# CORRUPTION °C

## Report on Corruption and Anticorruption Policy in Latvia

*2005. Second semiannum*

*2006*

UDK 338.1(474.3)
Pa 600

Editor-in-chief: Valts Kalniņš

Authors in alphabetic order: Andrejs Judins
Iveta Kažoka
Inese Voika

This project was funded, in part, through grant of the U.S. Department of State. The opinions, findings and conclusions or recommendations expressed herein are those of the authors and do not necessarily reflect those of the Department of State.

The authors take full responsibility for accuracy of the facts in Chapters 2–5.

This report in Latvian and in English can be accessed on the Internet:
www.politika.lv



Sagatavota iespiešanai SIA "Nordik". Reģ. apl. Nr. 2-0792. Adrese – Daugavgrīvas ielā 36–9, Rīgā, LV-1048, tālr. 7602672. Iespiesta un brošēta Jelgavas tipogrāfijā.

ISBN 9984–792–02–1

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**Frequently used abbreviations**

AOC – Administrative Offenses Code
CC – Criminal Code
CL – Criminal Law
CPCB – Corruption Prevention and Combating Bureau
SC – Supreme Court
SRS – State Revenue Service

# Preface

This issue of *Corruption ºC. Report on Corruption and Anticorruption Policy in Latvia* is largely dedicated to the third anniversary of the Corruption Prevention and Combating Bureau in the fall of 2005. Although CPCB has actually been working at full capacity for less than these three years, some conclusions can already be drawn. There is no doubt that both corruption prevention and combating are currently being carried out more actively and effectively than they were in 2002. There is also no doubt that CPCB is the most open law enforcement institution in Latvia, one that appreciates the importance of informing the public about its activities and cooperating with the public.

International anticorruption experts almost all agree that effective anticorruption measures must incorporate three elements: prevention, combating and education. In this respect, CPCB's performance has been out of balance, with seemingly less focus placed on education. However, as Inese Voika points out in her contribution to this report, the public applies much narrower criteria in its assessment of CPCB's performance: the public focuses on the number of corruption cases involving high-ranking politicians and the severity of punishment. There is good reason for this. While anticorruption measures are applied against comparatively small fry, but the big fish go scot-free, the battle against this evil lacks the ethos that could spur the broader public to change its habits. In this respect, no breakthrough has been achieved in Latvia. And political corruption aside, during preparation of this report, the number of court judgements carried out in criminal cases investigated by CPCB could be counted on the fingers of one's hands.

A new quality in the battle against corruption cannot, however, be achieved by CPCB alone. To follow up on Inese Voika's argument, the outcome of the cases initiated by CPCB does not depend entirely on the Bureau alone, but also on the Public Prosecutor and the courts, and on cooperation with other law enforcement institutions. This is where court practice must be examined. It has been analyzed in this report by Andrejs Judins, who concludes that the sentencing policy pursued by courts when handing down judgements in bribery cases is generally more lenient than that anticipated by lawmakers. The problem clearly shows that no matter how effective, how endowed with authority and resources an anticorruption institution may be, it will not achieve the desired results in isolation from other government institutions.

The fact that CPCB's activities can produce counter-activities was illustrated by the ado raised at the end of 2005 by a number of senior officials over the allegedly illegal disclosure of information obtained by tapping telephones. No institution may stand above controls. However, the decision of the President of Ministers, who is also the CPCB overseer, to repeatedly voice suspicions and thus provoke a public scandal raised concerns not so much about the Bureau's possible violations as about the desire of politicians to discredit the corruption fighters. Unfortunately, due to the confidential nature of the information (which is fully justified), the public will probably never learn the actual details of the incident.

The second *Corruption ºC* issue also looks into prospective anticorruption policy objectives. One of the most important is the introduction of an overall declaration of personal income and assets. This is a necessary prerequisite for obtaining more or less comprehensive information on the income of government officials and reducing concealment of assets under the names of third persons. The author of these lines looks at a number of factors that should be considered in pursuit of this objective. The main risk is posed by the complicated *clockwork mechanism* of income and asset monitoring. It must be extremely carefully tuned, and can easily be rendered pointless by politicians and officials who are just aching to demonstrate why a system that exists in almost all developed countries would be absurd in Latvia or who slyly neglect to include a vitally important element.

The last topic dealt with in this report is Iveta Kažoka's analysis of political conflicts of interest. She takes the debate on conflicts of interest to a new level and analyzes ways of monitoring possible collisions between the official interests of government officials and the interests of same officials as members or supporters of a political organization.

Like the first issue, this one too could not have been prepared without the generous help of many persons – too many to name them all here – who deserve a big thank you. I would like to thank particularly officials at the Corruption Prevention and Combating Bureau who provided information and explanations. Special thanks goes to the Prosecutor General's Office, which contributed a detailed and comprehensive summary, used in the annex to this report, of the criminal cases initiated and investigated by CPCB, and the outcome of these cases.

Valts Kalniņš
*Corruption ºC*, Editor-in-chief

# 1. Combating Corruption. Facts: the 2nd Six Months of 2005

This part of the Report contains the most important events linked to corruption prevention or combating. This overview is split into 14 topics that are partly defined on the basis of the structure of "National Program for Corruption Prevention and Combating 2004-2008". These 14 topics do not cover in full all the significant sectors in the prevention and combating of corruption, however, the objective of this chapter was just to record the events that had taken place within the second six months of 2005. Thus those sectors that during this period had no significant developments have not been included. The overview was drafted on the basis of the information provided by the Corruption Prevention and Combating Bureau and other institutions as well as information published on the web pages of state institutions.

## Financing of Political Organizations

The dependence of political parties on sponsors' donations and the absence of transparency in party financing are usually regarded as two of the chief causes of political corruption. On December 29, 2005, draft amendments to the Law on Financing of Political Organizations (Parties) prepared by CPCB were announced at the Meeting of State Secretaries. The amendments would require parties to pay to state budget amounts, which correspond to how much the parties have exceeded the pre-election expenditure limit.

In the last six months of 2005, CPCB ordered two political organizations to repay **unlawfully received donations** in the amount of 4,919.59 LVL.

For violation of **the rules on submitting** declarations and financial statements on revenues and expenditures in the 2005 elections, CPCB drew up 14 administrative offense reports and in 13 cases imposed administrative sanctions for a total amount of 3,325 LVL.

For violation of **the rules on filling out** declarations on revenues and expenditures in the March 12, 2005 elections (and in some cases, the annual financial

statements for 2004 as well), for giving false information, for failing to declare donations, or for exceeding the sums allowed as pre-election expenses, CPCB drew up 14 administrative offense reports. In 8 of these cases, administrative sanctions were imposed for a total amount of 10,515.39 LVL; in five of the cases, the violations were found to be insignificant and the cases were closed; in one case, a decision is still outstanding; and in nine of the cases, the offenders have been asked to provide additional details.

On November 22, 2005, the Administrative Cases Department of the Supreme Court Senate dismissed as ungrounded the Latvian Farmers Union's (*LZS*) cassation appeal against a CPCB decision ordering *LZS* to repay 55,120.80 LVL received in 2002, in violation of the Law on Financing of Political Organizations (Parties). The judgment of the SC Senate cannot be appealed.

## The Status and the Activities of Corruption Prevention and Combating Bureau[1]

July 2005

- CPCB prepares a draft for the Law on Leasing Government and Local Government Property, which is announced at the Meeting of State Secretaries on July 21, 2005. Current regulatory enactments on leasing government and local government property are insufficient: they do not ensure either uniform practice or transparency, nor do they guarantee equal chances for potential lessees. These shortcomings are a factor that increases the risk of corruption.

September 2005

- The Cabinet of Ministers approves the 2006 draft budget, which grants CPCB 3.385 million lats – significantly more than in 2005 (2.244 million). This will allow the Bureau to hire 20 new employees for the corruption combating block and the Department for Monitoring Activities of Public Officials. This amount remains unchanged in the final version of the 2006 budget adopted by the *Saeima*.

October 2005

- On October 4, 2005, the Riga Regional Court finds CPCB Director Aleksejs Loskutovs' decision to dismiss the head of the Bureau's Investigations Department, Ilmārs Bode, to be unlawful.

November 2005

- On November 4, 2005, due to objections from the Ministry of Finance, the Meeting of State Secretaries does not approve the draft Law on Service Pensions for Corruption Prevention and Combating Bureau Officials.

[1] See also: *Corruption ºC*, Chapter 2.

December 2005

- Senior government officials, President of Ministers Aigars Kalvītis and Minister of Transportation Ainārs Šlesers, express concern about the fact that CPCB officials have – possibly illegally – disclosed information obtained by tapping phone calls. The Public Prosecutor's Office launches an investigation into the case, but by the end of the year, no results or information that could confirm or dispel the officials' concern has been made public.

CPCB carried administrative action against 77 public officials for failure to observe restrictions prescribed by the Law on Prevention of Conflicts of Interest in the Acts of Public Officials (76 public officials were fined totaling 4,975 LVL). Twenty-seven public officials were asked to pay compensation for losses incurred by the state in the amount of 8,213.73 LVL.

In 20 cases, CPCB found possible discrepancies between incomes and expenditures of public officials and their kin. Material was handed over to the State Revenue Service for examination of the legality of the incomes of these 20 persons. In the 2nd half of 2005, at the initiation of CPCB, SRS started a personal income tax audit in the cases of 13 persons. Three persons were required to pay additional taxes and fines in the amount of 24,973.90 LVL.

## Criminal Proceedings Launched and Criminal Cases Initiated/Investigated by CPCB, which Have Been Made Public[2]

- On July 5, 2005, a criminal case was initiated under CL Section 319 Paragraph 2 (Failure to act by a public official) in regard to the activities of the Ministry of Education and Science state secretary: state-owned property was leased for a term of 20 years to a company in Mežaparks for a sum clearly disadvantageous to the state (1,500 LVL/month). In December 2005, the CPCB investigator found that there were grounds to suspect the former Ministry of Education state secretary of the criminal offense set out in CL Section 318 Paragraph 2 (Abuse of office).

- On July 5, 2005, a criminal case was initiated under CL Section 318 Paragraph 2 (Abuse of office) in regard to activities of the manager of the *Mežaparks* joint-stock company owned by the city of Riga: in the period from July 2003 to October 2004, the *Mežaparks* official had, in violation of the law, leased an automobile from a private company owned by himself.

[2] CPCB informs the public only about the criminal cases that have been handed over to the Public Prosecutor's Office or if a particular suspect is known.

- On July 6, 2005, a criminal case was initiated under CL Section 318 Paragraph 2 (Abuse of office) concerning inactivity and abuse of office with avaricious intent by three officials of the Preiļi brigade of the National Fire and Rescue Service. In the period from May 2000 to May 2005, these three officials had neglected to perform their duties, i.e. had, over an extended period of time, failed to service the brigade's motor vehicles and, over a period of five years, written off the sum of 6,900 LVL in material value. The case was handed over to the prosecution on July 27, 2005.

- On July 19, 2005, a criminal case was initiated under CL Section 323 Paragraph 1 (Active bribery): on July 1, 2003, a private individual had given a Riga judge a ring made of yellow metal in an attempt to persuade the judge to dismiss a criminal case. The case was turned over to the prosecution on August 16, 2005.

- On July 20, 2005, a criminal case was initiated under CL Section 320 Paragraph 3 (Passive bribery); Section 318 Paragraph 2 (Abuse of office); Section 195 (Laundering of the proceeds of a crime) against two officials from the 23rd Precinct of the Riga City Police Department suspected of the extortion of a bribe in the amount of 600 EUR. The officials had extorted and accepted a bribe for making sure that the results of a technical inspection would be positive. As a result, the technical certificate for a truck trailer would not be annulled and criminal proceedings would not be initiated. The case was handed over to the prosecutor on August 12, 2005.

- On July 22, 2005, a criminal case was initiated under CL Section 317 Paragraph 1 (Abuse of functions) against a bailiff for abusing functions and thus causing serious damage.

- In July 2005, a criminal case initiated under CL Section 325 Paragraph 1 (Violation of restrictions imposed on public officials) concerning the activities of the director of the Riga Vocational School of Carpentry, suspected of violating restrictions imposed on public officials, was received from the Prosecutor General's Office.

- On August 17, 2005, a criminal case was initiated under CL Section 318 Paragraph 2 (Abuse of office) against a bailiff for abuse of office with serious consequences. The bailiff had violated the Law on Civil Procedure when distributing money obtained from a real estate auction and had failed to satisfy claims according to priority. The case was handed over to the prosecution on November 16, 2005.

- On August 18, 2005, a criminal case was initiated under CL Section 320 Paragraph 2 (Passive bribery) against a Riga Municipal Police officer for demanding a 200 LVL bribe from A. The case was handed over to the prosecution on August 26, 2005.

- On August 30, 2005, a criminal case was initiated under CL Section 177 (Fraud) against the head of the Alcohol and Drug Screening Department of the State Addiction Agency for carrying out unlawful activities.

- In August 2005, a criminal case initiated under CL Section 291 Paragraph 1 (Unlawful judgments and decisions) against a Jūrmala Land Registry judge for three deliberately unlawful decisions made in 2003 in connection with the registration of buildings on a piece of land, was received from the Prosecutor General's Office. The case was handed over to the prosecution on September 21, 2005.

- On September 9, 2005, a criminal case was initiated under CL Section 275 Paragraph 2 (Forgery of documents, seals or stamps and sale or use of forged documents, seals or stamps) and CL Section 319 Paragraph 1 (Inaction of a public official) for the forgery of documents with the intention of acquiring property rights in Kuģu iela, in Riga, and for the failure of a public official to carry out his duties when establishing property rights on the basis of forged documents.

- On September 16, 2005, a criminal case was initiated under CL Section 318 Paragraph 2 (Abuse of office) against the director of the National Land Registry's Administrative Department for abuse of office with avaricious intent when organizing fictive public procurement procedures and for repeated misappropriation and subsequent laundering of money from public institutions.

- On September 19, 2005, a criminal case was initiated under CL Section 319 Paragraph 2 (Inaction of a public official) against a Jūrmala City Council official in connection with the lease of land and immobile property and privatization thereof.

- On September 22, 2005, a criminal case was initiated under CL Section 318 Paragraph 2 (Abuse of office) against a bailiff for abuse of office resulting in serious damage amounting to 460,000 LVL.

- On October 10, 2005, a probe was launched into the possibly unlawful activities of public officials at the Limbaži branch of the Valmiera Naturalization Board (NB). On December 8, 2005, the case was handed over to the Prosecutor's Office for criminal prosecution of a NB official for passive bribery (CL Section 320 Paragraph 1) and two private individuals involved in the bribery: one for intermediation and misappropriation of a bribe (CL Section 321 Paragraph 1 and CL Section 322 Paragraph 2) and the other for active bribery (CL Section 323 Paragraph 1).

- On October 17, 2005, CPCB detained the head of the Valmiera Naturalization Board for passive bribery and the chief of staff of the Riga Municipal Police (RMP) for mediation in bribery. The official on NB facilitated the adoption of a favorable decision for the person M. with regard to a language test for the obtaining of Latvia's citizenship and received for this illegal remuneration

through two intermediaries. The chief of staff of RMP offered to the person M. a possibility to pass the naturalization test for 500 LVL.

- On October 21, 2005, a probe was launched into the unlawful activities of a public official in connection with misappropriation of a bribe. On December 14, 2005, the case was handed over to the Prosecutor's Office for criminal prosecution of a Riga driving school instructor for misappropriation of a bribe (CL Section 321 Paragraph 1): for unlawfully promising to arrange a positive outcome of a driving test at the Road Traffic Safety Department (RTSD), but in reality keeping the bribe allegedly intended for the RTSD official.

- On December 7, 2005, CPCB detained a person for the misappropriation of bribe. The suspected person in return for 600 LVL offered to be an intermediary for the illegal obtaining of a driver's license without passing required tests. The bribe was requested as if for an official's illegal acts but in fact the demander misappropriated the bribe. The person was detained after having received a part of the bribe – 300 LVL.

- On December 12, 2005, CPCB detained three persons for bribery: an official of Riga City Council (RCC) for the acceptance of a bribe of 12,600 LVL, another official of RCC – for mediation in bribery, and a private individual – for active bribery. Yet another official of RCC was recognized as suspect for an offence in accordance with CL Section 322 (mediation in bribery).

- On December 30, 2005, CPCB detained two officers of Riga City Chief Police Department – the head of the Economic Police Bureau, chief specialist of the Administrative Board – as well as a sworn advocate. A bribe of 19,500 LVL was requested through the advocate from a firm in order to allow it to act with frozen assets of 64,000 LVL and fail to launch criminal proceedings against an official of the firm.

## Recruiting and Motivating the Personnel in the Public Sector

In order to reduce the risk of corruption, it is important to pay those who work in the public sector competitive salaries – salaries that are also fair in respect of an employee's qualifications and performance, and commensurate with similar jobs in other areas of the public sector. Raises have been planned in 2006 for several public sector employee groups. The following are decisions involving changes in the system of salaries and/or social benefits for the whole public sector or for specific areas of the public sector.

On December 22, 2005, the *Saeima* approved in the first reading the Law on Service Pensions for Judges. The draft law seeks to provide social guarantees (service pensions) for judges, which had not been done before. According to the annotation, adoption of this law will have a positive effect on the recruitment of

judges. It will also stimulate judges' professional development, reduce changes in personnel, and create additional positive factors for the overall development of the judicial system.

On August 23, 2005, the Cabinet of Ministers approved a directive on the Program for Increasing Teachers' Salaries, 2006–2010 (with the exception of pre-school teachers not engaged in preparing five- and six-year-olds for school). The Cabinet decided that, starting September 1, 2007, the teachers' salary system would be incorporated into a single remuneration system for public sector employees.

On December 20, 2005, the Cabinet of Ministers approved Regulations on Salary System and Qualification Levels for Civil Servants, Employees and Officials of Direct Administration Agencies and Members of the Central Election Committee, and on Benefits and Compensation for Civil Servants and Public Officials. The regulations prescribe common principles for determining salaries for public sector employees working at ministries and institutions under the supervision of ministries, including government agencies, police, border guard, CPCB, etc. The regulations anticipated raises in monthly salaries based on analyses of salaries in the private sector, which will increase the competitiveness of the public sector on the job market. The regulations also anticipate a mechanism for an annual review of the salary system. However, CPCB raised objections to incorporation of the Bureau into this system, claiming that it posed a risk for the status of CPCB as an independent and specialized anticorruption agency.

## Internal Control Mechanisms

Consistent improvement of the corruption situation in public administration and local government requires the combined anticorruption efforts of all of the institutions concerned. In 2005, government and local government agencies continued to prepare and submit to the Corruption Prevention and Combating Bureau their plans for organizational anticorruption measures. By the end of 2005, the majority of government agencies had drafted and submitted such plans. According to information provided by CPCB, in December 2005, plans had not been prepared/submitted by one agency supervised by the Ministry of Finance, one by the Ministry of Transportation, one by the Ministry of Regional Development and Local Government Affairs, and several under the supervision of the Ministry of Education and Science.

## Ethics of Public Institutions

In 2005, the process of drafting and approving codes of ethics for public administration agencies continued, as did the establishment of ethics committees and the incorporation of ethics standards into employment contracts. The following is an overview of the situation in the government ministries at the end of 2005. However, many codes of ethics have also been adopted or are in the process of

being drafted and ethics committees are being set up in agencies subordinate to the ministries.

- The Ministry of Defense: a code of ethics and an ethics committee.
- The Ministry of Foreign Affairs: drafting of ethics code in progress (no changes since mid-2005).
- The Ministry of Children and Family Affairs: a code of ethics.
- The Ministry of Economics: a code of ethics and an ethics committee.
- The Ministry of Finance: ethics standards fixed in internal regulations.
- The Ministry of the Interior: drafting of ethics code in progress (no changes since mid-2005).
- The Ministry of Education and Science: a draft code of ethics (no changes since mid-2005).
- The Ministry of Culture: a code of ethics and rules of procedure.
- The Ministry of Welfare: a code of ethics.
- The Ministry of Regional Development and Local Government Affairs: a code of ethics and an ethics committee.
- The Ministry of Transportation: a code of ethics and an ethics committee.
- The Ministry of Justice: a draft code of ethics.
- The Ministry of Health: ethics standards fixed in internal regulations.
- The Ministry of the Environment: a code of ethics.
- The Ministry of Agriculture: a draft code of ethics.

(Source: unpublished CPCB document: "Report on the Codes of Ethics of Ministries and Subordinate Agencies, and the Codes of Ethics of State Chancellery, Prosecutors' Office, Courts and Autonomous Agencies.")

## Control of Personal Income and Prevention of the Legalization of Crime Proceeds

On September 20, 2005, the Cabinet of Ministers supported CPCB's Framework Document on Improvement of Personal Income Monitoring, which anticipates introduction of a general declaration of income that will have to be submitted by all Latvian citizens and residents (see *Corruption ºC,* Chapter 4).

On October 13, 2005, in the final reading, the *Saeima* adopted the Law on Declaration of Cash, which seeks to combat money laundering. The law provides that, when crossing Latvia's border, natural persons must declare all cash sums of 10,000 EUR or over.

On October 13, 2005, in the final reading, the *Saeima* adopted amendments to the Law on Operational Activities, which defines a new form of operational activity: controlled delivery. This is the transfer of goods or other articles of value, including substances, legal tender or other financial instruments through the territory of the Republic of Latvia or across its borders, and the personal surveillance that is carried out to prevent or disclose crimes and identify the perpetrators if information has been received or there is reason to suspect that the goods in question are in some way connected with criminal offenses.

On November 17, 2005, the *Saeima* referred to the parliamentary committees amendments to the Criminal Law, which anticipate liability for failure to declare cash; for unlawful use, accumulation and possession of financial and other assets; for failure to identify the sources of financial and other assets. The draft amendments prescribe liability for use, accumulation and possession, if done on a large scale, of such financial or other assets the source or legality of which a person will not or cannot reasonably explain. The amendments also prescribe so-called legal presumption in regard to the source of assets. This would be a helpful instrument in combating the use of illegally acquired wealth and the declaration of nonexistent financial resources for the purpose of legalizing income from future illegal activities, for example, bribes.

On December 8, 2005, in the final reading, the *Saeima* amended the Criminal Law, supplementing it with Section 195.[2], which prescribes liability for failing to declare or falsely declaring cash brought into or taken out of the customs territory of the European Community when crossing the border of the Republic of Latvia, as prescribed by the law.

## Protection of Witnesses and Informers

The success of efforts to combat corruption frequently depends on whether or not people are prepared to report illegal activities. To protect informers from reprisals at their place of employment, on September 15, 2005, the *Saeima* approved amendments to the Labor Law in the first reading. These prohibit punishment or any other negative consequences, direct or indirect, for an employee who has exercised his or her legitimate rights as an employee, or has informed the responsible authorities of suspicions about criminal or administrative violations at his or her place of employment.

## State and Local Authorities Procurement

On November 17, 2005, the *Saeima* approved the draft of the Law on Public Procurement in the first reading. This law will replace the current Law on Procurement for Government and Local Government Needs. In an anticorruption context, this is an important law because public procurement can be regarded as one of the major risk zones. A number of corruption prevention experts have

expressed concern that the law will be applied only to procurement for sums exceeding 10,000 LVL, which will increase the risk in cases where procurement can be broken down into individual low-value units that may add up to significant sums.

## Corruption in Public Services (Health Care, Education, etc.)

To make it possible to take legal action for bribery or acceptance of illicit advantages against persons who are not public officials, for example, persons employed in healthcare or education systems, in 2005 the *Saeima* began considering amendments to a number of laws.

On September 22, 2005, in the second reading, the *Saeima* approved amendments to the Administrative Offenses Code and the Criminal Law. The AOC amendments prescribe liability for the acceptance of illicit advantages for medical services.

The amendments to the Criminal Law anticipate rewording of Section 198 (Illicit acceptance of advantages). In accordance with the wording approved in the first reading, the first paragraph of this section prescribes liability for knowingly and illicitly accepting objects of value, financial or other advantages, which an employee of an enterprise, agency or organisation who is not a public official or a person authorized by an enterprise, agency or organisation, or other such person authorized in accordance with the law or on the basis of a legal transaction to act on behalf of another person, make binding decisions or settle disputes, has demanded personally or through an intermediary for the performance or non-performance of professional duties or services in the interests of the benefactor, for abuse of authority regardless of whether the accepted objects of value, financial or other advantages are intended for this person or any other person. Anticipated punishment is a prison sentence of up to three years or community service, or a fine of up to 80 minimum monthly salaries (Section 198 Paragraph 1).

## Education

According to information provided by CPCB, in the 2nd half of 2005 the Bureau continued to educate local government officials about application of the Law on Prevention of Conflicts of Interest in the Acts of Public Officials. Seminars about the topic have also been held for the Latvian Border Guard, the Rural Support Agency and the Ministry of Health (for hospital directors and employees of agencies subordinate to the ministry). Discussions about how conflicts of interest can occur and how they can be prevented have taken place at a seminar for members of the Latvian Education and Science Workers Trade Union and a seminar for officials from the Banking Institution of Higher Education.

Several seminars have been held for officials from regional SRS agencies on identification and prevention of the agency's internal corruption risks.

## Analysis and Research

The results of the 2005 round of the *EBRD-World Bank Business Environment and Enterprise Performance Survey – BEEPS* were published in 2005. The BEEPS survey was carried out in three rounds (1999, 2002 and 2005) and includes almost all Central and East European countries, the countries of the former USSR, and Turkey. For the 2005 survey, 9,500 firms in 26 countries were interviewed. The survey takes a look at topics such as problems encountered by firms, unofficial payments and corruption, crime, regulations and administrative obstacles, customs and taxes, legal issues, etc. The BEEPS data received quite a lot of attention in Latvia because they include figures on administrative corruption and so-called state capture. In the 2005 survey, Latvia's firms claim that an average 0.7% of their annual sales are paid in bribes; approximately 25% name corruption as a problem doing business; 8% say that unofficial payments are frequent (answers to this last question differ significantly from the answers in 2002, when approximately 18% made this claim).

## International Agreements and Cooperation

On October 13, 2005, in the first reading, the *Saeima* approved a draft of the Law on the Additional Protocol to the Council of Europe Criminal Law Convention on Corruption. This protocol prescribes the duty of each Member State to ensure that bribery of national and foreign arbitration court judges and bribery of national and foreign jurors and assessors are qualified as criminal offenses.

On November 17, 2005, the *Saeima* approved and adopted in the final reading the United Nations Convention against Corruption. The convention was adopted by the UN in October 2003. The UN Convention against Corruption is a comprehensive document that includes chapters on the measures for preventing corruption (codes of behaviour for state officials, important elements for preventing corruption in public procurement, openness and accountancy demands to private companies, the involvement of society in preventing corruption, measures against legalisation of proceeds from criminal activities), a chapter on making corruption a crime and combating it (making a criminal offence bribing of state officials, foreign officials and the officials of international public organisations, trading with influence, abuse of one's commission, illicit enrichment, bribery in private sector, embezzlement in private sector and other activities covered by the Convention, the liability of legal persons, protection of informers, etc.), a chapter on international cooperation (mutual legal aid, etc.), a chapter on the recovery of assets, a chapter on technical assistance and exchange of information, as well as a chapter on the mechanisms of implementation that include establishment of a Conference of the Member States to promote the implementation of the Convention and to review it.

## The Control of International Funding

One of the factors that can increase the risk of corruption is the influx of foreign money: it can create a temptation for the persons involved in management of these finances to use their position in selfish interest. In Latvia, one such foreign source of money is the EU Structural Funds.

On December 8, 2005, the *Saeima* adopted in the final reading the Law on Management of the European Union Structural Funds. In regard to the regulation of conflicts of interest, Section 24 of the law points out that restrictions on the commercial activities, sources of income and second jobs of persons involved in management of the Structural Funds, as well as other restrictions and obligations are prescribed by the Law on Prevention of Conflicts of Interest in the Acts of Public Officials.

# 2. Does CPCB Meet Expectations: Performance in the First Three Years

***Inese Voika***[1]

In the three years since it was established, the Corruption Prevention and Combating Bureau has found a stable place among other public administration structures in Latvia. In 2003, 1.67 million lats of the national budget were spent on CPCB. In 2005, this figure had gone up to 2.4 million lats, with an additional sum of almost one million lats from foreign sources. Nevertheless, no significant improvement of the corruption situation has yet been observed. In the Corruption Perceptions Index, which measures the views of experts and local population on the corruption situation in a country, Latvia remains at the bottom of the list of European Union states.[2] When speaking of day-to-day contact with corruption, 18.9% of the respondents in the 2005 survey admitted to having made unofficial payments.[3] A year earlier, in 2004, the figure had also been 18%.[4]

This chapter takes a look at whether CPCB has a sufficiently sound base to justify hopes that the situation will change for the better and that corruption will go into a cardinal decline in the future. It also assesses the risks that CPCB faces as an agency whose goal is to reduce corruption.

Researchers have agreed that independent anticorruption institutions must meet a number of criteria in order to justify their activities.[5] Let us take a look at CPCB and its activities in the first three years in the light of these criteria (see Box 2.1).

**Box 2.1. Preconditions for effective performance of an anticorruption institution**

1. Political support not only from the highest government officials, but also from the widest political circles.
2. Political and operational independence, to allow the investigation of corruption in the highest echelons of power.
3. Performance that is based on strategy and coordinated with other government agencies.

4. Adequate funding and resources.
5. Legislation that provides a legal basis for the activities of the institution: gives access to necessary documents and makes it possible to carry out essential operations.
6. Employees with professional skills and specialization.
7. Management that sets an example for honest and ethical behavior; all activities of the bureau in accordance with the principles of good governance.
8. Consultation of civil society.
9. Transparency and accountability in all activities.
10. Public trust.

Sources: Utstein Anti-Corruption Resource Centre, Transparency International, Bertrand de Speville, (see also Footnote 5).

## Political Support

Anticorruption experts point out that "it is difficult to mobilize sufficient political will to create this type of institution."[6] Valts Kalniņš describes the situation in Latvia: "The Corruption Prevention and Combating Bureau has always been like a hot potato in the hands of Latvia's politicians."[7] Unlike the media and the public, which have dealt with the subject of corruption in a variety of ways, politicians have expressed their concern about the insufficient decline in corruption infrequently, unwillingly and usually under pressure from outside players. Six years passed from 1997, when World Bank experts introduced government ministers to the idea of this type of bureau as an effective mechanism for reducing corruption, before the Bureau could actually start functioning.

A special role in development of the Bureau has been played by other law enforcement agencies. Although a study on the institutional system for combating corruption revealed that none of the existing agencies considered crimes involving corruption a priority, and that duplication of functions and lack of coordination were widespread,[8] the State Police and other agencies repeatedly objected to and refused support for "the creation of yet another law enforcement institution."[9]

In its first three years, both government and parliament have gradually increased the CPCB budget. Legislation that is vitally important for CPCB's functions has also been adopted. Nevertheless, the reluctance of most politicians to deal with this issue has prevailed since the days when CPCB was created.

This attitude is best illustrated by an example connected with the introduction of party finance monitoring. In 2002, politicians from the governing coalition amended the Law on Party Financing, making the Corruption Prevention and Combating Bureau responsible for enforcement of this law. The author of the proposal, Jānis Lagzdiņš, explained that "we want to make CPCB more independent and endowed with greater authority than the State Revenue Service."[10] However,

when CPCB began to perform the assigned function and, at the end of 2002, asked several political parties to repay unlawfully received sums of money, the reaction of *Saeima* deputies indicated a distinct desire to question the legitimacy of CPCB's activities. This attitude reached a culmination on November 20, 2003, when the *Saeima* refused to allow administrative sanctions against deputy Ingrīda Ūdre for failure to fulfill CPCB's orders – her party had not repaid unlawfully re-ceived donations.

This negative reaction could in some measure have to do with the fact that, in the previous seven years since adoption of the Law on Party Financing, political parties had submitted only very approximate information about their finances, and no attention whatsoever had been paid to the source of donations. But deeper down, this reaction shows the attitude of the political elite (and society at large) to corruption, i.e., corruption is bad if it involves others, but not me.[11] This interpretation helps to understand why, in these past three years, politicians have supported CPCB in principle, but have also taken advantage of institutional opportunities to obstruct its work.

## Political and Operational Independence

The Bureau's place in the public administration hierarchy and the procedure for appointing the director are the most important aspects for operational independence. Experts point out that the appointment procedure must be designed to make sure the job goes to a person with a good and honest reputation, and to guarantee protection from political pressure while in office.[12] When the CPCB law was being drafted, the heftiest discussions were about how to ensure not only effective functioning of the Bureau, but also its independence. In consideration of the CPCB functions that are part of the public administration structure, supervision of CPCB was assigned to the Cabinet of Ministers.[13]

The independence of its director is considered to be the main weapon of CPCB independence. Since the appointment procedure is a possible indicator of the extent to which the director's activities can be expected to be independent, this section devotes considerable attention to the way in which candidates are selected and appointed. The CPCB director is appointed for a five-year term and dismissed by the *Saeima* at the recommendation of the Cabinet of Ministers.[14] The Bureau's Internet website lists five directors in three years – three of them, acting directors. The situation can only be considered stable since May 27, 2004, when the *Saeima* appointed Aleksejs Loskutovs to serve as director of the Bureau for a term of five years.

The search for a CPCB director in 2002 and 2003 well illustrated the significance of political will in this process. Andris Bērziņš' government, having delayed the establishment of CPCB by a whole year, set about finding a director hastily and injudiciously. The vacancy was announced three times in 2002. However, the majority of candidates came from the old judicial system (since the main requirement was a legal education combined with an understanding of investigation methods) and had a poor understanding of the complex functions that the

Bureau would be required to perform. A candidate that was acceptable to the Cabinet and the *Saeima* was found shortly before the end of the 7th legislature period. The search for an appropriate candidate was closely followed by the media and the public, without whose active participation one of the selected candidates who was found to have possible connections with contraband would not have been ruled out. The search for a suitable CPCB director in the summer of 2002 showed that a political power that has discredited itself is not capable of attracting top-level leaders.

In May 2003, a new attempt (the fourth one, by now) to find a director was launched by Minister President Einars Repše. The formerly appointed director, Guntis Rutkis, had never really taken his place at the helm of CPCB on account of health problems. In September 2003, Saeima's negative vote on the candidacy of Juta Strīķe called to mind the futile attempts of previous years to shape an anticorruption policy. The opposition and a number of coalition deputies who remained anonymous voted against the head of the government, skillfully concealing their aversion to a strong CPCB. One sociologist's comment on what had taken place: "Strīķe has become a "simple card in the shuffle of values," turning the battle against corruption in this country into a farce."[15] Opposition leader Aigars Kalvītis put it even more bluntly: "This wasn't a vote against Strīķe, it was a vote against Einars Repše, against his work style, against his inability to lead this country and this coalition."[16]

One reason for politicians' antipathy to a potentially strong CPCB, one that would be difficult to influence, could also be a feeling of foreboding aroused by CPCB's first historical claim against a government coalition party, the Union of Greens and Farmers, for reimbursement of unlawfully acquired financial resources.[17] CPCB had also started questioning the donors of other parties.

The negative *Saeima* vote legitimized the tactics of the next premier, Indulis Emsis, in regard to the candidacy for the job of CPCB director. He returned to this question in the spring of 2004, when the vacancy was announced yet again. Until then, E. Repše had taken advantage of his authority as premier to appoint an acting director and entrusted the job to Juta Strīķe. Indulis Emsis, who headed the committee that selected the candidates, refused to consider J. Strīķe for the post of CPCB director. Although Strīķe was the candidate favored by the members of the committee (three of six votes), Emsis announced at the meeting: "I am not going to the Cabinet with Strīķe since she failed to get the support of the *Saeima*."[18] Although she had entered CPCB "through the back door," Strīķe had earned the trust of the population as a resolute anticorruption hard-liner. In a live television debate about the work of CPCB, "never before in the history of the program had so many viewers shown such unconditional support for anyone as they did in their vote for Juta Strīķe as the best CPCB director."[19]

The Cabinet of Ministers, without giving any real explanation for its choice, approved the third best candidate proposed by the committee, who in comparison with other, more creditable candidates[20] had the lowest-ranking job at CPCB. Some newspapers wrote that Aleksejs Loskutovs had been given the job because of

personal differences with Strīķe.[21] This, from a management and ethics standpoint complicated situation (where, in a conflict situation, a subordinate becomes the superior), has been normalized and all three former candidates currently hold senior positions at CPCB.

The public tension that reigned between CPCB and President of Ministers Kalvītis at the time of the writing of this paper – when the latter was expressing doubts about CPCB's trustworthiness and the legitimacy of its activities[22] – could be seen as a positive indicator of CPCB's independence. However, there are not sufficient data to assess CPCB's operational independence in the performance of its regular functions. Relations between CPCB and its overseers are dealt with in more detail in the section on CPCB's accountability.

In 2003, CPCB brought charges against Minister of Health Āris Auders[23] who, when practicing as a doctor, had abused the trust of his patients and wrongly accepted double payment for operations. Auders was dismissed from the post of minister.[24] He was a newcomer to politics and did not have any personal political backing. Although this case did formally involve high-level politics, it was not the toughest test of CPCB's ability to investigate political cases.

The most serious case of political corruption that CPCB has had to deal with is probably the so-called digitalization case, in which the accused are a number of persons linked to major political players. When the offices of a company belonging to former prime minister and founder of the People's Party, Andris Šķēle, were searched and one of the company's employees, Harijs Krongorns, arrested, Šķēle, who had at the time already abandoned the political stage, held a press conference. There, he tried to convince those present that CPCB had acted unprofessionally, had violated several laws, and that, generally, everything was a misunderstanding. At present, CPCB has handed the case over to the Public Prosecutor's Office, which continues to bring charges against the persons involved in the case.[25]

It is still too early to judge CPCB's ability to investigate high-level political cases without outside interference. There have not been many such cases and the current ones have not yet gone to court. One should, however, keep in mind that, in corruption cases, political susceptibility can also manifest itself as the failure to investigate high-ranking officials over a longer period of time.

## Strategy-based Performance and Coordination with Other Government Agencies

CPCB currently operates in accordance with the National Strategy for Preventing and Combating Corruption 2004–2008[26] and the subordinate national program.[27] The program sets 120 objectives. CPCB has submitted a report showing progress on 60 of these in August – October 2004.[28] At the time of the writing of this paper, no systematic overview of implementation of the program in 2005 had

yet been released. The aforementioned report reveals that, due to lack of capacity and previous experience, many agencies had had problems with the drafting of a plan for anticorruption measures. Another problem connected with implementation of the program, and one that all agencies were confronted with, was the fixing of behavioral standards and ethical conduct requirements in employment contracts. It is said that, on the whole, local governments had not been particularly responsive about fulfilling the program's objectives.

The conclusion is that CPCB has not been able to resolve a typical problem that already existed before the Bureau was established: the difficulty of mobilizing other agencies to carry out anticorruption measures. In addition to the political will of the heads of various government agencies, active CPCB guidance of the anticorruption measures of other agencies would be a more effective means to an end than the current practice of CPCB compiling information. Of the four CPCB corruption prevention departments, only one is directly involved with the exploration of corruption prevention measures – the Department for Corruption Analysis and Counteraction Methods, which consists of only four people.

The fact that education of the public takes second place to combating and prevention can be seen in both the program and the CPCB structure, where, instead of the original three deputy directors, there are only two – one for combating and one for prevention.

The CPCB department that is responsible for education has arranged training for government and local government employees in the prevention of conflicts of interest (a handbook has also been published on this topic) and other topics that are within the competence of the Bureau. However, there is only one person at CPCB working on education programs. And although CPCB is oriented towards training the employees of other ministries, and in 2006, with the help of the PHARE program, will be learning how to carry out public anticorruption campaigns, where education is concerned its work is still below par.

For good results, the stages in a criminal case that follow a CPCB investigation of corruption are also extremely important: the prosecution and the hearing before a court of law. If CPCB's collaboration with the prosecutor's office and vice-versa can be judged as constructive and generally professional, court judgments in corruption cases have recently drawn a lot of negative attention. At the time of the writing of this paper, there was much debate about a lower court judgment in the case of a particularly cynical attempt to bribe a CPCB official. The court handed down a conditional sentence and acquitted the suspected middleman. In Latvia, actual imprisonment is rarely applied as a form of criminal punishment for crimes involving corruption, and sentences often show a lack of understanding about corruption as a crime. Disproportionately light sentences are given simply because "he has admitted his guilt and regrets what he has done. When choosing the form of punishment, the court has also considered the gravity of the offense, the personality of the accused, and the profile of the accused submitted by the police."[29] If judges' understanding of the gravity of crimes involving corruption is not improved, CPCB's efforts will only serve to increase the cynicism that is already widespread within society.

## Funding and Resources

Lack of money and dependence on the goodwill of political powers are two of the main reasons why anticorruption agencies tend to end up as nothing more than facades. In three years, funding for CPCB has increased and, in the beginning, the size of the staff also rapidly increased. Foreign aid has also been important, most of it being used for training purposes and for procurement of necessary equipment.

It is not CPCB's financial situation that is the main reason for concern, but rather the attitude of other agencies to the anticorruption measures that must be carried out. In the appendix to the National Program for Preventing and Combating Corruption, additional funding up to the year 2008 has been requested for only 17 of the 120 objectives included in the program. The budget section of the program clearly shows that support for anticorruption measures from other institutions is lukewarm.

The National Program says that, all in all, additional 4.5 million lats will be needed. However, only four institutions other than CPCB have indicated that they will need additional resources for carrying out anticorruption measures in 2006: the Ministry of Welfare (LVL 99,000); the State Revenue Service (LVL 73,785); the Ministry of Education and Science (LVL 18,908); and the Ministry of Economics (LVL 39,380). Only the State Revenue Service (SRS) and CPCB have requested additional funding for preparation of an ethics code.

## Legislation

A special law was adopted to provide a legal basis for CPCB's activities. The law has been amended four times in three years to facilitate CPCB's investigation of party finances and to provide better social guarantees for CPCB employees. After lengthy debates and contradictory views in the early drafting phases of the law, CPCB was finally authorized to carry out operational activities.

Much of CPCB's first three years have been spent fighting for legislative amendments vital to the functioning of the Bureau. The biggest problems were in areas in which no serious work had previously been done: monitoring of political party finances and public officials' incomes and assets.

In December 2004, the *Saeima* amended the CPCB law, allowing the Bureau to obtain information from credit institutions about personal accounts and transactions. CPCB's authority to look into the finances of political parties was also improved. Although several of the legislative amendments have not been directly connected with CPCB functions, but rather fall into the category of overall efforts to prevent corruption, they have also helped to improve CPCB's work. For example, the ban on donations to political parties from legal persons has improved CPCB's capacity to investigate the source of donations.

The Framework Document on Improvement of Personal Income Monitoring adopted by Aivars Kalvītis' government can be considered the biggest legal achievement of 2005. This document anticipates the introduction of a universal declaration of personal income from the year 2007.[30] Declaration of income can serve as an effective instrument against corruption, and CPCB energetically supported this initiative to improve its capacity to investigate conflicts of interest and crimes involving corruption. Although most of the responsibility for monitoring incomes will lie with the State Revenue Service, CPCB's interest in applying this instrument for its own purposes can become a strong stimulus for the effective implementation of such declarations.

## Professional Skills and Specialization of Staff

On June 30, 2005, the Bureau had 117 employees (of these: responsible for corruption combating – 43; for corruption prevention – 36; office staff – 27; report center – 2).[31] A large part of CPCB employees are occupied with administrative processing of the financial declarations of public officials and political parties. As already pointed out, the educational element is weak, as can also be seen from the employee lists in CPCB reports, where education experts are not separately listed.

Initially, CPCB management itself invited persons to be recruited as the Bureau's employees, but later vacancies were posted in the media, as required by law, and employees were chosen in open competitions. The majority of the new employees, especially in the early days, already had professional experience. In 2003, 84.7% of those who were hired had previous experience in law enforcement or other public administration agencies.[32]

In view of the unique nature of CPCB's functions, many of the employees required additional training. In three years, the several million lats that have been received in foreign aid have largely been spent on staff training not only in questions directly connected with professional duties, especially corruption combating, but also in general communication and management questions.[33] Judging from the EU PHARE training project carried out in the fall of 2005, areas in which CPCB employees need particular training are: monitoring of political party finances, identification of lobbying and influencing, monitoring of the distribution of EU money and public procurement, non-commercial advertising and anticorruption education programs, and improvement of special investigation techniques.

## Management that Sets an Example and Follows Principles of Good Governance

In July 2004, the CPCB Ethics Code was adopted. This set out the principles of professional ethics and conduct that must be observed by all CPCB employees.

The main ethics principles are fairness, responsibility, objectivity and independence. The Ethics Committee reviews complaints about violations of the code.[34] As anticorruption experts point out, however, a special effort must be made to make sure that in an all-round atmosphere of corruption, the agency's employees do not begin to conform to the rest of society, that they maintain pride in the work of the Bureau and their sense of mission. This is why the main concern of the Ethics Code is to miss no incident that could harm the Bureau's internal functions and morals, and to make sure that the Bureau does not become a den of corruption.[35]

CPCB, as an agency that monitors the conflicts of interest of public officials, must serve as an example and allay any suspicion of conflict of interest in the decisions of its own employees. For this reason, questions such as those raised in the media about the CPCB director's side job in teaching and personal relations with a subordinate damage CPCB's image as the public administration system's integrity watchdog, and should be avoided in the future.

## Consultation of Civil Society

In February 2004, a European Parliament report voiced concern about the absence of democratic supervision of CPCB.[36] On May 20, 2004, the CPCB Public Consultative Council, to which 15 NGOs have delegated their representative, convened for its first meeting. Seats on this council are held by representatives of *Delna*, the Latvian chapter of Transparency International, which is directly involved in anticorruption activities, the Centre for Public Policy PROVIDUS, the Foreign Investors Council in Latvia, as well as professional associations that have showed interest in anticorruption efforts, such as the Latvian Traders Association, the Builders Association, the Medical Association, and others.

The council, which meets once a month, has extremely broad advisory functions. The council's bylaw authorizes it to request information from CPCB and to submit recommendations to the Bureau. In the year and a half since it was established, the council has been an important partner for CPCB in dealing with conceptual issues that require a broader base of support (for example, questions about corruption in law courts or the application of criminal sanctions against members of certain liberal professions, for example, doctors, for offenses involving corruption).

The first function of the council set out in the bylaw is the maintenance of contacts with the public. However, this council, which is made up mainly of experts, is more focused on building public trust in the Bureau by monitoring its work and issuing statements on anticorruption issues. CPCB should consider additional ways of addressing and consulting the larger public within the framework of an educational program. And more information about the work of the council is needed on CPCB's Internet homepage. The annual report of the council that is anticipated in the bylaw could be added to CPCB's public report.

## Transparency and Accountability

If the work of an anticorruption institution is to be effective, secrecy must be reduced to a minimum. On the other hand, it is also important to maintain confidentiality in regard to investigations and, particularly, informers. The work of Latvia's anticorruption bureau can be judged as transparent. The fact that CPCB finds itself at the top of the government institution media publicity index is largely due to the requirement anchored in the law that CPCB must inform the public about corruption trends, corruption cases that have been uncovered (including violations of political party financing regulations), and about measures that have been taken to prevent and combat corruption.[37]

Particularly important for the transparency of CPCB's work is its database on party finances, which is prescribed by the law. Any donations made to a political party appear in the CPCB database within 10 days. This instrument not only serves to provide transparency, it also allows other members of society to take part in the prevention of corruption.

The CPCB supervision system is sufficiently balanced and has so far also functioned in practice. CPCB is directly subordinate to the President of Ministers. Semi-annual reports on the work of the Bureau must be submitted to the Cabinet of Ministers and the *Saeima* Supervisory Committee for Preventing and Combating Corruption, Contraband and Organized Crime. Operational activities are supervised by the Prosecutor General's Office, finances by the State Audit Office. Public supervision is in the hands of the Public Consultative Council.

The most critical link in the chain of CPCB's institutional supervision is the President of Ministers. Although the President of Ministers does not formally have the authority to interfere in the work of the Bureau, one ticklish issue is the CPCB director's dependence on the President of Ministers in questions of personnel management (for example, the director's business trips and bonuses). At the beginning of 2005, President of Ministers Kalvītis asked the Prosecutor General's Office to look into CPCB director A. Loskutov's decision to dismiss an employee. This incident was widely covered by the media, as was the premier's initiative to set up another special supervisory council that would allow him to control CPCB's work (at the time of the writing of this paper, no such council had yet been established). One of the recommendations for improving transparency in relations between the CPCB director and the President of Ministers (if this type of supervisory system is maintained) is to keep a file on all correspondence between these two officials, which would regularly be submitted to the *Saeima* committee for review.

## Public Trust

For an anticorruption agency, public trust is so important that opinion polls should be conducted regularly to determine the agency's trust ratings, and these could actually be used as an assessment criterion. CPCB officials do not, of course, have to become media heroes who stand above the law, but an anticor-

ruption agency that is not trusted by the people serves hardly any purpose, wrote Valts Kalniņš in 2003.[38]

CPCB enjoys a relatively high degree of public trust. In a 2005 public opinion poll, the Bureau ranked among the most trusted institutions. The State Police, on the other hand, the main institution responsible for combating corruption prior to CPCB, was among those least trusted, right next to Customs, the Privatization Agency and the Latvian government. 37% of the respondents rated CPCB as honest, but 15.7% felt it was dishonest. In their assessment of the State Police, 14% said honest, but 44.7% – dishonest.[39]

Respondents' answers show that most people's information about CPCB is passive. If CPCB wants to improve public awareness and achieve a more positive attitude to its work – which would encourage more active reporting of corruption cases – it must carry out additional measures. Considering that 26% of the population admit they would not report corruption to anyone, the role of CPCB educating programs is extremely important. Since 1999, the number of people who do not know where to turn should they be asked to pay a bribe has significantly declined (by 20%), but the figure still remains rather high – 51.8%.[40]

## Conclusions

At the end of 2005, CPCB still finds itself in the early stages of its mission, and it is too early to speak of achievement of the goals set out in the National Program.[41] However, positive trends are:

- a wider range of corruption cases is being brought to light, both in regard to the size of bribes and the level of the officials who are apprehended;
- for the first time in Latvia, the finances of political parties are being monitored and legislation is being improved to reduce opportunities for corruption;
- efforts have been stepped up to prevent public officials' conflicts of interest, using administrative sanctions as both an educational and preventive mechanism;
- coordination of international cooperation on anticorruption policy has been improved;
- first steps have been taken to identify the areas that require more stringent anticorruption measures, for example, the building industry and the healthcare sector.

Serious problems are still posed by:

- the narrow interpretation of the Law on Prevention of Conflicts of Interest in the Acts of Public Officials, without consideration for ethical aspects;[42]
- absence of results in cooperation between prevention and combating;

- CPCB's inability to mobilize other government agencies to give anticorruption efforts higher priority and more funding;
- absence of a broad anticorruption education campaign;
- CPCB's fairly narrow mandate, which comprises only corruption in the public sector and could create problems in the long term.

CPCB has a sound base: its functions are prescribed by the law; it has a fairly sweeping mandate as far as the public sector is concerned and an anticorruption strategy. CPCB's independence is guaranteed by the *Saeima*-appointed director, and supervision in the different areas is carried out by the Public Prosecutor's Office (criminal procedure), the *Saeima* committee and the Cabinet of Ministers (performance), the State Audit Office (finances). What is debatable is CPCB's subordination to the President of Ministers. In its present form, cooperation between the two institutions should have greater transparency to protect both sides from suspicions of illegitimate influence.

In its battle with political corruption, the Bureau's most powerful weapon is its authority to monitor the finances of political organizations. At the same time, however, this is also the "hottest potato," not only because CPCB is the first agency to start keeping an eye on this previously downright liberal financial sector, but also because legislation is being improved to restrict opportunities for big money to influence election results. CPCB maintains one of Europe's most legible databases on party finances, with Internet access to information on all payments that are made to political parties. This makes it possible for the public and the media to follow the flow of money into party treasuries. The administrative court judgments that ordered the governing parties to pay back a total of 200,000 illegally obtained lats have enhanced CPCB's reputation as a politically neutral player.

The public is prepared to assess CPCB's performance by the number of corruption cases involving high-ranking politicians and by the severity of the punishment.[43] However, the outcome of the cases that CPCB has initiated does not directly depend on the Bureau, but on the Prosecutor General's Office, the courts, and on other law enforcement institutions as well. Nevertheless, public trust in CPCB will to a large extent depend on the outcome of these cases.

CPCB's strong points are its combating and it administrative monitoring functions. CPCB does not, however, have a real mechanism to expand preventive functions to other government institutions.

Prevention and education have been assigned minor roles in CPCB's work. If activities in these areas are not stepped up, CPCB will find it hard to change public views about the harmfulness of bribery and increase people's readiness to report cases of corruption.

Whether or not CPCB's overall efforts are successful also depends on other, outside factors – for example, international cooperation. But the really crucial factor will be the attitude of Latvia's political elite towards corruption. CPCB's long-term development and the successful outcome of politically significant corruption cases cannot be imagined in a situation where the parties represented in the *Saeima* support or are tolerant of manifestations of corruption within society. The results of CPCB's efforts can prove to be insignificant if the *Saeima* does not ensure transparency and accountability in the work of its deputies, or if the Cabinet of Ministers does not give CPCB financial support.

In an East European political context, rarely a politician will object to the prevention of corruption, which makes it all the more important to identify discrepancies between words and deeds. CPCB's first three years have brought such discrepancies to light, making it hard to count establishment of the Bureau among the good deeds of Latvia's politicians. CPCB's establishment can, however, be seen as an accomplishment of Latvia's society – including individual politicians, and this justifies a constructive outlook for the next three, four or five years, as far as implementation of an anticorruption policy is concerned.

[1] At the time of the writing of this paper, Inese Voika was an International Policy Fellow in Budapest and a board member of Transparency International Latvia (*Delna*). She graduated from the University of Latvia with a bachelor's degree in Communications in 1995 and with master's degree in Public Administration from Harvard University John F. Kennedy School of Government in 2005. From 1998 to 2004, I. Voika was head of Transparency International Latvia (*Delna*) and turned this organization into the first socio-political NGO in Latvia.

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[19] Domburs, J. *KNAB – stāsts par protestiem un "ūdeņainumu" [CPCB – a story of protests and "wishy-washiness"]*. March 18, 2004. http://www.delfi.lv/archive/article.php?id=7758904&ndate=1079560800&categoryID=898102 Last accessed on December 20, 2005.
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[21] *Global Corruption Report 2005.* Transparency International, 2005, p. 175. http://www.globalcorruptionreport.org Last accessed on January 3, 2006.
[22] *Loskutovs: Amatpersonas izmanto dienesta stāvokli savu bažu paušanai [Loskutovs: Public officials take advantage of office to voice personal concerns]*. LETA, December 9, 2005.
[23] CPCB criminal cases on record in 2003. http://www.knab.lv/offences/article.php?id=20598 Last accessed on December 20, 2005.
[24] *Repše pieprasa Audera demisiju [Repše demands Auders' resignation]*. LETA, March 20, 2003.
[25] *Par krāpšanu un naudas "atmazgāšanu" apsūdz "Kempmayer" amatpersonas [Kempmayer officials charged with fraud and money "laundering"]*. LETA, July 14, 2005.
[26] *National Strategy for Preventing and Combating Corruption 2004 –2008*. Approved by the Cabinet of Ministers on March 8, 2004. http://www.knab.gov.lv/uploads/pdf/pamatnostadnes.pdf Last accessed on January 3, 2006.
[27] *National Program for Preventing and Combating Corruption 2004–2008*. Approved by the Cabinet of Ministers on August 3, 2004. http://www.knab.gov.lv/uploads/pdf/Valsts_programma.pdf Last accessed on January 3, 2006.

[28] Report on Implementation of the National Program for Preventing and Combating Corruption 2004–2008. Reviewed at the March 1, 2005 Cabinet of Ministers meeting. http://www.knab.gov.lv/uploads/htm/pol_dok/Info_VP2004.htm Last accessed on December 20, 2005.

[29] *"Rudens aptieku" bijušajam īpašniekam piespriež nosacītu cietumsodu [Former pharmacy proprietor gets conditional prison sentence].* LETA, November 2, 2005.

[30] Draft Framework Document on Improvement of Personal Income Monitoring. Reviewed by the Cabinet of Ministers on September 20, 2005. http://www.mk.gov.lv/index.php/mk/23343/839.doc Last accessed on December 16, 2005.

[31] Report on Work of the Corruption Prevention and Combating Bureau, January 1 to June 30, 2005, p 22. http://www.knab.gov.lv/uploads/word/KNABzino_080805.doc Last accessed on December 20, 2005.

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[37] Law on the Corruption Prevention and Combating Bureau. Section 7, Paragraph 1, Clause 13; Section 9, Clause 9. *Vēstnesis,* April 30, 2002; March 18, 2003; June 30, 2005.

[38] Kalniņš, V. *Aizej tur, nezin kur! Atnes to, nezin ko [Go there, who knows where! Bring that, who knows what].* May 20, 2003. http://www.politika.lv/index.php?id=106182&lang=lv Last accessed on December 20, 2005.

[39] *Attieksme pret korupciju Latvijā [The attitude to corruption in Latvia].* Public opinion poll commissioned by Transparency International Latvia (*Delna*). SKDS data. January 2005. Report can be accessed on the Internet at: http://www.politika.lv/polit_real/files/lv/atskaite_korupcija_Delna012005.pdf Last accessed on January 3, 2006. Respondents were asked: "What is your assessment of the honesty of the following institution/government agency/enterprise in regard to bribery?" Answers were to be given on a scale of 1–5, with one standing for "very honest" and five for "very dishonest."

[40] *Pieredze saskarsmē ar korupcijas problēmām [Personal experience in confrontation with corruption problems].* Opinion poll commissioned by CPCB. SKDS data. January 2005. Summary can be accessed on the Internet at: http://www.knab.lv/uploads/pdf/Iedzivotaju_pieredze_2005.pdf Last accessed on December 20, 2005.

[41] Planned National Program policy results:

1) political power becomes an instrument for the achievement of national goals, and national prestige in the global community improves;
2) shadow economy's share of the national economy declines, and fair competition rules in the business world;
3) misuse of government and local government resources and foreign financial aid is averted;
4) the population's standard of living, trust in the authorities and the basic values of a democratic system increases;

5) personal income and assets are effectively monitored;
6) the population has a highly developed sense of justice.

See the National Program for Preventing and Combating Corruption 2004–2008, p.7. http://www.knab.lv/uploads/pdf/Valsts_programma.pdf Last accessed on December 20, 2005.

[42] For information on how such practice in regard to conflicts of interest could change, see: Kalniņš, V. *Šaubas par amatpersonu nav tukša skaņa [Doubts about public officials are not idle talk].* October 18, 2005. http://www.politika.lv/index.php?id=112025&lang=lv Last accessed on December 20, 2005.

[43] *Pieredze saskarsmē ar korupcijas problēmām [Personal experience in confrontation with corruption problems].* Opinion poll commissioned by CPCB. SKDS data. January 2005. Summary can be accessed on the Internet at: http://www.knab.lv/uploads/pdf/Iedzivotaju_pieredze_2005.pdf Last accessed on December 20, 2005.

# 3. Court Practice in Criminal Cases Involving Bribe Taking

***Andrejs Judins***[1]

Unlike the Corruption Perceptions Index, which reflects only the way in which corruption levels in a country are perceived, criminal cases initiated in connection with corruptive crimes are tangible evidence of corruption. There are not many such cases, and even the fact that a criminal case has been initiated does not yet mean that in the end someone will be punished for a criminal offense committed in the exercise of official duties. However, the investigation of such cases and the conviction of offenders do reflect on penal policy in regard to public officials who are guilty of abuse of office.

Materials on court practice show that in Latvia persons are rarely convicted of corruptive acts. If they are convicted, in the majority of cases they receive conditional sentences; but if actually sentenced to imprisonment, it is usually for the shortest term prescribed by the law.

To identify current priorities and principles of penal policy, in the fall of 2005 *Providus* carried out a study, which included an analysis of court practice in bribe taking convictions.

In Latvia's criminal law, passive bribery (bribe taking) is regarded as one of the forms of abuse of public office, which manifests itself as the unlawful acceptance by a public official of financial or non-financial advantages or the offer of such for performing or deliberately omitting to perform an official act. Passive bribery is seen as given from the moment when a public official has solicited a bribe or agreed to accept such. If the bribe taker, acting as a public official, has performed a service in the interest of the briber or other person, he or she is liable under two sections of Criminal Law: Section 320 (Passive bribery) and Section 318 (Abuse of office).

In five years, from 2000 to 2004, 79 public officials in Latvia were convicted of taking bribes under Section 320 of the Criminal Law and Section 164 (Passive bribery) of the Criminal Code.[2]

**Table 3.1.**
**Number of persons convicted of passive bribery in Latvia, 2000–2004**

| | Number of persons convicted (years) | | | | |
|---|---|---|---|---|---|
| | **2000** | **2001** | **2002** | **2003** | **2004** |
| Passive bribery (CL Section 320 and CC Section 164) | 5 | 11 | 12 | 20 | 31 |

However, although the number of bribery cases taken to court and the number of persons actually convicted has increased, the lenient attitude of courts to the offenders has not changed. Of all the persons convicted in 2004 of taking bribes, only nine were actually sent to prison. Twenty-one were given conditional sentences, and one received a fine. The fact that over two-thirds of the convicted bribe takers received alternative punishment to prison sentences is not an inexplicable coincidence in a single year's court practice, but a reflection of Latvia's penal policy in regard to corruptive offenses. For example, in 2003, alternative forms of punishment were applied to 75% of bribe takers, but in 2002, to 100%.

This is common practice, regardless of the fact that Latvia's lawmakers have recognized passive bribery as a serious crime, and individual forms of bribery as felonies. For example, for accepting a bribe, lawmakers have anticipated prison sentences of up to eight years; for extortion of a bribe, prison sentences from eight to fifteen years.

In view of the latent nature of bribe taking, it is a crime that is extremely difficult to uncover or to prove. Generally, when one person bribes another and both parties to the unlawful act are satisfied, there is almost no chance of uncovering the crime. This is why official statistics on the number of convicted bribe takers do not permit even a close guess at the true incidence of bribery in Latvia.

In most bribery cases, criminal proceedings are initiated when information is received from a person that a bribe has been solicited or extorted. There have also been cases where criminal proceedings have been initiated after the person giving a bribe has reported the bribery, being dissatisfied that the bribed official has not done as promised or has demanded an additional bribe for the services rendered.

Analysis of court practice reveals only a few cases in which, regardless of the fact that the bribe taker has performed the service desired by the briber, legal action has been taken against the person guilty of accepting the bribe.

For this study, all courts in Latvia were asked to submit the court judgments handed down in 2003, 2004 and the first four months of 2005, in which persons were sentenced under Section 320 of the Criminal Law. Forty-two judgments were received from 10 of Latvia's law courts. With these judgements, 50 persons had been convicted: 17 in 2003, 24 in 2004, and 9 in 2005.

Twenty-six persons (52%) were sentenced by the Riga Regional Court, 6 persons (12%) were sentenced by the Latgale Regional Court, 6 persons (12%) by the Zemgale Regional Court, 4 (8%) by the Bauska District Court, 2 (4%) by the Liepāja Court, 2 (4%) by the Riga Latgale District Court and one person by the Kurzeme Regional Court, Vidzeme Regional Court, Riga Vidzeme District Court, Riga Zemgale District Court.

Twenty-eight persons (56%) were sentenced under a single section of the Criminal Law, which prescribes liability for accepting bribes, but 22 persons (44%) were sentenced for numerous criminal offenses, including five (10%) who, in addition to accepting bribes, had also overstepped their official authority (CL Section 317); 13 (26%) for abuse of office (CL Section 318). The crimes had been committed in the period from 1995 to 2005, most of them in Riga.

CL Section 320 (Passive bribery) has three paragraphs: Paragraph 1 anticipates liability for taking a bribe; Paragraph 2 for soliciting a bribe, for bribe taking on a large scale or repeated bribe taking; Paragraph 3 for extortion of a bribe, bribe taking by a group of persons or by a government official in a senior position. The offense can have either one or several qualifying characteristics. 78% of the persons who had taken bribes were convicted of soliciting or extorting bribes.

**Table 3.2.**
**Categories of crimes**

| CL Section 320 | Type of bribe taking | Number convicted[3] | Number convicted (under this paragraph) |
|---|---|---|---|
| Paragraph 1 | Accepting the offer of a bribe<br>Accepting a bribe<br>Soliciting a bribe | 1<br>8<br>14 | 9 |
| Paragraph 2 | Bribe taking on a large scale<br>Repeated bribe taking<br>Extortion of a bribe | 4<br>12<br>25 | 15 |
| Paragraph 3 | Bribe taking by a group of persons<br>Bribe taking by a government official in a senior position | 13<br>1 | 26 |

The length of time that has passed from perpetration of a crime to conviction of the offender differs greatly from case to case. There are cases where the offenders have been convicted within two or three months of perpetration, and there are others where the offenders have had to wait for up to five years for a conviction for a similar crime. Of 50 persons, only 18 were convicted within a year of perpetration of the crime.

The study did not find that the period of time from perpetration to conviction depended on the circumstances of a case or its complexity. The speed with

which a case was tried would usually also depend on the court in which it was tried. The "clients" of the Riga Regional Court have the longest waiting periods. Of the 26 persons convicted by the Riga Regional Court, not one was convicted earlier than a year after perpetration of the crime. Three were convicted in the second year after perpetration, 10 in the third year, and eight in the fourth year after having committed the crime, two in the fifth year, and three in the sixth. Unfortunately, there is no reason to believe that the situation has improved: the persons convicted in 2005 had taken bribes in 2000 and 2001.

An overwhelming majority of the convicted persons are members of the police force. Among the convicted are also customs officials, border guards, employees of the prosecutor's office and other public institutions. However, this is no reason to deduce that law enforcement institutions are the most corrupt in our country.

In cases where bribes are solicited by persons working in the law enforcement system, the victims still tend to trust the system and are willing to report these incidents. An explanation for this can be found in the special relationship between the persons involved in bribery – very often this is a conflict situation that has come about spontaneously. The persons involved were not previously acquainted, and acquaintance was not sought by the person asked to pay the bribe. Furthermore, at the given moment this person is dependent on the bribe taker, but such dependence will not continue to exist in the future.

In other areas, the popular view still is that it is not possible or even desirable to change the corruption situation, that it is not possible to get what one wants without paying a bribe, that the bribe taker has legal opportunities to delay a decision or to make a decision that is contrary to one's interests, etc.

**Table 3.3.**
**Office of persons convicted of passive bribery**

| Office | Number of convictions |
|---|---|
| Member of the police force | 32 |
| Customs official | 5 |
| Border guard | 4 |
| Public prosecutor | 3 |
| Chairman of the Orphans' Court | 1 |
| Director of a municipal enterprise | 1 |
| National armed forces employee | 1 |
| Bailiff | 1 |
| Land Registry judge | 1 |
| Director of the Environmental Inspectorate | 1 |

An overwhelming majority of the convicted bribe takers are persons under the age of 40 (85%).

In the criminal cases analyzed by *Providus*, in 32 cases the bribe was taken by a person acting alone, but in 18 cases by persons acting in a group. According to the statistics of the Court Administration, 39% of persons convicted in 2004 for taking bribes committed this crime together with a group of persons. In 2003, there were only 15% such cases, but in 2002, 50%.

Characteristic signs of administrative corruption were identified in all of the cases that were analyzed: public officials accepted, solicited or extorted money in return for decisions made in the interest of the person giving the bribe. A typical situation is one in which a bribe is solicited/received as compensation for omitting to impose administrative sanctions (violation of traffic regulations is not punished, a receipt is not handed out), for an acquittal or for dismissal of a criminal case.

**Table 3.4.**
**Services for which bribes were solicited/received**

| Services for which bribes were solicited/received | Number of convictions |
|---|---|
| For failure to initiate a criminal case | 8 |
| For dismissal of a criminal case | 4 |
| For failure to impose administrative sanctions/for failure to report an administrative offense | 13 |
| For failure to carry out a customs check | 5 |
| For failure to apprehend/arrest a person | 4 |
| For helping to escape administrative sanctions | 2 |
| For helping a company secure a contract | 1 |
| For failure to register in a database information on transport vehicles crossing the border | 3 |
| For drawing up documents, performing official duties | 1 |
| For concealing criminal offenses | 1 |
| For returning the property of a victim | 1 |
| For extending a lease | 2 |
| For failure to execute the judgement of a lower court until a case is brought before a court of appeal | 1 |
| For facilitating prostitution | 1 |
| For acting as intermediary and providing information in a bribery case | 1 |
| For facilitating unregistered entrepreneurship | 1 |
| For falsely acknowledging a community service sentence as having been executed | 1 |
| **Total** | **50** |

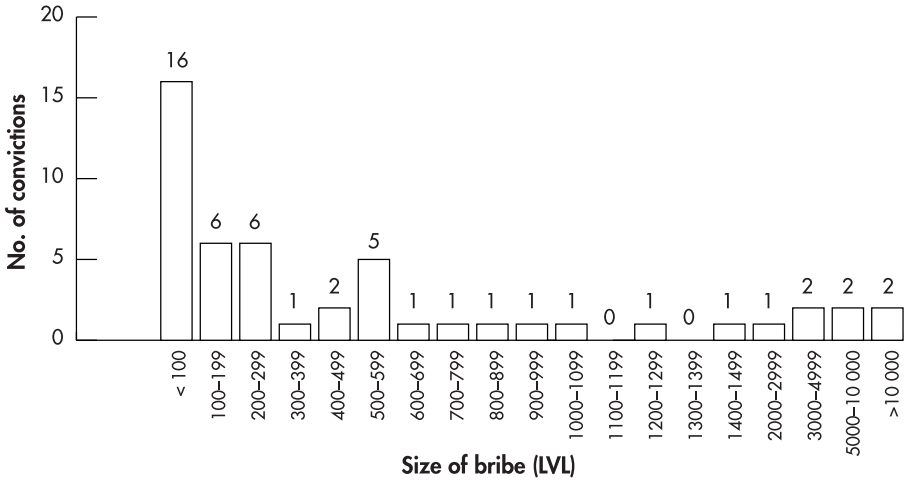
In the cases that were examined, the majority of the accused (74%) were convicted for one bribery episode, and 26% for two or more episodes.

In the majority of cases, the size of the bribes that were received/solicited was relatively small. In 24% of the cases, the sums were less than 50 lats; 8%

solicited/received bribes of 50 to 90 lats. The size of the bribe was more than 10,000 lats in only two of the 50 cases that were analyzed.

Of course, it is impossible to determine whether the bribery episode for which legal action has been taken against a person is the first one, and whether this same person has not regularly taken bribes before being caught for the first time. However, in accordance with the presumption of innocence, the court has no grounds to believe that the accused has committed other illegal acts that are not substantiated by the documents in the case.

**Figure 3.1.**
**Size of bribes and number of persons convicted under CL Section 320**




The Criminal Law says that punishment must always be administered not only to punish a criminal offender, but also to ensure that this person and others obey the law and refrain from committing further criminal offenses.

In accordance with the Criminal Law, when imposing criminal sanctions, courts must not only to consider the nature of the offense and the personality of the offender, but also the prevention of further crimes. It is not easy to keep these interests in balance, and analysis of court practice shows that judges do not always attempt to do so.

When choosing the form of punishment for persons guilty of taking bribes, courts pay attention to the nature of the offense and the personality of the offender, but in the majority of cases these factors have different degrees of importance. Courts analyze more carefully and attach greater importance to facts that characterize the accused, but frequently make only *pro forma* reference to the nature of the offense. It is not uncommon for courts to find that the paragraph of the law under which a person has been charged deals precisely

enough with the details of the offense, whereas no separate part of the Criminal Law deals with the personality of the offender, so that special attention should be paid to this.

Analysis of the persons accused of taking bribes produces the following profile: it is usually a male with higher or secondary education, with a family, children or other dependants, and with positive character references from former and present places of employment. There are a number of extenuating circumstances in his case (including repentance) and no aggravating circumstances (in only one case: the influence of alcohol). This person no longer enjoys the status of public official, so that recidivism can be ruled out. In the period from the disclosure of the crime to the conviction (2–3 years), he has committed no further crimes or administrative offenses.

**Table 3.5.**
**Education of the accused**

| | Number of convictions |
|---|---|
| Higher | 20 |
| Secondary | 30 |

**Table 3.6.**
**Marital status of the accused**

| | Number of convictions |
|---|---|
| Married | 31 |
| Unmarried or divorced | 19 |

**Table 3.7.**
**Dependants of the accused**

| | Number of convictions |
|---|---|
| Children or other dependants | 30 |
| No dependants | 20 |

**Table 3.8.**
**Characterization of the accused**

| | Number of convictions |
|---|---|
| Positive | 43 |
| Satisfactory | 2 |
| Negative | 1 |
| No data | 4 |

**Table 3.9.**
**Presence of extenuating circumstances in bribery convictions**

| Extenuating circumstances | Number of convictions |
|---|---|
| Yes | 39 |
| No | 10 |
| No data | 1 |

**Table 3.10.**
**Number of extenuating circumstances in bribery convictions**

| Number of extenuating circumstances | Number of convictions |
|---|---|
| 1 | 2 |
| 2 | 18 |
| 3 | 14 |
| 4 | 2 |
| 5 | 3 |

**Table 3.11.**
**Types of extenuating circumstances in bribery convictions**

| Extenuating circumstances | Number of convictions |
|---|---|
| The accused has admitted his/her guilt | 32 |
| The accused regrets what he/she has done | 31 |
| The accused has actively supported disclosure/investigation of the crime | 8 |
| The accused has been characterized positively | 5 |
| The crime has had no serious consequences | 5 |
| The accused is a first-time offender | 4 |
| The accused has under-age children/relatives in his care | 4 |
| The accused has had a long and hitherto unblemished career in the police force | 4 |
| The accused has compensated for the damages | 3 |
| The accused is seriously ill | 3 |
| The accused has helped to uncover a crime committed by another person | 2 |
| There have been no financial losses | 2 |
| The criminal offense was committed because of difficult personal circumstances, e.g., a seriously ill child | 1 |
| Faultless behavior following the crime | 1 |
| The accused is unable to work due to poor health | 1 |

In consideration of these facts, the court often feels impelled to impose the minimum penalty prescribed in Section 320 of the Criminal Law or even a penalty than is milder than that which is anticipated by the law. In 23 (46%) of the cases that were examined, the court applied CL Section 49, i.e., imposed a penalty that was milder than that anticipated by the law. Such widespread application of CL Section 49 clearly indicates that courts do not support the penalties prescribed by the law and consider them too harsh. Taking advantage of legal loopholes, courts make corrections to certain provisions of the Criminal Law and pursue a milder penal policy than that intended by the lawmakers.

Persons proved guilty of taking bribes usually receive conditional prison sentences. In 33 of the cases that were analyzed, the sentences were conditional. Only one person was actually sent to prison, and one received a fine.

When sentenced conditionally, a person is given a prison sentence between 18 months and eight years, with a probation period of six months to three years. The maximum probation period anticipated by the law (three years) was applied to nine persons (27%).

**Table 3.12.**
**Prison terms in conditional sentences[4]**

| Prison terms in conditional sentences | Number of convicted persons with a probation period of | | | | | Total |
|---|---|---|---|---|---|---|
| | 6 months | 1 year | 1 yr. 6 mo. | 2 years | 3 years | |
| 1 year 6 months | | 1 | 1 | | | 2 |
| 2 years | 1 | | 2 | 3 | | 6 |
| 2 years 6 months | | | | | 1 | 1 |
| 3 years | | 2 | 1 | 7 | 2 | 12 |
| 4 years | | | | 2 | 3 | 5 |
| 5 years | | | | 1 | 1 | 2 |
| 6 years | | | | 1 | | 1 |
| 8 years | | | | 2 | 2 | 4 |
| **Total** | **1** | **3** | **4** | **16** | **9** | **33** |

When giving conditional sentences, judges do not always bear in mind the legal purport of such sentences. It is clear that courts do not want to actually send the offenders to prison, which is why they make active use of an alternative form of punishment anticipated by the law – conditional sentencing. In the cases that were analyzed, four persons were sentenced to prison terms of eight years. The sentences were conditional: two of the offenders were given a probation period of two years and two others, three years. In accordance with CL Section 46, when determining the sentence, a court must take into account the nature of the criminal offense and the damage that has been caused, the personality of the offender and extenuating or aggravating circumstances. Even when they refer directly to this section of the Criminal Law, courts do not always consider the idea that is anchored in the law. If an offense is serious enough and the offender dangerous enough to warrant an eight-year prison sentence, there are no grounds for giving such person a conditional sentence. On the other hand, if the court finds that a person deserves a conditional sentence, it is not clear why, in consideration of the offender's personality, he is given an eight-year prison sentence, without applying CL Section 49, which makes it possible to impose a less severe sentence.

The widespread application of conditional sentences is also connected with the views of the prosecutor: prosecutors tend to offer conditional sentences and judges tend to support their view. In the materials that were analyzed, only one case was found in which the court had disputed the view of the prosecutor in regard to application of a conditional sentence and had, instead, held the view that the offender should be sent to prison.

When giving persons found guilty of taking bribes conditional sentences, courts do not take advantage of the opportunity to impose the additional conditions provided for in CL Section 55, Paragraph 6. Among the cases that were analyzed, there were only two in which the offenders were required not to change their home address without approval of the authorities and to report regularly to the police. The same judge tried both cases.

When they actually do send bribe takers to prison, courts do not apply the maximum prison term prescribed by the law. Under CL Section 320, persons found guilty of taking bribes may be given prison sentences of up to eight years (CL Section 320, Paragraph 1), three to 10 years (CL 320, Paragraph 2), or eight to 15 years (CL 320, Paragraph 3).

It is clear that court practice in the application of prison sentences is simply the reflection of a generally lenient attitude to persons charged with taking bribes. This has to do not only with the positive profile of the accused (see above), but also with the relative insignificance of a concrete bribery episode. Judges will explain off the record that, knowing or hearing about cases of state capture and large-scale corruption, they cannot go strictly by the law and sentence public officials who have received bribes in the amount of several hundred lats to long prison terms.

It should be pointed out that even fewer persons would go to prison if occasionally bribery were not but one in a series of criminal offenses committed by the same person. Courts must often send a bribe taker to prison because, the bribe being only one of a number of crimes, a conditional sentence can no longer be applied.

**Table 3.13.**
**Prison terms in bribery convictions**

| Actual term of imprisonment | Number of convictions |
|---|---|
| 1 year | 1 |
| 1 year 6 months | 1 |
| 2 years | 5 |
| 3 years | 2 |
| 3 years 3 months | 1 |
| 3 years 6 months | 1 |
| 4 years | 1 |
| 5 years | 3 |
| 8 years | 1 |
| **Total** | **16** |

A fine was imposed in only one of the cases that were analyzed: 10 minimum monthly salaries – 800 lats. This form of punishment was administered to a former customs official who had solicited and received a bribe of 20 USD.

CL Section 320, Paragraph 1, provides for the possibility of imposing an additional penalty: confiscation of property. This was applied in 25 of the cases (50%). Under CL Section 320, Paragraphs 2 and 3, application of this additional penalty is mandatory, but, here too, courts often refer to CL Section 49 and refrain from imposing the penalty.

Latvia's Code of Criminal Procedure, which is no longer in force, and the new Law on Criminal Procedure both say that the court's judgement must be well rea-

soned and properly supported. Choice of punishment was explained in 48 of the 50 judgements that were analyzed. In 26 cases, courts quoted CL Section 46, Paragraph 2, which defines the principles for determining punishment. It was specifically with reference to this provision that courts underlined in their judgements that the nature of the criminal offense and the damage that was caused, the personality of the offender and extenuating or aggravating circumstances had been taken into account when determining punishment.

In the other cases, the courts expounded on the choice of punishment and detailed the factors that had been taken into account when deciding form and measure of the punishment. It should be noted, however, that it was not always clear what importance the judges had attached to individual factors. For example, in six of the cases, courts pointed out that they were taking into account the role of the accused in the crime, but it was not clear whether this implied that the accused should receive milder or harsher punishment.

**Table 3.14.**
**Factors considered by courts when administering punishment**

| Factors considered by courts | Number of convictions |
|---|---|
| Extenuating circumstances | 35 |
| Type of criminal offense | 34 |
| Personality of the offender | 33 |
| Damage caused by the criminal offense | 32 |
| Absence of aggravating circumstances | 30 |
| Absence of prior convictions | 20 |
| Existence of dependants | 17 |
| Positive characterization of the accused | 15 |
| Health of the accused | 15 |
| Attitude of the accused to the offense | 13 |
| Absence of further criminal or administrative offenses | 12 |
| The appreciable lapse of time since perpetration of the crime | 11 |
| Family circumstances of the accused | 11 |
| Discredit to the offender's place of employment | 7 |
| Role of the accused in the crime | 6 |
| The fact that the accused is no longer a public official | 6 |
| The fact that the accused is employed | 5 |
| Age of the accused (particularly if the accused is very young or very old) | 5 |
| Views of the accused on the expected punishment | 4 |
| The small size of the bribe | 4 |
| Certainty of the court that the accused will not commit further offenses | 4 |
| The faultless past of the accused | 2 |
| Reparation of damages | 2 |
| The fact that the accused is unemployed | 1 |
| The fact that the victims themselves facilitated perpetration of the crime | 1 |
| The fact that the accused is a law student | 1 |
| The fact that the accused has derived no financial advantage from the offense | 1 |

There have been cases where the reasons given for the choice of punishment were the age of the accused (either young or old), or the fact that the accused had family or was unmarried. Courts tend to see the existence of children as a ground for imposing milder punishment. Courts always underline and attach great importance to factors such as positive character references from former employers of the accused, or the poor health of the accused. Courts rarely draw attention to the fact that the accused has discredited a government institution, has damaged its prestige, has increased public distrust in government institutions, etc. Discredit to a public service or office was mentioned in only seven of the 50 cases that were analyzed.

In the majority of bribery cases, the repressive element of a conviction is seen only in the loss of employment, the ban on any further assumption of public office, as well as the criminal record, which is deleted once the probation period is over.

At the same time, one should not ignore the fact that most of those who have been convicted of taking bribes have spent a certain amount of time in prison. In the cases that were analyzed, 29 persons had been detained. Although detention does not have a penal function, when deciding on a sentence courts do take into consideration the fact that the accused has already spent some time behind bars. In accordance with the law, the time spent in detention is included in the sentence that must be served. And in some cases, courts find that the time spent in pre-trial detention has sufficed and there is no longer any need to send the offender to prison.

The more recent court judgements, handed down in the second half of 2005, also reflect the current lack of consequence in penal policy on bribery cases. A comparison of the facts in these cases does not make it possible to identify the criteria according to which, in one case, the offender has been sent to prison, but in another case, has received a conditional sentence. The prevailing opinion among judges is still that bribe takers should be given conditional prison sentences.

So, for example, on September 13, 2005, the Tukums District Court gave a conditional prison sentence to former bailiff I. Kibermanis, who, in 1997, had received a bribe of no less than 3,000 lats for turning a blind eye to the negligent professional conduct and criminal activities of fellow bailiffs.

On October 20, 2005, the Riga Centre District Court applied CL Section 320 Paragraph 2 and handed down a conditional prison sentence in the case of former prosecutor J. Pelšs, who, in March 2004, had solicited and partially received a bribe of 10,000 USD for withdrawing an appeal. On November 17, 2005, the Riga Regional Court gave conditional prison sentences to former employees of the Naturalization Board who had been found guilty in the so-called citizenship trafficking case.

It should be noted, however, that in some cases courts do decide differently. For example, on November 8, 2005, the Latgale Regional Court sent the former

deputy director of the Customs Board, A. Augustinovičs, to jail for three years for accepting a bribe of 3,000 USD.

On the whole, courts do attach too much importance to facts that show the accused in a positive light, consistently failing to appreciate the extent of damage to public interests that is caused by these crimes. It is clear that in some cases a conditional sentence could be the appropriate form of punishment, but this decision should not be based only on the personality of the offender, but also on the nature of the offense and on the consequences. In the majority of cases, however, persons found guilty of taking bribes should be sentenced unconditionally to prison terms of no more than two or three years.

## Conclusions

The proceedings in criminal cases where the accused have been charged with taking bribes should be brought to an end within a sensible length of time. Endlessly drawing out adjudication of such cases is neither justifiable nor acceptable.

A certain degree of imbalance can currently be observed in the way that courts deal with the facts in criminal cases. Courts usually pay very careful attention to circumstances that serve to characterize (usually positively) the accused, but devote insufficient attention to circumstances that apply to the offense itself.

Information about the accused (positive character references, the existence of children, health problems, repentance) affect form and measure of the punishment to a much greater degree than the nature of the bribery incident, the size of the bribe, the service for which the bribe was paid, the office of the offender, etc. When convicting offenders, courts should pay more attention to facts that cast light on the offense itself and on the damaging consequences.

According to CL Section 35, Paragraph 2, criminal justice is administered to encourage the convicted person and others to observe the law and to refrain from further criminal offenses. A person found guilty of taking bribes may no longer hold public office and therefore has no practical opportunity to commit further criminal offenses while in public office. On the other hand, overall crime-prevention interests (preventing others from committing crimes) are basically ignored when administering punishment.

Courts do not always fully appreciate the damaging consequences of bribery. By linking consequences to financial losses or serious infringement of personal rights, courts fail to consider the fact that bribery discredits public institutions, damages their prestige, and rouses public distrust of the authorities.

It would be wrong to consider severe punishment as the only means of combating corruption. However, the other extreme – the all too widespread practice of giving bribe takers conditional sentences, which in our circumstances does not much differ from an acquittal – is not the right solution if seeking to prevent corruption.

The penal policy pursued by courts in regard to bribery convictions is generally more lenient than that anticipated by lawmakers: courts frequently impose punishment that is milder than that provided for in CL Section 320. Bribe takers very often receive conditional sentences, but if actually sent to prison, are usually sentenced to the minimum term. The discrepancy between the intentions of lawmakers and the penal policy pursued by the courts must be judged as negative. Obviously, in some of the bribery cases, the sentences could be more severe: instead of giving the offender a three- or five-year conditional sentence, the courts should, in consideration of the nature of the offense and in the interest of crime-prevention, apply CL Section 49 and give the offender an unconditional one- or two-year prison sentence.

[1] Andrejs Judins: criminal law expert of the Centre for Public Policy *Providus*, associate professor at the Latvian Police Academy Department of Criminal Law, author of the studies *Nepilngadīgo ieslodzīto statuss [The status of juvenile prisoners]*, *Izlīgums Latvijas krimināltiesībās [Settlement in Latvian criminal law],* and *Conditional Sentencing as an Alternative to Imprisonment.*

[2] According to statistics provided by the Ministry of Justice and Court Administration.

[3] Legal action can be taken against a person under the relevant paragraph of CL Section 320 if at least one of the characteristics set out in this paragraph has been identified. If the offense has two qualifying characteristics, the court will take note of these, but this will not affect the qualification of the offense.

[4] A prison sentence does not have be served if a person does not commit further criminal offenses during the probation period and fulfills the conditions imposed together with the sentence.

# 4. Making Declarations Effective

***Valts Kalniņš***[1]

Since the mid-1990s, public officials in Latvia have been required to file declarations on income and assets. The inefficiency of the system has led to the recommendation that, in addition to public officials, all natural persons be required to declare their income and assets. A framework document to this effect was approved by the Cabinet of Ministers in September 2005. The recommendation should be supported, but if the whole population is asked to submit income declarations, the system must be as carefully adjusted as a clockwork mechanism to produce the desired results. It should also be kept in mind that positive effects from this measure can only be expected in the long-term and not the near future.

In many countries, the argument is advanced that one of the key instruments for maintaining integrity in the public service are income statements that indicate the assets and liabilities of all those in positions of influence as well as those of their immediate family members. It is a thesis that is winning support from international agencies.[2] In the past 15 years, the majority of countries that have undergone the transition from socialist and authoritarian to democratic regimes have introduced some kind of system for disclosing the incomes of public officials and, in some cases, assets and interests as well. Similar systems are also often found in the so-called traditional democracies.

However, the efficiency of income declarations as a mechanism for strengthening the integrity of the public service differs from country to country. In some, officials simply ignore the requirement to file a declaration; in others, the declarations are collected, but the information that they contain is not revealed to either public or media, and the monitoring institution may not have either the authority or the resources to check the declarations for accuracy.[3] In Latvia, the declaration system for public officials was initially introduced pursuant to the Anticorruption Law[4] in the mid-1990s (it is now regulated by the Law on Prevention of Conflicts of Interest in the Acts of Public Officials[5]). In Latvia's case, public officials do not tend to ignore the obligation to fill out and submit their declarations. What is more, the larger part of the contents of the declarations has

been made public and at the time of the writing of this chapter was even accessible on the Internet.[6]

Nevertheless, even without blatant ignorance and confidentiality, the declarations of public officials can prove to be an ineffective mechanism. In the post-socialism transition countries, there can often be other factors that undermine the effectiveness of the declarations:

- Comprehensive monitoring of income and assets frequently covers only public officials, while monitoring of other natural persons (including the kin of officials) is limited or almost nonexistent.[7] As a result, the wealth that a public official has acquired through corruption can formally be transferred to another person who is not a public official, and the preventive function of the declaration system is diminished.[8]

- From a legal aspect, the offenses involving failure of a public official to submit a declaration, or submission of incomplete or incorrect information are usually relatively minor offenses and do not lead to the exposure of major corruption cases, as the public might hope. If the sanctions for such offenses – usually fairly insignificant acts of negligence, not significant acts of corruption – are to be proportionate, they must be relatively mild. In some cases, the law does not even provide for preventive sanctions.[9]

- In countries where corruption is fairly widespread, even the work of the monitoring institutions can be affected by corruption: in other words, it can happen that corrupt officials get to play the role of corruption controllers.[10] To some degree, public disclosure of the contents of declarations helps to avert such unfortunate situations, but even this will not help to uncover major corruption cases if the government institutions endowed with the authority to pursue offenders do not make an effort to do so.

- Concealment of wealth under the name of others, mild sanctions and corrupt controllers lead to situations in which the nominal transparency of declarations is in reality misleading.

- Even if the information contained in a public official's declaration suggests the possibility of a criminal offense, these data are usually not sufficient to prove corrupt activities that are not directly linked to the information in the declaration. In order to accuse a public official of a criminal offense and – even more – to find the official guilty, this guilt must be proved in such a way as to leave no room for doubt. Usually, incomplete or incorrect information, or ambiguity about the origin of certain assets do not in themselves prove that an official is guilty of a criminal offense.

## Latvia's Practice and Future Plans

In Latvia's case, one of the main obstacles to successful monitoring of public officials' incomes was identified as inadequate monitoring of the incomes of other natural persons. In order to deal with the problem, the Corruption Prevention and Combating Bureau drafted a Framework Document on Improvement of Personal Income Monitoring, which was approved by the Cabinet of Ministers on September 20, 2005.

This document says: "Since 1995, a strict declaration system has gradually been introduced for public officials. However, when explaining the origins of their income, public officials frequently take advantage of loopholes in regulations to avoid disclosure of the true size of their assets. Consequently, without improvement of the income declaration system for all natural persons, the system for declaration of the assets of public officials, which has been incorporated into the Law on Prevention of Conflicts of Interest in the Acts of Public Officials, makes it impossible to determine the true size of assets and legality of income in every case."[11] The director of the Corruption Prevention and Combating Bureau, Aleksejs Loskutovs, also admits that it is practically impossible to monitor officials' incomes unless this problem is resolved: "We have understood that we will be able to monitor the incomes and expenditures of officials only when it becomes possible to monitor the incomes and expenditures of all persons living in Latvia."[12]

There are concrete cases in Latvia where, after becoming acquainted with the information disclosed in a public official's declaration, the monitoring institutions and the public as well have suspected illegal earnings – or at least tax evasion. However, in such cases, the disclosed information can rarely serve to prove an official guilty of a criminal offense. In January 2005, the Corruption Prevention and Combating Bureau drew attention to the fact that public officials still "claim transactions with natural persons who have not declared their income or are not residents as their source of assets; legalize unlawfully acquired income by registering property in the name of other natural persons (relatives, spouses, etc.)."[13]

Suspicions are also aroused by public officials' practice of declaring large sums of cash savings in their initial declarations. Although, in such cases, it would be wrong to take for granted that an official is lying and is actually not in possession of such sums, the declaration of large cash savings can also be an indication of a very simple illegal scheme: i.e., a person can declare nonexistent savings and later quote these to explain wealth that significantly exceeds official income and has been accumulated while in office. Another scheme that can be applied to explain anticipated illicit income is to declare loans that have allegedly been made, but can in fact not be verified. Again, the possibility of such a scheme does not automatically allow the presumption that any official who has declared a loan is dishonest.

**Box 4.1.**
**Part of a declaration submitted by a public official upon taking office[14]**

Notes:

... SRS has received an application from [...] to make a correction in Section 6 (Cash savings) of the Public Official's Declaration Form and change 355,000 LVL to 35,500 LVL.

***Cash and non-cash savings of submitter exceeding the 20 minimum monthly salaries prescribed by the Cabinet of Ministers (in corresponding currencies)***

| Form of savings | Sum | Currency | Holder of non-cash savings or issuer of payment card |
|---|---|---|---|
| Cash | 355,000.00 | LVL | – |

***Debts owed by the submitter exceeding the 20 minimum monthly salaries prescribed by the Cabinet of Ministers***

70,000 LVL

***Loans issued by the submitter exceeding the 20 minimum monthly salaries prescribed by the Cabinet of Ministers***

227,700 LVL

The answer to the problem has been worked into the Framework Document on Improvement of Personal Income Monitoring, which has been approved by the Cabinet of Ministers: the introduction of a declaration of income and assets mandatory for all residents of the Republic of Latvia who meet certain criteria, and integration thereof into the existing tax administration system.

If this is done in a well-considered and carefully planned manner, it could serve as an effective anticorruption measure. But it will not be a magic wand. In addition to possible improvements to tax collection, the main potential benefit of the planned system would be that users of illegally acquired financial resources, including those gained through corruption, would have to start looking for more complicated and, accordingly, less practicable schemes and mechanisms for legalizing, i.e., laundering such money. It is a paradox, but this could lead to an increase in more sophisticated forms of money laundering in Latvia simply because it was previously unnecessary: the monitoring institutions believed almost any fabricated story about the legal source of money. On the whole, however, the legalization of illegally obtained financial resources, including those obtained through corruption, should decline.

Furthermore, dishonest officials will no longer be able to conceal illegal income under the names of other natural persons, since these too will run the risk of having to explain the sources. However, even a very good system for monitoring personal incomes will not solve all of the problems connected with corruption prevention, and any system will inevitably have its shortcomings.

- No declaration system can completely eliminate elaborate schemes for concealing money acquired from corrupt grand-scale transactions, for example, in offshore companies.
- For effective combating of corruption, it is impossible to fully replace the burden of proof with *de facto* establishment of unexplained wealth. If this were done, corruption would still continue to exist, only offenders would be more careful about hiding their wealth or finding ways of laundering illegally obtained resources.
- Monitoring of the income and assets of natural persons can be instrumental in the battle against corruption. But like investigation of corruption in the technical sense, it does not involve the wider public and makes it necessary to depend on the professional skills and integrity of monitoring institutions alone. In regard to the declarations of public officials, the transparency that ensures certain monitoring opportunities for political opponents and civil society is seen as one of the main factors that make these declarations effective.[15] However, although the contents of public officials' declarations can – albeit under some objections – be made public, this is not the case with information about the income and assets of natural persons.[16]
- The introduction of a mandatory yearly declaration of income and assets is a complicated task that will almost certainly – at least in the beginning – run into snags and leave loopholes that will allow dishonest persons to avoid monitoring. Positive effects can most likely be expected in the long-term and not so much in the near future.

## Preconditions for an Effective Monitoring System

In the remainder of this chapter, I would like to dwell on a number of conditions that must be met if the new system for monitoring income and assets of natural persons is to have maximum effect not only in the battle against corruption, but also against tax evasion and laundering of illegally acquired proceeds. It must be kept in mind that there is a risk in the fact that a satisfactory degree of effectiveness can only be achieved if the system is as near perfect as objectively possible.

## Legal Presumption

In Latvia, legal presumption, as it is usually understood in connection with personal income, is the presumption anchored in the law that in certain circumstances a person's assets/savings are to be considered as illegally acquired barring proof of the opposite. Initially, the introduction of legal presumption in Latvia

was presented as a possible substitute for exposing corruption and proving the guilt of the persons involved therein. One can only partially agree to this way of looking at legal presumption, inasmuch as the penalty for unexplained wealth can probably not be severe enough to have a preventive function against corruption.

However, any system for monitoring income and assets must comprise some form of legal presumption that will not allow obstruction of the system with the help of fictive and unverifiable explanations for acquired wealth. Legal presumption can be introduced both in criminal law and administrative law. And it can be done without substantially infringing on the presumption of innocence and – where guilt is concerned – without transferring the burden of proof. In criminal law, there are basically two possible forms of legal presumption in regard to personal assets. One is the criminalization of illegal increase in personal assets (illegal enrichment), which makes it possible to avoid transferring the burden of proof. The other is setting apart specific categories of criminal offenses and considering the assets of persons guilty of committing these offenses as illegally acquired unless the opposite is proved to be true.

This type of legal presumption is finding growing international acceptance. Nihal Jayawickrama, Jeremy Pope and Oliver Stolpe have found: "There is an increasing tendency to criminalize the possession of unexplained wealth by introducing an offence that penalizes a public servant (or former public servant) who is or has been maintaining a standard of living or is in possession of pecuniary resources or property significantly disproportionate to his or her present or past official salary and who is not able to give a satisfactory explanation in this regard. Criminalizing the possession of such wealth, which is described in some jurisdictions as "illicit enrichment" or possession of "unexplained wealth," has now become an accepted measure in the fight against corruption."[17]

The criminalization of such offenses is anticipated by Article 20 of the United Nations Convention against Corruption: "Subject to its Constitution and the fundamental principles of its legal system, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income."[18] In this case, the burden of proof is not transferred, as the inability to explain a significant increase in assets is in itself a fact constituting a crime, so that the burden of proof still lies with the prosecution. However, it is almost certain that in Latvia it would be difficult to achieve what is anticipated by this measure if only the public official is considered as the agent of the crime, because assets would be concealed with the help of persons who are not public officials.

On November 17, 2005, the *Saeima* referred amendments to the Criminal Law, which essentially criminalize unexplained wealth, to its committees. The draft anticipates supplementation of the Criminal Law with Section 195.[2] "Use, Saving and Possession of Illicit Financial Resources and other Assets," which prescribes penalties (confiscation of property) for use, accumulation or possession of

financial and other assets, the legal source and ownership of which a person cannot or will not reasonably explain, if this is done on a grand scale.

The other form of legal presumption encountered in criminal law can be found in Article 12, Clause 7 of the United Nations Convention against Transnational Organized Crime, which says: "States Parties may consider the possibility of requiring that an offender demonstrate the lawful origin of alleged proceeds of crime or other property liable to confiscation, to the extent that such a requirement is consistent with the principles of their domestic law and with the nature of the judicial and other proceedings."[19]

In administrative law, specifically in tax law, the cases should be clearly defined in which tax authorities may question the legal source of a person's income (or, at least, the fact that a person has paid all due taxes), and such person, if of different opinion, must prove that all financial resources and property have been acquired by legal means (or, at least, that all due taxes have been paid for the income in question).[20] This would eliminate existing ambiguities: currently, the law allows a tax surcharge if a person's annual expenditures exceed annual income, but, in consideration of the fact that such discrepancies can occur for perfectly legitimate reasons, does not clearly state in which cases a surcharge is mandatory.[21]

## Preventing Declaration of Nonexistent Financial Resources

If the system for monitoring incomes and assets is not to be used as a mechanism for legalization of illegally acquired resources, it must incorporate measures that deter persons submitting first-time declarations from declaring nonexistent cash or other assets. Off the record, SRS officials already point out that, in expectation of stricter income monitoring, a growing number of persons is submitting supplementary declarations in which they list what are probably nonexistent cash savings – a method not only of legalizing previously acquired illegal income, but also of fabricating explanations for the future of how this or that property was acquired.

It is very likely that, once universal declaration of income and assets is introduced, anyone who expects future income from criminal activities and who understands the principles of declaration will declare nonexistent cash savings. The Framework Document on Improvement of Personal Income Monitoring also points to the problem that "in practice, the tax authorities and other government institutions have no way of verifying the existence of any cash savings that have been declared: the law does not place the burden of having to prove possession of declared cash savings on the person submitting the declaration."[22]

The solution that is recommended in this same framework document is "to give SRS authorization to verify the existence of declared cash sums by requiring

natural persons to transfer the cash savings indicated in a declaration to a Ministry of Finance bank account for duration of the audit."[23] Without dismissing this as a possible solution, the problems that could arise in connection with compulsory freezing of large sums of money belonging to private persons for the duration of audits that could take quite some time should, nevertheless, be carefully examined.

However, also all alternative solutions that could be at least partly effective can cause difficulties in connection with the inadmissibility of predating requirements of the law and the necessity of observing the principle of legitimate expectations. One of the most effective mechanisms could be taxation of all savings that exceed a fixed threshold or exceed the taxed or declared income of the previous three years by a specified amount.[24] Such a provision would be based on the assumption that a natural person is unlikely to keep large sums of cash for longer than three years (if only because of the losses that would be incurred through the decrease in monetary value resulting from inflation). A counter argument is that there would be at least a theoretical possibility that a person is required to pay taxes on income that has already been taxed or is exempt from taxes.

## Registration of Assets

Although the goal of the framework document approved by the Cabinet of Ministers is to identify the problems related to monitoring the incomes of natural persons and to anticipate measures to improve the situation, the main problem with the current monitoring system is not the hitches in the system itself, but the fact that the assets of natural persons are not being systematically registered. This, in turn, means that it is impossible to check the size of a person's income by comparing changes in assets over a certain period of time. This is why the main new feature of the planned population-wide declaration of assets is the registering of information on personal assets and savings.

However, if the collected information is to be of any use in subsequent checks on changes in the size of assets, it is also important to register the value of the declared assets, and this must be as close as possible to actual market value. This is a complicated aspect of the declaration system because it is currently not clear how to fix the value of certain types of assets. In the case of real estate, the question can be resolved in context with planned changes in the way of calculating cadastral values in Latvia to approximate these to market values. And the value of transportation vehicles can be determined from special charts for this purpose. The total value of assets is particularly important because one of the objectives of the new declaration system is to obtain a comprehensive register of property above certain value owned by the population of Latvia to make it possible, should the need arise, to calculate any changes in assets in monetary units. It is particularly the registration of values aspect that is one of the reasons given for the introduction of universal declarations, because ownership of the majority of properties is already fixed in official registries.

Furthermore, introduction of this declaration should, at least in principle, anticipate the requirement that any property exceeding a fixed threshold value must be declared. Although the typical forms of property amassment are real estate, securities and transportation vehicles, no prescribed list can be all-inclusive: antiques, animals, art objects and even household articles can be worth tens or hundreds of thousands. If possession of such objects does not have to be indicated in the declaration, it is later possible to claim sale of these objects as a source of income. Whether or not a sale has taken place will be hard to determine, since it will be impossible to verify whether or not a person has actually owned the objects.

## Cash Transactions and Recording of Transactions

A major problem encountered by those monitoring the incomes of public officials is the possibility of fictive cash transactions. Typical examples for this type of scheme are the loans allegedly repaid to public officials – frequently quite sizeable loans – by other natural persons. From a monitoring aspect, a problem is posed by the fact that both loan and repayment have been cash transactions without any supporting documents. This makes it impossible to check whether what has taken place has been payment of a debt, payment of an agreed sum for something else – or whether there has been no payment at all, but simply the fabrication of an explanation for an increase in assets from a source that is concealed from controllers.

One of the suggestions in the Framework Document on Improvement of Personal Income Monitoring is the option of making legal persons (with the exception of banks) submit monthly reports to the State Revenue Service on all transactions with natural persons exceeding 5,000 LVL, and prescribing that all transactions carried out by natural persons exceeding 10,000 LVL must be non-cash payments.[25] Of course, one way of getting around this requirement would be to split up transactions in order to make each sum less than the prescribed threshold, or to fabricate fictive documents.

## Capacity Economizing

When designing a declaration system it is also important to consider the capacity of the monitoring institution, since an excessive workload could render the new system useless. For this reason, the number of declarations to be submitted should be cut down as much as possible. This could be done, for example, by anticipating a special printed form to be signed and submitted by persons who meet certain criteria and are therefore not required to declare their income: persons whose taxes are paid by their employers, whose only sources of income are their old-age pensions, unemployment or social benefits, etc., or whose total assets do not exceed a certain amount. This would relieve this category of persons and the State Revenue Service of an excessive burden.

To save on resources and to simplify the system, the content of all declarations should be harmonized in regard to income and assets, because there is technically no difference in the way that the legality of incomes of public officials or other natural persons is verified. The declarations of public officials should differ only in the fact that they are in part disclosed to the public and that they contain additional information that is important for monitoring conflicts of interest.

## Transparency of Declarations and Data Protection

Transparency, which allows political opponents and society at large to monitor the activities of public officials, is commonly considered to be one of the main factors that make public officials' income declarations effective.[26] In accordance with Latvian legislation, that part of a public official's declaration, which provides comprehensive information on property, income, other jobs, etc., must be made accessible to the public.[27] However, the seemingly wide range of information that must be disclosed does not in itself always allow the public to draw conclusions about the integrity of the official or lack thereof. Sometimes, the information provided in a declaration can only be verified by carrying out an audit for a period of time prior to a person's appointment to a public sector job. Such audits are carried out in accordance with laws and regulations on taxes and their administration, and these prescribe confidentiality.[28] Nevertheless, if the criterion is real transparency of public officials' income and assets, not only the information provided in a public official's declaration should be made public, but also the results of any inquiries that pertain to the accuracy of such information.

If, with the introduction of a general declaration of income and assets, the procedure for monitoring income and assets of public officials would no longer substantially differ from that applied to other natural persons, the question will possibly arise of where to draw the line between publicly accessible and inaccessible information. The right of the public to be informed about the income and assets of officials in the public service as opposed to the right of these officials as natural persons to protection of personal data is a problem that will require careful consideration if a reasonable solution is to be found.

## Conclusion

General declaration of income and assets is a complicated mechanism that requires precise and carefully drafted procedures. The experience that has been gathered since 1996 with the declarations of public officials and the personal income declarations will come in useful for designing the new system. One risk, however, is the political delicacy of the issue. The effectiveness of the new system could be impaired by heavyweight opponents who are against stricter monitoring for the simple reason that this will make it increasingly difficult to enjoy the fruits of corruption and other illegal activities, and it will reduce opportunities for tax evasion.

This is why the Cabinet of Ministers' decision to move closer by a year (from January 1, 2008, to January 1, 2007) the implementation of an information system for monitoring the incomes of natural persons, which was linked to approval of the framework document, is cause for a certain amount of concern. In view of the time consuming work that is involved in drafting regulatory enactments, the difficulty in predicting a timeline for their adoption and for the preparatory measures that must be taken prior to implementation, an all too close deadline can be detrimental to proper preparation and implementation of the system.

If general income declaration is to produce the desired results, it must be as finely designed as a clockwork mechanism. The absence of a single, seemingly insignificant detail can undermine the whole purpose of the system. Hence, one of the most important political tasks is to make it impossible for interested persons to incorporate and initially conceal any loopholes in the newly created system.

[1] Valts Kalniņš received a doctor's degree in Political Science from the University of Latvia in 2003. From 1994 to 1997, V. Kalniņš studied Political Science at the University of Oslo in Norway. Since 1998, he has carried out research on corruption at the Latvian Institute of International Affairs and, since 2003, at the Centre for Public Policy PROVIDUS. He is author of the books *Tiesu vara un korupcija [Judicial Power and Corruption]* (2001), *Latvia's Anticorruption Policy: Problems and Prospects* (2002), *Parliamentary Lobbying between Civil Rights and Corruption* (2005).

[2] *Best Practices in Combating Corruption*. OSCE, p. 38.

[3] Ibid., p. 39.

[4] Anticorruption Law. Adopted on September 21, 1995, no longer in force since May 10, 2002. *Vēstnesis,* October 11, 1995; December 28, 1995; May 31, 1996; November 4, 1998; March 26, 1999.

[5] Law on Prevention of Conflicts of Interest in the Acts of Public Officials, adopted on April 25, 2002. *Vēstnesis,* May 9, 2002; December 30, 2002; May 22, 2003.

[6] See: www6.vid.gov.lv/vid_pdb/vad.asp Last accessed on December 16, 2005.

[7] See, for example: *Monitoring the EU Accession Process: Corruption and Anti-corruption Policy.* Open Society Institute. 2002. On Slovakia, p. 537; on Hungary, p. 261; on Estonia, p. 207. http://www.eumap.org/topics/corruption/reports Last accessed on January 5, 2006.

[8] See, for example, on Kazakhstan: National Integrity Systems Country Study Report. Kazakhstan 2001, p. 8. http://www.transparency.org/content/download/1659/8408/file/kazakhstan.pdf. Last accessed on December 9, 2005.

[9] See, for example: *Monitoring the EU Accession Process: Corruption and Anti-corruption Policy.* Open Society Institute. 2002. On the Czech Republic, p. 153; on Slovenia, pp. 585, 586. http://www.eumap.org/topics/corruption/reports Last accessed on January 5, 2006.

[10] For example, Bertrand de Speville claims that one of the reasons for the failure of anti-corruption agencies is the fact that these agencies themselves become corrupt. See: de Speville, B. *Why Do Anti-corruption Agencies Fail?* Taken here from: Pope, J. TI Source Book 2000. Transparency International, 2000. www.transparency.org/sourcebook/11.pdf Last accessed on December 16, 2005.

[11] Draft Framework Document on Improvement of Personal Income Monitoring. Reviewed by the Cabinet of Ministers on September 20, 2005, p. 5. http://www.mk.gov.lv/index.php/mk/23343/839.doc Last accessed on December 16, 2005.

[12] Mūrniece, I. *KNAB ķers gan raudas, gan haizivis [CPCB will catch the minnows and the sharks]. Latvijas Avīze*, December 16, 2005.

[13] Corruption Prevention and Combating Bureau. Improvement of Personal Income Auditing. Presentation material. Riga, January 12, 2005. Document at author's disposal.
[14] Source: State Revenue Service website: www6.vid.gov.lv/vid_pdb/vad.asp Last accessed on December 5, 2005.
[15] *Best Practices in Combating Corruption.* OSCE, p. 39.
[16] Article 8 of the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms protects rights to private and family life: "1. Everyone has the right to respect for his private and family life, his home and his correspondence. 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."
[17] Jayawickrama, N., Pope, J., and O. Stolpe. *Legal Provisions to Facilitate the Gathering of Evidence in Corruption Cases: Easing the Burden of Proof.* http://www.unodc.org/pdf/crim/publications/legal_provisions.pdf Last accessed on December 5, 2005.
[18] United Nations Convention against Corruption, Article 20. *Vēstnesis*, November 30, 2005.
[19] United Nations Convention against Transnational Organized Crime, Article 12, Clause 7. *Vēstnesis*, June 6, 2001.
[20] This recommendation has also been included in the Framework Document on Improvement of Personal Income Monitoring, p. 7. http://www.mk.gov.lv/index.php/mk/23343/839.doc Last accessed on December 16, 2005.
[21] Law on Personal Income Tax, Section 22. *Ziņotājs*, June 10, 1993; *Vēstnesis*, December 15, 1992; December 24, 2004.
[22] Draft Framework Document on Improvement of Personal Income Monitoring. Reviewed by the Cabinet of Ministers on September 20, 2005, p. 4. http://www.mk.gov.lv/index.php/mk/23343/839.doc Last accessed on January 11, 2006.
[23] Ibid., p. 6.
[24] A similar recommendation was put forward in 2001 by British tax audit and investigation expert Jim Frost. Frost, J. *Nulles deklarācijas – korupcijas apkarošana saistībā ar cīņu ar nodokļu nemaksāšanu [Zero declarations – combating corruption and tax evasion together].* Document distributed at a seminar on initial declaration of assets, legal presumption and transfer of the burden of proof in Latvia. Riga, September 12–13, 2001.
[25] Draft Framework Document on Improvement of Personal Income Monitoring. Reviewed by the Cabinet of Ministers on September 20, 2005, p. 7. http://www.mk.gov.lv/index.php/mk/23343/839.doc Last accessed on January 11, 2006.
[26] *Best Practices in Combating Corruption.* OSCE, p. 39.
[27] Law on Prevention of Conflicts of Interest in the Acts of Public Officials, Section 26. *Vēstnesis*, May 9, 2002; December 30, 2002.
[28] Confidentiality is prescribed by Section 22 of the Law on Taxes and Duties. So, for example, the public never did get to know the results of the probe into the declaration of former Privatisation Agency board member N. Lakučs, who had declared cash savings in various currencies for a total amount of several million lats. Although this creates suspicions of dishonest behaviour, the information was checked out in accordance with the Law on Personal Income Tax and the results have not been made public. This means that suspicions have been neither confirmed nor dispelled, the latter making it impossible to repair this person's tarnished reputation. It is very likely that there will be a similar outcome in the case of the head of SRS Zemgale Office, Andris Zāle, and other public officials who have declared large cash savings, because in such cases SRS has to audit natural persons and the results of such audits must remain confidential. When taking office, A. Zāle declared cash savings of 355,000 lats (and then claimed to have made a slip of the pen and added one excessive zero).

# 5. Political Conflicts of Interest: Concept and Solutions

***Iveta Kažoka***[1]

Conflict of interest is a topic that is not altogether new in Latvia, but it is one that has not been much researched. Every now and then, the media will report that one or other of the country's public officials could be in a conflict-of-interest situation. There are a number of indications for a growing understanding of the topic in general and of its legal aspects.[2]

Conflict of interest is usually defined as follows: a situation in which a public official's personal interests could unduly influence the performance of public duties.[3] Latvia's Law on Prevention of Conflicts of Interest in the Acts of Public Officials is also based on this interpretation and stipulates that a public official shall not take advantage of status or position for personal advantage, advantage of a kin, or advantage of a business partner.[4]

In a conflict-of-interest situation, a public official's personal interest collides with the public interest in honorable performance of public duties. The personal interests of a public official do not necessarily have to be of a financial nature. Just as much damage can be done by a public official's purely personal and non-financial interests.[5] These are perhaps less typical conflict-of-interest situations, more difficult to identify and prove, but this does not make them less important.

One of the personal interests is a public official's political interest. The term "political interest" can be interpreted in various ways. Intuitively, the definition that first comes to mind: interest that arises from a public official's political persuasion. In practice, however, this interpretation is difficult to apply because it suggests motives for making decisions that are hard to confirm or to measure, for example, an official's ideological orientation. This is why, for the purposes of this chapter, political interest will be examined from a different, more specific angle – the interest of **a public official as member or supporter of a political organisation.**

Political conflicts of interest as a special form of conflicts of interest – this demands an answer to the question of whether and in which cases public officials may use their official status to gain advantage for a political party? For example, whether and in which cases public officials may, within the realm of their competence, make decisions that serve the interests of party sponsors or other party members, or use public resources to strengthen a party as an organisation and improve its chances of reelection? It is the interests of political parties that are behind the decisions of public officials to involve government or local government employees in election campaigns, spend public resources in the interests of parties (or their sponsors), or dispense public sector jobs with political advantages in mind.[6]

The purpose of this chapter is to take an overall look at the problem of political conflicts of interests – theoretical and practical situations typical for political conflict-of-interest situations in Latvia – and to outline conceivable ways of resolving the problems.

## Political Party Interest as a Form of Personal Interest

From the viewpoint of a public official, political conflict-of-interest situations do not actually differ much from classic conflicts of interest. In typical conflict-of-interest cases, public officials may be hindered in the objective and honorable performance of official duties by their personal financial interests. In a political conflict-of-interest situation, a public official will also feel some kind of "inner" motivation, which has nothing to do with his job. In such cases, the personal advantage that an official might derive from a decision is not always clearly evident. For example, personal interest is not obvious if an official makes a decision in favor of a party sponsor in the hope that the sponsor will continue to support the party after such a decision. However, in this case, as in all other political conflict-of-interest situations, the personal interest of the official is indirectly evident: for example, the official may hope that in return for an act performed in its interests, the party will boost the official's future career opportunities.

Although a decision that is made in a political conflict-of-interest situation can be no less damaging to the public interest than any other decision influenced by considerations not directly connected with official duties, in Latvia acts performed by public officials in the interests of political parties are not seen as a specific form of conflict of interest.

However, there are rational grounds for this way of looking at political influence. In other countries, for example, situations in which public officials are influenced in the performance of their official duties by the interests of political parties are regarded as a form of conflict of interest. For illustration: the model code of conduct attached to a recommendation of the Council of Europe Committee

of Ministers[7] on codes of conduct for public officials suggests taking a public official's private interests, which influence or only seemingly influence neutral and objective performance of official duties, as a reference point when defining conflicts of interest. The article on conflicts of interest specifies that a public official's private interest should be understood as any advantage to himself or herself, to his or her family, close relatives, friends and **persons or organisations with whom he or she has or has had** business or **political relations**. Political conflicts of interest are also regarded as a specific form of conflict of interest, for example, in the New York City Charter. The chapter on conflicts of interest includes several provisions that relate directly to political conflict-of-interest situations: for example, no NYC public servant may use the city's resources for political campaigning or engage any other public servant in political activities.[8]

The question of political (party) interest as a form of personal interest is, of course, debatable. It cannot be denied that political interest is a very specific form of personal interest, and it is not always possible to say in which cases it is permissible in the discharge of official functions and in which not. It should certainly not be presumed that all forms of political influence on the work of public officials are undesirable and/or prohibitable.[9] There can be cases in which an official's acts in a party's interests are correct and cases in which it is not even possible for a public official to strike political, party interests from the agenda. This particularly applies to elected officials (*Saeima*, local government deputies), who have run in the elections on a party platform. If such officials allocate government or local government resources in accordance with the party program, but the true motivation for their actions (on the assumption that this can be determined) is to increase the party's popularity and its chances of reelection (political interest), then a very heavy burden of proof is laid upon anyone claiming such actions to be illegitimate.

However, the fact that political interest can be legitimate and/or inevitable, does not mean that **all** forms of political interest are legitimate. In the majority of cases, a public official's acts which are solely in the interests of a political party can have a negative impact on democratic processes and on public trust in the integrity and rationality of public authorities. Political influence should definitely be considered as undesirable in cases where an official must violate the law to promote the interests of a political party, where an official receives payment from an interested party for a certain decision (including donations made to a party as a gratuity for a favorable decision), or where a decision is made surreptitiously or in disregard of democratic decision-making procedure in order to "cover up" the interest of a concrete party.

## Political Conflict-of-interest Situations

The reason for combating conflicts of interest, both general and political, is to prevent situations in which a public official's status and the privileges arising from such status are used in narrow interests.

Conceptually, there are several forms of interest connected with political processes and parties:

- a party's interest in bettering its finances (for example, the interest of party members to act in such a way when performing official duties as to keep existing sponsors and attract new ones);
- a party's interest in increasing its influence (for example, having persons loyal to the party appointed to government or local government jobs; using national budget resources in such a way as to make it lucrative for certain local governments to "side with" the party in power; adopting regulations on party activities, financing and election campaigns, which give advantages to a specific party);
- a party's interest in organizational improvement (for example, the need to attract new party members and supporters can lead to distribution of posts and other perks to party members, and double standards in monitoring party members or sponsors and other persons connected with the party);
- a party's interest in popularity and reelection (for example, use of public resources for party advertising or campaigning);
- a party's interest in curbing the influence of the competition (for example, a desire motivated by party affiliation to take revenge on members of competing parties or to lure the sponsors of other parties).

Of course, in practice it is not always possible to make a clear distinction between these interests. Furthermore, not all of these interest categories are monolithic, nor can they always be regarded in the same way: for example, for parliamentary deputies, a party's reelection is more relevant, legitimate and easier to justify than it is for public employees. It should also be kept in mind that desirable conduct in a political conflict-of-interest situation depends on the circumstances in which this situation has evolved.

The following will describe and analyze three general forms of political conflict-of-interest "risk" situations. The descriptions are based on cases that have received media publicity in Latvia in the past few years. In these cases, traces of political influence are clearly obvious or can at least be suspected. Of course, there can be many more risk situations. Due to the limited amount of space allowed for this chapter, however, it does not include an analysis, for example, of the impact of party interests on public procurement tenders. Nor will it examine cases where an official connected with a political party supervises or controls a sector that is of interest to party sponsors, or cases involving the use of public resources in party interest and other situations that run the risk of party influence.

## Individualized Decisions that Affect the Economic Interests of the Addressee

When decisions must be made which affect the economic interests of a specific addressee, a political conflict-of-interest situation can arise if, when taking part in making of the decision, a public official is confronted with the economic interests of his own party's sponsor or a member of another party.

The following are just a few examples of such political conflict-of-interest situations:

- a municipal committee that approves building permits includes a member of party C. A person who has donated to party C submits an application for a building permit;[10]
- sponsors of the government coalition parties would like to privatize government property and request government approval for privatization;[11]
- an expensive piece of property is leased to persons connected with a party sponsor. The lessor is a ministry headed by a member of this party.[12]

In each of the above cases, there is a risk that a public official – a member or supporter of a political party – will make an unjustified decision in favor of his or her party's sponsor or fellow party member. Another undesirable situation is when a decision, although justified, is, for political reasons, more advantageous for the addressee than it would be in the case of the "average" member of the population. The general principle: political and party affiliation criteria should not play any role in individualized decision-making. A public official's primary consideration should always be the best solution for society as a whole.

Of course, lack of integrity on part of either the public official or the sponsor cannot automatically be presumed in any of the above cases. It is possible that an official is not aware that the person in regard to whom he has made a decision has donated to his party or – even if he is – that this fact has affected his decision. Moreover, a public official's option to withdraw from making a decision will not always be the best solution because: 1) it is not the duty of public officials to know who has donated to the parties that they support (it is possible that very few officials actually do know this), and 2) in some of the situations, influence can be so incidental and indirect that the consequences of a refusal to make a decision can outweigh the public interest in ascertaining absolute objectivity in decision-making.

It would also be difficult to justify special precautions against, let's say, privatization candidates who are also sponsors, for example, by making them follow certain procedures that are not required of others. If the party financing system anchored in the law is based on donations, then these donations are also instrumental in maintaining the democratic process. It would therefore be unjust to presume that all sponsors have dishonest motives and, for this reason, subject

them to particular scrutiny. It is also possible that such scrutiny could deter many people from donating to political parties.

However, situations such as these can give the public the impression that, in a concrete situation, it was impossible for the decision-maker to be objective and a positive decision for a party sponsor is nothing but a thank-you for a donation or even a previously agreed payment. It is therefore important that party sponsorship have little or no weight in assessment and decision-making procedures. The best solution probably depends on the degree to which a public official is informed about sponsorship and on the nature of the decision. There is more reason to demand that an official not partake in making a decision in cases where:

- the public official hold a high position (for example, ministers);
- the donation to a political party is significant (either in itself or as a percentage of the total sum of donations received by the party);
- the decision is not a regular administrative act, but grants special privileges or is connected with significant financial or personal consequences for the addressee.

Situations in which donations are made following a favorable decision deserve special attention. For example, the government signs a very lucrative contract with a law firm. Later on, the law firm makes a large donation to one of the government coalition parties.[13] At the time when the decision is made, the public has no way of knowing whether party and beneficiary have not agreed on a lucrative contract in return for a donation. This concrete problem generally applies to every case in which *Saeima*, government or public agency make a decision that is extremely advantageous for a certain person and this same person later makes a donation to one of the parties that has participated in making the decision. In such cases, there is inevitably suspicion that the decision has been bought. If it were possible to prove the existence of an agreement between the party in question and the beneficiary, there would probably be grounds to initiate a criminal case. It is, however, at least theoretically, impossible to rule out the possibility that there has been no agreement and that a subsequent donation has no direct connection with a previously gained advantage. If such situations were automatically regarded as corrupt, this would cast a shadow on every sponsor who has previously received any kind of advantage from the state.

There are indirect signs that could suggest corrupt transactions: for example, the personification degree of advantages granted by government or local government, or errors in the decision-making procedure.

## Control over Government Jobs

Every political party has an interest in getting “its own people” into government or local government jobs. For this reason, every public official who is party

member or supporter will find himself in a political conflict-of-interest situation if candidates for a government job include members of his own party or a competing party.

Examples of political conflict-of-interest situations connected with government jobs:

- party sponsors or party members are appointed to the boards or councils of state-owned enterprises or to other "lucrative" jobs.[14] Such jobs usually entail large salaries and little work;[15]
- members of the ruling parties are appointed (usually by the minister of a sector) to public sector jobs (both senior and junior positions). This situation differs from the above in that the vacancies are officially announced and the jobs are frequently civil service jobs. Later on, information may appear that the search for a suitable candidate has been purely fictive, that certain procedures have been ignored (or adapted to the "necessary" candidate), and that the outcome was already known beforehand;[16]
- when a new political party gains power, those who were previously employed in a certain sector lose their jobs. Although the dismissals have disciplinary or other legal grounds, the real reasons are overt or concealed political motives.[17]

A public official is confronted with a political conflict of interest at the moment when he or she must decide to choose "one of one's own" or to try and find another, perhaps more professional candidate. Such cases have a number of problematic aspects: for example, an increased risk that persons without necessary qualifications or experience will be appointed to management or economic positions. Furthermore, people who are thus appointed become dependent, the instability of public administration increases, and appreciation of competence and professional skills in the public administration declines.

If a party sponsor gets a job in a large state-owned enterprise or a job that gives control over a certain sector of the national economy, then, in addition to having doubts about such person's professional suitability, the public could suspect that the money has been donated for the sole purpose of buying the job.

The procedures and public administration principles that are set out in the law turn into a farce if the search for a candidate to fill a public service vacancy (particularly in the civil service) is carried out simply *pro forma*, or if immaterial reasons are the grounds for dismissing or demoting officials connected with competing parties. This also undermines normal functioning of the public administration and public trust in the authorities.

However, it is possible that such practices are sometimes regarded as so normal that the maker of a decision may not even realize that choosing a party member is at least questionable. Also in other countries there is no clear position on how to judge similar situations in regard to public appointments (of course, those

that are not civil service appointments). Opinions differ. For example, there is the view that political appointments are a normal political process, which ensures that commercial enterprises in a certain sector are supervised by politically trusted persons. The public should respect such trust because political parties are the ones that will have to assume political responsibility if problems arise in this sector. Consequently, posting a vacancy is perhaps not always the best way of finding, for example, ideologically like-minded or trusted candidates. There is, however, also a view that equates appointments based on political criteria with corruption.[18]

Generally, however, although such practice in making public appointments exists to a greater or smaller degree in all countries, in today's developed democracies it is regarded more as an indication of corruption, or at least as a form of mismanagement.[19]

## Legislative Initiative, Parliamentary Vote

Situations are possible in which an elected public official, when introducing or voting for a bill, may not be guided by his party's program or personal views on what would be best for society, but by the interests of a party sponsor. For example, a party submits to the *Saeima* a proposal for amendments to a law. It is clearly obvious that the amendments will benefit one of the party's sponsors.[20]

When evaluating such situations, one should try to establish whether a bill (vote) proposed by a certain party is not in reality a favor in return for a donation. Of course, if the donation has been made following an agreement that the party or deputy will introduce a bill, or vote in a certain way in return for a donation (the donation may be made before or after the vote), then this is bribery. A situation in which a representative of the legislative body tries to convince a lobbyist to make a donation, at the same time elaborating on legislative initiatives or votes that are of interest to the lobbyist could also be regarded as corruption.[21] Even if there has been no agreement, the behavior of the party or candidate can be questioned, both from a legal and an ethical aspect. Donations can be considered as legitimate if the money is donated on the basis of a correspondence of views, usually in connection with more general goals. When carrying out their mandate, party members cannot be guided by the fact of a donation.

Another important question from an ethics point of view is whether a donation (the influence of money) does not make it easier for an interested person to gain access to the legislative process than for someone who has supported the party in a different way? For example, has the party been just as active in supporting the interests of other groups that have not made donations?

One of the most important *Saeima* votes is the yearly vote on the national budget. Drafting of the national budget entails huge risks of political conflicts of interest: the ruling parties have significant opportunities to demonstrate favoritism and allocate greater budget resources to sectors in which party

sponsors are active, or to local governments headed by persons affiliated with the ruling parties.

In a budget context, it is difficult to assess such processes at the Cabinet of Ministers level, where the majority of government expenditures for the next year are decided. Different forms of influence, including political influence, are much more obvious when the draft budget reaches the *Saeima*. In recent years, the following has been common practice: when deciding on the national budget for the next year, the parties represented in the *Saeima* (usually the ruling coalition parties) have a "budget quota" that is allocated to concrete, small needs, usually in the municipalities where persons connected with the party are in power.[22]

There are a number of aspects that allow one to question whether this method of allocating budget resources is justifiable, expedient or ethical. For one, it is difficult to explain from a rational point of view. Such practice creates the impression that the parliament's main consideration in allocating national budget resources is not so much to correct the mistakes of the executive, but to give deputies and factions the opportunity to use these budget quotas to increase their political capital.

Another risk is the signal that such earmarked grants send to the public and to the public administration. It suggests that long-term planning, comprehensive and complex reforms are less important to the nation's top public officials than, for example, individualized "services" for concrete local governments. Such individualized grants are, of course, a powerful argument in an election campaign. But they also divert attention from the big reforms and laws, and they disperse political accountability.

It is possible that this method of allocating budget resources could be justified if the distribution of quotas followed predictable and equitable procedures, in which the criteria truly were the needs of individual towns or townships and not the desire of a party to strengthen its influence in certain areas of the country. It is not right if local governments are made to feel that they must side with one of the ruling parties only because they will otherwise receive no funding from the national budget. This is actually the purchase of influence with taxpayers' money.

Such distribution of budget resources is unfair to those who are not included. For example, to all those important but unimplemented programs and unfulfilled tasks that have been put on hold for lack of funds. Furthermore, it creates hardly justifiable election advantages for the parties already in power: a party's proposal to allocate budget resources to a township's project (for example, renovation of a school or hospital) can be a crucial argument in this township's election campaign. This is a quasi-legitimate way of getting around restrictions on party financing and expenditure thresholds for election campaigns – and forcing society at large to become sponsors of individual parties.

## Recommendations

It is clear that political conflicts of interest can emerge in very different situations. Assessment of such conflicts and the behavioral models recommended for public officials in such situations depend on the specific circumstances of each case – and these usually have many nuances and problematic aspects. There are, however, a number of measures that can be taken to reduce the risks of political conflicts of interest and the damage that these can cause.

These can be divided into three groups: 1) structural measures; 2) regulatory enactments (laws, codes of ethics); 3) promotion of better understanding of political and public administration ethics.

## Structural Measures

Political conflict-of-interest situations in which public officials are confronted with the interest of a party sponsor cannot be regarded separately from structural aspects, such as party financing systems. Parties have an objective need of money, not only for the maintenance of party organizations, but also for election campaigns. It is therefore impossible to fully eliminate the risk that attempts will be made to link donations with concrete promises. In Latvia, however, significant steps have been taken in recent years to reduce the risk: for example, limits have been set on party donations, the sums that parties are allowed to spend on election campaigns have been restricted. Nevertheless, party sponsors still have a strong influence on political processes. For this reason, **changing the current party and campaign financing system** and converting fully or partly to a government-financed system should be considered.

It is fairly easy for public officials who are connected with political parties to find opportunities to put political pressure on other officials. One of the goals of such pressure can be to influence personnel policy in public agencies. Measures should be considered to reduce such opportunities and to **strengthen the political neutrality of public employees**. Some of these could be:

- **To increase the proportion of jobs that are subject to professionalism criteria in public sector recruitment**. It is obvious that there is no clear understanding in Latvia about which public sector jobs should be allocated according to "political market principles" and for which jobs professional skills and merits should be the main criteria for choice of a candidate. It should be analyzed whether jobs that are currently allocated on the basis of political agreements should not be reoriented towards recruitment, in which case professional criteria would play a greater role.[23]

- **To set at least minimum professional standards for jobs connected with political agreements**. Political trust must not serve as the sole criterion for judging an applicant.[24] It is absolutely not in the public interest that a

person with little experience be appointed to a demanding job as the result of political bargaining.

- **To apply the principle of political neutrality to all public administration employees**. In Latvia, civil service is defined rather narrowly: it does not include many of those who work in direct administration agencies, or local government employees. In the promotion of political interests, it is relatively easy to manipulate with public officials who are not civil servants because these officials are not protected against the threat of unjustified dismissal or other forms of repression (for example, demotion, non-provision of social guaranties, non-payment of bonuses, etc.) and cannot submit complaints to the National Civil Service Office.

A number of the situations described in this paper should be judged not so much in legal as in **ethical categories**. Unfortunately, public officials do not currently have an "advisor" to turn to in case of doubt. Some kind of institution should be established to deal with ethics questions either only in direct administration agencies or in the whole public sector. This could be either a newly established institution or an already existing institution with increased capacity.

## Legislation

It would be important **to assess the level of regulation required** for each of the situations that incorporate a high risk of political conflicts of interest. For example, some situations could be regulated by law and others by codes of ethics or codes of conduct for specific institutions. And some situations could be left to the discretion of the officials or parties themselves (for example, parties could voluntarily choose to observe certain principles of conduct – this could be made public in the form of a written declaration or even as a political agreement between several parties).

Some of the situations that were identified require **new regulatory enactments** because, although these situations are fairly widespread in Latvia and generally regarded as undesirable or even corruptive, existing laws either do not regulate them at all or do so very inadequately. This particularly applies to:

- regulations on the use of government or local government resources for election campaigns;
- the prohibition to link party donations to concrete demands (for example, introduction of a bill, appointment of a specific person, deliberate failure to carry out an audit, etc.).

## Possibilities Connected with Improvement of Political Ethics

Even if the transition to a system of government financing for political parties does not take place, this does not mean that parties are entitled to transfer responsibility for corrupt or unethical conduct to the existing system. Parties may **never accept donations that are linked to particular demands**. Parties should also prepare codes of ethics for internal use in regard to the acceptance of donations, for example, in cases where the party has doubts about the true motives of the donor. It would probably also be wrong to seek donations from persons whose ideological views or position on important issues are in sharp contrast with those of the party.

Introducing bills, voting to the advantage of a party sponsor or distributing budget quotas in accordance with the current system cannot automatically be declared as illegitimate and definitely unacceptable. However, honest and socially responsible deputies and parties should attempt to reduce the risks identified in this paper. The **observance of parliamentary (legislative) ethics standards** as formulated by US scientist D. F. Thompson could be helpful here:

- A parliamentary deputy could not justify acting solely in the interests of party sponsors without taking into account the interests of those who can not press their claims as effectively due to the lack of resources. Legislators should have to show that the pressing of particular claims of well-represented groups is consistent with satisfying the need of ill-represented groups.[25]

- Members of parliament should not press claims that they have, or should have, reason to believe are without merit. Furthermore, the higher stakes, the greater the responsibility to investigate the merits of a claim.[26] Besides, parliamentarians should not keep their true reasons for making a decision to themselves and give another set of reasons to the public.[27]

- Resolutions adopted by the Parliament, the legislative process and debates on various policies should be as public and transparent as possible[28]. Futhermore, a parliamentary deputy should be able to justify his or her decisions in public.

**Public trust in the authorities – the main criterion for ethical conduct.** In each of the situations examined in this chapter, there can be several interpretations of the true motives of public officials when making decisions in the interests of political parties. Such decisions are not always motivated by corrupt or unethical considerations. It is possible that an official has acted with integrity and the impression has been misleading. Nevertheless, the status of public servant demands that even seemingly negative influences on the discharge of official duties be taken seriously. Public officials should act in such a way as to strengthen public trust in the executive and the legislative. The criterion is the "reasonable person" standard that is commonly used in assessments of conflicts of interest: would a reasonable person, who perhaps does not or can not know

the circumstances of a case in every detail begin to suspect that, in this particular case, the public official will decide in favor of illegitimate interests? If such suspicions can arise, a public official should consider ways of dispelling them – or at least lessening the damage that they can cause.

[1] Iveta Kažoka holds a law degree from the University of Latvia, where she is continuing studies for her master's degree. The author also holds a bachelor's degree in Political Science. She has been working for the Centre for Public Policy *Providus* since 2005. Her previous place of employment was the Ministry of Justice.

[2] There is indirect indication of this in the dynamics of the complaints received by the Corruption Prevention and Combating Bureau (CPCB) about public officials' possible violations of the Law on Prevention of Conflicts of Interest in the Acts of Public Officials. For comparison: in the 2nd half of 2003, CPCB received 139 complaints; in the 1st half of 2004, 223; in the 2nd half, 347; but in the first six months of 2005, 423 complaints. See: *Ziņojumi Ministru kabinetam un Saeimai par Korupcijas novēršanas un apkarošanas biroja darbu [Reports to the Cabinet of Ministers on the work of the Corruption Prevention and Combating Bureau]*: October 1, 2003 – December 31, 2003; January 1, 2004 – June 30, 2004; July 1, 2004 – December 31, 2004; January 1, 2005 – June 30, 2005. http://www.knab.gov.lv/publication/reviews/ Last accessed on November 22, 2005.

[3] *Managing Conflict of Interest in the Public Sector: OECD Guidelines and Country Experiences.* OECD, 2003, p. 24.

[4] In this law, conflict of interest is defined as a "a situation in which a public official, in performing official duties, must make a decision or take part in the making of a decision or perform other official functions which affect or could affect such official's personal or financial interests, or those of a kin or business partner. Law on Prevention of Conflicts of Interest in the Acts of Public Officials, Section 1, Clause 5.

[5] For example, the desire to help a good friend or a favoured organisation, the desire to use information not available to others for personal advantage, to speed up a career, to take revenge for earlier wrongdoings, etc.

[6] Such situations are particularly typical for pre-election periods. For example, a study carried out by Transparency International Latvia (*Delna*) prior to the 2005 municipal elections shows that party headquarters are frequently set up in local government buildings, local government employees spend time on organizing election campaigns during working hours, and local government expenditures increase significantly before elections. *Administratīvo resursu izmantošanas novērošana pirms 2004 gada pašvaldības vēlēšanām [Monitoring of the use of public resources before the 2005 municipal elections].* Final report. Transparency International Latvia (*Delna*), 2005.

[7] *Recommendation No. R (2000) 10 of the Committee of Ministers to Member States on codes of conduct for public officials.* Adopted by the Committee of Ministers at its 106th Session on 11 May 2000. https://wcd.coe.int/com.instranet.InstraServlet?Command=com.instranet.CmdBlobGet&DocId=343458&SecMode=1&Admin=0&Usage=4&InstranetImage=62259 Last accessed on January 4, 2006.

[8] See: New York City Charter. Chapter 68. Conflicts of Interest. http://www.nyc.gov/html/conflicts/downloads/pdf/bluebook.pdf Last accessed on November 22, 2005.

[9] Thompson, D. *Ethics in Congress: From Individual to Institutional Corruption.* Brookings Institution Press, 1995, p. 67.

[10] Vilnītis, J. *LPP atbalstītājam vajag – dome steidz izpildīt [Town council hastens to satisfy LPP sponsor's needs]. Latvijas Avīze*, February 24, 2005.

[11] Orlovs, E. *Repše uztraucies par Vecrīgas "nozagšanu" [Repše concerned about "stealing" of Riga's Old Town]. Rīgas Balss*, September 18, 2002.

[12] Grīnuma, I. *Jaundibinātai firmai Radzēviča laikā iznomāta vērtīga valsts zeme [During Radzevičs term in office, valuable state-owned land leased to a newly established company]. Diena*, February 18, 2005.
[13] *Divu partiju medusmēneša gals [End of honeymoon for two parties]. Rīgas Balss*, November 5, 2001.
[14] Strautiņš, P. *Paldies sponsoriem [Thank you to sponsors]. Diena*, March 18, 2004; Antonevičs, M. *"Barotava" vērtīgiem biedriem ["Feeder" for treasured members]. Lauku Avīze*, January 22, 2003; Rozenbergs, R., Dreiblats, U. *Stratēģiskajos uzņēmumos iefiltrētas ar Krieviju saistītas personas [Persons connected with Russia infiltrated into strategic enterprises]. Neatkarīgā Rīta Avīze*, June 5, 2003; Pētersons, R. *KNAB panāk pretim Koziolam [CPCB accommodates Koziols]. Neatkarīgā Rīta Avīze*, December 21, 2002; Rutule, E. *Mainītas amatpersonas "airBaltic" padomē [airBaltic board members replaced].* LETA, August 7, 2004.
[15] See, for example: Antonevičs, M. *"Barotava" vērtīgiem biedriem ["Feeder" for treasured members]. Lauku Avīze*, January 22, 2003; Lulle, B. *Nākamnedēļ sola nosaukt veselības ministru [Minister of Health to be named next week]. Neatkarīgā Rīta Avīze*, March 24, 2004; Miķelsons, D. *Deputātus nepārliecina nepieciešamība "Latvenergo" iecelt sešus pilnvarniekus [Deputies see no need to appoint six Latvernergo commissioners].* LETA, October 26, 2000; Latkovskis, B. *Gardais kumoss [A tasty morsel]. Neatkarīgā Rīta Avīze*, July 15, 2005.
[16] See, for example: Āboltiņš, J. *Par galveno pastnieku – politisks ieliktenis? [The postmaster – a political henchman?]. Rīgas Balss*, July 4, 2003; Orlovs, E. *Nulle Kriminālpolicijas priekšnieka amatā!? Rīgas Balss*, October 19, 2001; Barkāns, E. *Rīgas Domē sācies amatu pārdales laiks [Shuffling begins in the Riga City Council]. Nedēļa*, May 19, 2005; Benfelde, S. *Ja likumu neīsteno, tas kļūst par fikciju [If laws are not observed, they become fiction]* (interview with Solvita Olsena). *Nedēļa*, October 7, 2005.
[17] See, for example: Dūmiņa, Z. *Būvvaldes vadītājs: Jaunā Rīgas vadība Pilsētas attīstības departamentā vēlas redzēt politiskus ielikteņus [Head of the Building Office: the new Riga City Council wants to see political henchmen in the City Development Department].* LETA, April 14, 2005; Āboltiņš, J. *Par galveno pastnieku – politisks ieliktenis?[The postmaster – a political henchman?]. Rīgas Balss*, July 4, 2003; Latkovskis, B. *Finanšu ministrijas atlaistie pierāda savu taisnību [Employees fired by Ministry of Finance prove they are in the right]. Neatkarīgā Rīta Avīze*, January 20, 2004.
[18] See, for example:
Gerring, J., Thacker, S. C. *Political Institutions and Corruption: The Role of Unitarism and Parliamentarism.* B.J.Pol.S. 34, 2004, p. 300; Philp, M. *Defining Political Corruption. Political Studies.* XLV, Special Issue, pp. 436–462. Here taken from: *Explaining Corruption (The Politics of Corruption, 1).* Edward Elgar Publishing, November, 2000, p. 391.
[19] Peters, B. G. *The Politics of Bureaucracy* (4th edition). Longman Publishers USA, 1995, p. 201.
[20] Kāposts, A. *Azartspēļu biznesa "buldozers" [The "bulldozer" of the gambling business]. Nedēļa*, December 16, 2004.
[21] Thompson, D. *Ethics in Congress: From Individual to Institutional Corruption.* Brookings Institution Press, 1995, p. 32.
[22] Avotiņš, V. *Demokrātiskie kukuļi [Democratic bribes]. Neatkarīgā Rīta Avīze*, December 4, 2001; Benfelde, S. *Par vietām cīnīsies neapmierinātie un optimisti [The discontent and the optimists to vie for seats]. Nedēļa*, September 22, 2005; Kuzmina, I. *Valsts nauda sadalīta [State's money distributed]! Latvijas Avīze*, October 24, 2005.
[23] Great Britain is a good example. Here, there is a special Code of Practice for Ministerial Appointments to Public Bodies, which names the merits of an applicant as the main criteria for selection. Political balance of power can be a legitimate argument only if the law requires an institution to be formed on the principle of political balance or if the nature of

the institution demands that political parties be represented. The British code of ethics for ministers also prescribes the need to ensure that the power to select candidates for public sector jobs is not abused for parties' political goals.

*Code of Practice for Ministerial Appointments to Public Bodies*. Office of the Commissioner for Public Appointments, December 2003. http://www.ocpa.gov.uk/publications/pdf/codeofpractice_aug05.pdf Last accessed on November 22, 2005;

*Ministerial Code: A Code of Ethics and Procedural Guidance for Ministers*. Cabinet Office, July 2005. http://www.cabinetoffice.gov.uk/propriety_and_ethics/publications/pdf/ministerial_code.pdf Last accessed on January 4, 2006.

[24] Peters, B. G. *The Politics of Bureaucracy* (4th edition). Longman Publishers USA, 1995, p. 91.

[25] Thompson, D. *Political Ethics and Public Office.* Harvard University Press, Reprint edition (March 1, 1990), pp. 107–108.

[26] Thompson, D. *Ethics in Congress: From Individual to Institutional Corruption*. Brookings Institution Press, 1995, p. 94.

[27] Thompson, D. *Political Ethics and Public Office.* Harvard University Press, Reprint edition (March 1, 1990), pp. 111–114.

[28] Ibid., pp. 116–122.

# 6. Appendix. Criminal cases initiated by CPCB and cases in which CPCB has carried out pre-trial investigation in the period from 2003 to mid-2005.

This table is based on information provided on December 7, 2005, by the Major Cases Division of the Criminal Justice Department at the Prosecutor General's Office. The table includes cases initiated/investigated by CPCB from January 1, 2003, to July 1, 2005. By the time this report is published, there may have been further progress in some of the cases.

Abbreviations:
CL – Criminal Law
cond. – conditional
fn. – fine
mo. – month
SC – Supreme Court
SRS – State Revenue Service
p. conf. – property confiscation
p.p. – probation period
pr. s. – prison sentence
yr. – year

| Initiation of a criminal case (date) | Section of the Criminal Law in accordance with which case initiated | Substance of offence, officials involved | Case handed over to the prosecution (date)/ criminal prosecution started or case closed (date)* | Section of the Criminal Law applied by the prosecution/number of persons accused | Case sent to court (date/ court) or case referred to other agency for investigation (date/ agency) | Outcome of court hearing (Symbols ▪ indicate number of persons sentenced) |
|---|---|---|---|---|---|---|
| Feb. 24, 2003 | CL 318.2 | Abuse of office by officials of the Hospital of Traumatology and Orthopedics | | | | |
| Mar. 20, 2003 | CL 177.2 | Multiple cases of fraud committed by the head of the Hospital of Traumatology and Orthopedics Spinal Surgery Centre | Jul. 16, 2003/ Jul. 28, 2003 | CL 177.2<br><br>1 person | Jul. 14, 2003 Riga Regional Court | Case has not yet been heard |
| Mar. 28, 2003 | CL 295.1 | Interference in adjudication prior to appellate court hearing (Apr. 25, 2003, referred to CPCB by Prosecutor General's Office) | Aug. 20, 2003 Combined with another case (next row in table) | | | |
| Apr. 3, 2004 | CL 320.2<br>CL 322.1 | Solicitation of a bribe (10,000 USD) by a public prosecutor and intermediation | Apr. 11, 2003/ Apr. 14, 2003 | CL 320.3<br>CL 318.2<br>CL 319.2<br>CL 233.2<br>CL 322.1<br><br>2 persons | Nov. 7, 2003 Riga Regional Court | May 21, 2004<br><br>▪ CL 320.3, CL 318.2, CL 319.2, CL 233.3; sentence: pr.s. 10 yrs/p. conf.<br><br>▪ CL 322.1; sentence: cond. pr.s. 3 yrs/p.p. 3 yrs.<br><br>Sep. 6, 2005 SC appeal. Acquittal under CL 233.3; sentence under CL 320: pr.s. 7 yrs./p. conf. Oct. 24, 2005. Cassation appeal.<br><br>Not in force |

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| Apr. 9, 2003 | CL 317.2 | Acts of Ministry of the Interior officials; construction work on the eastern border (Oct. 2003, referred to CPCB by the State Police) | Case closed by CPCB | | | |
| Apr. 24, 2003 | CL 318.2 | Abuse of office by SRS Customs Office officials | May 14, 2003/ Aug. 7, 2003 | CL 321.1<br>CL 322.2<br><br>2 persons | Riga Latgale District Court | Apr. 14, 2004<br><br>▪ CL 321.1;<br>sentence: cond. pr.s. 2 yrs./ p.p. 2 yrs.<br><br>▪ CL 322.1–CL 15.4, CL 177.1;<br>sentence: con. pr.s. 2 yrs./p.p. 2 yrs.<br><br>March 10, 2005<br>SC upholds judgement<br><br>In force |
| Apr. 29, 2003 | CL 320.2 | Acceptance of bribes by National Military Service doctors (430 LVL) | Dec. 15, 2004/ Dec. 23, 2004 | CL 321.2<br>CL 177.3<br><br>1 person | Apr. 29, 2005 Riga Regional Court | May 24, 2005<br>Sent back for additional investigation<br><br>May 25, 2005<br>Adjunct protest of the prosecutor<br><br>August 25, 2005<br>SC revokes decision, refers to the Riga Regional Court for a renewed hearing. Case has not yet been heard |
| June 2003 | CL 319.2 | Deliberate acts of Riga City Youth Sports Centre *Daugava* officials, causing damages of 1,754 LVL | Handed over to prosecution, case closed | | | |
| Jul. 14, 2003 | CL 322.2 | Intermediation in attempted bribery of Riga City Council officials | Case closed by CPCB | | | |
| August 2003 | CL 318.2<br>CL 319.1 | Negligence and abuse of office by Housing Privatization Committee officials | Feb. 25, 2005/ Mar. 8, 2005 | CL 318.2<br><br>1 person | | |

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|---|---|---|---|---|---|---|
| Aug. 29, 2003 | CL 275.2 | Forgery of documents on donations to the Greens and Farmers Union | | | | |
| Aug. 29, 2003 | CL 320.2 | Acceptance of a bribe by a State Police Criminal Investigations Department inspector (2,500 LVL) | Sep. 5, 2003/ Sep. 12, 2003 | CL 321.2<br><br>1 person | Nov. 28, 2003 Riga Regional Court | March 14, 2005.<br>▪ CL 321.2;<br>sentence: cond. pr.s. 3 yrs./p.p. 2 yrs.<br><br>June 20, 2005<br>SC amends sentence: pr.s. 1 yr. 6 mo.<br><br>SC Senate upholds judgement<br><br>In force |
| Sep. 1, 2003 | CL 317.2<br>CL 177.2<br>CL 195.2<br>CL 319.2 | Suspected fraud in the introduction of digital television | Dec. 8, 2003/ Dec. 11, 2003 | CL 177.3<br>CL 177.3 – CL 15.4<br>CL 177.3 – CL 20.4<br>CL 177.4 – CL 15.4<br>CL 195.2<br>CL 196.2<br>CL 317.2<br>CL 318.2<br>CL 319.1<br>CL 319.2<br><br>10 persons | | |
| Sep. 5, 2003 | CL 318.2 | Acts of *Kurzemes nami* officials in the privatization process | Apr. 30, 2004/ May 8, 2004 | CL 318.2<br><br>1 person | Aug. 16, 2004 Riga Kurzeme District Court | Case has not yet been heard |
| Oct. 7, 2003 | CL 198.2 | Acceptance of undue advantages by an insolvency administrator | Oct. 15, 2003/ Oct. 19, 2003 | CL 198.2<br><br>1 person | Feb. 28, 2004 Riga Latgale District Court | Case has not yet been heard |

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|---|---|---|---|---|---|---|
| Oct. 14, 2003 | CL 320.2 | Solicitation of a bribe by an official of the 25th precinct of the Riga Police Department (1,000 EUR) | Oct. 23, 2003/ Oct. 24, 2003 | CL 320.2<br><br>1 person | Jan. 30, 2004<br>Riga Vidzeme District Court | June 8, 2004<br>▪ CL 320.2;<br>sentence: cond. pr.s. 5 yrs./p.p. 2 yrs.<br><br>In force |
| Oct. 21, 2003 | CL 318.2<br>CL 326.2 | Abuse of office by the chairman of the Atašiene Township Council | Nov. 3, 2003/ Nov. 6, 2003 | CL 318.2<br><br>1 person | Dec. 19, 2003<br>Jēkabpils District Court | June 16/19, 2004<br>▪ CL 318.2;<br>sentence: fn. 120 minimum monthly salaries<br><br>Aug. 25, 2004<br>Upheld by Zemgale Regional Court<br><br>Oct. 12, 2004<br>Amended by SC Senate: fn. 80 min. monthly salaries<br><br>In force |
| Nov. 5, 2003 | CL 318.2<br>CL 329 | Unlawful acts by a senior official of the Ministry of the Interior Information Centre | Dec. 1, 2003/ Dec. 4, 2003 | CL 318.2<br>CL 329<br><br>1 person | Sep. 30, 2004<br>Riga Latgale District Court | Case has not yet been heard |
| Nov. 20, 2003 | CL 275.2 | Forgery of documents on donations to the People's Party | | | | |
| Nov. 20, 2003 | CL 275.2 | Forgery of documents on donations to LSDSP | Case closed by CPCB | | | |
| Nov. 21, 2003 | CL 275.2 | Forgery of documents on donations to the New Era Party | | | | |
| Jan. 19, 2004 | CL 275.2 | Forgery of documents to advantage of the political union *Centrs* | | | | |

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|---|---|---|---|---|---|---|
| Jan. 30, 2004 | CL 318.1 | Abuse of office by the director of the National Health Insurance Agency | Feb. 12, 2004/ Feb. 12, 2004 | CL 318.1<br>CL 320.1<br>CL 219.2<br><br>1 person | Nov. 12, 2004<br>Riga Vidzeme District Court | June 7, 2005<br>Hearing started, adjourned |
| Jan. 30, 2004 | CL 309.4 – CL 15.4 | Provision of illegal substances by a security inspector of the State Prison | Feb. 6, 2004/ Feb. 9, 2004 | CL 309.4 – CL 20.2<br>CL 253.1<br>CL 309.4 – CL 15.4<br><br>2 persons | Mar. 31, 2005<br>Riga Latgale District Court | Oct. 27, 2005<br>Hearing started, adjourned |
| Jan. 30, 2004 | CL 253.1 | Possession of illegal psychotropic substances | Feb. 6, 2004<br>Combined with another case (previous row in table) | | | |
| Feb. 9, 2004 | CL 322.1 – CL 15.4 | Intermediation in attempted bribery by a former police officer | Feb. 20, 2004/ Feb. 20, 2004 | CL 177.1<br><br>1 person | May 20, 2004<br>Riga Centre District Court | Sep. 5/7, 2005<br>▪ CL 177.1;<br>sentence: cond. fn. 10 min. monthly salaries/p.p. 2 yrs.<br><br>Appeal filed<br><br>Not in force |
| Feb. 19, 2004 | CL 318.1<br>CL 329 | Disclosure of confidential information by a senior official of the SRS Financial Police | | | | |
| Feb. 23, 2004 | CL 318.2<br>CL 320.3 | Receipt of payment by SRS official for an audit (Oct. 4, 2004, referred to CPCB by the Prosecutor General's Office) | | | | |

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|---|---|---|---|---|---|---|
| Mar 8, 2004 | CL 322.1 | Intermediation in bribery for withdrawal of documents from a criminal case | Mar. 17, 2004, Handed over to prosecution<br>Mar. 18, 2004 Referred back for further investigation<br>Oct. 6, 2004 Handed over to prosecution<br>Oct. 12, 2004 Referred back for further investigation | | | |
| Mar. 15, 2004 | CL 275.1 | Forgery of documents for the political party Latvia's Way | Case closed by CPCB | | | |
| Mar. 19, 2004 | CL 320.2 – CL 20.2 | Acceptance of a bribe by the deputy director of the National Heritage Inspectorate | Mar. 25, 2004/ Mar. 26, 2004 | CL 320.2 – CL 20.2<br>CL 323.1<br>CL 322.1<br><br>3 persons | June 2, 2004 Riga Centre District Court | Case has not yet been heard |
| Apr. 13, 2004 | CL 320.2 – CL 20.2 | Bribery (10,000 USD) involving a Riga public prosecutor and an intermediary | May 5, 2004/ May 5, 2004 | CL 320.2<br>CL 322.1<br>CL 321.1<br><br>2 persons | Feb. 7, 2005 Riga Regional Court | Oct. 17, 2005<br><br>▪ CL 320.2;<br>sentence: cond. pr.s. 4 yrs./p.p. 2 yrs./ p. conf.<br><br>▪ CL 322.1;<br>sentence: cond. pr.s. 1 yr./p.p. 1 yr.<br><br>Appeal filed<br><br>Not in force |

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|---|---|---|---|---|---|---|
| Apr. 18, 2004 | CL 279.2 | Abuse of functions by director of the municipal enterprise *Mālkalni* (Criminal case referred to CPCB by the Ogre District Police) | | | | |
| Apr. 27, 2004 | CL 183.2 | Extortion by two persons, one a State Police official (2,500 EUR) | May 21, 2004/ May 25, 2004 | CL 183.2<br><br>2 persons | Jul. 20, 2004 Riga Regional Court | Case has not yet been heard |
| May 21, 2004 | CL 320.3 | Solicitation of a bribe by an inspector of the 22nd Precinct of the Riga Police Department (300 LVL) | June 10, 2004/ June 17, 2004 | CL 320.3<br><br>1 person | Jan 3, 2005 Riga Regional Court | Case has not yet been heard |
| May 24, 2004 | CL 183.2 | Extortion by an inspector of the Jūrmala Police (1,400 USD) | June 18, 2004/ June 21, 2004 | CL 183.2<br>CL 319.2<br>CL 233.3<br><br>1 person | Mar. 14, 2005 Riga Regional Court | Case has not yet been heard |
| May 24, 2004 | CL 318.1 | Abuse of functions by a bailiff (Feb. 15, 2005, referred to CPCB by the State Police) | May 30, 2005/ June 1, 2005 | CL 318.2<br><br>1 person | Oct. 10, 2005 Riga Centre District Court | Case has not yet been heard |
| June 2, 2004 | CL 317.2 | Misinformation of the Land Registry Office by the chairman of the Vārve Township Council | Jul. 28, 2004/ Aug. 2, 2004 | CL 317.2<br><br>1 person<br><br>June 10, 2005, Case closed | | |
| Jul. 2, 2004 | CL 183.2 | Extortion committed by 2 persons | | | Jul. 8, 2004 State Police | |
| Jul. 12, 2004 | CL 317.2 | Misappropriation of funds by State Technical Supervision Board officials | | | | |

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|---|---|---|---|---|---|---|
| Aug. 6, 2004 | CL 322.2 | Intermediation in bribery by two lawyers | Aug. 16, 2004/ Aug. 16, 2004 | CL 322.1 – CL 20.2<br><br>1 person | Dec. 24, 2004 Riga Vidzeme District Court | Adjourned |
| Aug. 9, 2004 | CL 323.1 – CL 20.3 CL 321.1 | Delivery of a bribe (1,130 LVL) at the Terehova customs point (a member of the *Saeima* security service and an SRS Customs Office official involved) | Aug. 30, 2004/ Sep. 8, 2004 | CL 320.3 – CL 20.2 CL 321.2 CL 322.3<br><br>2 persons | | |
| Aug. 30, 2004 | CL 320.2 CL 275.1 CL 322.1 | Solicitation of a bribe (3,000 LVL) by a high school principal for accepting a student | Sep. 9, 2004/ Mar. 5, 2005 | CL 320.3 CL 195.2 – CL 20.2 CL 193.2 – CL 20.2<br>1 person | Oct. 25, 2004 | |
| Sep. 29, 2004 | CL 318.2 | Excessive payment to National Fire and Rescue Service employees for repeated drafting of technical regulations | Oct. 8, 2004/ Oct. 8, 2004 | CL 318.2<br><br>1 person | | |
| Sep. 30, 2004 | CL 109.2 | Unauthorized cutting of trees in Riga's green belt | | | Oct. 4, 2004 30th Police Precinct | |
| Oct. 15, 2004 | CL 275.2 | Sale of government agency documents forged by a Matīsa Prison guard, carried out in a group | Oct. 28, 2004/ Aug. 17, 2005 | CL 275.2 CL 275.2 – CL 20.3<br><br>3 persons | Aug. 31, 2005 Riga Centre District Court | Case has not yet been heard |
| Oct. 19, 2004 | CL 318.1 | Abuse of office by a National Armed Forces officer | Oct. 28, 2004/ Oct. 29, 2004 | CL 320.2 CL 329 CL 323.1<br><br>2 persons | Nov. 17, 2005 Riga Latgale District Court | Dec. 23, 2005<br>▪ CL 320.2, 329;<br>sentence: cond. pr.s. 4 yrs./p.p. 3 yrs./ fn. 5 minimum monthly salaries<br>▪ CL 323.1;<br>sentence: cond. pr.s. 2 yrs./p.p. 2 yrs.<br>In force |

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| Oct. 21, 2004 | CL 319.1 | Neglect to perform official duties by the former chairman of the Rucava Township Council | Nov. 10, 2004/ Aug. 16, 2005 | CL 318.2<br><br>1 person | Aug. 31, 2005 Liepāja Court | Case has not yet been heard |
| Oct. 27, 2004 | CL 319.1 | Negligence in performance of official duties by Ministry of the Interior officials | | | | |
| Nov. 9, 2004 | CL 321.1 | Misappropriation of a bribe intended for a prosecution official | Feb. 7, 2005/ Feb. 10, 2005<br><br>Apr. 21, 2005 Case closed | CL 321.1 CL 320.1 – CL 20.3<br><br>1 person | | |
| Nov. 10, 2004 | CL 319.1 | Negligence in performance of official duties by the chairman of the Rucava Township Council | Dec. 29, 2004/ Jan. 5, 2005 | CL 319.1<br><br>1 person | Sep. 12, 2005 Liepāja Court | Case has not yet been heard |
| Nov. 12, 2004 | CL 275.2 | Forgery of an insurance policy | | | Nov. 16, 2004 Economic Police | |
| Nov. 13, 2004 | CL 318.1 | Abuse of office by SRS officials (Nov. 17, 2004, referred to CPCB by Prosecutor General's Office) | | | | |
| Nov. 25, 2004 | CL 317.2 | Acts of Kolka Township Council official involving real estate transactions | | | | |
| Nov. 25, 2004 | CL 323.1 | Delivery of a bribe from a company director to a bailiff | Dec. 2, 2004/ Dec. 10, 2004 | CL 323.1<br><br>1 person | Apr. 8, 2005 Riga Latgale District Court | Case has not yet been heard |
| Nov. 29, 2004 | CL 319.2 | Negligence of Riga City Council officials in connection with legal action concerning property in Citadeles iela | May 10, 2005 | | | |

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|---|---|---|---|---|---|---|
| Dec. 3, 2004 | CL 317.2 | Abuse of functions by Lottery and Gambling Inspectorate officials | | | | |
| Jan. 12, 2005 | CL 325.1 | Unlawful acts by the board chairman of the Latvian Oncology Centre | Feb. 16, 2005/ Feb. 24, 2005 | CL 325.1<br>1 person | Aug. 29, 2005 Riga Vidzeme District Court | Case has not yet been heard |
| Jan. 19, 2005 | CL 177.1 | 450 LVL overcharged by a *Gaiļezers* Hospital doctor | May 20, 2005/ June 1, 2005 | CL 183.1<br>1 person | Sep. 29, 2005 Riga Vidzeme District Court | Case has not yet been heard |
| Jan. 31, 2005 | CL 183.2 | Extortion of 40,000 LVL by three insolvency administrators | Feb. 18, 2005/ Feb. 26, 2005 | CL 183.2<br>3 persons | | |
| Feb. 4, 2005 | CL 320.2 | Solicitation of a bribe by SRS Liepāja Customs Police Department officials | Feb. 16, 2005/ Feb. 16, 2005 | CL 319.2<br>CL 320.2<br>4 persons | Aug. 3, 2005 Liepāja Court | Case has not yet been heard |
| Feb. 8, 2005 | CL 317.2 | Unlawful sale of land by former Nīca Township Council officials | | | | |
| Feb. 11, 2005 | CL 183.2 | Extortion (referred to CPCB by the Riga Public Prosecutor's Office) | | | Feb. 22, 2005 Jūrmala Police | |
| Feb. 14, 2005 | CL 199.1 | 2,000 LVL delivered by a lawyer in an attempt to persuade a person to withdraw a claim | Feb. 21, 2005/ Feb. 25, 2005 | CL 199.1<br>1 person | Sep. 30, 2005 Riga Centre District Court | Case has not yet been heard |
| Feb. 22, 2005 | CL 319.2 | Failure to act by Jūrmala City Council officials in legal action involving 3 ha of land | | | | |
| Feb. 24, 2005 | CL 318.1<br>CL 328 | Deliberate submission of false information to Education Ministry and State Treasury by employees of the Kuldīga District Education Department | June 1, 2005 | | June 10, 2005 Referred back to CPCB for further investigation | |

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|---|---|---|---|---|---|---|
| Feb. 28, 2005 | CL 318.2<br>CL 195.1 | Abuse of office by Daugavpils City Council officials | Mar. 9, 2005 | | Mar. 17, 2005<br>Referred back to CPCB for further investigation | |
| Feb. 28, 2005 | CL 321.1 | Misappropriation of a bribe (160 LVL) intended for the Traffic Police by a former police officer | Mar. 24, 2005/<br>Apr. 1, 2005 | CL 321.1<br><br>1 person | June 15, 2005<br>Riga Latgale District Court | Jul. 4/5, 2005<br>▪ CL 321.1;<br>sentence: cond. pr.s. 1 yr./p.p. 1 yr.<br><br>In force |
| Feb. 28, 2005 | CL 320.2 | Solicitation of a bribe (40 LVL) by a National Environment Agency inspector | Mar. 8, 2005/<br>Mar. 11, 2005 | CL 320.2<br><br>1 person | | |
| Mar. 18, 2005 | CL 323.2 | Active bribery in connection with election of the Jūrmala City Council chairman | Apr. 12, 2005/<br>Apr. 19, 2005 | CL 323.2<br><br>4 persons | | |
| Mar. 20, 2005 | CL 90 | Obstruction of the right of vote and right to take part in a national referendum | | | Mar. 22, 2005<br>Security Police | |
| Apr. 13, 2005 | CL 323.1 | Active bribery committed by the owner of a medical supply company | Apr. 21, 2005/<br>Apr. 21, 2005 | CL 323.1<br>CL 323.1 – CL 20.4<br><br>2 persons | Jul. 15, 2005<br>Riga Centre District Court | Nov. 2, 2005<br><br>▪ CL 323.1;<br>sentence: cond. pr.s. 2 yrs./p.p. 2 yrs.<br><br>▪ Acquitted under CL 323.1 – CL 20.4<br><br>Not in force |
| Apr. 20, 2005 | CL 320.2<br>CL 320.3 | Solicitation of a bribe by a Riga Police Department inspector | May 17, 2005/<br>May 27, 2005 | CL 320.3<br>CL 320.3 – CL 20.4<br><br>4 persons | | |

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| Apr. 22, 2005 | CL 162.2<br>CL 318.2 | Unlawful acts by a bailiff in execution of a collection order | | | | |
| May 3, 2005 | CL 320.3<br>CL 322.1 | Intermediation in a bribery and acceptance of a bribe for helping to obtain a driver's license | May 12, 2005/<br>May 13, 2005 | CL 318.1<br>CL 322.2<br>CL 323.1<br><br>5 persons | | |
| May 17, 2005 | CL 318.1<br>CL 275.2 | Abuse of office by a Riga Traffic Police officer, forgery of documents by State Agency for Addiction employees | May 26, 2005 | | June 3, 2005<br>Referred back to CPCB for further investigation | |
| May 30, 2005 | CL 320.3 | Extortion of a bribe by a Security Police inspector | June 27, 2005/<br>June 30, 2005<br>1 person | CL 320.3 | Jul. 19, 2005<br>Riga Centre District Court | Aug. 5, 2005<br>▪ Sentence: cond. pr.s. 4 yrs./p.p. 3 yrs.<br><br>In force |
| June 6, 2005 | CL 320.1<br>CL 323.1<br>CL 322.1 | Unlawful acts performed by the head of the State Agency for Addiction and delivery of a bribe to Traffic Police officers | | | | |
| June 6, 2005 | CL 320.2 | Solicitation of a bribe (280 LVL) by a Riga Traffic Police officer | Jul. 26, 2005, case closed by CPCB | | | |
| June 28, 2005 | CL 320.3<br>CL 322.1 | Solicitation of a bribe (15, 900 LVL) by employees of the Insolvency Agency | Jul. 8, 2005/<br>Jul. 19, 2005 | CL 321.1<br><br>1 person | | |

* Date of first prosecution.