

IMPROVING POLITICAL ACCOUNTABILITY IN LATVIA

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Executive Summary

The research assesses the effectiveness of accountability measures in Latvia. The positive side of the balance sheet of developments between fall 2004 and summer 2005 shows: the Corruption Prevention and Combatting Bureau has been working increasingly effectively; the new Administrative Code and Courts allow citizens to demand accountability of public officials; a new director is reforming the State Audit Office; and a new law did limit the impact of big money on municipal elections. Civic activism has influenced high-profile political appointments, such as re-appointment of General Procurator Janis Maizītis who has streamlined the procuracy and is investigating high-profile cases that could bring a breakthrough in the accountability climate.

The performance of judges remains a weak link in the justice system, and so is the implementation of many regulations that are designed to prevent corruption, for example in procurement. Many reform proposals are on hold. Several vote-buying scandals during municipal elections are a dangerous omen for the parliamentary elections in 2006. Political oligarchs are mobilizing for those elections by forming new parties and trying to capture more media.

This research analyzes the means and progress of political accountability in Latvia, with an emphasis on the containment of corruption: how has accountability worked so far, what has hindered it, and what strategies could help in promoting change.

The various dimensions of accountability include electoral, public, legal, financial, and other aspects. Effective accountability can be measured by electoral upsets, resignations of officials, the impact of media reporting and parliamentary hearings, reversals of shady deals, and the rate of corruption investigations and convictions. The project takes a multi-dimensional approach to assessing the effectiveness of accountability measures and outlines a balance sheet of developments between fall 2004 and summer 2005. Each section starts by listing accomplishments, and then discusses remaining issues.

Introduction

This research analyzes the means and progress of political accountability in Latvia, with an emphasis on the containment of corruption. In other words, how has accountability worked so far, what has hindered it, and what strategies could help in promoting change.

The various dimensions of accountability include electoral, public, legal, financial, and other aspects. Effective accountability can be measured by electoral upsets, resignations of officials, the impact of media reporting and parliamentary hearings, reversals of shady deals, and the rate of corruption investigations and convictions. The project takes a multi-dimensional approach to assessing the effectiveness of accountability measures¹ and outlines a balance sheet of developments between fall 2004 and summer 2005. Each section starts by listing accomplishments, and then discusses remaining issues.²

Implementing Political Accountability: What Works?

1. *Electoral Accountability:* How free and fair are elections and campaign financing? Has the corruption issue led to electoral upsets? Did actual policy change follow?

New campaign finance laws and their implementation have had some success. Over the years much of Latvian politics has involved collusion between financial oligarchs and politicians – reflected, for example, in the money spent on political campaigns where per capita costs have exceeded those elsewhere in Europe, despite Latvia being the poorest country in the EU.

Amendments to the Party Financing Law adopted in 2004 restrict contributors, require significant transparency in party financing, and set a ceiling on campaign spending. These

¹ The accountability dimensions used here are based on chapter 8 of my recent book: Rasma Karklins, *The System Made Me Do It: Corruption in Post-Communist Societies*. New York: M.E. Sharpe, 2005.

² To keep the text as short as possible, many footnotes are omitted in this report.

changes aim at limiting the unequal electoral advantage of parties with huge hidden financial resources and the resulting political leverage of the so-called oligarchs engaging in state capture. Civic and state anti-corruption actors spearheaded the reforms.

The 2004 law strictly limits campaign finances. While its real test will come with the fall 2006 parliamentary elections, experiences during municipal elections in spring 2005 are encouraging. A monitoring project found that in general, the law had succeeded in limiting the impact of big money. The funds spent on the election campaign had decreased by at least half. Most parties observed the new restrictions, with the *First Party of Latvia (LPP)* being the conspicuous exception. It exceeded its allowed financing by at least three times the legal limit. Without breaking the party campaign finance law in such a blatant manner, the *LPP* very likely would not have surpassed the 5% electoral barrier required to be represented in the Riga City Council.³

It is characteristic of the political climate that the *LPP* leadership neither acknowledges its malfeasance nor apologized for it, and the rival parties did not make a serious issue of it. Currently, the toughest sanction for breaking the law is a fine of 5000 lats, which is not a realistic deterrent for future behavior. Unless stricter sanctions are added to the current law, for example loss of seats gained by conspicuous overspending during the campaign, it is likely that more parties will disregard the Party Finance Law during the 2006 parliamentary elections, especially if they believe that this is linked to the likelihood of them overcoming the 5% barrier.

The election monitoring project also focused on hidden political advertising. Here the finding was that the Russian party *Homeland* had profited from a massive hidden ad campaign by the Russian language radio station *PIK*. Such activity too, is likely to be more intense during the parliamentary elections if no serious deterrents are put in place.

³ *Providus* research report, May 2005.

Vote-Buying Scandals: The 2005 municipal elections led to changes of leadership in the Riga and Jūrmala City Councils, in part due to voters favoring parties promising to fight corruption. However, there was a dramatic negative turn in the balance sheet of political accountability due to several scandals over vote-buying.

Shortly after the election it emerged that in Rēzekne and Jūrmala money had been offered to voters in return for their vote for the *Jaunais Centrs* political party. When the elections were challenged in courts, it was decided that the vote-buying in Rēzekne was so extensive that new elections had to be held. This probably will not be the case in Jūrmala, where legal challenges continue.

New measures need to be taken to prevent similar occurrences in the future. A representative public opinion survey commissioned by the Central Election Committee about the public attitude to vote-buying indicates that, while 54% of voters condemn such practice, 17% would consider selling their vote for money.⁴ If this should in fact happen during the 2006 elections, the entire political system could be upset due to court challenges, follow-up elections, and other complications.

Another electoral scandal occurred in the resort city of Jūrmala, which is noted for very expensive real estate often controlled by the City Council. Here one of the newly elected councilmen revealed that he had been offered a large bribe in order to vote for the re-appointment of the incumbent mayor rather than the candidate of the election winner *Jaunais Laiks*. A criminal investigation in this case continues.

While these vote-buying scandals throw a negative light on electoral politics in Latvia, it is important that they were exposed and led to legal action. Councilman Ančāns of Jūrmala who

⁴ Survey results by SKDS; analysis in *Diena*, June 29, 2005.

reported the attempted bribe not only refused the very tempting offer, but took great personal risks and is now under police protection.⁵ It is a general dilemma of fighting corruption that corruption becomes most visible when it is actively investigated and covered in the media. Due to this exposure many people believe that corruption is increasing at a time when it actually is being challenged.

Looking Ahead to 2006 Elections: In safeguarding fair elections, the influence of big money and so-called oligarchs has been the core problem. Traditionally, Latvia has had many parties with small memberships, but with plenty of funding. In early 2005 major business and political figures have started to prepare for the parliamentary elections scheduled for October 2006. New parties are being formed, one of them led by *Jaunais Laiks* defector Māris Gulbis who has formed a political alliance with Ventspils mayor Aivars Lembergs and his regional party.

A new leftist party, *Harmony Center*, was formed in July when *Harmony Party* united with *New Center* and a small regional party. Jānis Jurkāns, the prominent leader of the *Harmony Party* pointedly refused to join the new association, saying that it had emerged in the rooms of a bank as a business project. When asked to be more concrete he stated that, “he had heard talk about the Parex Bank.” Jurkāns answered another question about who the people were behind this business project with a counter-question whether it was, “any secret that Latvia is ruled by five or six oligarchs.”⁶

2. Governmental Accountability: Do scandals lead to resignations, a change of government, or parliamentary investigations? What is the final resolution of cases?

⁵ *Diena*, March 22, 2005; other media reports.

⁶ *Diena*, July 9, 2005, p.3 and July 11,05, p.3.

Outcome of Scandals: To date, few politicians have resigned due to scandals, but there has been a noticeable change in regard to appointments. Since fall 2004, Transparency-International Latvia (*Delna*) and other civic groups have on several occasions influenced high-profile political appointments by voicing strong protests and succeeding in getting others to join in.

In fall 2004, *Delna* led a public effort to have the government's nominee to have Latvia's European Commissioner withdrawn because she (Ingrīda Ūdre) had been Chair of a political party found to be in violation of the 2002 campaign finance law.⁷ In what was viewed as a "shock to the system", the campaign succeeded when EU politicians started asking questions, and the nominee had to be replaced. Besides success in challenging a dubious candidacy to high office, this civic activism established the precedent that the public should have some role in discussing political appointments.

Two other occurrences are significant in this regard. When a new government was being formed in late 2004 and it at one stage appeared that former prime minister and political oligarch Andris Šķēle might be appointed Minister of Health, *Delna* raised such an outcry about his tainted reputation that his nomination was withdrawn within hours. Another important event that is a possible sign of a long-term change in the political climate is linked to the re-appointment in March 2005 of General Procurator Jānis Maizītis.

Since his initial appointment in 2000 Maizītis has made the Procuracy the most active and accountable part of the judicial system. He has introduced various reforms, including procedures for ousting procurators with poor performance records. He has personally taken charge of problem cases, most importantly some highly visible investigations into the activities

⁷ *KNAB* found the party accounts to be irregular. Party chair Ūdre has worked as a senior auditor for international firms, and therefore must have been aware of this. *The Baltic Times*, August 19-25, 2004, p.4.

of powerful political figures, including Aivars Lembergs. When the issue of Maizītis's reappointment came up in early 2005, several newspapers controlled by Lembergs accused him of incompetence and misuse of office. This campaign backfired due to its obvious lack of evidence as well as its obvious political aim. Maizītis was re-appointed in early March.

Maizītis's re-appointment was in large part due to his defenders mobilizing, including some media outlets and civic groups, but most prominently a group of leading personalities who signed a petition in his support at a strategic moment in time. This activity "from below" was complemented by actions by high officials: the Chairman of the High Court, who is empowered to submit the nomination to the legislature did so expeditiously; and the President, too, spoke out in Maizītis's support. In fact, the President had foreseen the attempts to deny Maizītis his re-appointment and had previously extracted promises from the leading political parties that they would support him. Although many forces came together, it was most of all a victory for public accountability due to civic activism.

3. Legal Accountability: To the extent that corruption control laws exist, do they have enforcement provisions? If enforcement provisions exist, are they actually used, and against which type of corruption? How many cases have been investigated and what ratio end up in trials and sentences?

The Corruption Prevention and Combatting Bureau (KNAB): The KNAB has established itself as an important player in the anti-corruption fight. It has been publicly visible as being rather active in investigating cases, in reviewing income declarations of public officials, and in overseeing the finances of political parties. It has started implementing its comprehensive

corruption prevention plan for 2004-2008 and has initiated significant changes in laws and regulations aiming at increased public accountability.

Although *KNAB* has investigated mostly smaller “fish,” it has increasingly paid attention to the activities of senior government officials, including prosecutors, tax collectors, and military officers. Its criminal caseload is growing, and has nearly doubled if one compares the first six months of 2004 to the first six months of 2005. However, *KNAB* has no control over the outcome of cases. Once cases are turned over to the procuracy and the courts, they take years to complete. As a result, the preventive impact of prosecutions is largely lost

Nearly half of the cases turned over to the procuracy involve some aspect of bribery. Another larger batch involves versions of “misuse of office.” Recently, *KNAB* has finally started to also apply sections of the Criminal Code referring to extortion,⁸ but as a rule, it still remains rather limited in the laws that it does apply – or can apply – in order to fight corruption.

More lawyers have been investigated for attempts to bribe municipal deputies or judges. *KNAB* director Loskutovs is on record of stating that it is difficult to prove malfeasance by judges, but that sooner or later this will happen because several lawyers have been investigated for taking bribes, which were designed to be given to judges.⁹

KNAB is also in charge of monitoring violations of the Conflict of Interest Law. Its report shows that during the second half of 2004 it received 347 complaints about possible infringements of the law and that it investigated 166 cases. It also initiated reviews of income declarations of individuals under suspicion. The Tax Service reviewed a total of 216 declarations. As a result thirty nine officials were called to account: Five officials were given oral warnings and thirty four individuals were given fines. The total amount of fines was 3,300

⁸ *KNAB* report Jan. 1-June, 2005.

⁹ *Diena*, May 17, 2005.

lats, the average fine being 100 lats (about \$ 200). In addition, two officials on their own refunded 3068 lats to the state for losses incurred. The review of income declarations led to 13 cases of closer audits by tax authorities. In four of these cases, additional tax payments were required in the total sum of 11,214 lats. All these sums are relatively small and can hardly be seen as a serious deterrent to future malfeasance; even more so as only low level officials are punished.¹⁰

Controversies: *KNAB* is under the supervision of the Prime Minister, which means that it is not autonomous, such as the State Audit Office, which the Constitution defines as an independent institution. Recently, the Prime Minister has taken several steps that can be interpreted as attempts to limit the independence of *KNAB*, or even influence specific cases.

In spring 2005 the Prime Minister tried to establish a special governmental oversight committee over *KNAB*, but had to back down when the Procuracy called this illegal. In another instance, the Prime Minister ordered the director of *KNAB* to re-instate a department head, who had been dismissed due to apparent drug use. When Loskutovs refused, he was taken to court, where he lost the case. In addition, the Prime Minister started disciplinary proceedings against him. Although without any real result, the chairperson of the Saeima anti-corruption committee Linda Mūrniece states that it appears to be an attempt by the Prime Minister to oust the director and his deputy Strīķe.¹¹ Others have suggested that the Prime Minister's personal interventions can be explained by political goals, for example a wish to protect his party's chairman, Šķēle, who is being investigated by *KNAB* in connection with the digital TV case.

¹⁰ *KNAB* report Jan. 1-June, 2004.

¹¹ *Nedēļa*, no. 15,2005, p.9.

Laws and Regulations: In December 2004, after a prolonged delay, the Saeima adopted amendments to the law giving *KNAB* the right to obtain information from credit institutions about private bank accounts and transactions. These amendments will improve significantly the capacity of the *KNAB* to combat corruption at all levels, including the highest levels. Many other laws need to be revised or written anew. It is important to widen the scope of acts defined as corruption as well as the scope of punishments, including the confiscation of illegally acquired funds and the freezing of funds. One reason why public officials get involved in corruptive deals is the absence of actual sanctions and risk. This has been changing, but only slowly, and a breakthrough is yet to come.

In a 2004 review, the international Group of States Against Corruption (GRECO) experts emphasized that a mechanism for witness and informant protection is needed, and so is a program to encourage witnesses to come forward.¹² Progress needs to be made in passing the improvements of the law about conflicts of interest that has been stuck in the Saeima since the fall of 2004. Instead of prohibiting all kinds of conflicts of interest, the current law defines instances when a public official may find himself in a conflict of interest. This means that there may exist conflicts of interest which the law does not specify.

Another weakness of the current law is that while it applies to the immediate relatives of state officials only, it does not apply to cousins and other close relatives, such as in-laws. The law is only partially applicable to senior state officials, which is problematic, as there is no tradition that would make the politicians themselves avoid conflicts of interests, both in substance and appearance.

¹² Group of States Against Corruption, *Evaluation Report on Latvia, Second Evaluation Round*, Strasbourg, 2 July 2004,

“Big Fish” and Legal Prosecution

The Procuracy has been investigating several high profile cases that have the appearance of state capture and will remain in the public eye until the 2006 parliamentary elections and beyond. If any one of these cases should in fact be brought to trial and result in convictions, this would mean a breakthrough in the accountability climate in Latvia.

The likelihood of this happening is difficult to predict since powerful people with huge resources are involved and will try to undermine proceedings by all sorts of means. As these “stories” will unfold, they deserve intense scrutiny by trained legal and journalistic investigators. This is even more important in that the General Prosecutor has on several occasions spoken out to say that he will make sure that these cases are investigated properly despite having received “warnings and expressions of points of view” about his work.¹³

The Three-Million Case: This intricate corruptive scheme has become a symbol of the impunity of powerful politicians as well as the helplessness of the judicial system. The transaction to swindle three million lats from *Latvenergo* occurred in 1997, but in 2004 the court acquitted four of the accused minor perpetrators, pointing out, at the same time, that the investigation against the organizers of the fraud still continues.

The case is more than ten years old. In 1994, the state owned electric company *Latvenergo* signed a guarantee for a 10 million loan, issued by the *Banka Baltija*. As the prosecutor said during the court proceedings of 2004, a criminal grouping bought the right to collect the debt from *Banka Baltija*, and the money from *Latvenergo* was to be transferred to an off-shore company. *Latvenergo* transferred the required eight million to an intermediary

¹³ As reported in *Diena*, 17 February 2005; also interview by Latvian State Television, program “Valsts pirmās personas”, 23 September 2004.

company, which transferred only five million to the *Banka Baltija*, keeping the other three million. The case involves many murky details and many commentators argue that it would have been impossible to carry out such a scheme without the involvement of senior public officials who are also alleged to have protected the minor figures who were brought to trial and were acquitted.

The Case of Lembergs: For several years, the procuracy has investigated whether the Mayor of Ventspils, Aivars Lembergs, has used his political power to promote his business interests. According to the Prosecutor General's Office's legal assistance request from Switzerland, prepared in November 2003, Lembergs might have received remuneration and shares in enterprises in Ventspils that were privatized in recent years. He may have, in his capacity as the mayor, made a series of favorable decisions regarding these enterprises.¹⁴

Lembergs has been refuting these accusations both in court (with some success) and in the media that he has control over, most notably the newspaper *Neatkarīgā Rīta Avīze*. He has also been backing the formation of a potentially strong new political party to compete in the 2006 elections. There are indications that he himself will be a candidate for parliament, which may be an attempt to limit the investigations in his past dealings and attain immunity from prosecution.

Digital Television: The introduction of digital television too has been investigated for improprieties. *The Digital Radio and Television Centre of Latvia (DLRTVC)*, owned indirectly by the state, entered into an agreement with *Kempmayer Media Limited*, registered in Great Britain, for the amount of \$53.5 million to install the required infrastructure and decoders. This

¹⁴ *Diena*, January 13, 2004.

agreement might lead to the encumbering or even loss of the 23% *DLRTVC*-owned shares in the mobile telecommunications company *Latvijas Mōbīlais Telefons*. The media has suggested that *Kempmayer Media Limited* is controlled by Latvian politicians who have set their sights on the valuable state-owned shares in the mobile telecommunications provider.¹⁵

Procurator General Maizītis has taken personal initiatives in trying to solve the case. As has been true for many other cases, the digitalization affair has an international dimension and he has sought the cooperation of Britain's "Serious Fraud Office" in investigating details.¹⁶ In a discussion with journalists in late 2004, he appealed to, "a small, influential segment of society," that has crucial information about the case to come forward and testify about what they know. He also stated that his office would do all it could, within the confines of the law, to, "show people with information every possible consideration." At the same time he noted, "in Latvia people have very sophisticated ways to hinder our investigations ... by creating a certain context, including by involving the mass media."¹⁷

Šķēle's Twenty-Nine Million Dollar Bond: In his 1999 Income Declaration of a Public Official three-time Prime Minister Andris Šķēle declared his ownership of a bond worth \$28.4 million, which was written out to him by the off-shore company *Bolster Management Limited*. Nothing relating to this transaction had been indicated in his 1998 declaration and the circumstances of this sudden wealth remain largely unexplained in the substantive sense, although various tax audits have concluded that nothing illegal has happened. This case illustrates many other suspicious-looking projects engaged in by politicians about which the media have provided numerous details, without ever providing convincing evidence about what

¹⁵ For example, LTV Panorāma, May 21, 2004.

¹⁶ Interview, *Latvijas Avīze*, January 11, 2005.

¹⁷ *Diena*, 29.Nov. 2004.

in fact has or has not happened. By disregarding the true nature of such transactions, the public gets the impression of murky deal-making.

The Case of Andrejs Sončiks: Former Director of the State Tax Service Andrejs Sončiks has been involved in another case suggesting the impunity of state officials. After being in his position for years, he was dismissed by the Council of Ministers in February 2003, which accused him of deliberate neglect of his duty to collect for the state nearly one million lats in tax debt in the so-called *Dinaz* case.¹⁸ When Sončiks went to court claiming that he was unjustly dismissed, a new Finance Minister appointed him Deputy State Secretary, despite public criticism. It took until June 2004 for the procuracy to start a criminal investigation, and more than a year later, in July 2005, Sončiks was convicted of, “devious misuse of an official position that caused grave harm to the state.” He was levied a fine of 9600 lats, and this again caused controversy; as one newspaper commented, this sum represents less than one percent of the sum actually lost by the state.¹⁹ The prosecutor had demanded four years in prison. Appeals are pending, with the state prosecutor noting that society needs to see that the misuse of official authority can have serious consequences not only for the state, but also the perpetrators.²⁰

Accountability in the Court System: This remains a significant problem that is reflected in low public trust, criticism, and complaints. The criticism increasingly is expressed in the open and by prominent figures. In June the President herself repeated her earlier statements about the need to improve the work of judges. She noted that it is hard to understand that drug dealers are,

¹⁸ *Baltic News Service*, June 1, 2004. Following a February 2005 decision of the High Court that the dismissal was justified, Sončiks left his position at the ministry.

¹⁹ *Diena*, July 5, 2005.

²⁰ LTV Panorama, July 4, 2005.

“routinely given suspended sentences,” and judges need to implement peer supervision, since all judges bear responsibility for their profession.²¹

Popular mistrust has focused on the Riga Regional Court. In May, Justice Minister Āboltoņa openly stated that she suspects corruption. She based her remarks on research reports, complaints by citizens, inexplicably mild sentences, court decisions lacking explanations and disruptions in the supposedly random assignment of cases. Furthermore, much too little has been done to enforce ethical standards and implement a system of peer-supervision.²² In response, the Head Judge resigned, blaming all issues on lack of resources. The other forty-six judges of the Riga Regional Court also jointly rejected all criticism, said that they felt insulted, and protested by boycotting the annual conference of judges.²³

The civic advisory board of *KNAB* has made recommendations on how to improve the image and performance of judges: provide sentencing guidelines (as there are currently tremendous disparities and too much leeway); introduce an internal control system in all courts that can investigate suspicious instances when the lifestyle of a judge is flagrantly inconsistent with his official income; review how cases are assigned to specific judges; introduce a quality assessment program that would be linked to merit raises; and introduce new training courses, especially in regard to ways to investigate and judge cases involving complicated financial and economic transactions. The Minister of Justice reacted to these recommendations by saying that her ministry would work to implement them.²⁴

4. Administrative Accountability: What is the effect of internal oversight and disciplinary procedures? What is the impact of citizen appeal rights?

²¹ *Diena*, 18.6.05.

²² *Latvijas Avīze*, May 18, 2005..

²³ *Diena*, 14.5.05, *Latvijas Avīze*, May 18, 2005.

²⁴ *Latvijas Vēstnesis*, March 22, 2005, Nr. 11 (366).

A big step forward was taken in early 2004 when the new Administrative Code and Administrative Courts started their work, since they allow citizens to demand accountability of public officials. The new courts review complaints about administrative decisions, and there are provisions for appeals. During the first year, nearly 2,700 cases were reviewed, most of these involving the Tax Service, the traffic police, and municipal governments.²⁵ As with all law, the administrative code has its prophylactic side, as it induces officials do be more circumspect in how they decide matters.

There is broad consensus that the administrative courts have been working well, possibly because they are entirely new institutions and efforts were made to find good personnel and train them. However, one study reports: “the Administrative Process Law provides for a more effective, economic and recipient friendly system of recovery of damages, although no legal mechanism to implement it exists and for this reason, it is virtually impossible to receive compensation from the state in practice.”²⁶ This paradoxical situation can be explained in two ways: it could be an example of the often Kafkaesque nature of the administrative environment in the post-communist region; or it could be seen as the characteristic of a system still under construction. Among the local public, both explanations have their adherents, while many others just sigh in frustration.

Little information is available on the internal review processes of state institutions and the general impression is that they function poorly. *KNAB* has required that by early 2005 all 200 state and municipal institutions outline their corruption prevention plans. A review of some

²⁵ *Dienas Bizness*, January 25, 2005.

²⁶ Ilze Gredzena, *Governmental Liability and its Variations. Recovery of Damages in the Administrative Process*. www.policy.lv, May 2005.

fifteen plans that had been submitted by March 2005 noted that only a few had made a serious effort to identify their corruption risks and find innovative strategies to limit them.²⁷

5. Financial Accountability: Is the use of public monies transparent, how often are audits undertaken, what is their quality and result? What is the enforcement record in terms of fines and repayments of misused funds?

Audits: In early 2005 Ingrīda Sudraba was appointed as the new director of the State Audit Office and soon after that gave highly critical interviews about the past performance of the Office, even calling the situation “hopeless.” She noted that in contrast to international practice, only a single auditor is in charge of reviewing the finances of an entire ministry and there have been no audits of the income side of the state budget, including tax payments. When asked how she rated the quality of the auditors on staff on a scale of 1 to 10, she chose 2.5 (this is the low end of the scale).

Sudraba also emphasized that there is more to auditing than looking at rows of numbers; one needs to look at entire systems and ask “what is it that allows people to make corrupt decisions?”²⁸ This comment is a most hopeful sign, since attention to formal aspects rather than the essence of phenomena has been a core problem of accountability measures in Latvia and other post-communist states.

Since starting her work, Sudraba has restructured her institution, and is working with the legislature on a new law on the State Audit Office which includes significant reforms. She has also expressed the wish to invite some foreign auditors to assist.

²⁷ Linda Austere, *Ēzītis mīglā jeb iestāžu pretkorupcijas plāni*, www.politika.lv, retrieved June 13, 2005.

²⁸ Multiple newspaper reports.

Procurement: The funds allocated to public procurement contracts reach about half a billion lats annually, nearly a quarter of the state budget.²⁹ This huge sum makes procurement a most attractive source of income and many businessmen are tempted to use illicit means to turn the decision in their favor. Similarly, members of procurement commissions are tempted to take kickbacks or allocate contracts to relatives or friends.

As is the case in many sectors, legally things look relatively good, but the problem lies in the implementation of the law. The Procurement Law prescribes considerable transparency and publicity in the procurement process. However, decision-making is decentralized and is being carried out in different institutions, and many officials know little about procedures. There also are serious weaknesses in overseeing how the law is carried out. Very few cases are reviewed in court. The State Procurement Office reviews about one percent of contracts, yet has argued that it is not responsible for administering punishments for irregular behavior. *KNAB* has documented dozens of cases where rules are broken, but nobody has ever been called to account, because, “no institution has been authorized to impose sanctions for violations of procurement procedures.”³⁰

The one means of accountability is that, according to the law, members of procurement commissions have to be defined as public officials, and as such can be called to account under the laws on conflicts of interest and deliberate misuse of office. However, the former mayor of the Riga has ignored this regulation. When state officials asked him to pay a fine (100 lats) for this breach of law, he successfully challenged it in court. The matter is being appealed, and corruption fighters are concerned that if the rule is not enforced, many other procurement

²⁹ Risks of corruption in public procurement in Latvia. Brief overview by the Corruption Prevention and Combating Bureau, *KNAB*, October.2004.

³⁰ Diāna Kurpniece, *Iepirkumu regulējums – vai uzlabojumi tiešām uz labu?* www.politka.lv, August 3, 2005.

officials may avoid being defined as public officials, and thus the whole system would fall apart.³¹

Accounting for Personal Wealth, Income, and Deal-Making: The battle over crime and corruption is hindered by lack of controls over huge amounts of money. *KNAB* has complained that Latvia has no credible system of accounting for personal income and wealth and that this hinders investigations of suspicious transactions. Since individuals do not have to submit tax returns and keep documents proving their income, it is impossible to prove the illegality of their income in cases when authorities suspect that some income is illegal or even criminal. This is aggravated with time, as the lack of declarations means that there is no point of reference for measuring past income levels and suspects usually argue that their wealth dates from previous undertakings or inheritances.³²

KNAB has drafted three versions of a new system of obligatory income declarations, one being that people above a certain income level (10 000 lats yearly, plus more than 5,000 lats in assets) would have to file declarations. The proposals have been submitted to the Saeima and have received partial support. Lithuania's experience may be helpful here since it recently adopted a policy to fight illegally gained money and the non-payment of taxes. All inhabitants with a certain level of wealth had to file declarations by May 2005, providing a point of reference for future sudden and unexplained wealth.

Public officials are the one group that has had to submit income and asset declarations for several years, but reviews are mostly ineffective. The Tax Service only checks the accuracy of addition. *KNAB* has the authority to undertake substantive verification, but not to carry out a tax

³¹ Inese Terinka, Diāna Kurpniece, *Tiesa atraisa rokas korupcijai publiskajos iepirkumos?* www.politika.lv, May 12, 2005.

³² Anita Brauna, *Controlling the Income of Individuals in Latvia*, www.policy.lv, March 2005.

audit, and has to go back to the Tax Service to request one. In a Kafkaesque arrangement, the Tax Service is not authorized to use the declaration of the public official for the audit. If it discovers undeclared money, the Tax Service can only ask that an official file a so-called “additional declaration.” Once he does so, he is fined a small penalty, and that is the end of it. *KNAB* has argued that this needs to be changed, even more so since the Tax Service at times even refuses to carry out an audit.

A third proposal by *KNAB* is that cash transactions for more than 10,000 lats should be outlawed. This would prevent the current practice that high officials declare large sums of cash as personal loans, or loan re-payments, that are difficult to verify. The director of the *Office for the Prevention of Legalizing Illegally Gained Funds* Lieljuksis has argued that this is a common way to hide bribes and launder money. *Diena* has written about several transactions that appear unusual in this regard, but is careful not to imply actual malfeasance, such as reporting about the financial affairs of Ainārs Šlesers, the former Deputy Prime Minister and current Minister for Traffic and Communications. In his 2004 income declaration Šlesers stated that he had been repaid several huge loans: a loan of 3.1 million dollars by a millionaire friend, and several loans by leading firms, including SIA Merks, which has dealings with the state.

Lieljuksis has stated that another financial scheme commonly used by politicians is that they sell shares in a company at an unusually high profit. Šlesers again has had several such stunning transactions. An example of this was his receiving 900,000 Euro for an original investment of 30,000 Euro.³³

The personal financial dealings of politicians are often covered by the media, and promote a climate of suspicion and cynicism. A prominent example of intricate business deals much discussed lately and being investigated by a parliamentary commission are various

³³ *Diena*, April 2 and 14, 2005.

ventures of ex-Prime Minister Repše, currently Minister of Defense. Typically, such inquiries take a long time and rarely yield a clear result.

6 Public Accountability: how effective is "the court of public opinion?" What is the effect of investigative reporting and commentary? Has monitoring by civic groups had any successes, have individual protests been influential?

Many of the answers to the questions asked in this section are already interspersed in the preceding text. The media and civic groups have had a decisive role in informing the public about accountability issues, and often have spearheaded attempts to improve laws, institutional performance, and the personal responsibility of public officials. While possibly going too far at times by raising suspicions without clear proof of malfeasance, this general effort has been a crucial source of reform impulses. What's more, the "court of public opinion" has tended to become more influential over time, even if there yet is a long way to go.

Many individual journalists, scholars, and some politicians have contributed to promoting public accountability. Among civic groups, the work of the anti-corruption association *Delna* stands out. It has launched many initiatives; one specifically aimed at improving the performance of courts involves a website that will publish court decisions as well as analyses of them. The purpose is to provide an incentive to judges to improve the written justification supporting their decisions and at the same time allow the public to review decisions and thus better understand the legal process.³⁴

Another project is geared toward creating legal precedents for implementing existing laws on the environmental protection of the dunes and seacoast of Latvia. *Delna* has sued a local township which granted a building permit in violation of state law, yet refuses to revoke the

³⁴ This initiative is supported by the US Embassy in Riga; *Latvijas Avīze*, July 12, 2005

permit despite losing in court at the lowest level. The case is continuing. It is a significant court case in that quite a few buildings are erected in violation of state laws and regulations, yet local and state authorities fail to intervene, or do so ineffectively. *Delna* has organized workshops for local officials to inform them about how best to enforce compliance with state laws.

Delna and other civic associations also cooperate with government agencies to fine-tune the process of awarding EU structural funds. The sums involved are huge, the annual total coming to 845 million euros. *Delna* has also used the *Transparency-International* originated instrument of an *integrity contract* in regard to civic oversight over the construction of several multi-million lats cultural centers. In sum, *Delna* is a public watchdog that at times raises a critical voice, yet also works constructively on a number of specific projects.

7. Personal Accountability: How much personal responsibility do individuals see? What attitudinal structures and habits influence behaviors?

Exclusive Networks vs. Civil Society: A crucial reason why accountability in Latvia and other post-communist states is weak is the insidious role of informal networks and rules of behavior. Many formal institutions and procedures are undermined by the rules of personal networks. Prevailing patterns of informal ties and peer pressure weaken compliance with laws, rules, and ethical strictures at all levels of society. People tend to cover up for each other, both out of fear of retribution and a mistaken sense of solidarity.

One recent example is a statement by the Health Minister that it is very difficult to find doctors willing to work in his ministry's audit department, because doctors have strong corporate

ties and defend each other.³⁵ The director of *KNAB*, has used similar words when explaining why it is so difficult to catch a “big fish.” They have huge financial and legal resources and, “speaking about corruptive relations, if people interact on the principle ‘a favor for a favor,’ the solidarity between both involved parties is so great that it is nearly impossible for us to get to such people.”³⁶

Attitudes: Survey data indicate that while many people in Latvia blame public officials for lack of integrity, they themselves often engage in illegal acts such as bribing policemen or medical personnel to gain an advantage. So-called “gratitude payments” in the health care sector are mostly given to select medical personnel, surgeons in particular. Some doctors admit publicly that they have accepted such “honoraria,” yet there have been no consequences; although this climate of justification of illicit behaviors may be changing due to an intensified public debate about it. Also, the government is promising new measures, in particular within the framework of a general reform of the health-care system.³⁷

Several recent surveys show only slight changes in popular attitudes from those recorded in earlier years. A January 2005 survey shows that, in comparison to 2002, most respondents had managed to do without unofficial payments. However, respondents mention some negative experiences with medical personnel and public officials who use state or local government resources for personal needs, or do not fulfill their duties. More than half of the respondents think that a sign of successful combatting of corruption would be calling the political elite to justice, thus emphasizing the role of politicians in preventing corruption.³⁸

³⁵ Interview with G. Bērziņš, LTV 1, February 12, 2005.

³⁶ Interviews by Inta Lase, www.politka.lv; and by LNT “Nedēļa” program, October 10, 2004.

³⁷ *Diena*, November 3, 2004.

³⁸ SKDS research report, January 2005, 7.-8.lpp.

Yet trust in existing institutions is low. A survey undertaken in October 2004 indicates that 51 % of the respondents do not trust the court system, the lack of confidence being slightly greater among the respondents of Russian nationality (57%). Also, 48% of respondents do not trust the police; yet 27% admitted that they themselves or some acquaintances had bribed the police, and this percentage is particularly high among self-employed people (46%).³⁹

Since quite a few individuals participate in illicit acts, reforms face an uphill battle. The price to the public purse is very high. During spring 2005 several studies were undertaken about the shadow economy and the practice of paying workers only minimal salaries and the rest in “envelopes,” thus avoiding taxes. Economists calculated that the resulting annual loss to the state budget would be around 680 million lats.

Officials who are responsible to prevent this publicly reveal their helplessness. They note that the amount of taxes they have been able to collect due to increased activity since the Repše government campaign in 2003 is relatively small, in the hundred-thousands of lats, not millions. Crucial reasons named are: the state prioritizes the collection of unpaid sales and profit taxes from businesses; current laws do not allow them to prove malfeasance in court; judges often do not have the skills to adjudicate financial matters; and workers participate in these schemes, while only helps to rarely prove a case.⁴⁰

Open or indirect complicity weakens the will and credibility of many people who otherwise might be active in containing corruption. One recent study shows that about 90% of real estate transactions are officially declared at a much lower price in order to pay a lower state tax, which is 2% of the sale price.⁴¹ This may in part explain the relatively muted public reaction

□ BSZI, October 2004.

⁴⁰ *Latvijas Avīze*, May 21, 2005.

⁴¹ *Diena*, December , 8, 2004.

to a scandal involving Saeima deputy Jānis Straume who according to all indications involved himself in a similar tax avoidance scheme, but suffered no consequences.

Conclusions

One reason of why public officials get involved in corruptive deals is the absence of actual sanctions and risk. Legally things tend to look relatively good, but the problem lies in implementation. Western observers need to be careful not to assume that, just because a law or regulation exists, it is being observed or implemented.

Among the accountability systems that work, the watchdog role of the press and civil society stand out. The most effective actors in promoting accountability are those media that are not controlled by an oligarch, civic associations, and the electorate. The main laggards are the judicial system and administrative controls, although the latter have improved during 2004 and 2005, especially as a result of the new institution of Administrative Courts. Various civic initiatives have made the largest difference, despite many groupings being small in number and financially weak. Their huge impact on promoting public accountability underlines the democratic role of civic society in complementing state institutions.