

CORRUPTION °C

Report on Corruption and Anticorruption Policy in Latvia

***No. 10
Second semiannum
2009***

UDK 338.1(474.3)
Pa 600

THE SOROS
FOUNDATION
LATVIA



This Report was prepared with financial support from the Soros Foundation – Latvia.

Editor: Valts Kalniņš

Authors in alphabetical order: Linda Austere
Valts Kalniņš
Liga Stafecka

The Report can be accessed on the Internet: <http://www.politika.lv/> and
<http://corruption-c.wikidot.com/>

© Texts: Linda Austere, Valts Kalniņš, Liga Stafecka, 2010
© Translation: Lolita Kļaviņa, 2010
© Centre for Public Policy PROVIDUS, 2010
© Design: “Nordik,” 2010

ISSN 1691-5305

Contents

Preface	5
1. Combating Corruption. Facts: July–December 2009	7
2. <i>Valts Kalniņš</i> Combating Corruption: Court Cases in 2004–2008	15
3. <i>Līga Stafecka</i> The Crisis and Corruption	27
4. <i>Linda Austere</i> Public Funding of NGOs: a Case against the Wrong Legal Strings	44
5. Appendix. Combating Corruption: a Quantitative Overview	56

Tables

Table 2.1. Sections of Chapter 24 of the Criminal Law	16
Table 2.2. Summary of charges and convictions	17
Table 2.3. Public officials tried in the first instance in 2004	18
Table 2.4. Public officials tried in the first instance in 2005	19
Table 2.5. Public officials tried in the first instance in 2006	20
Table 2.6. Public officials tried in the first instance in 2007	21
Table 2.7. Public officials tried in the first instance in 2008	22
Table 2.8. High-ranking public officials tried in 2004–2008	23
Table 2.9. Criminal cases involving active bribery: institutions/officials targeted as bribe recipients	24
Table 2.10. Size of bribes	25
Table 3.1. Public opinion on causes of the crisis	33
Table 3.2. Personal experience with corruption (comparison of 2005, 2007 and 2009 data)	36
Table 3.3. Justification of corruption and tax evasion	40

Table 5.1. Performance of the Prosecutor's Office: investigation of criminal offences involving bribery (CL 320–323).....	56
Table 5.2. Number of persons convicted of criminal offences committed in public service (2005).....	57
Table 5.3. Number of persons convicted of criminal offences committed in public service (2006).....	58
Table 5.4. Number of persons convicted of criminal offences committed in public service (2007).....	59
Table 5.5. Number of persons convicted of criminal offences committed in public service (2008).....	60
Table 5.6. Number of persons convicted of criminal offences committed in public service (2009).....	61
Table 5.7. Persons convicted and sentenced to imprisonment in the years 2005–2009	62

Figures

Figure 3.1. Attitudes towards the statement: “Things in Latvia are generally going in the right direction”	32
---	----

Abbreviations

EU	– European Union
CC	– Criminal Code
CL	– Criminal Law
CPCB	– Corruption Prevention and Combating Bureau
GDP	– Gross domestic product
IOC	– International Olympic Committee
LOC	– Latvian Olympic Committee
LSDSP	– Latvian Social Democratic Workers' Party*
NAF	– National Armed Forces
NGO	– Non-governmental organization
NOC	– National Olympic Committee
OLAF	– European Anti-Fraud Office
SAC	– Strategic Analysis Commission
SLI	– State Labour Inspectorate
SRS	– State Revenue Service
TP	– People's Party*
ZZS	– Union of Greens and Farmers*

* Political parties known by their Latvian initials.

Preface

2009 was a crisis year. Corruption is a crime that almost always stems from a desire to dishonestly obtain material gain. This is why concern about an increase in corruption is perfectly natural during times of economic upheaval.

It is hard to measure corruption levels even in stable economic conditions. No one will probably venture a precise prediction of how corruption will be affected by today's sweeping budget cuts, declining private consumption, and increasing uncertainty about the future. Cautious prognoses can be made on the basis of recent trends. If we disregard the occasionally voiced theory about the positive effects of the crisis – said to free people of all that is unnecessary and put a stop to excesses –, the picture is not particularly heartening. In this issue of *Corruption °C*, Līga Stafecka analyses the repercussions of the crisis.

When speaking about it in an abstract way, people still see corruption as something that is morally unacceptable and refuse to regard economic difficulties as a justification for acts of corruption. However, in the chapter “The Crisis and Corruption,” the author indicates that people are increasingly less willing to do something to root out this evil. In any case, radical improvements are extremely unlikely: “Poor mutual solidarity and a pessimistic view of one's own capacity to influence political processes do not suggest that, in the near future, the protests of individual small groups could generate sufficient public pressure to significantly curb the activities of corrupt public officials or politicians.”

At the same time, the second half of 2009 was not particularly eventful in regard to new anticorruption initiatives or disclosure of crimes involving corruption. One exception was the criminal investigation launched by CPCB into possible violations in connection with procurements for the Latvian Children's Hospital. If suspicions are confirmed, this could become one of the major criminal cases involving corruption. The most important lawmaking initiative was amendment of the Criminal Law by the *Saeima* in November. Amendments were made to the sections of the law that prescribe liability for corrupt activities in the private sector, solicitation and acceptance of undue advantages by government or municipal employees who are not public officials, and bribery of public officials.

The statistics published in this issue of *Corruption °C* on the adjudication of corruption cases from 2004 to 2008 show that – despite the achievements of corruption

fighters – lengthy court proceedings and objective difficulties involved in uncovering complicated corruption affairs have helped to foster political corruption. A lot still has to be done to make the battle against malefaction at the political level more effective. Among the things that should be done: the framework document on status of the Corruption Prevention and Combating Bureau that is currently under review should anticipate measures to strengthen the autonomy of CPCB and efforts should be reactivated to improve the party financing system. Making party financing violations a criminal offence would be a step in the right direction.

Valts Kalniņš,
Corruption °C editor

1. Combating Corruption.

Facts: July–December 2009

This chapter takes a chronological look at major developments connected with the prevention of corruption. Like all issues of *Corruption* °C, this one too lists the criminal investigation cases launched by CPCB and those in which CPCB has handed over materials to the Prosecutor's Office for the initiation of prosecution. This chapter also includes information released by the Prosecutor's Office on criminal investigations and charges. The chapter concludes with news on policy documents and draft laws that have been reviewed by the Meeting of State Secretaries, the Cabinet of Ministers, and the *Saeima*, and on the monitoring of political party financing.

It should also be mentioned that, on November 20, the Administrative District Court invalidated the 2007 decision of former Prime Minister Aigars Kalvītis to apply disciplinary sanctions against the then director of CPCB, Aleksejs Loskutovs, for permitting accounting irregularities at the Bureau (the ruling is in force). However, in 2008, several months after the initiation of disciplinary proceedings against Loskutovs, CPCB discovered that money had disappeared from the Bureau and the *Saeima* ultimately removed Loskutovs from office. On November 27, the court rejected A. Loskutov's complaint regarding Kalvītis' decision to suspend the CPCB director from duty pending the outcome of the above disciplinary investigation (this court ruling has been appealed).

Criminal investigations. Information released by CPCB¹

Listed here are only those criminal offences committed in public service and investigated by CPCB about which the Bureau had released information up to the beginning of January 2010. It should be kept in mind, however, that other law enforcement authorities also carry out such investigations. The public officials (including former officials) suspected by CPCB of committing criminal offences in office are:

¹ This information was compiled from CPCB press releases. For quotation purposes, see <http://www.knab.lv/lv/knab/press> Last accessed on February 12, 2010.

- 4 State Police officials,
- several State Labour Inspectorate officials,
- 2 Latvian Children's Hospital officials,
- 2 Latvian State CinePhotoPhono Document Archive officials,
- the directors of two enterprises under subordination of the Ministry of Culture,
- the administrator/accountant of the former European Commission Delegation in Latvia,
- 1 official of a municipal enterprise.

In July, a criminal investigation was launched into the activities of two Latvian State CinePhotoPhono Document Archive officials who, from 2007 to 2009, had had at least 14 persons fictitiously registered as archive employees, for which they had received a total of at least Ls 9,000. The investigator named two archive officials and one private individual as suspects in the case.

In August, CPCB detained two Riga Criminal Police officials suspected of demanding a Ls 500 bribe from a person arrested for theft in return for not registering the crime.

In September, a criminal investigation was launched into the activities of State Labour Inspectorate (SLI) officials suspected of having, since 2008, had several persons fictitiously registered as SLI employees for the implementation of European Social Fund and European Regional Development Fund projects. The fictive employees had systematically transferred money to the bank accounts of the SLI officials. The investigator has named five persons as suspects.

In October, in a case involving embezzlement of money from EU sources, CPCB named the former administrator/accountant of the European Commission Delegation in Latvia and one private individual, suspected of embezzling money on a grand scale and aiding and abetting. A criminal investigation has been opened, based on information provided by the European Anti-Fraud Office (OLAF) on the transfer of EU money to the bank accounts of fictive companies for seminars that were never held. Approximately Ls 21,000 were embezzled.

In October, a criminal investigation was launched into the unlawful disposal of financial resources at two enterprises supervised by the Ministry of Culture: the National Theatre and the Daile Theatre. The directors of the theatres have been named as suspects.

In October, CPCB launched a criminal investigation into possible crimes committed in the period from 2007 to 2009 when, in connection with the procurement of construction services, officials of the Latvian Children's Hospital conspired with senior executives of a number of companies to engage in unlawful and fraudulent activities, causing considerable damage. Two hospital officials responsible for procurements and three private individuals were detained in

November. Money in various currencies amounting to a total of Ls 700,000 was confiscated.

In December, CPCB launched a criminal investigation into the activities of a Jēkabpils municipal enterprise official in the period from November 2007 to December 2009, when the official had used the company's financial resources to pay for maintenance and heating costs of real estate owned by himself and his relatives.

In December, a criminal investigation was opened into the activities of two State Police criminal inspectors in Riga responsible for investigating car thefts. Instead of uncovering and preventing illegal activities at car repair shops in the Riga District, the inspectors had solicited bribes from shop owners. In one case, the police officials had demanded and accepted a bribe of EUR 500; in another, a bribe of EUR 1,500.

Criminal investigation of corrupt activities. Information released by the Republic of Latvia Prosecutor's Office²

In September, the Prosecutor General's Office launched a criminal investigation into the activities of Jūrmala local government officials. In February 2009, disregarding the Law on the 2009 State Budget which disallowed municipalities to assume long-term commitments, the Jūrmala City Council had resolved to invite tenders for construction of an apartment building. The annual payments were to be made from the municipal budget over a period of several years. Despite intervention from the Ministry of Finance and the Ministry of Regional Development and Local Government Affairs, the City Council had signed a contract committing itself to payment of Ls 2,107,339.11 over a period of eight years.

Legislation and policy documents³

On July 16, the Meeting of State Secretaries withdrew draft amendments to the Cabinet's Rules on Filling out Annotations to Draft Laws. In order to promote lobbying transparency, annotations to draft laws were to indicate which natural or legal persons had been consulted during drafting of a law, at which stage the consultations had taken place, and what these persons had recommended.

It must be reminded that, in July 2008, the Cabinet of Ministers approved a Framework Document on the Need for Legislative Regulation of Lobbying in Latvia, which anticipated that basic principles for lobbying transparency would be set out in the ethics codes of government institutions and in a number of laws and

² Data taken from the Internet website of the Prosecutor's Office <http://www.prokuratūra.gov.lv> Last accessed on February 12, 2010.

³ This information was partially taken from CPCB press releases.

regulations. The document defines lobbying as deliberate and systematic communication with state and municipal institutions for the purpose of influencing decision making in favour of private interests. Lobbying is legitimate as long as it is not connected with bribery or the acceptance of undue advantages or unlawful gains.

On September 8, the Cabinet of Ministers supported a framework document on possibilities for the improvement of legislation covering the activities of public officials who provide information about corruption in their institutions – the so-called whistleblowers. The corresponding legislative amendments were announced at the Meeting of State Secretaries on November 12.

On September 28, the Cabinet Committee reviewed but did not support the draft of Ethics Guidelines for public administration and municipal officials who engage in political activities. These guidelines say that, except in cases provided for by the law, public resources may not be used for political purposes, for example, to cover the administrative or campaigning expenses of political parties.

The document also addressed other issues pertaining to the activities of public officials involved in politics: the inadmissibility of using the advantages of public office for the promotion of political careers (this being a violation of the equal opportunity rights of political competitors); official communication with the public during pre-election periods (this should preferably be left to persons not involved in politics); PR campaigns financed with public resources (canvassing or distribution of political information should be avoided), etc.

On October 1, announced at the Meeting of State Secretaries: the draft of a framework document on the status of the Corruption Prevention and Combating Bureau. One of the document's proposed strategies was to strengthen the autonomy of the Bureau by prescribing that the director should, as before, be proposed by the Cabinet and appointed by the *Saeima*, but that candidates should be judged by a competent commission in accordance with formal and professional criteria prescribed by the law – including an unblemished reputation. A similar commission should also decide whether or not there were grounds for dismissing the director of the Bureau for failing to meet requirements of the law or for disreputable conduct. Disciplinary measures against the director of the Bureau are not anticipated.

An alternative strategy was to grant the Bureau the status of an independent institution, remove it from the Cabinet's subordination system and liken it to other independent agencies such as the State Audit Office or the Bank of Latvia. To ensure decision-making transparency and prevent a concentration of power in the hands of one person, the Bureau would also have a board empowered to make decisions on a number of issues: for example, to approve the Bureau's strategies and agendas, decide on the establishment of regional branches, accept budget drafts, fix salaries and set criteria for judging the performance of officials and employees. The director of the Bureau would inform the board (currently, the Minister President) about personal conflicts of interest, and the board would decide who to charge with the appurtenant functions of the director in such cases.

On October 20, the Cabinet of Ministers approved amendments to the Law on Local Governments, which require local governments to make public the drafts of binding regulations, with attached explanatory notes. The *Saeima* passed these amendments at the first reading on November 26.

On October 22, announced at the Meeting of State Secretaries: amendments to the Law on the Corruption Prevention and Combating Bureau prepared by CPCB to define more clearly the Bureau's anticorruption functions and obligations towards its employees. The Bureau will conceivably be expected to analyse not only anti-corruption efforts and corruption cases uncovered at government agencies but also at municipal agencies and state and municipal enterprises. The Bureau will then advise agencies on better anticorruption methods and coordinate their implementation. In view of the fact that the Bureau carries out departmental investigations in cases where there is not enough information about possible violations to launch a criminal investigation or take administrative action, the amendments anticipate rules and time limits for such investigations.

On November 3, the Cabinet of Ministers was expected to review draft amendments to the *Saeima's* Rules of Procedure, but no information has been released on either the Cabinet's decision or further progress of the document. According to the proposed amendments, in order to promote lobbying transparency *Saeima* deputies who submit independent proposals or proposals for amendments to draft laws or *Saeima's* draft resolutions will be required to explain why these are necessary and provide information about consultations with private individuals that have taken place during preparation of the amendments.

On November 12, announced at the Meeting of State Secretaries: amendments to laws and regulations, prepared by CPCB to improve the implementation of anti-corruption measures at government agencies and the capacity of agency directors to prevent corrupt activities.

A situation analysis of conflict of interest prevention shows that, currently, the main role in keeping a check on public officials' conflicts of interest is assumed by law enforcement institutions. This means that insufficient advantage is taken of the internal monitoring possibilities of public institutions. To make it easier for agency directors to keep an eye on the activities of their subordinates, amendments to the Law on the Prevention of Conflicts of Interest in the Acts of Public Officials anticipate the right of agency directors to request information that is provided in the confidential part of a public official's declaration of income and assets (addresses and personal ID numbers of the official, the official's next of kin, and other persons named in the declaration, as well as business partners, including debtors and creditors).

CPCB also proposes that all public officials be charged with a clearly defined obligation: to inform the Bureau about corrupt activities in which other officials of the institution are involved. To protect the informers – the so-called whistleblowers – agency directors would not be permitted to disclose the names of public officials or employees who have informed about wrongdoings or to cause such

persons to suffer adverse consequences. Administrative action would be taken against agency directors for failure to comply with these regulations.

On November 12, amendments to the Law on the Prevention of Conflicts of Interest in the Acts of Public Officials were adopted by the *Saeima*, stipulating that public officials must submit their declarations of income and assets with help of the SRS electronic declaration system. A number of the restrictions imposed on public officials were also amended.

On November 19, announced at the Meeting of State Secretaries: the draft of an Ethics Code for the Cabinet of Ministers. In addition to general ethics principles, the document includes provisions such as the prohibition to use public administrative or personnel resources in support of ministers' political parties (e.g. for election campaigning). Ministers would also be required to abstain from decision making where this could raise doubts about their objectivity and neutrality, to make public all information about contacts with lobbyists, etc. The adherence of ministers to the Ethics Code would be supervised by the Minister President and the adherence of the Minister President, by the *Saeima* Mandates, Ethics, and Submissions Committee.

On November 19, the *Saeima* adopted substantial amendments to the sections of the Criminal Law that prescribe liability for offences involving corruption. The amendments apply to bribery in the private sector, to solicitation and acceptance of undue advantages by government or municipal employees who are not public officials, and to bribery of public officials.

In regard to bribery (the acceptance of undue advantages) in the private sector, where liability was previously incurred only for soliciting advantages, it will now be incurred for accepting advantages or offers of advantages as well. Liability for active bribery in the private sector (commercial bribery) is now anticipated regardless of who is given the bribe or offer of a bribe – a senior official or an employee in any other position – for using his or her authority to do or not do something.

Similarly, municipal employees too shall be held liable for the unlawful acceptance of undue advantages or offers of such. More severe punishment shall be imposed if advantages are solicited or extorted. Formerly, liability was anticipated only in cases where advantages were solicited.

In regard to the acceptance of bribes by public officials, lawmakers distinguish between situations in which the bribe or offer of a bribe are accepted before doing or not doing something in the interests of the briber and situations in which the bribe is accepted for something that has already been done. Expressions of “thanks” to public officials have hereby been criminalized, although punishment for the “thank-you bribes” is less severe. A number of other sanctions for criminal offences connected with bribery have also been eased.

On November 23, the Cabinet Committee supported amendments to the Law on Financing of Political Organizations (Parties), which anticipate financing from the

state budget in the amount of Ls 0.50 per vote/calendar year for each political party that has received more than 2% of the votes in the previous *Saeima* elections. It is believed that direct public funding could make political parties less dependent on private donors and in this way promote democracy.

On November 24, the government rejected amendments to the Cabinet's Rules for Publishing Agency Information on the Internet. To disclose information about lobbyists, agency website links to "Public Participation" were to include information about cooperation with non-governmental organizations, working groups and councils, public hearings, and information about private individuals who have regularly made recommendations about laws or development planning documents. Although the government conceptually supported the requirement that information about lobbyists should be accessible to the public, it asked the Corruption Prevention and Combating Bureau to reassess possible solutions to make sure that information about lobbyists was made accessible, but agencies were not at the same time burdened with new functions.

On November 26, at the first reading, the *Saeima* passed amendments to the Law on Local Governments submitted by the Cabinet. These require local governments to make public the drafts of binding regulations and attach to these explanatory notes giving short summaries of the regulations, reasons for the regulations, information about consultations with private individuals, etc. It is hoped that this will promote decision-making and lobbying transparency at the local government level.

Monitoring of Party Finances

On November 10, the Administrative District Court heard a case involving a CPCB decision to take administrative action against the Harmony Centre and order the party to pay the state Ls 4,463 which it had spent in the run-up to the 9th *Saeima* elections in excess of amount permitted by the law.

The court eased the administrative sanctions but sustained the obligation to repay the sum that had been overspent. The judgement has been appealed and is therefore not yet in force.

On November 16, the Administrative Regional Court rejected a complaint filed by the Union of Greens and Farmers (ZZS) against CPCB's claim that ZZS had exceeded limits on campaign expenditures prior to the 9th *Saeima* elections, provided false information in its declaration of campaign revenues and expenses, and accepted illicit donations. CPCB added to ZZS campaign expenditures the money spent by Ventspils Mayor Aivars Lembergs on countering a smear campaign against him. ZZS was ordered to pay the state Ls 11,626. The decision of the Administrative Court cannot be appealed.

On November 30, in a dispute between the People's Party (TP) and the Corruption Prevention and Combating Bureau, the Administrative District Court ruled

that TP must pay the state the money that it had unlawfully received and spent in the run-up to the 9th *Saeima* elections in the amount of Ls 1,027,000. CPCB claimed that there was a direct connection between the TP election campaign and the campaigns of numerous legal persons, including that of the Association for Freedom of Speech, aimed at popularizing the People's Party. The Bureau found that TP had thus violated rules for accepting donations and restrictions on campaign expenditures imposed by the law. In 2006, the decision of the People's Party and Latvia's Way/Latvia's First Party to use so-called third persons – non-governmental organizations founded by campaign managers – for placing their advertisements undermined the existing system for financing political parties and their campaigns, which entailed strict limits on expenditures. The judgement has been appealed by the People's Party and is therefore not yet in force.

2. Combating Corruption: Court Cases in 2004–2008

*Valts Kalniņš*¹

One of the main purposes of the *Corruption °C* reports is to give readers as comprehensive a picture as possible of the fight against corruption in Latvia. The results of efforts to combat corruption are best demonstrated by the criminal cases that are brought to trial. Court judgements make it possible to compile information about those cases of corruption in which the persons involved have been found guilty and sentenced, or acquitted. On the other hand, this information shows the progress of anticorruption efforts with a certain time delay, insofar as the cases that come to trial involve criminal offences that have been disclosed some time ago.

Data about criminal cases in which persons were accused under sections of the Criminal Law (or the earlier Criminal Code) governing criminal offences committed in public service, or whose activities were qualified as such during the course of the trial, were already published in the 2006 and 2007 *Corruption °C* reports. These were cases in which judgements had been handed down by first instance courts in the years from 2004 to 2007. This information has now been updated and supplemented with data from 2008.

Data were obtained from the courts and the Court Administration. Centre for Public Policy PROVIDUS researcher Andrejs Judins also contributed data obtained from the Court Information System.

Chapter 24 of the Criminal Law, “Criminal Offences Committed in Public Service,” has 15 sections prescribing liability for such offences. It is important to note that, despite the heading of the chapter, under several sections of the law criminal liability, e.g. for active bribery, may be incurred by any person, not just public officials. These 15 sections of the Criminal Law are not the only ones that prescribe

¹ Valts Kalniņš received a PhD in Political Science from the University of Latvia in 2003. From 1994 to 1997, V. Kalniņš studied Political Science at the University of Oslo in Norway. Since 1998, he has carried out research on corruption at the Latvian Institute of International Affairs and, since 2003, at the Centre for Public Policy PROVIDUS. V. Kalniņš is also assistant professor at the University of Latvia.

liability for offences that can be associated with corruption. For example, the acceptance of undue advantages (Section 198), commercial bribery (Section 199), political party financing via intermediaries (Section 288.²), and in some cases fraud (Section 177) can also be interpreted as corruption. However, due to limited space, this Report will focus on criminal offences in public service.

Table 2.1.
Sections of Chapter 24 of the Criminal Law: Criminal Offences Committed in Public Service

Section 317. Abuse of functions
Section 318. Abuse of office
Section 319. Inaction by a public official
Section 320. Acceptance of a bribe
Section 321. Misappropriation of a bribe
Section 322. Intermediation in bribery
Section 323. Active bribery
Section 325. Violation of restrictions imposed on public officials
Section 326. Trading in influence
Section 326. ¹ Unlawful participation in property transactions
Section 326. ² Solicitation and acceptance of undue advantages
Section 327. Forgery of official documents
Section 328. False reporting
Section 329. Disclosure of confidential information
Section 330. Disclosure of confidential information after leaving office

Latvia currently has no system that would provide access to absolutely all court judgements. Although maximum effort was applied to obtaining complete information, it cannot be ruled out that one or the other case involving criminal offences committed in public service that was tried in the specified period of time has not been included. Nevertheless, this is still the most complete list of corruption cases tried in Latvia that has been published to date.

To make the picture as true as possible, the number of judgements that are in force has been indicated in brackets where necessary. A judgement that is handed down in a court of first instance can be contested in a court of appeal. As a result, several years may pass between the first instance judgement and the final sentencing. All information about the legal force of judgements is given up to the end of 2009.

Table 2.2.
Summary of charges and convictions²

	2004	2005	2006	2007	2008
Number of criminal cases	73	78	82	79	72
Number of persons charged with criminal offences in public service	104	142	125	129	110
incl. public officials	79	110	95	85	70
Number of persons convicted of criminal offences in public service,	87	128	118	110	92
incl. public officials,	63	96	89	69	57
for whom judgment is in force	87	128	100	95	67
Number of persons acquitted,	15	15	8	16	16
incl. public officials,	14	14	7	15	11
for whom acquittal is in force	15	15	8	13	7

Tables 2.3 to 2.7 provide an overview of public officials tried in the first instance in the relevant years. Some of these cases have also been adjudicated in courts of appeal. The columns showing the numbers of persons who have been acquitted or sentenced show the outcome in the last instance in which a case had been tried up to the end of 2009.

It should be kept in mind that, in cases where a public official has been sentenced to imprisonment, it is possible that the official may have been so sentenced for other crimes connected with the same case. For example: a public official may have been involved in a robbery and may have taken advantage of his or her office to carry it out. In such case, the person may be sentenced both for abuse of office and for robbery. The tables always indicate the ultimate form of punishment. However, if the table indicates that an official has been acquitted, this applies only to criminal offences committed in public service. In relatively few of these cases, these persons have been sentenced under other sections of the Criminal Law.

In all of the relevant years, the majority of persons tried for criminal offences committed in public service have been State Police officials (with a significant decline in 2007 and 2008). However, when drawing conclusions about corruption, it should be kept in mind that some of these cases involve unwarranted use of force. Accordingly, the majority of these violence-related offences cannot be classified as corruption in the narrower sense of the word – abuse of entrusted power for personal gain.

² Notes:

2004: In the case of one person, the judgement is not known.

2007: No information on hearing or trial outcome in the case of one person.

2008: No information on one criminal case. Outcome of the trials of two other persons is not known. In one conviction of a public official, it is not known whether the judgement is in force.

A large percentage of the officials who have been tried have held lower positions, although there are exceptions. In 2004, two *Saeima* deputies were tried in the first instance. In one of these cases, the offence – deputy Jānis Ādamsons' public allegations about the involvement of numerous persons in the so-called paedophilia case – cannot really be classified as corruption in the traditional sense. In the second case, deputy Imants Burvis was tried for the misappropriation of money donated to LSDSP. Burvis was acquitted of the abuse of office charges but sentenced for the misappropriation of donations.

Among the higher-ranking officials who have been sentenced are two prosecutors (sentenced to imprisonment), the head of the State Environment Inspectorate, a local government chairwoman, and the director of a municipal enterprise. In one criminal case, a State Land Service official, the general director and the chairman of the board of the Latvian Development Agency, and the chairman of the Central Housing Privatisation Commission were acquitted of charges in connection with privatisation of the Melluži summer cottages.

Table 2.3.
Public officials tried in the first instance in 2004 (all judgements in force)³

Institutions/officials	Number of persons tried	Number of persons acquitted	Number of persons sentenced	Incl. persons sentenced to imprisonment
<i>Saeima</i> deputies	2	1	1	
State Police	37 ⁴	6	30	10
(thereof, for use of force)	14	5	9	3
Customs	10	2	8	2
National Border Guard	5	1	4	
Prosecutors	2		2	2
Bailiffs	2		2	1
State Land Service in Jūrmala	1	1		
Central Housing Privatisation Commission	1	1		
Latvian Development Agency	1	1		
State Social Insurance Agency	1		1	
State Environment Inspectorate	1		1	
State Forest Service, forest districts	3		3	
Local government chairmen	1		1	
Municipal police	8	1	7	
(thereof, for use of force)	3		3	
Municipal enterprise directors	1		1	
School directors	2		2	

³ In the case of one officer tried for the use of force, there is no data on the institutional affiliation of the officer, outcome of the trial, or validity of the judgement.

⁴ In one criminal case in which an officer was charged with the use of force, a settlement was reached.

In 2005, two more prosecutors were brought to trial. Among other senior officials to be put on trial were the directors of two state enterprises (one acquitted) and possibly the highest ranking officials convicted in this year: the general director of the State Revenue Service and the deputy director of Customs Headquarters. In this year, the trial of two bailiffs and the deputy director of the Bailiff's Department at the Ministry of Justice for the unlawful sale of RAF company property received quite a lot of public attention.

Table 2.4.
Public officials tried in the first instance in 2005 (all judgements in force)

Institutions/officials	Number of persons tried	Number of persons acquitted	Number of persons sentenced	Incl. persons sentenced to imprisonment
State Police	43	4	39	3
(thereof, for use of force)	8	2	6	
Customs	15	2	13	1
SRS	3		3	
National Border Guard	9	1	8	
(thereof, for use of force)	3		3	
Prosecutors	2		2	
Bailiffs	3		3	1
Security Police	2		2	
NAF officer	1		1	
State enterprise directors	2	1	1	
Other state enterprise officials	1		1	
Ministry of Justice	1		1	
Naturalization Board	4		4	
Healthcare and Occupational Fitness	2	2		
Quality Control Inspectorate				
Forest district	1	1		
Local government chairmen	2		2	
Other local government officials	2	1	1	
Municipal police	4		4	
(thereof, for use of force)	1		1	
Building Authority	1	1		
Security company (use of force)	7	1	6	
University of Latvia	1		1	
Directors of schools/childcare institutions	2		2	
Not known	2		2	

The highest-ranking public officials to be tried in 2006 were the deputy director of the State Agency for Compulsory Health Insurance, the chairman of the Central Housing Privatisation Commission, and the director of the Latvian Oncology Centre. Two bailiffs were also tried, one of whom was acquitted.

Table 2.5.
Public officials tried in the first instance in 2006
(judgements in force in brackets)

Institutions/officials	Number of persons tried	Number of persons acquitted	Number of persons sentenced	Incl. persons sentenced to imprisonment
State Police	43	4 (4)	39 (29)	13 (5)
(thereof, for use of force)	7		7 (7)	1 (1)
Customs	26	1 (1)	25 (23)	
SRS	1		1 (1)	
National Border Guard	5		5 (3)	1 (1)
Bailiffs	2	1 (1)	1 (1)	
Land Registry judge	1		1 (1)	
Ministry of Defence	2		2 (2)	
National Academy of Defence	1		1 (1)	
Central Housing Privatisation Commission	1		1 (1)	
State Fire Fighting and Rescue Service	4		4 (4)	
State Inspectorate for Heritage Protection	1		1 (1)	
Director of the Latvian Oncology Centre	1		1 (1)	
State Agency for Compulsory Health Insurance	1		1	
Ministry of Transportation	1	1 (1)		
Naturalization Board	1		1 (1)	1 (1)
Local government chairmen	1			
	(settlement)			
Municipal Police	4		4 (4)	1 (1)
(thereof, for use of force)	1		1 (1)	
Lithuanian Border Guard	1		1 (1)	

More local government officials were tried in 2007 than in previous years. Among these were the chairmen of the Sigulda and Ventspils city councils. The former was convicted, the latter was acquitted. In the most important criminal case of 2007, a member of the Jūrmala City Council and two other persons were convicted of bribery in an effort to fix election of the mayor. A Municipal Police chief was convicted for use of force and the Ogre District State Police chief for abuse of office in an attempt to evade liability for causing an accident (this judgement has been appealed).

Table 2.6.
Public officials tried in the first instance in 2007
(judgements in force in brackets)⁵

Institutions/officials	Number of persons tried	Number of persons acquitted	Number of persons sentenced	Incl. persons sentenced to imprisonment
State Police	31	2 (2)	29 (23)	11 (9)
(thereof, for use of force)	2		2 (2)	
Customs	7	1 (1)	6 (6)	
SRS	7	2 (1)	5 (5)	
National Border Guard	12	1 (1)	11 (9)	2
Bailiffs	2	1 (1)	1 (1)	
Naturalization Board	1		1 (1)	1 (1)
State Probation Service	1		1 (1)	1 (1)
Ministry of Welfare	1	1 (1)		
Road Traffic Safety Directorate	3		3 (3)	
Local government chairmen	5	2 (2)	3 (3)	
Local government deputies	2	1	1 (1)	1 (1)
Other local government officials	4	1 (1)	3	2
Municipal Police	3		3 (3)	2 (2)
(thereof, for use of force)	3		3 (3)	2 (2)
Municipal enterprise directors	2		2 (2)	
Municipal enterprise officials	2	2 (2)		
State Forest Service	1	1 (1)		

Of the corruption cases tried in the first instance in 2008, the conviction of two Riga judges for the acceptance of bribes was the most prominent. The judgement is not yet in force. At the time of the writing of this Report, the appellate court hearing had been set for 2010. In another criminal case, one other judge was tried and a prosecutor was sentenced to imprisonment (this judgement is in force). Significantly fewer State Police officials were tried in 2008.

⁵ One other person was tried, but it is not known whether this person was a public official.

Table 2.7.
Public officials tried in the first instance in 2008
(judgements in force in brackets)⁶

Institutions/officials	Number of persons tried	Number of persons acquitted	Number of persons sentenced	Incl. persons sentenced to imprisonment
State Police	21	1	20 (13) ⁷	8 (4)
(thereof, for use of force)	1		1 (1)	
Customs	6	1 (1)	5 (5)	
SRS	3		3 (3)	
National Border Guard	2		2 (2)	1 (1)
Military Intelligence Service	2		2	2
Judges	3		3	2
Prosecutors	1		1 (1)	1 (1)
Bailiffs	2	1	1	
Land Registry Judge	1		1 (1)	1 (1)
Prison Authority	1		1 (1)	1 (1)
State Language Centre	1	1 (1)		
Department of Citizenship and Migration Affairs	1		1 (1)	1 (1)
State Fire Fighting and Rescue Service	1		1 (1)	
State Technical Supervision Agency	1		1	1
Ministry of Education and Science	1	1		
School directors	3		3 (3)	2 (2)
Board chairman of the Vaivari National Rehabilitation Centre	1		1 (1)	
Forester, forester's deputy	2		2 (2)	
Local government chairmen	2	1	1 (1)	
Jūrmala Library Association	2	2 (2)		
Jūrmala Hospital director, board chairman	1		1 (1)	
Other municipal enterprise officials	2	1	1 (1)	
Municipal Police	7	1 (1)	4 (4)	
(thereof, for use of force and other in a narrow sense non-corrupt activities)	6 ⁸	1 (1)	3 (3)	
Motor vehicle inspection company	1		1 (1)	
Lithuanian Border Guard	1		1 (1)	
No data on institution	1	1 (1)		

⁶ In one case, no information about whether and which public officials have been tried.

⁷ In the case of one person, it is not known whether the judgement is in force.

⁸ In the case of two persons, the outcome of the trial is not known.

It is difficult to say whether the corruption cases tried over the past five years are beginning to carry more weight. It is almost impossible to define objective criteria for comparing the ranks of officials who have been tried or the gravity of their offences. A prison sentence could be seen as an indirect indication of the gravity of an offence, but the fact that courts take into consideration many different circumstances when passing sentences (and the severity of the sentences can differ from court to court) makes this an imprecise indicator. However, it can serve to illustrate a trend.

In 2004, 18 public officials who were tried in the first instance were given prison sentences; in 2005, five officials; in 2006, 17; in 2007, 22; in 2008, 18. Although there is a certain degree of fluctuation, the quantitative data do not indicate a clear trend. Table 2.8 summarizes the categories of senior public officials tried in the years 2004 to 2008 and the outcomes of their trials.

Table 2.8.
High-ranking public officials tried in 2004–2008 (judgements in force in brackets)

Institutions/officials	Number of persons tried	Number of persons acquitted	Number of persons sentenced	Incl. persons sentenced to imprisonment
<i>Saeima</i> deputies	2	1 (1)	1 (1)	
Judges	3		3	2
Land Registry Judges	2		2 (2)	1 (1)
Prosecutors	5		5 (5)	3 (3)
Bailiffs	11	3 (2)	8 (7)	2 (2)
Ministry state secretary	1	1		
SRS general director and Customs	2		2 (2)	
Headquarters deputy director				
State Inspectorate for Heritage	1		1 (1)	
Protection deputy director				
State Environment Inspectorate director	1		1 (1)	
State Compulsory Health Insurance Agency deputy director	1		1	1
Central Housing Privatisation Commission chairman ⁹	1	1 (1)	1 (1)	
Local government chairmen	11 ¹⁰	3 (2)	7 (7)	
Local government deputies	2	1	1 (1)	1 (1)
State/municipal enterprise directors (with exception of the education and healthcare sector)	7	3 (2)	4 (4)	
University of Latvia assistant dean	1		1 (1)	
School/childcare institution directors	7		7 (7)	2 (2)
Medical institution directors	3		3 (3)	

⁹ One and the same person in two criminal cases.

¹⁰ A settlement was reached in one case.

Table 2.9 lists the institutions/officials that were targets of bribery attempts. The majority of these cases involved attempts to bribe State Police employees, and a large majority of these bribes were offered in connection with traffic violations – usually to avoid administrative sanctions, but occasionally to escape criminal liability as well. The criminal cases involving bribes offered to Traffic Police officers show that even such seemingly commonplace offences can entail the risk of criminal liability for those offering the bribe. The table includes both the criminal cases in which the judgement is in force and those in which it has been appealed. It does not include criminal cases in which the last judgement handed down before the end of 2009 was an acquittal or in which the outcome could not be established.

Table 2.9.
Criminal cases involving active bribery: institutions/officials targeted as bribe recipients*

Institutions/officials	2004	2005	2006	2007	2008
Ministry of Defence					1
Road Traffic Safety Directorate			1	4	
Security Police				1	
CPCB		1			1
Customs			1	9	3
NAF		1			
Naturalisation Board		1	1	1	
City council deputy				1	
Other city council officials				1	
Prosecutors	1	2			1
Judges			1		
Bailiffs				1	
State Occupational Fitness Medical Examination Commission	1				
State Revenue Service			1		
SRS Financial Police Department	2	2	2		4
State Inspectorate for Heritage Protection			1		
State Forest Service					1
State Police (incl. cases connected with traffic violations)	8 (4)	11 (7)	13 (7)	6 (5)	13 (11)
State Probation Service			1	1	
National Border Guard			1	3	
State Technical Supervision Agency					1
Total	12	19	23	28	25

* In most of these cases, the bribes were not accepted by the officials and the offers were reported. The persons offering the bribes were charged with active bribery.

Despite the seemingly large number of criminal cases connected with corruption, efforts to combat bribery, as reflected in court judgements, have primarily impacted offences involving smaller amounts of money. In a total of 220 bribery cases, the size of the bribe exceeded Ls 1,000 in only 53 cases. The percentage of criminal cases involving relatively large bribes was 26% in 2004, 28% in 2005, 12% in 2006, 22% in 2007, and 34% in 2008 (the years in which the cases were tried in the first instance).

This does not mean that the cases tried to date are inconsequential, but it is true that they include hardly any major cases of corruption. The biggest bribery case – involving a Ls 80,000 bribe solicited by the director of the Riga Technical State College from a company official for agreeing to a settlement in a civil claim – was tried in 2008.

Table 2.10 gives a breakdown of the bribes by size of the bribe and year of the first instance judgement (it does not include cases in which the last judgement handed down before the end of 2009 was an acquittal or in which the outcome could not be established). Like Table 2.9, the table includes both the criminal cases in which the judgement is in force and those in which it has been appealed. It does not include cases in which a bribe has been extorted, solicited, offered and accepted, but has not actually been handed over or taken.

Table 2.10.
Size of bribes (sum of all bribes given and taken in a single criminal case)

Size of bribe	Number of criminal cases				
	2004	2005	2006	2007	2008
Ls 0–5	1	3	4	4	1
Ls 6–10	2		6	2	2
Ls 11–20	4	5	8	4	1
Ls 21–30			1	1	2
Ls 31–40	3		1	4	5
Ls 41–50		2	1		1
Ls 51–100	4	4	4	4	6
Ls 101–200	3	5	3	9	1
Ls 201–300	2	1	7	4	4
Ls 301–400		2	2	3	2
Ls 401–500	1	2	5	2	1
Ls 501–1,000	8	7	1	1	1
Ls 1,001–2,000	4	5	2	3	4 ¹¹
Ls 2,001–3,000	1	3	1	3	2

¹¹ In one case, the size of the bribes that were offered and accepted was calculated from reports in the media.

Table 2.10 continued

Size of bribe	Number of criminal cases				
	2004	2005	2006	2007	2008
Ls 3,001–4,000	2		1	1	1
Ls 4,001–5,000					
Ls 5,001–10,000	2	2	1	1	3
Ls 10,001–11,000					
Ls 11,001–12,000					
Ls 12,001–13,000				1	
Ls 13,001–14,000					1
Ls 14,001–15,000				1	
Ls 15,001–20,000				1	
Ls 20,001–25,000	1	1			1
Ls 25,001–30,000					
Over 30,000		1 (Ls 45,000)	1 (Ls 33,629)		2 (Ls 80,000 and Ls 35,140)
Total number of cases	38	43	49	49	41

All in all, the data for the previous five years do not show any significant trends in the fight against corruption or the adjudication of corruption cases. Very few of the cases relate to what is known as state capture – the attempts of private individuals to influence not only the application of laws, but also the passing of laws and court judgements, i.e. the rules of the game – with the help of unlawful payments.

CPCB's public reports show that the number of criminal cases turned over to the Prosecutor's Office by the Bureau for initiation of criminal prosecution has significantly declined since 2006 (41 cases in 2006, 18 cases in 2007, 16 cases in 2008). At the same time, the number of persons against whom CPCB has asked the Prosecutor's Office to launch criminal proceedings has not significantly declined (65, 46, and 55, respectively).¹² In other words, there are fewer cases, but with larger numbers of persons involved. It would be wrong to expect a rapid increase in the number of corruption cases that are brought to trial, if only because no more than a certain number of cases can be investigated with the available resources. It is clear, however, that – despite the achievements of the corruption fighters – lengthy court proceedings and the objective difficulties involved in uncovering complicated corruption affairs have helped to foster political corruption.

¹² Source: CPCB public reports. <http://www.knab.lv/iv/knab/review/report/> Last accessed on February 12, 2010.

3. The Crisis and Corruption

*Līga Stafecka*¹

There have been various speculations in the public space about how the economic crisis and crisis management efforts might impact corruption. Like opinions and prognoses about the best ways to achieve economic recovery, these speculations frequently evoke suspicions about the involvement of personal interests. A good example is the question of devaluation of the national currency. Those who have personal interests also use the argument of corruption, for example, when speaking of the need to cut the red tape in a number of areas, including the construction industry and public procurement, to stimulate the economy. Corruption is also cited in arguments against salary cuts in the public sector. There may be certain logic to such arguments, but they require deeper analysis.

At present, it is difficult to surely predict either the future dynamics of the economy or possible new government manoeuvres in negotiations with international lenders. In this chapter of the Report, I will look at socio-political problems, which are easier to identify and predict, and recent public opinion surveys, which reveal public sentiments on a number of questions that are directly or indirectly linked to corruption.²

Key factors of the economic and political crisis

The current situation is considerably complicated by the fact that the economic crisis is accompanied by a lasting political crisis and a crisis of institutional legitimacy. This makes prognoses even more difficult. The bubble created by reckless management has burst not only at the government level but also in many households where incomes have radically dwindled, making it difficult to repay

¹ Līga Stafecka has a Master's degree in Political Science from the University of Latvia (2006). She has worked as analyst for Transparency International Latvia (Delna) since 2005. Her main areas of interest are corruption in local governments, elections, and the education of young people about corruption.

² I would like to thank SKDS and Ieva Strode for their support and for permission to use unpublished SKDS data.

loans that were taken without careful assessment of needs and resources. At the beginning of 2009, the President's Strategic Analysis Commission (SAC) carried out an assessment of the socio-political situation and identified four main socio-political factors that will require attention in the medium and long term. These are: risk of poverty, social tensions, society's lack of trust in the government, and reform of the education and healthcare sectors.³ Here, I will look at the first three factors, for which there is at least a minimum of data and which could have a more direct impact on the overall corruption situation.

The growing risk of poverty

Rapidly rising unemployment is making it increasingly difficult for households and business to repay their loans. At the same time, the government is cutting social benefits and allowances. The overall decline in income is creating a vicious circle that makes it even more difficult for the government or local governments to help those facing serious difficulties. The aforementioned SAC assessment predicts a swift increase in income inequality, which also increases the poverty risk for a large part of the population.⁴

Latvia's socio-economic indicators paint a fairly bleak picture of the country's situation in a comparison with other EU countries. According to Eurobarometer, in the summer of 2009, 90% of the respondents in Latvia – more than in any other EU country – found that poverty had increased in Latvia.⁵ The Eurobarometer report shows people as being generally rather pessimistic about their finances in the coming year. 65% of the respondents claimed that the financial situation in their households would worsen in the next 12 months. The next most pessimistic EU countries were Lithuania (58%) and Hungary (48%).⁶ More people in Latvia also saw possible difficulties in paying regular bills, buying food and other necessary items, paying the rent, or paying off their mortgage in the coming year.⁷

³ Diagnosis of the current situation. SAC idea platform. www.saki.lv/component/content/article/95 Last accessed on January 8, 2010.

⁴ The Gini coefficient shows that income inequality is growing in Latvia: 0.38 in 2008 (as compared to 0.34 in 2000), which is the highest level of income inequality in the EU. The next closest are Romania and Portugal (0.36). Source: Eurostat. http://nui.epp.eurostat.ec.europa.eu/nui/show.do?wai=true&dataset=ilc_sic2 Last accessed on January 8, 2010.

⁵ Flash Eurobarometer Series # 276. Monitoring the Social Impact of the Crisis: Public Perceptions in the European Union. Analytical Report. Fieldwork: July 2009. Publication: October 2009.

⁶ Ibid.

⁷ 23% of the respondents saw the risk that it would become impossible to pay regular bills as high, 31% saw a medium risk, and 24% saw a low risk. 20% of the respondents saw such a risk as unlikely. Lithuania and Romania follow closely behind Latvia. 80% of Latvia's respondents also saw at least a low risk in regard to the payment of rents or loans. Source: Flash Eurobarometer Series # 276. Monitoring the Social Impact of the Crisis: Public Perceptions in the European Union. Analytical Report. Fieldwork: July 2009. Publication: October 2009.

According to the State Employment Agency, the unemployment rate in November 2009 was 14.1% (20.9% according to Eurostat), double what it had been in the previous year and continuing to rise.⁸ According to Eurostat, at the end of 2009 Latvia had the highest unemployment rate in the EU.⁹ People were also extremely pessimistic about finding jobs: 64% of the respondents saw their chances of finding a job in Latvia as very poor, and 24%, as fairly poor.¹⁰ Even an economic revival is not likely to produce new jobs quickly enough for social tensions to ease immediately after the first clear signs of economic recovery.

Income inequality is an extremely important factor, which has wrongly received too little attention. Income inequality does not only affect social issues, it also affects the way people judge the work of public institutions (and, thereby, the legitimacy of these institutions), their readiness to participate in political processes, and their understanding of and attitude towards corruption. In studies carried out in other countries on the main causes of corruption, economic factors (income levels and income inequality) usually predominate. A number of comparative studies come to the conclusion that the incidence of corruption is lower in countries with higher economic development (per capita GDP), because higher incomes provide better opportunities for a good education, participation in politics, etc.¹¹ Less developed economies, on the other hand, are able to provide only minimum welfare for everyone, and low incomes are a strong incentive for involvement in corrupt activities. It is acknowledged that in countries with low incomes, great economic insecurity, or even widespread poverty, the subjective value of additional illegally acquired income is much greater for the individual than it would be in wealthier countries.¹²

One of the most comprehensive studies (129 countries) on the impact of income inequality on corruption comes to the conclusion that inequality provides greater opportunities and motivation for the wealthier part of society to become involved in corrupt activities and for the less prosperous part of society to justify corruption.¹³ The wealthier segment of the population is more inclined to maintain its positions of influence, while the poorer segment lacks the resources, the know-how,

⁸ Unemployment statistics taken from the State Employment Agency's website. www.nva.lv/index.php?cid=6&mid=272 Last accessed on January 8, 2010.

⁹ Eurostat News Release. Euroindicators 170/2009, December 1, 2009.

¹⁰ DnB Nord Latvijas barometrs: Nākotnes prognozes. No. 20, December 2009.

¹¹ A number of comparative studies on the connection between economic indicators and corruption come to the conclusion that there is a close statistical connection between economic development (per capita GDP) and the level of corruption, i.e. corruption levels are much higher in countries with low or medium development indicators and vice versa. See: Treisman, D. "The Causes of Corruption: a Cross-National Study." *Journal of Public Economics*, No. 76 (2000); Montiola, G. R., Jackman, R.W. "Sources of Corruption: a Cross-Country Study." *British Journal of Political Science*, No. 32 (2002).

¹² Rose-Ackerman, S. *A Study in Political Economy*. New York, San Francisco, London. Academy Press (1978), p. 9.

¹³ Jong-Sung, Y., Khargram, S. "A Comparative Study of Inequality and Corruption." *American Sociological Review*. Vol. 70 (2005).

and sufficient belief in its own power to demand political accountability, exert public pressure, and in this way narrow the opportunities of public officials to increase their personal welfare at the expense of public interests.

Income inequality not only increases opportunities for dishonest behaviour, it also affects society's views and standards in regard to corruption, thus creating a kind of vicious circle. In countries with greater inequality, people are more likely to believe that prosperity can be achieved not so much through education and experience as through corruption. Political institutions are also more likely to act in the interests of a few individuals, which is why they are distrusted by society at large. Consequently, people tend to justify bribery and tax evasion. Explicit inequality lessens community solidarity and interpersonal trust, which are essential conditions for political participation. The poorer segment of a society may feel powerless and therefore refuse to get involved in politics.¹⁴

Social tensions

People in Latvia have incredibly low trust not only in the government and the parliament, but in the whole political and party system as such. In such circumstances, the legitimacy of public administration decisions is already challenged, and painful reforms and substantial salary cuts can lead to particularly hefty social protests. Although SAC's predictions about widespread social unrest or even a humanitarian crisis have not come true, the number of protests has noticeably increased. In addition to the events that took place on January 13, 2009, the protests organized by trade unions and student associations, the farmers' demonstrations in Riga, the protests of motorcyclists against higher motor vehicle duties, or the tent commune in front of the government building, there have been demonstrations of discontent in rural areas as well: for example, the blockade of the Bauska bridge or the rally in Līvāni to protest against government decisions and planned tax increases. There was less coverage in the media of a curious demonstration of protest in Daugavpils, where participants threw boots at pictures of *Saeima* and local government deputies. Activities have also increased on the Internet: signatures were collected asking President Valdis Zatlers to resign, websites were created (for example, *pingviniem.info*) for discussing political issues, exchanging information, planning activities, etc. Some of the protests did not involve concrete demands, but they clearly revealed overall disappointment in the state and its leaders.

An indication that the government was seriously worried about uncontrolled public protests was the initiative of the Ministry of Defence to declare a 25 metre restricted area around the *Saeima* building to make it possible "to identify risk factors early on and prevent possible threats that could turn into flagrant viola-

¹⁴ Uslander, M. E., Brown, M. "Inequality, Trust and Civic Engagement." American Politics Research. Vol. 33, No. 6 (2005), p. 869.

tions of public order, to take preventive measures to make sure that the performance of state functions and tasks is not endangered, and to guarantee the safety of people and their property in extreme cases.”¹⁵ Both the Ombudsman and legal experts called this a curtailment of the freedom of assembly and freedom of speech.

At the same time, people continue to hear about cases in which someone has yet again managed to misappropriate or squander the already sparse public resources. Added to this is political patronage (the appointment of unqualified but extremely well-paid henchmen), closed-door decision making, and big corruption scandals in which no one has as yet been found guilty (the 2008 Riga City Council bribery case, Lemberg’s “scholarship” recipients, “Digitalgate”). Every now and then, one hears about less spectacular attempts to misappropriate or squander public resources: the use of EU resources for a laser show in Kombuļi, government policies beneficial to the small hydropower plants, the redistribution of energy quotas to specific persons, to name just a few. At the end of 2009 – three years after the *Saeima* elections – the court found that the People’s Party, which had received the largest number of votes, had used unlawful methods in its fight for power, which means that it will have to repay the state approximately one million lats. Public discontent with the work of the government was exacerbated by the takeover of the Parex Bank, which placed the burden of saving the bank on society and exposed the welfare of the individual to additional risks.

Society’s lack of trust in the state

According to Eurobarometer, in 2008, 86% of the population distrusted the *Saeima* and 79% distrusted the government. At the time of the writing of this chapter, data for 2009 were not available, but it is quite safe to assume that distrust of these institutions has continued to grow.¹⁶ In a survey that was carried out in July 2009, 91% of the respondents were fairly dissatisfied or absolutely dissatisfied with the political system, and 74% found the current party system to be bad or very bad. Support for violent protests, if there were no other way of achieving changes in Latvia’s political system, was expressed by 43.5% of the respondents.¹⁷

Society is also extremely critical of the direction in which the country is heading. In September 2008, 88% of Latvia’s population felt that things were generally going in the wrong direction and the numbers are rapidly rising (see Figure 3.1).

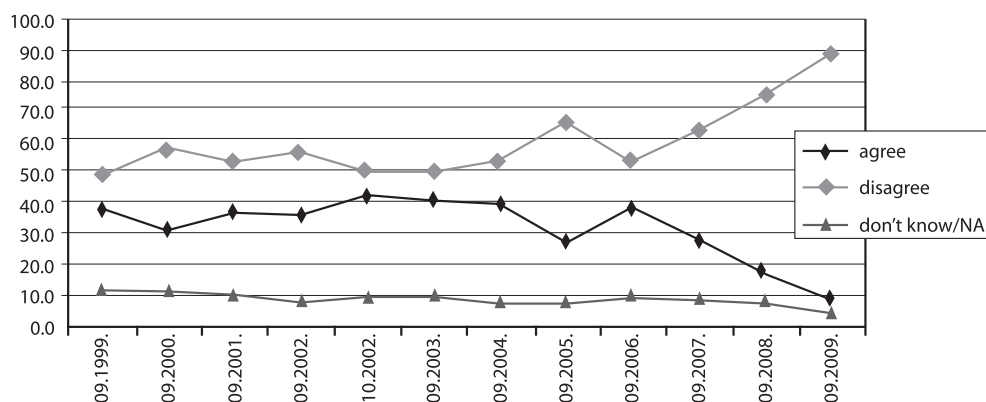
¹⁵ Annotation to the Draft Amendments to the June 27, 2006 Cabinet Regulations No. 508 on Restricted Areas around National Defence Objects. www.mk.gov.lv/lv/mk/tap/?pid=40146269 Last accessed on December 20, 2009.

¹⁶ According to Eurobarometer, in 2007, 77% distrusted the *Saeima* and 75% distrusted the government.

¹⁷ SKDA data, taken from the President’s Strategic Analysis Commission’s report on public sentiments in 2009. September 14, 2009.

Figure 3.1.

Attitudes towards the statement: “Things in Latvia are generally going in the right direction” (%)



Source: SKDS.

For comparison: in 2006, only 53.2% of the population disagreed with the above statement. What is more, the number of people who **absolutely disagree** has hugely increased (54.7%).¹⁸ It is conceivable that these trends increase people's motivation to support the shadow economy and apply corrupt methods to promote their interests. In the following part of this chapter, I will take a look at changes in attitudes to a number of questions that directly or indirectly reflect people's notions about and attitudes to corruption.

Trends in attitudes towards corruption

In one of the surveys carried out at the end of 2009, respondents maintained that “hardworking Maija”,¹⁹ the upright politician, or the honest policeman would have the hardest time in Latvia today and that the country's course of development could best be described with the phrase “here, there, who knows where.”²⁰ What respondents actually meant with, for example, “hardworking Maija” can be interpreted in different ways, but the answers suggest a tendency to link survival with dishonest behaviour, especially in conditions where incomes have radically declined.

¹⁸ SKDS, data for 2009.

¹⁹ A hard-working character in Latvian literature.

²⁰ DnB Nord Latvijas barometrs: Pasakainā Latvija. No. 19, November 2009.

In answer to the question, “Who do you think would have the hardest time in Latvia today?” the three most frequently chosen answers were “hardworking Maija” (32%), the upright politician (24%), and the honest policeman (19%). In answer to the question, “In what direction do you think Latvia is currently heading?” 53% of the respondents chose the answer “here, there, who knows where,” and 24% chose “towards a certain death.”

The most recent public opinion surveys, which make it possible to compare public sentiment and personal experience with corruption, show that optimism about corruption peaked in 2007, when people were less likely to believe that the government or local governments were corrupt. A positive trend was suggested by Transparency International's Corruption Perception Index and the fact that personal experience with corruption had lessened in various areas. In 2007, we had a seemingly booming economy, which some describe as unsound management and others as the fat years, when rapidly growing incomes encouraged foolhardy and in many cases unneeded real estate construction, as well as reckless borrowing. However, as soon as people were confronted with economic difficulties, sentiments about the work of political institutions went from a slight rise back to the 2005 level or even lower.

Corruption – cause of the crisis

The surveys show that corruption is considered to be one of the major causes of the economic crisis. Many respondents find that the need to borrow money from international organizations was created primarily by state capture (59%) and corruption (48%), and not so much by expensive and unnecessary real estate development, ill-considered tax policies, or the inability to predict the country's economic processes (see Table 3.1). There is considerable scepticism about the

Table 3.1.
Public opinion on causes of the crisis

What do you think escalated the economic crisis to the point where it became necessary to borrow money from international organizations? (multiple answers possible, total percentage sum > 100)	
State Capture	59
Incompetence of the public administration	50
Unwise budgetary policies during the "fat years"	49
Salvaging of the Parex Bank	48
Corruption	48
Expensive and unnecessary real estate development	40
Ill-considered tax policies	38
Inability to predict the country's economic processes	37
Inability of government ministers to agree on priorities	22
Manpower drain	21
Excessive import of goods	19
Other reasons	1
Difficult to say/NA	2

SKDS, September 11–23, 2009. n=1011 persons living in Latvia.

Source: DnB Nord Latvijas barometrs: Valsts budžets [The national budget], No. 18, October 2009. www.dnb nord.lv/Download?Latvijas%20Barometrs/latvijas_barometrs_18.pdf Last accessed on January 8, 2010.

need to borrow money from international organizations, and the majority of respondents who do not support borrowing name the risk that the borrowed money would be used unwisely as the reason.²¹ It is therefore logical that 51% of those polled find that firing corrupt officials would help public agencies to perform more efficiently in the interests of society.²² 44% say that budget revenues would improve if corruption were eradicated.²³

Although corruption is seen as one of the major causes of the crisis and efforts to combat corruption as a crisis management stimulus, only 14.7% of the respondents find that priority should be given to solving problems of a moral nature (84.7% give priority to economic problems).²⁴ On the one hand, anticorruption efforts and punishment are named among key measures for overcoming the crisis; on the other hand, however, more and more people claim they would not inform anyone of personal experience with corruption (18% in 2005, up to 27% in 2009).²⁵ The crisis has also not led to an increase in the number of reports made to the Corruption Prevention and Combating Bureau: 1,176 in 2008; 1,064 in 2009 (January 1 – December 1).²⁶

Less readiness to give bribes

According to the aforementioned arguments on the impact of income inequality on the incidence of corruption, a greater poverty risk should be reflected in greater readiness to offer bribes. Nevertheless, despite a decline in the overall economic situation of the population, the available data do not indicate greater readiness to become involved in corruption. A comparison between 2007 and 2009 shows that 7 percentage points fewer respondents are willing to give bribes

²¹ Survey question: "Do you think it was necessary to borrow money from the International Monetary Fund, the European Commission and other organizations?" The most frequent answer (39%) was "No, because the money will be misspent anyways." Source: DnB Nord Latvijas barometrs: Valsts budžets [The national budget], No. 18, October 2009. www.dnb nord.lv/Download/Latvijas%20Barometrs/latvijas_barometrs_18.pdf Last accessed on January 8, 2010.

²² Source: DnB Nord Latvijas barometrs: Valsts pārvalde krīzes apstākļos [Public administration during the crisis], No. 15, July 2009. www.dnb nord.lv/Download/Latvijas%20Barometrs/dnb%20nord%latvijas%20barometrs%20nr%2015.pdf Last accessed on January 8, 2010.

²³ Source: DnB Nord Latvijas barometrs: Valsts budžets [The national budget], No. 18, October 2009. www.dnb nord.lv/Download/Latvijas%20Barometrs/latvijas_barometrs_18.pdf Last accessed on January 8, 2010.

²⁴ For comparison: In 2007, 26.7% found that priority should be given to solving moral problems. Unpublished SKDS comparative data.

²⁵ "Attitudes towards Corruption in Latvia." SKDS population survey, November 2009; "Experience with Corruption." SKDS population survey, January 2005.

²⁶ Data for 2008 taken from the CPCB public report for 2008; data for 2009 were received in writing from CPCB.

if this serves their interests or those of their kin and contributes to solving the problem (32% in 2009.)²⁷

Attitudes towards corruption have become more categorical. There is an increase in the number of persons who are absolutely ready to offer bribes (from 8% in 2007 to 12% in 2009), but there is an even greater increase in the number of persons who are absolutely against doing so (from 25% in 2007 to 39% in 2009). Young people (18–34 years old) are more prepared to offer bribes, as are people with higher education and higher incomes, and people who live in Riga. This is also the group that went on the biggest spending spree and was therefore most directly confronted with the harsh realities of the crisis.

Unfortunately, the reasons for choosing one or the other answer are not known. It is, therefore, hard to say whether a refusal to give a bribe is generated by moral or by financial considerations. For example, in the 2007 survey, only one-third of the answers about factors that could prevent respondents from giving bribes involved moral considerations, all others were connected with absolutely pragmatic choices.²⁸

Growing administrative corruption

The public opinion survey carried out in November 2009, in which respondents were asked about their personal experience with corruption, shows that what is known as administrative corruption is increasing in a number of areas (see Table 3.2). A CPCB official confirmed that content and number of the complaints that are submitted to the Bureau indicate an increase in petty corruption cases in 2009, connected with conflicts of interest in the discharge of official duties. For example, advantage is taken of the reorganization of public agencies to provide jobs for relatives, or multiple jobs are held to maintain former levels of income.²⁹

There is an increase in personal experience with cases in which the head of an agency or an employee uses agency resources, facilities, equipment, vehicles, etc. for personal needs (15.8%), a person connected with the director is given a well-paid

²⁷ 2009 data from a survey commissioned by Transparency International Latvia (Delna), "Attitudes towards Corruption in Latvia." SKDS population survey, November 2009. www.delna.lv/data/user_files/atskaite_korupcija_112009.pdf Last accessed on January 8, 2010;

2007 data from a survey commissioned by CPCB, "Attitudes towards Corruption in Latvia." SKDS population survey, November – December 2007. www.knab.gov.lv/uploads/free/aptaujas/aptauja_2007_pieredze.pdf Last accessed on January 8, 2010.

²⁸ For example, 26.3% claimed that the salaries of public officials were high enough and they did not need additional sources of income; 24.8% said that if you pay once, you will be asked to pay again; 22.7% admitted that they couldn't afford to pay a bribe. Source: "Attitudes towards Corruption in Latvia." SKDS population survey, November–December 2007.

²⁹ Interview with CPCB official Ilze Jurča, December 11, 2009.

Table 3.2.**Personal experience with corruption (comparison of 2005, 2007 and 2009 data)³⁰**

"What type of corruption have you personally experienced in the past two years?" (multiple answers possible, total % sum > 100)	2005	2007	2009	2007/ 2009	2005/ 2009
The head of an agency or an employee uses agency resources, facilities, equipment, vehicles, etc. for personal needs	14.2	8.4	15.8	+7.4	+1.6
A person connected with the director is given a well-paid job at a state or municipal agency	10.5	6.1	14.5	+8.4	+4
A healthcare employee accepts unofficial payments or gifts	22.8	20.9	13.6	-7.3	-9.2
A public official neglects to carry out duties	12.2	6.3	13.5	+7.2	+1.3
An official (for example, a Traffic Police officer) allows an offender to escape punishment, although the violation is obvious	10.3	10	11.4	+1.4	+1.3
The head of an agency is in a conflict-of-interest situation: has, for example, made decisions in favour of a relative or a business partner	5	6.3	9.3	+3	+4.3
An official accepts unofficial payments or gifts	0	6.7	9.3	+2.6	+9.3
The head of an agency enriches himself at the cost of a state or municipal agency	8	3.7	8.7	+5	+0.7
Local government deputies are dependent on economic or business groups	6.3	4	8.4	+4.4	+2.1
In public procurement procedures, priority is given to those who pay bribes or who are personally connected with the officials in charge of procurements	5.5	3.5	7.4	+3.9	+1.9
A staff member of an educational institution accepts illegal payments	3.8	1.5	4.8	+3.3	+1
An official discloses confidential information out of selfish motives	4.2	2.9	3.7	+0.8	-0.5
I have seen illegal donations being made to political parties	1.4	1.5	1.9	+0.4	+0.5
I have had no personal experience with corruption	52.4	57.8	58.4	+0.6	+6
Other	0	0.2	0	-0.2	0
Difficult to say/NA	4.8	5.6	4.2	-1.4	-0.6

³⁰ Source: 2009 data from a survey commissioned by Transparency International Latvia (Delna), "Attitudes towards Corruption in Latvia." SKDS population survey, November 2009. www.delna.lv/data/user_files/atskaite_korupcija_112009.pdf Last accessed on January 8, 2010; 2007 data from a survey commissioned by CPCB, "Attitudes towards Corruption in Latvia." SKDS population survey, November–December 2007. www.knab.gov.lv/uploads/free/aptauja/aptauja_2007_pieredze.pdf Last accessed on January 8, 2010. 2005 data from a survey commissioned by CPCB, "Experience with Corruption," SKDS survey, January 2005.

job at a state or municipal agency (14.5%), or an official neglects to carry out his or her duties (13.5%).³¹ Although not all of the above situations can be classified as corruption, the answers show that people tend to see government and municipal institutions as catering primarily to the interests of their own employees and not to those of the population. A similar trend can be seen in the Eurobarometer survey data for Latvia (2005, 2007, 2009). Respondents were asked to give their opinion on the incidence of corruption in various institutions. The majority of respondents (55%) named corruption in connection with public procurements (an increase of 21% over 2007). Corruption problems in local governments were also seen as having increased.³²

The number of persons who have had personal experience with corruption has declined only in the healthcare sector: from almost 23% in 2005 to just 13.6% in 2009.³³ The explanation for this is possibly not connected with an improvement in relations between patient and doctor. The behaviour of doctors may have been affected by the case of Valdis Zatlers, who was scrutinized by the responsible institutions after having admitted to the acceptance of various forms of gratitude from patients during his career as a surgeon. But what is even more important: 64% of people in Latvia say that in the past six months it has become more difficult for them to pay for healthcare. This is the highest rate among EU countries.³⁴ A survey carried out by Sustento, an organization for people in Latvia with special needs, shows that people in Latvia are trying to save money at the cost of their health: they see a doctor less frequently, or they do not buy all of the medicine

³¹ Similar views can be found in the DnB Nord barometer, where in answer to the question "There are different opinions about reasons for the increase in the number of public officials in recent years. Which do you find most credible?" 53% answered: "Some people provided their acquaintances, people loyal to them, with well paid jobs." Source: DnB Nord Latvijas barometrs: Valsts pārvalde krīzes apstākļos [Public administration during the crisis], No. 15, July 2009. www.dnb-nord.lv/Download/Latvijas%20Barometrs/dnb%20nord%latvijas%20barometrs%20nr%2015.pdf Last accessed on January 8, 2010.

³² In the 2007 Eurobarometer survey, 85% of Latvia's respondents agreed with the statement that there was corruption at local administration institutions. In 2009, 91% agreed with this statement. Source: "Attitudes of Europeans towards Corruption." Special Eurobarometer, November 2009, p. 16.

³³ A survey carried out in November 2008 shows a fairly large percentage of people claiming to have made unofficial payments to healthcare personnel. 22.3% of the respondents claimed to have made the unofficial payments because this was their way of saying thank you; 14.8% claimed that the healthcare provider had indicated that a payment should be made; 3.4% claimed that the healthcare provider had refused to provide any services prior to payment.

Source: Latvija. Pārskats par tautas attīstību, 2008/2009: Atbildīgums [Latvia. Human Development Report 2008/2009: Accountability]. Riga, LU Sociālo un politisko pētījumu institūts (2009), p. 179.

³⁴ Next closest are Romania (51%) and Greece (47%). Source: Flash Eurobarometer Series # 276. Monitoring the Social Impact of the Crisis: Public Perceptions in the European Union. Analytical Report. Fieldwork: July 2009. Publication: October 2009.

prescribed by the doctor.³⁵ It is therefore very possible that personal experience with corruption in the healthcare sector has declined for purely financial reasons, i.e. people are increasingly less able to make the official payments, which means that they are even less able to make unofficial payments. And lack of money forces them to see doctors less frequently.

Distrust in politicians, trust in oligarchs

People are generally rather critical of the performance of politicians, government officials, and now even of municipal officials and employees, finding them to be incompetent and under the influence of business groups. In a survey carried out at the end of 2008, respondents were asked to rate the degree to which politicians and bureaucrats protected public interests on a 10-point scale, where 0 stood for "not at all" and 10 stood for "absolutely." The average answer was 3.46 points. This means that most people in Latvia do not find that public officials protect public interests.³⁶ In 2009, people were two times more likely than in 2007 to claim knowledge of cases in which a local government deputy was dependent on economic or business interests and maintain that there were excessively close ties between politics and business.³⁷

In the current economic crisis businesses, too, are apparently finding it inconvenient to pay various "additional duties." This is suggested by the fact that some people are beginning to speak more openly about the corruption problems that they encounter, particularly in the construction industry and in connection with public procurement tenders (e.g. for the supply of medical equipment). For example, the director of the Latvian Chamber of Trade and Industry declared openly that in order to win public contracts Latvia's businesses were asked to pay bribes in the amount of 15–20% of the value of the contract. The problem was becoming particularly acute because political parties needed money for the coming elections.³⁸

³⁵ The Sustento telephone poll showed that 18% refused to go to the hospital, 21% did not see a doctor each time that this may have been necessary, 22% did not buy all of the prescribed medicine. www.sustento.lv/resource/show/465 Last accessed on January 8, 2010.

³⁶ Latvija. Pārskats par tautas attīstību, 2008/2009: Atbildīgums [Latvia. Human Development Report 2008/2009: Accountability]. Rīga, LU Sociālo un politisko pētījumu institūts (2009), p.182.

³⁷ In the most recent Eurobarometer survey on corruption, 32% of Latvia's respondents maintained that corruption resulted from excessively close ties between politics and business. Admittedly, this opinion is voiced in other EU countries as well and by even more people than in Latvia: for example, 57% in Finland, 55% in France, 52% in Estonia. Source: Attitudes of Europeans towards Corruption. Special Eurobarometer. November 2009, p. 36.

³⁸ LETA. "Latvian Chamber of Trade and Industry: Latvia's businesses forced to pay bribes in the amount of 15–20% of the contract value in order to win public contracts." November 17, 2009.

World Bank data show that 48.1% of the enterprises in Latvia are ready to pay bribes in order to win government contracts.³⁹ For comparison: the average in Eastern Europe and Central Asia is 26.4%. It has repeatedly been pointed out that political parties in Latvia are financed by a very narrow circle of people. Only 1.9% of the population have donated money to a political party. Parties enjoy an extremely low degree of public trust, which explains why only 1.3% of people in Latvia are members of a political party.⁴⁰

Despite the generally deep distrust in political institutions and the opinion that corruption is one of the major causes of the economic crisis, people do not tend to connect these problems with Latvia's so-called oligarchs, for example, Ainārs Šlesers, famous for his patronage of loyal people and linked with the "Jūrmalgate" scandal, or Aivars Lembergs, currently on trial for a number of serious crimes. These politicians have managed to maintain a trustworthy public image in a large part of society despite the fact that they are in some way or other connected with major cases of corruption. For example, a population survey carried out in the fall of 2009 showed that 19% of the population would feel safe walking through the most dangerous part of the city together with Ainārs Šlesers. For 13%, a reliable companion in this shady neighbourhood would be Aivars Lembergs.⁴¹ Relatively more people also trust these politicians when it comes to predictions about economic development.⁴² In a number of smaller surveys carried out at the end of 2009, people also said they would like to see Aivars Lembergs as Prime Minister of Latvia.⁴³

An economic crisis does not justify corruption

Nevertheless, when asked directly whether decisions made in the interests of friends and relatives, or bribery and other corrupt activities are more justifiable in times of crisis than otherwise, 16% find this to be so ("absolutely" or "sooner"),

³⁹ 271 enterprises in Latvia interviewed. 48.1% is the percentage of enterprises maintaining that similar enterprises make unofficial payments or pay officials bribes to make sure that they get government contracts. The World Bank International Finance Corporation Enterprise Surveys. Latvia. Country Profile 2009. www.enterprisesurveys.org Last accessed on January 8, 2010.

⁴⁰ Latvija. Pārskats par tautas attīstību, 2008/2009: Atbildīgums [Latvia. Human Development Report 2008/2009: Accountability]. Riga, LU Sociālo un politisko pētījumu institūts (2009), p.180.

⁴¹ *Diena*. "Bērnus uzticētu Marijai Naumovai, bet pa nedrošajiem rajoniem – kopā ar Šleseru." October 7, 2009.

⁴² In answer to the question, "Who do you trust most when it comes to predicting economic developments?" 19% named Ventspils' mayor Aivars Lembergs, 16% named Riga's mayor N. Ušakovs, 14% named former president V. Viķe-Freiberga, 10% named economist R. Karnīte, and just as many named A. Šlesers. 32% said they trusted no one. DnB Nord Latvijas barometrs: Valsts budžets. No. 18, October 2009.

⁴³ Results of the *Snapshot* survey, made public on LTV's *De Facto* show, December 27, 2009.

almost as many are unable to give an answer, but the majority (69%) disagree (see Table 3.3). However, since the question was formulated rather abstractly, it does not show whether people would actually act in accordance with their answers when they found themselves in the concrete situation.

It is interesting that a crisis is more frequently mentioned as justification for corruption by younger respondents: almost every fourth respondent aged 18–34, as well as respondents living in Riga – i.e. the same social group that showed greater readiness to engage in corrupt activities. In discussions on justification for corruption organized by Transparency International – Latvia (Delna) in Latvia's rural areas at the end of 2009, the absolute majority of over 300 young people supported the view that bribes could sometimes be justified. Among the examples that were mentioned were not only bribes in the healthcare sector, but also bribes for local government employees, public officials (in particular police officers), and even persons in the private sector (for example, to bypass a queue at the auto repair shop). The use of corrupt methods was justified with the argument that personal needs had priority, even if they conflicted with the interests of society at large. The majority pointed out that politicians were also corrupt and refused to obey the laws that they themselves had adopted. When asked about situations in which they would refuse to accept a bribe, the majority said they would do so if the person offering the bribe were a poor person.

Table 3.3.
Justification of corruption and tax evasion

	Corruption: "Some say that decisions made in the interests of friends and relatives, or bribery and other corrupt activities are more justifiable in times of economic crisis than they would otherwise be. Others find that the crisis makes no difference. What do you think?" (SKDS, November 2009)	Tax evasion: "In the current situation, partial non-payment of taxes is justifiable." (SKDS, March 2009)
Absolutely more justifiable	4.4%	17.5%
Sooner more justifiable	11.2%	30.9%
Total:	15.6%	48.4%
Sooner not more justifiable	19%	17.9%
Absolutely not more justifiable	49.8%	18.5%
Total:	68.8%	36.4%
Hard to say/NA	15.6%	15.2%

Source: SKDS data for 2009, n=1003.

In the question of tax evasion – a question that most people are regularly confronted with to some degree – there is much greater tolerance than there is for corruption. 48.4% of the respondents find partial non-payment of taxes justifiable. It is quite clear that this attitude is connected not only with the institutional legitimacy crisis and overall distrust in public institutions, but also with people's views on how their taxes are spent. Approximately 84% of the respondents absolutely disagree or are sooner likely to disagree with the way that taxes are spent, and only 5.8% of the respondents find that taxes are generally spent wisely in Latvia.⁴⁴

Although people do not trust public institutions and are generally ready to evade payment of taxes, they continue to rely on the state much more than they do on themselves or on the private sector.⁴⁵

Lack of faith in participation

Although public demonstrations of dissatisfaction have undeniably increased, different social groups have not been able to agree on what the government should do or what demands society should make on the government in the present situation. The social protests of 2009 did not turn into the widespread public disorders that had been predicted. The reason for this could not only be the differing views of different social groups about what should be done, but also mutual distrust – something that is typical for people in Latvia. Trust in others is usually considered to be an essential condition for cooperation between individuals in the name of a common cause. Survey data for 2009 show that trust has even declined: in April 2009, 56.1% of the respondents distrusted their fellow men (as compared to 54.8% in 2004).⁴⁶

A large part of the population sees no point in political participation, being convinced that the man on the street has little influence on the work of the *Saeima* or the government. On a scale of 0 (no influence) to 10 (great influence), showing views on the extent to which the average person in Latvia is able to influence the work of politicians in the *Saeima* or the government, the average rating was 2.66 for *Saeima* and 2.41 for government. Furthermore, people are more likely to agree that the choice of party for which to vote makes no difference because there is no difference in the outcome.⁴⁷

⁴⁴ The highest rating was in 2004, when 16.9% agreed that taxes were being spent wisely. Unpublished SKDS comparative data (1997–2009).

⁴⁵ People largely rely on the state to master the economic crisis and to shoulder the main responsibility for solving economic problems (90.2%), social problems (87.9%), and for protecting the environment (58.9%). Latvija. Pārskats par tautas attīstību, 2008/2009: Atbildīgums [Latvia. Human Development Report 2008/2009: Accountability]. Rīga, LU Sociālo un politisko pētījumu institūts (2009), p.191.

⁴⁶ Unpublished SKDS data (1998, 2004, 2009).

⁴⁷ Latvija. Pārskats par tautas attīstību, 2008/2009: Atbildīgums [Latvia. Human Development Report 2008/2009: Accountability]. Rīga, LU Sociālo un politisko pētījumu institūts (2009), pp. 189–190.

Conclusions

The disappointment of people in Latvia and their distrust in public institutions goes hand in hand with their disinclination to assume responsibility for their own welfare or that of the community. A number of discrepancies in attitudes suggest a general lack of understanding about the role of the individual in the practical realization of political accountability.

At least when speaking in abstract terms, people see corruption as something that is morally unacceptable and do not consider economic difficulties as sufficient reason for justifying corruption. At the same time, part of the population is ready to justify the evasion of obligations towards the state, i.e. the paying of taxes.

On the one hand, most people see the economic crisis as the result of selfishness, corruption and incompetence on the part of public officials, for which the people of Latvia are now undeservedly paying. Anticorruption measures are seen as essential for overcoming the crisis more effectively. On the other hand, people are increasingly less ready to do anything to reduce corruption or to report cases of firsthand experience with corruption. More precisely, people's degree of readiness to become involved in solving not only personal problems but also problems connected with the welfare of the community is extremely low. At the same time, people increasingly find that the state – in which its people have hardly any trust – should assume the main role in seeking economic recovery. What is more, many are ready to support politicians who have acted more or less clearly against the public interest and sacrificed this for private gain.

Albeit slowly, but nevertheless, the harsh realities of the crisis have forced society to a more active demonstration of its attitudes towards various government decisions, as evidenced by the growing protests of different social groups. This can be counted among the positive effects of the crisis. However, only a fairly small part of the population is involved in these protests, as in other participation mechanisms (involvement in non-governmental organizations, contacts with politicians, participation in political discussions, participation in elections, referendums, etc.). Lack of solidarity and a pessimistic view of one's own capacity to influence political processes do not suggest that, in the near future, the protests of individual small groups could generate sufficient public pressure to significantly curb the activities of corrupt public officials or politicians. The situation could change, however, and many more could take to the streets if a large part of the population finds itself in even greater financial straits.

Anticorruption policies are based on the presumption that corruption cannot prevail if it involves big risks but little gains, i.e. if decision makers feel the people "breathing down their necks," not letting them default on their main duty – to serve the public interest. In such case, if there is corruption, those involved lose not only their position, income, and status, but are also condemned by society. From this point of view, the current economic crisis and its echo in public opinion have not generated significant changes in the relationship between society at large and the political elite. Accounts of personal experience with corruption show

that administrative corruption has already increased. This means that public officials are taking advantage of the fact that their decisions have greater value today than they did in the so-called fat years. Therefore, from the aspect of risk and gain, larger businesses could have a stronger incentive to employ corrupt methods as long as the size of the bribe does not reach the point where profits become negligible.

Nothing indicates a turning point in political corruption. This is not surprising in view of society's passivity and rather crushing view of its own role in elections and in its capacity to influence political processes. In any case, the risks taken by corrupt public officials are not increasing. In view of growing poverty and income inequality in different segments of society accompanied by a crisis of institutional legitimacy, I am inclined to say that corruption may increase in the near future. The main consideration will be personal welfare, which in the eyes of many individuals will justify involvement in both the shadow economy and corruption, given the opportunity.

4. Public Funding of NGOs: a Case against the Wrong Legal Strings¹

Linda Austere²

*The legitimacy and autonomy of the Olympic Movement depends on upholding the highest standards of ethical behaviour and good governance. ../ All members of the Olympic Movement must always demonstrate integrity, accountability and transparency, as well as the highest level of management skills; they must ensure that at all times their legal status is both fully consistent with their activities and responsibilities and wholly compliant with the laws of the land ../.*³

Following an investigation of the Latvian Olympic Committee (LOC) in the summer of 2009, the Corruption Prevention and Combating Bureau concluded that transparency and integrity were not at the top of the list of principles that this public benefit organization, which is generously subsidized by the government,⁴ observes in its use of public funds.

The problems that were uncovered in the work of the LOC have prompted demands for a new legal basis for monitoring the work of Latvia's approximately 11,000

¹ This chapter of the Report is based on the author's views that were published in the LV.LV portal on October 29, 2009. www.lv.lv/body_print.php?id=199252 Last accessed on January 12, 2010.

² Linda Austere is a certified lawyer with a Master's degree in Public Policy. Since 2005, she has worked as policy researcher at the Centre for Public Policy PROVIDUS.

³ XIII Olympic Congress, Copenhagen, November 5, 2009. Recommendations. Available from www.noc-ukr.org/En/officialdocuments/recommendations.html Last accessed on February 9, 2010.

⁴ The question of whether or not support for professional sports is in keeping with the goals and nature of a public benefit organization has been widely discussed since the first decisions made by the Public Benefit Commission. See: Pīpiķe, R. "Sabiedriskā labuma upurēšana [Sacrificing public benefit]." *Delfi*, July 26, 2009. www.delfi.lv/news/comment/comment/article.php?id=25534581 Last accessed on January 12, 2010; Gertnere-Ozola, K. "Apdraudēta NVO attīstība [NGO development at risk]." *Diena*, July 23, 2009.

non-governmental organizations. NGOs that receive a specific amount of money⁵ from the state budget are to be governed by the Law on Prevention of Conflicts of Interest in the Acts of Public Officials. This chapter of the Report will examine whether the legal status of NGO officials is the real problem, whether a solution can be provided by the law on conflicts of interest, and why the proposed solution looks more like acquiescence to current political trends than rational planning based on facts.

The LOC case

Documents and statements made by experts indicate that, in the period from 2003 to 2008, 80–90% of state budget resources allocated to support for NGOs were received by the LOC and the Culture Capital Foundation.⁶ The LOC is undeniably the most generously subsidized NGO in Latvia. This is probably why the investigation of the use of public funds by non-governmental organizations involved primarily this organization. However, since the work of all NGOs is regulated by the same provisions of the law, CPCB's conclusions can be applied to all: "These (NGO) officials who receive budget resources in the form of subsidies or donations have a free hand with the money because this is not regulated by the law. Nor are the officials of the aforementioned organizations included in the lists of public officials."⁷

The government has delegated a number of functions to the LOC: to lead Latvia's Olympic Movement, to implement the Olympic education, youth, and regional development programmes, and to perform other activities related to sports. Inasmuch as the delegation of functions is inevitably connected with the necessary financing, the LOC has a free hand with approximately one-fifth of the resources allocated to sports and receives other forms of government support, for example, credit guarantees.

The Ministry of Education and Science – the supervisory authority in matters concerning sports – has admitted that the extent to which government institutions are allowed to monitor NGOs that receive government funding or take part in the decision making of these organizations has not been regulated. The ministry pointed out that that it is powerless when senior LOC officials and employees receive salaries that may be even several times higher than those of senior government officials and invest money received from the government in private enterprises,

⁵ At the time of the writing of this paper, the amount being discussed was Ls 10,000.

⁶ For comparison see: www.mk.gov.lv/files/valsts_kancleja/sab_lidzdaliba/2006/protokols_nr5.doc Last accessed on February 9, 2010.

⁷ Libeka, M. "Trekno valdību olimpiskais pārtēriņš". *Latvijas Avīze*, May 18, 2009. Admittedly, generalisation of the problem, ascribing it to all NGOs, is a more analytical than practical exercise. With a budget of almost 10 million lats in 2008 and 2009, the LOC is not a typical Latvian NGO. The Committee's budget is larger than the budget of the average government institution.

for example, regional sports centres whose shareholders are persons connected with LOC officials. Legislation that restricts the use of state or municipal property and funds does not apply to such private institutions. Since LOC officials maintain that their work on the Committee cannot, according to the law, be considered as the work of public officials, these restrictions do not affect the size of their salaries either.

The bone of contention

The LOC cannot be punished because none of the senior LOC officials – nor, presumably, those of many other NGOs that receive and use public funds – are public officials. In any case, their names are not included in any of the lists of public officials. But the Law on Prevention of Conflicts of Interest in the Acts of Public Officials applies only to such persons, and it is only within the limits of this law that CPCB may punish persons who, contrary to the public interest, use public funds in such a way that they directly or indirectly, now or at some later point, end up in their own pockets.

Such persons cannot be punished because there is no consensus on the interpretation of certain provisions of the law. The law, which took effect in 2002, provides that persons shall be considered public officials not only *ex officio* but also in cases where they “carry out functions outside of state or municipal institutions if the state or municipality has, in accordance with the law, permanently or temporarily, delegated any of the ... aforementioned functions to such persons,” including “the right to use state or municipal assets, including financial resources,” which in turn includes the right to “draft or adopt resolutions on the acquisition of state or municipal assets, the transfer of ownership or exploitation rights, or expropriation, and redistribution of the financial resources of state or municipality.”⁸

CPCB maintains that the provision of the law that prescribes the accountability of such persons is not working. Usually, the persons defined in Section 4.3 are simply not included in the lists of public officials.⁹ The organizations that have been directly or indirectly criticized by CPCB disagree. They maintain that such persons are not public officials inasmuch as their functions do not correspond to those defined in the law. The bone of contention is interpretation of the phrases “the financial resources of the state” and “use of the state financial resources” in application of the law. In order to get to the root of this debate, it is necessary to take a step back and examine how the state budget resources can end up in the pockets of non-governmental organizations.

⁸ Law on Prevention of Conflicts of Interest in the Acts of Public Officials, Sections 4.2, 4.3, and 18.2.

⁹ Pursuant to the Law on Prevention of Conflicts of Interest in the Acts of Public Officials, such a list is prepared and submitted to SRS by the head of an organization.

Public funds in NGO pockets

The examples given here of how money can flow from the state budget to NGOs outline the possibilities rather than exhaust all alternatives. We will return to the question further on in a look at the history of policymaking and legislation in this issue.

An organization can receive government funding as either a direct allocation or an earmarked subsidy. Subsidies are granted for specific purposes: for example, for improving an organization's capacity to carry out public administration functions, for special-interest education in rural areas, etc.

An organization also receives public funds if it carries out a delegated public function or task,¹⁰ or has signed a cooperation contract. Admittedly, the delegation of tasks to NGOs is not particularly widespread, even less so of functions. For example, in 2008, a proposal to carry out a public task was put forward by only 32 organizations, and the total value of these tasks was approximately 1.7 million lats.¹¹ The number of organizations carrying out delegated functions is insignificant; the sums of money are considerably more significant.¹² NGOs can also provide services and receive payment for these from budget resources, or they can prepare projects and compete for financing from programmes that are implemented and financed by the government. And finally, the state can simply "grant" the money to an organization. The most typical example: the resources that were once anticipated in the budget of the *Saeima*, which deputies were free to distribute as they wished.

Interpretations of the public official status

Decisions about the allocation of money in any of the aforementioned cases are made by public officials,¹³ who handle the government's financial resources and know that they must account for their decisions in conflict-of-interest situations.

¹⁰ Pursuant to a law, a contract, or Cabinet regulations.¹¹ Information on the delegation of functions to non-governmental organizations in the period from 2004 to 2008, which is included in the Report on Support for Non-Governmental Organizations, on Sources and Size of the Allocated Resources. Secretariat of the Special Assignments Minister for Integration Affairs, April 22, 2008. www.bm.gov.lv/tools/download.php?name=files%2Ftext%2F15file27351.doc Last accessed on January 12, 2010.

¹² With the beginning of the debates on structural reforms in Latvia's administration in late 2008 and early 2009, the possibility of delegating functions to NGOs was once again on the agenda. At the end of 2008, a report on delegation of functions and government policy on NGOs in Estonia and Lithuania was prepared under auspices of the Secretariat of the Special Assignments Minister for Integration Affairs. The debates produced no results, as indicated, for example, by the first meeting between NGOs and the Cabinet of Ministers on a cooperation memorandum. www.mk.gov.lv/file/files/valsts_kancleja/sab_lidzdaliba/2009/protokols_01.doc Last accessed on January 12, 2010.

¹³ Or a body of public officials.

And it is precisely at this point – the allocation of money – that questions begin about the need to make sure that budget resources are spent in ways that serve the public interest and guarantee accountability.

CPCB argues that budget resources always go hand in hand with functions and accountability. However, practice in application of the law shows that there can be various interpretations of this premise. First of all, there is the question of whether and in which cases budget funds that are received by an organization remain public funds. It is clear that money that is paid to a non-governmental organization for providing a service for a public institution loses its public character. On the other hand, money that has been granted to an organization does not lose its public character simply because the resources intended for achieving a public goal are used by a legal entity that is governed by private law. However, a look at the above list of “ways” of acquiring budget money makes it clear that the choices are wide and hard to classify.

Secondly, assuming that the person handling money in the name of a non-governmental organization is a public official, is this status “passed on” when the money is passed on and, if so, how long is the chain?¹⁴ The capacity of non-governmental organizations is often limited, but public functions tend to be fairly broad. It is, therefore, easy to imagine cases in which the recipient of the money consigns part of the job to a subcontractor or involves other organizations (for example, to carry out a sociological survey or run a soup kitchen) or persons – researchers or cooks. Who becomes a public official?

Thirdly, there is much disagreement about where the “handling” of public funds begins and where it ends. If we assume that the money – although used by a legal entity that is governed by private law – retains its public character, then which decisions can be qualified as handling of these resources?¹⁵ And, most important: what does “redistribution” of financial resources mean? Is redistribution any decision whatsoever about the use of money, or only decisions connected with the transfer of money to other entities (for example, sports federations in the aforementioned LOC case)?

From the viewpoint of a political analyst, this fruitless legal discussion is an excellent illustration of the fact that neither the problem nor its solution is to be sought in the provisions of the law on prevention of conflicts of interest. And the all-in-all praiseworthy goal of the law – to ensure disinterested use of the state budget resources, regardless of the recipient – is impossible to achieve with the instruments typical for the implementation of policies on prevention of conflicts of interest – restrictions and prohibitions.

¹⁴ For example, if an organization co-opts a partner for the pursuit of its goals and, in accordance with the cooperation agreement, part of the money is handed over to the partner, do the officials of this (co-opted) organization also become public officials?

¹⁵ It should be kept in mind that the presence of public money in the cash box of an organization does not automatically turn the officials of this organization into public officials as defined by the law.

Public funding of NGOs as public policy

Attention was first brought to the problem and its possible solutions quite some time ago – in a report prepared in late 2004 on development of a civil society in Latvia. The authors underlined: “Public funding (of NGOs) has not been systemized because it has not evolved according to standard principles. It may, therefore, not always be fair, transparent, or commensurate with the development needs of a civil society.”¹⁶ When requesting money and distributing it to NGOs, each institution and ministry has developed and defends distribution and control mechanisms that serve its own interests and those of the recipients – frequently powerful lobbyists.¹⁷ There have been several attempts to set things straight, and it is worth taking a short look at these, if only to understand why CPCB has now set about trying to solve the problem.

After analysing the policies of neighbouring and other European countries on development of the NGO sector, Latvia’s public administration experts have come to the following conclusion: “In European countries, there are two major approaches to involvement of the non-profit sector in providing public services: 1) let the market determine which organizations can continue to exist and provide public services over a longer period of time; 2) provide special support for organizations, making it possible for their services to compete with the public and private sectors.”¹⁸ According to the authors of the report, the second approach is the one that has been applied in Latvia and the one that is also more suitable for this country. The most prominent example: the initiative to earmark 1% of income tax revenues for the support of public benefit organizations. In order to obtain a detailed analysis of this concept, which had already been on the agenda several years earlier,¹⁹ a working group was set up in mid-2006.²⁰ The report prepared by the working group did not lead to legislative amendments, but there were a number of further unsuccessful attempts to improve regulations on the ways in which NGOs can receive public funds.

¹⁶ “Policy Guidelines for Strengthening Civil Society 2005–2014.” Secretariat of the Special Assignments Minister for Integration Affairs. Approved on February 15, 2005.

¹⁷ Curika, L., Pipiķe, R. (consultant). “Valsts finansējums nevalstiskajām organizācijām [Public funding of non-governmental organizations].” Latvijas Pilsoniskā alianse (2007). www.politika.lv/temas/pilsoniska_sabiedriba/14157/ Last accessed on January 12, 2010.

¹⁸ Report on Support for Non-Governmental Organizations and the Practice of Delegating Public Administration Functions in Estonia and Lithuania. Secretariat of the Special Assignments Minister for Integration Affairs, December 4, 2008. www.nvo.lv/files/NVO_FE_LT.doc Last accessed on January 12, 2010.

¹⁹ See, for example: Draft Amendments to the Law on Income Tax, approved by the Cabinet Committee on May 13, 2002, www.politika.lv/temas/pilsoniska_sabiedriba/5797/, and the minutes of the inter-ministerial (inter-institutional) meeting on the Finance Ministry’s Draft Amendments to the Law on Income Tax, September 22, 2002, www.lps.lv/images/objects/committee_files/sittings/dac9cd8c00FMsppt_220905_IIN.doc. Both last accessed on January 12, 2010.

²⁰ Ministry of Finance Order No. 575 to examine the possibility of earmarking 1% of income tax revenues for support of public benefit organizations and adapting tax incentive mechanisms to donations made to NGOs, June 1, 2006.

The last of these was a working group set up at the beginning of 2007, which was asked to “examine the way in which public funding is granted to non-governmental organizations and prepare recommendations for criteria that must be met by non-governmental organizations in order to receive public funding, and for the necessary legislative amendments.”²¹ In May of the same year, the question of NGO classification and creation of a standard accounting system for registering government subsidies granted to non-governmental organizations was discussed at the Meeting of State Secretaries.²² This was followed by a report prepared by the Secretariat of the Special Assignments Minister for Integration Affairs in September 2008.²³ The mandate of the working group was extended five times, until the group (and the Secretariat) was finally dissolved in June 2009 without having submitted to the Cabinet the desired “draft law on creation of a standard system for classifying NGOs and registering government subsidies.”²⁴

CPCB, having disclosed serious flaws in the performance of the LOC and the Ministry of Education and Science, approached this question from the narrowly specific aspect of corruption risk prevention.

The consequences of legislative regulation

The recommended solution...

CPCB considers that it would be possible to eliminate the problem of NGOs using public money in ways that are only remotely in the public interest, without being controlled or punished, if the officials of these organizations were required to comply with the provisions of the law on prevention of conflicts of interest. CPCB recommends that the provisions of the law should be disambiguated to ensure that the way in which the LOC or other NGOs use public money is subjected to the same rules and principles that must be observed by government institutions – the administrators of the financial resources.

To promote standard practice in the interpretation of the law, CPCB has asked the *Saeima* to make the Law on Prevention of Conflicts of Interest in the Acts of Public Officials more precise, prescribing that “Persons who perform official functions outside of state or municipal institutions shall also be considered as public officials if ...3) as legal entities governed by private law (individual business persons, legal persons, partnerships of natural or legal persons in whichever combination) they use financial resources that have been directly or indirectly

²¹ Minister President's Order No. 33 on a Working Group. January 19, 2007.

²² Minutes of the May 10, 2007 Meeting of State Secretaries, § 67. www.mk.gov.lv/lv/mk/vs-sanasmes/saraksts/protokols/?protokols=2007-05-10 Last accessed on January 12, 2010.

²³ Report on Creation of a Standard System for Classifying NGOs and Registering Government Subsidies to Non-Governmental Organizations. September 2, 2008. www.bm.gov.lv/lat/sabiedribas_integracija/informativie_zinokumi/?doc=11801 Last accessed on January 12, 2010.

²⁴ Ibid.

allocated from a state or municipal budget (including subsidies, earmarked subsidies, transfers, as well as financial resources that have been secured with state or municipal guarantees), and if the size of these resources, separately or in toto for the current calendar year, equals or exceeds Ls 10,000.”²⁵

Defining standard rules of conduct for organizations whose only common feature is the fact that they are non-governmental and non-profit is a fairly tricky task,²⁶ particularly so in a country that has no system for the classification of NGOs. This is why there is often puzzlement over why an organization has or has not been classified as a non-governmental or a public benefit organization.²⁷

The task is not an enviable one, particularly if the intention is to quickly, commensurately, unambiguously and completely resolve not just one but a whole series of problems with the help of a single provision of the law: first of all, to make sure that there is only one way of interpreting the scope of the law on prevention of conflicts of interest beyond public administration institutions; secondly, to ensure sensible and effective control of the use of budget resources by non-governmental organizations (to, amongst other things, achieve goals set by the state);²⁸ thirdly, to reorganize the flow of money from the state budget to non-governmental organizations.

The problem is that there are currently no serious consequences for organizations that use public funds unwisely or dishonestly. They do not, for example, risk losing access to such money. The question inevitably arises whether the right law has been chosen for dealing with the problem of accountability. Is a solution that is

²⁵ The Draft Amendments were submitted to *Saeima's* Public Administration and Local Government Committee in the summer of 2009. The amendments have currently been put on hold. The points not included in the quote:... if “1) they have, in accordance with the law, been permanently or temporarily delegated any of the functions set out in Paragraph 2 of this Section by state or municipality; 2) they handle state or municipal assets.”

²⁶ Jordan, L. Mechanisms for NGO Accountability. 2008 www.gppi.net/fileadmin/gppi/Jordan_Lisa_05022005.pdf Last accessed on January 12, 2010.

²⁷ Latvia has more than 11 thousand non-governmental organizations. Despite the huge amount of work that has been invested in improvement of the legal basis for NGOs, there is still no agreement on the definition of a non-governmental organization: “When it comes to regulation, the problem of making a distinction between the work of NGOs, political parties, and religious organizations has still not been resolved.” And the problems with classification of NGOs suggest that the most obvious differences (important when it comes to public benefit status and indirect government support mechanisms) are not the most important ones – the ones that set the conditions in legislative regulation of direct government support/funding of the non-governmental sector. In the aforementioned report, the Secretariat of the Special Assignments Minister for Integration Affairs, too, points out that “it is impossible to obtain complete information about NGOs in concrete areas of public life.” Information about the NGO sector in Latvia is fragmentary, and it is difficult to put the fragments together.

²⁸ The report on classification and funding of NGOs in Latvia clearly states that it is impossible to evaluate the impact of organizations on the national economy. No such attempt is made.

aimed at restricting the actions of a person who handles public funds the best solution to a problem that primarily involves money management? I will try to explain why, in my opinion, the unforeseen consequences of the recommended legislative solution could be much more profound than the expected positive effects.

... and the stumbling blocks of this solution

By seeing a problem in the fact that officials of publicly funded NGOs are not limited or held accountable in the same way as officials of public institutions, we actually concede that expediency and compliance with projected goals in regard to the use of state budget resources is less important than the possibility of carrying out random checks and catching those who use this money inappropriately. It is very possible that the officials of non-governmental organizations reap undeserved benefits for themselves, sometimes for the distributors of the resources on the government side as well, or maybe even for political parties. Nevertheless, the recommended solution does not help to prevent inappropriate behaviour nor ensure that public funds are used efficiently for the intended purposes.

The special nature of the law against conflicts of interest and the authority responsible for controlling enforcement of the law imposes restrictions that can make it difficult to achieve the desired goal. CPCB admits that in the initially proposed amendments the law would not apply to persons acting with sums of money less than Ls 10,000. However, if CPCB turns a blind eye to organizations that receive Ls 9,999, so might everyone else. This kind of approach would only encourage the transformation of NGOs into business projects, something that is criticized by public institutions in Latvia and elsewhere.

It is easy to understand why the primary function of conflict-of-interest legislation is preventive. The law does not prescribe, nor can CPCB control the behaviour of every official (there are already 70,800 public officials in Latvia). It is, therefore, hard to understand why CPCB must attempt to assume even partial responsibility for monitoring what happens to public funds in the hands of non-governmental organizations if the distributors of the money, who have at their disposal mechanisms (for example, contractual provisions) that are possibly much more effective, do not apply these and assume responsibility.

And finally, it is also worth considering whether the sanctions imposed on the newly declared officials for non-observance of the law would be serious enough to deter them from further infractions. After all, the system for preventing conflicts of interest in the conduct of public officials was devised for hierarchically organized institutions in which the superiors can react to any violations that are disclosed. But how great would the desire be to punish "our own people" in non-governmental organizations founded and run by people with similar views?²⁹ In

²⁹ Leslie, Melanie B. *Conflicts of Interest and Nonprofit Governance: the Challenge of Groupthink* (September 23, 2009). Cardozo Legal Studies Research Paper No. 276. Available at SSRN: <http://ssrn.com/abstract=1477553> Last accessed on January 12, 2010.

view of the LOC case and the comments made to the media by the officials of this organization,³⁰ this question no longer seems the least bit rhetorical.

The broader context

The question of how to solve the accountability problem in a sector where subordination to a higher official or owner does not exist is important even apart from the debate about public funding of NGOs. Analysts see inadequate supervision on the part of donors and NGO managements, and weaknesses of internal democracy as the major problems undermining accountability in the so-called “third sector.”³¹ However, researchers agree that public funding and in particular the control and accounting mechanisms connected with public funding (and non-existent in Latvia) traditionally have a positive effect on productivity and quality of work of the organizations.³²

The problems that have been highlighted elsewhere – donor supervision and internal democracy of the sector, or the sector's capacity to monitor its own performance – undoubtedly find an echo in Latvia as well: for example, NGO classification, the qualification of organizations for NGO status, and their eligibility for public funding or indirect support. However, the suggestion that the public interest should be protected by de facto incorporating the non-governmental sector into the public sector instead of controlling the flow of money and considering ways of improving the efficiency of non-governmental organizations is unparalleled in an international context. Especially as a way of dealing with problems disclosed in the work of one organization.

Generalisation of the situation with the Latvian Olympic Committee is in itself worthy of attention. The LOC is one of the organizations that vividly demonstrate the problem of NGO classification in Latvia. The LOC example calls for recon-

³⁰ LOC president Aldonis Vrublevskis told the media that the figures in the reports were correct, but that they had been tendentiously selected and did not provide a true picture of the situation: “I find that they were tendentiously selected for September 2008, when all employees received bonuses for good results in the Peking Olympic Games.” LETA, May 17, 2009. “A. Vrublevskis finds that LOC has used public funds legitimately and disagrees with CPCB's recommendation that the Committee should be transformed into a public agency. A. Vrublevskis: “If the government and the *Saeima* want to adopt such a law, it would be unconstitutional: it would violate the right to freedom of association provided for in the Constitution, the LOC would lose the accreditation of the International Olympic Committee, Latvia's athletes would lose the right to compete in Olympic Games and European and World Championships, and Latvia's sports federations would lose the right to hold such championships in Latvia.”” *Latvijas Avīze*, May 17, 2009.

³¹ Leslie, Melanie B. Conflicts of Interest and Nonprofit Governance: the Challenge of Groupthink (September 23, 2009). Cardozo Legal Studies Research Paper No. 276. Available at SSRN: <http://ssrn.com/abstract=1477553> Last accessed on January 12, 2010.

³² Jobome, G. O. Public Funding, Governance and Passthrough Efficiency in Large UK Charities. *Corporate Governance: An International Review*, Vol. 14, No. 1. January 2006, pp. 43–59.

sideration of whether or not the status of non-governmental or public benefit organization, as it is defined by the law, can be applied to sports organizations.

The question of whether the legal status of the International Olympic Committee (IOC)³³ – international non-governmental organization – is in keeping with its functions, whether it guarantees adequate public control over an organization that has been granted significant organizational and financial powers, has for quite some time been discussed in Latvian as well as international legal literature. The authors point out that the IOC should be more closely monitored, than is usually the case with non-governmental organizations. Furthermore, the organization's internal democracy and its accounting mechanisms should be improved. Let us keep in mind that appointments to the administrative bodies of the IOC are frequently connected with nepotism scandals.³⁴

Conclusions and recommendations

The current problem does not lie in inadequate application of the law on prevention of conflicts of interest to the performance of NGOs, but in the long-standing question of flow of money to these organizations and the way in which use of the money is controlled by the donors. For this purpose, each ministry has at its disposal many more instruments than CPCB could ever hope to get. These instruments include standard procedures (either for the whole administration or for individual ministries) for allocating financial resources, procedures that ensure regular and substantive reports on the use of these resources. Sanctions should also be considered for inexpedient use of the resources: for example, this could be one of the criteria for approving a repeated request for financial support.

The planning and lawmaking to-and-fro over status of and financial support for NGOs and the case of the LOC are a clear reminder of the need to return to the

³³ The main functions of the International Olympic Committee are: (1) to coordinate sports events and promote the development of sports in cooperation with international and national sports organizations; (2) to lead the Olympic Movement and ensure regular organization of the Olympic Games; (3) to choose the venue of the Olympic Games; (4) to promote peace and fight against any form of discrimination in the Olympic Movement. The principle document of the IOC is the Olympic Charter.

Source: www.olimpiade.lv/abc/ Last accessed on February 9, 2010.

The National Olympic Committees (NOC) are one of three elements of the Olympic Movement alongside the IOC and the international sports federations. The objective of the NOCs is to develop, promote and protect the Olympic Movement in member countries in accordance with the Olympic Charter.

Source: www.olympic.org/en/content/National_Olympic_Committees/ Last accessed on February 9, 2010.

³⁴ Ettinger, D. J. "The Legal Status of the International Olympic Committee." *Pace International Law Review*, Vol. 4:97 (1992). www.scribd.com/doc/24956746/DJ-Ettinger-Legal-Status-of-the-IOC Last accessed on January 12, 2010.

basics to settle the question of NGO classification. And an answer must be given to the question of whether or not the work of the Latvian Olympic Committee is in keeping with the purpose and goals of a non-governmental and public benefit organization.

At the same time, the factors that have been recognized as the causes of the problem, both in Latvia and internationally, have become secondary. They are ignored by the responsible officials in the ministries and, of course, in the organizations that must potentially be monitored. And the most appropriate solutions disappear from the field of vision. The proposed solution – to amend the law in reaction to violations that have been disclosed in the performance of one, rather untypical non-governmental organization – is a prime example of rational policy yielding to political pressures.

5. Appendix.

Combating Corruption: a Quantitative Overview

The appendix provides a systematic look at trends in Latvia's effort to combat corruption. The information compiled here comprises data on the number of cases and persons sent to court for criminal offences connected with bribery (acceptance of bribes, misappropriation of bribes, intermediation in bribery, active bribery) in the years 1992–2008. The appendix also provides a detailed account of the number of persons convicted of criminal offences committed in public service and the forms of punishment that have been applied from 2005 to 2009.

Table 5.1.
Performance of the Prosecutor's Office: investigation of criminal offences involving bribery (CL 320–323)

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008*
Number of cases sent to trial	22	24	18	25	32	21	25	27	12	28	27	26	31	30	53	53	39
Number of persons accused	40	35	34	42	63	28	35	37	19	37	38	48	43	49	79	97	73

Source: Prosecutor General Jānis Maizītis' report on the performance of the Public Prosecutor's Office in 2007.

http://www.prokuratūra.gov.lv/doc_upl/Dati_par_2007.xls Last accessed on July 9, 2009.

*Figures for 2008 taken from Prosecutor General Jānis Maizītis' report on the performance of the Public Prosecutor's Office in 2008: "The Prosecutor's Office has sent 39 criminal cases involving bribery to trial, with a total of 73 accused persons" (p. 13).

http://www.prokuratūra.gov.lv/doc_upl/Generalprokurora_parskats_2008.pdf Last accessed on July 9, 2009.

Table 5.2.
Number of persons convicted of criminal offences committed
in public service (2005)

CL or CC Section	Total number	Principal punishment – imprisonment					Other forms of principal punishment		Waiver of punishment
		1 year or less	1-3 years (inclusive)	3-5 years (inclusive)	5-10 years (inclusive)	Conditional	Payment of fine	Incl. conditional fine	
317. Abuse of functions	10	1	2	0	0	4	3	0	0
318. Abuse of office (CC Section 162 applied in 1 case)	6	0	1	0	0	2	1	0	2
319. Inaction by a public official	5	0	0	0	0	1	3	1	1
320. Acceptance of a bribe (CC Section 164 applied in 1 case)	26	0	2	2	1	21	0	0	0
321. Misappropriation of a bribe	4	1	1	0	0	2	0	0	0
322. Intermediation of a bribe	5	0	0	0	0	5	0	0	0
323. Active bribery	14	1	1	1	0	9	2	0	0
327. Forgery of official documents	1	0	0	0	0	0	1	1	0

Source: Court Information System (statistical data published on January 12, 2010).

Table 5.3.
Number of persons convicted of criminal offences committed
in public service (2006)

CL or CC Section	Total number	Principal punishment – imprisonment					Other forms of principal punishment			Waiver of punishment
		1 year or less	1-3 years (inclusive)	3-5 years (inclusive)	5-10 years (inclusive)	Conditional	Payment of fine	Incl. conditional fine	Community service	
317. Abuse of functions	6	0	0	0	0	5	1	1	0	0
318. Abuse of office (CC Section 162 applied in 1 case)	7	0	0	0	0	4	2	0	0	1
319. Inaction by a public official (CC Section 163 applied in 6 cases)	23	0	0	0	0	9	12	0	2	0
320. Acceptance of a bribe	26	0	1	1	1	18	5	1	1	0
321. Misappropriation of a bribe	3	0	2	0	0	1	0	0	0	0
322. Intermediation in bribery	3	0	0	0	0	3	0	0	0	0
323. Active bribery	20	2	0	0	0	16	2	0	0	0
325. Violation of restrictions imposed on public officials	2	0	1	0	0	0	1	0	0	0
327. Forgery of official documents	2	0	0	0	0	2	0	0	0	0

Source: Court Information System (statistical data published on January 12, 2010).

Table 5.4.
Number of persons convicted of criminal offences committed
in public service (2007)

CL or CC Section	Total number	Principal punishment – imprisonment				Other forms of principal punishment		
		1–3 years (inclusive)	3–5 years (inclusive)	5–10 years (inclusive)	Conditional	Payment of fine	Incl. conditional fine	Community service
317. Abuse of functions	9	3	0	0	3	3	0	0
318. Abuse of office (CC Section 162 applied in 1 case)	8	0	0	0	4	3	0	1
319. Inaction by a public official	7	0	0	0	4	3	2	0
320. Acceptance of a bribe	23	3	0	2	16	3	1	0
321. Misappropriation of a bribe	5	0	0	0	2	3	0	0
322. Intermediation in bribery	7	2	0	0	5	0	0	0
323. Active bribery	23	2	0	0	21	0	0	0
326. ² Solicitation and acceptance of undue advantage	1	0	0	0	0	0	0	1
327. Forgery of official documents	1	0	0	0	0	1	0	0

Source: Court Information System (statistical data published on January 12, 2010).

Table 5.5.
Number of persons convicted of criminal offences committed
in public service (2008)

CL or CC Section	Total number	Principal punishment – imprisonment				Other forms of principal punishment			
		1–3 years (inclusive)	3–5 years (inclusive)	5–10 years (inclusive)	Conditional	Payment of fine	Incl. conditional fine	Community service	Incl. conditional community service
317. Abuse of functions	4	0	0	0	3	0	0	1	0
318. Abuse of office (CC Section 162 applied in 3 cases)	10	1	0	0	2	5	0	2	0
319. Inaction by a public official (CC Section 163 applied in 2 cases)	10	0	0	0	3	5	0	2	0
320. Acceptance of a bribe	28	7	0	3	16	7	5	0	0
321. Misappropriation of a bribe	5	1	2	0	2	1	1	0	0
322. Intermediation in bribery	4	0	1	0	3	1	1	0	0
323. Active bribery	21	1	2	0	16	3	1	1	1
326. ² Solicitation and acceptance of undue advantage	1	0	0	0	0	1	0	0	0

Source: Court Information System (statistical data published on January 12, 2010).

Table 5.6.
Number of persons convicted of criminal offences committed
in public service (2009)

CL or CC Section	Total number	Principal punishment – imprisonment				Other forms of principal punishment	
		1–3 years (inclusive)	3–5 years (inclusive)	5–10 years (inclusive)	Conditional	Payment of fine	Community service
317. Abuse of functions	6	3	0	0	1	2	0
318. Abuse of office (CC Section 162 applied in 7 cases)	11	0	1	0	9	1	0
319. Inaction by a public official	4	0	0	0	1	3	0
320. Acceptance of a bribe	21	5	2	1	12	1	0
322. Intermediation in bribery	1	0	0	0	1	0	0
323. Active bribery	22	4	0	0	17	1	0
327. Forgery of official documents	2	1	0	0	0	0	1

Source: Court Information System (statistical data published on January 12, 2010).

Table 5.7.
Persons convicted and sentenced to imprisonment
in the years 2005–2009

Year	Total number of persons convicted	Incl. persons sentenced to imprisonment	
		Number of persons	Percentage of total
All persons convicted of criminal offences committed in public service			
2005	71	14	19.7%
2006	92	8	8.7%
2007	84	12	14.3%
2008	83	18	21.7%
2009	67	17	25.4%
Persons convicted of abuse of office			
2005	6	1	16.7%
2006	7	0	0%
2007	8	0	0%
2008	10	1	10%
2009	11	1	9.1%
Persons convicted of accepting bribes			
2005	26	5	19.2%
2006	26	3	11.5%
2007	23	5	21.7%
2008	28	10	35.7%
2009	21	8	38.1%
Persons convicted of active bribery			
2005	14	3	21.4%
2006	20	2	10%
2007	23	2	8.7%
2008	21	3	14.3%
2009	22	4	18.2%

Raw data sources: Court Administration, Court Information System.

Sagatavota iespiešanai SIA "Nordik". Reģ. apl. Nr. 2-0792. Adrese – Elijas ielā 17-124, Rīgā, LV-1050, tālr. 67602672. Iespiesta un brošēta Jelgavas tipogrāfijā.

