On the Road toward a More Honest Society: The Latest Trends in Anti-Corruption Policy in Latvia

By Valts Kalniņš and Lolita Čigāne

Conflicts of interest
Control over property and income
The Bureau for Prevention and Combating of Corruption (KNAB)
Party financing

This paper reports the situation as it existed in January 2003.

The authors

Valts Kalniņš (Chapters I-IV) earned a master's degree in political science from the University of Latvia in 1998. Between 1994 and 1997 he studied political science at Oslo University in Norway, too. He has worked for the Latvian Institute of International Affairs in the field of studying corruption since 1998. He has authored the books "The Judiciary and Corruption" (2001, in Latvian) and "Latvia's Anticorruption Policy: Problems and Prospects" (2002, in Latvian and English).

Lolita Čigāne (Chapter V) earned a master's degree in political economics from the London School of Economics and a master's degree in international relations from the Central European University in Budapest. Since January 2002, she has been the director of the joint project "Openly about the finances of the 8th Saeima election campaign", which was organised by the Soros Foundation - Latvia and the Latvian chapter of the international anti-corruption organisation Transparency International (Delna).

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Executive summary

There were many changes in anti-corruption policies in Latvia during the course of 2002. The 7th Saeima adopted new laws in this area, and the Cabinet of Ministers that was established after the election of the 8th Saeima announced that the fight against corruption would be one of its priorities. This report analyses the new laws, which seek to regulate issues such as conflicts of interest and party financing. The authors have also looked at the strengths and weaknesses of the newly established Bureau for Prevention and Combating of Corruption, or KNAB in its Latvian acronym, and at various ideas concerning stricter control over the properties and income of public officials and other residents of Latvia.

There have been significant achievements in Latvia in terms of improving the laws, which govern these areas. The law "On preventing conflicts of interest in the activities of public officials" states very clearly that no public official may engage in anything that would be a conflict of interest. After amendments were made to the law on the financing of political organisations in 2002, the amount of illegal money, which circulated during the 8th Saeima campaign diminished. Latvia has set up a special anti-corruption agency with extensive authority and with clearly stated responsibility for the fight against corruption in Latvia.

Still, much remains to be done. Consistent attempts to prevent conflicts of interest, greater controls over political party financing and the operations of the Bureau for Prevention and Combating of Corruption will be successful only if the abilities that are created by these laws are used in an energetic, creative and consistent way. Laws, no matter how progressive they might be, must be updated regularly.

If the law on preventing conflicts of interest is to achieve the relevant goals, the government must set out liability for violations of the terms of the law. There must be a situation in which conflicts of interest among public officials become impossible regardless of possible loopholes in the law. Conflicts of interest must also be prevented among members of the Saeima and the Cabinet of Ministers when these people make various proposals or adopt collective decisions.

There is still the problem of corrupt public officials, their relatives and other residents continuing to enjoy the fruit of illegally earned money. If there are doubts about whether someone has obtained his or her property and income in a lawful way, then there must be a demand that the legality of income and property be demonstrated on the basis of a sufficient standard of proof. If such proof is not offered, the property might at least be taxed. In the case of public officials, there could also be other sanctions.

The most important issue when it comes to the prevention of political corruption is control over party financing. The dependency of political parties on their sponsors will not diminish in the near future if strict limitations are not placed on party spending or on the total volume of political party advertising, as well as if the KNAB does not investigate party finances very carefully. There is a need to increase indirect state

financing for parties by awarding more in the way of free airtime to parties during election campaigns. This would ensure that parties have additional opportunities to address society without having to spend more money on advertising. This would also serve as compensation for any ban or limitation on political advertising.

The fact that it took a long time to find a director for the Bureau for Prevention and Combating of Corruption suggested that political parties were not really interested in the success of the bureau's work. Today, we should not demand miracles in terms of the bureau's work, but we do need to take a very careful look at the way in which it performs its functions. The work must provide maximal returns, and it must be as consistent as possible. The bureau must be fully protected against any illegitimate interference by politicians in its work. The bureau must also work as openly and with as much involvement by members of the broader society as possible.

The decisive question here will be whether the politicians who are in power will be truly dedicated in terms of the fight against corruption, placing consistent and serious demands against civil servants, against their political competitors and against themselves.

Introduction

In the summer of 2002, the Latvian Institute of International Affairs, in co-operation with the Soros Foundation - Latvia, published a study of anti-corruption policies in Latvia, looking at problems and prospects in this area. The report analysed ways in which conflicts of interest among public officials are regulated, as well as regulations concerning income declarations and public procurement. The study reflected the situation that existed in December 2001.

Since then, anti-corruption policies have changed in several ways. In 2002, a new law on preventing conflicts of interest in the activities of public officials took effect, replacing an older anti-corruption law. A law on the initial financial declarations of natural persons has been drafted, but not yet adopted. This draft law is aimed at dealing with various aspects of controlling the property and income of natural persons.

The most important innovation, however, may be the establishment of the Bureau for Prevention and Combating of Corruption, or the KNAB in its Latvian acronym. The selecting of a director for the KNAB was a torturous process in the autumn of 2002.

This report is an update to the study that was published in the summer of 2002 and that has become out-of-date in certain ways. A new part here is the analysis of the political party financing system. The Latvian parliament, or the Saeima, amended the system significantly in 2002, thus considerably improving and expanding the system whereby political parties declare their income.

This report makes use of the same definition of corruption and conflicts of interest as the one that was used in the study in 2002. The limited length of this report means that we have included only the previously published and basic definitions of conflicts of interest and corruption, without any much-expanded explanations (see Box No. 1).

Box No. 1. Definitions of conflicts of interest and corruption[1]

Basic definition of conflict of interest: a situation in which persons who are a public sector employees or officials are influenced by personal considerations in the performance of their official duties, as the result of which decisions are made or actions taken for the wrong reasons.

Perceived conflict of interest: a situation in which an official is not actually in a conflict-of-interest situation, but the public and, possibly, the official's superiors and colleagues may get the false impression of an actual or potential conflict of interest.

Potential conflict of interest: a situation in which there is a heightened risk of an actual conflict of interest.

[1] This information adapted and reproduced from: Kalnins, V. "Latvia's Anticorruption Policy: Problems and Prospects", Nordik (2002), p.p.14-15.

Conflicts of interest insofar as the law "On preventing conflicts of interest in the activities of public officials" is concerned: A situation in which a public official who is engaging in his or her official duties, who is taking decisions alone or with others, or who is doing other work that relates to his or her duties is influenced or may be influenced by the personal or financial interests of the public official, the public official's relatives or the public official's business partners (Article 1.5).

Basic definition of corruption: abuse of authority for personal gain.

Corruption insofar as the law on the Bureau for Prevention and Combating of Corruption is concerned: According to the law, corruption involves bribery or any other action on the part of a public official which is aimed at making use or excessive use of the public official's status or authority in order to gain unearned benefits for the official or for another individual (Article 1.1).

I. The role of institutions in preventing corruption

By Valts Kalniņš

Before any analysis of specific laws and government structures, I would like to provide a brief and simplified look at theories about the significance of institutions (including laws for our purposes) in terms of preventing corruption. This theoretical basis is needed because people sometimes wonder why anti-corruption laws are needed at all if those who are in power or those who implement laws at the level of the civil service do not want to follow those laws and do their work honestly. The nucleus for these doubts can be expressed in a brief and cynical statement: "One can write good laws, but in real life many people ignore those laws anyway."

If an institution is defined as a cohort of procedures or as a cohort of repeated and systematic actions, then the concept includes normative acts, as well as the structures of the government apparatus. Among political scientists and among society at large, there is a certain amount of scepticism when it comes to the importance of institutions or procedures in the political process. People say that legal norms are of no importance, because influential participants in the process will always find a way to evade the law.

There are various views in political theory, which award a secondary role to institutions. Politics is sometimes reviewed as something that is subordinated to various external forces such as the social structure of society or the development of technology (contextualism). It is clear that in this case the specific procedures (institutions) with the help of which the political process is organized are of secondary importance only.

Another view sees politics based on agents at the micro level - the correlated or aggregate consequences of the actions of individuals or groups (reductionism). This school of thought holds that the things that happen in politics are the ones, which are desired by individual and/or group actors. Institutions, of course, are in the hands of those very actors. There are other theoretical paradigms, too, which afford a fairly limited importance to institutions as such.[2]

Even though various theories suggest that the role of institutions in political processes and specifically in terms of corruption is negligible, the fact is that academic and public discourse on the problem of corruption assigns an important role to institutions. The failures of institutions are often named as one of the most important causes of corruption. The problem of corruption is not seen as being related to economic poverty or the failure of people to know how to act properly as much as it is linked to the lack of effectiveness in the work of institutions.[3]

The fact is that corruption and the prevention of corruption are both frequently associated with specific institutional models. In Latvia, for example, the so-called Hong Kong

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[2] For a more comprehensive review of these political theories see, for example: March, J.G., Olsen, J.P. "Rediscovering Institutions. The Organizational Basis of Politics", The Free Press (1989).

[3] Caiden, G.E., Dwivedi, O.P., Jabbra, J. Introduction. // Caiden, G.E., Dwivedi, O.P., Jabbra, J. (eds.). .Where Corruption Lives", Kumarian Press, Ins. (2001), p. 5.

model is often cited because the Independent Commission against Corruption in that country is seen as having been particularly successful. In the literature, too, one finds serious analysis in which authors consider the introduction of a similar institutional model, albeit with certain prerequisites, to be an important factor in reducing the spread of corruption.[4] Discussions about anti-corruption policies also focus on the way of changing administrative procedures in a way which will lead to fewer opportunities to become involved in corrupt practices and will reduce motivations to do so.[5] It does, in fact, seem logical to conclude that easier opportunities to appeal administrative decisions and strict guidelines on the work of civil servants will serve to reduce the ability of civil servants to engage in arbitrary practices to force people to pay bribes or to satisfy the needs of those who have given bribes. Some authors have produced a formula which is aimed at reducing the discretion and monopoly of power of public officials to a maximum extent while simultaneously strengthening the requirement that they must account for their activities. This formula is seen by those authors as one of the most effective recipes for fighting against corruption.[6]

At the same time, however, the frequently mentioned Hong Kong institutions (and, by the way, other countries in South-eastern Asia have also introduced independent anti-corruption institutions) must be seen only as an instrument in the hands of political actors when it comes to the situation in Latvia: The experience of Singapore and Hong Kong in reducing corruption shows that corruption can be reduced only when political leaders are truly committed to this process and when they implement all-encompassing anti-corruption programmes in an impartial way.[7]

It seems that a realistic approach is one in which anti-corruption institutions are seen as only one part of a set of factors that are of importance in preventing corruption. The range of these factors will differ significantly from one society to another, but one of the mandatory factors in most cases is commitment on the part of the political elite.[8] What's more, any specific institutional model can be turned into a political weapon against political opponents when conditions are unfavourable. An excessive focus on anti-corruption institutions also creates the risk that those who seek to reduce corruption will not be devoting sufficient attention to various structural and other factors which promote corruption.[9] One can say with certainty that in every society, the situation with corruption is dictated by a whole series of factors in that society - the level of economic and technological development, the geopolitical situation, the dominant values that exist, etc.

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[4] See, for example: Klitgaard, R. "Controlling Corruption", University of California Press (1991).

[5] Many authors voice such an opinion. One example thereof is the concluding chapter "A Culture of Corruption? Support, Priorities and Prospects for Reform" in the following book: Miller, W.L., Grodeland, A.B., Koshechkina, T.Y. .A Culture of Corruption? Coping with Government in Post-communist Europe", Central European University Press (2001).

[6] Klitgaard, R., Maclean-Abaroa, R. and Parris, H.L. "Corrupt Cities. A Practical Guide to Cure and Prevention", ICS Press (2000), p.p. 26, 27.

[7] Quah, Jon S.T. Combating Corruption in the Asia Pacific Region. // Caiden, G.E., Dwivedi, O.P., Jabbra, J. (eds.). "Where Corruption Lives", Kumarian Press, Inc. (2001), p.p. 141, 142.

[8] See, for example: Rose-Ackerman, S. "Corruption and Government. Causes, Consequences and Reform", Cambridge University Press (1999), p. 161.

[9] Ibid., p.p. 161, 162.

The institutions, laws and administrative structures that are reviewed in this paper must be seen as instruments in the fight against corruption. A building engineer uses instruments to put up a house or to construct furniture, but that will happen only if the builders want to do the work. Similarly, attempts to enhance anti-corruption instruments will make sense only if there are people who are ready and willing to use them in an effective way.

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1. Caiden, G.E., Dwivedi O.P., Jabbra, J. (eds.). "Where Corruption Lives", Kumarian Press, Ins. (2001).
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II. Regulating conflicts of interest

By Valts Kalniņš

On April 25, 2002, the Latvian Saeima approved a law "On preventing conflicts of interest in the activities of public officials". The main motivation for the adoption of this law was the fact that the previous anti-corruption law had certain shortcomings to it. The new law regulates conflicts of interest, sets out a series of limitations and prohibitions in relation to public officials, and specifies the mechanism by which public officials declare their property status and the declarations are then checked.[10] The Bureau for Prevention and Combating of Corruption has been assigned the duty of monitoring the way in which the law is implemented, but the fact is that at the end of 2002, it was the Corruption Prevention and Control Division of the State Revenue Service (VID) which was in fact doing that work.

The scope of this paper is insufficient to provide a full analysis of the law on the prevention of conflicts of interest and its implementation, so the author will instead address specific problems that become clear when the text of the law is read, as well as a few specific instances when there have been suspicions that a public official is facing a conflict of interest. In reviewing the text of the law, the author has considered the range of public officials who are affected, the capacities of the institutions which are supposed to control the situation, the extent to which the law is in conformity with the requirements of Latvia's Administrative Violations Code, and the way in which conflicts of interest are regulated in relation to political officials.

A few problems in regulating conflicts of interest

The range of officials who are covered and the capacity of control mechanisms: The law on preventing conflicts of interest has a fairly precise list of those officials to whom the law applies. Unlike the old anti-corruption law, the new law also covers those people who hold positions outside of state or local government institutions in those cases when the state or a local government has delegated functions that are set out in the law to that individual for a temporary or ongoing period of time.[11] The fact that limitations concerning conflicts of interest are now applied to people who are engaged in such delegated functions is completely justified. By the end of 2002, however, the full list of such individuals had not yet been identified.[12]

It is also true that the law on preventing conflicts of interest does nothing to deal with an earlier problem - the range of public officials is too extensive to allow the control institution to engage in a high-quality check of all declarations and possible conflicts of interest without having to spend excessive resources for this purpose. There were 46,085 people on the list of officials as of January 1, 2003, based on the information coming

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[10] Likums "Par interešu konflikta novēršanu valsts amatpersonu darbībā" (Law "On preventing conflicts of interest in the activities of public officials"), Article 3, "Latvijas Vēstnesis", May 09, 2002.

[11] Ibid., Article 4.3., "Latvijas Vēstnesis", May 09, 2002.

[12] Author's interview with Anda Krastiņa, Head of the Corruption Prevention and Control Division of the State Revenue Service, November 25, 2002.

from the heads of the various relevant institutions.[13] One way of ensuring that checks of declarations are exhaustive and of proper quality without in fact having to spend huge sums of money on the process is to check the declarations of a comparatively small number of officials, selecting those declarations that are to be checked on a random basis or in accordance with specific criteria. This is particularly important because the law on preventing conflicts of interest says that the controlling institutions "shall check the declarations of all of the public officials referred to in Article 4.1 of this law".[14] On May 1, 2002, the number of officials who were covered by that article of the law was around 38,000[15]. The Corruption Prevention and Control Division of the VID, by contrast had only 51 employees at the end of 2002. The Bureau for Prevention and Combating of Corruption probably would not be able to assign a larger number of employees to the job. It is clear that with such human resources, it is simply impossible to analyse 38,000 declarations in any truly meaningful way.

According to one VID official, the agency's Corruption Prevention and Control Division has instituted a practice in which the declarations of public officials and allegations of conflicts of interest are investigated in all of those cases when the mass media have signalled the need for such a check. There are methodical instructions for the selection of other cases for investigation. The VID has also received complaints from employees in certain institutions about the possibility of conflicts of interest or other violations of the law on the part of colleagues. The experience of the VID shows that it is possible to put methods into place which allow the institution to select a sensible number of public officials for investigation, which, in turn, allows those inspections to be meaningful.

The extent to which the law is in conformity with Latvia's Administrative Violations Code: Efforts to regulate conflicts of interest are hampered by the fact that the issue of administrative liability has not yet been resolved properly. The law on preventing of conflicts of interest lists specific limitations against the activities of public officials which may fail to cover potential situations involving conflicts of interest, but it is the duty of public officials to report on possible or existing conflicts of interest in any event. The result of this is that the relevant functions are entrusted to other officials instead.[16] The

[13] VID Korupcijas novēršanas kontroles daļas pārskats par valsts amatpersonu deklarāciju pārbaužu rezultātiem VID CA un TI no 01.01.2002 līdz 01.01.2003. 15.01.2003. (The Corruption Prevention and Control Division of the State Revenue Service, Report on the results of checks on declarations of public officials, January 01, 2002 till January 01, 2003).

[14] Likums "Par interešu konflikta novēršanu valsts amatpersonu darbībā" (Law "On preventing conflicts of interest in the activities of public officials"), Article 27.3, "Latvijas Vēstnesis", May 09, 2002, December 30, 2002.

[15] Author's interview with Anda Krastiņa, Head of the Corruption Prevention and Control Division of the State Revenue Service, November 25, 2002.

[16] Article 21.1 of the Law "On preventing conflicts of interest in the activities of public officials" states: „Public officials shall without delay provide information in writing to a higher public official or collegial authority regarding: 1) their financial or other personal interest, as well as financial or other personal interest of their relatives or counter-parties regarding the performance of any action included in the duties of their office; 2) commercial companies the shareholder, stockholder, partner, member of a supervisory, control or executive body of which the public official is or his or her relatives are, or on the fact that the public official himself or herself or his or her relative is an individual merchant who receives orders from the relevant State or local government authority for the procurement for the State or local government

Administrative Violations Code does not specify liability in those instances when the public official has not reported on a conflict of interest. Neither does it set out liability for heads of institutions who have allowed their subordinates to do certain things (handle two different jobs at once, for instance) even if they lead to a conflict of interest. An official can receive authorisation from his or her direct superior to do two jobs. However, there is no legal liability if the person who requests the permission has not informed the superior about conditions which give rise to a conflict of interest or if a conflict of interest emerges after the authorisation is received.[17]

Another problem related to the Administrative Violations Code, according to the VID Corruption Prevention and Control Division, is a norm which says that administrative sanctions can be applied no later than two months after the date on which a violation has been committed or, in the case of violations that have persisted for a longer period of time, within two months after their having been discovered.[18] The bottom line here is that public officials cannot be brought to administrative liability because of Article 166 of the Administrative Violations Code, which sets out no sanctions for the filing of false information in a public official declaration if the falsity of the information is discovered later than two months after the filing of the declaration. It would be entirely sensible to amend the law to say that public officials can be punished after the period of two months has expired, too.

Regulations of conflicts of interest in relation to political public officials: Regulations concerning conflicts of interest are also incomplete when it comes to political officials - members of Parliament and the Cabinet of Ministers - when they develop and accept "political" decision (e.g., when they vote on draft laws). Article 11.5 of the law on prevention of conflicts of interest states very clearly that "the limitations on issuing administrative acts that are set out in this article shall not apply to deputies of the Saeima and members of the Cabinet of Ministers who participate in the issuing of administrative acts in accordance with the relevant norms."[19]

This problem can be illustrated through the following example: Let's say that a deputy writes a draft law, which, if passed, would provide significant material benefits for the deputy's wife. The deputy is the chairman of the commission that is assigned to consider the law, and in that case the whole process is a conflict of interest. Latvian law contains no limitations whatsoever on this possibility.

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needs, State or local government financial resources, credits guaranteed by the State or local governments or State or local government privatisation fund resources, except the cases where they are allocated as a result of an open competition." In such cases the functions of the public official in question are assigned to another public official (Article 21.2). "Latvijas Vēstnesis", May 09, 2002.

[17] At the time of writing this paper, however, the parliament was considering amendments to the Administrative Violations Code, which would at least partially address these flaws.

[18] Latvijas Administratīvo pārkāpumu kodekss (the Administrative Violations Code), Article 37; "Ziņotājs" (1984), No. 51; "Ziņotājs" (1991), No. 41.

[19] Likums "Par interešu konflikta novēršanu valsts amatpersonu darbībā" (Law "On preventing conflicts of interest in the activities of public officials"), Article 11.5, "Latvijas Vēstnesis", May 09, 2002.

There should be legislative self-regulation in the Saeima. The special status of the parliament means that regulations cannot be forced upon deputies from the outside. The fact is that deputies themselves should reach agreement on a code of ethics or other regulations that are aimed at eliminating conflicts of interest among deputies which are not regulated in the law on preventing conflicts of interest. Elsewhere in Europe self-regulation among parliamentarians is one way of ensuring that deputies work on behalf of the people and that the trust which they have received from voters is justified. In Great Britain, for instance, all issues concerning conflicts of interest and ethics in relation to MPs are handled by the parliament itself (see Box No. 2).

Box No. 2. Regulations concerning conflicts of interest among elected representatives to the parliament of Great Britain and to local governments in Bavaria

Since November 1995, the self-regulation of MPs in Great Britain has been supervised by the Parliamentary Commissioner for Standards. The Standards and Privileges Committee was established in 1996. The commissioner's main duty relates to the registers in which the financial and other interests of MPs, their employees and parliamentary journalists are noted. The House of Commons (the lower house of Parliament) has always banned MPs from voting on issues which relate to their personal benefit, but the fact is that the official register of interests has existed only since 1975. MPs are expected to declare any and all interests that may be of importance when they take part in debates, when they undertake investigation duties in commissions, when they present questions, proposals, amendments and the like. The commissioner must also supervise the code of ethics for MPs, which the House of Commons adopted in July 1996. The commissioner offers advice to the Standards and Privileges Committee on the interpretation of the code and on its implementation.[20]

Another example comes from local governments in Germany, where we can see that conflicts of interest among MPs or other elected officials can also be regulated by setting out precise limitations on participation in meetings and on voting. Article 49 of the law on local governments in Bavaria is titled "Elimination of personal involvement" and reads as follows: "(1) No member shall take part in meetings or votes if the relevant decision would produce direct benefits or losses to the member, the member's spouse, relative or any individual who is related to the official through marriage to the third degree, or any natural or legal person who is represented by the member in accordance with the law or through an attorney-client relationship. The same is true when a member has submitted an expert's view in a capacity that is not a public capacity. (2) The council of the local government shall make judgments on the existence of such conditions without the participation of the person who is involved. (3) When a member has taken part despite the existence of personal interests, the decision shall be repealed if the participation of the member has been decisive in terms of the voting result.[21]

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[20] Silk, P., Walters, R. "How Parliament Works", 4th edition, Longman (1998), p.p. 28, 29, 211.
[21] Local Government Law, Free State of Bavaria (Bayerische Gemeindeordnung), Article 49, http://www.iuscomp.org/gla/index.html Last accessed on January 16, 2003.

Instances of possible or real conflicts of interest

The author has selected several instances of the application of the law on preventing conflicts of interest in 2002 so as to analyse the way in which it works in practice. In some cases there have been suspicions among the public on the possibility of conflicts of interest on the part of certain public officials, and the resulting conclusion is that the law has not been broken, but there may be shortcomings in the regulations concerning the activities of public officials. The law took effect only on May 10, 2002, but by the end of 2002 there was a fairly large number of instances when the law had been applied. The author has chosen not to state the names of those officials who were involved. Readers who have monitored the described processes may know the identity of the people who have been involved, but the aim here is to focus on the fundamental issues, not on the activities of specific individuals.

The chairman of the Rīga City Council and the director of the council's Information and Public Affairs Division: In August 2002, the chairman of the Rīga City Council began to build a home for himself in Ādaži Parish, doing so on land that was owned by the director of the Rīga City Council's Information and Public Affairs Division. On April 3, 2002, the chairman and the division director concluded an agreement which said that by the end of the year, the two of them would conclude a lease-to-purchase agreement on the relevant share of the real estate so that it could be leased to the council chairman.

On September 4, the two partners concluded the lease agreement. According to the agreement, the division director transferred to the council chairman and the council chairman accepted from the division director the real estate and the building on the real estate, providing for a system whereby the leasing fee would be paid in shares, on the basis of a separate agreement and over the course of 10 years.

The two public officials may have violated the law on preventing of conflicts of interest because of the positions in local government, which they held. The VID Corruption Prevention and Control Division found that from July until September 4, 2002, the chairman of the City Council had accepted land usage rights from the division director, thus accepting a gift of the type that is described in the law on preventing of conflicts of interest. To wit, Article 13.1 of the law says that a public official may not accept direct or indirect gifts. Article 13.2 says that a gift is any property or other type of benefit, including services, the transfer or rights, the exemption of obligations, or the waiver of rights for the benefit of the public official or a relative of the public official. The chairman of the City Council was found guilty of a violation and fined 150 lats.[22]

Once the lease agreement was concluded on September 4, the land was no longer a gift, but now there was a different problem - the council chairman was engaging in a relationship of transactions with one of his subordinates. The VID continued its investigation and found that the division director had transferred real estate to the use of the City Council chairman. According to the law on preventing of conflicts of interest,

[22] Decision by a public official of the State Revenue Service to apply administrative sanctions. September 05, 2002.

such transactions must be declared. The division director, according to the same law, must be seen as a business partner of the City Council chairman.

The law on prevention of conflicts of interest says that a public official who is engaged in the duties of his position may not prepare or issue administrative acts, engage in supervision, control, reporting or punishment functions, conclude agreements or engage in other activities in which the public official or his relatives or his business partners have a personal or material interest. The "other activities" that are mentioned in the law include the taking of internal decisions in an institution, as well as other specific activities that are in line with the competence of a public official.

The job description of the director of the Information and Public Relations Division tells us that the official is subordinated to the chairman of the Rīga City Council. In October 2002 the VID informed the chairman of the council of the limitations that are set out in the law, stating that the law must be observed in relation to the director of the Information and Public Relations Division who was simultaneously a business partner of the council chairman's.[23]

On October 25, 2002, a court in Liepāja considered a petition from the Rīga City Council chairman on the VID decision to summon him to administrative liability and to fine him. The court upheld the complaint and repealed the VID decision.[24] The VID appealed to the Kurzeme Regional Court, but the case had not been heard at the time when this paper was written. The Bureau for Prevention and Combating of Corruption had also launched an investigation of whether the chairman of the City Council had violated the law by engaging in a business transaction with his subordinate.

No final conclusions had been drawn as of this writing. The KNAB had not completed its investigation and the court case was still pending. If it is found in the end that the law was violated, then it will be clear that the approach which has been taken in Latvia with respect to conflicts of interest is the right one in the sense that the issue is controlled by a specialised institution instead of the heads of the institutions which are covered by the law. The control institutions, however, must be ready to engage in very complicated investigations in relation to the highest ranking public officials, too. The heads of the institutions themselves may be the focus.

The chairman of the Ventspils City Council and public organisations: The chairman of the Ventspils City Council has attracted attention in relation to the possibility of a conflict of interest because he has served not only as the chairman of the council, but also as the board chairman of a public organisation that is called the Business Development

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[23] Director general of the State Revenue Service Sončiks, A. To the Chairman of Riga City Council Bojārs, G. On the observance of the requirements of the law "On preventing conflicts of interest in the activities of public officials". October 2002.

[24] Director general of the State Revenue Service Sončiks, A. Appeal claim with regard to the judgment of Liepaja court on October 25, 2002 in the case No. C20-381602/6 about the decision of Anda Krastiņa, Head of the Corruption Prevention and Control Division of the State Revenue Service on September 05, 2002. (2002).

Association (BAA). Since the summer of 2001 he has been paid LVL 10,000 a month for this - LVL 120,000 a year.[25]

An annual report from the BAA tells us that in 2001 the organisation received a donation of LVL 70,000 from the Ventspils Development Agency (VAA). The VAA was set up more than four years ago, its president is the chairman of the Ventspils City Council and its main goal is to establish marketing strategies and publicity for Ventspils. The VAA annual report indicates that the agency, which, according to its statutes, "survives" on the basis of donations (in 2001 it received a targeted donation from the oil transit firm Ventspils Nafta of LVL 30,000 for the marketing of the city), membership fees (LVL 35,000) and other legally permitted sources of income (LVL 31,727), donated a significant sum of money to the Business Development Association.

Now, there are at least two important factors to consider here when the issue is a conflict of interest. First of all, the activities of the chairman of the Ventspils City Council can be seen as a violation of the ethical rules that apply to public officials. Article 22.2 of the law on preventing of conflicts of interest says this: "A public official shall refrain from engaging in his duties or from merging the public official's duties in all such cases when the impartiality and neutrality of the said duties might be called into question for ethical reasons". What is more, the Ventspils City Council and its chairman take decisions that can influence the activities of companies that are run by several founders or board members of the BAA and VAA, and this means that here we are dealing with a very high risk of conflict of interest indeed. An in-depth and all-encompassing investigation would be needed to reveal whether conflicts of interest really have persisted there.

It is also true that this story causes serious doubts about the fact that the law basically allows public officials to hold positions in public organisations virtually without any limitations at all. Article 7.5 of the law on prevention of conflicts of interest says that "the chairmen of local government councils [..] may merge the job of a public official [..] with a job in a public, political or religious organisation". The fact is that a job in a public organisation can involve interests, which have a deleterious influence on the ability of the public official in doing his or her official job.

The prime minister and a trip on a private yacht: In the summer of 2002, Latvia's prime minister spent some of his holiday on a yacht which belonged to a wood processing company. The yacht toured the coastline of Turkey. People asked whether this involved a conflict of interest or even an instance of corruption. The prime minister said that he went on the trip with family friends who were associated with the company. Those who took the trip paid for it in equal shares.

The idea that the situation involved a conflict of interest was promoted by the fact that in 2001 the government had supported an investment project at the wood processing company that was worth approximately LVL 16.1 million. The law "On the company income tax" allowed the company to receive a 40% tax break on money that was invested in development, but only if this happened in the context of a government-approved major

[25] Trops, J. "Lemberga maks pildās tranzītnieku naudas ķēdē", newspaper "Diena", August 29, 2002.

investment project, one in which at least LVL 10 million would be invested over the course of three years' time.

The VID investigated the case and found that there was no reason to question the lawfulness of the instruction which the Cabinet of Ministers issued on December 27, 2001, on the investments which the wood processing company had made under the auspices of the supported investment project.[26] As far as the trip on the yacht was concerned, the VID spoke to an employee of the wood processing company who was the senior company official on board the yacht during the trip. She and the prime minister offered information which led the VID to conclude that the trip could not be considered a gift to the prime minister because he and his wife had paid for the trip and the services that had been provided.

The problem in this instance is that there are no clear limitations on the activities of members of the Cabinet of Ministers and their conflicts of interest in relation to decisions that are taken collectively by the whole Cabinet of Ministers if the officials are related to or gain benefits from people who have gained from the government decision. It is also quite difficult to check whether in such instances the public officials really have paid for the received benefits themselves. The explanations, which the involved people submit during an investigation, are not always very trustworthy. Once an official learns that the controlling institution has started to look at the case, he or she can prepare bills and other documents of confirmation retroactively.

A trip taken by a deputy from the Rīga City Council: On the basis of media publications, the Corruption Prevention and Control Division of the VID investigated the possibility of a conflict of interest which emerged when the chairman of the Rīga City Council's Traffic and Transport Affairs Committee took a trip to France at the expense of a French company called Systra. The VID received information from the Rīga City Council to say that the trip was based on an invitation from the French embassy and in the context of French government financing under the auspices of a programme that had been established by the Ministry for Economics, Finances and Industry of France. The Rīga City Council and the Systra company had signed a memorandum on co-operation in researching the possibility of introducing rapid trams in Rīga. The City Council said that the travel and accommodation expenses of the committee chairman - EUR 961 in all - were covered by the French government under the auspices of the aforementioned programme.

An advisor to the French embassy to Latvia told the VID that the French government had indeed provided support to Latvia by granting money to the ministerial programme, adding that it was under the auspices of the programme that Systra was engaging in preliminary studies in the city of Rīga. The advisor also confirmed that the trip was paid for by the French ministry programme.

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[26] Director general of the State Revenue Service Sončiks, A. To the Editor-in-chief of the newspaper "Neatkarīgā Rīta Avīze" Bērziņš, A. On the Prime minister Bērziņš, A. October, 2002.

The VID found that the chairman of the Rīga City Council's Traffic and Transport Affairs Committee had not violated the law insofar as the acceptance of gifts is concerned. He did not receive gifts or any material or other benefits during his performance of official duties because the trip was financed not by a privately held foreign company, but rather by the French government through a co-operation programme.[27]

There have been also other instances in Latvia when foreign companies have paid for the foreign travel of public officials and the money has in fact come from the relevant foreign governments through these companies. From the perspective of the law, one can question whether it is a proper conclusion to think that the issue of whether a public official has or has not received a gift depends on the issue of whether the specific benefit came from a private company or a foreign government. The law on preventing of conflicts of interest does not speak to any differentiation in this case. The norms must clearly be improved. In many cases public officials go on trips which are financed by foreign governments and which do not create any suspicions that the process might be one in which the public official is then hindered in the proper performance of his duties, but there is no reason to think that such services from other governments can never create a conflict of interest. This is an issue that might be of particular importance in those cases when the interests of a foreign government are different from those of the Latvian state.

Summary

At the conclusion of the chapter the author would like to present a summary of shortcomings in the way in which conflicts of interest are regulated in Latvia (Table No. 1). Some of these shortcomings have been reviewed in greater detail in this chapter, while others are merely listed in the table. One example is the fact that the range of individuals who are covered by the term "relative" in the law is quite narrow - more narrow than the range of people covered by the draft law on organisations of public benefit that had been approved by the Saeima on first reading at the time when this paper was produced. The norm says that organisations of public benefit may not issue loans, guarantees, notes or other financing to their founders, to members of their boards and other administrative institutions (when present), or any other individual with similar material interest, especially spouses, relatives and in-laws, covering relations to the second degree and in-law status to the first degree.[28] Thus the range of relatives is far more extensive than is specified in the law on preventing conflicts of interest (father, mother, grandmother, grandfather, child, grandchild, adopted child, adoptive parent, brother, sister, stepsister, stepbrother, spouse).

Table No. 1. Shortcomings in the regulation of conflicts of interest

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[27] Anda Krastiņa, Head of the Corruption Prevention and Control Division of the State Revenue Service. On official travel by Pilsums, G. November 29, 2002.
[28] Draft law "Public benefit organizations law", Article 11. Adopted in 1st reading on December 19, 2002. www.saeima.lv Last accessed on February 02, 2003.

Shortcoming	What should be done
There are too many declarations to be checked under the existing control mechanisms.	The number of checked declarations should be reduced and various methods should be implemented to select those declarations that are to be checked.
The Administrative Violations Code does not specify liability for a series of violations - cases when a public official has not reported on a conflict of interest or has continued to make use of permission to merge two jobs even when a conflict of interest has already emerged. Neither does the law specify liability for the heads of institutions who allow their subordinates to engage in conflicts of interest.	The Latvian Administrative Violations Code must be harmonised with the law “On preventing conflicts of interest in the activities of public officials”.
There are inadequate regulations concerning conflicts of interest among MPs and members of the Cabinet of Ministers.	The Saeima and the Cabinet of Ministers should accept their own rules on conflicts of interest and/or ethics. An alternative would be to introduce additional requirements in the law "On preventing conflicts of interest in the activities of public officials".
In practice, the requirement in the law on preventing conflicts of interest that public officials refuse to engage in their duties or to merge their duties anytime when the objectivity or neutrality of the official’s work might be called into question for ethical reasons is not being observed.	Educational steps must be taken. Laws must specify liability for failure to satisfy this requirement. People who violate the requirement must be summoned to liability.
Special limitations on the merger of duties by public officials allow some groups of officials to merge their official jobs with posts in public, political or religious organisations, or with work as teachers, scientists, doctors or artists, without specifying that this is permitted only if no conflict of interest emerges.	The law must say that a merger of duties is prohibited if there is a conflict of interest.
Some groups of officials face excessively strict requirements on the merger of duties.	Limitations for some groups of officials should be set out only in reference to cases when there might be a conflict of interest.
Limitations on conflicts of interest do not apply to people who do publicly important jobs but are not public officials - e.g., doctors and teachers.	Limitations against conflicts of interest must be set out at various levels for other people, too, not just for public officials. These limitations might be less detailed than those which apply to public officials, simply so that control work is made easier.
Investigations of conflicts of interest are often aimed at finding whether public officials have violated specific limitations, not whether they have been in a conflict of interest.	Investigations related to conflicts of interest should focus mostly on the issue of whether the public official is or is not in a conflict of interest, even if violations of specific limitations have not been determined.
The range of relatives referred to in the law on conflicts of interest is too narrow.	The range of relatives should be expanded.

In other cases, however, the limitations that are set out in the law are too strict. Article 7.3 of the law on preventing conflicts of interest, for instance, says that a professional member of the National Armed Forces could not be a board member in an animal lovers' organisation, because the law says that he cannot hold any positions in public organisations. There may be other excessive limitations, too, which could be discovered through a more thorough analysis of the law.

Another ongoing problem in Latvia is the fact that the limitations on conflicts of interest apply only to public officials. There are publicly financed sectors such as medicine and education in which not only public officials are employed but in which conflicts of interest among such people as doctors or teachers might seriously reduce the ability of those institutions to serve the public interest.

The fact that this chapter deals mostly with shortcomings in the regulation of conflicts of interest, however, does not mean that the regulations have not been developed to a very significant degree already. If we analyse the way in which norms have been improved, we see clearly that the move has been toward the complete prohibition of conflicts of interest in the activities of Latvian public officials. The law on preventing conflicts of interest contains the general requirement that public officials must submit written information to their superiors or to a collegial institution forthwith if it is found that the material or other personal interests of the public official, his relatives or his business partners might be affected through activities which are covered by the official's job description.[29] If the parliament were to accept and then strictly implement amendments to the Administrative Violations Code so as to set out liability for public officials who are in a situation of a conflict of interest or who engage in functions which represent the conflict of interest, then the impermissibility of true conflicts of interest might become a universally respected principle, too.

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4. Local Government Law, Free State of Bavaria (Bayerische Gemeindeordnung), Article 49, http://www.iuscomp.org/gla/index.html Last accessed on January 16, 2003.

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[29] Likums "Par interešu konflikta novēršanu valsts amatpersonu darbībā" (Law "On preventing conflicts of interest in the activities of public officials"), Article 21.1.1, "Latvijas Vēstnesis", May 09, 2002.

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1. Trops, J. "Lemberga maks pildās tranzītnieku naudas ķēdē", newspaper "Diena", August 29, 2002.

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1. Author's interview with Anda Krastiņa, Head of the Corruption Prevention and Control Division of the State Revenue Service, November 25, 2002.

III. Control over property and income

By Valts Kalniņš

One of the most important problems in preventing corruption in Latvia is the fact that it is not easy to determine the way in which public officials or their relatives obtained their property if the relevant public official indicates sources of income that cannot be checked or that existed a long time ago. This is a problem, which was analysed in the study "Latvia's Anticorruption Policy: Problems and Prospects". There has been much talk in Latvia about the introduction of initial or so-called zero-based property declarations as a way of dealing with the problem. The study, which was published in the summer of 2002, explained the idea of initial declarations as follows:

"In public debates in Latvia, experts, politicians and journalists have frequently spoken of the so-called **initial declaration** of assets (alternatively – zero declarations) as an effective anticorruption instrument. As can be understood from a number of public debates on the topic, the idea is to prevent situations in which corrupt officials, whose property value greatly exceeds declared income, can cite previous, unverifiable sources of income (such as growing flowers or selling pork during the Soviet era). In order to prevent this type of situation, such persons would be required to declare all property that they possess at a certain point. To make it more difficult to hide property under the name of other persons, declarations would have to be filed not only by public officials, but by the whole population. Once such initial declarations had been filed, government institutions would be able to monitor all increases of personal property. What is described here is not a technically precise description of the model, but rather the widespread public perception of the project."[30]

At the end of 2001, the government elaborated a draft law on initial declarations for natural persons, but more than a year later, at the beginning of 2003, it had not yet been approved. This means that the situation in terms of initial property declarations has not changed in any significant way and that no such law has yet been passed. For that reason, the author will consider problems that have been already identified previously.

Certain changes, it must be said, have been introduced in the new law "On preventing conflicts of interest in the activities of public officials" insofar as control over the property and income of public officials is concerned. The law now requires public officials to produce more complete information in their declarations. They must declare not just the real estate and motor vehicles that they own, but also the real estate and motor vehicles that have been provided for their use. Leased real estate and leased motor vehicles are a part of the requirement.[31] This means that a public official can no longer legally hide properties that are registered under someone else's name but that are actually used by the public officials themselves. True, the obligation of declaring such properties does not resolve the problem which exists when officials have obtained property through

[30] Kalniņš, V. "Latvia's Anticorruption Policy: Problems and Prospects", Nordik (2002), p. 38.

[31] Likums "Par interešu konflikta novēršanu valsts amatpersonu darbībā" (Law "On preventing conflicts of interest in the activities of public officials"), Articles 24.1.4. and 24.1.6, "Latvijas Vēstnesis", May 09, 2002.

unlawful means (by accepting a bribe, for instance) which is then registered under someone else's name.

The idea of initial property declarations is basically an attempt to use these one-time declarations in order to ensure that properties and, later, income levels are denoted as completely as they are under the auspices of tax systems in some Western European countries. It is not known, however, whether any of those countries managed to achieve effective notations of property and income with the help of a one-off campaign. It is more likely that the current situation in those countries is the result of a lasting process in which tax collection systems have been improved step by step. This process, in turn, has probably been influenced by a variety of other social processes, including relationships between various social groups and political structures (see Box No. 3, which addresses the issue in Great Britain).

Box No. 3. Introduction of the income tax in Great Britain

As the author was writing this chapter, he found a book by Professor Robert Neild from Cambridge that was called "Public Corruption: The Dark Side of Social Evolution". In it, the economics professor describes an important episode in the history of the British tax system in the late 18th and early 19th century. Here is a quote from Neild's book:

"[Prime minister] Pitt left his mark on the public finances. He strengthened control of public expenditure. He attacked smuggling by drastically cutting the duty on tea, which was so high that encouraged smuggling rather than yielding revenue. He applied the same approach to wines and spirits. He strengthened the enforcement of the Customs duties. And in 1799 he took the step, which was brave even in time of war, of introducing a true income tax in place of the previous jungle of taxes related to wealth, which had included taxes assessed by reference to carriages, clocks, man-servants, windows and other symbols of wealth.

In the event, Pitt's war income tax, which relied on declarations by individuals or firms of their income, brought in disappointingly little revenue. Nevertheless it paved the way, politically, for Addington who was prime minister from 1801 to 1804, to introduce in 1803 a new version of the income tax that incorporated the more effective device of deduction at source whereby the collectors went straight to the source of income instead of going to the recipient of income. For example, in the case of holders of the Funds, the source of income was the Bank of England, which paid the interest. If tax, which was at a flat rate, was deducted from the interest before it was paid, the government was sure of 100 per cent collection of tax on that type of income and the recipient had no means of evasion. That is the simplest case, in theory at least. In practice, political opposition [..] delayed deduction at source with respect to the Funds, but when it was finally introduced in 1806, it produced marked increase in the revenue.

A more interesting case is the application of the system to land, to which deduction at source had been applied in a more rudimentary way under the old land tax. By Addington's time most agricultural land in England had been enclosed. That is to say,

tenant farmers had been established on large farms to which they applied new methods of agriculture from the profits of which they were able to pay good rents to their landlords. [..] Tax on rents was collected directly from tenant, who suffered no loss by paying 5 per cent of their rent to the tax collectors rather than to their landlords. The landlords, who as a class were still involved in tax collection as local commissioners of tax, were trapped. They could not readily evade the tax; and while war against Napoleon continued, they could not politically oppose it without restraint – though they saw to it that the income tax was abolished as soon as the war was over. The government trapped the tenant farmers as regards their profits from farming by the device of assessing those profits at three-quarters of the rent they paid their landlords.

The collection of the tax from traders and manufacturers was less easy, since the source of income and the recipient were usually one and the same person, and their account must often have been rudimentary. Nevertheless, enforcement seems to have become relatively efficient as regards traders and manufacturers. One can see a possible explanation. Once the landowners and rentiers were caught by deduction of tax from their incomes at source, they may have resented the idea that traders and manufacturers should escape. Previously, the landowners, rentiers, traders and manufacturers must all have been doing their best to avoid the assessed taxes, bricking up windows and concealing taxable objects, with the result that there was an implicit alliance, or at least a common interest, in tax avoidance and evasion amongst the classes. The new war tax may have broken that alliance: the landowners and rentiers, caught unequivocally by the tax, must have felt sore when they heard evidence or rumour of their social inferiors in trade and manufacturing avoiding it; and if that is right, they are likely to have used their influence in parliament and in the country to support the enforcement of tax collection from the traders and manufacturers.

Tax enforcement was strengthened by Parliament in 1805, 1806 and 1808 when more powerful central tax collecting machinery, run by civil servants, and including itinerant inspectors, was superimposed on the traditional local machinery run by the local elites."[32]

This look at the history of the British tax system allows us to draw several general conclusions that may be of importance to Latvia. First of all, this example illustrates the fact that an effective tax system emerged not because of a one-off campaign (initial property declarations or the like), but rather as the result of fairly long-lasting evolution under the influence of various political, economic and social circumstances. It would be wrong to believe, of course, that this means that Latvia should postpone the further improvement of its tax system to some distant point in the future, but the government also should not accept the illusory idea that a one-off event will yield major results. It is also true that this example shows that the introduction of a relatively effective tax collection system was possible without complete determination of all properties at a specific moment of time. Instead the government took a step-by-step approach toward those areas in which effect could be expected. Third, the British example sets out an approach in which taxes, on the basis of each specific situation, are calculated both by taxing income

[32] Neild R. "Public Corruption. The Dark Side of Social Evolution", Anthem Press (2002), p.p. 65-67.

when the income is paid out (at the source) or, indirectly, on the basis of how much the taxpayer pays for other needs (in England's case - how much money was paid by people who leased property). Latvia should calculate taxes more actively on the basis of the spending of public officials, their relatives and other taxpayers. Fourth, we see that the introduction of an effective tax system (and, by extent, income controls) largely depends on the influence of various social groups and political forces, as well as their interests and their level of mutual co-operation.

So far in this chapter we have looked at general problems concerning property and income controls, but it would be of use to look at two very specific problems which hinder the ability to check whether in those cases when a public official's standard of living appears to be far out of line with the official's official income, that standard of living has not been ensured on the basis of corruptively earned income. The first of the problems is that almost any declaration system allows people to declare non-existent resources at first so that such phantom savings can later be used to explain income that has been earned through corruption or other illegal activities. Second, in the case of public officials, people can register their own property under the name of others - most often, relatives.

Declaring non-existent income: The study "Latvia's Anticorruption Policy: Problems and Prospects" noted that "The first time that a public official's declaration is filed, savings may be declared without indicating the source of money. This makes it possible for dishonest officials to declare non-existent sums of money and *de facto* use the declaration to legalise future illegal income. From this aspect, the declarations of public officials are inadequate for the purpose of controlling how public officials observe the regulations of the Anti-corruption law."[33] These problems have not disappeared, although now they affect the implementation of the law "On preventing conflicts of interest in the activities of public officials".

This is a problem, which is well known in Latvia, but the author has never heard of any foreign or domestic expert who has provided a solution that is convincing and that can be implemented as quickly as possible. It may be that in the case of public officials or all taxpayers the government can indicate that the submitters of declarations must prove that they really have access to the sums of money that have been declared. On the basis of a random selection, some declarers could be asked to present bank account documents or sums of cash. It is true, however, that people could just borrow the money that they must display, and that means that the goal would not be reached even though the institutions would have devoted some of their already limited resources to the demand that the savings be proven.

A British tax audit and investigation expert Jim Frost made another recommendation in 2001: "Introduce the likelihood that for tax purposes, any cash that belongs to a natural person and the sum of which exceeds a specific sum - 2,000 lats, for instance - is seen as taxable income. The rule could be subject to necessary and limited waivers for people who own lawful businesses or who have other reasons to hold on to large sums of money

[33] Kalninš, V. "Latvia's Anticorruption Policy: Problems and Prospects", Nordik (2002), p.p. 40, 41.

in cash and who can provide clear proof that the money has been received from a lawful source. That can happen only then, however, if the waivers are regulated to a sufficient degree to ensure that taxpayers do not find any loopholes."[34]

The strict implementation of this proposal might keep people from declaring phantom cash holdings, but there is a risk that many people would consider this to be an unfair demand. Then it would be possible to tax money that has already been taxed when it has been received. A consequence might be that people would simply fail to declare actual quantities of cash.

The declaration of non-existent resources, with respect to which no one has yet produced any convincing recommendations, encumbers the possibility that there might be any immediate and positive results from a system of declarations. This means that more analysis is needed on the positive and negative long-term consequences of the various proposals that have been made.

Registering property under someone else's name: Since 1995, Latvia has had a fairly strict system of declarations vis-à-vis public officials, but there has been a need for greater control over the income of natural persons. A fairly simple way for public officials to avoid the obligation of declaring some of their property is to register that property under the name of someone else - most often a relative.

The Corruption prevention law allowed the State Revenue Service to demand the filing of declarations by the relatives of public officials, too.[35] The VID also had the right to demand supplementary declarations from public officials and their relatives - ones in which these people had to provide information about the source of the real estate and moveable properties which they owned.[36] The law on preventing conflicts of interest does not speak to such declarations by relatives, specifying instead that when needed, the institution which controls and checks the declarations does have to the right to demand and to receive information and documents from the relevant public official, state or local government institutions, businesspeople, public or political organisations or their associations, religious organisations or other institutions, as well as from those people who have been or, according to the law, should have been stated in the relevant declaration (this range of people includes relatives - spouses, parents, brothers, sisters and children).[37] Thus the controlling institution cannot ask for a declaration from the relatives of a concrete group of officials (e.g., the relatives of newly elected MPs) for "preventive" purposes. Such information can now be demanded only during the course of checking filed declarations.

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[34] Frost, J. "Nulles deklarācijas – korupcijas apkarošanas saistība ar cīņu ar nodokļu nemaksāšanu" ("Zero declarations – connection between the fight against corruption and the fight against tax evasion". Document distributed at the seminar on the introduction in Latvia of the initial declaration of property, legal presumption and the reversal of the burden of proof. Rīga, September 12-13, 2001.

[35] Korupcijas novēršanas likums (Anti-corruption law), Article 31.2, "Latvijas Vēstnesis", October 11, 1995, May 31, 1996, November 04, 1998.

[36] Ibid., Article 31.3.

[37] Likums "Par interešu konflikta novēršanu valsts amatpersonu darbība" (Law "On preventing conflicts of interest in the activities of public officials"), Article 28.4, "Latvijas Vēstnesis", May 09, 2002.

A great likelihood exists that a system of public official declarations will not yield the expected results if there is not a sufficiently strict system of control of income and property that applies to other people, too. For one thing, there are excessively simple ways of registering properties under the name of other people rather then the public official in question. A partial solution to the problem would be the inclusion of all of the closer relatives of public officials into the declaration system that is set out in the law on preventing conflicts of interest, demanding that such relatives regularly file their own declarations. One can assume that public officials are happiest if they can entrust their property to their closest relatives, so the expansion of the list of people who must file declarations might be quite effective. On the other hand, the finding of someone who is not a relative but under whose name property might be registered and used without any major risk is just a matter of imagination. It is also possible that people might object to the fact that they are subject to additional requirements concerning property declarations just because they have a relative who is a public official - something that is not a matter which they themselves can control.

Alternatives in terms of dealing with property and income controls have been analysed in the study “Latvia's Anticorruption Policy: Problems and Prospects”, so here we will just look at a few specific proposals in improving the existing system of declarations and their checking or in instituting a new system in this area. The two issues that are considered here are the right of the controlling institutions to inspect the bank accounts of natural persons, as well as the process of so-called “legal presumption” - a system in which property is considered to be unlawfully obtained if its value exceeds the official income of the individual in question.

Reviews of bank accounts: One of the problems related to controls over the income and savings of natural persons is that the controlling institutions do not have access to a systematic and all-encompassing report on the bank accounts of natural persons. The State Revenue Service has the right to obtain information about bank accounts when it calculates a taxpayer’s taxes. The law “On the individual income tax” says that “the State Revenue Service, in specifying the income level of the taxpayer, has the right to demand and receive without any charge from all companies and enterprises (including credit enterprises) [..] all of the information that is necessary to specify the volume of taxable income, including information about the taxpayer’s transactions, income, disbursed sums, transferred values, properties and other matters.”[38]

The law “On the State Revenue Service” also says that all VID employees who are pursuing their duties in the area of tax administration have the right “to demand the presentation of original documents and to receive from companies (enterprises), institutions, organisations, local governments, financial institutions and credit institutions copies of documents so as to register taxable objects (income) or to check taxes and

[38] Likums “Par iedzīvotāju ienākuma nodokli” (Law “On the individual income tax”), Article 22.5, “Latvijas Vēstnesis”, December 15, 1999.

fees."[39] The law on credit institutions, for its part, says that information about the accounts and transactions of natural and legal persons must be submitted to the State Revenue Service to the extent that is necessary so that the VID can carry out its duties if a taxpayer does not submit the declarations or tax calculations that are set out in the law, if violations of norms have been determined during an audit of a taxpayer's taxes, or if a taxpayer has failed to make tax payments in accordance with the law.[40]

All of the referenced norms and laws indicate that the VID has every opportunity to obtain information about the bank accounts and transactions of natural persons if there are suspicions about tax evasion. Systematically obtained information about the status of bank accounts, however, would in and of itself enable the VID to determine that someone has not paid taxes or, in the case of a public official, has received income which has not been declared and/or is banned by the law on preventing conflicts of interest.

One common way of dealing with this problem elsewhere in Europe is the taxation of bank interest payments. The result is that credit institutions and taxpayers have to provide information about the interest payments in an "automatic" way. Controlling institutions receive a more complete review of the money that is deposited by natural persons in banks. An important shortcoming in relation to this particular idea is that taxpayers would probably be very dissatisfied with it.[41]

Legal presumption: Another innovation in the law on preventing conflicts of interest is the appearance of elements concerning so-called legal presumption. These are norms, which say that public officials must substantiate the legality of their income and property. The law says this: "(1) A public official shall be obliged to provide the information that is required by legally authorised institutions or public officials and to substantiate that information. (2) A public official shall be obliged to substantiate to the legally authorised institution or public official that his expenditures have been covered and his material status has improved on the basis of legal sources of income. (3) Where a public official fails to provide the information that has been requested by a legally authorised institution or public official with respect to the sources of obtaining property, including financial resources, or where the public official cannot substantiate that the income or material benefits have been accrued from a legal source, it shall be presumed that the public

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[39] Likums "Par Valsts ieņēmumu dienestu" (Law "On the State Revenue Service"), Article 10.1.5, "Latvijas Vēstnesis", February 05, 1997, July 08, 1998, November 09, 2001, December 28, 2002.
[40] Kredītiestāžu likums (Law on credit institutions), Article 63.1, "Latvijas Vēstnesis", October 24, 1995, June 12, 1996, June 09, 1998.
[41] Such suggestion was expressed already in 2001 by Axel Kunellis who was an expert for the EU Phare Corruption prevention project: "Currently in Latvia, profit from interest for bank savings is not subject to tax (in contrast to all larger EU member states). Thus income declarations do not provide any information on the size of savings of Latvian residents. If one introduces tax obligations for received interest payments, one would reach a situation where most of the people would have to annually declare money deposited in banks and authorities would get the right to check this information during tax audits. // Kunellis A. Komentāri par īpašuma sākumdeklarēšanas ieviešanu Latvijā (Commentaries on the introduction of initial declaration of property in Latvia). September 12, 2001. Document distributed at the seminar on the introduction in Latvia of the initial declaration of property, legal presumption and the reversal of the burden of proof. Rīga, September 12-13, 2001.

official has obtained property, including financial resources, that is prohibited in this law and that the public official is trying to hide that fact from the state."[42]

One of the most important issues in relation to this law is the question of what the concept of "substantiating" means. If all that a public official has to do is say that the source of income existed a long time ago and that it can no longer be checked, then the norm in the law is simply declarative and has no real effect. If, however, officials are asked to provide strict documentary evidence about the legal source of their income and material benefits, there can be a problem in those cases when the legal source really cannot be proven in a convincing way any more. In an interview, a VID official said that this is also a norm, which overlaps the norms that apply to tax-related matters. These set out a different mechanism for determining the source of someone's income.[43] The principle of "legal presumption" that is included in the law on preventing conflicts of interest must be harmonised with the areas of operations of other normative acts, and this is an issue which requires further in-depth legal analysis. At the time of this writing, the operations of the norm could not yet be analysed, because it had not yet been implemented in any single case.

No matter how the elements of "legal presumption" that are included in the law on preventing conflicts of interest are applied in the future, it will be very important to see what kind of threshold of substantiation or proof is applied. If an official is required to justify the source of income in a way which leaves absolutely no doubt at all about the proof that has been offered, then there will be problems if the person is unable to provide the evidence for purely objective reasons even if the income has been obtained at some point in the past in a fully legal way. If any imagined explanation serves as evidence, however, then there will be no point to the norm at all. The optimal situation might be one in which all evidence is analysed to see whether it satisfies a rational threshold of believability and the relevant officials are required to provide as much written and other evidence as possible. In the area of taxes, this approach could also be applied to other natural persons in Latvia, not just public officials.

Summary

Just as was the case in terms of conflicts of interest, the author has not been able in this chapter to provide a sufficiently in-depth analysis of all of the proposals that could be made on controlling the lawfulness of properties and income of public officials and other natural persons. Much needs to be done in this regard in the area of tax collections. Opportunities that are provided by the auditing of natural persons might be improved. Tax payment controls are necessary in all cases when a physical person purchases something that is very expensive (certain thresholds can be set here, too). There would have to be much more information about the obligations of taxpayers, including the duty of submitting certain declarations. When it comes to public officials, an important

[42] Likums "Par interešu konflikta novēršanu valsts amatpersonu darbībā" (Law "On preventing conflicts of interest in the activities of public officials"), Article 29, "Latvijas Vēstnesis", May 09, 2002.
[43] Author's interview with Anda Krastiņa, Head of the Corruption Prevention and Control Division of the State Revenue Service, November 25,.2002.

problem is that the tax declarations, which are submitted by these people, are not made public, which is not true when it comes to their declarations as public officials. The public official declarations require quite a bit of information that is publicly accessible, and it would be commendable if the tax declarations of public officials were also made public. That would enhance the ability of the civil society to supervise the lawfulness of income and the payment of taxes by public officials.

The list of proposals in this area could certainly be continued. Table No. 2 summarises some of the major shortcomings in this area, along with recommendations concerning the control of property and income.

Table No. 2. Shortcomings in control over property and income

Shortcoming	What should be done
In practice, the demand that public officials and other natural persons substantiate the lawfulness of their income and property on the basis of a sufficiently high threshold of evidence is not working.	The demand that public officials and other natural persons substantiate the lawfulness of their income and property on the basis of a sufficiently high threshold of evidence should be implemented in practice.
Because the system of controlling the properties and income of natural persons in Latvia is incomplete, public officials can easily hide their income and properties under the name of other people.	The system of controlling the income and property of natural persons must be improved; the relatives of public officials may be required to submit regular declarations; it is possible to introduce annual tax declarations for all residents on the basis of specific criteria and to demand strictly that these be filed; tax payment checks can be run on all people who purchase property above a certain limit in terms of value.
The controlling institutions do not receive information about the bank accounts of public officials and other natural persons unless there is reason to believe that a violation of the law has occurred. This hinders the ability of the relevant institutions to reveal violations.	A system must be introduced whereby the controlling institutions can receive an adequately complete report on the bank accounts of natural persons.
With respect to public officials, there is no transparency in those instances when some of the checks are done in line with tax norms.	It must be specified that tax declarations must also be made public, at least in part, if the taxpayer is a public official.

The conclusions that were made in the study “Latvia's Anticorruption Policy: Problems and Prospects” are still important. For example, the idea that initial property declarations are a fundamentally important anti-corruption instrument is at least in part a myth. There is no reason to consider initial declarations as a specific anti-corruption resource just because it might theoretically hinder attempts to legalize unlawfully obtained properties. What’s more, the success of a one-off initial declaration is threatened by so many factors that success is all but impossible.

At the same time, however, this does not mean that the idea of an all-encompassing process aimed at taking note of properties and income must necessarily be abandoned. If

a political decision is taken to engage in such a process, it can be implemented, and positive results can be reached. There is no reason to come up with any new or complicated system of the type that may not exist in any other country. Property and income are traditionally registered through tax systems in various countries, including Latvia, unless the issue concerns narrow groups of people such as public officials. True, an all-encompassing and regular process of property and income declarations for the purpose of tax collections would be a very controversial process, and the costs might be quite high. That is why a gradual approach here might be justified - one in which the duty to file declarations is gradually expanded to include an ever-wider range of people.

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IV. An anti-corruption institution

By Valts Kalniņš

In 2002, the Latvian government elaborated, approved and partly introduced a new institutional model in the fight against corruption - the specialised government institution that is known as the Bureau for Prevention and Combating of Corruption (KNAB). There are various institutional models in the world when it comes to the fight against corruption, and each has its advantages and its shortcomings.[44] Here we will review the models and consider the extent to which various criteria can be applied to the Bureau for Prevention and Combating of Corruption, the aim being to identify the areas in which the KNAB's regulations and functions should be enhanced, as well as the risk factors which threaten the success of the agency's work.

If the criteria for consideration are the specialisation of the anti-corruption institution and its relations with the political leadership of the executive branch of government, then there are at least three approaches to the establishment of the institution - ones which reflect different views on the way in which anti-corruption efforts are to be organised. In the first case, corruption is seen as just one of many types of legal violations. In that case the function of preventing corruption is usually assigned to ordinary law enforcement and administrative supervision institutions. Sometimes they establish specialised anti-corruption units, but fully self-standing anti-corruption institutions are not set up. This is the typical approach in most Western European countries and in some of the European Union's candidate countries (Bulgaria, Estonia, Poland, Slovakia and Hungary).

The second approach is to set up a relatively independent and specialised anti-corruption institution. This most often happens in societies where people believe that corruption has reached a level which ordinary law enforcement agencies can no longer handle. Corruption is seen as a problem in relation to which attempts to prevent it must avoid the risk of politicians or parties exerting interests which reduce the objectivity of the relevant institutions and promote the likelihood that the equality of individuals before the law will be violated. In that case one cannot trust ordinary executive structures, and specialised anti-corruption institutions are set up. Usually they are given as much autonomy as possible. The best known institutional model of this kind as far as specialists in Latvia are concerned is the Independent Commission against Corruption (ICAC) which was established in Hong Kong in 1974. Closer to Latvia in geographical terms, however, is the Special Investigation Service that exists in Lithuania.[45] The model is very uncommon in Western Europe. Among the EU's candidate countries, Latvia, Lithuania, as well as the Czech Republic and Romania, have relatively independent anti-corruption institutions.

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[44] The term "institution" in this chapter means the structures of executive or judiciary authorities rather than just any set of procedures as in chapter 1 of this paper.

[45] Even though in Latvia the so-called Hong Kong model is the most well known South-East Asian example of an anti-corruption institution, similar ones are found also in Singapore and Malaysia. See, for example: Quah, J.S.T. Combating Corruption in the Asia Pacific Region. // Caiden, G.E., Dwivedi, O.P., Jabbra, J. (eds.). "Where Corruption Lives", Kumarian Press, Inc. (2001).

Table No. 3. Anti-corruption institution models in the European Union's member states and candidate countries[46]

	Specialised anti-corruption units as part of general law enforcement institutions or no specialised institutions	Specialised and relatively independent institutions	Specialised institutions which are under the direct political control of the executive branch of government
Bulgaria	X		
Czech Republic	X	X	
Estonia	X		
Latvia		X	
Lithuania	X	X	
Poland	X		
Romania	X	X	X
Slovakia	X		
Slovenia	X		X
Hungary	X		
Austria	X		
Belgium	X		
Denmark	X		
Ireland	X		
Italy	X		
United Kingdom	X		
Netherlands	X		
Portugal	X		
Finland	X		
Spain	X	X	
Germany	X		
Sweden	X		

Box No. 4. The Hong Kong model

In 1974, the new governor of Hong Kong, Murray MacLehose, adopted a new and bold strategy. He established the Independent Commission against Corruption, which reported directly to him. He also shut down the Anti-corruption Office of the police. The ICAC had powerful investigatory authority, but from the very beginning it emphasised prevention and citizen participation.

[46] Data on Bulgaria, the Czech Republic, Estonia, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia and Hungary taken from the report: "Monitoring the EU Accession Process: Corruption and Anti-corruption Policy", Open Society Institute (2002), www.eumap.org/reports/2002/content/50 Last accessed on January 31, 2003. Data on Austria, Belgium, Denmark, Ireland, Italy, the United Kingdom, the Netherlands, Portugal, Finland, Spain, Germany and Sweden taken from the book: Beken, T.V., De Ruyver, B., Siron, N. (eds.) .The organisation of the fight against corruption in the Member states and candidate countries of the EU". Maklu (2001). This table lacks data on France, Greece, Cyprus, Luxemburg, Malta.

The ICAC had three components:

1) The Operations Department, which conducted investigations;
2) The Corruption Prevention Department, which evaluated the way in which corruption could most seriously damage various institutions and helped the institutions to take steps toward improving the situation;
3) The Community Relations Department, which sought to involve the people of Hong Kong in the process.

The ICAC strategy includes the recognition that the culture of corruption must be broken down. Other success stories tell us that an important part of any systematic fight against corruption is the "frying of big fish" - the punishment of high-ranking officials, in other words. Hong Kong won the extradition of a former chief superintendent who had fled to England and was enjoying his ill-gotten wealth there. The extradition sent a signal that the rules of the game had changed and that the fight against corruption would involve not just fancy words, but also deeds. The ICAC brought claims against many officials from public institutions and the private sector, as well.

The Corruption Prevention Department took a very careful look at government practices and procedures, conducting a very thoroughly analysis of systems, methods, work approaches and policies. The goal was to repeal or, where possible, to simplify laws that could not be implemented, procedures that were too fussy or unclear, as well as inefficient practices which served to promote corruption.

The ICAC was also a strategic instrument in mobilising citizen participation and support. This was done in two ways. First of all, five citizen advisory committees were set up to guide and monitor the ICAC. Among the members of these committees were government critics, and the committees dealt with everything from overall policy to the concrete functions of the ICAC and the review of complaints. Second, another strategic innovation was the Community Relations Department of the ICAC. It established local offices, which collected information about corruption from residents and involved locals in educational activities, which focused on the evils of corruption.

The results were significant. Systematic corruption among the police was broken, and overall corruption in Hong Kong reduced.[47]

A third approach is to consider the prevention of corruption as an area, which requires powerful political authority, concluding that the relevant institutions must be strictly subordinated to those who are in power in the political system. This idea makes possible a model in which the institutions, which seek to prevent corruption, are strictly subordinated to the head of government.[48] This institutional model can reduce corruption

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[47] Klitgaard, R., Maclean-Abaroa, R., Parris, H.L. "Corrupt Cities. A Practical Guide to Cure and Prevention", ICS Press (2000), p.p. 20-24.

[48] This approach is reflected, for example, in the program of the party "New Era", which was adopted before the elections of the 8th Saeima in 2002: "To establish a unified and independent institution with special investigatory powers: [..] setting it up under the direct subordination of the President of Ministers

effectively, but only if the person who holds political power is truly interested in the fight against corruption. If political power is taken by someone who does not want to prevent corruption or who is himself ready to make malicious use of his power, then the institution will be a ready-made instrument for these unacceptable activities. Among the EU's candidate countries, only Romania and Slovenia have specialised anti-corruption institutions which are under the strict control of the political authorities.

Box No. 5. The Romanian Prime Minister's Control Department

In April 2001, the Romanian government established the Prime Minister's Control Department in line with an anti-corruption law that had been passed in 2000. The new structure was based on the old Government Control and Anti-Corruption Department. The department employs some 50 people who are authorised to launch an investigation of any kind of legal violation in government structures, ministries or other specialised institutions that are subordinated to the government or to ministers. Since May 2001 the office has also been authorised to investigate financial and banking operations that relate to the activities of public officials. Evidence of crimes is submitted to prosecutors and can be used as evidence in legal proceedings. Between April and October 2001 the Prime Minister's Control Department launched some 60 investigations. An investigation of conflicts of interest in Bucharest found that 38 of 65 members of the Bucharest City Council were involved in companies that had signed contracts with the city. The entire City Council was forced to resign. There were fears, however, that the investigation was launched primarily because the prime minister had spoken out against the mayor of Bucharest.[49]

Criteria for evaluating an anti-corruption institution

Before identifying criteria whereby the Latvian Bureau for Prevention and Combating of Corruption can be analysed, it must be noted that the sense and effectiveness of specialised anti-corruption institutions are controversial issues in and of themselves. The well known anti-corruption expert Bertrand de Speville has written the following words about anti-corruption institutions: "These agencies are usually created when corruption has spread so widely and the police are so corrupt that offences of bribery are no longer investigated or prosecuted. In a desperate attempt to stop the rot the government establishes the anti-corruption agency, half believing that the problem will then disappear. New laws, new corruption offences, more severe penalties, a new agency - but still the problem gets worse. Many of these agencies fail dismally to have any impact. Very few can be said to have succeeded at all."[50] Bertrand de Speville names many reasons for failure, starting with weak political will and a lack of resources to minimal

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and demanding responsibility from the President of Ministers for the work done by this institution." // Program of the party "New Era", Chapter "Fight against corruption" .
http://www.jaunaislaiks.lv/programma.php?id=183 Last accessed on December 05, 2002.

[49] Corruption and Anti-corruption Policy in Romania. Monitoring the EU Accession Process: Corruption and Anti-corruption Policy, Open Society Institute (2002), p.p. 479, 480.

[50] De Speville, B. "A comparative assessment of the impact of independent commissions against corruption in developing countries. Why do anti-corruption agencies fail?", "Transparency International" seminar, Oslo, 21-22 October (1999).

public involvement, a lack of transparency and, in the end, corruption in the anti-corruption institution itself.

Bertrand de Speville has produced a series of recommendations on the establishment of anti-corruption institutions (see Box No. 6). Some of the recommendations apply to formal regulations and must be introduced in laws, while others have more to do with the overall atmosphere of the fight against corruption.

Box No. 6. Recommendations from Bertrand de Speville in terms of anti-corruption institutions: "keywords"

- Thought is given to the problems and the solutions.
- There is a clear, comprehensive and coherent national strategy.
- This strategy is implemented in a co-ordinated way.
- Laws which define offences, investigative powers and evidentiary provisions are enhanced.
- The institution is independent and accountable.
- Personnel are selected in the proper way.
- There are decent terms of employment - salaries and the like.
- The personnel have a code of conduct and is properly disciplined.
- The community is involved.
- The process is transparent.
- Confidentiality is guaranteed where necessary.
- There is a "fresh start" - a line is drawn under the past.
- There is adequate funding.
- The lessons from elsewhere are learnt.
- Leadership of the institution serves as an example of excellence.
- There are benchmarks for measuring achievements.
- There is realisation that the fight against corruption demands time and resources.[51]

Bertrand de Speville's recommendations can be reduced to five very important principles, which, if implemented under favourable circumstances, may promote the effectiveness of an anti-corruption institution. These are:

1) Planning, co-ordination and establishment of anti-corruption operational policies at the level of policy documents and normative acts: This covers strategic planning, the co-ordination of efforts by various institutions and the adoption of the necessary laws.

2) The independence and accountability of the institution - it must be protected against unlawful or illegitimate interference in its work, but it must also be obliged to account to the public and other institutions; so, too, there should be a system by which the achievements of the institution can be evaluated.

[51] Adapted from: Ibid.

3) The issue of involving the public and ensuring transparency is closely linked to the foregoing principle. When an anti-corruption institution conducts investigations, it inevitably has to work with confidential information, but it must involve members of the public as much as possible so as to earn trust and to undergo supervision.

4) Financial resources: The institution requires adequate financing, because otherwise it will not be able to do its work properly. A lack of results will reduce the credibility of the institution in the eyes of the public, and the public, in turn, will no longer report to the institution about instances of corruption. It will not be possible to attract highly qualified staff and to purchase the necessary equipment.

5) At least somewhat related to the issue of financing is the matter of personnel (including the leaders of the institution). The staff must be assembled and educated, employees must behave properly and enjoy favourable working conditions. Anti-corruption staff must be motivated to pursue the institution's mission, they must be professionally trained, they must obey strict ethical norms and they must be paid a commensurate salary.

These are not exhaustive conditions, of course, and they cannot be exhaustive. When it comes to the prevention of corruption and, more specifically, to anti-corruption institutions, various experts have produced all kinds of lists of conditions.[52] In nearly all instances, there are conditions that apply directly to the anti-corruption institution itself, but there is also the fundamentally important issue of whether the people who rule the country (the political elite or at least an important share thereof) really want to fight against corruption. Susan Rose-Ackerman has written about successful attempts to prevent corruption in South-Eastern Asia, in Singapore and Hong Kong in particular: "In both cases, the turnaround in corruption combined commitment from the top, credible law enforcement by an independent agency operating under a strong statute, and reform of the civil service."[53]

Finally, in evaluating anti-corruption institutions we must obviously apply a specific set of criteria, but we must also remember that there is no universal or "magical" list or

[52] For example, in 1983 ICAC Commissioner Peter Williams suggested a number of conditions, under which it would make sense to set up an independent anticorruption agency: "First: The state of corruption in the particular society must have reached a critical or traumatic level to be sufficient to persuade the authorities that a radically new law enforcement agency is needed to combat it. Second: To ensure public confidence in the new organization it must be independent of political and executive Administration and responsible directly to the highest authority in the land. Third: The staff and organization must manifestly have and retain the highest possible integrity. Fourth: Corruption being the very difficult crime to combat that it is, the powers conferred on the new agency must be embracing if not draconian. Fifth: A credible independent system to deal with complaints against the new agency must be created. Sixth: All these considerations involve considerable resources and the state must be willing to set aside the funds to provide them." // Here quoted from Klitgaard R. "Controlling Corruption", University of California Press (1991), p.p. 120-121.

[53] Rose-Ackerman, S. "Corruption and Government. Causes, Consequences and Reform", Cambridge University Press (1999), p. 159.

formula for controlling corruption which academics, commissions, consultants or others can hand over to public administrators.[54]

The Bureau for Prevention and Combating of Corruption

The Bureau for Prevention and Combating of Corruption is reviewed here in line with the five basic requirements that were described above. These apply not just to the KNAB as such, but also to the policy context in which it will have to operate. The principles can be stated very simply - development of policy, the independence and accountability of the institution, involvement of the public and transparency, resources and personnel. At the time of this writing (January 2003), it was expected that the KNAB would begin full operations only on February 1. Therefore this is just a provisional review of the bureau's status and operations.

1) *Policy development*: For quite some time before the KNAB was set up, Latvia's government tried to plan and co-ordinate anti-corruption policies. The most important documents here are the Anti-Corruption Programme, which has regularly been updated since 1998; a conceptual report on amendments to anti-corruption norms that was reviewed by the Cabinet of Ministers in 1999; and a framework document on the prevention of corruption, which was approved by the government in 2000.

Before the KNAB was set up, a significant problem was that there were lots of different institutions which were involved in anti-corruption efforts and which did not co-ordinate their work amongst themselves. Now that the KNAB has been established, most of the functions have been concentrated in one institution's hands. The bureau is charged with elaborating an anti-corruption strategy and national programme that is to be approved by the Cabinet of Ministers; with co-ordinating the work of those institutions that are mentioned in the national programme so as to ensure that the work is done; with analysing normative acts and draft normative acts and making proposals concerning amendments therein; and with elaborating proposals on new normative acts that should be considered.[55]

One of the problems in relation to the bureau's work in late 2002 and early 2003 was that various members of government and the Saeima had unofficially demanded that the institution provide proof of its working results in an inappropriately short period of time. The expectation of unrealistically quick results simply damages the bureau, because any delay in producing those results can lead to unjustified pressure or attempts to replace the bureau's leadership without any good reason.

A good thing is that at the beginning of 2003 the KNAB had already made a series of proposals on ways in which normative acts can be improved. One proposal was to amend the law on the KNAB so as to specify that the bureau is also charged with evaluating the

[54] Anechiarico, F., Jacobs, J.B. "The Pursuit of Absolute Integrity. How Corruption Control Makes Government Ineffective", The University of Chicago Press (1996), p. 198.
[55] Korupcijas novēršanas un apkarošanas biroja likums (Law on the Bureau for Prevention and Combating of Corruption), Articles 7.1.1, 7.1.2, 7.1.10, "Latvijas Vēstnesis", April 30, 2002.

content and results of investigations that are run by other institutions such as the Bureau for the Supervision of Procurement.[56] So, too, the KNAB recommended amendments to the law "On preventing conflicts of interest in the activities of public officials" to say that most public officials submit their declarations to the State Revenue Service, which then checks to see whether the declaration has been submitted and filled out in line with specified procedure and the specified deadline.[57] The point there is to liberate the KNAB from a significant amount of paperwork. The KNAB has also elaborated amendments to the law on credit institutions which would allow it to receive bank information about personal accounts and related transactions without the involvement of a prosecutor and without the launching of a criminal case.[58]

In January 2002, a draft national strategy for the fight against corruption was elaborated by people from three important national institutions - the KNAB, the Anti-Corruption Commission of the Saeima[59] and the prime minister's advisors. Of great importance in the future success of the KNAB will be the extent to which KNAB officials believe that this strategy can be applied in a practical and systematic way and that it is a document on the basis of which ongoing anti-corruption policies can be elaborated.

2) Institutional independence and accountability: The Bureau for Prevention and Combating of Corruption operates under the supervision of the Cabinet of Ministers and is an institution of national administration.[60] This status means that the higher institution (in this case the Cabinet of Ministers) or a higher-ranking official has the right to check the legality of decisions that are taken by the lower-ranking institution (the KNAB) or one of its officials, to repeal any unlawful decisions that have been taken or to order the taking of a decision when no decision has been taken as the result of unlawful inactivity.[61] This means that interference in the KNAB's work is authorised if an unlawful decision has been taken or if there has been unlawful inactivity. The status of the bureau is probably one, which can ensure a sufficient level of autonomy.

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[56] Ministru kabineta noteikumi "Grozījumi Korupcijas novēršanas un apkarošanas biroja likumā" (Regulations of the Cabinet of Ministers „Amendments to the law on the Bureau for Prevention and Combating of Corruption"). Adopted according to Article 81 of the Constitution of Latvia, December 27, 2002, published in "Latvijas Vēstnesis", December 28, 2002.

[57] Ministru kabineta noteikumi "Grozījumi likumā "Par interešu konflikta novēršanu valsts amatpersonu darbībā"" (Regulations of the Cabinet of Ministers „Amendments to the law "On preventing conflicts of interest in the activities of public officials""). Adopted according to Article 81 of the Constitution of Latvia, December 27, 2002, published in "Latvijas Vēstnesis", December 30, 2002.

[58] "KNAB vēlas tiesības nepastarpināti saņemt banku informāciju par kontiem" ("KNAB wishes the right to receive bank information on accounts directly"), BNS, December 13, 2002. Taken from www.delfi.lv Last accessed on February 04, 2003.

[59] The full and precise title of the commission is the Commission for the Supervision of the Prevention and Combating of Corruption, Smuggling and Organized Crime.

[60] Korupcijas novēršanas un apkarošanas biroja likums (Law on the Bureau for Prevention and Combating of Corruption), Article 2.1, "Latvijas Vēstnesis", April 30, 2002.

[61] Valsts pārvaldes iekārtas likums (Law on the structure of state administration), Article 7.5, "Latvijas Vēstnesis", June 21, 2002.

A potential limitation on the KNAB's independence is the fact that the supervision of the bureau has been delegated to the Justice Ministry.[62] This means that the ministry is the institution, which will submit the KNAB's proposals on normative acts and their amendments (including budget requests) to the Cabinet of Ministers. This is a potentially very significant limitation of the KNAB's independence.

Given that the KNAB is an institution with fairly far-reaching authority, it is at least theoretically possible that this authority can be used for malicious purposes. At the time of this writing, it must be said, there was no evidence of any malicious activities on the part of any KNAB officials, but the fact is that thought should be given to an effective and credible mechanism for considering complaints or appeals.

The KNAB director can be removed for negligence, for any activities that bring shame upon the bureau and that are not appropriate for an official's status, or for a failure to satisfy the requirements for the job.[63] The procedure for removing the KNAB director involves institutions from all three branches of government - the Cabinet of Ministers, the prosecutor general or a senior prosecutor who is nominated by the prosecutor general, and the Saeima, and this means that the job of the KNAB director is probably sufficiently protected against the arbitrary decisions of individual politicians and officials.

Any evaluation of the KNAB's work also involves the problematic fact that there are virtually no benchmarking systems or criteria for the evaluation of the institution's work and its results. The elaboration of such a system and criteria is made all the more difficult by the fact that corruption is a hidden process, and its level or volume are difficult to specify with any precision. The results of the KNAB's activities or any lack of results will, therefore, be controversial, opening up the way for arbitrary criticism or praise of the institution's operations.

3) Public involvement and transparency: The law on the KNAB sets out specific functions in the fight against corruption, which relate to public involvement and transparency. For one thing, the bureau is charged with investigating complaints and petitions; with conducting research and analysis of public opinion; with educating the public in the field of the law and ethics; with informing people about the developmental trends in the field of corruption, about instances of corruption that have been revealed and about steps that have been taken to prevent corruption; and with elaborating and introducing a public relations strategy.[64] In the area of controlling the extent to which rules on political party financing are obeyed, too, the KNAB has functions that are aimed at involving and educating the public: It investigates complaints and petitions; it engages in research and analysis of public opinion; it educates people about political party financing issues; and it informs people about instances when a violation of party

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[62] Record No. 24 of the Cabinet of Ministers meeting. June 11, 2002. 33.§ Proposals for carrying out initial preparations for the commencement of the activities of the Bureau for Prevention and Combating of Corruption. www.mk.gov.lv Last accessed on February 04, .2003.
[63] Korupcijas novēršanas un apkarošanas biroja likums (Law on the Bureau for Prevention and Combating of Corruption), Article 5.6, "Latvijas Vēstnesis", April 30, 2002.
[64] Ibid., Articles 7.1.5, 7.1.11, 7.1.12, 7.1.13, 7.1.14, "Latvijas Vēstnesis", April 30, 2002.

financing rules has been discovered and about steps that are taken to prevent such violations.[65]

The law bans bureau officials and employees from disclosing information that is of limited accessibility and that has become known to them during the course of their job functions except in cases which are specifically defined in normative acts, but the law does not include any specific obligations in relation to the disclosure of information.[66] Strictly speaking, this should not be a problem, because the disclosure of information in the institutions of government is regulated quite adequately by other laws and regulations. For purposes of enhanced transparency, however, it would be commendable if all of the KNAB's documents were published as completely as possible on the Internet. The exception, of course, would be information which is of limited accessibility or which includes state secrets.

Unlike the anti-corruption institution in Hong Kong, the KNAB in Latvia has no institutional structures to involve people from the civil society in the bureau's operations. On the basis of Hong Kong's experience, one might suggest the establishment of a consulting council, which would supervise the KNAB's activities and provide advice to its officials. Even more, this kind of a council could be assigned specific tasks in relation to analysis and planning of anti-corruption policies and their elaboration and implementation, for example. The biggest risk in relation to this proposal is that a council of this kind might be simply a matter of window dressing, without any really meaningful contributions to the operations of the KNAB or to the attempt to establish anti-corruption policies. That largely would depend on the approach, which the KNAB would take toward the council and on the activities and initiatives of the citizens who would be members of the council.

4) Resources: At the time of this writing, it was hard to judge the amount of financing that the KNAB would need in order to fulfil its functions in a proper way. The KNAB asked for financing of LVL 1.7 million from the 2003 national budget.[67] The budget had not been approved at the time when this paper was prepared, so the author did not know how much money would actually be awarded. A KNAB official said that even if the budget request were approved in full, the bureau would not be able to buy all of its necessary technologies. The official added that the bureau would have to look for foreign financing, but at the beginning of 2003 the sources of such financing were not very clear.[68]

5) Personnel: The law contains relatively few requirements when it comes to candidates for the job of bureau director, and there are many other requirements which should be applied to the candidate's personal properties, reputation and professional skills. Legally the job is open to someone who is a citizen of Latvia, who speaks Latvian and at least

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[65] Ibid., Articles 9.4, 9.7, 9.8, 9.9, "Latvijas Vēstnesis", April 30, 2002.
[66] Ibid., Article 25.1, "Latvijas Vēstnesis", April 30, 2002.
[67] Author's interview with Rūdolfs Kalniņš, Deputy head of the Bureau for Prevention and Combating of Corruption, January 09,.2003.
[68] Ibid.

two other languages, who has a law degree and sufficient work experience, who is not of retirement age, who has not been punished for a voluntary crime (irrespective of whether the record has or has not been expunged), who conforms to the requirements of the law on access to state secrets, and who is not and has never been a member of an organisation that has been banned by law or by a court ruling.[69] Even more limited are the legal requirements for people who wish to apply for other jobs at the bureau. The nature of these limitations may to a certain extent be compensated by an investigation that is conducted when someone asks for authorisation to access state secrets. That is a process, however, which puts certain levels of control into the hands of the country's security institutions if the KNAB is planning to hire someone who is disliked by those institutions. This must be seen as a limitation of the KNAB's independence.

At the time when this chapter was written, there was no possibility of drawing specific conclusions about the KNAB personnel. Of the 100 or so jobs that have been created for the central structure of the bureau, only 30 or so had been filled. An interview provided only a bit of information about the KNAB personnel and the way in which the staff was being assembled.[70]

Initially the people who were hired to work at the KNAB were people who had experience from work in other government institutions such as the National Police, the Security Police, the Justice Ministry, the Finance Ministry, etc. The way in which the staff is being assembled has much to do with the fact that the bureau is expected to launch effective operations as soon as possible. Among other things, this means that the KNAB is not hiring people who will require a lot of training. People are hired without any public announcements. The leading employees of the agency have been inviting people whom they know to join up. In other cases, employees have volunteered to work for the KNAB. In addition to the requirements that are set out in the aforementioned law, the bureau does not have any formal criteria for the evaluation and selection of potential employees. There is a particular lack of criteria and methods in evaluating whether someone possesses such properties as honesty and loyalty toward the institution's goals. True, these are not easy to assess, but they are very important indeed. Here, too, the problem may be compensated to some extent by the investigation that is launched in relation to access to state secrets.

KNAB salaries are specified by the Cabinet of Ministers.[71] The director gets LVL 1,200 a month, the deputy director gets LVL 800 to 900, a department director receives LVL 550 to 700, a deputy department director gets LVL 400 to 550, a senior specialist receives LVL 350 to 500, a reporting employee is paid LVL 350 to 500, and a specialist receives LVL 250 to 350.[72] These salaries were, at the time when the KNAB was established,

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[69] Korupcijas novēršanas un apkarošanas biroja likums (Law on the Bureau for Prevention and Combating of Corruption), Article 4.2, "Latvijas Vēstnesis", April 30, 2002.

[70] Author's interview with Rūdolfs Kalniņš, Deputy head of the Bureau for Prevention and Combating of Corruption, January 09,.2003.

[71] Korupcijas novēršanas un apkarošanas biroja likums (Law on the Bureau for Prevention and Combating of Corruption), Article 14, "Latvijas Vēstnesis", April 30, 2002.

[72] Noteikumi par Korupcijas novēršanas un apkarošanas biroja amatpersonu un darbinieku atalgojumu, sociālajām garantijām un ar mācībām un kvalifikācijas celšanu saistīto izdevumu segšanu (Regulations on

higher than the average in government institutions, but there were not all that many people to apply for jobs at the bureau, according to the KNAB official who was interviewed.[73] Officials and employees at the bureau also have a series of social guarantees, although it is hard to say just how important these are when people think about whether to go to work for the bureau or not.

In the interview, the KNAB official mentioned several ideas about the way in which the bureau's personnel should be assembled and improved in the future. One suggestion was that the bureau should gradually move toward the hiring of younger people - those who do not have all that much experience at other government institutions. One already existing way of ensuring that employees of the KNAB, as opposed to civil servants, are kept "pure" is that the KNAB director can take responsibility for the firing of the bureau's officials and employees. A legally binding code of ethics for KNAB employees should be prepared and approved. The official said that there are plans for employee training. One of the groups will be trained to provide instructions to other groups of state employees on corruption issues.[74]

One of the most important factors in determining the successes or failures of any anti-corruption institution is the leadership that is provided for this process. The selection of candidates for the directorship of the KNAB took a long time in the latter half of 2002, and it was not at all clear that the focus was on appointing someone who is independent and highly professional. At this writing, however, it was still too early to draw final conclusions on the extent to which the man who was finally hired is right for the job.

Summary

When this chapter of the report was being written, no full evaluation could be done with respect to the KNAB's operations. The bureau had not even begun to handle all of its various functions. Table No. 4 makes reference to shortcomings in relation to the legal regulations and initial operations of the KNAB, as well as to risk factors that may hinder the bureau's full operations in the future.

Table No. 4. Shortcomings and risks in relation to the KNAB

Shortcoming or risk	What should be done
The establishment and operations of the KNAB may lead people in other government institutions to believe that it is no longer their job to fight against corruption. "Institutional competition" may keep these institutions from co-operating with the KNAB.	Other government institutions must also be ordered to take all necessary steps in preventing corruption - those that are within the realm of their competence.

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the salary, social guarantees, and reimbursement of expenditure for training and qualification building of officials and employees of the Bureau for Prevention and Combating of Corruption). Regulations No. 334 of the Cabinet of Ministers, adopted on July 30, 2002, Article 4, "Latvijas Vēstnesis", August 08, 2002.

[73] Author's interview with Rūdolfs Kalniņš, Deputy head of the Bureau for Prevention and Combating of Corruption, January 09,.2003.

[74] Ibid.

Politicians may be tempted to demand results from the KNAB in an unrealistically short timeframe.	The demands of politicians must be checked against that which is realistic.
The relatively independent status of the KNAB is necessary, but it does not in and of itself guarantee that there will be no illegitimate political interference in its operations.	With the help of transparency and public information, KNAB officials could protect the institution against the possibility of illegitimate political pressure.
The fact that the KNAB is subordinated to the Justice Ministry makes it more difficult for the bureau to present draft laws and budget requests to the Cabinet of Ministers for its consideration.	The bureau should be given the right to submit its own proposals directly to the Cabinet of Ministers.
There is no benchmarking system and there are no criteria to evaluate the results of the KNAB's work. The elaboration of such a system and criteria is made all the more difficult by the fact that corruption is a hidden process, and its level or volume are difficult to specify with any precision. The results of the KNAB's activities or any lack of results will, therefore, be controversial, opening up the way for arbitrary criticism or praise of the institution's operations.	Insofar as it is realistic, there must be an attempt to elaborate criteria and techniques for the evaluation of the KNAB's operations. Particular attention must be devoted to the quality of investigations that are conducted by the bureau, as well as to the issue of whether the KNAB deals with identical violations in the same way irrespective of the status, party affiliation or other non-related aspects of those who have committed the violations.
There are no institutionalised ways of bringing the public into the process and of ensuring sufficient public accountability of the KNAB.	Public councils must be institutionalised and maximum disclosure of information must be ensured.
It is not clear whether the KNAB will have the resources to do its job properly.	The resources must be provided in full.
Beside those criteria that are set out in the law, the bureau does not have formalised criteria for the evaluation and selection of potential employees. There is a particular lack of criteria and methods in evaluating whether someone possesses such properties as honesty and loyalty toward the institution's goals. True, these are not easy to assess, but they are very important.	Once the bureau launches full operations, these criteria and methods must be elaborated and implemented as quickly as possible.
The selection of candidates for the KNAB directorship and the effort to appoint a director were not clearly aimed at ensuring that an independent and highly professional person would be hired.	We must wait to see whether the bureau's senior officials are capable of doing the job properly. If not, then the leadership of the bureau will have to be reorganised.

All of the issues that are discussed above are important for the KNAB's future, but it may be that the most important issue is the extent to which Latvia's political leadership will be dedicated in supporting the KNAB's effective work in preventing corruption as much as possible. Even if an anti-corruption institution is granted vast authority and significant independence, an unfavourable attitude on the part of the country's political leaders will make the institution's work more difficult. As has been noted with good reason with respect to anti-corruption efforts in South-Eastern Asia, "the experiences of Singapore

and Hong Kong in minimizing corruption show that it is possible to minimize corruption when political leaders are sincerely committed to this task by impartially implementing comprehensive anticorruption measures."[75] Latvia has learned many things from Hong Kong. This particular fact must also be taken into account.

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[75] Quah Jon S.T. Combating Corruption in the Asia Pacific Region. // Caiden, Gerald E., Dwivedi, O.P., Jabbra, J. (eds.). "Where Corruption Lives". Kumarian Press, Inc. (2001), p.p. 141, 142.

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Mass media

1. “KNAB vēlas tiesības nepastarpināti saņemt banku informāciju par kontiem” (“KNAB wishes the right to receive bank information on accounts directly”), BNS, December 13, 2002. Taken from www.delfi.lv Last accessed on February 04, 2003.

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V. The party financing system - changes and developments

By Lolita Čigāne

Rules concerning political party financing change all the time. No country has established the perfect model for political party financing. As soon as innovations are introduced, loopholes appear. Limitations on party financing automatically create a desire to avoid them. A trustworthy and powerful party financing system is particularly difficult to establish in those countries where there is a high level of political corruption, weak regulations over political party finances, weak institutions to control political party finances, as well as a substantial shadow economy.

All of this is true in Latvia, too, so the specific but also logical situation in this country is that the first serious changes to a very general and lax 1995 law on political party financing came only in 2002. The amendments created a good foundation for further improvements to the political party financing system.

A political party financing system is evolutionary, and it must change along with problems that are found by the mass media, by the public at large and by the relevant law enforcement institutions. It is not acceptable to think that one-time amendments to a party financing law will resolve all of the existing and seeming problems. The truth is that problems of this kind can be identified only through long-term monitoring of the financial flows of political parties. In order to look at the problems in the realm of party financing that were resolved through the 2002 amendments and those that were not, this chapter will produce a review of the law that is in force at the time of writing, as well as a set of solutions in terms of improving the system in the future.

A review of the changes to the law on political party financing

Expanding the definition of a donation: The amendments to the political party financing law in 2002 expanded the definition of a donation as follows:

> "A gift (donation), as defined in this law, is any material or other non-compensated benefits, including services, transfer of rights, exemption of a political organisation (party) from certain duties, waiver of certain rights in favour of a political organisation (party), and any and all other activities by which a political organisation (party) receives any kind of benefit. A gift (donation), as defined in this law, is also the transfer of real estate or movable property to the ownership of a political organisation (party) and/or the provision of services to a political organisation (party) for a sum that is lower than the market value of the relevant real estate, movable property or service."[76]

The point to this norm is that services that are provided for free or that are provided for a price that is below their market value must be declared as donations. In fact, however, parties rarely declare non-monetary donations. Here are just a few examples: The list of donations that was filed by the New Era party lists 35 donations of property or services

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[76] Politisko organizāciju (partiju) finansēšanas likums (Law on political party financing), Article 2.2, "Latvijas Vēstnesis", June 26, 2002.

(of 445 total donations). The People's Party lists just one such donation. The Alliance of the Latvian Green Party and the Latvian Farmers Union, the Latvian First Party, Latvia's Way and the Latvian Social Democratic Workers Party did not list any donations of this kind at all.[77]

This allows us to believe that this is a purely declarative norm in the law. In real life it is hard to implement, and it is all but impossible to check properly whether the norm is being followed. The institution which controls political parties - the Bureau for Prevention and Combating of Corruption (KNAB) - has not yet investigated the donors who are on the party lists, and that only serves to increase the suspicions about the process. Donations that were not listed by the parties - services, transfer of rights, waiver of rights, etc. - will probably remain outside of the range of vision of the controlling institutions and of the political party finance declarations, because it is complicated to express such donations in monetary terms, and parties are well aware of the fact that there is no really viable way of checking the information that they provide.

The fact that parties receive undeclared services and other free benefits means two things. First of all, parties can thus evade the legal limits on donations from a single entity (LVL 10,000 at the time of writing). Second, it makes it hard to know just how much money parties have at their disposal. These are just a few of the reasons why limitations and controls on party income do not provide the expected positive effect in terms of efforts to reduce political party dependency on sponsors.

Reducing donation limits: The amendments reduced the maximum donations that are permitted to political parties. The limit in the 1995 law was very high - LVL 25,000. That basically meant that a few major donors could become the "owners" of the political parties. The reduction in the limit has had both positive and negative consequences:

A) The positive thing is that the donation base of political parties has, at least formally, expanded and become more varied. From the organisational aspect of political parties, that is very good. At the same time, the number of natural persons, as opposed to legal persons, has increased on the donation lists.

B) If the fact that there are more individual donors can in some senses be seen as a good thing, then there is also the question of whether there are false donors on the lists. Sometimes the source of financing is one person who hides behind several other people and their identities. Students of the matter have found that the number of individual donors has been increasing considerably from year to year.[78] After a television broadcast on Latvian Television which illustrated (on March 14, 21 and 28, 2002) that the donor lists of several parties contained the names of companies that did not in fact exist, the

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[77] Overviews of donations for political organizations (parties). www.knab.gov.lv Last accessed on February 24, 2003.

[78] Ikstens, J. "Partiju finansēšana un korupcijas ierobežošana Latvijā: alternatīvu risinājumu analīze" (Party financing and limiting of corruption in Latvia: analysis of alternative solutions), Rīga (2001). www.politika.lv Last accessed on February 24, 2003.

proportions of individual donors increased even more rapidly.[79] That is probably because solvency data about legal entities can be checked by members of the civil society and by journalists through, for example, a review of the Company Register's database. The solvency of individuals, by contrast, can be checked only by law enforcement institutions or the State Revenue Service.

Publishing of donor identities: The amendments to the law included the norm that within 10 days after a donation is received by a party, that donation must be published on the Internet. This has made a great contribution toward party finance transparency. Before the parliamentary election in 2002, this allowed for an analysis of political party donors. It was found, for instance, that donors to the Alliance of the Latvian Green Party and the Latvian Farmers Union included several people who donated the identical sum of LVL 9,700 in a very short period of time.[80] That created suspicions of previously agreed donation campaigns and of the inflow of uncontrolled and unidentified sums of money into party treasuries. The publishing of donations on the Internet also allowed representatives of a dairy in eastern Latvia, "SIA Alūksnes Piensaimnieks", to find out, much to their surprise, that the company had donated LVL 25,000 to the People's Party even though the company had not been engaging in economic activities of any kinds and its shareholders knew nothing of the donation.[81]

Media revelations about political party financing have drawn no response so far from the KNAB, which is supposed to monitor those finances, but the fact is that the ability of people to gain more and more information about donors even before an election serves as a disciplinary force for political parties. Any false donation or even a suspicion of a false donation can promote public distrust in the relevant party. At the same time, however, one must conclude that if the KNAB's investigations in the wake of media revelations do not yield any results and parties remain unpunished, the norm of the law can also have the opposite effect - people's trust in the political elite will continue to diminish.

A ban on individual advertising campaigns: The 1995 law on party financing said that parties could not accept financing through third-party involvement, but it did not clearly speak to the issue of individually financed advertising campaigns. Candidates on party lists used to conduct such campaigns independently, collecting money from donors or spending their own money. The 2002 amendments to the law said this:

"All gifts (donations) of financial resources the sum of which exceeds LVL 100 shall be transferred directly into the bank account of the relevant political organisation (party).

[79] Overviews of donations for political organizations (parties). www.knab.gov.lv Last accessed on February 24, 2003.
[80] The analysis of expenditure and revenue of political parties before the elections of 8th Saeima, Rīga, October 01, 2002, Project "Openly about the finances of the 8th Saeima election campaign". www.politika.lv Last accessed on February 25, 2003.
[81] Jemberga, S. "KNAB pārbauda aizdomīgu ziedojumu Tautas partijai", newspaper "Diena", November 30, 2002.

Other gifts (donations), **whether direct or indirect, shall be transferred or submitted to the relevant political organisation (party)** [author's emphasis].[82]

The relevant Saeima commission declared that this norm made it clear that donations to individual candidates for the purpose of allowing them to launch individual advertising campaigns would be prohibited because of the third party principle. Such donations must be given to the party, and the party takes a centralised decision on what to do with the money. Not all parties, however, had studied the law carefully or understood the norm in question, so some parties stated in their financial declarations that they did not pay for broadcasting time on television stations, while reports filed by broadcasting organisations showed that parties had indeed paid for the airtime. Representatives of political parties (the Latvian Social Democratic Workers Party, for instance) said that this was because in advance of the 2002 Saeima election, candidates were still launching their personal advertising campaigns without informing the party. That was true even though law prohibits such activities.

A pre-election expenditure declaration, a report on planned campaign expenditures, an election declaration: Amendments to the law on political party financing included several norms that are aimed at enhancing transparency:

1) No later than 30 days before an election, the political party shall submit a declaration with detailed information about the political advertising costs that have been accrued by the party between the 270th and the 50th day prior to the election;

2) No later than 30 days before an election, the political party shall submit a report in which it states its planned total campaign expenditures;

3) Within one month's time after an election, the political party shall submit a campaign expenditure declaration, stating total expenditures that were made by the party between the 270th day before the election and the day of the election.[83]

The law also contains a detailed rule about the expenditure line items which parties must indicate in their expenditure declarations (Table No. 5).

Table No. 5. Line items in the party expenditure declarations[84]

1)	Expenditures on advertising:
a)	On public television
b)	On public radio
c)	On commercial television
d)	On commercial radio
e)	In newspapers, magazines, bulletins and other legally registered periodicals that are

[82] Politisko organizāciju (partiju) finansēšanas likums (Law on political party financing), Article 6.2, "Latvijas Vēstnesis", June 26, 2002.
[83] Ibid., Articles 8.[1], 8.[2].
[84] Ibid.

	printed and are disseminated widely in the entire territory of the country
f)	In newspapers, magazines, bulletins and other legally registered periodicals that are printed and are disseminated primarily in the territory of one city or district
g)	On the Internet
h)	In spaces and public locations (parks, squares, on the street, on bridges and in all similar locations)
2)	Expenditures on postal (including E-mail) services for the dissemination of campaign materials
3)	Expenditures involving payments made to legal persons for the production of all types of advertising materials (video materials, audio materials, posters, etc.) which are intended for dissemination as referred to in Article 1 or 2
4)	Expenditures involving payments made to legal persons for the planning, preparation and organisation of the election campaign
5)	Expenditures involving payments made to campaign personnel in the form of salaries and other payments made to natural persons, excluding instances referred to in Article 8
6)	Expenditures on real estate and movables as needed for the purposes of the campaign
7)	Expenditures on publishing newspapers, magazines, bulletins, books and other print publications for the purposes of the campaign
8)	Expenditures on campaign-related charity events, on subsidies and on gifts (donations)
9)	Expenditures on other campaign-related costs, indicating these by type
10)	Expenditures related to other costs

There are several benefits to this list of expenditure line items:

A) There is a lesser risk that parties will fail to declare some of their expenditures.

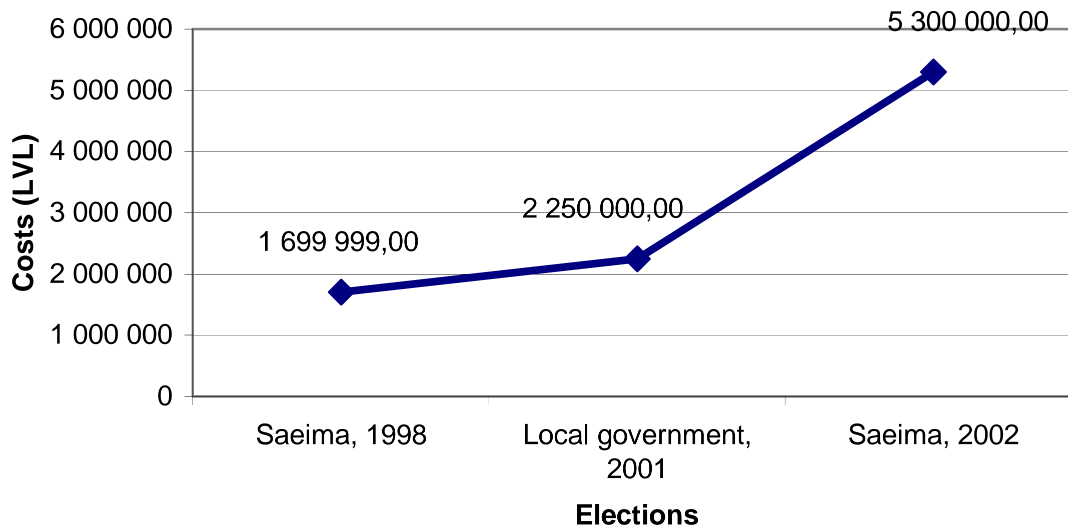
B) The rules of the game are the same for all parties. Each must fill out the declarations as specified by law, and there cannot be a situation in which one party declares more and is subject to more careful analysis while another fails to state expenditures altogether, whereby there can be no suspicions of incompatibility (this situation did exist until the political party financing law was amended).

C) By declaring their expenditures by line item, parties give the public and the media a better chance to check the spending. The norm which says that parties must state their spending on political advertising allowed the organisers of the project “Openly about the finances of the 8th Saeima election campaign” to judge whether the stated expenditures were in line with advertising volumes as registered by the project’s participants and with the income that was declared by broadcast organisations. Such comparatively simple arithmetic exercises can be handled by just about everyone, especially when it comes to comparing information from parties and broadcasting organisations. Both kinds of information are publicly available.

More detailed declarations about campaign spending also help in identifying problems that must be resolved in this area in the future:

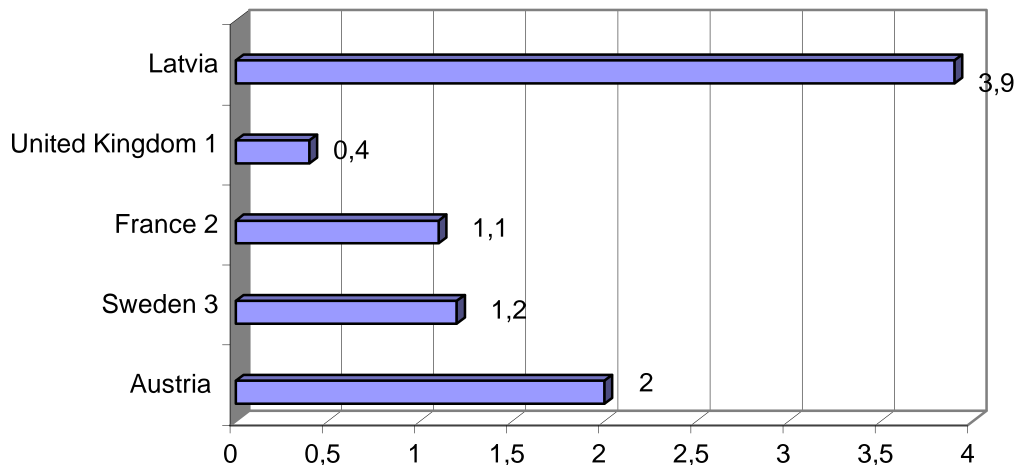
A) Political party spending on election campaigns is rising very quickly - nearly doubling from year to year. This creates unhealthy competition among political parties, forcing them to collect greater and greater sums of money (Chart No. 1).

Chart No. 1. The dynamics of election campaign spending[85]



B) Campaigns that are launched by Latvia's political parties are very expensive if compared to campaigns that are waged in other European countries (Chart No. 2). That is mostly because the current law does not put any real limitations on party spending.

Chart No. 2. Campaign spending per resident with voting rights (LVL)[86]



1. 1997 parliamentary election. Campaign ads on TV are prohibited in Great Britain.

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[85] Source: Declarations of the financial activity of political parties submitted to the State Revenue Service and declarations of election expenditure submitted to KNAB.

[86] The analysis of expenditure and revenue of political parties before the elections of 8th Saeima, Rīga, October 01, 2002, Project "Openly about the finances of the 8th Saeima election campaign". www.politika.lv Last accessed on February 25, 2003.

2. 2002 presidential election. Campaign ads on TV are prohibited in France. A party which exceeds campaign spending limits can be ejected from Parliament, while a presidential candidate who does so can lose that office.
3. Overall national budget aid to political parties in 2002, the aim being to "ensure the operations of parties". Parliamentary elections were held in September 2002. Campaign ads on TV are prohibited in Sweden. Parties are fully financed from the national budget.

Several parties had problems in filling out the pre-election and election declarations properly. The law clearly says that in these declarations, parties must state the sum that they have spent on advertising, but several parties, which engaged in advertising, wrote that no expenditures were involved. These misunderstandings occurred because parties declared their expenditures on the basis of contracts with legal persons. The total sum that was received by the legal person (usually an advertising, PR or media agency) was stated instead. In line with those contracts, the parties filled out the declarations properly. If we compare the actual ad placement of parties and the income which broadcasting organisations declared to the National Radio and Television Council, however, then we see that the declarations were not filled out properly at all. Some parties also failed to observe the norm which says that sums which have been paid for advertising placement must be separated out in the declarations from payments that have been made to pay for the work of legal persons.

Questions, which remain unresolved under the current law

The Saeima election in 2002 proved that greater transparency in political party financing will not in and of itself resolve problems in the political party financing system. In informal conversations, parliamentary deputies have admitted that thanks to stricter norms on transparency, the share of undeclared income declined and party finance reports provided a better understanding of actual expenditures. If the current law is not changed, however, we can expect party expenditures to increase even further for the next election.

The rapid growth in campaign advertising costs will not be limited until political parties no longer have a motivation to spend as much money on campaigning as they want and can afford on the basis of sponsor contributions. That means that the dependency of political parties on their sponsors will not decline unless there are strict limitations on political party spending or overall advertising volumes and unless the KNAB starts to investigate political party financing in a realistic way.

Limitations on campaign spending: When discussions begin on ways of reducing excessive election campaign spending or the "arms race among parties",[87] one often hears the claim that "the fight must be against the causes, not the consequences" and that "we must begin with improvements to the party financing model, specifying the amount of money that parties can receive for advertising expenditures."[88] Experience in other

[87] Latkovskis, A., member of 8th Saeima, Chair of the Commission for the Supervision of the Prevention and Combating of Corruption, Smuggling and Organized Crime, "Partiju "bruņošanās sacensība" jāaptur" (The "arms race" of parties must be stopped). www.politika.lv Last accessed on February 24, 2003.
[88] Skrebele, G. "Radio un televīziju šokē *Delnas* ideja atteikties no politiskas reklāmas", newspaper "Neatkarīgā Rīta Avīze", February 05, 2003.

European countries, however, tells us that a decline in political party income does not automatically halt escalation in campaign costs, because the fact is that there are many ways of avoiding income limitations. That is particularly easy in countries where the institutions, which are supposed to control political parties, are weak. These problems become clear when the law is analysed.

In the 1970s, for instance, the political party financing system in Italy was improved first of all by setting income limits. Eventually the legislature found that this system was not proving itself, and that was for a variety of reasons:[89]

A) Parties simply failed to declare donations, which exceeded the limitations, and it was very hard to prove that such donations were made at all.

B) Income limitations did not reduce the desire and ability of parties to spend money on self-promotion, because there were no mechanisms for determining whether the volume of a party's advertising activities was or was not in line with the limitation on income.

C) Party sponsors often paid directly for the party advertisements by purchasing space or time in the media.

Given all of this, limitations on overall donation amounts can be cosmetic improvements which create the impression that the whole system has been enhanced, but this does not resolve the main problem in political corruption - the dependency of parties on their sponsors.

This allows us to conclude that increased campaign expenditures and the increasing dependency of political parties on sponsors will not be reduced without limitations on overall spending. At the same time, however, it can be expected that such limitations would create illegal flows of financing or of cash payments, which do not turn up on official party reports. The most effective way to limit such expenditures, according to many sources, is to ban political advertising in the electronic mass media. A series of European countries - Belgium, the Czech Republic, France, Italy, the Netherlands, Norway, Portugal, Sweden, Switzerland and the United Kingdom - award free airtime to the political parties in advance of elections, but political party advertising on television and the radio is banned.[90]

The roots to the ban on paid advertising emerged in Great Britain in the 1920s, when an initial ban on all advertising was specified for the BBC - the public radio and television organisation. In 1954, a law on television also applied the ban on political advertising to newly emerging private broadcasting stations.

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[89] Williams, R. (ed.). "Party Finance and Political Corruption", Macmillan Press, Ltd, USA (2000), p. 72.
[90] Pinto–Duschinsky, M. "Handbook on Funding of Parties and Election Campaigns", International IDEA (2001). www.idea.int Last accessed in May, 2002.

The three major parties in Great Britain - the Conservative Party, the Labour Party and the Liberal Democratic Party - have all said that this is an effective system.[91] The British parliament's Committee on Standards in Public Life concluded in 1998 that the ban on political advertising served to limit the amount of money which political parties spent, thus reducing the need for money. "That allows the leader of a political party to concentrate on his job, not on collecting donations," says the committee report.[92]

The ban on political advertising as the most effective way of limiting campaign spending escalation and the dependency of parties on their donors has also been recognised by several specialists who study the political party financing system.[93] An expert in Great Britain, Michael Pinto-Duschinsky, for instance, has said that "in those countries where paid political advertising is not banned, there are basically no limitations on increasing political advertising expenditures."[94]

There are several potential benefits to a ban on political advertising:

A) Such a ban is easy to monitor and supervise;

B) It serves to improve communications between voters and parties, because parties must seek out new ways to communicate with voters; such communications are more based on party programmes and not on image;

C) Party expenditures decline considerably, because the production and airing of political advertising, especially on television, are very expensive;

D) As the amount of money which parties need to collect in order to compete with other parties in an election campaign diminishes, the dependency of parties on their sponsors also recedes.

Support for the introduction of such a norm has been expressed by the Latvian National Radio and Television Council. In presenting its national concept on the development of the electronic mass media for the period between 2003 and 2005, the council said that "it is important to continue work on the normative base which covers pre-campaign advertising, setting out a ban on political advertising during the campaign period."[95]

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[91] Fifth Report of the Committee on Standards in Public Life "The funding of political parties in the United Kingdom", October, 1998, p. 174. www.public-standards.gov.uk Last accessed on February 25, 2003.
[92] Ibid.
[93] Ikstens, J. "Partiju finansēšana un korupcijas ierobežošana Latvijā: alternatīvu risinājumu analīze" (Party financing and limiting of corruption in Latvia: analysis of alternative solutions), Riga (2001). www.politika.lv Last accessed on February 24, 2003.
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[94] Pinto–Duschinsky, M. "Handbook on Funding of Parties and Election Campaigns", International IDEA (2001). www.idea.int Last accessed on May, 2002.
[95] "Apstiprina elektronisko saziņas līdzekļu attīstības nacionālo koncepciju 2003.-2005. gadam" (National framework for the development of eloctronic mass media in 2003-2005 approved). News agency LETA, October 23, 2002.

Campaign advertising in the media: Political party financing cannot be kept apart from the norms, which regulate campaign advertising in the media. One of the most serious problems during election campaigns in Latvia is so-called hidden advertising. Hidden advertising is a paid article or broadcast which is not designated as advertising and appears to be a contribution by the newspaper or broadcast organization's regular journalistic process. Monitoring of hidden advertising in the media and an extensive public information campaign can help in achieving a very significant reduction in the volume of hidden advertising.

Such monitoring is necessary in advance of all elections. Before the 2002 Saeima election, the project was run by the Soros Foundation Latvia and the Latvian chapter of the international anti-corruption organisation Transparency International ("Delna"), under the auspices of a project called "Openly about the finances of the 8th Saeima election campaign". It would be best if the monitoring were the initiative of the media themselves and of their journalists, but the fact is that the law on campaigning must also include a norm which bans hidden advertising and sets out adequate punishments for violations. The institution, which has the authority to apply such sanctions, must also be identified. There must also be agreement on the criteria that are applied in finding or recognising hidden advertising.

Along with changes in the law on political party financing, there is also a new norm in the law on campaign advertising, which says that broadcast organisations must submit reports to the National Radio and Television Council on all income that has been received from political advertising. An identical norm is needed for the press. As the KNAB has been confirmed as the institution that will monitor political party financing, it could be the institution that would be entrusted with the duty of collecting the reports. The independence of the press must be respected, but such declarations are needed so as to improve the quality of democracy and to give voters a much better understanding of political party financing.

The need for sanctions: As it stands now, the law does not speak to any punishments that would be faced by parties which fail to complete their declarations properly or which submit false information. During the previous session of the Saeima, there were proposals to amend the Latvian Administrative Violations Code so as to set a fine of LVL 10,000 for such violations. The proposal was not included in the law. Right now it is not possible to punish the legal person that is a political party for the incorrect completion of a declaration or for the provision of false information.

The KNAB has proposed that parties, which repeatedly offer false information in their declarations, be subjected not only to administrative, but also to criminal liability.[96] The KNAB believes that the law now says that it must control party finances, but it does not

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[96] Lase, I. "KNAB un zaļā gaisma", intervija ar Korupcijas novēršanas un apkarošanas biroja priekšnieka vietnieku Valdi Pumpuru ("KNAB and the green light", interview with Valdis Pumpurs, Deputy head of the Bureau for Prevention and Combating of Corruption). www.politika.lv Last accessed on February 24, 2003.

really put any reins in the KNAB's hands in terms of sanctions against political parties. This is an issue that must be viewed in the broader context of the criminal liability of legal persons, and there must be further analysis of the matter. If it were clear to political parties, however, that they might face criminal liability in relation to the repeated filing of false declarations, then that would certainly encourage parties not to submit false information. Criminal liability might, of course, by harmful to any party's political future.

Government financing for political parties: One of the most controversial issues in the area of political party financing is the awarding of government financing to parties. Government financing can have a number of positive effects:

A) Such financing, if supplemented with other norms to control party finances, can be an important anti-corruption instrument. It reduces the influence of money on politics. It ensures that the source of the money is the taxpayer. The money is always obtained in a legal and transparent manner.

B) Government financing, if the state chooses a model that is aimed at party parity, is paid out on the basis of the principle of equality. This reduces the chance that a party with very rich sponsors has a much better competitive situation than those with less wealthy supporters.

C) Government financing helps parties to strengthen in organisational terms. They can maintain a permanent office with the necessary staff, and they can engage in regular activities during the period between elections, too.

At the same time, however, government financing can have a series of negative side effects:

A) Government financing for political parties can serve to increase their appetite for money. Usually the state cannot fully finance all aspects of party needs, so parties are allowed to collect donations anyway. If donation sums are unlimited, then the opportunity for political corruption remains in place - even among parties which also receive financing from the state.

B) Governments are usually the ones, which decide on the formula for dividing up government financing. They usually choose ways of calculating financing which promote the survival of those parties that are in government at the expense of marginalizing other parties. Government financing can also make more difficult the emergence of new parties.

C) In countries where political parties are mistrusted, government financing for parties is received with a great deal of suspicion. People believe that members of the corrupt elite are using taxpayer money for their own purposes.

On the basis of all of this, one can conclude that Latvia, where high-level political corruption is seen as a serious problem, is a country in which government financing for

parties might be one solution. It is very important, however, to reach agreement on the formula for awarding state financing and to find a way of ensuring that party expenditures do not continue to increase even after they start receiving financing from the state.

It might be difficult to reach agreement on government financing right now, so there should instead be decisions on indirect state financing for parties by way of increased volumes of free campaign airtime. That would provide parties with additional ways to speak to voters without driving up the price of advertising campaigns. This would also be a necessary component in a party financing system, which sets out bans or significant limitations on political advertising.

Summary

A political party financing system is a set of rules, which change all the time, - ones, which have to be amended and approved when people start to worry about the honesty of political parties, when the media discover that parties have found ways of avoiding existing norms, or when the controlling institutions decide that the system is not working properly.

In 2002 the Saeima introduced radical changes to the law on political party financing, and the main goal was to ensure greater transparency in political party finances. Representatives of several parties have said that the transparency meant that the flow of illegal funds or cash into the accounts of parties diminished. At the same time, the changes also allowed us to learn that campaigns in Latvia are very expensive indeed, that costs are rising from one election to the next and very quickly, and that expanded transparency rules do not reduce party dependency on sponsors in and of themselves.

There is a need to think about several solutions in the further development of political party financing systems. The time right after an election is the right time to talk about the necessary changes and then to introduce them.

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