

Public accountability procedures in politics in Latvia

Preliminary Report

**EU RTD Project “Researching Public Accountability Procedures in Different European Contexts”, PubAcc Project (HPSE-CT2001-00076)
Workpackage 1: National Profiles: Latvia**

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February 2002

Executive summary

The report addresses research tasks of the 1st work package of the Project and its aim is to give an overview description and analysis of state of the art of public accountability procedures in Latvia.

The analysis is based on mainly qualitative data gathering together with some elements of quantitative data drawn from earlier research. Data obtained by using various methods tend to mutually confirm the major conclusions of the report.

The report contains a theoretical framework of public accountability, analyses relevant public discourses, presents an overview of accountability mechanisms and procedures in Latvia, and discusses successes, problems and challenges.

Various groups of political agents are more familiar with the concept of political responsibility and responsible governance rather than public accountability. Other concepts, which illuminate aspects of public accountability, are transparency, access to government information, participation in policymaking, cooperation between government and other stakeholders, and legal responsibility of officials.

Most of interviewed experts referred to insufficient responsibility of politics and governance in Latvia, citing problems such as corrupt behaviour, the dependency of political parties on economic groups, the flaws of administrative reforms (low administrative capacity).

Although the civil society is developing, widespread distrust in politics and the lack of skills of democratic participation result in insufficient public demand for accountable governance.

On the positive side, several new developments have emerged: improved access to government information, cooperation between state institutions and civil society organizations in a number of consultation councils in the process of policy formulation and implementation, new initiatives of state administration to open policy making for public participation.

However, these new initiatives towards open, transparent, and participatory policy making are yet to be consolidated in order to achieve systemic improvements.

A latent conflict exists between increasingly accountable administrative activities and continuously non-transparent political decision-making. Another challenge is the enforcement of accountability in increasingly decentralizing governance. Yet one more challenge is related to the effects of the expansion of information technologies in policy making that both increase opportunities for participation and discriminates against those who do not possess necessary technical means and skills.

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Introduction

This is the Latvian report on the EU Joint Research Project “Researching Public Accountability Procedures in Different European Contexts”. The report addresses research tasks of the 1st work package of the Project and its aim is to give an overview description and analysis of state of the art of public accountability procedures in Latvia. Based on a range of qualitative methods the report investigates different aspects of accountable governance. Firstly, it characterises linguistic connotations and terminology of public accountability in Latvia. Secondly, it describes political system and political culture in Latvia. Thirdly, the report deals with impact of private sector and international organisations on policy-making processes in Latvia. Fourthly, analysis highlights issues, which have particularly activated discussions about responsibility in politics and governance. Fifthly, the report examines mechanisms and procedures, which are used in different policy sectors and at different levels of decision-making in order to make policies more transparent, participatory and accountable to people. Finally, the report draws conclusions about the current developments and problems with respect to democratic accountability in Latvia and discusses future challenges and their theoretical implications.

1 Methodology

The methodology contains mainly qualitative data gathering together with some elements of quantitative data drawn from earlier research. Therefore, while the data allows us to make some generalisations, they should be treated with due caution. Our set of methods reveals both valid and reliable insights into various discourses on public accountability issues. Structured interviews are a key method that is used to reveal detailed and nuanced information about how various agents perceive public accountability issues. Methods such as documentary analysis and case studies provide the report with hard data and exemplify more general observations made in this report. Data obtained by using various methods tend to mutually confirm the major conclusions of the report, thus strengthening confidence in the accuracy of the findings. Below particular methods used for data collection and analysis are characterised:

1. Documentary analysis and overview of existing researches.
2. Structured interviews with policy actors: politicians, civil servants, journalists, political scientists, NGO leaders, entrepreneurs, lawyers and representatives of international organisations. In total 18 interviews were carried out. The list of interviews is given in Annex 1.
3. Participatory observation of policy expert meetings: the Annual Conference of Latvian Lawyers Association, the meeting of Policy Dialogue Group which represents different government institutions, the public discussion “Identity, Dialogue and Social Integration” organised by the Ministry of Justice and the Regional Consultations for Central and Eastern Europe on Deepening Democracy in a Fragmented World organised by the UNDP Human Development Report Office.
4. Media screening (mainly the national daily newspapers were inspected) with focus on editorials and analytical articles dealing with issues of public accountability.
5. Case studies of public institutions and policy sectors carried out by sociology students of the University of Latvia during the course on Public Institutions in Latvia. The students examined procedures of public accountability in 19 different policy sectors and wrote analytical essays. These essays were used as a material for our secondary analysis.
6. Feedback consultations with political scientists. During data analysis and writing this report we consulted two political scientists for clarifications and feedback verification of our preliminary findings. This helped to sharpen some of the arguments.

7. Informal conversations with politicians. One of them was a minister and another was a director of the State Chancellery. These conversations gave valuable insights in top-level policy-making process.
8. Expert questionnaires. During the Annual Conference of the Latvian Lawyers Association we distributed 22 questionnaires asking respondents to answer the same questions as in structured interviews. Only 3 filled in questionnaires where returned by mail. The low return rate indirectly indicates that the concept of public accountability is not well recognised among lawyers and policy actors in Latvia in general.
9. Team's regular internal discussions.

2. Results

2.1. Linguistic connotations and terminology

2.1.1. Theoretical definition of public accountability

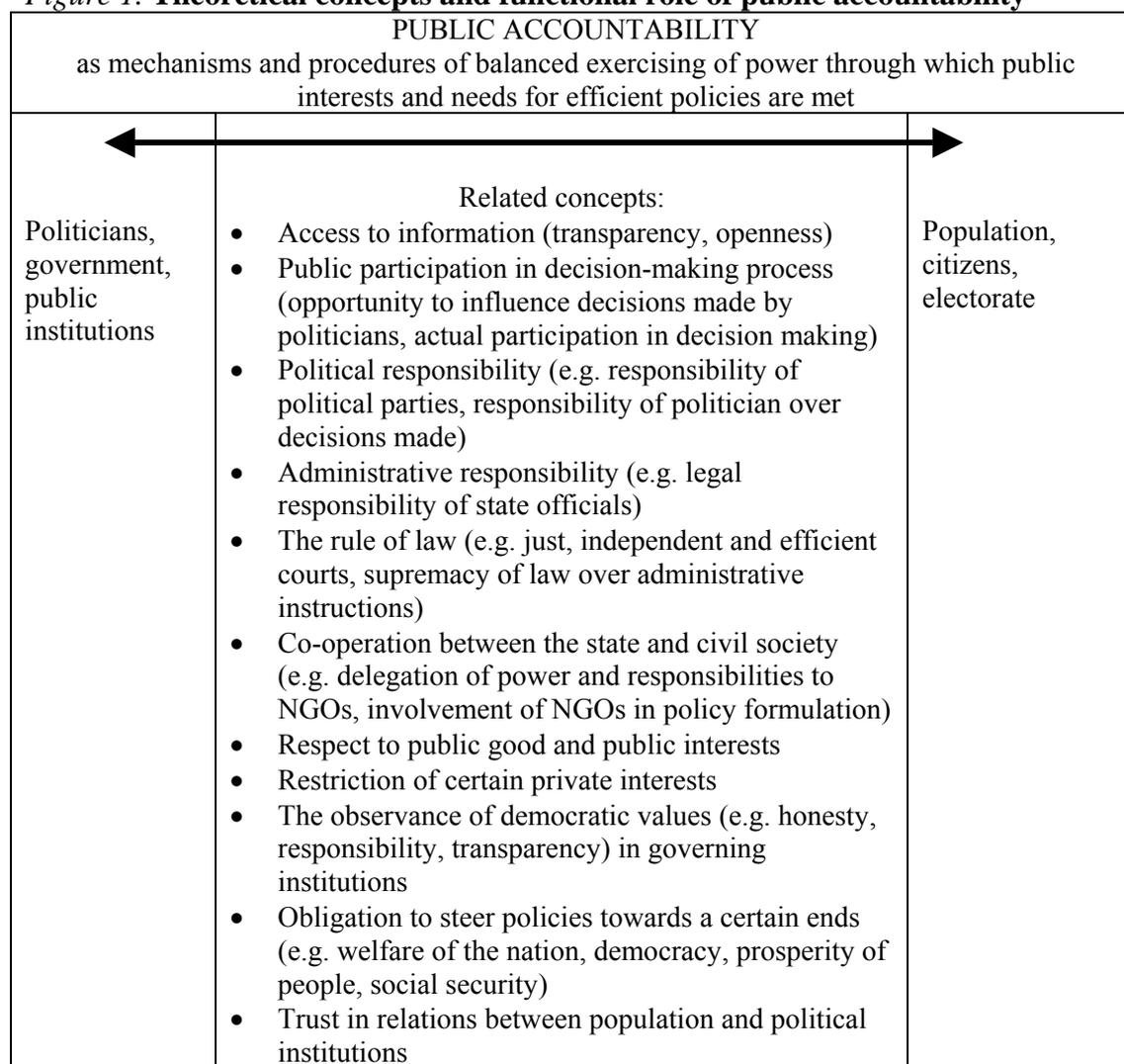
Before starting the research we came to terms of our own theoretical understanding and definition of public accountability. We followed hypothesis of the PubAcc Project and theoretical paradigm developed by Jurgen Habermas. According to Habermas public accountability is a fundamental principle of democratic governance, which establishes integrity between the civil society, the state and different social groups in the modern society. In Habermas's theory public accountability is conceptualised by means of such other concepts as *public and private sphere, civil society and the state, mediation of interests, communicative action* (Habermas 2001, 1999, 1998, 1989). We also referred to ideas and findings of our former research of public policy process in Latvia published in the recent edition of *Latvia Human Development Report 2000/2001* (UNDP 2001). We agreed upon the following working definition of public accountability:

“Public accountability is a relationship between politicians and government institutions, on the one hand, and electorate and population, on the other hand, which ensure consideration of public interests in decision-making process and enhance formulation and implementation of efficient and responsible policies.”

According to this definition public accountability can be operationalised as mechanisms and procedures of balanced exercising of power through which public interests and needs for efficient policies are met.

There are many other concepts, which specify particular aspects of public accountability: *access to information, public participation in policy-making process, political responsibility, administrative responsibility, the rule of law, co-operation between the state and civil society, respect to public good and public interests, restriction of certain private interests, the observance of democratic principles in governing institutions, obligation to steer policies towards certain ends, public trust*. In Figure 1 these theoretical concepts are shown as elements of functional relationship between politicians and government, on the one side, and population and citizens, on the other side.

Figure 1. Theoretical concepts and functional role of public accountability



2.1.2. Perceptions and meanings of public accountability in Latvia

Having elaborated this theoretical definition we confronted more complicated reality of perceptions and meanings of public accountability when we started investigations of actual accountability discourses and practices in Latvia. It became obvious that different words which designate one or another aspect of public accountability are being used in fragmented way and there is no one single discourse of public accountability. Even some policy experts did not understand this concept in its full complexity. For many interviewed policy actors it was much easier to distinguish the concepts of *responsible politics* and *responsible governance* than to grasp the notion of *public accountability*.

One part of interviewed experts doubted the very existence of public accountability awareness among Latvian politicians and population in general: “*Public accountability concept has not yet anchored in the Latvian political language. Moral and ethical principles in politics – they also have not found their roots*” (Int. No. 15). “*In Latvia not only ordinary people, but also policy makers do not understand these concepts [public accountability, responsible governance] properly. Accountability is often reduced to financial accountability, but what does public accountability means is not so clear for them*” (Int. No. 16). One expert even indicated, “*Political responsibility is perceived as irresponsibility.*” (Int. No. 4)

Other experts emphasised that at the level of normative thinking politicians recognise the need for political responsibility, however, in practice it has been often ignored: *“I have not found an answer what political accountability means in Latvia and how it is implemented. Is it responsibility when politicians move from one [political] party to another? Do we have political parties at all or do we have just interest groups?”* (Int. No. 17.)

During the fieldwork interviews, press screenings and case studies of public institutions we collected variety of words and expressions which are being used by different political actors – journalists, civil servants, NGOs leaders, political scientists, entrepreneurs, lawyers, politicians and local municipality leaders to characterise their understanding of public accountability. These expressions are summarised and classified in Figure 2.

Figure 2. Vocabulary of positive and negative meanings of public accountability, as used by different policy actors (answers to the question *“How public accountability is understood in Latvia? What other concepts characterise public accountability?”* The language of respondents has been retained in the expressions, with quotes placed in quotation marks, key meanings underlined.)

Positive meanings/ enforcement of accountability	Negative meanings/ lack of accountability
<ul style="list-style-type: none"> • <i>“Willingness to <u>influence processes</u> in the country”</i> • <i>“<u>Responsibility</u> of officials for the consequences of their actions”</i> • <i>“Ability to <u>foresee the consequences</u>”</i> • <i>“<u>Transparency</u> automatically require responsibility. As soon as things get transparent you can demand responsibility”</i> • <i>“Responsible politics are politics which put <u>state interests</u> in the first place, not the interests of particular groups” (Int.18)*</i> • <i>“<u>Access to information</u>”</i> • <i>“Work for the <u>benefit of clients</u>”</i> • <i>“<u>Listening to demands of people</u>”</i> • <i>“Those politicians who are in <u>transparent positions</u> and under <u>media attention</u> are forced to be accountable irrespectively to their political views (Int. No. 11)”</i>. • <i>“The role of responsible policies increase year by year. Many small political issues have been already resolved. Now politicians understand that big issues have to be tackled <u>for the sake of the state</u> (Int. No.13)</i> • <i>“Training of civil servants, the level of their <u>competence</u>”</i> • <i>“<u>Just consideration</u> of cases”</i> • <i>“<u>Responsibility</u> of elected officials”</i> • <i>“Opportunities to participate in <u>public hearings</u>”</i> • <i>“Transparent registration of <u>public services on the Internet</u>”</i> • <i>“<u>Rotation</u> of elected officials”</i> • <i>“Political responsibility means responsibility for <u>development of Latvia</u>, for Latvia’s <u>integration</u> into the European Union and NATO”</i> 	<ul style="list-style-type: none"> • <i>“<u>Irresponsibility</u>”</i> • <i>“<u>Unwillingness</u> to achieve political compromises”</i> • <i>“People think that <u>politicians do not account for their actions</u> and it is <u>impossible to influence them</u>”</i> • <i>“<u>Squandering</u> of public money”</i> • <i>“<u>Settling private affairs</u> by means of politics”</i> • <i>“Certain sectors of <u>policies have been privatised</u> by the political parties”</i> • <i>“Politicians and government in Latvia are <u>not accountable to the people</u>”</i> • <i>“<u>Short term policies</u> and inability of state administration to think in long term perspective (Int. No. 16.”</i> • <i>“<u>Lack of political responsibility</u> towards voters and citizens”</i> • <i>Selfishness of politicians: “They mainly <u>care about their own interests</u>”</i> • <i>“Those politicians who are in the <u>shadow of parties</u> can afford doing anything”</i> • <i>“Population <u>lacks information</u> about their rights”</i> • <i>“People are <u>not aware of their role</u> in governing processes and possibilities to influence policies”</i> • <i>“Those who are in ruling positions <u>rather account to their parties, not to the people</u> or their conscience (Int. No. 11)”</i> • <i>Lack of popular demand for public accountability: “The society <u>lacks the will and ability to consistently and permanently demand</u> from the power the fulfilment of promises.”</i> • <i>Fragmented party system: “<u>Small parties</u> do not think about state interests but about their survival”</i> • <i>“Non-citizens are not represented in Saeima, they are <u>excluded from politics</u>”</i> • <i>“Politics are <u>moved by money</u> of economic groups” (Int. No.17)</i> • <i>“Professional and <u>competent people</u> turn away from politics”</i>

* The notion “state” in Latvian is often used as a synonym of the notions of “nation” and “people”

It is obvious from the vocabulary that public interests dimension is underrepresented in political language and that there is a salient deficiency of responsibility in Latvia in relations between those who govern are those who are governed.

The discourse analysis suggests that actors interpret politics as accountable (in positive terms) if political and administrative actions conform to the principles of normative democracy, i.e. – if politics are honest, competent, responsible and transparent. And contrary, they perceive politics as irresponsible if actions undermine ideals of democratic governance.

In a recent study of public policy process in Latvia (UNDP 2001) the public, Parliament (*Saeima*) deputies and local government leaders assessed the observance of such democratic principles as competence, honesty, responsibility and transparency by government institutions (see Table 1).

Table 1. The observance of democratic principles in Latvian institutions
(% of respondents who answered “to a very large extent” and “to a fairly large extent”)

Institutions	Evaluators	“To what extent is decision-making by the following institutions honest, competent, responsible and transparent?”			
		Honest	Competent	Responsible	Transparent
The <i>Saeima</i> (Parliament)	The public	14	39	24	19
	<i>Saeima</i> deputies	54	85	57	58
	Local government leaders	25	58	30	28
Cabinet of Ministers (Government)	The public	18	45	27	17
	<i>Saeima</i> deputies	40	83	60	17
	Local government leaders	22	57	39	17
Ministries and institutions under their supervision	The public	16	33	21	15
	<i>Saeima</i> deputies	37	77	54	20
	Local government leaders	23	56	26	9
Local governments	The public	32	45	40	28
	<i>Saeima</i> deputies	49	69	60	32
	Local government leaders	95	82	93	79
Non-governmental organizations	The public	37	33	35	29
	<i>Saeima</i> deputies	74	40	46	54
	Local government leaders	58	38	40	39

All respondent groups gave Latvia’s State institutions the highest rating in decision-making competence, but the lowest rating in decision-making transparency. (The exception is the *Saeima*, where honesty in decision-making was rated even lower than transparency by all respondent groups, including the parliamentarians themselves.)

As opposed to decision-making in Latvia’s State institutions, all respondent groups deemed decision-making in NGOs to be highly honest and transparent (except by local government leaders, who gave much higher ratings to transparency in their own institutions). However, NGO competence was rated lower than that of State institutions by both local government leaders and the public.

All in all, the embodiment of democratic values in the activities of Latvia’s political institutions must be considered to be insufficient. In no case did the number of respondents rating the activities of these institutions as honest, responsible and/or transparent reach even half of those polled (UNDP 2001).

Interviews, surveys and case studies of public policy processes suggest that *public accountability* discourse and practices are vague in Latvia. There are several reasons behind this: weakness of civil society, low level of participation, public distrust in politics, abuse of power by politicians, insufficient administrative capacity of the state and other reasons. One should remember as well that democratic history is short in Latvia. In the beginning of transition in early 1990s political system was “positivist” and non-reflexive. It was oriented towards establishing of new democratic institutions and political elite was less concerned about the qualitative aspects of politics. Accountability looked a premature concept at early stages of transition or it was removed from public arena by the ruling elite which might have perceive it as an obstacle towards its privatisation strategies.

One way or another, the political system and political culture in Latvia during 1990s did not employ *public accountability* neither as a basic principle of political conduct, nor as a major issue of public scrutiny of political system. Accountability was not recognised as a key criterion of policy evaluation. Until very recently *accountability* was a peripheral concept in political discourse of all major policy actors: political parties, state administration, media as well as civil society organisations.

2.2. Concepts and ideas of public accountability

From the year 2000 onwards the *public accountability debate* is evolving in Latvia due to various facilitating factors. *Accountability* is becoming a reference notion for critical scrutiny of actions and habits of political parties, the government institutions, local governments. The year 2002 is a year of parliamentary elections in Latvia and several political parties have adopted accountability phraseology in their pre-election campaigns. This points to a growing public awareness of the importance of accountable governance. Evolving discourse brings to existence new understandings and also new procedures of accountability.

2.2.1. Seven discourses of public accountability

A closer look reveals that different stakeholders perceive *public accountability* (*responsible politics, responsible governance*) in different ways. Based on interviews and case studies it was possible to discern seven specific discourses of public accountability: a discourse of civil servants, a discourse of high rank government officials, a discourse of employees of public institutions, a discourse of policy experts, a discourse of political parties, a discourse of “general population”, and a discourse of “typical individual citizens”.

- Perception of accountability by civil servants to a great extent depends on their position in a power hierarchy. At “lower levels” of state administration accountability is often understood “technically” as direct *positional duties*. The students who carried out case studies reported that in many instances civil servants did not use accountability concept in their vocabulary and even have difficulties to understand the meaning of this word. At the same time they might be fully responsible and accountable for their actions.
- At higher level of state administration, which is the level of the Government and ministries there are two rather conflicting discourses of approaches. One could be named “an old discourse”, which is based of routine hitherto practices and experiences (more detailed analysis is given in Chapter 2.3.2). The other could be labelled “a new discourse”, which exemplifies the very recent government initiatives towards accountable policies. Officials of the State Chancellery, and the body of the state secretaries of ministries recently have undertaken steps towards *improved policy planing and policy coordination*. The government plans to adopt in 2002 the new Rules of Procedure of the Cabinet of Ministers – a document, which outlines and regulates the process policy formulation in government. The new rules envisage several consecutive steps in policy

formulation: setting of political priorities, using expert analysis, strategy formulation, planning of policies, consultations with public, evaluation of financial costs, choice of policy alternatives, taking optimal decisions, co-ordination between the ministries. An important component in this process is public consultations. Therefore government officials speak about accountability also in terms of public information, public participation in policy-making, and co-operation with NGOs. As a representative of the State Chancellery argued in an interview: “*The level of responsibility varies in different ministries. The Ministry of Welfare usually submits to the Cabinet well-prepared policy documents, however it may depend on the Department. Usually those ministries which “stand closer” to the interests of people, like Ministry of Welfare, demonstrate higher level of responsibility.*” (Int. No. 12). Apart from this government officials also interpret accountability as rising of administrative capacity, implementing of administrative reforms, and rising policy efficiency.

- It is important for democratic governance that accountable procedures and mechanisms are enforced in public institutions, e.g. hospitals, schools, media, courts, and other institutions, which provide public services to the population. Case studies suggest that employees of public institutions tend to perceive responsibility in a very confined way as their direct professional duties, or even professional skills, but they are less mindful about their broader public responsibilities. Many professional associations in Latvia still do not have their ethical codes. The clients usually are in weaker power position in relation to public service administration. Application of laws and regulations in public institutions often depend on interpretation of service providers. It is customary that clients, for instance – hospital patients, have difficulties to protect their rights in case of conflict. Population is also little involved in setting quality standards of public services and control over them.
- Academic experts, political scientists and policy analysts demonstrate the most complex discourse of public accountability. First of all, they emphasise the public dimension of politics and policies, stressing that politicians should be responsible to people. Experts also indicate that the main problems, which hamper enactment of responsibility in politics, are the lack of responsibility of political parties, closed decision-making and influence of business groups on political parties. Experts also point to a widespread passivity of population to engage in politics and its excessive expectations towards the state and strong leadership. On the other hand, policy experts praise the recent government efforts to improve the decision-making process, co-ordinate policies, inform public, and involve population in different consultative councils and boards.
- The discourse of political parties is dual. At the rhetoric level of normative ideology, political parties claim that they follow the principles of transparency, honesty, accountability, commitment to the interests of voters in their policies. On the other hand, the existing system of party financing makes them largely dependent on sponsors and large business groupings. Therefore in practice political parties often sacrifice public interests in front of business interests or their own interests. One of the interviewed politicians characterised: “[Political] parties successfully distance themselves from responsibility. They reach peaks of irresponsibility. An example was the recent Parliament voting about the Law on Protected Coastal Zones. Some party leaders are very dependent on outside formations, and there no mechanisms how to control such leaders” (Int. No. 18). In opinion of this interviewee political irresponsibility originates from “*struggles of economic groups for influence over political parties*” and from inability of politicians to oppose to the pressure of private interests. This pressure of private interests along with egoism of politicians is real menace for accountable policies. Interviewed politicians could not give examples of efficient mechanisms how this influence could be combated.

- The “general population’s” discourse of public accountability is influenced by high expectations that politicians and state institutions should implement policies on behalf of people and in their interests. The public perception of public competencies and responsibilities is very hierarchical – people tend to think that the ruling “top” has or should have great responsibility whereas the governed “bottom” has nearly no influence and responsibility. These expectations are seriously undermined by regular political scandals, cases of corruption, hidden decision-making, bargains between politicians and business groupings, nepotism. Dismantling of public interests considerably reduces trust in politics and causes disillusionment. Public interest in accountable politics is also lessened by economic hardships, unemployment and poverty experienced by a large part of inhabitants.
- Accountability of an “individual citizen” depends on his or her capacity (knowledge, skills, political will and available resources) to engage in political action, as well as on opportunities to do so (openness of decision-making and state institutions, favourable legislation, active NGOs etc.). In democracy every individual has a choice therefore it has responsibility. According to a comparative World Values Survey individuals in Latvia feel rather isolated. They are little attuned to sentiments of social solidarity neither willing to actively involve in politics. An “average individual” in Latvia is also hesitant to participate in community life (Zepa 2002). Individuals lack skills and positive experience of participation. On the other hand, there are many cases in Latvia when individuals start to behave illegally and amorally when they get elected in public positions and acquire possibility to influence decision-making and distribute public resources. The subtle link between democracy and political emancipation of an individual apparently has not been established yet in Latvia.

2.2.2. Concepts and normative ideas of public accountability

To summarise, there are several basic concepts and normative ideas of *public accountability* (or *responsible policies* and *responsible governance*) which are in use or emerge in current political discourse and practice in Latvia:

- ✓ *access to government information;*
- ✓ *openness of decision-making process;*
- ✓ *transparency;*
- ✓ *anti-corruption;*
- ✓ *public participation in decision-making;*
- ✓ *consultations with population and interest groups;*
- ✓ *co-operation between state and municipal institutions and NGOs;*
- ✓ *policy efficiency;*
- ✓ *policy planing and policy co-ordination;*
- ✓ *strengthening of government administrative capacity;*
- ✓ *improving administrative process, administrative control and auditing;*
- ✓ *just courts and ombudsman;*
- ✓ *responsibility for economic and social consequences of implemented policies.*

There are several domains or levels of policy-making (governance) in which these ideas are debated and translated into practical mechanisms:

- ✓ decision-making in Parliament and political parties or the level of political accountability;
- ✓ decision-making in the government and ministries or the level of administrative accountability;
- ✓ decision-making in local governments or the level of municipal accountability;
- ✓ decision-making in NGOs or the level of civic accountability;
- ✓ citizens’ political activity or passivity or the level of individual accountability.

Currently mechanisms and procedures of accountable decision-making are more introduced at governmental or administrative level, but to a less degree such mechanisms are introduced at political, municipal and NGOs levels.

There are several factors, which facilitate debate about responsible governance:

- ✓ the rise of civil society in Latvia. Currently there are more than 6000 registered NGOs and according to some surveys 6% of population are members of an NGO;
- ✓ emergence of advocacy NGOs which are active in promoting public interests in government;
- ✓ broadening of policy community which nowadays includes not only politicians and government officials but also NGOs, professional associations, policy institutes, experts and other actors;
- ✓ activity of watchdog organisations and media, which attract public attention to misuse of power, corruption and violation of public interests;
- ✓ government initiatives to improve policy-making and commitment of majority of civil servants to principles of good governance: participation, rule of law, transparency, responsiveness, consensus, social justice, efficiency, strategic vision;
- ✓ gradual development of democratic political culture and penetration of the ideas of open society, critical thinking, pluralism, tolerance, human rights;
- ✓ ideology of liberal democracy has had a dual impact. On the one hand it has helped to liberate an actor – a private entrepreneur, a citizen, an NGO leader, a political activist. On the other hand, individual freedoms during the transition were not always controlled by legal, civic and moral norms.

The main agents who advocate and promote responsible governance in Latvia are media, NGOs, international organisations and politicians and government institutions themselves. Media in Latvia actively implements its role as a watchdog. It also actively influences political agenda. Media creates a space for public discussions by reviewing draft laws, publishing analytical articles and providing forum for representation of different views. Though, experts admit that media in Latvia insufficiently reflects policy improvements and positive examples of public participation.

Civil society organisations, and in particular - professional associations are increasingly active in political process. For example, the Latvian Confederation of Employers, the Latvian Federation of Pensioners, the Latvian Association of Local Municipalities have established a regular dialogue with government. Sectoral associations, for instance, the Latvian Association of Small Traders and the Latvian Association of Agricultural Organisations co-operate with ministries in working groups and consultative committees. There are many other examples which testify that ministries are becoming more open for co-operation with NGOs in formulation and implementation of their policies. Though, representatives of NGOs would like closer co-operation and reproach ministries for participatory formalism now and then. Ministries in their turn argue that NGOs often are weak and non-experienced partners in policy-making and that they often are not representing collective opinion of interest groups.

Government institutions are also the driving force towards accountable policies, despite they are often blamed for irresponsibility. Interviewed experts admitted: *“State Chancellery, some ministries, the ministers who are not dependent on economic groupings, the educated civil servants are those who promote responsible policies”* (Int. No. 14). Experts also emphasised that the highest representatives of the state – the President of the Republic of Latvia, the Prime Minister of Latvia are politically responsible. They also agreed that ministries by large are responsible for their policies, particularly indicating the Ministry of Finance and the

Ministry of Welfare. According to experts observations “*political irresponsibility originates behind the highest state representatives in the shadow leadership of political parties*” (Int. No. 11). It is caused by the “*influence of outside party [economic] formations on the party leaders*” (Int. No. 18).

2.3. Political system

2.3.1. Constitutional framework and its functioning

Latvia’s political system is organized according to the Constitution (*Satversme*) adopted in 1922. The system contains the fundamental features of public accountability. These include regular free and fair parliamentary elections, executive responsibility vis-à-vis legislature, as well as reasonably independent judiciary.

Latvia is a democratic republic with a parliamentary system of government. The parliament (*Saeima*) is elected in general, equal, direct and secret elections, based on proportional representation. Latvia is divided into five electoral districts – Riga and four historical regions (Vidzeme, Latgale, Kurzeme, Zemgale). The *Saeima* has one hundred members. The parliament elects the President of State and approves the Cabinet of Ministers. The President is the head of state and serves largely representative functions. The President of Ministers, i.e. Prime Minister and other ministers are responsible to the *Saeima* and must enjoy its confidence. The *Saeima* approves judges who – once appointed for life tenure – are irremovable, independent and subject only to the law (Kalniņš 2001d).

Only legally registered political parties and legally registered associations of political parties may present electoral lists of candidates. The election threshold of four percent was set for the elections of the 5th *Saeima* in 1993. This was raised to five percent for the elections of the 6th and 7th *Saeima* in 1995 and 1998 respectively (Kalniņš 2001a).

Latvian constitutional norms are usually regarded as reasonably appropriate from the point of view of public accountability. The basic accountability chain includes public administration, ministers and the President of Ministers, the *Saeima*, and ultimately the people. Namely, public administration is accountable to ministers and – through them – to the President of Ministers. Ministers and the President of Ministers are accountable to the *Saeima*. Finally the *Saeima* is accountable to the people.

At times proportional representation has been criticized for its inability to ensure sufficient accountability of representatives vis-à-vis their constituencies: “*On the one hand the proportional representation is not so good because there is apparently no direct linkage [between the representative and his or her constituency]. But on the other hand, changeable lists are a very good thing.*” (Int. No. 4) Changeable lists allow voters to cast their vote for a particular political party but meantime they can either cross out or give a bonus to particular candidates. Voters increasingly tend to use this opportunity and some unpopular candidates are known to have moved from the top of the list to the bottom and thus failed to get elected. In public discussions, proposals have been made to opt for some sort of “first-past-the-post” plurality system or a mixed system but these have never gathered sufficient political support.

Another permanent issue is possible changes in the status of the President of State. In the summer of 2000, some 63% of all respondents in an opinion poll supported the introduction of a popularly elected president. (Ikstens 2001:4) Focus group discussions revealed that the need for responsibility in the making and implementation of political decisions was mentioned among major reasons for such a change. (Ikstens 2001:20,21) In 2001 the leader of

the Social Democratic Workers' Party Juris Bojārs presented draft amendments to the Constitution that – among other things – would introduce a popularly elected president. However, at present the adoption of these amendments is not likely.

Public accountability is somehow diminished by the high degree of centralization that is inherent in the parliamentary system. While the legislature and executive are institutionally separate, the same political parties form both the Cabinet and the majority of the legislature. This is sometimes viewed as a problem: *“The separation of powers does not function. There is no mutual control between, for example, the Saeima and the Cabinet of Ministers. Therefore there is an attempt to amend the Constitution and to endow the President with greater powers.”* (Int. No. 5)¹

Another block of criticism is connected with the perception that the *Satversme* is conducive to instability: *“Political parties and their fight for portfolios determine too much, governments keep on fluctuating between falling and not-falling. The same took place in the 1920's and 1930's. Weimar type of constitution is not suitable for a society that is not mature enough for democracy.”* (Int. No. 5) The instability is indeed remarkable – since 1993 Latvia has had eight cabinets with the average duration of slightly more than one year. This may have had a negative effect on political accountability. While cabinets often tend to be formed by the same parties, they also tend to feel limited responsibility for promises and decisions made by previous government.

Decision-making in the *Saeima* receives controversial evaluations. On the one hand, the *Saeima* has several important transparency features. All *Saeima* plenary meetings are open to public unless the *Saeima* decides otherwise (the latter case is extremely rare). Radio broadcasts the *Saeima* debates and their transcripts are published fully. Moreover the *Saeima* web page provides the texts of all pending bills and the agendas of the plenary meetings and other *Saeima* structures such as parliamentary committees. Almost paradoxically parliamentary decision-making has been subject also to harsh criticism because of its secrecy: *“The adoption of laws is most difficult. It happens in a highly secret mode. There are proposals and you don't know in whose interests they are submitted.”* (Int. No. 6) This quotation refers to the situation where each individual member of parliament may almost at any stage submit proposals to pending bills. He or she is not formally required to present any motivation for the proposal. This means that in principle the *Saeima* may adopt any legal norm whatsoever without being legally obliged to give any motivation for its action.

¹ The interviewee referred to the draft amendments to the Constitution proposed by the leader of the Social Democratic Workers' Party.

While the present constitution is by and large the same as adopted back in 1922, several new public accountability features were set up in the 1990's. Among these the Constitutional court (*Satversmes tiesa*) is of special importance. In 1996 the *Saeima* adopted the Constitutional court law.² The *Saeima*, the President of State, no less than 20 members of *Saeima*, the Cabinet of Ministers, a local government, the Plenum of the Supreme Court, the Public Prosecutor General, the council of the State Audit, the State Human Rights Bureau, and a minister authorized by the Cabinet may submit a claim to the Constitutional court. Since 2001 also an individual citizen may submit a claim to the Constitutional court if his or her fundamental rights have been violated (Kalniņš 2001c).

The importance of the Constitutional court has been confirmed also in the interviews: *“The creation of the Constitutional court is an achievement. Other countries have problems that the rulings of constitutional courts are not respected. In our country it's different. Here the rulings [of the Constitutional court] are respected and implemented.”* (Int. No. 5) In 2001 a former member of parliament submitted an individual claim in the Constitutional court regarding allegedly illegal additions to the salaries of the members of the *Saeima*. The members of *Saeima* are entitled to several types of compensation, e.g. a compensation for the rent of residential premises. The alleged violation of the law is in the fact that these compensations have been paid to the members without presenting any proof of actual expenditure. The court decision on this matter is still pending but in any case this will be a highly relevant demonstration of whether and how the Constitutional court may hold politicians publicly accountable.

Other amendments to the Constitution include the increase of term of legislature from three to four years since 1998. Some observers argue that this, while not being among the most significant issues, will contribute to somehow reduced accountability. Namely, the period between moments when the people may hold their representatives accountable is increased: *“We may argue whether or not there was any sense to change the Saeima election period from four to three years. [...] We should change back to the three years election period of the Saeima.”* (Int. No. 4)

2.3.2. Public administration

With varying success, public accountability mechanisms have been embodied also in the public administration. Latvia started the transformation of its public administration in 1993 when the Cabinet of Ministers decided to dismiss all ministerial personnel. This allowed the government to form the central state apparatus anew according to the logic of a democratic state. In April 1994 the *Saeima* adopted the law on state civil service. The purpose of the law was to replace the old soviet type of civil service relations with a modern carrier and qualification based civil service. The idea was to establish a uniform civil service for all administrative bodies. All public employees above certain level of responsibility would first

² The Constitutional court adjudicates in cases on: (1) the conformity of laws with the Constitution; (2) the conformity of signed or concluded international agreements with the Constitution; (3) the conformity of the *Saeima* decisions with the Constitution and other laws; (4) the conformity of Cabinet acts with the Constitution and other laws as well as the conformity of acts by institutions and officials that are subject to the Cabinet with the Constitution, other laws and the Cabinet regulations; (5) the conformity of acts by the President of State, the chairperson of the *Saeima* and the President of Ministers with the Constitution and other laws; (6) the conformity of normative acts issued by institutions or officials that are approved, appointed or elected by the *Saeima* with the Constitution or other laws; (7) the conformity of binding regulations or other normative acts issued by a local government with the Constitution, other laws and the Cabinet regulations; (8) the conformity of an instruction whereby a minister suspends a decision by a local government with the law; (9) the conformity of Latvian national legal norms with international agreements that Latvia has entered into and that do not contradict to the Constitution (Kalniņš 2001c).

gain the status of candidate civil servants and then full-fledged civil servants. In 1994 and 1995 more than 14 000 persons passed a qualification exam to become candidate civil servants. In order to become a civil servant, a candidate had to pass a new examination. However, the reform never became complete as initially intended due to several restraints. It was only possible to gain the full status of a civil servant as late as in 1999. The delay was partly due to limited resources and a significant number of qualified employees did not receive a chance to acquire the status of civil servants in due time (Kalniņš 2001b).

The institutional reform was followed by attempts to change and democratize the quality of administrative process. This required the strengthening of the rule of law throughout the administration and extensive training for state employees. Since 1995 the State School of Administration is in charge of training for civil servants. However, the reforms of public administration lost their momentum and political backing after 1995. Latvia's banking crisis of 1995 together with certain underestimation of the importance of high quality public administration and possible corruption among top political leadership led to neglect with regard to these issues. The focus on administrative reforms came back only as recently as 1999 largely due to criticisms from the European Union (Kalniņš 2001b).

While the idea to modernize the public service was very positive in the context of strengthening public accountability, the delays and insufficient coherence of the reforms are viewed as counterproductive to public accountability: *"In 1995-2000 the administration underwent numerous rapid changes but written documents did not always reflect actual processes. The problem was that government declarations were made up in short time in the situation of compromise. Rapidly changing governments would not continue the work of their predecessors. They commenced work but, when first results could be expected, the policy had already changed. However, now we have managed to stabilize reforms."* (Int. No. 1)

In September 2000 the *Saeima* adopted a new civil service law. According to the law an increased number of state employees will be considered civil servants. This implies that a greater number of state employees are subject to a uniform wage and social guarantees system. Civil servants also must comply with certain uniform qualification requirements, e.g. higher education. In December 2001 the *Saeima* also adopted a draft law on the institutional structure of the state administration in the second reading. In October 2001 the *Saeima* adopted the administrative process law. This law would enter into force in 2003. Among the principal goals of the law are (1) protection for human rights and other democratic principles in relations between individuals and the state, (2) the establishment of independent judicial review (by means of currently non-existing administrative courts) over administrative activity versus individuals, and (3) the precise and correct application of legal norms within the administrative process (Kalniņš 2001c). The actual achievement of these goals will be crucially important for strengthening of public accountability.

In Latvia a commonly mentioned problem is the inability to hold public officials financially liable when their decisions or actions intentionally or accidentally make losses to public budgets: *"We allow an individual to go to the Constitutional court. The next step would be to say who is responsible if the Constitutional court finds a law unconstitutional. Who covers the loss that is done to the state?"* (Int. No. 3) Numerous scandals whereby public budgets have lost large amounts of money have triggered discussions that the guilty officials should be obliged to compensate for the loss financially. The draft law on the institutional structure of the state administration provides that public officials may be held financially liable.

Another problem is the lack of coordination among various sectoral bodies in the process of policy making. Different institutions that work with related policy issues but are located

within different ministries would pursue uncoordinated and sometimes contradictory goals, thus undermining the effectiveness of respective policy. The law on the institutional structure of the state administration is thought to improve this situation: *“It is crucial that we adopt the law on the institutional structure of the state administration. Initially the system was intended to be highly hierarchical without sufficient horizontal cooperation. The horizontal cooperation must be institutionalized. Each civil servant should have his or her circle of persons in significant issues.”* (Int. No. 1) In an ideal case, whenever there is a policy issue, all institutions, non-governmental organizations and other actors who have a stake in the issue would closely cooperate.

However, the modernization of civil service has not necessarily established full-fledged public accountability. Politically appointed higher officials tend to feel more responsibility vis-à-vis their political patrons rather than the broader public: *“Administrative structures are politicized. The higher level of public officials is politically created. Consequently they are responsible vis-à-vis the elite rather the public.”* (Int. No. 8) Policy making in a number of areas remains somewhat closed for influence from, for example, non-governmental organizations and citizens’ efforts: *“You have to be a very influential person to make any use of your personal activity.”* (Int. No. 4)

2.4. Public sphere

Public sphere in Latvia has been thoroughly analysed in the *Latvia Human Development Report 2000/2001* on the Public Policy Process. The Report boldly highlights an idea, that policy making is not only the exclusive domain of state, parliament or government, and that individuals themselves are the ones who shape policy. The goal of democracy is not to develop an ideal society, but rather to expand the public arena where people can express their freedom and responsibility. Democracy does not create a state of justice, it merely strengthens the public arena within which everyone has the right to act (UNDP 2001: 134, Tadjbaksh 2002).

In the private sphere people form their individual identities and satisfy their individual interests. In the public sphere which is the domain of civil society and the state people communicate and balance their interests. The public manifestation of individual interests and identities, as well as their complete realisation, is only possible in public sphere. Public sphere also permits the fulfilment of the common interests and common good. From this perspective, public policy manifests itself in society as connector between private and public spaces, and as co-ordinator and promoter of interactions between often variable and conflicting interests of different agents and institutions (Tisenkopfs 2001a).

Therefore *public policy* needs a democratic and open *public sphere* in which policy-making can only become democratic, open and accountable. If there is no developed and diverse public sphere filled with vibrant civil society, if there is little participation and political interactions of different social actors there is a risk that policies might become captured by narrow interest groups which then act irresponsibly for the sake of their own benefit.

Public sphere requires democratic and open public policies and vice versa. Accountable governance results from a merger of democracy and public space. fragmentation of public sphere dilutes public policies and the way round – undemocratic policies distort public arena.

Analysis of public policy in Latvia allows to conclude, that political decision-making process is rather closed. Important decisions, which affect society, are often made in a closed triangular relationship between leaders of economic groupings, political leaders and so called “grey cardinals”. Closed, inaccessible and half-legitimate mechanisms are often used at the

expense of open parliamentary debates and public consultations. The political process by large is characterised by lack of transparency, participation, and accountability and suffers from dependency of political parties on economic groupings (Tisenkopfs 2001b).

As a result of these tendencies public is not confident about its possibilities to influence politics and distrust institutions. They blame politicians for being egoistic and civil servants – for being bureaucratic. Some of the findings of the *Latvia Human Development Report 2000/2001* reveal distortions of politics and public sphere (UNDP 2001:18-19, Tadjbaksh 2002):

- ✓ Low trust in public policy: only one tenth of those surveyed (inhabitants, Saeima deputy and local government leaders) believe that Latvia is a country where the public supports its politicians and that politicians are accountable to the public.
- ✓ Economic capture of the state under which laws, regulations and other decisions adopted by state institutions might be passed in the interests of small groups or individuals, and under which public officials and politicians might received illegal private benefits.
- ✓ State institutions get the highest mark in decision making *competence*, but the lowest ranking in decision making *transparency*.
- ✓ Majority of polled (78%) believe that decisions made by politicians affect their lives to a great extend, but very small proportions (5%) believed that they can significantly influence decisions.
- ✓ Most people believed that they can influence policy making more at the local government level than at national level.

The study of public policy confirms that there are two parallel systems of decision making: one that is legal, multiparty, public and based on democratic principles, and another that is based on corporate and corrupt interest groupings and a personal contact system. However, it is important to emphasise that with the rise of civil society and participation open decision-making practices are contesting the tendency of closed policies.

It is important that majority of political actors, including government look upon social dialogue as one of the key mechanisms to improve policies and make them more transparent, accountable and efficient. State institutions in general are becoming more open and ready for dialogue with society. It is very much the learning process in which civil society gradually engages in the whole complexity of policy making.

2.5. Private sector

The radical liberalisation strategy implemented by Latvian political elite and the right-wing coalition governments in the 1990s has fostered establishment of basic market institutions, a spirit of entrepreneurship and a rather strong SMEs sector. Liberal reforms have resulted in a rather fast economic growth in comparison with other former socialist countries, which adopted gradual change strategies. In the meantime market liberalisation was accompanied by spread of black economy, smuggling, corruption and other “side effects” of early capitalism. These tendencies have had spoiling effect on business environment, fair competition and business-government relations. However, nowadays there is a tendency that business is becoming more civilised, businesses turn to legal practices, pay taxes, establish their own social responsibility and ethical codes.

If we view the private sector as primarily business, its influence on public policy and public accountability is highly controversial. Large corporate business may be regarded as one of the most influential groups of political actors. The authors of the *Latvia Human Development Report 2000/2001* concluded: “The most influential political decision-makers and influencers

of the policy-making process are the Cabinet, the *Saeima*, leaders of business groupings, political leaders, “gray cardinals” and the media (UNDP 2001:71).”

Even though leaders of business groupings are named right after the Cabinet and the *Saeima*, the whole business sector cannot be regarded as uniform mass. Not all businesses are influential. Therefore we should distinguish at least two dimensions.

2.5.1. Legitimate vs. illegitimate influence

First, we may distinguish the type of private sector influence that strengthens public accountability and the type that weakens public accountability. For example, the participation of private sector entities in public consultative councils clearly strengthens the accountability of relevant public institutions. Let us mention here the Foreign Investors’ Council and the Tripartite Cooperation Council where employers’ representatives, labor unions and the government meet. Some interviewees mention also public procurement as a sphere where private entities strengthen public accountability by using formal channels of complaints and remedies: *“In the area of public procurement, IT companies, construction companies and, car dealers are competing hard and thereby strengthen accountability.”* (Int. No. 3)³

One may also argue that, thanks to the lobby from businesses, politicians can be held at least in some way accountable. There are examples where – however closed and privately motivated – business influence has played a positive role: *“The private sector in Latvia has developed in a highly uneven manner. It is influential in terms of resources and connections and this lobby forces politicians be responsible. A bright example here is Latvia’s participation in the [EU] “Northern Dimension” [initiative]. The government created a working group as a result of rough pressure from the oil transit. Also the banking sector is largely interested in public accountability because they are interested in an orderly environment.”* (Int. No. 8)

Meantime various forms of private sector participation weaken public accountability. Here we talk about some sort of merger between private and public entities and actors: *“Other larger economic groups are tightly connected with political parties. They achieve their protection by being close to the parties. I’m not sure to what extent they are interested in the state being able to protect them. I don’t know when is the moment when it is better to strengthen honest police rather than hire 50 security guards.”* (Int. No. 3) The above quotation indicates also the unwillingness of at least some private sector actors to strengthen public accountability mechanisms. Some views are even more radical: *“Business organizations favor non-public accountability and closed transactions. Sometimes business may use public accountability mechanisms if it is in their interest but basically [they do] not.”* (Int. No. 4) The merger between the two sectors is strengthened on an individual level by persons who switch between business and political positions: *“We see that many politicians have become businessmen. Moreover lately businessmen become politicians.”* (Int. No. 9) While such change of roles in itself is not illegal or particularly illegitimate, it – if taking place on regular bases – increases the risk that particular private interests begin excessively dominate public interests.

The domination of large corporate interests is closely connected with the so-called state capture. The term “state capture” refers to the situation where firms make illegal payments in order to shape governmental, parliament, court and other decisions that form the rules of the

³ It is, however, true that the complaints system in public procurement was extremely ineffective until the end of 2001. In the majority of cases, the review of complaints would give nothing more than the identification of violations. Virtually no remedies existed. The system saw considerable improvement starting with January 1st, 2002 when a new public procurement law came into effect.

society (laws, etc.). This is opposed to administrative corruption where illegal payments are made in order to distort the application of already pre-existing rules. The World Bank research has indicated that Latvia is a country where the state capture has reached a relatively high level. (See, for example, Hellman J.S., Jones G., Kaufmann D. 2000.)

The widespread application of illegitimate channels of influence has contributed to generally negative perceptions about the role of business in policy contexts: *“Our business sector is used to solving problems in a way that unacceptable in an ethical society. I even wonder why the business agrees to it and does not want to change the situation. They even themselves say that it is bad but they would not change.”* (Int. No. 7) Virtually all instances of business influence are self-interest driven: *“I have not noticed that the private sector influences the public accountability situation. They have private interests. It happens that they fight for public contracts.”* (Int. No. 5) The policy conclusion from this statement is that business interests – no matter how legitimate – should be counterbalanced by public considerations where the society at large plays an important role.

2.5.2. Large vs. small business

The other dimension to distinguish is the size of private sector entities. The general observation is that larger entities or the big corporate business exert a great deal of influence on public policy making while small and medium size business has very limited access: *“The influence of private actors... It’s those who are economically stronger and where it is advantageous.”* (Int. No. 3) *“The other group is small and medium-size business that has minimal influence. This lack of influence is due to not only the unwillingness of the political elite but also the inability of the small business to use available channels.”* (Int. No. 8) Some business representatives testify that large enterprises and foreign investors have advantages in dialogue with government: *“Currently government is engaged in a rather active dialogue with foreign investors and large enterprises. But government should definitely talk more with small businesses and their associations.”* (Int. No. 14).

These observations partly confirm the characterization of closed policy-making as described in the *Latvia Human Development Report 2000/2001*: “Closed policy-making may serve specific businesses and party financiers, but it does not serve business as a whole, because some businesses will exercise greater influence on economic policies, while many others will be rejected – particularly the small and medium-sized ones, which do not appear attractive to politicians as sources of funding for their parties.” (UNDP 2001:31)

In addition to large corporate business, organized business is also said to exert certain influence: *“Professional unions are strongest. They have broad public interests and they are influential.”* (Int. No. 6) However, in most cases such professional organizations are not regarded as close to anything as influential as large firms and their groups.

2.6. International organisations and governance

There are several international organisations, which influence policy-making process in Latvia: the European Union, the World Bank, United Nations Development Programme (UNDP), Organisation for Security and Co-operation in Europe (OSCE), NATO, the Soros Foundation Latvia (SFL), Transparency International (TI).

The European Union (the European Commission and the Delegation of European Commission (DEC) in Latvia) are the key international players in Latvian politics. Since Latvia signed the Europe Agreement in 1995 and was invited for accession negotiations in 1999, joining the European Union has been the main political target of the government and all political parties represented in Saeima. Currently Latvia has closed 23 of 31 chapters of accession negotiations. These negotiations are likely to be accomplished by the end of 2002. It is feasible that Latvia will become a full member state in 2004.

As a candidate country of the European Union, Latvia is adopting the Union's laws, directives and regulations (so called *acquis communautaire*) in its own legal system. The process of harmonisation of national legislation with EU legislation consolidates the legal system and democracy in Latvia although actual enforcement of EU legislation lags behind. The ultimate political goal of the European integration is formation of democratic society in Latvia and inclusion of Latvia in the EU.

The European integration process influences policy-making process in Latvia towards greater responsibility in many ways. The Commission publishes "Regular Reports on Latvia's Accession to the European Union" in which it gives evaluation of Latvia's progress, as well as indicates critical issues to be addressed. In the last years the main points of criticism have been insufficient administrative capacity of the state and slow pace of public administration reform. Implementation of EU programmes in Latvia also strengthens administrative capacity, promotes transparent decision-making procedures and mechanisms of evaluation. For example, the EU SAPARD and ISPA Programmes in Latvia are being implemented according to high standards of transparent procedures of project evaluation. The EU PHARE Programme has particularly strengthened the administrative capacity of Latvian ministries.

While EU policies are mainly oriented towards promotion of democracy in Latvia and reaching political and legal standards accepted by the member states, the World Bank (WB) and International Monetary Fund (IMF) are mostly supporting economic reforms (see Figure 3). The World Bank formulates its policies in Latvia in its "Country Assistance Strategy" document. The bank implements its policies through "Structural Adjustment Program for Latvia". The basic financial instruments are loans to the government. The bank discusses its strategy with government and makes the loans available upon fulfilment of certain conditionalities. There are more than 30 different conditionalities. Among them are economic conditionalities, for example, procedures of state budget planning, financial accountability, as well as administrative conditionalities, for example, recommendations to improve policy coordination. Interviewed experts and state officials acknowledged that the World Bank's Structural Adjustment Programme has helped to improve administrative procedures through technical assistance, projects and consultations.

The Organisation for Security and Cooperation in Europe (OSCE) influences policies in Latvia in the areas of human rights, minority rights, and language policy. In case OSCE considers that these rights are in jeopardy it engages in consultations with the government. OSCE also expresses its opinion about the state of minority and language policies in Latvia at

international level. This organisation has been criticised in Latvia for its asymmetric approach to minority rights and insufficient attention to social rights.

The European Court of Human Rights recently has started to consider cases of violation of human rights by state institutions in Latvia. These cases draw public and government attention to deficiencies of Latvian court system or faulty practices of state administration towards citizens.

Interviewed experts admitted that international organisations influence policies in an open and public manner by means of negotiations with government, political statements, recommendations, policy advice, reports, technical and financial assistance.

Figure 3. The impact of international organisations on policy process in Latvia

Policy impact factors	International organisations				
	EU / DEC	WB / IMF	UNDP	SFL	TI
Aid	Pre-structural Funds and Phare Programme assistance on terms of grants, technical assistance	Loans to the government of terms of credits, technical assistance	Development programmes on terms of grants	Grant-making programmes in the fields of civil society development, integration, education, legal reform, policy analysis and human rights	Transparency International Latvian Chapter <i>Delna</i> is a grant-seeking organisation
Conditiona- lities	Administrative capacity, political rights, human rights	Fiscal stability, economic reforms, administrative capacity	Inclusion of human and social development targets in the government policies	Principles of open society, rule of law, tolerance, human rights and social integration	Partnership with other interest advocacy organisations
Collaboration partners	National government, ministries, other international organisations, NGOs	National government, ministries	National government, NGOs, local governments, public-private partnerships	NGOs, interest advocacy and civil rights organisations, educational institutions, general public, experts and policy analysts	Media, general public, NGOs, government, State Audit, international organisations
Tools of impact	Opinion of the Commission, political recommendations	Offering loans, credit lines, Country Assistance Strategy, negotiations with government, economic ranking of the country	Assistance to government in social policy programming, publication of Latvia Human Development Reports	Support to civil society organisations and policy institutes	TI Index (corruption) ranking for the country, public monitoring of privatisation process
Effects	Adoption of EU legislation, strengthening of state administrative capacity and transparent policy procedures through implementing EU programmes	Fostering macro-economic stability, economic and recently social reforms, reinforcing state administrative capacity	Rising government awareness about social responsibility of politics, supporting NGO sector, fostering public-private dialogue	Building public awareness about democracy, supporting NGO sector, strengthening policy community, implementing programmes in education, legal reforms and civil rights, public policy analysis	Animating public accountability debate, rising public awareness towards anti-corruption

2.7. Issues/problems

Public accountability in its various forms is often present in public discussions. While the term “public accountability” as such is seldom found in public discussions, various related problems are indeed topical. The range of discussed problems may be subdivided into two groups – one is cross-sectoral issues that refer largely to the functioning of the political system as a whole. Another group of issues refer to particular policy sectors.

2.7.1. Functioning of political system

This group of issues includes discussions on various constitutional norms, the activities of political parties, the behavior of politicians in general, and the functioning of supreme state institutions such as the *Saeima* and the Cabinet. It was this dimension where interviewees were most likely to refer to public discussions: *“In most cases it’s the Saeima, the activities of political parties. The media talks loudest about the activity of political parties, for example, whether particular parties should or should not form a coalition. The quarrels of political parties.”* (Int. No. 5)

Transparency and the role of the civil society are two aspects of general policy process where a lot of debate has taken place. In spite of a number of measures aimed at greater transparency, secrecy is still a major issue in discussions about Latvia’s political system: *“There have been also discussions about access to information where problems still persist. It’s time to discuss in the context of public accountability also whether the government misuses confidentiality.”* (Int. No. 4) The latter point referred to the fact that the Cabinet may freely declare any of its agenda topics to be reviewed confidentially. In such cases no information on the issue is disclosed. Another interviewee said: *“First [issue in public discussions is] the secrecy of institutions. One cannot understand according to what principles they make decisions. The inability to influence decisions with the help of democratic methods [is an issue of discussions]. As a result, the people wait for another four years for revenge [at next elections].”* (Int. No. 6) Such discussions inflamed in earnest in 1999 and 2000 when the Latvian branch of *Transparency International* carried out an applied study on how state and local government institutions implemented the requirements of the information openness law. Numerous institutions were found to ignore or inadequately fulfill the obligation to disclose all information that is not specifically classified. The most typical attitude from the state institutions was reluctance to cooperate and in some cases even hostility. (See *Transparency International – Latvia 2000.*)

Controversial discussions also touch upon the role of non-governmental organizations. Two somewhat opposing views tend to coexist in Latvia’s information space. While there is a strong demand for NGO participation in policy-making, meantime there is also considerable mistrust in NGO’s. Questions like “What does this organization think it is to demand a say?” and “I haven’t elected them. Whom do they represent to be present in policy-making?” are not uncommon. Such discussions inflamed, for example, when the Latvian chapter of *Transparency International* undertook monitoring of the privatization of the Latvian Shipping Company. Flaws in NGOs’ activities may explain some of these objections but the main reason appears to be the lack of understanding of the NGOs’ role in a democratic society. Moreover the scepticism about NGO’s stems not only from state institutions but also from some media organizations.

Corruption and the privatisation of state-owned property are two more issues where public accountability related debates have taken place. Corruption in Latvia is considered widespread. In the 2001 *Transparency International* Corruption Perception Index, Latvia

ranked 59th in the list of 91 countries (where No. 1 is the “cleanest” or perceivably least corrupt country). Since corruption essentially means the abuse of authority for personal gain, it is completely incompatible with public accountability where the consideration of public interests is of crucial importance. Privatisation (often nicknamed as *prihvaticija* or grabbing of property) is another hotly debated issue where public accountability is limited. The *Latvia Human Development Report 2000/2001* noted: “Because an objective evaluation of the privatisation of such large companies requires economic expertise, and because only well-funded individuals and enterprises can apply for a meaningful share of such companies, the majority of the public is excluded from the evaluation and decision-making process of issues connected with privatisation.” (UNDP 2001:55)

2.7.2. Sectoral issues

The other type of discussions refers to particular policy areas that are in one or another way important for certain groups of population. Some interviewees have mentioned particular policy areas but these answers of course do not provide an exhaustive list of topical problems. Among the mentioned areas are, for example, the functions of the welfare ministry (pensions, medicine, registry of medicines, etc.) This is a sector where the demand for public accountability tends to overlap with sheer social demands for adequate support. Even though the interviews do not reveal it directly, we may expect that the broader public would view accountability in the welfare system as by and large equivalent to adequate welfare services.

There is a tendency that discussions inflame when corruption or other types of scandals take place. Therefore some observe that discussions on public accountability related problems refer more to sectors where public institutions control large power resources: “[Discussions refer to] branches where public officials control large resources (money or repressive means) such as ministries of communications, economy, finances. Much less – education, culture.” (Int. No. 2) While this statement has its grounds, further research would be necessary to prove or falsify it.

A tentative conclusion is that discussions of public accountability most often refer to certain types of activities (the distribution of public funds, the misuse of one’s office, the effectiveness of law enforcement) that are difficult to limit to particular sectors. For example, transparency and accountability in public procurement is an often-debated issue that is relevant for almost all of the government’s sectors. Sector-wise – branches as various as the judiciary, territorial planning, welfare, etc. have served as subjects for public accountability related discussions.

2.8. Mechanisms and procedures of public accountability

Previous writings and the interviews reveal that Latvia has numerous mechanisms and procedures to ensure public accountability. However, the actual effectiveness of various mechanisms varies tremendously. Elections certainly function as a fundamental mechanism for public accountability. This is confirmed both by the logic of a democratic polity and also by findings from the interviews. We may distinguish two major dimensions of public accountability mechanisms and procedures – one includes mechanisms that empower the civil society and particular individuals vis-à-vis public institutions, the other refers to mechanisms that are aimed at strengthened accountability within the institutions themselves. Note that some mechanisms contribute significantly to both dimensions. With regard to both dimensions, legislation provides an increasingly adequate framework of public accountability. Generally, we may observe that it is the implementation of legal acts where public accountability mechanisms often fail.

2.8.1. Empowering civil society

Disclosure of information. Both the Constitution and the Information Openness law guarantee access to public information. Basic principles are that (1) everyone has the right to address state institutions and receive a substantial answer and (2) all public information that is not specifically and legally exempt from disclosure is open to anyone who requests it. While the implementation of this law was initially very problematic, the situation has gradually improved. An interviewee assessed the importance of these norms by saying: *“Various normative acts allow the public to gain information on the activity of the power and formulate one’s own opinion. Otherwise the society would not be able to launch these [public accountability] mechanisms.”* (Int. No. 2)

Access to information about legislation has increased and the possibilities to influence legislative process and government decisions have increased also. For example, the government and ministries make available policy documents on their Internet homepages and every ministry publishes annual reports.

However, there is widespread opinion among Latvian public that state institutions conceal important information from the public. In 1999, the Delna Branch Transparency International conducted a study on access to information at state and local governance institutions. Information requested in writing was immediately supplied in only about 30% of the cases. The other 70% of requests were answered with a letter of refusal (UNDP 2001:67-68).

Consultative councils and cooperation with the civil society. Other procedures are aimed at the strengthening of public accountability particularly in the policy making process. This includes such mechanisms as setting up consultative councils where public officials meet other interested parties in particular policy sectors (see Information 1). Several interviewees saw the consultative councils as a major mechanism whereby state institutions can cooperate with non-governmental counterparts. Even though such councils already function at some situations, there is a need for more extensive and effective use of this tool: *“Cooperation with non-governmental organizations is most effective. Consultative councils provide institutions with information. In some spheres, there are coalitions of non-governmental organizations.”* (Int. No. 6)

The leading role in gradually strengthening administrative accountability is played by the state chancellery, which in the year 2000 established a Policy planning and coordination department. This department is responsible for setting strategic policy priorities, elaborating

Rules of Procedure of the Cabinet of Ministers regarding new legislation and enforcing coordinated policies in practice. In 2002 new rules of the Cabinet of Ministers are going to be accepted. According to these regulations any new policy initiative or proposal has to be evaluated according to the following criteria: financial impact on the state budget, financial impact on local municipality budgets, economic consequences, social consequences, consequences for entrepreneurship, consequences for most vulnerable social groups, impact on legislation, impact on EU integration and agreement with social partners and NGOs. This set of criteria should provide that political decisions are socially acceptable. Agreement with NGOs is supposed to be one of the crucial components in policy making, and no new law could be passed without acceptance of the stakeholders groups.

Of course apart from consultative councils and the involvement of NGO's, other mechanisms also exist. According to a number of interviewees conferences and seminars where both state and non-governmental stakeholders participate, individual meetings between state officials/politicians and NGO activists, functioning of public institutions according to publicly known principles, missions and goals can all contribute to enhanced cooperation between the state and civil society.

Public consultations and public hearings regarding territorial planning, community development and large construction projects are a new practice that is introduced in the recent years. The law prescribes that state and municipal institutions have to organise such consultations. However, it has been noticed that in many cases consultations are formal and citizens proposals are manipulated or not taken into account.

Information 1. Example of the Latvian Association of Agricultural Organisations

The Latvian Association of Agricultural Organisations (LAAO) was established in 1999. It includes 50 different agricultural organisations, mainly producers associations. LAAO is governed by an elected Board. The main objective of LAAO is to protect and promote interests of agricultural producers in government decision-making processes. For this purpose, LAAO has engaged in a Consultative Committee, which has been established at the Ministry of Agriculture. This Committee consists of the representatives of LAAO (all organisations which are included in LAAO are also represented in the Committee) and representatives of the ministry (the minister, the state secretary, directors of departments, invited experts). The Consultative Committee meets regularly and reviews different agricultural policy issues, for example, Regulations on Agricultural Subsidies, disbursement of EU SAPARD Programme funds. It has been agreed between the ministry and LAAO that every important policy decision should be adopted on consensus basis.

LAAO has accumulated experience in collaboration with the ministry and it has been a learning process. Ministry submits every policy proposal to LAAO, which reviews them at organisation's regional branches. Only after LAAO has expressed its consolidated opinion, ministry proceeds with the proposal in the Cabinet of Ministers. In the beginning LAAO reviewed draft laws prepared only by the Ministry of Agriculture. Now the organisation takes part in reviewing all the policy proposals, which are submitted to the government also by other ministries and which might affect the interests of agriculturists. Good relationship and mutual understanding between ministry officials and LAAO leadership enhances collaboration.

Complaints, judicial review and ombudsman. Complaints mechanisms and the possibility to sue a state institution for its action are mentioned among important public accountability mechanisms. The right to submit a complaint is already a relatively old accountability

mechanism. As early as in 1994 the *Saeima* adopted the law “Procedure for the Review of Applications, Complaints and Proposals in State and Local Government Institutions”. In short – the law allows everyone to submit complaints and applications to state and local government institutions and obliges these institutions to answer such complaints and applications. This procedure appears to be working reasonably efficiently. Public institutions usually review and answer to complaints and applications that they have received. Of course the quality of such review may vary from case to case and is not easily assessable in general terms.

The next step for an individual would be to submit a claim to the court. Legal mechanisms for such action are in place. However, a common view is that the court as a legal remedy is not used to its full potential: “*People do not really understand where to go [with their complaints]. There is a lack of understanding about the court.*” (Int. No. 5) The lack of understanding about the courts as a remedy is complemented by some actual inefficiency in the court system such as huge backlogs, and sometimes-insufficient qualification of judges.

The State Bureau for Human Rights plays the role of ombudsman in Latvia. Individuals may submit claims to the bureau when they think their rights have been violated. However, the bureau is not entitled to make legally binding decisions. Consequently its opinions are largely consultative. This is probably the reason why none of the interviewees mention the State Bureau for Human Rights as a significant public accountability mechanism. Rather the Constitutional court and the European Court of Human Rights appear to be emerging as powerful public accountability mechanisms in Latvia.

Some interviews reveal skeptical opinions about the effectiveness of particular public accountability mechanisms. For example, everyone has the right to write a petition to state institutions and this in principle is a public accountability mechanism; namely, an individual may inform officials about his or her needs, proposals, etc. Critics say that such channels in fact do not provide any influence: “*Some say that you might, for example, send letters and petitions to politicians and officials and thus promote public accountability. Then they would feel uneasy about bad things. I think – not really. Politicians have thick skin. They don’t care about such letters.*” (Int. No. 4)

2.8.2. Empowering civil society together with internally strengthened accountability

Proper administrative procedures empower individuals vis-à-vis the state and meantime strengthen the internal accountability in public institutions.

Administrative procedure and regulations. Administrative procedures in Latvia are still in their development phase. As mentioned earlier, the administrative process law will provide for a whole range of public administration procedures, e.g. a new system of administrative courts where individuals will be able claim, for example, compensation for damages inflicted by administrative decisions. The use of administrative court will be considerably easier for the individual if compared to the current situation. The law sets a range of legal principles as overriding criteria for administrative action. These include, for example, the equality of individuals and respect for individual’s rights. The law also includes an obligation for public officials to make similar administrative decisions in similar circumstances, thus limiting arbitrariness and enhancing accountability of the officials. However, as noted previously, the law will come into force only as late as in 2003.

Latvian administrative law provides also for other accountability mechanisms. For example, the corruption prevention law (adopted in 1995) limits many forms of conflicts of interests for

public officials. The idea of the law is to prevent public officials from the influence of private interests when they fulfill their public functions. While the law has several loopholes and has been subject to harsh criticism (particularly from some high officials and politicians) it has played a significant role in setting the standard – public officials’ private interests shall not affect their official activities.

2.8.3. Internally strengthened accountability

These mechanisms allow the state apparatus to hold its own institutions and officials accountable without necessarily or primarily dealing with the civil society. This group of mechanisms includes, for example, the repression of guilty officials and auditing public institutions.

Sanctions. In general, public officials may be subject to several types of legal responsibility and corresponding sanctions – disciplinary, administrative, and criminal. None of these types of responsibility appear to be working adequately in cases of corruption, abuse of office, and mismanagement of public funds. The proper application of criminal repressions have been hampered by various factors including the lack of funds and expertise in law enforcement institutions, political influences on the work of law enforcement officials and public prosecutors, and the deficiencies of legal acts (Kalniņš 2001:160-162). This has contributed to the sense of impunity among high-level public officials and politicians. Some members of parliament have attempted to assign the role of criminal investigations to parliamentary investigatory committees. However, these attempts have been largely driven by partisan politics. Moreover parliamentary investigatory committees are essentially intended as tools for parliamentary oversight over the executive rather than a mechanism for criminal process. *“The prosecutor general receives applications about suspected crimes but the prosecutors do not see a crime there. Therefore there are parliamentary investigatory committees but also there you see no results.”* (Int. No. 5)

The State Audit Office. Its effectiveness being judged controversially, the State Audit Office (*Valsts kontrole*) is one of the oldest institutions whose mission implies strengthening of public accountability. The State Audit Office was set up according to the Constitution of 1922 as an independent institution. Its mission is to control the use of state and local government funds and property. *Valsts kontrole* does audit all state and local government institutions on regular bases. Its main instrument of punishment is the imposition of fines on institutions that have intentionally or by accident misused public funds. The Audit Office mainly recommends that particular public officials be held legally responsible. This has probably contributed to sometimes voiced opinion that the State Audit Office only registers illegalities and “nothing changes” afterwards.

2.8.4. Public accountability mechanisms and procedures in different policy sectors

We investigated how public accountability procedures and mechanisms, which are analysed in previous chapters, are being actually used in different policy sectors. For this purpose we conducted together with sociology students small case studies of 19 public policy sectors and respective public institutions. A brief overview of some policy sectors is given in Figure 4.

Figure 4. Inventory of public accountability mechanisms and procedures in different sectors of public policy (key mechanisms and procedures underlined)

Sectoral policies and governing institutions	Mechanisms and procedures		
	Situation and enforcement of public accountability in policy-making processes	Applied procedures and mechanisms of public accountability	Outcomes and critical issues
Science policy	Latvian Council of Sciences and Latvian Academy of Sciences are “quasi-governmental” public organisations responsible for elaborating national science policies and distribution of public (budgetary) funds for RTD.	Accountability is ensured by <u>democratic elections</u> of Latvian Council of Sciences and its expert committees, <u>grant competitions</u> and <u>open meetings</u> of LCS and expert committees.	The <u>conflict of interest</u> is a major problem in science policy - experts who evaluate projects in the meantime are grant recipients who receive a large proportion of RTD funding. <u>Independent project evaluation</u> , which in the case of small country would mean an international evaluation, is not introduced.
Health care policy	Public health care system is considered to be in crisis and at the eve of profound reforms. The <u>law provisions public participation</u> in formulation of health care policy, however there are <u>no regulated mechanisms</u> how population can actually engage in decision-making process.	There are no regulated mechanisms of public involvement in policy-making. Participation depends on <u>initiative of NGOs</u> , e.g. Patients Rights Organisation, and on <u>responsiveness</u> of the health care system to those civic initiatives.	Accountability is understood mainly as <u>public participation</u> in decision-making. <u>Law is a driving force</u> . However, rights to participate are not widely used. Public engagement in policy making crucially depends on <u>understanding and willingness of health care system</u> – hospitals, sickness insurance institutions, doctors, administration – to allow public get involved. Thus <u>enforcement of accountability rather depends on service providers than on clients</u> .
Cultural policy	In cultural policy legislation and documents public accountability is mainly defined as <u>access to information</u> . The employees of museums, heritage protection organisations, archives and other cultural institutions understand accountability either as their <u>cultural mission</u> or as their <u>professional duties</u> . Implementation of accountable policies in the sphere of culture is complicated by two circumstances: 1/ <u>poor financing</u> of cultural institutions, and 2/ <u>unclear distribution of functions and responsibilities between the state, local municipalities and civil organisations</u> .	<u>Law guarantees access to information</u> . Many cultural institutions produce <u>annual reports</u> , however they have been little used by the public. <u>Mission awareness</u> and <u>commitment to professional duties</u> among cultural workers foster accountability of policy.	There is a typical <u>discrepancy between legislation and practice</u> – between what has been written about accountability in policy documents and what is happening in practice. Cultural policy can be characterised as a “marginal branch” of policies, which is given <u>less governmental attention</u> and attracts <u>lower public interest</u> (except few groups) in comparison with many other policy sectors. <u>Lack of funding and delegation of provision of cultural services</u> from the state to municipalities and cultural institutions without increase in funding hamper broad public participation. <u>Commitment of</u>

			<u>cultural workers</u> to their public mission and their survival strategies help to maintain participation and accountability at minimum level. Clear <u>division of competences and functions</u> is important for accountability: what are responsibilities of the state, and what are responsibilities of local governments.
Forestry policy	There is <u>developed legislation</u> which regulates forestry sector and environmental protection in forestry. As large woodlands belong to state forestries, the core issue is transparency of out-contracting the woodcuts to private companies. This is achieved by organising open auctions. Information about offers is widely publicised in media.	<u>Public auctions</u> of wood cuts, <u>disclosure of information</u> upon request and <u>consideration of complaints</u> .	<u>Information</u> is made widely accessible. Public auctions, disclosure of information and consideration of complaints are mechanisms which ensure accountable and transparent decisions. However, there are <u>little possibilities for population to influence laws and decisions</u> .
Environmental protection policy	Environmental <u>policy documents</u> , e.g. Environmental Protection Action Plan strongly emphasise the need for <u>public participation</u> in environmental policies and include such statements as: “everybody has rights to be informed about environmental conditions and take part in decisions which may have impact on the environment”. The strategic role in the policies of the Ministry Environmental Protection and Regional Development is given to information, education, participation, and co-operation with NGOs.	Policy documents and draft-laws are made available for commentaries on the <u>webpage of the Ministry</u> of Environmental Protection and Regional Development. The webpage includes <u>e-mail addresses of civil servants</u> for correspondence. The ministry carries out <u>informational and educational campaigns</u> and co-operates with <u>consultative boards</u> in policy formulation. Ministry also commissions <u>policy analysis</u> and makes research results available at public libraries and its own website.	The <u>principle of participatory policy making</u> is recognised and gradually enforced by the Ministry of Environmental Protection and Regional Development. The Ministry considers <u>not only legislation</u> , but also <u>educational seminars</u> , <u>informing of the public</u> , work of <u>consultative boards</u> and <u>engaging of target groups in setting policy priorities</u> as important tools of policy making. Building on such a broad understanding the ministry develops co-operation with NGOs.

2.9. Outcomes

During the last decade or so, Latvia has adopted numerous public accountability measures. These vary from such fundamental mechanisms as elections to detailed regulations regarding the disclosure of information and public consultations. Constitutional mechanisms function by and large adequately in that all major political actors follow Constitutional norms both in the functioning of supreme state institutions and in the protection of fundamental human rights. However, some areas of human rights remain vulnerable to abuse.

The idea of political accountability is viewed more as a fiction or an ideal that should be pursued but is not easily achievable. Somewhat paradoxically, the lack of permanent public demand for accountability is said to be among main reasons for the poor state of political accountability in Latvia.

Latvia has seen considerable improvements of transparency on administrative level. The legal framework for the disclosure of information is generally adequate but its implementation initially faced staunch resistance from various public institutions. The situation is gradually

improving as public officials start understanding their duty to work in a transparent manner. However, in separate cases, administrative institutions still deny information without any legal ground.

Transparency in the making of political decisions remains a problem. While transparency mechanisms exist also on the political level (publicly available texts of pending bills, publicly broadcast parliamentary debates, etc.), many observers claim that a great deal of substantial information that is relevant for political decisions remains secret.

There are also already relatively well-established forms for permanent involvement of the civil society in policy-making. These take the form of, for example, consultative councils where public officials meet other stakeholders, e.g. non-governmental organizations in particular policy sectors. Decisions by consultative councils are not legally binding but they do provide state institutions with relevant information and allow non-governmental actors to be heard and to exercise certain influence.

Consultative councils, boards and commissions are core mechanisms of public involvement in policy-making and strengthening of political responsibility. Such councils, boards and commissions usually include experts, representatives of professional associations, NGOs and advocacy groups active in the field, and clients. Currently all ministries at their departmental level collaborate with such councils in the process of policy formulation and implementation, and this practice is being adopted also by many local governments.

However, one of the major problems, which hamper implementation of accountable policies, is a lack of policy co-ordination between ministries and government institutions. The new procedures of policy planing introduced by the government are aimed to rise the quality of political decisions and to tie all the policy proposals and legislative initiatives under a common framework of government's political priorities. In spite of legal mechanisms that are in place, most interviewees claimed that public or political accountability did not function sufficiently.

3. Conclusions and discussion

In the beginning of the 1990's, Latvia started the establishment of fundamental democratic mechanisms. Further the democracy was strengthened to the extent that now Latvia is an internationally recognised democratic country.

However, the development of democracy has met a number of challenges. Many of them were related to overcoming Soviet legacy in policy-making while many other were new challenges that almost any democracy face. For example, virtually all democracies stand for the political and legal equality of citizens while tolerating (or sometimes even praising) smaller or larger wealth disparities. In practice, wealth disparities tend to distort the political and legal equality. Further the distorted political and legal equality contribute to reduced public accountability, which requires certain equality of citizens. Therefore we need effective mechanisms and practices that protect political and legal equality as well as public accountability.

3.1. Overcoming Soviet legacy in policy-making

The existing political culture in Latvia is a mixture of democratic and old Soviet-type decision making. The Soviet system was characterised by several features:

- ✓ Ministries were not policy-making institutions in genuine sense but extended agencies of Central Plan.
- ✓ No policy priorities, budgetary plans and initiatives were discussed at such agencies.
- ✓ There was a legislative formalism, no real policy analysis, needs assessment, formulation of strategies, public discussions, evaluation of policy alternatives, and policy evaluation took place in Soviet system.
- ✓ The main function of ministries was distribution of scarce resources.
- ✓ Corruption was a part of central planning system and distribution activities.

This legacy is not yet fully overcome and it partly explains the existence of rather separated sectoral policies, lack of co-ordination between ministries and presence of corruption. Overcoming of Soviet mentality depends on the political will of new democracies on responsibility of their political elite and citizens demand for accountable and efficient policies.

3.2. Handling new challenges of democracy

The new challenges of democracy are: state capture, lax administrative practices, flawed party system, use of informational technologies in governance, legislative formalism, decentralisation, and moral and social responsibility of politics.

3.2.1. State capture

Probably the most striking manifestation of the above challenge is the so-called state capture. In situation where the civil society as an organized factor is weak, large business may turn partly or fully into the actual power base of political elite. In practical terms, this takes the form that firms pay to political parties, politicians or court officials in order to shape the positions of the parties, the adoption of laws and government regulation as well as court decisions. As indicated earlier, such forms of illegal and illegitimate influence are commonplace in Latvia. The interviews and other data that are used in this report indicate that in Latvia the oversight of the civil society over political decision-making is still rather limited. Two major reasons for this appear to be 1) the insufficient awareness among the broader public about the need to exercise permanent and rigorous pressure on the political process and 2) the closed nature of the political process that impairs the effectiveness of public participation.

3.2.2. Lax administrative practices

Latvia meets the challenge of implementing political decisions and legal norms in the situation where the political and administrative system has relatively recently and fundamentally changed. The improper implementation of legal norms on the administrative level weakens public accountability mechanisms. For example, over years the widespread and systematic violations of regulations in public procurement have largely limited any public accountability in this sphere. Another example is the disclosure of information where it is still possible to find institutions that ignore existing transparency rules.

Such lax administrative practices lead to unpredictable and often abusive policy implementation. Numerous factors have contributed to this situation, including the lack of funds, insufficient expertise, the lack of continuity in the political leadership of administrative

reforms, etc. On the positive side, the integration in the European Union is often cited as a major drive for the modernization and strengthening of the public administration. In this context, the European Union can be viewed as a major factor for the strengthening of public accountability in Latvia.

3.2.3. Flawed party system

Yet other challenges are rooted in Latvia's history. Among major challenges of this sort is the lack of understanding about the proper role of political parties. Before the beginning of the 1990's, Latvia had a functioning multi-party system from about 1917/1918 till 1934. While the party system partly consolidated in the 1920's, political parties never became really effective agents that connect the civil society with the state. This together with the inability of the political system to meet many popular demands and numerous corruption scandals contributed to deep mistrust in political parties. This mistrust facilitated the coup-d'etat in 1934 and still hampers the development of the present day party system.

Most Latvian political parties have small membership base and are dominated by their elites. One may tentatively observe that people who join parties do so in order to promote their personal carriers or gain other personal benefit. However, the confirmation or falsification of this observation would require deeper research. Anyway, the interviews tend to imply that political parties in Latvia serve largely as the agents of various personal interests and not so much the agents of public accountability. Increased awareness about the proper role of political parties as the formulators of policy alternatives and mediators between the civil society and the state would be a key factor for strengthened public accountability in Latvia.

Interviewed political scientists and representatives of several NGOs admitted that the existing parliamentary election procedure decreases responsibility of elected deputies towards their voters, and is comfortable for political parties, but not for the voters. There are few mechanisms how voters can hold their deputies accountable.

3.2.4. Informational revolution in governance?

The adoption of Information Openness law has made it easier for the public to obtain information on adopted decisions and signed agreements. It has given to public a unified overview of its rights to obtain information. Access to information in Latvia is improving. Draft regulatory enactments and amendment proposals are accessible on the governments and parliament's Internet homepages. The availability of electronic versions of such draft documents of any member of the public provides opportunities to follow and influence their adoption. Access of draft legislation on the Internet makes the public policy making process more transparent and creates possibilities of participation. (UNDP 2001:76)

Access to government information has seen a technological revolution. However, it poses new questions as new challenges arise. How accessible is the Internet for the population? Which groups lack technological access to government decision-making and which groups are most active in commenting draft laws on the Internet? How to equalise access to legislation with representation of public interests? What are the public risks if specific member benefit organisations actively lobby legislative amendments through mechanisms of openness? Does government has enough capacity to handle and analyse diversity of comments and make use of them?

3.2.5. Legislative formalism

The political discourse in Latvia as in other transition countries has been dominated by juridical discourse for several reasons. That legal reform has been seen as a basis for all other reforms. International donors, investors and influential NGOs have promoted the rule of law as basic principle of democratic transformation. The process of EU accession is largely concentrated on legal reform and adoption of EU legislation. This has strengthened so called “lawyers approach” according to which good governance equals with the adoption of good laws, training of judges, reforming of courts, etc. However, legislation alone can not solve all the needs of good governance. The challenge is how to combine the legislative process with practices and procedures on responsible policy-making. Over-reliance on legal instruments and negligence of interactive political practices might lead to gaps between legislation and actual policies.

3.2.6. Decentralisation

Decentralisation is not a new phenomenon, however, nowadays it means dispersion of decision-making power and political responsibility in loose and instable networks. Decentralisation takes shape of delegation of many former state and local government functions, services and responsibilities to different sub-governmental institutions, agencies, NGOs, public and private organisations. These organisations are given rights, finances and decision-making power.

Decentralisation leads to establishing of broad policy networks as connections of different organised interests. In reality we face diffusion of responsibility, and this is a challenge. New issues have to be addressed in this process and many questions have to be answered. What is the right distribution of functions and competencies between the state and other public organisations? How can government control independent public organisations, which have been given rights and money to provide public services and to implement public functions? What are efficient mechanisms of supervision and control? Who is responsible if public institutions fail to implement their obligations? How to use consultative committees to ensure accountable decisions in “independent public institutions”? One should bear in mind that in the end the state is ultimately responsible for all the functions it has delegated to third parties.

3.2.7. Moral and social responsibility of politics

According to views of some interviewed academic experts, politics in Latvia are not responsible to the people, because an individual is not perceived as an aim of politics. These experts believe that in this respect there is no great difference from the Soviet system, which also disregarded the individual.

In a new Latvian democracy there has been an obvious vacuum of consolidating development ideals. Macro-objectives of transition, like establishment of a market economy, rule of law, building of democratic institutions and other strives have been largely the projects of ruling elite, which not always have been confirmed in the reality of every-day life. The people centred policies have not been put to the front.

Nowadays more and more people ask questions about the purpose of politics. Such questions, like – Who exercises the power on whose behalf? How important decisions are made which affect people’s lives? What is the essence and purpose of politics? – are brought to existence

only in recent years. Moral claims are becoming central in politics. Not only the ideals of efficient but also just and accountable government are getting rooted in public mind. The concept of just government imposes moral claims on institutions and individuals themselves.

Hitherto governance has been predominantly perceived as technological vehicle for economic growth. The practical implications of such approach have been reduction of state role to provider of minimal social functions and a facilitator of economic environment. The rationale of state has become basically economic. This has led to retreat of state from many former functions (UNDP 1997; The World Bank 1997).

“Economisation” of the state has had moral consequences (see also discussion about state capture in Chapter 3.2.1). Many politicians have learned to see politics as a field of satisfying of their own interests. As it was neatly pointed by one of the interviewed journalists: “*Some politicians behave in a manner “I need”, while some other are convicted that they have “to salvage the nation.”*” None of these stances are compatible with responsible policies.

Political responsibility can not be limited only within confines of political system. It has broader social and moral dimensions because politics are responsible for sustainable and people-oriented economic and social development. It has become a time when many people start posing questions: Who is responsible for living conditions of population? Who is responsible for unemployment and social exclusion? Who is responsible for slow pace and unsatisfactory results of economic reforms? Who is responsible for political corruption and abuse of law? Who is responsible for deepening social disparities during transition and increasing gap between haves and have-nots? Such questions surprisingly reveal the missing agency of responsibility and hardships to identify responsible actors.

Moral claims in politics simultaneously propose a search for new agents of accountability who pay attention to broader human development objectives of politics, such objectives as improving well-being and quality of life of people, more equal distribution of opportunities, access to education and health care, possibilities to participate in politics.

The question of the purpose of politics should be examined once again. The philosophical meaning of politics can be found in its civil ground. Democratic political system should compromise individual and public interests and should serve public good. The philosophical argument behind this statement is Jurgen Habermas’s conception of public sphere and inclusion of the other. The ethos of public accountability is inherent part of such policies.

3.3. Theoretical model of public accountability

A theoretical model of public accountability developed on the basis of our investigations is shown in Figures 5, 6 and 7 (figures will be added to the report during the workshop). The four necessary elements for functioning of public accountability are:

- institutional framework;
- public participation;
- practical mechanisms and procedures; and
- sanctions.

Institutional framework of public accountability includes such elements as Information Openness law, legislation, which regulates public procurement procedures, NGO legislation, and other regulations.

Information alone does not ensure accountable decisions. Access to information should be accompanied by public participation in policy-making. We may distinguish three levels of participation: nominal participation or opportunities to participate in policy-making, occasional participation and regular participation. To ensure accountability of governance, some minimum level of public participation is needed. A certain proportion of population should vote in parliament and local government elections, sign petitions, meet local government leaders, participate in public hearings, write letters to newspapers and otherwise engage in political action.

However, we should be aware of limited or even decreasing level of political participation in a modern individualistic society. In Latvia only voting activity of population exceeds 50% and signing petition exceeds 25%. All other forms of political participation e.g., participation in public hearings, meeting ministers and civil servants, writing letters to politicians are at the level around 10% or below. Regular membership in NGOs is 6%.

What consequences for democracy derive from limited or low participation? Firstly, representation of interests is important. Hence, the importance of third sector legislation, and financing, providing training and support to diverse NGOs. Secondly, effectiveness of participation is crucial. People should achieve their aims through their participatory activities. Thirdly, practical mechanisms and procedures are important upon which people can rely as established procedures of tackling their problems. Finally, trust in public institutions is important because trust “safeguards” accountable decision-making procedures and people can rely on them in case they wish to refrain from actual participation.

Practical mechanisms and procedures are important components of public accountability. Practical mechanisms and procedures link institutional framework and participation in regular accountability practices.

Sanctions is an important element of accountability as they ensure actual implementation of accountable decision-making procedures by providing punishment if politicians and government officials violate law. We may distinguish different forms of sanctions: citizens political sanctions which manifest themselves in elections, administrative sanctions, ombudsmen, courts, and other.

Such a structure of public accountability can be observed at different levels or dimensions of governance (see Figure 7, figure will be added to the report during the workshop). The figure illustrates how public accountability may integrate different sectors and different levels of governance. It is important that political accountability of political parties is being integrated with administrative accountability of government institutions and local governments. It is equally important that public accountability mechanisms and procedures may help to integrate and co-ordinate different policies under a common umbrella of national and international political priorities. Finally public accountability connects decision-making process to justifiable social and moral objectives.

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Annex 1 List of interviews

- Interview No. 1 National civil servant
- Interview No. 2 Member of parliament/political party
- Interview No. 3 Constitutional expert
- Interview No. 4 Academic expert/political scientist
- Interview No. 5 Judge
- Interview No. 6 Representative of NGO
- Interview No. 7 Journalist
- Interview No. 8 Representative of an international institution
- Interview No. 9 Member of political party/local official
- Interview No. 10 Journalist
- Interview No. 11 Representative of NGO
- Interview No. 12 National civil servant
- Interview No. 13 Member of political party/local official
- Interview No. 14 Representative of NGO
- Interview No. 15 Academic expert/political scientist
- Interview No. 16 Representative of an international institution
- Interview No. 17 Representative of NGO/ entrepreneur
- Interview No. 18 Member of political party/local official