

Corruption and Anti-corruption Policy in Latvia

Table of Contents

| | |
|--|-----|
| Executive summary | 292 |
| 1. Introduction | 295 |
| 1.1 The data and perceptions | 295 |
| 1.2 Main loci of corruption | 297 |
| 1.3 Government anti-corruption policy | 300 |
| 1.4 The impact of the EU accession process | 303 |
| 2. Institutions and legislation | 305 |
| 2.1 Anti-corruption legislation | 305 |
| 2.2 Conflict of interest legislation and asset declaration and monitoring | 306 |
| 2.3 Control and audit | 310 |
| 2.4 Anti-corruption agencies | 311 |
| 2.5 Ombudsman | 313 |
| 3. Executive branch and civil service | 314 |
| 3.1 Structure and legislative framework | 314 |
| 3.2 Administrative procedure and redress | 315 |
| 3.3 Conflict of interest and asset monitoring | 315 |
| 3.4 Internal control mechanisms | 316 |
| 3.5 Interaction with the public | 317 |
| 3.6 Corruption | 317 |
| 4. Legislature | 319 |
| 4.1 Elections | 319 |
| 4.2 Budget and control mechanisms | 320 |
| 4.3 Conflict of interest and asset monitoring | 320 |
| 4.4 Immunity | 321 |
| 4.5 Corruption | 321 |

| | |
|-------------------------------------|-----|
| 5. Judiciary | 322 |
| 5.1 Legislative framework | 322 |
| 5.2 Corruption | 323 |
| 6. Political party finance | 324 |
| 6.1 Legislative framework | 324 |
| 6.2 Control and supervision | 325 |
| 6.3 Party finance in practice | 326 |
| 7. Public procurement | 328 |
| 7.1 Legislative framework | 328 |
| 7.2 Review and audit | 330 |
| 7.3 Corruption | 331 |
| 8. Public services | 332 |
| 8.1 Police | 332 |
| 8.2 Customs | 333 |
| 8.3 Tax | 334 |
| 8.4 Healthcare | 335 |
| 8.5 Licensing and regulation | 336 |
| 9. Role of the media | 337 |
| 9.1 Freedom of speech | 338 |
| 9.2 Access to information | 339 |
| 9.3 Broadcasting regulation | 340 |
| 9.4 Corruption in the media | 341 |
| 9.5 Media and corruption | 341 |
| 10. Recommendations | 343 |

Corruption and Anti-corruption Policy in Latvia

EXECUTIVE SUMMARY

Corruption is ranked as a major problem in Latvia on the basis of indicators used by international organisations. These evaluations spotlight concerns about the influence of private interests on the legislative process; the World Bank's concept of "State capture" is often used by Latvian corruption experts to describe what is perceived as the country's main corruption problem. The evidence collected for this report indicates that illicit lobbying and similar practices are indeed serious problems in Latvia, although this may reflect to some extent the greater attention paid to these phenomena in Latvia than in many other candidate countries.

Latvia has been one of the most active CEE countries in combating corruption, at least on a formal basis. Latvia was the first to seek assistance for anti-corruption policy from the World Bank in 1996, and since then has carried out a number of important reforms designed to improve governance and prevent corruption, including an annually updated Corruption Prevention Programme. These efforts have been given a new boost with the recent establishment of a Corruption Prevention Bureau, which is expected to take over a number of important anti-corruption tasks and coordinate anti-corruption policy. Fulfilment of the Corruption Prevention Programme has been relatively complete. Civil society organisations have played an important part in both the development and implementation of anti-corruption policy.

The EU accession process has provided constant pressure to improve anti-corruption policy, and has resulted in extensive assistance creation and implementation. Latvia's national strategy for EU accession states explicitly the need to fight corruption as a condition for accession, and a number of important anti-corruption policy measures have been the direct result of EU pressure or assistance.

Latvian bribery legislation is relatively advanced, with the exception that legal entities are not yet criminally liable for acts of corruption. Latvia boasts quite extensive legal provisions that regulate conflict of interest and mandate compulsory declarations of assets and income by public officials. However, to date the impact of the provisions has been limited due to inadequate supervision and enforcement, although the media has

used the law to expose and put pressure on officials. Recent amendments to the law can be expected to improve supervision considerably.

Latvia is in the process of putting in place an integrated State financial control framework. The State Audit Office enjoys independence and wide competencies, although its findings are not sufficiently used. An internal audit system established in 2000 is in the process of implementation, and the European Commission has expressed satisfaction with progress in this area.

Although Latvia possesses a number of institutions directly involved in the fight against corruption, lack of coordination between them appears to be a serious problem. The recent creation of a new Anti-corruption Bureau to coordinate anti-corruption strategy is a very important step towards improving this situation. The effectiveness of the Bureau will be a key measure of Latvia's ability to implement anti-corruption policy. Proposals to establish an ombudsman are currently under discussion.

The Government has identified public administration as one of the most important sources of corruption, and most of the anti-corruption programme is directed towards fighting corruption in this area. Since 2000, the civil service has undergone important developments, with a new law and development strategy. Procedures for appealing against administrative decisions have tended to be ineffective to date, although a new Code of Administrative Procedure is expected to come into effect in 2003, which should improve citizen redress. Taken together, these changes may be expected to create an environment more resistant to corruption.

Until recently, parliamentary scrutiny of public finances was undermined by the existence of a number of off-budget agencies, while the allocation of State guarantees by the Government appears to have been non-transparent. While there have been almost no cases of MPs prosecuted for corruption, there is evidence (or at least testimony) that "State capture" – that is capture of the legislative process by business interests – is a problem.

The Latvian judiciary suffers from serious problems of lack of independence, funding, and lack of capacity, resulting in endemic court delays. Access to information on court decisions remains an important problem, although guaranteeing this is a component of the Government's anti-corruption strategy. Surveys indicate that a significant proportion of citizens that come into contact with the courts may have faced problems of corruption. Although a judicial reform programme is underway, the strength of political commitment to effective reform remains uncertain.

Political party funding has been weakly regulated until recently. However, new funding regulations approved in June 2002 have put in place a much more transparent system. Nevertheless, the continuing absence of any State funding leaves parties vulnerable to corruption and there is evidence that corruption is an important problem. The

effectiveness of the new Corruption Prevention Bureau in inspecting party financial reports under the new provisions will be an important test of its impact.

Public procurement is rated as one of the country's most corrupt spheres. Although a Public Procurement Act has been in force since 1997, the Act contains provisions that allow contracting authorities to avoid tenders relatively easily, and the system of supervision and redress has not functioned effectively. A new procurement law in force since January 2002 has improved the legal framework considerably. However, the capacity of the monitoring agency remains a concern, and there are still effectively no sanctions for violations of procurement regulations.

Corruption appears to be more or less widespread in a number of public services. According to surveys of perception, the police (specifically the traffic police) and customs authorities are regarded as more corrupt than any other institutions. However, reforms of both institutions have either led to improvements or can be expected to do so. While there is some evidence of corruption in tax administration, important reforms have been implemented, although wide discretion to award tax breaks creates an environment vulnerable to corruption. Surveys indicate that unofficial contributions are more widespread in the healthcare system than in any area except the traffic police, although the proportion of such payments that is corrupt is not clear. Corruption in business licensing does not appear to be a problem, while corruption in other areas of business regulation appears to be limited. In the latter areas significant potential for successful anti-corruption reform has been demonstrated.

The Latvian press is free. Although Latvia was the first among EU candidate countries to pass freedom of information legislation, the impact of the law has not been clear to date. Broadcasting regulation appears to be relatively free of political manipulation. Corruption in the media is not regarded as a major problem, although there is some indirect evidence of phenomena such as hidden advertising. The media has played an important role in monitoring corruption, especially adherence to the Corruption Prevention Act.

1. INTRODUCTION

1.1 The data and perceptions

Statistics on criminal proceedings for corruption-related crimes are shown in Table 1. The numbers of convictions appear to be small even by the standards of EU candidate countries (see Table 1).

Table 1: Crimes registered and criminal convictions for corruption, 1996–2001

| <i>Criminal offence</i> | 1996 | | 1997 | | 1998 | | 1999 | | 2000 | | 2001 | | |
|--|------|----|------|----|------|----|------|----|------|---|------|----|----|
| CC 164, CL 320: Acceptance of Bribes | 63 | 24 | 32 | 40 | 74 | 12 | 43 | 23 | 34 | 5 | 553 | 46 | 11 |
| CC 165, CL 323: Giving of Bribes | 17 | 6 | 12 | 7 | 17 | 5 | 15 | 9 | 9 | 6 | 12 | 9 | 6 |
| CC 164.1, CL 322: Intermediation in Bribery | 3 | 1 | 0 | 0 | 5 | 0 | 3 | 0 | 2 | 0 | 5 | 5 | 0 |
| CL 321: Misappropriation of a Bribe | - | - | - | - | 0 | - | 1 | 0 | 1 | 0 | 2 | 2 | 1 |
| CL 198: Unauthorised Receipt of Financial Benefits | - | - | - | - | 0 | - | 2 | 0 | 0 | 4 | 1 | 1 | 0 |
| CL 199: Commercial Bribery | - | - | - | - | 0 | - | 0 | 0 | 0 | 0 | 1 | 1 | 0 |
| CC 162.1, Article 317: Exceeding of Official Authority | 95 | 6 | 75 | 11 | 3 | 23 | 38 | 11 | 42 | 9 | 34 | 11 | 2 |
| CC 162, 318: Abuse of Official Status | 105 | 11 | 79 | 15 | 78 | 12 | 46 | 12 | 54 | 4 | 56 | 32 | 3 |
| CL 319: Failure to Act by a State Official | - | - | - | - | 0 | - | 3 | 0 | 13 | 4 | 27 | 24 | 2 |
| CL 196: Use of and Exceeding Authorisation in Bad Faith | - | - | - | - | 0 | - | 5 | 0 | 16 | 0 | 102 | 85 | 0 |
| CC 167.2: Failure to Disclose Conflict of Interest Situations | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| CC 162.5, 325: Violation of Restrictions Imposed on Officials CL 326: Unlawful Participation in Property Transactions | 0 | 0 | 3 | 0 | 4 | 0 | 0 | 2 | 0 | 0 | 1 | 1 | 1 |

□ Registered crimes

■ Sentenced persons

Source: Latvian Ministry of Justice.

Note: For all years, the right hand column indicates convictions; the left-hand column indicates registered crimes. For 2001, the 1st column is registered crimes; the 2nd column is charges filed; and the 3rd column is convictions.

Survey evidence suggests that corruption is a much more serious problem. The Transparency International Corruption Perception Index has given Latvia a score of 3.4 (where 0 means most corrupt and ten least corrupt) since 1999, ranking it between 57th and 59th place – the worst position for any candidate country except Bulgaria and Romania.¹

The EBRD/World Bank's *1999 Business Environment and Enterprise Performance Survey* (BEEPS) indicated that Latvia was relatively unaffected by administrative corruption (1.4 percent of annual revenue spent on unofficial payments by companies compared to a 2.2 percent regional average).² According to previous a large diagnostic survey on corruption carried out by the World Bank in 1998, 37 percent of firms and 13 percent of households reported having made unofficial payments.³

On the other hand, according to the BEEPS survey Latvia suffered from a serious problem of "State capture," with the highest "capture economy index" of any EU candidate country (30 compared to a candidate country average of 16). Forty percent of Latvian firms reported that their business was significantly or very significantly affected by the sale of parliamentary votes.⁴ These survey results indicate that firms perceive the legislative process to be influenced by corruption, more than in any other candidate country with the arguable exception of Bulgaria and Romania. According to the 1998 World Bank report:

[E]conomic power in Latvia has become concentrated in a small number of conglomerates. Business and political interests have become intertwined in a complex and non-transparent way, and businesses are increasingly active in political parties. Excessive concentration of economic power, due in part to weak enforcement of competition legislation, drains efficiency from the economy and presents the risk that Latvia could become prone to high-level corruption.⁵

According to the *2000 Latvia Human Development Report* by UNDP, the political decision-making process is characterised by informal processes that take place outside official structures, in which private actors with interests in legislative results have

¹ See <<http://www.transparency.org>>, (last accessed 2 September 2002).

² World Bank, *Corruption Prevention in Transition Economies, A Contribution to Debate*, World Bank 2001.

³ J. Anderson, *Corruption in Latvia: Survey Evidence*, World Bank, report prepared for Corruption Prevention Council, December 1998, p. 12.

⁴ J. Helman, G. Jones, D. Kaufmann, "Seize the State, Seize the Day: State Capture, Corruption, and Influence in Transition," Policy Research Working Paper 2444, World Bank Institute and EBRD, September 2000.

⁵ J. Anderson, *Corruption in Latvia*, p. 22.

considerable hidden influence.⁶ According to the report, “There is lack of openness in the work of state institutions, and civil servants tend to rely on a rather closed circle of potential agents in public policy.”⁷ According to research published by the UNDP in 2001, 79 percent of the public trust the Parliament and the Government “very little or not at all.”⁸

A survey conducted among enterprises by the Latvian Development Agency in 1999 found that 23 percent of businesses regarded corruption as one of the three greatest barriers to economic development, and in 2001, corruption was listed as the second biggest obstacle after excessive bureaucracy. However, when asked to rank the seriousness of petty administrative corruption as a barrier to doing daily business, this proved to be the least of five concerns.⁹

1.2 Main loci of corruption

The World Bank as well as domestic surveys found that the institutions seen as most corrupt are the customs administration, followed by the traffic police and the State telephone monopoly *Latt Telekom* (see Table 2). The high ranking of *Latt Telekom* may be an example of perceptions lagging behind reality; perceptions of the company are conditioned by memories of the past, when it was necessary to pay a bribe to get a telephone connection, and may also be influenced by disputes between the Government and the company over fulfilment of its obligations under the 1994 privatisation contract.

⁶ UNDP, *2000 Latvia Human Development Report*, draft concept paper, pp. 64–65. The Report presents a model that it states is common in Latvia, according to which:

- A private person advocates legislation via political contacts in the executive, often secured in advance through contributions to a political party.
- After consultation, lawyers make a proposal to be adopted by the Government, and the minister who is contacted by the interested entity ensures the bill is passed in the Government.
- The bill is reviewed in the Parliament and political “agents” ensure it is passed in the form desired. Ordinary MPs are not fully informed and trust the party leadership. Public administration implements the bill, and “agents” ensure smooth implementation.

⁷ UNDP, *2000 Latvia Human Development Report*, p. 66.

⁸ N. Coleman, “Latvia’s anti-corruption efforts tripped up,” AFP, Riga, 24 July 2002.

⁹ *2001 Survey on the Business Environment*, <<http://www.lda.gov.lv>>, (last accessed 25 April 2001).

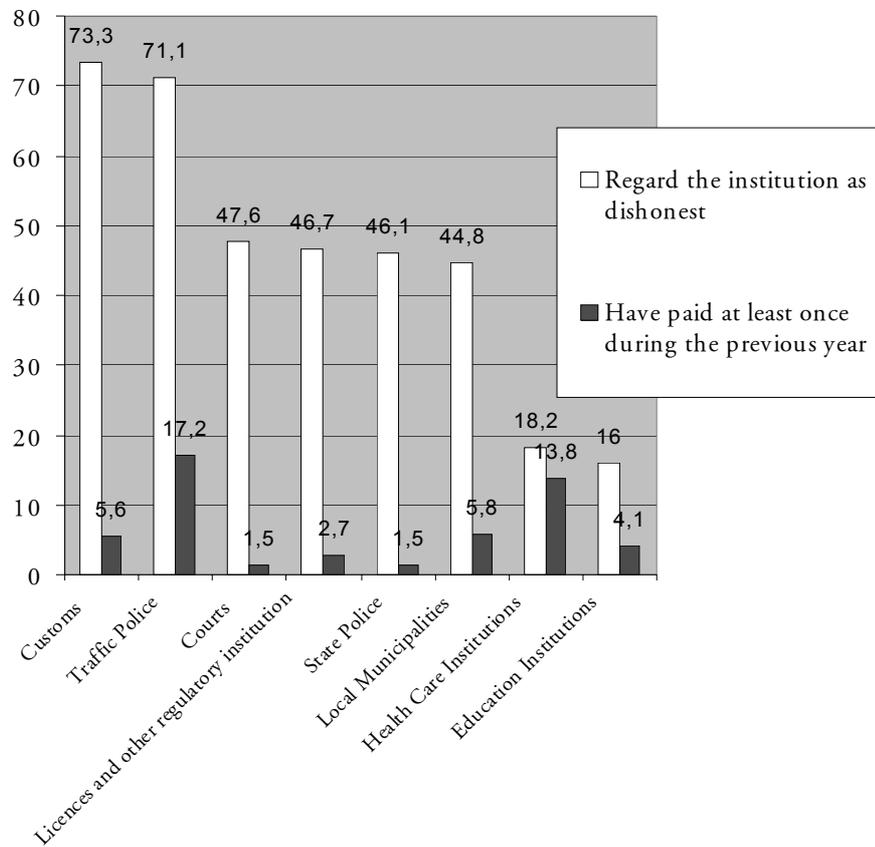
Table 2: Views on the six most dishonest institutions: surveys by the World Bank and Delna (the Latvian chapter of Transparency International)

| <i>Survey carried out by Delna in 1999</i> | <i>Survey carried out by WB in 1998</i> |
|--|---|
| 1. Customs (most dishonest) | 1. Customs (most dishonest) |
| 2. Traffic Police | 2. Traffic Police |
| 3. <i>Lattelekom</i> | 3. <i>Lattelekom</i> |
| 4. Privatisation Agency | 4. Government |
| 5. State Real Estate Agency | 5. Parliament |
| 6. <i>Latvenergo</i> | 6. Police |
| 7. Courts | 7. Courts |

Graph 1 shows the results of a survey of experience of corruption commissioned by Delna (the Latvian Chapter of Transparency International) in 1999, according to which only one to five percent of respondents had encountered corruption in most State and municipal institutions, while 45-75 percent of the population consider these same institutions dishonest.¹⁰ This discrepancy might result from the fact that only a limited number of citizens actually come into contact with these institutions. Much higher levels of corruption were reported regarding the traffic police and healthcare institutions. Interestingly, despite its ranking as the second most corrupt institution in terms of the proportion of respondents having made unofficial payments there, healthcare enjoyed one of the highest rankings in terms of honesty, suggesting that in Latvia as in other candidate countries, many payments made in healthcare systems are not regarded by the population as bribes, or at least are not negatively perceived.

¹⁰ TI Latvia, *Face of Corruption in Latvia*, Latvia, 2000.

Graph 1: Perceived dishonesty of institutions and personal bribing experience.
Percent from all respondents.



Source: "Face of Corruption in Latvia", *Delna* (TI Latvia), 1999

The Government's Corruption Prevention Strategy lists the following areas as "least protected against corruption:" customs, traffic police, judiciary, local government, privatisation, public procurement, tax collection, State supervisory institutions and the appointment of public officials.¹¹

From the evidence presented in this report, it is difficult to make a clear assessment of the prevalence of administrative corruption, given the current implementation of fundamental civil service reforms. Public procurement appears to be seriously affected

¹¹ Government of Latvia, "Corruption Prevention Programme," September 2001, p. 3.

by corruption, especially at the local government level. The weakness of regulation of political party funding raises worries about this area, and the available evidence is consistent with Latvia's poor ranking on measures of "State capture."

1.3 Government anti-corruption policy

The Government began to develop a substantial anti-corruption policy when it established the Corruption Prevention Council in 1997, chaired by the Minister of Justice and consisting of representatives from a wide range of State institutions as well as civil society.¹² Early in 2000, the work of the Council was strengthened by a Secretariat with a director, lawyer and PR officer. In 2000-2001, the Secretariat took the leading role in coordinating anti-corruption policy, while the Council served only as a consultative body on important matters.

The Council adopted a Corruption Prevention Programme in 1998 based on the objectives of prevention, prosecution and enforcement, and education. The Programme is updated every six months and contains both short-term and long-term objectives. The Corruption Prevention Programme for 2001 consists of three main elements.¹³ A preventive element aims at improving the functioning of the court system, administrative and competition procedures, issuing of licences and transparency. It also states the need to reform further the system of political party finance. Under the enforcement section, the programme identifies the need to establish an Audit Centre and improve anti-corruption mechanisms in customs and the State Revenue Service. The objectives of the educational element are training civil servants in new, more transparent administrative procedures and in ethics, raising public's awareness of citizens' rights and trying to involve ordinary citizens in the fight against corruption.

Among the key measures the Government has taken to fight corruption in recent years are:

- Government workshops and nation-wide conferences to formulate an effective Corruption Prevention Programme in 1997–1999;

¹² There were 16 members of the Council: the Minister of Justice (Chair of the Council); Minister of Interior (Deputy Chair); Director-General of State Revenue Service; Prosecutor-General; Auditor-General; Governor of the Bank of Latvia; a representative of the Economic Police; Director of the Bureau of Public Administration Reform; Director of the School of Public Administration Reform; Chairperson of the Competition Council; representatives of the Ministries of Justice, Finance, and Internal Affairs; a representative of Transparency International Latvia; a representative of the National Radio and Television Council; and a representative of Latvian Lawyers' Association. The Statutes and Programme of the Council are approved by the Cabinet of Ministers.

¹³ Taken from GRECO, *Evaluation Report on Latvia*, p. 5.

- surveys of households, business and officials conducted in 1998 with assistance from the World Bank;
- the Act on Public Access to Information, passed in 1998;
- the 2002 Act on Conflict of Interest of Public Officials (see Section 2.2);
- the Act on the Corruption Prevention Bureau, passed in April 2002;
- amendments to political party finance regulations, passed in June 2002 (see Section 6.2);

Anti-corruption policies have clearly success in a number of areas, for example in the customs administration (see Section 8.2) and strikingly in the Traffic Security Department (see Section 8.3). However, progress against high-level corruption and “State capture” is less clear, and the political will of the Government to fight corruption is doubtful. Corruption experts and other observers have perceived the Corruption Prevention Council as ineffective and the Government as lacking sufficient political will to pass effective anti-corruption legislation,¹⁴ although the pace of legislative change in 2001-2002 does not support the latter view. A particularly severe problem affecting implementation of the Government’s anti-corruption policy has been the dispersal of responsibility among various institutions, in particular among those responsible for investigating corruption (see Section 2.5).

Reflecting these reservations, in April 2002, Parliament passed a bill establishing a Corruption Prevention Bureau as the central institution coordinating the fight against corruption. The Bureau was intended to start functioning in July 2002. The new Bureau has the authority to draft legislation on corruption prevention, control its implementation, examine the asset and income declarations of public functionaries, and sanction officials for violations of the Anti-corruption Act. The head of the Bureau is appointed (for a five-year term) and removed by Parliament on the proposal of the Government. However, foreign experts have expressed some concerns and reservations about the legal framework establishing the Bureau, and an open competition to select a person to head it had run into problems as of July 2002 (see Section 2.4).

Some of the more important components of the version of the Corruption Prevention Programme approved in May 2001 are presented in Table 3, including deadlines for fulfilment. The record on fulfilment of the chosen measures appears to be relatively good, especially when taken together with the recent creation of the Corruption Prevention Bureau as a much-needed coordinating body. However, the goals to introduce whistleblower protection and to devote more attention to educating the public have not been met.

¹⁴ OSI Roundtable Discussion, Riga, 10 April 2002.

Table 3: Selected measures in the Corruption Prevention Strategy, May 2001

| <i>Measure</i> | <i>Deadline for implementation</i> | <i>Fulfilment as of June 2002</i> |
|--|------------------------------------|---|
| Draft new Anti-corruption Act | October 2001 | Yes |
| Develop legal basis for Anti-corruption bureau | October 2001 | Yes |
| Submit draft political party financing law | June 2001 | Yes (but not yet approved) |
| Draft new Code of Criminal Procedure | October 2001 | Yes (pending in the Parliament) |
| Sign OECD Convention and Council of Europe Civil Law Convention | December 2001 | No |
| Draft law to protect whistleblowers, include protection measures for whistleblowers in Labour Code and Code of Administrative Procedure | December 2001 | No |
| Introduce uniform administrative procedures allowing appeal against decisions of State and municipal officials | December 2001 | Yes (law enters into force 2003) |
| Strengthen internal audit: inter alia, develop proposals for action of internal auditors on detection of fraud and corruption | | Yes (ongoing EU project) |
| Introduce Principles of Conduct of Civil Servants, prepare brochure | August 2001 | Yes |
| Publish all tenders and procurement decisions on the Internet | September 2001 | Yes |
| Restructure Central Criminal Police Department to prevent duplication of functions in detecting and investigating corruption | June 2001 | Yes |
| Implement methodology for checking legitimacy of officials' income and increasing role of heads of institutions in controlling officials' asset declarations | December 2001 | Yes |
| Provide public access to court sentences in electronic form | December 2001 | No, ongoing EU PHARE project as of 2002 |

| | | |
|--|---------------|-----|
| Provisions of brochures and information materials on citizens' rights and other issues | December 2001 | Yes |
|--|---------------|-----|

Source: Corruption Prevention Programme, May 2001, Delna (TI Latvia).

Role of civil society

Latvia boasts an active community of NGOs dealing with corruption issues. Moreover, the Government is one of the most progressive in the region in its approach to NGOs. Professional NGOs work closely with State institutions in all spheres, and there are around 30 different advisory and policy-setting councils with representatives from civil society.¹⁵ In the Spring of 2001, the Cabinet adopted an instruction on how to conduct consultations with NGOs on draft legislation.

New planned legislation on NGOs is expected to further strengthen the role of civil society. Under the draft proposal, NGOs may be awarded the status of a "public good organisation" according to strict criteria.¹⁶

An example of active participation by NGOs in anti-corruption policy was an Integrity Pact signed in 2001 between the Latvian Privatisation Agency and Delna/Transparency International Latvia. The Pact granted TI Latvia experts full access to all documentation and meetings concerning the privatisation of the Latvian Shipping Company, and applied a no-bribery commitment to all parties involved in the privatisation. TI concluded that all procedures and rules were followed, and that there was no evidence of corruption.

The Foreign Investors' Council representing 15 major investors has established regular channels of dialogue with the Government. Since 2000 corruption has been one of the issues discussed, and in 2002 the Council and the Government established a working group on procurement.

1.4 The impact of the EU accession process

The fight against corruption has been stated as one of the main requirements for accession under the political criteria in the European Commission *Regular Reports*. In 1998, the Commission noted that corruption is an important problem, but acknowledged measures taken under the new anti-corruption strategy.¹⁷ In 1999,

¹⁵ TI Latvia, *Civil Society Participation and Councils in Latvia, draft report*, Latvia 2001.

¹⁶ *NGO Legislation*, NGO centre home page, <<http://www.ngo.org.lv>>, (last accessed 10 May 2001). The purpose of the new legislation is mainly to prevent the establishment of NGOs merely to obtain tax advantages.

¹⁷ European Commission, *1998 Regular Report from the Commission on Latvia's Progress towards Accession*, p. 9.

corruption was regarded as a serious problem, with a “much greater effort needed” to combat it.¹⁸ In 2000, corruption had become, according to the Commission, “a serious obstacle to the proper and efficient functioning of the public administration in Latvia.”¹⁹ The *2001 Regular Report* continued to acknowledge commitment to anti-corruption policy, but judged that measures taken “have not yet translated into concrete results on a broad scale” and that “further sustained efforts” are needed.²⁰

The National Programme for Integration into the European Union includes anti-corruption policy as a priority. Moreover, the Government Corruption Prevention Strategy states explicitly that:

The development of... [anti-corruption] policy and its implementation are also necessary for... Latvia to successfully integrate into the European Union and to ensure compatibility of its administrative activities with the requirements set forth for a democratic and legal state.²¹

A number of institutions have mentioned the EU as the main driving force for changes in the public administration, especially in terms of civil administration, procurement and internal audit.

Latvia was subject to an evaluation by GRECO in September 2001. The *Evaluation Report on Latvia*, published in May 2002, acknowledged that the seriousness of the corruption problem appears to be recognised at the highest level,²² but levelled considerable criticism at the lack of coordination and effectiveness of institutions investigating and prosecuting corruption (see Section 2.5).

EU assistance

A PHARE programme on Anti-corruption Training, Legislation and Education was among the first EU anti-corruption projects in the accession countries. The project ran for 18 months from 2000 to 2001 and provided assistance in drafting some important anti-corruption laws, training prosecutors, the police force and investigative journalists and organising various public awareness campaigns.²³

¹⁸ Commission, *1999 Regular Report*, p. 13.

¹⁹ Commission, *2000 Regular Report*, p. 18.

²⁰ Commission, *2001 Regular Report*, p. 20.

²¹ Government of Latvia, “Corruption Prevention Programme,” September 2001, p. 1.

²² GRECO, *Evaluation Report on Latvia*, adopted by GRECO at the 9th Plenary Meeting, Strasbourg, 13-17 May 2002, p. 2, <<http://www.greco.coe.int>>, (last accessed 2 September 2002).

²³ For information on the projects and criticism, see *Draft Report on Implementation of PHARE Anti-corruption Project*, TI Latvia, Latvia 2002.

A project on corruption prevention in the courts system began in 2002, aimed at supporting the Government's anti-corruption programme regarding reform of the judicial system and improving transparency in the courts system, in particular by guaranteeing public access to court decisions (see Section 5.1).

Several twinning programmes have been established.²⁴ Since November 2001, the State Audit Office has been participating in a twinning project with the UK National Audit Office. This project is part of a broad EU project "Budget and Financial Management" involving Internal Audit, Procurement Supervision Bureau and the Ministry of State Reform. The Swedish National Police Board (NPB) is responsible for implementing a twinning project on "Preventing, Combating and Reducing [of] Organised Crime in Latvia," with components addressing money laundering and corruption.

NATO accession

In addition to the EU accession process, the prospect of NATO accession has also become a potentially important influence on Latvian efforts to tackle corruption. In advance of the NATO Summit in Prague in November 2002, NATO chief George Robertson stressed the importance of stepping up anti-corruption efforts during a visit to Latvia in early 2002, stating that, "The quality of the legal system and the robustness of anti-corruption measures are of enormous importance to NATO countries and to your application."²⁵

2. INSTITUTIONS AND LEGISLATION

Latvian bribery legislation is relatively advanced, with the exception that legal entities are not criminally liable for corruption.

2.1 Anti-corruption legislation

Under Latvian Criminal Law, last amended in April 2002, sanctions are imposed on the following actions:

²⁴ PHARE, *2000 Annual Report*, <<http://europa.eu.int/comm/enlargement/pas/phare/pdf/phare2000.pdf>>, (last accessed 25 April 2002).

²⁵ Cited in: N. Coleman, "Latvia's anti-corruption efforts tripped up," AFP, Riga, 24 July 2002.

- Active bribery (Article 323) – defined as the provision of valuable property or benefits of a financial or other nature to a State official in order that s/he uses official position to perform or fail to perform acts in the interest of the giver of the bribe – is punishable by up to six years' imprisonment, or by 5-12 years' if the offence is committed repeatedly or by a State official.²⁶ The wording of the law permits prosecution for offering a bribe, although it is unclear whether the courts clearly interpret offering a bribe as covered by the provision.
- Passive bribery (Article 320) – intentionally accepting valuable property or benefits of a material or other nature in return for using one's official position to perform or fail to perform an act in the interests of the giver of the bribe – is punishable by up to eight years' imprisonment, from 3-10 years if the offence is committed repeatedly or on a large scale, and by 8-15 years if a bribe is extorted by a group of persons pursuant to prior agreement or by a State official holding a position of authority.
- Both active and passive bribery in the private sector are criminalised (Articles 199 and 198 respectively).
- The Criminal Law also sanctions indirect bribery (Article 322), misappropriation of a bribe (Article 321), exceeding official authority (Article 317), using official position in bad faith (Article 318), failure to act by a State official (Article 319), violation of restrictions placed on State officials (Article 325) and unlawful participation in property transactions (Article 326).

Latvian law does not allow legal entities to be held criminally liable for corruption, although legislation to establish such liability passed the initial stage of preparation at Government level in May 2002.

2.2 Conflict of interest legislation and asset declaration and monitoring

Latvia boasts quite extensive legal provisions that regulate conflict of interest and mandate compulsory declarations of assets and income by public officials. However, to date the impact of the provisions has been limited due to inadequate supervision and enforcement, although the media has used the law to expose and put pressure on officials. Recent amendments to the law can be expected to improve supervision considerably.

²⁶ GRECO, *Evaluation Report on Latvia*, p. 3.

Conflict of interest and asset declarations are regulated by the 1995 Corruption Prevention Act and the 2002 Act on Conflict of Interest of Public Officials, which establish conflict of interest and asset monitoring provisions for public officials. The provisions apply to the highest officials of the country, such as the President, MPs, all ministers and parliamentary Secretaries. In addition, the law is rendered applicable to the following public officials:

- persons appointed, elected or approved to a position or performing work (on a permanent or temporary basis) at a public or municipal institution if, upon performing official or professional duties in compliance with legal acts, the said persons have the right to formulate or issue administrative acts independently or as a member of a collegiate decision-making body, or to prepare and take other decisions related to individual rights, or have the right to perform oversight, control, investigation or penal functions or to dispose of the public or municipal property or financial resources, or who draft normative acts or develop policy or a development strategy for an industry or coordinate the operation of an industry;
- persons who are otherwise authorised to perform public functions at a public or municipal institution or at any other institution outside public administration (for example, auditors, members of the Physicians' Association, the Chamber of Crafts or any other non-governmental organisation authorised by the law to perform public functions).

As of January 2001, there were 40,302 State officials according to this definition.²⁷ Under the Act, it is prohibited for a public official to prepare or adopt decisions with respect to:

- themselves and their relatives;
- questions whose resolution affects or may affect the material or other personal interests of the relevant official or their relatives;
- natural or legal persons from whom the relevant official or their relatives obtain income of any kind, except income from capital in companies in which s/he owns less than one percent of the share capital; or
- enterprises in which the relevant official or their relatives are members of the administration or audit institutions or own more than one percent of the capital.

Persons occupying the positions mentioned above may not own companies or more than a one percent share of capital in companies that receive State procurement

²⁷ *VID Korupcijas novēršanas kontroles daļas PĀRSKATS par valsts amatpersonu deklarāciju pārbažu rezultātiem 2001.gadā* [Report on Control of the State Official Declarations in 2001].

contracts, State financial resources, State-guaranteed loans or State privatisation fund resources, unless these are awarded as a result of a public tender or open competition.

All public officials are prohibited from accepting any gifts or other material benefits (except diplomatic gifts and gifts which are presented to the official during official or work visits abroad and on national holidays), and are prohibited from working with any kind of advertising or having their name used in an advertising context, except where this is part of their duties. Officials may not carry on work outside their position with the exception of offices in voluntary, political or religious organisations or trade unions, or as a teacher, scientist, doctor or artist.

The Corruption Prevention Department of the State Revenue Service (SRS) has punished more than 100 officials a year, but the fines are insignificant (between EUR 8 and EUR 150).²⁸ A few officials have had to resign in order to avoid conflicts of interest. The head of the SRS acknowledges that the department lacks sufficient staff to monitor adequately or respond to all notifications concerning officials.

Moreover, the activities of the SRS have been undermined on several occasions by opposition from senior officials. For example, the SRS decided that a trip to Spain, taken by a number of Riga City Council deputies and paid for by a Spanish company that develops traffic regulation systems, violated the provisions on accepting gifts and material benefits.²⁹ However, the Chairman of the City Council defended the deputies on the grounds that the private company's financing of the trip saved public money. In August 2002 a Latvian daily petitioned the Corruption Prevention Council to investigate a possible conflict of interest involving the Latvian Prime Minister, who reportedly spent part of his summer vacation on a yacht owned by a Latvian company that benefited from more than six million LATS (10,246,305 EURO) in tax relief granted by the government. The case raised concerns over the ability of the Council to investigate such a case, given that the Prime Minister is also Chairman of the Council.³⁰

In an even more high-profile case, the President of the Bank of Latvia announced in August 2001 his attention to establish and chair a new political party, and opened a bank account to accept donations as a fee for holding the position of Chairman. The Prosecutor General's Office examined the case but concluded that it did not violate provisions prohibiting acceptance of gifts because the agreement with the bank specified that the President would not receive the funds until he stepped down from his official position.³¹

²⁸ Information provided by SRS, July 2002.

²⁹ V. Kalniņš, "Latvia's Anti-corruption Policy: Problems and Perspectives," unpublished paper, 2002. The group of deputies included the Chairman of the Transportation Department.

³⁰ RFE/RL Newswire, vol. 6, no. 155, part II, 19 August 2002.

³¹ V. Kalniņš, "Latvia's Anti-corruption Policy: Problems and Perspectives," unpublished paper, 2002.

Under the same Act, public officials as defined above must submit annual declarations of assets and income to the Corruption Prevention Department of the SRS. Declarations must contain information on all property (real estate, cars, land, etc.), money in banks and in cash, loans and credits given, and ownership of shares and involvement in any other official organisation, such as NGOs and private interest groups.

All declarations are public and some are published in the official bulletin *Latvijas Vestnesis* annually. In 2000, the Department checked 931 declarations (five percent of the total). Additional information was requested from 108 officials, plus 47 concerning information about relatives. Additional information was required in seven cases under the Act on the Income Tax to check the legality of income. Nine cases were passed to law enforcement institutions, and 287 administrative cases were raised either for being late or not delivering declaration.

Although the Corruption Prevention Department is armed with a paragraph of the Criminal Act that places sanctions on the provision of false information, in practice it has been ineffective. It has no powers to check declarations against bank accounts and other financial assets and has effectively relied on officials to disclose their assets fully.

Public attention has been raised by the phenomenon of political party appointees to the boards of State-owned enterprises,³² who were not classified as State officials under the Corruption Prevention Act until May 2002. As a result of scandals involving such officials, the new Conflict of Interest Act includes this category of appointees in the definition of public officials, meaning they must also submit income and asset declarations.

The system for monitoring declarations is not effective due to overload and inadequate formal checks of declarations. The new Act is expected to improve this situation, transferring initial monitoring roles to the heads of individual State institutions.

On the other hand, the media has continued to investigate how officials obey the Corruption Prevention Act. In several cases journalists have discovered luxurious houses owned by prosecutors, judges, or heads of State institutions, but none of the cases have led to charges or sanctions against the officials involved. This is largely due to the fact that officials were not obliged to prove the legality of their income until the legal changes in May 2002, and also a result of the passivity of law enforcement institutions.

In addition to the new Conflict of Interest Act, a new draft law was under discussion in the Parliament in early 2002 which would require all citizens to declare their monetary assets over €8,000 and gold and antiques worth more than €16,000. The draft law was expected to be approved by the Parliament in June 2002. However, the proposal has

³² Party declarations 2001, <<http://www.lursfot.lv>>, (last accessed 28 April 2001).

been criticised for its cost and the fact that low trust in the State will reduce the probability of citizens submitting declarations.

2.3 Control and audit

Latvia is in the process of putting in place an integrated State financial control framework. The State Audit Office enjoys independence and wide competencies, although its findings are not sufficiently used. Since 2000 an internal audit system has been in the process of being implemented, and the European Commission has expressed satisfaction with progress in this area.

The State Audit Office

The State Audit Office (SAO) was set up in 1993 to audit the use of State and local budget funds. The Auditor-General is appointed by Parliament for a term of seven years, the longest term of any official appointed by Parliament. The current Auditor-General is serving his second term. The SAO enjoys considerable independence, although the Auditor-General has expressed worries about the dependency of the SAO on the Government regarding budget allocations.³³

The SAO may audit State and municipal organisations and officials, State and municipal enterprises, and any other institution, organisation, enterprise, or NGO which disposes of State or municipal funds. Since 2001, the SAO is also responsible for reviewing the annual reports of 27 State and 578 municipal institutions.³⁴ The SAO does not have the authority to audit Parliament.

Following suggestions provided by SIGMA experts in 1999, in May 2002 the Act on the SAO was amended to allow the audit of the use of EU funds down to the level of final recipients.³⁵

The SAO Council determines the Office's audit plan. The Council consists of the Auditor-General and five other auditors. The members of the Council are recommended by the Auditor-General and are also elected by Parliament for the term of seven years.

³³ "Stressing necessity to grant independence of SAO budget in the law," LETA news agency, 23 March 2002.

³⁴ State Audit Office, *2000 Annual Report*; see <<http://www.lrvk.gov.lv/htmls/english/engindex.htm>>, (last accessed 20 April 2002).

³⁵ "Discuss Implementation of International Recommendations," LETA news agency, 22 May 2002.

In 2001, the SAO completed 248 audits (the same number as in 2000). The Office referred 30 cases to law enforcement bodies in 2001, an increase from 17 in 2000. The SAO imposed fines for illegal transactions totalling €7,023m in 2000 and €586,064 in 2001.³⁶

SAO findings are rarely used to impose corrective measures on audited institutions, and cooperation between the Office and other State and law enforcement institutions has been relatively poor.

An EU twinning project began in 2001 to give SAO officials training in anti-corruption and other skills. The project will finish in 2003.

Internal control

Latvia is currently in the process of developing an internal financial control system for the public sector, following the enactment of Cabinet Regulations on Internal Audit in 1999 and Ministry of Finance decrees on methodology for performing joint internal audits in 2001. Internal audit units have been established in most authorities, while the Ministry of Finance has been developing the capacity of a new Internal Audit Unit. The EU *2001 Regular Report* appeared to be largely satisfied with the development of internal financial control.

2.4 Anti-corruption agencies

There are a number of more-or-less specialised agencies responsible for investigating and prosecuting corruption. However, the division of responsibilities between them is very poor. The creation of the Corruption Prevention Bureau is intended, *inter alia*, to introduce coordination of anti-corruption efforts.

The main anti-corruption agencies are partly covered in Section 1.3. A number of different agencies and units are involved in the fight against corruption. The main ones are:

- Security Police
- Bureau for Combating Organised Crime and Corruption
- Economic Police Bureau
- Constitutional Protection Bureau
- Inquiry Board of the State Police

³⁶ SAO Annual Report 2001, <http://www.lrvk.gov.lv/htmls/gadapati/gada2001/gada2001_a6.html>, (last accessed 5 August 2002).

- Internal Security Department and Inquiry Board of the Financial Police Board, SRS

Until recently, the Bureau for Combating Organised Crime and Corruption was officially regarded as the principal coordinating institution for investigation and operational activities in the fight against organised crime and corruption. Centralised receipt, storage, processing and distribution of information provided by the institutions involved in the fight against corruption has been realised by the Information Centre of the Ministry of Interior.

However, an important problem in the institutional set up for the fight against corruption appears to be poor coordination and unclear division of responsibilities. In many cases, anti-corruption institutions have not investigated corruption in the belief that another institution would do it, resulting in no action at all. The GRECO *Evaluation Report* published in May 2002 notes that there is a range of policing institutions involved in fighting corruption, and that:

[T]heir efforts are frankly segmented and disjointed and that there is an obvious lack of direction and co-ordination... These bodies are failing to produce the results expected by society. During the visit, the GET [Greco Evaluation Team] was told by a member of the Economic Police that "there is a need to make clear who is (has to do) what."³⁷

One of the objectives in setting up the new Corruption Prevention Bureau is to take over primary responsibility for preliminary investigations into corruption from the existing units, although other law enforcement institutions will not be restricted from investigating corruption cases within their competencies. Under the Act establishing the Bureau, it will coordinate the fight against public sector corruption, with powers to review cases of administrative offences and to investigate cases of deliberate delays in submitting income declarations, exceeding official authority and misuse of power, bribery and the other criminal acts listed in Section 2.1. The Bureau will also be the main institution for checking officials' income and asset declarations. Finally, it will also be responsible for monitoring the adherence of political parties to party funding regulations. The Bureau is expected to have a staff of at least 100, and will be made up of a central apparatus and regional departments.

As of July 2002, the process of making the Bureau operational had run into problems, after the top candidate to head the Bureau – currently the Deputy Director of the Security Police – was disqualified on grounds of suspected conflict of interest related to a firm that stores and destroys contraband seized by police and customs officers.³⁸ In addition, a team of US experts who evaluated the legislation establishing the Bureau has criticised the

³⁷ GRECO, *Evaluation Report on Latvia*, p. 21.

³⁸ The controversy surrounds an expensive Mercedes used by the official's wife, which she was alleged to be using on loan from the firm; the official said the car was being rented. N. Coleman, "Latvia's anti-corruption efforts tripped up," AFP Riga, 24 July 2002.

subordination of the Bureau to the Ministry of Justice, and the insufficient resources committed to the Bureau, given the responsibilities it is expected to perform. The team was also of the opinion that the Bureau's mandate is not broad enough to allow it to obtain information and investigate all corruption cases, as there are no mechanisms for it to enforce cooperation or require information from other institutions.³⁹

Money laundering

The Office for the Prevention of Laundering Proceeds from Criminal Activity was created in 1998 after the passage of the Act on Prevention of Laundering of Proceeds derived from Criminal Activity in March 1998. The Office operates under the supervision of the General Prosecutor's Office, and employed 13 staff in September 2001.⁴⁰ As of mid-2001, there had been only two convictions for money laundering. The European Commission noted in the *2001 Regular Report* that, although the number of reports submitted to the Office quadrupled to 4,014 in 2000, there had been no corresponding increase in its capacity; perhaps as a result, only 40 of the reports were forwarded to the General Prosecutor's Office, and only 30 criminal cases were initiated.⁴¹ A special unit for investigating money laundering was established in the Board of the Finance Police at the SRS in June 2001.

2.5 Ombudsman

There is as yet no ombudsman in Latvia, though a National Human Rights Office (LNHRO) was established in 1994. In 2000, the LNHRO reviewed 775 applications and gave 4,012 oral consultations. The ability of the Office to deal with corruption cases is very limited, as it can only deal with cases where human rights have been violated. Moreover, its recommendations are not legally binding. As of July 2002, a draft law to establish an ombudsman was being prepared under the auspices of the President's Office, and was expected to be submitted to Parliament after the October 2002 elections.

³⁹ The information was conducted on the basis of an agreement to assist Latvia in the development of its anti-corruption policy. Information provided by Gale E. Rogers, Rule of Law Coordinator, Embassy Riga.

⁴⁰ GRECO, *Evaluation Report on Latvia*, p. 4.

⁴¹ Commission, *2001 Regular Report*, pp. 49–50.

3. EXECUTIVE BRANCH AND CIVIL SERVICE

The Government has identified the country's public administration as one of the major sources of corruption, noting in the introduction to the Corruption Prevention Strategy that, "[The] institutional system of public administration is a mess."⁴² Since 2000, however, the civil service has undergone important developments, with a new law and development strategy. These changes may be expected to create a considerably more corruption-resistant environment. Procedures for appealing against administrative decisions have been largely ineffective to date, although a new Code of Administrative Procedure expected to come into effect in 2003 should improve citizen redress. The EU accession process and assistance have been among the most important reasons for these changes. While there have been a number of important cases of corruption in the public service, the evidence on corruption is insufficient to make a clear assessment.

3.1 Structure and legislative framework

Civil service reform in the 1990's was largely unsuccessful. State institutions increasingly employed non-civil servants due to greater flexibility in salaries and employment conditions, resulting in a dramatic fall in the number of civil servants from around 40,000 in the mid-1990s to only 6,000 in December 2000.

A new Civil Service Act was passed in 2000 and came into effect in 2001. Under the Act, civil servants may be hired only on the basis of an open competition run by a specially formed commission, and may be dismissed only under specific circumstances defined in the law.

Under the new Act, since 2001, the Civil Service Administration (CSA) has been responsible for:

- preparation of civil service regulations, analysis and forecasting of civil service development;
- disciplinary supervision, investigation of disciplinary cases and consideration of appeals against disciplinary sanctions;
- development of personnel management;
- examination of civil servant candidates and civil servants;
- information and education of public administration employees;
- coordination of implementation of EU norms.

⁴² Government of Latvia, Corruption Prevention Strategy, May 2001, p. 2.

Since the Act came into force, the number of civil servants has increased substantially. As of December 2001 64 percent of public administration employees had civil servant status.⁴³ A survey carried out by the CSA in 2000 showed that 65 percent of officials valued stability as one of the most important elements of a job.

3.2 Administrative procedure and redress

The deadline for administrative decisions is 15 days, or a maximum of 30 days in complicated cases. Many State institutions have established shorter deadlines in internal rules, for example the Passport Authority. Citizens may appeal administrative decisions under special regulations approved by the Cabinet.⁴⁴ Under the 1997 Act on the Procedure for Reviewing Applications, Complaints and Proposals citizens may submit complaints against administrative actions. The head of the institution concerned must deal with the complaint or claim within 15 days (30 days in complicated cases). Under the new Civil Service Act, the CSA reviews complaints rejected by civil service authorities, and complaints may subsequently be appealed to the courts. The CSA may initiate disciplinary proceedings against civil servants as a result of its findings. Prior to the introduction of the new system, complaints were reviewed by the head of the respective institution and were usually rejected. It is too early to judge whether the new system works better in practice. Appeals against municipalities are submitted directly to the courts.

A new Code of Administrative Procedure that will come into effect in 2003 provides for special administrative courts to deal with appeals.

3.3 Conflict of interest and asset monitoring

The legislative framework for conflict of interest regulation and asset monitoring is covered in Section 3.2. All civil servants are subject to these provisions, and the new act makes heads of civil service agencies responsible for collecting annual income and asset declarations and monitoring possible conflicts of interests of civil servants.

The media has revealed conflicts of interest concerning senior officials on a number of occasions. For example, in 2001, the Minister of Defence went on a business trip to Great Britain with his wife, paid for by BAE Systems, which is participating in the

⁴³ Annual Report of the Civil Service Administration (CSA) 2001, <<http://www.vcp.gov.lv/faili/cdlv/informz/2001parskats.htm>>, (last accessed 5 August 2002).

⁴⁴ Cabinet of Ministers Regulation no. 154.

tender for purchasing long-range radars.⁴⁵ The Minister defended himself on the grounds that the trip was a working visit. Recently, allegations have centred on the Latvian Prime Minister himself (see Section 2.2).

The Anti-corruption Act provided the media with material for one of the first major scandals in Latvia. In 1997, newspapers published more than 100 articles about officials who violated the provisions of the act that prohibit officials from having positions in private companies.⁴⁶ The media has also written about conflicts of interest in many ministries, such as the Ministry of the Interior and the Ministry of Foreign Affairs.

In particular, the media has followed the interests of local government officials, especially in Riga. In November 2000, the press reported that the house of the executive director of the Riga City Council was being renovated by a company that was previously awarded a contract to work on repairs of the National Opera. The director denied any private connection in this case.⁴⁷ In May 2001, the SRS, which is responsible for reviewing income and asset declarations of State officials, fined the head of the real estate department of Riga City Council €140 for not reporting her position as a director of a private enterprise and a member of the board of an insurance company.

3.4 Internal control mechanisms

In 2000, 156 disciplinary cases were initiated against civil servants and 143 fines imposed.⁴⁸ Most cases involved non-fulfilment of duties (102 cases and 94 fines), but there were also cases of illegal use of public office (12 cases and 11 fines). The State institution most affected was the Ministry of Agriculture, with 87 cases and 85 fines.

There is no legal protection for whistleblowers, and job security remains insufficient to encourage disclosure of officials' misconduct.⁴⁹

⁴⁵ "Kristovskis says visit to British company BAE Systems was a working visit," LETA news agency, 25 May 2001.

⁴⁶ Ingrīda Puce, "Corruption Issue in Agenda Setting and Role of Media," university degree paper.

⁴⁷ Aiva Bārbale, "Riga city Executive Director Grinbergs is building big," 28 November 2000, on file with EUMAP reporter.

⁴⁸ Data provided by The Civil Service Administration.

⁴⁹ For example, one Ministry of Finance official related a case where a special ministerial commission was choosing a bank to handle the Ministry's money. According to the official, the Minister came to the commission and instructed it to award the account to a bank on whose board he previously sat. "But you either obey Minister or you will not have a job the next day," the official said.

3.5 Interaction with the public

A Code of Conduct for Civil servants entered into force in January 2001. The Code includes principles of conduct in relations between civil servants and society and in conflict of interest situations. The Civil Service Administration (CSA) has also produced a special report on ethics, which provides a theoretical background and discusses practical issues of implementation.

The Government has taken important steps to increase transparency. The Government website provides the agenda of all meetings of the Cabinet and subordinate legislative bodies (for example the Committee of the Cabinet of Ministers, or meetings of State Secretaries) and most documents prepared for those meetings. An Internet portal for all State institutions began functioning in April 2002. In February 2002, the Government approved a bill that would allow representatives of NGOs to attend meetings of State secretaries, which are the first step in the process by which the Government approves legislation.⁵⁰ One of the main priorities of the CSA is an information campaign to clarify for citizens their rights and provide information to public administration employees.

3.6 Corruption

According to the UNDP's *2000 Latvia Human Development Report*, 91 percent of citizens held very negative perceptions of public officials, six percent very positive and eight percent neutral.⁵¹ Officials were evaluated as more corrupt than any other type of public functionary.

However, the EBRD/World Bank's *1999 Business Environment and Enterprise Performance Survey* indicates that administrative corruption is a comparatively minor problem (see Section 1). The CSA *Annual Report* cites the results of a citizen survey indicating that 12 percent of respondents encountered corruption in a State institution, while 55 percent were not satisfied with access to information and 58 percent encountered excessive bureaucracy (such as being sent from place to place).

One of the largest and most well-documented scandals was the so-called "three million" scandal, which broke in 1997 over the settlement of a €17.3m guarantee granted by State energy monopoly Latvernego to Banka Baltija. Latvernego reached an agreement whereby it sold the debt to a Lichtenstein-based company, in a deal that resulted in the disappearance of three million Lats (€5.2m). Charges against two board managers of

⁵⁰ "Views of NGOs in the Meeting of State Secretaries will represent NGO centre," LETA news agency, 19 February 2002.

⁵¹ UNDP, *2000 Latvia Human Development Report*, p. 34.

Latvernego (State officials) and one attorney were filed, and a special parliamentary investigation commission was formed. However, nothing happened until 2002, and failure to prosecute the case has played an important role in undermining perceptions of law enforcement and the political elite.⁵²

The case also had ramifications in the Parliament (Saeima), where the Chairman of the parliamentary commission investigating the case was prosecuted for holding a credit card paid for by an off-shore company (see Section 4.5). In May 2002, indictments were finally filed against the President and two directors of Latvernego, and a representative of the Lichtenstein company. According to the Prosecutor's Office, the case will go to court in late 2002.

In November 2001, a director of the Environmental Inspection Bureau was caught accepting a bribe of €2,000 from a Latvian company in return for a promise to allocate to the company a contract for an international project.⁵³ Another case raised by the media charged the Director-General of the Government Real Estate Agency with awarding luxurious apartments in the centre of Riga illegally to agency colleagues and celebrities. The Director-General was dismissed, a criminal investigation began and the Prosecutors' Office initiated a procedure to return the apartments to the State.⁵⁴

Corruption in privatisation has attracted extensive media attention, and surveys have shown that the Privatisation Agency is perceived as the fourth most corrupt institution. In 2000, a member of the Board of the Privatisation Agency was caught receiving a €16,000 bribe in order to secure the briber the purchase of a house in a resort town. He was denounced by the leadership of the Agency and prosecuted. However, the court decided that the official had not committed bribery but misuse of public position, as there was no evidence of the payment serving his private interest.⁵⁵

In May 2002 court proceedings began against a lawyer charged with the murder of an official who worked in the Privatisation Agency in 2000. Among the evidence collected, €183,600 was found in the official's safe, and prosecutors suspected that he sold rights to administer insolvent and bankrupt enterprises to the lawyer.⁵⁶

⁵² J. Domburs and I. Voika, "Kas nozaga trīs miljonus?" [Who stole 3 million?], *NIP birojs*, Riga 1998.

⁵³ "Director of the Environment Inspection arrested and charged for bribery," LETA news agency, 22 November 2001. The Ministry of Environment and Regional Development informed the public that the particular person did not actually have direct influence on the decision process she had promised to influence.

⁵⁴ TI Latvia, *Watchdogs*, draft report on the "The Watchdog 2001" project, 2001.

⁵⁵ TI Latvia, *Watchdogs*.

⁵⁶ "In June the Court will start hearing on the murder of LAP official Skadina," LETA news agency, 22 May 2002.

The media also reported on suspected corruption in the privatisation of Latvian Shipping. However, Transparency International Latvia's monitoring of the privatisation did not reveal any evidence of corruption or illegality in the process.⁵⁷

Recent corruption cases indicate that individual citizens have become more willing to report corruption to the police, an impression shared by the recent GRECO evaluation.⁵⁸

One particularly worrying form of corruption reported by the World Bank was the practice of bribes being paid to secure jobs as public officials.⁵⁹ Such practices are likely to have been reduced greatly by the civil service reforms outlined in Section 3.1.

4. LEGISLATURE

Until recently, parliamentary scrutiny of public finances was undermined by the existence of a number of off-budget agencies, while the allocation of State guarantees by the Government appears to have been non-transparent. While there have been almost no cases of MPs prosecuted for corruption, there is evidence or at least testimony that "State capture," that is capture of the legislative process by business interests, is a problem.

4.1 Elections

Elections are regulated and supervised by the Central Election Committee (CEC). The Chairman of the Commission is appointed by Parliament for a term of five years. There have not been any attempts to remove the chairman, and elections are considered free and fair.⁶⁰

⁵⁷ Fith Rating Agency, *Latvia Report 2001*, p. 3.

⁵⁸ GRECO, *Evaluation Report on Latvia*, p. 20.

⁵⁹ J. Anderson, *Corruption in Latvia*, p. 7.

⁶⁰ The last external observers' mission of OSCE visited Latvia during the parliamentary elections in 1995. The CEC dealt with two complaints at the last municipal elections in March 2000, and in two municipalities elections were repeated.

4.2 Budget and control mechanisms

Although the State budget is subject to parliamentary approval, until recently the transparency of public finances was undermined by a number of off-budget funds, largely a result of the fact that agencies under ministry management were not included in the State budget accounts. The IMF commented in March 2001 that:

[T]he proliferation of agencies in recent years in Latvia, without adequate criteria to define their functions or limit their operations, has had a contrary result in some instances and has made budgetary control more difficult.⁶¹

The SAO has identified off-budget agencies as one of the most significantly corruption-prone areas.⁶² In addition, the situation surrounding State guarantees was non-transparent. For example, in 2000, the Government proposed a €14.9m guarantee for a distillery company without informing Parliament or the public. In 2001, the director of the company was assassinated. He was a close business colleague of the former Prime Minister Andris Skele, now an MP and Chairman of the People's Party. The Ministry of Finance did not approve the guarantee.

New budgetary rules approved in 2001 have made important changes to the State budget, providing for the abolition of off-budget funds. The 2001 State Budget Act included the maximum limits of the deficit at the end of 2001, as well as budgets of some agencies that were not previously included and a list of the State guarantees given during 2001.⁶³

4.3 Conflict of interest and asset monitoring

Conflict of interest and asset monitoring provisions are discussed in Section 2.2. According to the recent evaluation by GRECO *Evaluation Report*, a Parliamentary Code of Ethics was under preparation.⁶⁴

⁶¹ International Monetary Fund, *Report on the Observance of Standards and Codes (ROSC) – Latvia*, March 2001.

⁶² GRECO, *Evaluation Report on Latvia*, p. 17.

⁶³ Act on the State Budget, 30 November 2000, <<http://www.fm.gov.lv>>, (last accessed 30 April 2001).

⁶⁴ GRECO, *Evaluation Report Report on Latvia*, p. 5.

4.4 Immunity

MPs may not be arrested, prosecuted, detained or have their property searched without the prior consent of the Parliament. While GRECO regarded the extent of immunity as acceptable, it noted the absence (and recommended the creation of) clear guidelines for when immunity should be lifted.⁶⁵

In some cases immunity has been lifted in order to allow sanctions to be imposed for petty offences, such as speeding or submitting late or incorrect income and asset declarations. The willingness of MPs to vote for removing immunity in such cases has increased in the past three to four years. In June 2002, Parliament lifted immunity from an MP who had been investigated for suspected violation of political party funding rules.⁶⁶ There have been some other allegations of politicians building luxurious houses. In these cases the Prosecutor's Office has investigated the matter, but has not found sufficient evidence to request removal of immunity.⁶⁷

4.5 Corruption

There have been almost no cases of MPs being prosecuted for corruption-related offences. In 1998, the head of a special parliamentary commission investigating a controversial deal involving the energy monopoly Latvenergo (see Section 3.6) was charged in connection with use of credit cards billed to an account from which he was receiving around €1,880 per month. The MP denied the charges and was elected to Parliament. At the time of writing, the prosecutor's office was still investigating the case, which – again – appears to illustrate the weakness of the office in investigating economic crime.⁶⁸ In 2000, another MP came under investigation in connection with services provided to Latvernego by his law firm.

Latvia's reputation for "State capture," whereby laws and rules are illegitimately influenced by private interests, is related directly to powerful lobbying interests. According to one investigative journalist, companies that wish to influence legislation use a network of PR firms with connections to politicians and political parties, which systematically mediate payoffs to parties and individuals. No cases of such activities have been proven,

⁶⁵ GRECO, *Evaluation Report Report on Latvia*, p. 25.

⁶⁶ The MP was suspected of accepting for his political party and then misappropriating €25,000 in cash from an oil transit company. See "Saeima agrees to start criminal procedures against Burvis," LETA news agency, 13 June 2002.

⁶⁷ Information provided by Delna (Transparency International Latvia).

⁶⁸ TI Latvia, *Watchdogs*.

but the passage of a number of laws has raised suspicion. Examples include the passage in 2001 of restrictive legislation on pharmacies or the approval of lower taxes for free ports, regarded as the result of strong influence by business interests in the free port of Ventspils, one of the largest transit ports in Europe.⁶⁹ The ties between politicians and local business interests in Ventspils, such as Ventspils Nafta (Ventspils Oil), are regarded as one of the main examples of the phenomenon of “State capture.”

5. JUDICIARY

The judiciary suffers from serious problems of lack of independence, underfunding and lack of capacity, resulting in endemic court delays. Access to information on court decisions is an important problem, although guaranteeing this is a component of the Government’s anti-corruption strategy. Surveys indicate that a significant proportion of citizens that come into contact with the courts have faced problems of corruption. Although a judicial reform programme is underway, there appears to be a persistent lack of political commitment to effective reform.

5.1 Legislative framework

The legal and institutional framework of the judiciary is described in detail in a 2001 OSI monitoring report, which criticised excessive interference by the Ministry of Justice in judicial affairs – including direct intervention in individual cases and very low levels of enforcement of court decisions – and referred to a general perception of widespread corruption in the judiciary.⁷⁰

Although trials are generally public and court verdicts are officially public documents, access to court judgements is very poor: in practice presiding judges have not been willing to provide verdicts to third persons after announcing them verbally in the court room.⁷¹ Since 1996, judgements of the Supreme Court and, since 1998, judgements of the regional courts have been published in an annual publication. The 2002 PHARE project on

⁶⁹ Interview with Anita Brauna, journalist, Riga, 11 April 2002.

⁷⁰ EU Accession Monitoring Program, *Monitoring the EU Accession Process: Judicial Independence*, Open Society Institute, 2001, pp. 225–265., available at <www.eumap.org>.

⁷¹ During research on access to information, TI Latvia was denied verdicts in various courts. However, the courts provided the documents when told the reason for the request, and the problem of secrecy appears to be largely a problem of habit.

corruption prevention in the courts system has provided a set of recommendations for active publication of court cases on the Internet.

5.2 Corruption

Poor administration, poor access to information and delays in courts, especially, underpin public perceptions of relatively high corruption in Latvian courts. Forty-eight percent of respondents in surveys regarded courts as dishonest institutions, and only 16 percent regarded them as honest.⁷² Although 83 percent of respondents said they had never made any additional payments at courts, only nine percent of respondents had come into contact with the courts, indicating that the proportion of those that came into contact into court who made additional payments may be considerable. A survey by TI Latvia indicated that 1-2 percent of the population have faced problems of corruption in courts. Citizens rate the courts better than the police, municipalities and other institutions in ranking corrupt institutions. Public opinion surveys show that there is more dissatisfaction with court delays (39 percent) than with quality of proceedings (29 percent).⁷³

Since 1991, there has been only one case of judicial corruption, when a district court judge was caught receiving a €900 bribe in 1997. In May 2001, a Supreme Court judge was dismissed from her position for violating court procedures. Three judges were dismissed by the Disciplinary Board – a body composed of judges – in 2001. One case concerned abuse of position by a judge in Riga in connection with annulment of marriages.

Court delays are one of the main possible sources of corruption in the judicial system, especially in commercial civil court proceedings in Riga. Civil court proceedings take 12-18 months on average. In a court in Riga, it takes two years to handle criminal cases without any detainees and six months for cases with detainees. According to judges and lawyers, it is too easy to postpone cases, and there are no rules governing how judges should allocate cases to free spaces in their calendar.

The current Minister of Justice has set court reform as a top priority.⁷⁴ A programme of judicial reform currently underway envisages the creation of a Judiciary Agency to take responsibility for administrative and financial management of the courts away from the Ministry of Justice in 2003. Several multilateral and bilateral projects (EU, UNDP, the Swedish Government) are devoted to helping with State reform, in particular an EU

⁷² TI Latvia, *Face of Corruption in Latvia, Riga*, 2000.

⁷³ TI Latvia, *Face of Corruption in Latvia, Riga*, 2000.

⁷⁴ Government Declaration, 2000, <<http://www.mk.gov.lv>>, (last accessed 30 April 2001).

PHARE project running from October 2001 on “Prevention of Corruption within the Court System.” The main objective of this project is the publication of all court decisions, but this may take several years, since many district court verdicts do not exist in electronic form. Other planned reforms include the introduction of compulsory random procedures for assignment of cases, the creation of a Penalty Registry⁷⁵ and the introduction of courses on professional ethics and access to information at the Judicial Training Centre.

- a) On the other hand, judges largely blame the Government for the problems of the judiciary. In May 2002, the President of the Latvian Judges’ Association reacted to critical remarks addressed to the judiciary by President Vaira Vike-Freiberga by classifying them as symptomatic of the Government’s neglect of the judiciary, in particular its lack of funding.⁷⁶

6. POLITICAL PARTY FINANCE

Political party funding has been weakly regulated until recently. However, new funding regulations approved in June 2002 have put in place a much more transparent system. Nevertheless, the absence of any State funding leaves parties vulnerable to corruption and there is evidence that corruption is widespread. The effectiveness of the new Corruption Prevention Bureau in inspecting party financial reports under the new provisions will be an important test of its impact.

6.1 Legislative framework

Under the Act on Financing of Political Parties, parties may receive income from membership dues, donations and profits from business activities. The main provisions of the Act in force until June 2002 are as follows:

- Parties may not receive donations from enterprises where the State or a municipality holds 50 percent of shares or more, from State or municipal institutions, from religious organisations, from stateless persons or foreign or anonymous entities.
- A single donor may not contribute more than €45,000 in any one year.

⁷⁵ Corruption Prevention Programme of the Government of Latvia, 2001.

⁷⁶ Interview with Ivars Bickovics, President of the Latvian Judges’ Association, Latvian State Radio, 27 May 2002.

- Parties may not establish foundations for financing purposes.
- If an anonymous donation is received, it has to be transferred to a separate fund controlled by the Ministry of Justice, which subsequently redistributes the donations to all registered parties.

Under amendments to the Act that came into force in June 2002,

- Any one entity may donate a maximum of €17,347 to a political party in any one year;
- All donations over €173 must be provided through a bank account, and all other donations must be delivered to party offices in person;
- All donations must be submitted directly, and no third parties may be involved;
- Parties must publish every donation and its source on the Internet within five days of receiving it, declare all donors and expenditures before and after elections and provide more details of expenditures in their reports.

Until 2002 parties have received no direct financial assistance from the State. A Government proposal for funding of parties from the State budget was prepared in January 2001 but was not discussed in Parliament. Instead, parties initiated amendments to introduce limited State funding, which were among the amendments approved in June 2002. Under the new provisions all parties receiving at least three percent of votes will receive an amount equal to 0.1 percent of the minimum salary per vote, which in 2002 would mean €1 per vote. Discussion of more substantial State funding is expected to take place after the October 2002 elections.

6.2 Control and supervision

Under the provisions in force until June 2002, all parties were required by law to submit their annual financial declarations to the Ministry of Justice, and failure to do so could result in disbanding of the party. Since 2001, declarations of political parties have been available online free of charge at <<http://www.lursoft.lv>>, (last accessed 30 August 2002).

Under the June 2002 amendments, parties will now submit their financial declarations to the Central Election Commission, which will be responsible for monitoring them. This is a positive development, given the independence and professionalism of CEC staff. In addition, party financial reports are also to be submitted to the Corruption Prevention Bureau, which may inspect party accounts. The Bureau may impose a fine of up to €17,347 for violation of the law.

6.3 Party finance in practice

Table 4 shows the breakdown of political party income between 1995 and 1999.

Table 4: Breakdown of political party income, 1995–1999, in percent

| | 1995 | 1996 | 1997 | 1998 | 1999 |
|------------------|------|-------|-------|------|------|
| Donations | 89.5 | 78.4 | 91.2 | 83.5 | 88.5 |
| Private persons | 47.1 | 21.2 | 32.1 | 49.3 | 65.8 |
| Corporations | 52.9 | 78.8 | 67.9 | 50.7 | 34.2 |
| Membership dues | 2.2 | 20.5 | 7.1 | 3.2 | 9.0 |
| Entrepreneurship | 5.5 | 0.04 | 0.5 | 0.3 | 0.4 |
| Other | 2.8 | 1.1 | 1.2 | 12.9 | 2.1 |
| Total (percent) | 100 | 100 | 100 | 100 | 100 |
| Total, in €'000 | 1945 | 841.4 | 950.7 | 5251 | 1113 |

Source: J. Ikstens, *Political party financing and reducing corruption in Latvia: analysis of alternative solutions*, Soros Foundation Latvia, 2001, p. 9.

Donations

On average, more than four-fifths of party funds come from donations. Major political parties, which have or have had parliamentary representation, appear to rely heavily on large contributions. On average, large donations (more than €5,500) make up 80 percent of corporate contributions and donations of more than €1,100 cover almost 75 percent of income from private donations. According to the figures, donations from individuals have grown over time, which contradicts growing dissatisfaction with politicians and political parties. Yet, nine out of 11 parties admit disguising corporate contributions as private donations.

Since 1998, parties have begun taking out bank loans to fund campaigns. Annual declarations indicate that these loans are often interest-free.

Analysing data across parties and over time, two groups emerge as major contributors: financial institutions (banks and insurance companies), and companies engaged in transportation of oil and chemical products. The latter are believed to be particularly influential, and are increasingly being rivalled by the food industry, which has been the third most important financial contributor since 1998. Representatives of two parties admitted accepting donations from companies which have received contracts or licenses from State or municipal agencies controlled by representatives of the respective party.

Eight out of 11 parties admitted that potential sponsors frequently put forward suggestions or even demands of political or economic character, and most admitted

that they “occasionally” yielded to such demands. Three representatives conceded that at times their parties had to give up their ideological principles in order to satisfy their financial supporters.

There was only one corruption scandal covered by the press at the 1998 elections. The media reported that the Latvian Social Democratic Workers Party (LSDSP) pledged that specific donor-supported candidates would be placed higher on its ticket, practically guaranteeing them election.⁷⁷ Although the party officially denied the allegations, other party members confirmed them off the record. The case did not receive wide press coverage and was not followed up.

In 2002, prosecutors began investigating another case involving the LSDSP. The head of the party publicly accused an MP of accepting €25,000 from an oil transit company for the party, and then spending it himself. In June 2002 Parliament met a request from the State Prosecutor and lifted the MP’s immunity (see Section 4.4).

In March 2002, after parties submitted their annual reports, a TV programme investigated the parties’ donors.⁷⁸ The programme found that the largest donors to the People’s Party (which won the most seats in the 1998 elections) were companies without official addresses and which could be contacted only by mobile phone. One of the party’s donors turned out to be a company suspected of involvement in organised smuggling. Under media pressure, the party announced that it would give the dubious donations to a children’s home. The same programme then found that the LSDSP had received donations from various suspicious donors: one company had been investigated for tax evasion, one was bankrupt and one company was registered in the name of a person who claimed to have no knowledge of the company.

Expenditure

According to an expert on Latvian party financing,⁷⁹ most major parties do not declare a significant share of campaign expenses. On average, parties are thought to fail to declare approximately 5-15 percent of their total campaign budget, although some are believed to leave more than half of their expenditure undeclared.

⁷⁷ “LSDSP promised top positions on ticket for financial support for its election campaign,” LETA news agency, 1 March 2001; see <<http://www.leta2000.com>>, (last accessed 2 September 2002).

⁷⁸ *Tadi esam*, (weekly documentary), Latvian State TV, April 2002.

⁷⁹ Interview with Janis Ikstens, political scientist, expert on party financing, 21 April 2001.

7. PUBLIC PROCUREMENT⁸⁰

Public procurement is rated as one of the country's most corrupt spheres. Although a Public Procurement Act has been in force since 1996, the Act contains provisions that allow contracting authorities to avoid tenders relatively easily, and the system of supervision and redress has not functioned effectively. A new procurement act in force since January 2002 has improved the legal framework considerably, although there are still effectively no sanctions for violations of procurement regulations.

7.1 Legislative framework

Until January 2002, public procurement was regulated by the 1996 Act on State and Local Government Procurement. The Act applied to all procurement financed fully or partially from public funds. A new Act on Public Procurement for the Needs of State or Local Governments was passed in July 2001 and came into effect in January 2002. The new Act is intended explicitly to harmonise procurement legislation with EU directives.

Under the previous legislation, competitive tendering had to be applied to contracts exceeding €17,000 in the case of supply of goods or services, and €85,000 for construction works projects. The 2001 Act reduced the threshold to €8,500 for goods and services and kept the same threshold for construction works. As of July 2002, legislation was under discussion in Parliament to raise the threshold for goods and services contracts to €17,000. Sole sourcing may be used under the following circumstances:

- it is possible to purchase the goods or receive services only from one supplier and there are no justifiable alternatives or substitutes;
- the goods or services are needed urgently for unforeseeable circumstances, therefore involvement in a tendering procedure is impossible or unjustified;
- insurmountable circumstances or an emergency situation have arisen, which make it impossible to use other procurement methods due to time pressure;
- the contracting authority, at whose disposal there are already goods, equipment or technology purchased from a supplier, determines that an additional supply has to be purchased from the same supplier for reasons of standardisation, or to ensure technical compatibility with goods, equipment and technology already purchased, regarding the effectiveness of the initial purchase in satisfying the

⁸⁰ On-line resources on procurement in Latvia in English can be found at http://www.fm.gov.lv/80Sabiepirk/80Sabiepirk_a.htm, (last accessed 3 September 2002).

needs of the Government contracting authority. The value of the additional purchase must be “limited,” although no exact threshold is stated;

- the contracting authority is looking for an opportunity to enter into a contract in order to conduct research, an experiment, training or improvement which requires the purchase of a prototype.

These conditions leave considerable space for authorities to abuse the sole sourcing provision. The Act also states that members of procurement commissions shall be held civilly and criminally liable for violations of the tender provisions.

Information on upcoming public tenders and invitations to bid are published in the *Latvijas Vestnesis (Official Gazette)* and on the website of the Public Procurement Monitoring Agency, giving adequate access to information. The Ministry of Finance must place tender notices on the Internet within two working days after its receipt. Under the 1996 Act, procurement was non-transparent in practice: although information could be obtained on which company was awarded a contract, often the size of the winning offer was not public. Under the new Act, general information on both the winning and losing bids is available.

For procurements by tendering or competition methods, contracting authorities must establish a commission of at least three people. For construction procurements, the commission must comprise at least five people, one of whom should be an authorised construction representative, usually a civil engineer. Procurement commissions employ widely varying practices: many comprise eight people or more, and because the law does not state the functions of commissions clearly, many contracting authorities form commissions both to write the bidding documents and to evaluate bids, whereas others form commissions only for bid evaluation. Commission members are often untrained in procurement.⁸¹

Statistical data show that in 99.5 percent of cases, procurement contracts are awarded using the simplest two methods – one bidder or a questionnaire on prices.⁸² This probably accounts for 30-40 percent of total finances spent through procurement.

The 1996 Act did not mandate economy and efficiency in the use of public funds, require contracting authorities to conduct bid openings in public or open bids immediately after the submission deadline, or include any procedure for debarring bidders for fraudulent or corrupt activity. The 2001 Act has introduced all of these provisions.

⁸¹ World Bank, *Final Country Procurement Assessment Report*, vol. I, Europe and Central Asia Region, January 2001, p. 5.

⁸² Data from the Ministry of Finance, 1999.

7.2 Review and audit

The main body for supervising procurement and reviewing complaints is the Procurement Monitoring Bureau (PMB). The Director of the PMB is appointed by the State Secretary of the Minister of Finance. Under the 1996 Act, the Bureau (then called the Public Procurement Monitoring Department) was a ministry department with no powers, while complaints and appeals submitted against procurement processes did not result in the halting of procedures while the complaint was being processed. Under the new Act, participants in tender proceedings may submit complaints to the PMB during tender procedures or within ten days of a tender decision. On receipt of the complaint the tender procedure must be halted for 30 days, the deadline within which appeals must be dealt with. Participants may also appeal thereafter to the courts.

According to the World Bank, the Department under the old legislation was ineffective and lacked autonomy to carry out its role.⁸³ The Department employed only six staff in 2001 and could barely handle appeals, let alone carry out systematic monitoring of procurement. Although appeals procedures have been considerably improved by the new legislation, the law still contains no sanctions for violation of procurement regulations. Although violations might be sanctioned by standard fines for violations of administrative law, there is no institution responsible for imposing fines and none have ever been issued.

The State Audit Office may audit procurements, and did so in 25 cases in 1999 (nine percent of all audits it carried out in that year). These cases constituted four percent of the total €876.40m in public procurements that year. The Office also suffers from lack of capacity and training to audit a sufficient proportion of procurements adequately. However, the Office has identified a number of regular and serious violations of procurement regulations, in particular that:

- contracts are awarded for works or for the supply of goods or services without tendering or competition or the lowest bid is rejected without justification;
- the number of bidders is limited without reason;
- procurement commissions include persons who represent the interests of both contracting authority and supplier;
- the sums indicated in bidding documents are exceeded.⁸⁴

⁸³ World Bank, *Final Country Procurement Assessment Report*, p. 7.

⁸⁴ Republic of Latvia State Comptroller's Office, *2000 Annual Report* (State and Municipal Procurement). Cited in: V. Kalniņš, "Latvia's Anti-corruption Policy: Problems and Prospects," unpublished paper, 2002.

In most cases, officials are not sanctioned for such violations, a fact which appears to indicate significant potential corruption. The Office does not have the authority to suspend procurement processes while the actual circumstances or facts discovered in a complaint are investigated.⁸⁵

7.3 Corruption

There have been no criminal investigations of breaches of procurement procedures.

In 1998, the media exposed a Ministry of Transportation tender for construction traffic signs, in which the tender documentation was written in such a way that only one Latvian company with business relations with officials of the Ministry qualified for the tender.⁸⁶ According to the reports, an Estonian company could do the same job for half the price. No action was taken as a result of the scandal.

The press has on a number of occasions raised suspicions of corruption in the allocation of contracts for construction works by the Riga City Council. For example, a tender to build a bridge was issued in 2000. Documentation was provided to seven tendering parties, but bids were only submitted by four, one of whom subsequently withdrew its bid. The Council's Procurement Commission awarded the contract to a company whose offer was regarded by the media as clearly not the best.⁸⁷ The State Audit Office found a number of violations of procurement regulations. Competing bidders then appealed to a district court, which agreed that the award of the contract was illegal. However, the Riga City Court overturned the verdict.⁸⁸

According to an investigative journalist who covers procurement issues, collusion both among bidders and between bidders and authorities is common. For example, agreements with authorities in which the bidder promises not to appeal a tender in return for a contract in the future are common. According to the same journalist, companies say that a bribe of 10-20 percent of the contract's value is normal, most of which is channelled to political parties.⁸⁹

⁸⁵ State Auditors' Office, *1999 Annual Report*; see <<http://www.lrvk.gov.lv/htmls/english/engindex.htm>>, (last accessed 30 April 2001).

⁸⁶ Articles in *Diena* newspaper by Ingus Bērziņš, Jānis Domburs, *NIP birojs*, September 1998, <<http://www.lursfot.lv>>, (last accessed 30 April 2001).

⁸⁷ Interview with journalist Anita Brauna, *Diena*, Riga, 11 April 2002.

⁸⁸ V. Kalniņš, "Latvia's Anti-corruption Policy: Problems and Prospects," unpublished paper, 2002.

⁸⁹ Interview with journalist Anita Brauna, *Diena*, Riga, 11 April 2002.

An online discussion on public procurement organised by Delna in June 2001 indicated serious corruption problems in procurement. The discussion include the following contributions:

- “I am dealing with such issues and can say one thing – access to information will not change anything. There are many legal ways to grant the deal to a particular enterprise. We are corrupted and we have to start thinking about cleaning up the highest levels. Members of Parliament are poor and they need to live from something. State policy is directed towards corruption.”
- “You can offer goods even at dumping prices, and you still will not [win any contract], because a commission has its own people and companies to whom they have to award [contracts] in turn.”
- “My job is to produce tender documents for my boss for a certain winner, so all activities concerning information access are only a show.”⁹⁰

8. PUBLIC SERVICES

Corruption in the police (specifically the traffic police) and customs authorities have been regarded in perception surveys as more widespread than in any other institutions. However, reforms in both institutions have either led to improvements or can be expected to do so. Unofficial payments in the healthcare system appear to be more widespread than in any other area except the traffic police, although many payments may not in fact be bribes. There is some evidence of corruption in tax authorities, although important reforms have been implemented and public satisfaction has risen. Corruption in business licensing does not appear to be a problem, while corruption in other areas of business regulation appears to be limited. In the latter areas significant potential for successful anti-corruption reforms has been demonstrated.

8.1 Police

In the first nine months of 2001, seven police officers were arrested by the Bureau for Combating Organised Crime and Corruption, compared to five in 2000.⁹¹ Corruption

⁹⁰ *Versions*, <<http://www.delfi.lv>> discussions, <<http://www.delfi.lv/archive/index.php?id=1387012&categoryID=898102&ndate=05.06.2001&csID=5>>, (last accessed 5 May 2001).

⁹¹ GRECO, *Evaluation Report on Latvia*, p. 9.

appears to be a much more serious problem in the police than these figures suggest, however. As Section 1.2 shows, the traffic police is regarded as the second most corrupt institutions in Latvia. This may be expected to change somewhat as police have been unable to levy on-the-spot cash fines since 2000. A major case of police corruption emerged in November 2001 when the Deputy Chief of the Economic Police was arrested in the act of receiving a bribe of €6,250. The Deputy was the highest police official ever detained for corruption, and was trying to stop the investigation of a smuggling and tax evasion case.⁹² According to press reports, several other senior police officers have been hit by accusations in 2001 and 2002, including the head of the Economic Police, whose wife made expensive real estate purchases.⁹³

In every police unit, one officer is responsible for investigating complaints from the public. If individuals are not satisfied with the response, they may appeal to a higher police officer, the Security Police and ultimately the Minister of the Interior. According to GRECO, increased attention is being devoted to gathering operative information on and investigating corruption among police officers. Within the police, responsibility for investigation of corruption lies mainly with the Human Resource Inspection, which is subordinate directly to the Chief of State Police.

8.2 Customs

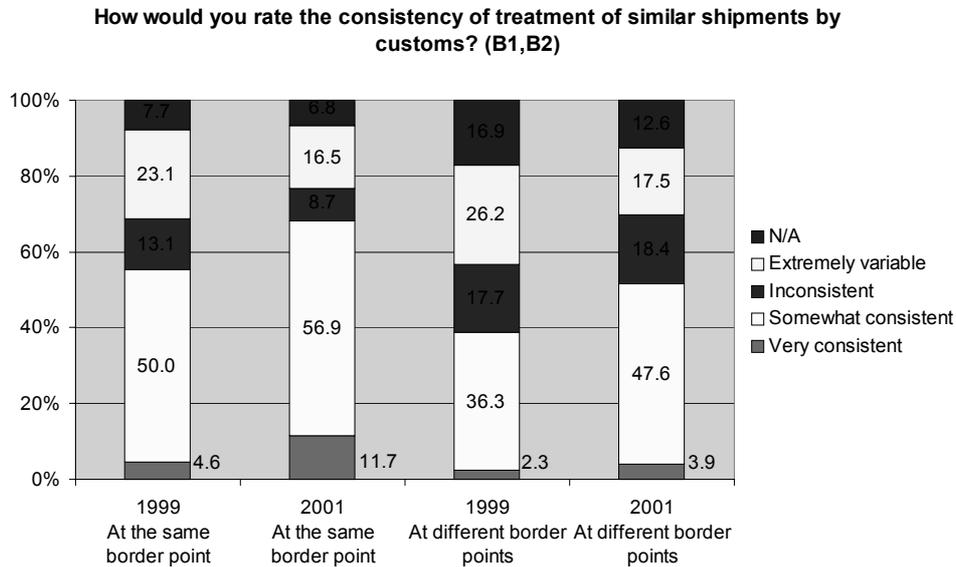
Seven customs officials were arrested by the Bureau for Combating Organised Crime and Corruption in 2000, while three were arrested in the first nine months of 2001.⁹⁴ Customs is regarded in surveys as the most corrupt institution in Latvia (see Section 1.2). However, there has been a broad improvement in all aspects of customs procedures and clearance in recent years. Changes introduced include: simplified declarations for certain types of movements of goods; the introduction of a system of electronic declaration of goods (although full implementation is hindered by the absence of a law on electronic signatures); more precise delineation of duties and authorities of customs officers; and a cooperation scheme with the Border Guard. In addition, specific anti-corruption measures have been introduced, notably rotation of staff. Graph 2 shows an improvement between 1999 and 2001 in companies' perceptions of the consistency of treatment by customs authorities.

⁹² Galzons, "Two high officials arrested for bribing," *Diena*, 20 November 2001.

⁹³ N. Coleman, "Latvia's anti-corruption efforts tripped up," AFP, Riga, 24 July 2002.

⁹⁴ GRECO, *Evaluation Report on Latvia*, p. 9.

Graph 2: Perceptions of consistency of shipments at the same border points and at different border points, 1999–2001



Source: 1999 and 2001 *Surveys on the Business Environment in Latvia*, available at <http://www.lda.gov.lv/images/2001anal_for_internet.doc>, (last accessed 22 July 2002).

8.3 Tax

Although direct evidence on corruption in the State Revenue Service is very limited, the tax authorities are regarded in surveys as the most difficult of inspectorates for clients to deal with. However, the situation has been improving. In 2001, 26 percent of respondents to a survey of the business environment found tax inspectorates “somewhat unhelpful and difficult,” compared to 38 percent in 1999.⁹⁵

Nevertheless, the “grey economy” is estimated at between 25 and 40 percent of GDP, and VAT fraud in particular is regarded as a major problem.⁹⁶ An “Islands of Integrity”

⁹⁵ 2001 Survey on the Business Environment in Latvia, <http://www.lda.gov.lv/images/2001anal_for_internet.doc>, (last accessed 22 July 2002).

⁹⁶ Press Release, SRS, 17.01.2001, <<http://www.vid.gov.lv/2vidinf/show.asp?id=259>>, (last accessed 22 July 2002).

project run by TI Latvia in cooperation with the Latvian Merchants' Association indicated that SRS inspectors are often threatening to impose large fines for minor tax violations in order to extort bribes. The tax authorities and local authorities appear to have considerable discretion to provide tax breaks to selected companies. For example, in 2002 Riga City forgave €2 million tax debt for a company operating in Riga port; the company's shareholders included a member of one of the governing political parties and businessmen that had sponsored a number of political parties in recent years.⁹⁷

The State Revenue Service has been implementing important reforms to fight corruption, based on a Modernisation Strategy for the SRS adopted in 1999.⁹⁸ Measures include the establishment of an Appeals Department in January 2000, the provision of extensive information on tax regulations and procedures on the SRS website and the opening of 17 modern client centres.

8.4 Healthcare

According to surveys unofficial payments appear to be more widespread in the healthcare system than in any other area with the exception of the traffic police: in 2000 14 percent of respondents said they had made unofficial payments to doctors compared to 17 percent in the case of the traffic police.⁹⁹ However, it is not clear what proportion of unofficial contributions are bribes that are necessary to receive treatment: according to a survey carried out by the Baltic Institute of Social Studies 47 percent of patients had given something to doctors; most of those gave flowers and sweets, while only 31 percent gave money.¹⁰⁰ Moreover, along with education the healthcare system is one of the most trusted institution in Latvia.

On the other hand, regional focus groups organised by TI Latvia in September 2001 identified admission to hospitals and special treatment (especially operations) as the most corrupt areas, with bribes starting from €150. Anecdotal evidence indicates at least isolated cases of aggravated corruption. For example, in July 2002 a medical care quality control

⁹⁷ "Social Democrats want explanation of tax relief to the company of Kehris and Indriksons," *NRA* daily, 22 March 2002.

⁹⁸ Modernisation Strategy 1999-2003, State Revenue Service of Latvia, <<http://www.vid.gov.lv/search./document.asp?src=1parvid/docs/19.htm>>, (last accessed 22 July 2002).

⁹⁹ *Face of Corruption in Latvia*, TI Latvia, 2000

¹⁰⁰ I. Peņķe, "Evaluation of the Latvian Health Care System," unpublished presentation, The Baltic Institute of Social Studies, 2002, p. 23.

inspectorate found that a patient died after emergency surgery was denied without reason, and the case was being investigated after relatives claimed bribes had been demanded.¹⁰¹

Corruption in healthcare is encouraged by a lack of consensus on what constitutes bribery in the health system, along with a funding system whereby hospitals are allocated lump sums with no conditions on how it is to be used.

Reform of the healthcare system has been identified as a priority of the Government's anti-corruption strategy. As of July 2002 the OECD was conducting a survey on request of the Government, and will submit recommendations on reforms to curb corruption.

8.5 Licensing and regulation

Business registration and regulation do not appear to be particularly severe problems. One of the areas where considerable progress has been made in fighting corruption has been in licensing processes. The most striking example of this has been the reform of the Traffic Security Department, the authority responsible for vehicle licensing, running driving tests and issuing driving licences. The Department is a State-owned joint-stock company, and through the 1990s was notorious for endemic bribery. A newly-appointed director carried out a comprehensive reform plan in 1999, involving simplification of application procedures, increasing and rotating staff, linking together all branches of the department electronically, introducing official extra fees for attractive licence plates, computer-generated written tests to prevent the sale of test papers, computer-selected examiners and driving test routes and manoeuvres and driving tests carried out in the presence of the instructor as well as the examiner.

Combined with a purge that has left almost none of the staff that worked in the Department ten years ago, the effect of these measures has been to virtually eradicate corruption. The only potential worry stemming from the changes is the fact that many of the staff sacked for suspicion of corruption have moved to positions in the police or customs; some have even been elected as MPs.¹⁰² The example of the Department has not been applied in other agencies such as the Land Registry or passport authorities.

Business registration

Business registration is another activity that appears to be remarkably clean. Businesses surveyed by the Latvian Development Agency give the Register an unambiguously positive evaluation (see Graph 3). Rather than being administered by the courts as in a

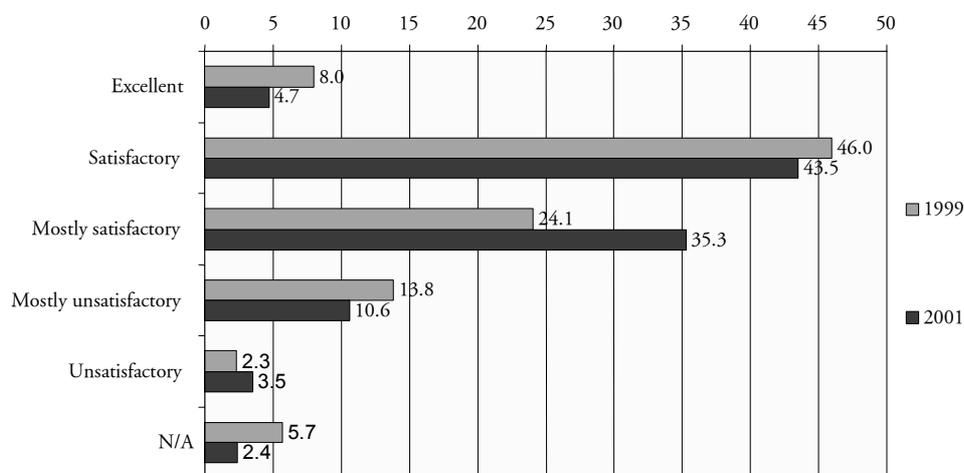
¹⁰¹ "Death of patient at Stradins' hospital due to ungrounded delay of emergency surgery," LETA, 26 July 2002.

¹⁰² Comments from OSI Roundtable Discussion, Riga, 10 April 2002.

number of other candidate States – a solution that appears to be vulnerable to corruption – the Enterprise Register is an independent agency. Registration of a company costs between €35-450, depending on the type of company, while amendments to the register cost from €3-6.25. Registration takes between one day and two weeks, and to register quickly costs more (twice the normal charge to be registered in three days, four times to be registered in one day).

In addition, accessing information in the Companies Register is easy. The register is administered by a private company (Lursoft), which provides a searchable database of companies, annual reports, balance sheets, founders and officials.¹⁰³

Graph 3: Satisfaction with procedures relating to enterprise registration or registering changes in corporate documents in Latvia



Source: Latvian Development Agency, *2001 Survey on the Business Environment in Latvia*, <http://www.lda.gov.lv/images/2001anal_for_internet.doc>, (last accessed 20 April 2002).

¹⁰³ <<http://www.ur.gov.lv>>, (last accessed 2 September 2002).

9. ROLE OF THE MEDIA

The Latvian press is free. Although Latvia was the first among EU candidate countries to pass freedom of information legislation, the impact of the law is uncertain to date. Broadcasting regulation appears to be relatively free of political manipulation. Corruption in the media is not regarded as a major problem, although there is some indirect evidence of phenomena such as hidden advertising. The media has played an important role in monitoring corruption, especially adherence to the Corruption Prevention Act.

9.1 Freedom of speech

Freedom of the press is guaranteed by the Constitution and the 1990 Act on the Press and other Mass Media.¹⁰⁴ The climate for journalists is generally free of restrictions. The Ministry of Justice issues licenses to print media publications, and there have been no cases of barriers to establishment except in the case of attempts to establish extremist publications. Barriers to a free and independent media are largely of a financial nature.¹⁰⁵

The Press Act grants media organisations the legal right to protect the identity of sources. However, journalists are obliged to disclose a source on request of either a court or a prosecutor. A proposal submitted by an MP in 2000 to remove the provision was rejected.

Cases of libel and defamation are rather rare. Those in power do not often use these provisions against journalists, as court procedures are slow and court decisions appear to have favoured the interests of the press over the interests of those suing.

In 1998, the State Real Estate Agency sued an independent office of investigative journalism for not paying office rent. Journalists had published a series of articles about corruption in the leadership of the agency, which later led to a dismissal of the director and a criminal investigation against him. At the same time, the journalism office was renting space in a house owned by the Estate Agency. The court froze all accounts of the media organisation, and they were forced to establish a new enterprise in order to conduct their daily business. The case was later won by the journalists. This case is not typical, however.

¹⁰⁴ Howard Jarvis, *2000 World Press Freedom Review*, <<http://www.freemedia.at/wpfr/latvia.htm>>, (last accessed 30 April 2001).

¹⁰⁵ IJNet, *Latvia: Press Overview*, <<http://www.ijnet.org/Profile/CEENIS/Latvia/media.html>>, (last accessed 30 April 2001).

Interference by publishers and media owners in the editorial activities of journalists can be a problem, as no publications have internal rules to define editorial freedom or the relationship between advertising and editorial departments.¹⁰⁶

9.2 Access to information

Latvia was one of the first countries in the region to pass a Freedom of Information Act in October 1998.¹⁰⁷ The Act gives any individual the right to access information from State administrative and local government institutions. Authorities must reply to requests for information within 15 days.

The Act lays down exceptions to the right of access. "Restricted information" is defined as information that:

- has been granted such status by law;
- is intended and specified for internal use by an institution;
- concerns trade secrets;
- concerns the private life of natural persons; or
- is related to certifications, examinations, submitted projects, invitations to tender and other assessment processes of a similar nature.

Authorities may not charge for information with the exception of the actual cost of copies. The author of information or the manager of an institution has the right to apply to information the status of restricted access, but must indicate the justification for doing so provided under the Act or by other acts. In August 1999, the Government adopted Procedures Governing the Release of Information at the Disposal of National Administrative Institutions.

Applicants may appeal refusals to provide information to the superior of the institution concerned, and thereafter to the courts.

Research carried out by Delna (TI Latvia) in October 1999¹⁰⁸ indicated that the impact of the Act had been disappointing at that time. Participants in the research sent

¹⁰⁶ Results of Information Access and Media Relationship project carried out by the Independent Bureau of Research and Information, 1995–1997.

¹⁰⁷ The Constitution also gives citizen the right to address questions to State or local government institutions and to receive a materially responsive reply.

¹⁰⁸ TI Latvia, *2000 Annual Report*, <<http://www.delna.lv>>, (last accessed 2 September 2002).

requests to 300 institutions for information accessible under the law, and obtained the following results:

- When requests were submitted in writing, a response was received in approximately 80 percent of cases, but three-quarters of the responses were negative.
- After a repeated request (usually submitted with legal arguments) satisfactory answers were provided in approximately 50 percent of cases.
- The courts were found to be the least accessible institutions, with only one of district courts providing information on case decisions.
- The research revealed widespread ignorance of the Act among State institutions, while arbitrary classifications of information as confidential were routine.

On the other hand, representatives of Delna believe that in the four years since the Act came into force, general acceptance by public institutions of their duty to provide information has increased, though State institutions are generally more ready to provide information than municipal institutions.

The main problem remaining in this area is a lack of systematic implementation of the Act across all State institutions. From January 2002 one official at the Data Protection Inspectorate has been responsible for overseeing practical implementation of the Act.

9.3 Broadcasting regulation

The licensing and functioning of Latvian television and radio is regulated by the National Television and Radio Board. All parties in Parliament appoint the nine-member Board for a term of four years, but any political party can have no more than three representatives on the Board. The terms of individual members expire alternately, ensuring relative continuity. The structure of the Board has not created any problems with impartiality, despite the highly political nature of the appointment process. Several times in recent years members of parties in the governing coalition failed to be appointed, reflecting a struggle for power within the Government.

The legal status of State broadcasting (Latvian Radio and Television) has not yet been solved, and both institutions are financed directly from the State budget. The Board has prepared draft laws to introduce licence payments for TV and radio, turning them into public broadcasting companies, but the proposal was rejected by the Parliament, as it is generally an unpopular move.

Public TV and Radio are generally regarded as relatively independent. For example, during the municipal elections, both public radio and TV, especially news programmes, were

considered to be free from political bias. The recent competition for a new director for National TV (see Section 6.4) was regarded as highly transparent, despite coming elections.

9.4 Corruption in the media

In the Spring of 2001, several newspapers signed up to a new Code of Ethics, adding to four or five already-existing codes in other media. The codes include avoidance of conflicts of interest.¹⁰⁹ However, research performed during the municipal election campaign by TI Latvia, the Soros Foundation Latvia and the National TV and Radio Board showed that several newspapers and TV stations did not follow rules of fair reporting, and particularly, noted a problem of “hidden advertising” on television.¹¹⁰

A major corruption scandal broke concerning the Director General of National TV in early 2002 after he signed agreements at the end of 2001 selling most of the stations’ advertising time to a private media company for half its market value. The National TV and Radio Board dismissed him as a result.

The legal status, owners, subsidiaries, annual reports and balance sheets are available online from the Lursoft company at <<http://www.lursoft.lv>>, (last accessed 2 September 2002). The Lursoft Company also provides a list of the biggest media publishers, by number of publications. Latvia is one of the most progressive countries in Europe concerning access to information on media ownership: the database is searchable together with the Enterprise Register, making it possible to monitor the other business interests of individuals involved in the media.

9.5 Media and corruption

According to the *1998 World Press Freedom Review*, journalists “have begun to build a tradition of effective investigative journalism,” forcing a number of officials with political or financial responsibilities to resign as a result of exposure of (*inter alia*) corruption.¹¹¹ However, the same review noted two years later that, “... Latvian journalists are still unprofessional in their approach to work.”¹¹² A UNDP report on

¹⁰⁹ UNDP, *2000 Latvia Human Development Report*, p. 81.

¹¹⁰ N. Ločmele, R. Berugs, *Sleptās reklāmas monitorings* [Monitoring of Hidden Advertising], TI Latvia, SFL, 2000.

¹¹¹ Rozitis, J. Ojars, *1998 World Press Freedom Review*, <<http://www.freemedia.at/archive97/latvia.htm>>, (last accessed 30 April 2001).

¹¹² *2000 World Press Freedom Review*.

the political decision-making process stated that, “Media have a significant impact to formation of public policy, but there is still a lack of editorial independence and too little dependence on the readers and viewers.”¹¹³

The mass media has played a major role in keeping corruption on the political agenda, especially since the Corruption Prevention Act came into effect in 1996. In 1997, media attention to corruption reached its peak, focusing particularly on breaches of the conflict of interest provisions of the new law (see Section 2.2). More than half of the newspaper articles that addressed corruption in 1996-1998 focused on breaches of the Corruption Prevention Act (see Table 5).¹¹⁴ The biggest dailies continued covering corruption issues also after these scandals, and played an important part in underpinning perceptions of relatively high corruption.

Table 5: Corruption-related articles in the printed press by subject, 1996–1998

| <i>Topics</i> | <i>Total</i> | <i>Diena</i> | <i>NRA</i> | <i>Vakara Zinas</i> | <i>Lauku Avize</i> | <i>Panorama Latvii</i> |
|--|---------------------|--------------|------------|---------------------|--------------------|------------------------|
| Violation of the Corruption Prevention Act | 247 | 135 | 70 | 23 | 11 | 7 |
| Corruption cases among State officials | 174 | 86 | 75 | 9 | 3 | 1 |
| Biggest cases of mismanagement of State property | 122 | 39 | 69 | 14 | - | - |
| Corruption scandals abroad | 18 | 15 | - | - | - | 3 |
| Corruption Prevention Act | 75 | 39 | 31 | 3 | 2 | - |
| Corruption as a social and political issue | 86 | 47 | 19 | 11 | 5 | 4 |
| Topics indirectly related to corruption | 27 | 7 | 17 | 1 | 2 | - |

Source: Delna (TI Latvia).

In 1999 and 2000, there were approximately 2-5 articles a day in the press mentioning corruption, according to Lursoft. Media attention has succeeded in stopping some projects, all by the Riga City Council. For example, media attention resulted in a criminal investigation into the director of the Riga Development Agency,¹¹⁵ although this took two years.

¹¹³ UNDP, *2000 Latvia Human Development Report*, p. 45.

¹¹⁴ *Corruption Issue in Agenda Setting and Role of Media*, Delna, 1999, p. 13.

¹¹⁵ TI Latvia, *Watchdogs*, p. 4.

10. RECOMMENDATIONS

The following recommendations have been highlighted as particularly important to Latvia. For additional recommendations applicable to candidate States generally, please see Part 5 of the Overview report.

1. Improve coordination of the activities of agencies fighting corruption, and ensure the Corruption Prevention Bureau enjoys the independence and resources necessary to carry out its extensive tasks.
2. Carry out an analysis of lobbying and “State capture” to determine the real extent of the problem, and introduce policy measures based on the analysis.
3. Implement meaningful judicial reform to ensure judicial independence, capacity and access to information.
4. Introduce standardised procedures for responding to requests filed under the Freedom of Information Act and impose these on institutions to which the Act applies.