federal government directive concerning the prevention of corruption in*

the federal administration cites a number of telltale signs in the behaviour of officials that often testify to corrupt activities. Among these signs are a demonstrative and inexplicably high standard of living, demonstratively private contacts with third parties whom the official also meets during the course of his/her official duties, an unexplainable resistance to changes in one's work assignments, as well as alcohol and gambling dependencies. Although none of these signs in itself presents concrete proof of corrupt activities, the leaders and monitors of government institutions are advised to look further into the behaviour of officials displaying the above-mentioned characteristics and to check for other signs that might indicate corrupt activities.¹⁴

Referring to the practice that applies in other countries, a number of seminar participants cited the need to grant more "weight" to the testimony of police officials and to accord it greater *a priori* trustworthiness than the testimony of private civilians. This would make it easier for police officials to report such incidences of corruption as bribe offering and to stand by their testimony as proof that a crime had actually been committed.

Police employees did not place much emphasis on reporting corruption in situations where another police officer is about to commit or has already committed an offence. Presumably, professional solidarity plays some role here and prevents action against a colleague even when he/she has become involved in corruption.

Penal practice

While penal practice is only indirectly connected with the work of the police, seminar participants spoke of the need to increase the probability of convictions and to attempt to ensure that corruption will not go unpunished. More severe sentences should be passed against influential officials convicted of corruption.

Efforts to prevent corruption and a communication gap

The ideas of the police officers do not represent an immaculate analysis and their suggestions are not put forward in the form of complete policy proposals. From the management perspective, one may ask whether the review of these thoughts is worth the effort. Still, looking at the data accumulated herein through the eyes of an anti-corruption researcher, the opinions of State Police officials are more valuable than, speaking in macroeconomic terms, the "indirect costs" that are connected with listening to such recommendations, compiling them and implementing them to the largest possible extent. One must also take into account such long-term benefits as the understanding of the staff, support for increased work quality and the trust of the public.

¹⁴ German Federal Ministry of the Interior. *Federal Government Directive Concerning the Prevention of Corruption in the Federal Administration. Annex 2. 30.07.2004.*

Having looked through the possible risks of corruption and at the countermeasures compiled above, it would be unfair to ignore the measures that the State Police has already undertaken to prevent and combat corruption. For example, it has developed procedures for how to combine the office in the police with another job, carried out undercover operations to expose corruption within the police force, etc. I would like to pay special attention to an order issued by the head of the Latvian State Police *On the procedures by which State Police employees are to report about infractions associated with corruption*. The order, issued on 09.06.2007, also has attached recommendations that explain how police officers should act if invited to engage in corrupt activities.

The recommendations clearly outline the course of action that a police official is to take in situations when he/she “is invited to conduct any type of corrupt activity or is offered a bribe”¹⁵ or in situations “when someone indicates that he/she has given a bribe to another official.”

The document presents a correct and legally flawless model of action for officials that answers the question: “how to properly refuse a bribe?” Nevertheless, these recommendations can be seen as preventive in only a very narrow sense. They rather serve to strengthen police officials’ existing sense of honour and are closely linked with the succinct summary made by a seminar participant, that the proper place for discussions on the risks of corruption is not in questionnaires. Instead, all facts and suspicions should be reflected within the documents of criminal case files. Corruption is to be eliminated by punishing, rather than by teaching. And indeed, by following the aforementioned regulations, officials can arm themselves with sufficient evidence for a criminal investigation or sometimes for launching a different (i.e. disciplinary) type of investigation that will lead to the proper conviction of the guilty party.

The answer to the question of whether this document is used in the daily work of State Police officials and whether it is serving to address current problems can be found in the fact that it was mentioned by participants during only one police seminar that was held in Riga.¹⁶ Hence, this example becomes a vivid illustration of how ineffective preventive measures are when compounded by inadequate communication.

Employee recommendations – are they worth listening to?

The involvement of employees in the decision-making process has a positive effect on an institution’s work processes and results. It promotes communication, internal democracy, understanding and therefore also the full acceptance

¹⁵ Order of 09.06.2007 issued by the head of the Latvian State Police *On the procedures by which State Police employees are to report about infractions associated with corruption (Par kārtības noteikšanu, kādā Valsts policijas darbinieki ziņo par koruptīviem pārkāpumiem)* and attached recommendations.

¹⁶ A representative of the State Police Internal Security Office participated in the Riga seminar and was, of course, informed about this order and its recommendations.

and higher quality execution of orders issued by the leadership. Nevertheless, it is clear that the positive results of employee involvement cannot be reached in the short term. The implementation of such a participatory mechanism also entails significant changes in the manner that an institution perceives its own role in society. In other words, in order to address issues concerning an institution's long-term development, the institution must at least believe that a participatory future is the best and right path of development, as opposed to the *status quo*.

The *status quo* in Latvia is an understanding of the police as a semi-military institution, where, among other things, there is a strict division between those who lead and issue the orders and those who follow and carry them out. The majority of police staff are clearly viewed (and view themselves) as those who follow. In a situation when questioning superiors' orders is not an option (and subject to punishment), there is no great need for reflections about whether this or that course of action is being taken in accordance with the law, let alone whether it is correct or permissible from the moral and ethical standpoint.¹⁷

Along with the "orders are not discussed" mindset, one can identify a whole series of practical reasons against involving employees and becoming involved. These are associated with a lack of time and financial resources, which are necessary for carrying out discussions, compiling the opinions expressed and arriving at a consensus. Such measures cannot occur spontaneously, and the required pre-conditions for carrying them out do not exist in the daily work environment: there is neither a platform (when? on what occasions?), nor a method (how?), nor, in all likelihood, any concrete work assignment for realizing the ambitious statement highlighted in the box below.

"In order to ensure the productive work of the organization, it is necessary to maintain continued, mutual feedback between the management and the staff (...). It is also important to involve the staff in decision-making, for in this manner they feel that they are essential to the organization and are motivated to increase their contribution (...)."¹⁸

Looking at the seminar whiteboard scrawled over with ideas and recommendations, participants sometimes expressed the comment that involving lower ranking employees as advisors is a "waste of time" and clearly unnecessary. Such comments were based on the premise that while employees' voices are indeed listened to by their immediate superiors, they often remain unheard "up at the top." The fact that such a premise exists does not in itself indicate that the police force's

¹⁷ Pagon, M. *Police Ethics and Integrity*. www.police-studies.com/papers/police-ethics-integrity.pdf Last viewed on 13.12.2008.

¹⁸ Caune, D., Griškina, D. (2008). Op. cit. Study results and their analysis, p. 8. <http://www.vp.gov.lv/?sadala=401>. Last viewed on 13.12.2008.

highest leadership is not open to constructive recommendations from lower ranking employees. Nevertheless, communication is usually only as effective as its participants deem it to be. If the average police officer believes that a deep divide exists between those who issue the orders and those who carry them out and if he/she is convinced that his/her ideas will be rejected out of hand, then this subjective perception will automatically become, at least in part, an objective reality.

The seminars referred to in this article took place before the end of 2008, when the government announced that the police will face sweeping staff and salary cuts as a budget-saving measure. Presumably even necessary and well-planned staff dismissals will not in themselves promote a favourable environment for democratic and inclusive decision-making. Moreover, with the country's financial crisis set to worsen, the risks of corruption are likely to increase. Nevertheless, in order to maintain work efficiency, the State Police should, over the long term, cultivate a mentality of police officers who share in the responsibility of their work, rather than a mentality of unquestioning subordinates who automatically carry out the orders of their superiors. Then the tumult brought on by Latvia's current economic crisis will be less damaging, for the remaining SP employees will have acquired a greater understanding and belief that painful measures are currently being implemented in order to attain worthy goals.

4. Anticorruption Services in Central and Eastern Europe – International Standards and Some Real-Life Lessons

Valts Kalniņš, Goran Klemenčič¹

New anticorruption institutions with different functions and placement in the state structure have been set up in many countries of Central and Eastern Europe (CEE) during the last decade. In this regard, the region is not unique. Various sources of international standards although different in scope, depth and aim, define a clear international obligation for the countries to ensure institutional specialization in the field of corruption. True, however, for many CEE countries, accession prospects to the European Union provided an extra incentive to boost their anticorruption policies. It is the countries that joined the EU since 2004 that this article refers to when saying “CEE countries”² although it is surely imprecise and anticorruption institutions exist also in a number of European states outside the EU such as Albania, Croatia, Moldova, etc. Moreover, some of the EU members in CEE, for example, Estonia and Hungary have not set up any autonomous agencies to prevent or investigate corruption.

Even a non-complete overview shows anticorruption institutions in CEE countries proliferating with most of the countries having some kind of specialized agencies

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² Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, Hungary, Slovenia, Romania, Bulgaria.

or units. At the same time, their review indicates a whole range of difficulties and setbacks especially after countries actually joined the European Union.

The aim of this article is to discuss in some detail the main features of the specialized anticorruption bodies according to international standards and practices. The analysis does not include a full review of anticorruption institutions in the region but rather selectively draws upon some landmark examples in Latvia, Lithuania, Romania, Slovenia and other CEE countries that joined the EU since 2004. The article furthermore, building on conclusions of different monitoring mechanisms such as the GRECO and the OECD, aims to provide insight into the various reasons why some initiatives of setting-up and administering specialized anticorruption institutions meet challenges that threaten even their very existence.³

Sources of International Standards

During the 1990s, numerous global and regional inter-governmental organizations recognized the problem of corruption as a prominent subject of international concern. In the European context, one of the first “soft sources” of international standards which highlighted the need for specialized institutions and persons in the area of detection, investigation, prosecution and adjudication of corruption offences were the Twenty Guiding Principles for the Fight against Corruption adopted in 1997 within the Council of Europe (Principles 3 and 7).⁴ In 1998 most of these standards were taken up in the Council of Europe Criminal Law Convention on Corruption (Article 20).⁵ Anticorruption instruments initially

³ The conceptual framework of this article largely draws upon the chapter *International Standards and Models of Anti-Corruption Institutions*, which is a part of the report: Klemenčič, G., Stusek, J., Gaika, I. (2007). *Specialised Anti-Corruption Institutions. Review of Models*. OECD Anti-Corruption Network for Eastern Europe and Central Asia. http://www.oecd.org/document/31/0,3343,en_36595778_36595861_39972191_1_1_1_1,00.html Last viewed on 16.12.2008.

⁴ Resolution (97) 24, adopted by the Committee of Ministers of the Council of Europe on 6 November 1997. Principle 3: “Ensure that those in charge of the prevention, investigation, prosecution and adjudication of corruption offences enjoy the independence and autonomy appropriate to their functions, are free from improper influence and have effective means for gathering evidence, protecting the persons who help the authorities in combating corruption and preserving the confidentiality of investigations”; Principle 7: “Promote the specialisation of persons or bodies in charge of fighting corruption and to provide them with appropriate means and training to perform their tasks.”

⁵ Adopted on 4 November 1998; entered into force on 1 July 2002. Article 20 – Specialised authorities: “Each Party shall adopt such measures as may be necessary to ensure that persons or entities are specialised in the fight against corruption. They shall have the necessary independence in accordance with the fundamental principles of the legal system of the Party, in order for them to be able to carry out their functions effectively and free from any undue pressure. The Party shall ensure that the staff of such entities has adequate training and financial resources for their tasks.”

focused on promoting specialization of law enforcement and prosecution bodies (aiming at more effective enforcement of anticorruption legislation). It was the United Nations Convention against Corruption⁶, adopted in 2003 that put prevention in the spotlight. This first global international treaty in the area of corruption required Member States not only to ensure specializations of law enforcement (Article 36)⁷, but also to establish specialized preventive anticorruption bodies (Article 6).⁸

With the introduction of the UN Convention there is now a clear international standard requiring countries to ensure specialization in two areas: prevention (including education and public awareness) and law enforcement. Notably, provisions of the Criminal Law Convention as well as the UN Conventions dealing with this matter are mandatory provisions. States are therefore obliged to secure the existence of *specialized bodies in charge of prevention of corruption, and specialized bodies or persons in charge of combating corruption through law enforcement*.

There is, however, a notable difference between the two areas. According to the UN Convention prevention needs to be addressed at the institutional level, by creation or dedication of a specialized body (or bodies) with preventive and coordinating anticorruption functions. On the other hand, according to both the UN and the Council of Europe convention, criteria on specialization in the area of law enforcement can be fulfilled either by the creation of a specialized body or by the designation of an adequate number of specialized persons within existing institutions.

⁶ Adopted on 31 October 2003; entered into force on 14 December 2005.

⁷ UNCAC, Article 6 – Preventive anticorruption body or bodies: “1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as: (a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies; (b) Increasing and disseminating knowledge about the prevention of corruption. 2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided. 3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.”

⁸ UNCAC, Article 36 – Specialised authorities: “Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies or persons specialized in combating corruption through law enforcement. Such body or bodies or persons shall be granted the necessary independence, in accordance with the fundamental principles of the legal system of the State Party, to be able to carry out their functions effectively and without any undue influence. Such persons or staff of such body or bodies should have the appropriate training and resources to carry out their tasks.”

The conditionality that applied to the CEE countries wishing to accede to the European Union did not specify any concrete institutional model. The EU position, stated in broad terms, included the requirement “that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights (...)”⁹ Meantime the candidate countries were expected to join and fulfil the requirements of relevant international treaties. Overall, due to the EU accession process, anticorruption institutions developed perhaps more rapidly in CEE countries than in any other region when taken as a whole.¹⁰

Elements of International Standards in Anticorruption Institutions of CEE countries

What follows is a review in some detail of the main features of the specialized anticorruption bodies in relation to international standards and practices.¹¹ The review refers to examples of anticorruption institutions in CEE countries and, where possible, provides explanations how specific institutional features may have influenced the overall level of success or failure of the agency in question. The reviewed features comprise areas such as

- mandate and functions;
- forms of specialization;
- independence, autonomy and accountability;
- adequate resources (financial and human) and powers;
- cooperation with the civil society and the private sector, and inter-agency cooperation.

Mandate and functions

International instruments identify the following main anticorruption functions: *investigation and prosecution, prevention, education and awareness raising,*

⁹ This was part of the so-called Copenhagen criteria, see: Presidency conclusions. Copenhagen European Council, 21–22 June 1993. http://www.europarl.europa.eu/enlargement/ec/pdf/cop_en.pdf Last viewed on 16.12.2008.

¹⁰ Charron, N. *Mapping and Measuring the Impact of Anti-Corruption Agencies: A New Dataset for 18 Countries*. Prepared for the *New Public Management and the Quality of Government* conference. November 13–15 2008. Göteborg, Sweden. www.qog.pol.gu.se/working_papers/SOG%20papers/Charron%20-%20SOG%20Conference%20Nov08.pdf Last viewed on 16.12.2008.

¹¹ On this subject see also the introductory chapters of the following publications: Council of Europe (2004). *Anti-corruption Services – Good Practices in Europe*. Council of Europe Publishing, Strasbourg;

UNDP (2005). *Report of the Regional Forum on Anti-corruption Institutions*. Vienna International Center. <http://europeandcis.undp.org/files/uploads/Lotta/AC%20Forum%20Report.pdf> Last viewed on 16.12.2008.

coordination, and monitoring and research. These functions are reflected in the following typical anticorruption tasks: to receive and respond to complaints; to gather intelligence, perform monitoring, and conduct investigations; conduct prosecutions; issue administrative orders; implement preventive research, analysis, and technical assistance; provide ethics policy guidance, compliance reviews, and scrutiny of asset declarations; provide public information and education; ensure international cooperation and outreach; and other tasks. These tasks can be assigned to one or more specialized institutions.

The mandate of **investigation and prosecution** appears straightforward. It is usually performed by separate specialized structures within existing institutions such as the police (or the multipurpose agency) and the prosecution service. One of the main challenges of institutions mandated to fight corruption through law enforcement is, however, to identify their *substantive jurisdiction* (offences falling under their competence), to avoid the conflict of jurisdictions with other law enforcement agencies and ensure efficient cooperation and exchange of information with other law enforcement and control bodies. For example, at some point, unclear jurisdictions of various agencies were perceived as a problem in Lithuania and the country earned a recommendation from GRECO to establish a clear distribution of cases concerning corruption between various law enforcement bodies and, if need be, between them and the prosecution service.¹² In particular in regard to specialized prosecutorial bodies, some countries adopted an approach where a designated prosecutor's office does not only have jurisdiction over corruption and corruption/related offences, but also over organized crime offences¹³ or even environmental crimes.¹⁴

A further question regards the extent to which the jurisdiction of such law enforcement bodies should be mandatory. Experience shows that mandatory jurisdiction results in an overburdening of the institution with cases and, in particular, with "street corruption" cases. Both in Latvia and Lithuania where multi purpose anticorruption agencies exist, concerns have been occasionally raised about the preoccupation of these bodies largely with lower-level cases. One of the solutions would be *to limit the jurisdiction of the service to important and high-level corruption cases*. If this is an adopted approach it is crucial that the law prescribes precisely the factors for determining such jurisdiction to avoid abuse of discretion and conflicts of jurisdiction with other bodies. For example, such criteria are stated in the law for a case to fall under the jurisdiction of the

¹² GRECO (2002). First Evaluation Round, Evaluation Report on Lithuania. Strasbourg, 8 March 2002, p. 28.
[http://www.coe.int/t/dg1/greco/evaluations/round1/GrecoEval1\(2002\)1_Lithuania_EN.pdf](http://www.coe.int/t/dg1/greco/evaluations/round1/GrecoEval1(2002)1_Lithuania_EN.pdf)
Last viewed on 16.12.2008.

¹³ For example, Slovenian Group of Prosecutors for Special Matters which is attached to the General Prosecutor's Office, or the Croatian Office for the Suppression of Corruption and Organized Crime (*USKOK*).

¹⁴ The Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime (*Økokrim*).

Romanian National Anticorruption Directorate.¹⁵ Another – less positive example – is Slovenia’s Group of Prosecutors for Special Matters where the law authorizes the Prosecutor General to assign cases to the specialized office based on vague criteria that the case can be attributed as an “organized crime” or a “serious economic crime” case.

A couple of further interrelated issues are how much discretion should be exercised in the selection of cases and whether the focus should be *perspective or retrospective* (dealing with acts that were committed before the introduction of the institution). In some CEE countries, such institutions were established as a consequence of political parties entering governments with the help of anticorruption slogans. The pursuit of abuses of previous governments then forms an integral part of expectations directed toward the new agency. While such expectations might be highly legitimate in some circumstances, a focus on the past gives rise to two important caveats: it can taint (rightfully or wrongly) the newly established anticorruption institution with a label of pursuing politically motivated persecutions; and it can result in a disproportionate allocation of resources of the newly established institution on past cases – making it impossible to effectively pursue current cases. Accordingly, as much as possible, the jurisdiction should be prospective and future-oriented with a limited retrospective remit that focuses only on the most severe and explicit cases.

Even then rightful or wrong accusations for engaging in politically motivated persecutions remain among principal pitfalls of anticorruption agencies. In 2004 the Special Investigation Service of Lithuania was blamed for politically motivated activity after it searched the premises of four political parties, which initiated the impeachment of the then president of Lithuania Rolandas Paksas. The accusation was linked to the procedure whereby the president plays an important role in the appointment and removal of the head of the Special Investigation Service.¹⁶

¹⁵ In order to fall under the jurisdiction of the NAD, the offence must meet one of the following criteria stipulated by the law (Government Ordinance no. 43/2002, as amended in October 2005):

- the damage caused by the offence exceeds 200 000 EUR;
- the value of the bribe exceeds 10 000 EUR; or
- the offence is committed by a public official within the category expressly listed by the law (e.g., members of the Parliament, members of the Government, specific high level officials of central and local administration, judges and prosecutors, mayors, police officers, customs officials) as well as by persons with positions of directors and above within the national companies and enterprises, commercial undertakings where the State is a stakeholder, central financial-banking units.

Source: Klemenčič, G., Stusek, J., Gaika, I. (2007). *Specialised Anti-Corruption Institutions. Review of Models*. OECD Anti-Corruption Network for Eastern Europe and Central Asia, p. 72. http://www.oecd.org/document/31/0,3343,en_36595778_36595861_39972191_1_1_1_1,00.html Last viewed on 16.12.2008.

¹⁶ *Nations in Transit*, Lithuania (2005). Freedom House. <http://www.freedomhouse.org/template.cfm?page=47&nit=371&year=2005> Last viewed on 16.12.2008.

Preventive functions usually fall within the mandate of a number of state bodies (auditing institutions, ombudsman, ethics commissions, anti-money laundering bodies, etc.) and, to some degree, are to be taken up internally by every public agency. A common although not exclusive range of corruption prevention topics (as addressed in the United Nations Convention) consists of: *prevention of the conflict of interest, declaration of assets, ethic and transparency of public service, prevention of money laundering and financial control over the use of public funds.*

There is a broad range of other tasks requiring attention, such as *developing educational and training programmes; organizing public awareness campaigns; working with the media, civil society and business; serving as focal points for international cooperation*, and which are often dispersed amongst many institutions. However, even in cases of multi-purpose agencies, a risk exists that not all of the crucial functions will receive due attention. Thus, for example, the Lithuanian Special Investigation Service, despite its broad mandate for prevention and coordination, is primarily perceived as a law-enforcement body.¹⁷

Coordination, monitoring and research are three additional necessary functions to form a part in comprehensive national anticorruption strategies and be institutionalised through specialized bodies. Where different law-enforcement agencies are tasked with detection and the investigation of corruption, coordination is essential. Even where a single law-enforcement body has jurisdiction to investigate and prosecute corruption, coordination is necessary with other state bodies – tax and customs, financial control, and various other public administration agencies. Furthermore, any comprehensive national anticorruption strategy, programme or action plan requires a multidisciplinary mechanism charged with overseeing and coordinating its implementation as well as securing its regular updating. Such a mechanism will have to be institutionally placed at an appropriate level to enable it to exercise its powers throughout different state institutions and will ideally include public representatives.

Bulgaria is cited as one of the CEE countries where “no one government unit is responsible for the fight against corruption and the results are relatively weak.”¹⁸ The lack of coordination has in the past proved as a problem also in Slovenia where an almost openly hostile official approach towards the Commission for the Prevention of Corruption¹⁹ resulted in the reluctance of some other state bodies in openly cooperating with the Commission. Latvia – with its multi-purpose anticorruption agency – experienced coordination difficulties of a different

¹⁷ Klemenčič, G., Stusek, J., Gaika, I. (2007). *Specialised Anti-Corruption Institutions. Review of Models*. OECD Anti-Corruption Network for Eastern Europe and Central Asia, p. 49. http://www.oecd.org/document/31/0,3343,en_36595778_36595861_39972191_1_1_1_1,00.html Last viewed on 16.12.2008.

¹⁸ *Nations in Transit*, Bulgaria (2008). Freedom House. <http://www.freedomhouse.org/template.cfm?page=47&nit=448&year=2008> Last viewed on 16.12.2008.

¹⁹ The enforcement powers of the Commission cover areas of declaration of assets of public officials, receipt of gifts, and prevention of conflicts of interests.

character where the Corruption Prevention and Combating Bureau entered a continuous row with the State Revenue Service about which agency had the proper mandate to verify the legality of income of public officials.

Forms of specialization

Successful struggle against corruption requires activity on numerous levels. Moreover a *combination of diverse skills* is needed in a variety of fields including law, finance, economics, accounting, civil engineering and the social sciences.²⁰ These skills are normally scattered across various institutions rather than concentrated in any particular body. However, when all of these skills are brought together in a specialized institution, they bring a level of visibility and independence to those dealing with corruption. Perhaps it is the variety, visibility and independence that at some point allowed observers name the Latvian and Lithuanian multi-purpose anticorruption agencies among the more effective institutions of the kind in CEE.²¹

Specialization may take different forms. *International standards do not imply that there is a single best model for a specialized anticorruption institution.* Moreover, the international standards require specialized bodies or persons in the area of prevention and law enforcement but do not directly promote institutional specialization at the level of the courts. Furthermore, there is no strict requirement of a dedicated institutional entity for the fight against corruption through investigation and prosecution as, strictly speaking, the designation of an adequate number of specialized persons within existing structures satisfies the requirement of international treaties.

Various and diverse approaches to the design of specialized institutions can be summarized according to their main functions, as follows:

- multipurpose agencies with law enforcement powers and preventive functions;
- law-enforcement agencies, departments and units;
- preventive, policy development and coordination institutions.

The multipurpose agency model is possibly the only one that would, strictly speaking, live up to the title of “anticorruption agency” as it combines in one institution a multi-faceted approach to prevention, investigation and education. Therefore the multipurpose single-agency model stands out most prominently

²⁰ Council of Europe. Explanatory report to the Criminal Law Convention on Corruption (ETC no. 173), par. 96. <http://conventions.coe.int/treaty/en/Reports/Html/173.htm> Last viewed on 16.12.2008.

²¹ See, for example, Dionisie, D., Checci, F. (2008). *Corruption and Anti-Corruption Agencies in Eastern Europe and the CIS: a Practitioners' Experience*, pp.7, 8. http://anchorage-net.org/content/documents/dionisie-checci-corruption_in_ee.pdf Last viewed on 16.12.2008.

in international discussions. Meantime only two of the *new* EU member states – Latvia and Lithuania – have set up full-fledged agencies in line with this model.

The law enforcement model implies specialization primarily in investigation and prosecution, or a combination of the two. The distinguishing feature of this model that differentiates it from the multipurpose-agency model is the relatively lower level of independence and visibility as it is normally placed within the existing police or prosecutorial hierarchy. Examples of this model in CEE countries are the National Anticorruption Directorate in Romania, Department for Detecting Corruption and Financial Crime in the Police of the Czech Republic, Central Anticorruption Bureau in Poland, partially also the Slovenia’s Group of Prosecutors for Special Matters.

The preventive, policy development and coordination institutions represent the most diverse range of options and cover a variety of institutional designs with varying degrees of independence and organizational structure. Within this model additional sub-categories could be identified: services responsible for conducting and facilitating research into corruption, the review and preparation of relevant legislation, the assessment of the risk of corruption, the provision of a focal point for international cooperation as well as a liaison point for civil society; control institutions with responsibilities related to the prevention of the conflict of interest and the declaration of assets; and arrangements for the monitoring and coordination of the implementation and update of the national and local anticorruption strategic documents and action plans. Examples of this model in CEE countries are the Commission for Prevention of Corruption in Slovenia and the Chief Institutional Ethics Commission in Lithuania.

Independence and accountability

The independence and autonomy of a specialized anticorruption institution is considered a fundamental requirement for a proper and effective exercise of its functions. Corruption, in many respects, equals abuse of power. In contrast with other illegal acts, in public corruption cases at least one perpetrator comes from the ranks of persons holding a public function; the higher the function, the more power such a person exercises over other institutions. The level of “required” independence of a given anticorruption institution is therefore closely linked with the level of corruption, governance, rule of law and the strength of the existing state institution in a given country. The prosecution of “street corruption” normally does not require an institution additionally shielded from undue external political influence. On the other hand, tackling corruption associated with high-level officials (capable of distorting the proper administration of justice) or systemic corruption in a country with a lack of governance, comparatively weak law enforcement and financial control institutions is destined to fail if not supported by a sufficiently strong and independent anticorruption institution.

While formal and fiscal autonomy is required by international instruments and is an important factor influencing the institution’s performance, it does not in

itself guarantee success. Any kind of formal independence can be thwarted by political factors.²² It is **genuine political commitment**, coupled with adequate resources, powers and trained and dedicated staff, which are crucial for the success of an anticorruption institution rather than its formal independence. Consequently, in light of international standards, one of the prominent and mandatory features of specialized institutions is not full independence but rather an adequate level of *structural and operational autonomy* secured through institutional and legal mechanisms aimed at preventing undue political interference as well as “pre-emptive obedience”.²³ In short, “independence” first of all entails **depoliticization** of anticorruption institutions.

Particularly after joining the European Union, several CEE countries have experienced political backlash against their anticorruption institutions. Developments that received international coverage include attempts to close down the Commission for the Prevention of Corruption in Slovenia, appeals to declare the special anticorruption court unconstitutional in Slovakia, continuous and finally successful efforts to remove the head of the Corruption Prevention and Combating Bureau in Latvia, etc.²⁴ The latter has been recognized as one of the most effective institutions of its kind in Europe; it suffered from certain rivalry with other law enforcement agencies in the beginning of its operation and later – a much more serious – confrontation with political parties, over whose finances it executes oversight.

The adequate level of independence and autonomy depends on the type and mandate of an anticorruption institution. Institutions in charge of the investigation and prosecution of corruption normally require higher levels of independence than those in charge of preventive functions²⁵; multipurpose bodies that combine preventive and repressive functions in one single agency call for the highest level of independence, but also the most transparent and comprehensive system of accountability.

Meantime experience in CEE countries shows that preventive and coordinating bodies may also fall prey to political attacks or at least suffer from political ignorance. A most telling example of this kind is the Slovenian Commission for the

²² Meagher, P. (2004). *Anti-corruption Services – A Review of Experience*, IRIS (Center for Institutional Reform and the Informal Sector at the University of Maryland). http://www.iris.umd.edu/Reader.aspx?TYPE=FORMAL_PUBLICATION&ID=3dca81ee-16c2-46f6-a45c-51490fcb3b99 Last viewed on 16.12.2008.

²³ Esser, A., Kubiciel, M. (2004). *Institutions against Corruption: A Comparative Study of the National Anti-corruption Strategies reflected by GRECO's First Evaluation Round*, Study commissioned by Council of Europe, GRECO, Strasbourg, p. 37.

²⁴ *Talking of Virtue, Counting the Spoons*. The Economist. 22 May 2008.

²⁵ Council of Europe (2004). *Anti-corruption Services – Good Practices in Europe*. Council of Europe Publishing, Strasbourg, p. 17;

UNDP (2005). *Report of the Regional Forum on Anti-corruption Institutions*. Vienna International Center, p. 5. <http://europeandcis.undp.org/files/uploads/Lotta/AC%20Forum%20Report.pdf> Last viewed on 16.12.2008.

prevention of Corruption, which – although largely occupied with analysis, prevention and coordination – has been continuously under the threat of termination.²⁶ Following parliamentary elections and the change of government in 2004, the Commissions came under persistent criticism. The parliament, characterizing the Commission as ineffective, lacking enforcement powers, as well as a disproportionate burden on the state budget due to its small contribution to the fight against corruption, passed a law to abolish the Commission and to set up a parliamentary commission, composed of members of the parliament with opposition in majority, to perform the functions of an oversight body in the field of prevention of the conflict of interest and declaration of assets of high public officials. However, parts of that law were struck out by the Constitutional Court, and the Commission survived. The new government that came into power in 2008 took a different approach and is promising the strengthening of the Commission. It remains to be seen whether that actually happens. The fact, however, is that four years of constant pressure and lack of financial support has somewhat discredited the Commission and pushed it entangled with political battles. In many ways the whole idea of the independent preventive body in its present form and under the present head has – rightfully or wrongly – lost credibility. The fate of the Slovenian Commission gives a telling example of how an anticorruption institution can be hindered and even abolished despite its formal independence and high public support – if there is a lack of political support and understanding of the importance of preventive and coordinative functions in the fight against corruption.

The independence of law enforcement bodies (specialized departments or units) that are positioned within existing structures requires a particularly nuanced approach. The police, other investigative bodies, and – to a lesser degree – also prosecution service where it is part of the executive are highly centralized hierarchical structures reporting ultimately to a government minister. The risk of undue interference is substantially higher when individual investigators or prosecutors lack autonomous decision-making powers in handling cases and where law grants their superiors or the Office of the Prosecutor General substantive discretion to interfere in particular cases. There are ways to address this risk, for example, special departments or units can be subject to separate hierarchical rules and appointment procedures; police officers working on corruption cases, though institutionally placed within the police, should, in individual cases, report only and directly to prosecutor.

Meantime the experience of CEE countries presents vague evidence of whether it is possible to truly protect the due autonomy of anticorruption departments or units within the police or the prosecution once they encounter politically sensitive corruption cases. The Romanian National Anticorruption Directorate is among the most widely known anticorruption institutions of its type in CEE. The

²⁶ Klemenčič, G., Stusek, J., Gaika, I. (2007). *Specialised Anti-Corruption Institutions. Review of Models*. OECD Anti-Corruption Network for Eastern Europe and Central Asia, p. 110. http://www.oecd.org/document/31/0,3343,en_36595778_36595861_39972191_1_1_1_1,00.html Last viewed on 16.12.2008.

Directorate is a part of the Prosecutor's Office attached to the High Court of Cassation and Justice. Its institutional framework provides the Directorate with reasonable protections against illegitimate interference. There are relatively transparent procedures for the selection and appointment of its prosecutors, possibility of a prosecutor to challenge in front of the Superior Council of Magistracy the unlawful intervention of the hierarchically higher prosecutor in an investigation, etc.²⁷ However, influential politicians have kept on attempts to control the activities of the Directorate and, at the time of writing this article, the widely acclaimed head of the Directorate Daniel Morar occupied his office based on just a temporary arrangement until the end of 2008.²⁸

The limited space of this article does not allow for an extended discussion on various particular factors determining the independence of an anticorruption body. No state institution can be fully autonomous and due care should be taken to preserve *accountability and transparency* of institutions, especially if they possess intrusive investigative powers. All anticorruption bodies ultimately depend upon and are accountable to those in power, and, in the *new* EU Member States in CEE, none has constitutional status equivalent to that of the judiciary. International standards neither require nor advocate such level of independence.

Whatever design and institutional placement, specialized anticorruption institutions need to integrate a *system of checks and balances essential for democratic governance*. The explanatory report to the Criminal Law Convention on Corruption rightfully states that: "it should be noted that the independence of specialized authorities for the fight against corruption, should not be an absolute one. Indeed, their activities should be, as far as possible, integrated and co-ordinated with the work carried out by the police, the administration or the public prosecutor's office. The level of independence required for these specialized services is the one that is necessary to perform properly their functions."²⁹

Independence should not imply a lack of accountability; specialized services should in the discharge of their duties and powers strictly adhere to the principles of the rule of law and internationally recognized human rights. Such institutions should submit regular performance reports and facilitate public access to information on their work.³⁰ Law enforcement institutions must be subject to

²⁷ Klemenčič, G., Stusek, J., Gaika, I. (2007). *Specialised Anti-Corruption Institutions. Review of Models*. OECD Anti-Corruption Network for Eastern Europe and Central Asia, p. 75. http://www.oecd.org/document/31/0,3343,en_36595778_36595861_39972191_1_1_1_1,00.html Last viewed on 16.12.2008.

²⁸ Daniel Morar interim extended. Nine o'Clock. 10 November 2008. <http://www.nineoclock.ro/index.php?page=detalii&categorie=homenews&id=20081110-10011> Last viewed on 16.12.2008.

²⁹ Council of Europe. Explanatory report to the Criminal Law Convention on Corruption (ETC no. 173), par. 99. <http://conventions.coe.int/treaty/en/Reports/Html/173.htm> Last viewed on 16.12.2008.

³⁰ UNDP (2005). *Report of the Regional Forum on Anti-corruption Institutions*. Vienna International Center. <http://europeandcis.undp.org/files/uploads/Lotta/AC%20Forum%20Report.pdf> Last viewed on 16.12.2008.

prosecutorial and court supervision; special external over-sight committees (comprised of representatives of different state bodies and civil society) may strengthen the accountability of single multipurpose agencies.³¹

Accountability and independence reinforce each other. Practice in, for example, Latvia shows that the support of the public, which in turn is conditioned by the integrity of the anticorruption institution, is in some cases crucial when the body comes under politically motivated attacks.

Adequate resources and powers

Numerous international legal instruments contain an obligation to provide anti-corruption institutions with *personnel with adequate training and sustainable financial resources*. The composition, number, and profiles of the personnel employed in an anticorruption institution should reflect its mandate and tasks. For example, enforcement bodies should not only consist of prosecutors and/or investigators, but also, for example, forensic specialists, financial experts, auditors and IT specialists. Furthermore, in-service training should be a norm.

On the global scale, inadequate numbers of staff and/or lack of specialized experts are among common challenges for anticorruption institutions. The picture is somewhat different in CEE countries. Surely some shortages of financial or human resource character have been present but a review of the relevant institutions in, for example, Lithuania, Latvia, and Romania shows a generally satisfactory picture in terms of both funds and human resources. Slovenia where the Commission for the Prevention of Corruption has been operating under harsh financial limitations appears almost as an exception.³² In 2008 reduction in remunerations was also attempted against the judges and public prosecutors of the Special Court and Special Prosecutor's Office in Slovakia.³³

International standards of adequate training and resources apply also to the institutions generally excluded from specialization – the *courts*. Corruption-specific training programmes should be designed and provided for the judges who preside over such cases. It is of little benefit if only the police and/or prosecution are properly equipped and trained, if the carefully prepared and

³¹ The Latvian Corruption Prevention and Combating Bureau has set up the Public Consultative Council constituted from 15 non-governmental organisations and the Foreign Advisory Panel, which is a forum for diplomatic representatives, international organisations and foreign businesses working in Latvia.

³² Klemenčič, G., Stusek, J., Gaika, I. (2007). *Specialised Anti-Corruption Institutions. Review of Models*. OECD Anti-Corruption Network for Eastern Europe and Central Asia. http://www.oecd.org/document/31/0,3343,en_36595778_36595861_39972191_1_1_1_1,00.html Last viewed on 16.12.2008.

³³ Staroňová, K. (2008). *Anti-Corruption Measures in Slovak Judiciary: Case of Court Management and Special Court*. http://www.nispa.sk/_portal/files/conferences/2008/papers/200807221119540.Staronova_Judiciary_FinalNEW.doc Last viewed on 16.12.2008.

investigated case falls apart due do to a lack of knowledge and resources (or backlogs) in the judicial system. However, the specialization of courts invites caution, not least to avoid the development of “special” courts with double standards of justice. Among the reviewed CEE countries, Slovakia has chosen specialization on the courts level by setting up the Special Court for Corruption and other Serious Crimes. The court reportedly led to an increase in the number of cases processed and a more harmonized approach in dealing with corruption cases.³⁴

In relation to anticorruption bodies with law enforcement functions, the UN and Council of Europe conventions emphasize the need for *effective means of gathering evidence, protecting those persons who help the authorities in investigating and prosecuting corruption, and for raising the incentives for persons to report corruption and cooperate with the authorities*. Often, specialized law enforcement institutions for the fight against corruption are granted even more extensive and intrusive powers than the regular police. Such broad and intrusive powers should, however, be strictly scrutinized in the light of international human rights standards and be subject to external oversight.

The question of adequate powers (e.g., to request documents and conduct inspections or hearings) is also relevant for preventive bodies which have certain *control functions in such areas as prevention of the conflict of interest, political party financing, and the declaration of assets of public officials*.

Cooperation with civil society and private sector, inter-agency cooperation

Institutional efforts against corruption are likely to fail without the active involvement of both civil society and the private sector. Therefore different international instruments promote the openness of specialized anticorruption bodies and their cooperation with the civil society. This standard applies not only to the preventive and educational bodies, but also to the law enforcement bodies.

No anticorruption body, however broad its mandate, cannot, by itself, perform all the relevant tasks for the suppression and prevention of corruption. An adequate level of *coordination, cooperation and exchange of information* should take into account the degree of existing “fragmentation” of anticorruption functions and tasks divided amongst different institutions.

A degree of strong and functional *inter-agency cooperation and exchange of information between different state law enforcement bodies and control institutions* (e.g., financial control institutions, tax and customs administration, regular

³⁴ Evaluation Report on the Slovak Republic on Incriminations (ETS 173 and 191, GPC 2) (Theme I). Adopted by GRECO at its 36th Plenary Meeting (Strasbourg, 11–15 February 2008). P. 22. [http://www.coe.int/t/dg1/greco/evaluations/round3/GrecoEval3\(2007\)4_Slovakia_One_EN.pdf](http://www.coe.int/t/dg1/greco/evaluations/round3/GrecoEval3(2007)4_Slovakia_One_EN.pdf) Last viewed on 16.12.2008.

police forces, security services and financial intelligence units) is one of the last, but most important, features deriving from international standards. There are considerable problems in this area ranging from overlapping jurisdictions and conflicts of competencies to the lack of competencies (where institutions are refusing jurisdiction in sensitive cases and transferring responsibilities to other institutions). If this feature is overlooked (as it often is) in the process of designing the legal basis of the new institution, it will be likely to seriously hinder the performance of the institution and taint its relations with other State institutions in the future.

Experience dictates that existing general rules alone, for example, provisions of the Code of Criminal Procedure relating to the coordination of investigation and prosecution of criminal offences (usually by the Prosecution Office), are inadequate as a means of securing an appropriate level of coordination and cooperation in dealing with complex corruption cases. This issue is particularly acute in terms of addressing issues which may arise outside the investigation of specific cases. Cooperation in detection and investigation of corruption-related cases requires a broader variety of expertise and a higher amount of input from different state institutions than other regular (even organized crime) criminal offences.

Cooperation is naturally of crucial importance in systems based on multi-agency approaches where preventive institutions are not institutionally linked with law enforcement bodies. Depending on the institutional settings in different countries, these issues are addressed either through the creation of *special multidisciplinary coordinative commissions* (which is particularly the case where such commissions also oversee the implementation of the national anticorruption strategies and action plans), through the inclusion of *special provisions on cooperation and exchange of information in the law or by signing special agreements and memorandums* with relevant institutions on cooperation and exchange of information.

Conclusion

In many countries of the *new Europe*, various types of anticorruption institutions have been often established with the aim to demonstrate the readiness of these countries to join the EU. Over years these special anticorruption institutions – some working more and some less effectively – began to inconvenience ruling parties, influential politicians, and business sharks whose interests involved legally dubitable access to public funds and influence on political decisions.

Little wonder that soon after the accession parts of political elites backlashed against the new agencies that increasing proved a restraint or at least annoyance to some high public office holders. Romania's politicians showed continuous animosity towards the head of the country's anticorruption prosecutor's directorate and, as of December 2008, he occupied his office based on barely a temporary arrangement. In Slovenia, attempts to dissolve the Anticorruption Commission, which enjoys broad popular support, have been ongoing for several

years now. In Latvia, the head of the Corruption Prevention and Combating Bureau was dismissed in the summer of 2008 based on partially true claims of his poor leadership.

So questions arise whether expectations towards special anticorruption institutions have proved futile and whether anything was done wrong in their designs. The underlying rationale for establishing an anticorruption institution is based on the expectation that, unlike existing state institutions, the new one:

“1) will not itself be tainted by corruption or political intrusion; 2) will resolve coordination problems among multiple agencies through vertical integration; and 3) can centralize all the necessary information and intelligence about corruption and can assert leadership in the anticorruption effort. This suggests that the main expected outcome of an anticorruption institution should be an overall improvement in the performance of anticorruption functions.”³⁵

However, experience in EU member states from CEE suggests distinct *challenges* in the operation of specialized anticorruption institutions. Reduced international monitoring that followed accession to the European Union allowed political elites behave more aggressively against these institutions. Elites try to draw lines how far corruption investigations can go and this results in either tacit unwillingness/inability of anticorruption institutions to cross the line (as according to some opinions in Lithuania) or open clashes between politicians and anticorruption institutions (as in Latvia and Romania). In the latter case, even if institutions withhold pressures and maintain their autonomy, a risk of at least perceived politicization increases and prolonged confrontation with the government politicians may feed the appearance of proximity to the political opposition.

Apart from the challenges in relations with political elites, the prevention and combating of corruption is an objective of such complexity that even agencies with the greatest variety of functions are not able to avoid coordination problems such as disputes over jurisdictions. Furthermore, occasional animosities and confrontations between anticorruption institutions and other state bodies may prove substantially detrimental to effective operation.

Although every generalization about anticorruption institutions in CEE countries that are now EU members must be expressed with utmost precaution, two laudable characteristics are noticeable – more often than not such bodies avoid being abused as a tool against political opponents³⁶ and they have received considerable resources.³⁷ These positive features demonstrate that the exercise of estab-

³⁵ Meagher, P. (2004). *Anti-corruption Services – A Review of Experience*. IRIS (Center for Institutional Reform and the Informal Sector at the University of Maryland). http://www.iris.umd.edu/Reader.aspx?TYPE=FORMAL_PUBLICATION&ID=3dca81ee-16c2-46f6-a45c-51490fcb3b99 Last viewed on 16.12.2008.

³⁶ Lithuania and particularly Poland are sometimes mentioned as negative exceptions to this general state of affairs.

³⁷ Slovenian Commission for the Prevention of Corruption could be an exception here.

lishing anticorruption agencies may have avoided the fate of overall failure although their sustainability and effects on the overall corruption situation are under a question.

Measuring the performance of an anticorruption institution is a complex task, for which countries in the region may still lack the necessary expertise and resources. It is particularly difficult to verify whether any particular institution in any particular country has had a substantial impact on the overall corruption level. At the same time, the presentation of data on corruption situation might often be a crucial factor for an anticorruption institution to gain or retain public support and fend off politically motivated attacks.³⁸

Finding themselves in constant confrontation with political parties or losing the battle against political pressure, some anticorruption institutions risk becoming ineffective or even entirely inconsequential. Of course, each such case has its own specifics, but there is one truth that all have in common: one more or less isolated institution, even if it receives all the necessary resources and achieves a high degree of professionalism, cannot break the vicious circle of corruption if it does not have the support of a critical mass in the public administration, the courts and the political parties.

³⁸ Kalniņš, V. (2005). Discussion paper *Assessing Trends in Corruption and Impact of Anti-Corruption Measures*.
www.oecd.org/dataoecd/62/50/37330934.pdf Last viewed on 16.12.2008.

5. Appendix. Combating Corruption: a Quantitative Overview

The appendix provides a systematic look at trends in Latvia's effort to combat corruption.

The information compiled here comprises data on the number of criminal cases and persons brought to court in relation to bribery (acceptance of a bribe, misappropriation of a bribe, intermediation in bribery, active bribery) from 1992 to 2007 (Table 5.1). It is followed by a broader review of the number of persons convicted of criminal offences committed in public service and forms of punishment (2005 to the end-November of 2008).

Table 5.1.
**Performance results of the Prosecutor's Office in the investigation
of bribery offences (CL Sections 320–323)**

| | 1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 |
|---------------------------------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| No. of cases brought to court | 22 | 24 | 18 | 25 | 32 | 21 | 25 | 27 | 12 | 28 | 27 | 26 | 31 | 30 | 53 | 53 |
| No. of persons brought to court | 40 | 35 | 34 | 42 | 63 | 28 | 35 | 37 | 19 | 37 | 38 | 48 | 43 | 49 | 79 | 97 |

Source: Report by the Prosecutor General Jānis Maizītis on the performance of the Prosecutor's Office in 2007. Data in tables.

http://www.prokuratūra.gov.lv/doc_upl/Dati_par_2007.xls Last viewed on 03.12.2008.

Table 5.2.
Persons convicted of criminal offences committed in public service
and forms of punishment (2005)

| CL or CC Section | Total number | Principal punishment – imprisonment | | | | | Other forms of principal punishment | | | |
|--|--------------|-------------------------------------|-----------------------|-----------------------|------------------------|-------------|-------------------------------------|------------------------|-------------------|-------------------------------------|
| | | 1 year or less | 1-3 years (inclusive) | 3-5 years (inclusive) | 5-10 years (inclusive) | Conditional | Payment of fine | Incl. conditional fine | Community service | Incl. conditional community service |
| 317. Abuse of functions | 4 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 1 | 0 |
| 318. Abuse of office (CC 162 applied in 2 cases) | 8 | 0 | 1 | 0 | 0 | 2 | 3 | 0 | 2 | 0 |
| 319. Inaction by a public official (CC 163 applied in 2 cases) | 10 | 0 | 0 | 0 | 0 | 3 | 5 | 0 | 2 | 0 |
| 320. Acceptance of a bribe | 25 | 0 | 6 | 2 | 3 | 14 | 7 | 5 | 0 | 0 |
| 321. Misappropriation of a bribe | 4 | 0 | 1 | 1 | 0 | 2 | 1 | 1 | 0 | 0 |
| 322. Intermediation in bribery | 4 | 0 | 0 | 1 | 0 | 3 | 1 | 1 | 0 | 0 |
| 323. Active bribery | 19 | 0 | 1 | 2 | 0 | 14 | 3 | 1 | 1 | 1 |
| 326. ² Solicitation and acceptance of undue advantage | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 |

Source: Court Information System (statistical data published December 3, 2008).

Table 5.3.
Persons convicted of criminal offences committed in public service and forms of punishment (2006)

| CL or CC Section | Total number | Principal punishment - imprisonment | | | | Other forms of principal punishment | | | Waiver of punishment | |
|---|--------------|-------------------------------------|-----------------------|-----------------------|------------------------|-------------------------------------|-----------------|------------------------|----------------------|-------------------|
| | | 1 year or less | 1-3 years (inclusive) | 3-5 years (inclusive) | 5-10 years (inclusive) | Conditional | Payment of fine | Incl. conditional fine | | Community service |
| 317. Abuse of functions | 6 | 0 | 0 | 0 | 0 | 5 | 1 | 1 | 0 | 0 |
| 318. Abuse of office (CC 162 applied in 1 case) | 7 | 0 | 0 | 0 | 0 | 4 | 2 | 0 | 0 | 1 |
| 319. Inaction by a public official (CC 163 applied in 6 cases) | 23 | 0 | 0 | 0 | 0 | 9 | 12 | 0 | 2 | 0 |
| 320. Acceptance of a bribe | 26 | 0 | 1 | 1 | 1 | 18 | 5 | 1 | 1 | 0 |
| 321. Misappropriation of a bribe | 3 | 0 | 2 | 0 | 0 | 1 | 0 | 0 | 0 | 0 |
| 322. Intermediation in bribery | 3 | 0 | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 0 |
| 323. Active bribery | 20 | 2 | 0 | 0 | 0 | 16 | 2 | 0 | 0 | 0 |
| 325. Violation of restrictions imposed on public officials | 2 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 |
| 327. Forgery of official documents | 2 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 |

Source: Court Information System (statistical data published December 3, 2008).

Table 5.4.
Persons convicted of criminal offences committed in public service
and forms of punishment (2007)

| CL or CC Section | Total number | Principal punishment - imprisonment | | | | Other forms of principal punishment | | |
|---|--------------|-------------------------------------|-----------------------|------------------------|-------------|-------------------------------------|------------------------|-------------------|
| | | 1-3 years (inclusive) | 3-5 years (inclusive) | 5-10 years (inclusive) | Conditional | Payment of fine | Incl. conditional fine | Community service |
| 317. Abuse of functions | 9 | 3 | 0 | 0 | 3 | 3 | 0 | 0 |
| 318. Abuse of office (CC 162 applied in 1 case) | 8 | 0 | 0 | 0 | 4 | 3 | 0 | 1 |
| 319. Inaction by a public official | 7 | 0 | 0 | 0 | 4 | 3 | 2 | 0 |
| 320. Acceptance of a bribe | 23 | 3 | 0 | 2 | 16 | 3 | 1 | 0 |
| 321. Misappropriation of a bribe | 5 | 0 | 0 | 0 | 2 | 3 | 0 | 0 |
| 322. Intermediation in bribery | 7 | 2 | 0 | 0 | 5 | 0 | 0 | 0 |
| 323. Active bribery | 23 | 2 | 0 | 0 | 21 | 0 | 0 | 0 |
| 326. ² Solicitation and acceptance of undue advantage | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| 327. Forgery of official documents | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 0 |

Source: Court Information System (statistical data published December 3, 2008).

Table 5.5.
Persons convicted of criminal offences committed in public service
and forms of punishment (January – November 2008)

| CL or CC Section | Total number | Principal punishment – imprisonment | | | | Other forms of principal punishment | | | |
|--|--------------|-------------------------------------|-----------------------|------------------------|-------------|-------------------------------------|------------------------|-------------------|-------------------------------------|
| | | 1-3 years (inclusive) | 3-5 years (inclusive) | 5-10 years (inclusive) | Conditional | Payment of fine | Incl. conditional fine | Community service | Incl. conditional community service |
| 317. Abuse of functions | 4 | 0 | 0 | 0 | 3 | 0 | 0 | 1 | 0 |
| 318. Abuse of office (CC 162 applied in 2 cases) | 8 | 1 | 0 | 0 | 2 | 3 | 0 | 2 | 0 |
| 319. Inaction by a public official (CC 163 applied in 2 cases) | 10 | 0 | 0 | 0 | 3 | 5 | 0 | 2 | 0 |
| 320. Acceptance of a bribe | 25 | 6 | 0 | 3 | 14 | 7 | 5 | 0 | 0 |
| 321. Misappropriation of a bribe | 4 | 1 | 1 | 0 | 2 | 1 | 1 | 0 | 0 |
| 322. Intermediation in bribery | 4 | 0 | 1 | 0 | 3 | 1 | 1 | 0 | 0 |
| 323. Active bribery | 19 | 1 | 2 | 0 | 14 | 3 | 1 | 1 | 1 |
| 326. ² Solicitation and acceptance of undue advantage | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 |

Source: Court Information System (statistical data published December 3, 2008).

Table 5.6.
Percentage of persons convicted of criminal offences committed
in public service and sentenced to imprisonment in the years 2005, 2006,
2007 and 11 months of 2008

| Year | Total number of persons convicted | Incl. persons sentenced to imprisonment | |
|-------------------|-----------------------------------|---|---------------------|
| | | Total number | Percentage of total |
| 2005 | 75 | 18 | 24% |
| 2006 | 92 | 8 | 8.7% |
| 2007 | 84 | 12 | 14.3% |
| 2008 (Jan–Nov) | 75 | 16 | 21.3% |

Primary data source: Court Information System.

Table 5.7.
Percentage of persons convicted of abuse of office and sentenced
to imprisonment in the years 2005, 2006, 2007
and 11 months of 2008

| Year | Total number of persons convicted | Incl. persons sentenced to imprisonment | |
|-------------------|-----------------------------------|---|---------------------|
| | | Total number | Percentage of total |
| 2005 | 8 | 1 | 12.5% |
| 2006 | 7 | 0 | 0% |
| 2007 | 8 | 0 | 0% |
| 2008 (Jan–Nov) | 8 | 1 | 12.5% |

Primary data source: Court Information System.

Table 5.8.
Percentage of persons convicted of accepting bribes and sentenced to imprisonment in the years 2005, 2006, 2007 and 11 months of 2008

| Year | Total number of persons convicted | Incl. persons sentenced to imprisonment | |
|-------------------|-----------------------------------|---|---------------------|
| | | Total number | Percentage of total |
| 2005 | 25 | 11 | 44% |
| 2006 | 26 | 3 | 11.5% |
| 2007 | 23 | 5 | 21.7% |
| 2008 (Jan–Nov) | 25 | 9 | 36% |

Primary data source: Court Information System.

Table 5.9.
Percentage of persons convicted of active bribery and sentenced to imprisonment in the years 2005, 2006, 2007 and 11 months of 2008

| Year | Total number of persons convicted | Incl. persons sentenced to imprisonment | |
|-------------------|-----------------------------------|---|---------------------|
| | | Total number | Percentage of total |
| 2005 | 19 | 3 | 15.8% |
| 2006 | 20 | 2 | 10% |
| 2007 | 23 | 2 | 8.7% |
| 2008 (Jan–Nov) | 19 | 3 | 15.8% |

Primary data source: Court Information System.

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