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Preventing Corruption in the Latvian Public Service

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Content

I. General issues:

- Legal and policy instruments;
- Prevention of conflicts of interest;
- Codes of ethics;
- Internal control;
- Training of civil servants.

II. Corruption Prevention and Combating Bureau:

- Competence in prevention of corruption;
- Enforcement of Law on Prevention of Conflict of Interest

I. GENERAL ISSUES

Legal and policy instruments

As in every country which has a continental system of law, in Latvia one of the main guarantees for prevention of corruption are those demands which are stipulated by the law or government documents. There are several documents that are very important in this sense.

Firstly – some of the laws clearly set out requirements for the prevention of corruption and clarify what public officials should and should not do. One of the most important laws is the Law on Prevention of Conflict of Interest in Activities of Public Officials. This law defines what a conflict of interest is, which people are recognized as state officials, defines the main prohibitions and restrictions for state officials, determines what kind of information state officials should declare and establishes the procedure of submission of a declaration. But there are some other laws which regulate the actions of a particular state official's categories. For example, the Law on Disciplinary Responsibility of Civil Servants contains rules of responsibility for different misdemeanors in the civil service.

Secondly – the policy of state is not determined just by the laws. Also quite important are policy planning documents of the government – strategies, programmes, declarations etc. There are at least two very important policy planning documents in Latvia regarding the prevention of corruption: the National Strategy for Corruption Prevention and Combating 2004 – 2008 and the National Programme for Corruption Prevention and Combating 2004 – 2008. The Strategy contains the most important aims and guidelines for corruption prevention and combating. In its turn the Programme contains detailed and specific tasks for state and municipal institutions. Every new government drafts its action plan. In these action plans governments also include specific activities for prevention or combating of corruption.

Prevention of conflicts of interest

Certainly a key issue in the context of corruption prevention is the prevention of conflicts of interest in the public service. As I mention before, the Law on Prevention of Conflict of Interest in Activities of Public

Officials in Latvia defines what a conflict of interest is, which people are considered public officials, what the main prohibitions and restrictions for public officials are and what kind of information public officials should declare.

The law also establishes that the head of a State or local government authority has a duty not to allow the public officials working under this authority to act in a conflict of interest situation and in this way misuse his office.

To fulfill this obligation, the head of a State or local government authority has a duty to submit the lists of people holding the office of public official in the particular institution to the State Revenues Service. The head of a State or local government authority also has a duty to transfer by a written order the performance of any function or task to another public official if the public official who should perform the specific function or task is in a conflict of interest situation. In certain cases provided for in this Law and in accordance with the procedures provided for, the head of institution has a duty to decide whether to allow a possible additional employment of a public official. Usually, the official makes a written request to his superior explaining the type and conditions of the additional employment and receives written permission.

In order to prevent an official from being in a conflict of interest situation, the head of a State or local government authority, in cases such as appointments to the office, or controlling decisions, ensures the verification of declarations of income of the subordinated public officials. He or she does it in person or assigns it to the internal audit unit or another public official.

To resolve a conflict of interest situation, a higher public official or collegial authority shall assign the performance of the functions of the relevant public official to another public official.

The head of a State or local government authority has a duty to inform without delay the Corruption Prevention and Combating Bureau or in cases determined in this Law – the Constitution Protection Bureau about detected violations of this Law committed by public officials and facts that have become known to him or her during verification of declarations of public officials, namely facts that indicate such use of financial resources or other financial benefits by the public official that exceed the income and savings declared, as well as income and savings coming from sources that are prohibited by law.

Moreover, public officials shall on their own initiative provide information in writing to a higher public official or collegial authority regarding:

1. Financial or other personal interest or interest of their relatives or business partners that occurs in the performance of their duties;
2. Commercial enterprises, in which the official or his relatives have interests (shareholders, partners, members of supervisory, control or executive bodies) or individual merchants providing services for the relevant State or local government authority for the procurement for the State or local government needs, receiving State or local government financial resources and benefiting from credits guaranteed by the State or local governments or privatization fund resources, except the cases where they are allocated as a result of an open competition.

Codes and commissions of ethics

The same law prescribes that public officials shall act in conformity with the behavioral (ethical) codes approved in their profession, field or sector. A public official shall refuse the performance of the duties of office or the combining the office of the public official in all cases where due to ethical reasons the impartiality and neutrality of his or her actions might be doubted.

It is a rather new requirement for state and municipal administrations in Latvia. The Law on Prevention of Conflict of Interest in Activities of Public Officials came into force in May 2002 replacing the previous law – Law on Prevention of Corruption. The new law for the first time introduced a legal requirement to develop Codes of Ethics. Also, there were some demands of international organizations, for example – GRECO.

Until now – and that was true especially in the beginning – the idea of Codes of Ethics meets quite a big resistance from the leaders of state and municipal institutions and lawyers. Before there were just a few institutions where these codes were introduced and commissions of ethics were established. A big part of the leadership still do not understand why it is necessary to establish such a novelty, what the new possibilities will be using this institute or perhaps simply did not want to pay attention to developing something in this area. Also some lawyers were reluctant to the idea of making reference about codes of ethics in a law and wondered how it could possibly work.

At present codes of ethics and commissions of ethics are established in a lot of state and municipal institutions. Although this idea meets resistance, it is putting down more and more roots.

Internal control

The general idea of internal control is to develop a system where its different elements reduce the risk of corruption. It is discussed in theory and examined in practice that the risk of corruption is reduced by such methods as: transparency, collegial or multi-step decision making, dissociation of preparation and adoption of decision, control of decisions, possibilities of appeal, strict separation of authority and responsibility of officials and others.

Exactly as in the case of codes of ethics the idea of internal control is quite new for the Latvian's public institutions.

Historically, there were some institutions with very specific, strong internal control, for example – State and Financial police, but for the others there were no tasks and no responsibilities.

As I mentioned before, heads of Latvian state or municipal institutions have a duty to ensure the control of their subordinated public officials according to the Law on Prevention of Conflicts of Interest in Activities of State Officials. Of course, this is not enough. However, there is not a special law or other legal requirements of internal control in Latvia. There are only rules of the Cabinet of Ministers regarding the provisions of internal control in connection with internal audit. Also, there is a particular task to establish an internal control system for every head of state or municipal institution in our National Programme for Corruption Prevention and Combating 2004 – 2008.

Training of civil servants

As the first results of the Corruption Prevention and Combating Bureau show, one of the main reasons why the state officials are breaching the Law on Prevention of Conflicts of Interest in Activities of State Officials is the lack of knowledge. Very often state officials, including civil servants think that it is enough to have knowledge just in their specific area of competence and they do not need to know even basic questions in prevention of conflicts of interest, professional ethics or internal control. And sometimes when it was found that some of the state officials had violated the law, it was too late to change the situation. Such cases often finish by punishment. From the other side – it is much more effective and even cheaper from the point of view of public administration to educate and to inform than afterwards fight against the consequences.

The training of civil servants in Latvia is carried out by the State Administration School which is the leading institution for education of civil servants. They provide a great variety of training courses that include courses on prevention of conflicts of interest and internal control.

Training is also provided by the Corruption Prevention and Combating Bureau. We seek to analyse the actual breaches of law and draw attention to the most common violations or explain the requirements of the law. KNAB has developed 3 modules of training seminars for state and municipal institutions each of about 3 hours:

- Prevention of Conflict of Interest and Professional Ethics of Public Officials;
- Assessing Corruption Risks and Development of Anti-Corruption Action Plans;
- Corruption and its forms. Studies, evaluations, statistics.

It is also possible to contact officials of the Corruption Prevention and Combating Bureau directly and receive advice.

II. CORRUPTION PREVENTION AND COMBATING BUREAU

The Corruption Prevention and Combating Bureau (KNAB) was established in 2002 as a public institution whose main responsibility is to fight against corruption. The Bureau is supervised by the Cabinet of Ministers.

The mandate of the Bureau is set out in the law “On Corruption Prevention and Combating Bureau”. As the name of the Bureau shows - prevention and combating of corruption are combined into one institution. The Bureau has a rather broad mandate that goes from criminal intelligence to prevention of conflict of interest, control of political financing, analysis of risks and education.

Competence in prevention of corruption

In order to prevent corruption, the Bureau performs the following functions:

1. Co-ordination of implementation of national anti-corruption strategy and programme approved by the Cabinet of Ministers;
2. Monitoring of observance of the law “On Prevention of Conflict of Interest in Actions of State Officials” and other restrictions for public officials provided in normative acts;
3. Review of complaints, including carrying out of enquiries suggested by the President of Latvia, the Saeima, the Cabinet of Ministers and the Prosecutor General;
4. Collection and analysis of results of completed enquiries, including by other institutions, analysis of information contained in declarations of public officials and detected violations;
5. Analysis of the practice of state institutions in preventing corruption, and, in cases where corruption is found, recommendations for improvement to the relevant Ministry and the National Civil Service;

6. Methods for the prevention and fighting of corruption in state and municipal institutions and the private sector;
7. Legal analysis and drafting to improve the legal framework for prevention of corruption;
8. Surveys of public opinion;
9. Education in the areas of the prevention of corruption, law and ethics;
10. Information of the public on trends in corruption, detected cases and steps taken to prevent and fight corruption and public relations strategy;
11. Examination of declarations of public officials in the framework of the Law “On Prevention of Conflict of Interest in Actions of State Officials”.

KNAB also provides information and recommendations on anti-corruption issues to the Anti-Corruption and Crime Council.

Enforcement of the Law on Prevention of Conflict of Interest

As has been mentioned before, KNAB monitors observance of the law On Prevention of Conflict of Interest in Actions of State Officials and other restrictions in this area, as well as examines the declarations of state officials in the framework of this Law.

There is separate division – Division of Control of Actions of State Officials –main responsibility of which is to ensure this work. The division examines complaints from citizens and other information about activities of public officials.

When violations are found, KNAB can apply administrative sanctions. The most common sanction is a fine. According to the law, the size of fine is up to 250 lats (aprox.360 euro). There are also other sanctions. In cases of violations of restrictions on accepting gifts and donations it is also possible to apply the confiscation of gift, but this can only be done by a court decision. The most severe administrative sanction for the serious breaches of law is the ban to hold the position of public official. On the other hand, in the cases of less serious breaches of law there is the possibility of discharging the state official just by submitting the warning to him or her.

Much more severe than administrative sanctions are financial sanctions. The law that all revenues received as a result of illegal activities are to be returned to the state. It means that the public official who received revenues by violating the rules have to pay this amount of money to the state budget, otherwise it has to be insured through the court.

As you can see, almost all functions of KNAB are repressive. However, the cases of violations are analysed and conclusions are used to build our education programmes for public officials and to develop our proposals for legal amendments.