

**REPORT ON THE PTF SUPPORTED TI LATVIA (DELNA) PROJECT (2001-02)**  
**Monitoring Government's Initiatives to Address "State capture" Issues and Its Implementation**

**Summary**

In October 2000 the government of Latvia established three working groups in order to develop new legislation relating to corruption. The goals were to develop:

- Draft amendments to the existing law governing the financing of political parties,
- A completely new corruption prevention law
- The legal framework for an anti - corruption bureau.

DELNA and its experts joined the working groups both to monitor the legislative process as well as make an impact towards this legislation. The main goal of this project was to create a basis and structure for closer co-operation and dialogue between those in power and the public, i.e. - between the public administration and civil society.

Established in 1998, the Latvian chapter of Transparency International has played a significant role raising public awareness on the damage done by corruption and the responsibility of civil society in helping to curbing corruption. The Latvian public now perceives TI Latvia (DELNA) as an effective monitor of the various activities of the government.

The monitoring of the government's initiatives to address "state capture" was the main objective of a project initiated by DELNA and supported by a PTF grant. Civil society participation achieved through this project ensured:

- 1) Monitoring of the quality of the actual work of the government's working groups;
- 2) Effective use of the experience of DELNA of other NGOs in the country dealing with anti-corruption issues and of the global TI network, directly in the working process, which can be more productive than the criticism of a finished product;
- 3) Ensuring of public trust by reporting on the positive work done;
- 4) Broadening of the discussion on more controversial topics, such as party finance from the state budget, etc.;
- 5) Monitoring of the results of the working groups in further procedures within the government and the Parliament.

## ***Results***

- As the result of the project all 3 laws were adopted in the Parliament and have entered into force giving a new ground for anti-corruption work in Latvia. Especially one can say that about the new anti-corruption body, which started its functions in July 2002 and the new legislation on political party finance, which was finally voted in June 2002 providing substantial transparency for the voters on the incomes and expenditures of the political parties. Further steps to improve the law on the conflict of interest are also taken.
- Experts of DELNA were admitted to all the working groups of the government and accepted as working partners. However, the experts noticed the lack of motivation and goals in preparing the draft legislation.
- The Parliament adopted the concerned pieces of legislation in big haste and thus gave DELNA little room for intervention. DELNA was possible to follow the legislative changes in the Parliament due to transparent on-line internet system, but there was too little time to lobby for additional changes or protest against some specific changes. The exception, however, was the law on political party finance where DELNA experts were consulted on regular basis.
- As a result of the PTF assisted project DELNA was able to establish a long-term relationship with the government bodies dealing with anti-corruption issues and was invited to join the working groups on anti-corruption and related legislation also after the project finished.
- DELNA has gained very important knowledge and practical skills about the legislative process within the government and has been able to comment on these issues to the national media.
- The anti-corruption topics are of a general interest of the Latvian media, and so there was a broad coverage of the process and the results of the draft legislation.

See annexes for the table of the timetable of the adoption of the laws and publications of the project related issues.

An analysis of the draft legislation monitored by DELNA is given below.

### **Conflict of interest legislation**

The Prevention of Corruption Law adopted in 1995 had experienced heavy critics from the very same day it was adopted. The norms were argued to be too abstract therefore potentially corrupt situations often fell out of the reach of interior as well as legal institutions, responsible for controlling of the implementation of the Law (The institution named to be the main responsible was the State Revenue Service under the Ministry of Finance). Several problems were highlighted as needing priority attention:

- Scope of the definition of state officials. It had to be improved in order to comprise not only the institutional, but in addition the functional aspect. Persons performing specific functions in or outside of the state administration failed to be subjected to the provisions (e.g. restrictions of adopting a resolution).

- Definition of corruption – was reported to be too narrow.
- Determination corresponding of the incomes and practical standard of living of the subjects of the Law
- Restrictions (holding of more than one job, commercial activities, post office restrictions) applied to different groups of persons being the subjects of the law were also a matter of concern – some of them were to severe and useless whereas some groups of officials did not have any at all).
- Methods of monitoring compliance with the provisions of law – the form of the Income Statement, as well as the methodology of their control.
- Institution (Status and authority) controlling the implementation of the law as well as providing practical control of Statements. (See Corruption Prevention Bureau)

As a result of the process the new law On Prevention of Conflict of Interest in Activities of Public Officials was adopted by the parliament of Latvia (The Saeima) on 25.04.2002.

***The main benefits obtained and improvements made were as follows:***

- Concepts of *corruption* and *conflict of the interest* were separated. Conflict of interest became the focal point of the new legal act. This decision (resulting from a DELNA initiative) was made based on the results of research, as well as the analysis of the most frequent precedents. They were mostly acts of administrative misconduct (corrupt activities, but not sufficiently serious to constitute a criminal offence).
- Definition of *authorities* was reviewed, based on the actual situation. The functional definition of authorities was expanded, comprising activities performed not only in but also outside the state service (or the companies established by the state).
- Definitions (*office, authority, relative, gift*) were clarified, thus partly overcoming the problem of misinterpreting the legal provisions.
- Restrictions aimed at preventing conflict of interest on the part of officials were expanded, as were the remedies applicable when conflicts of interest arise.
- The most important amendments concerned the institution in charge of controlling the implementation of the new law. Though the Department for Controlling Corruption at the State Revenue Service did preserve certain functions (pertaining the collection of the financial statements of the authorities and preliminary control), a new body – The Bureau of Prevention and Combating Corruption was established.

**New institutional body**

According to the law on the Prevention of Corruption (1995), the Department for Controlling Corruption under the State Revenue Service was the responsible institution for monitoring implementation and adjusting the remedies provided under the Law. Nevertheless, the scope of the institution responsible for detecting conflicts of interest and possible corrupt activities (by reviewing a number of randomly chosen financial statements) was frequently criticized as inadequate. Another serious argument in favor of creating a completely new institutional body was the duplication of functions of various (at that time – more than 50) institutions or

departments that were in charge or fulfilling some functions for preventing, detecting or combating corruption related activities.

An outcome of the initial initiative of the foreign investors council, as well as the task of the expert working group, was to develop the framework for a totally new institution to be in charge for all three directions of anti- corruption activities – education, prevention and combating corruption. The concept of the Bureau (its structure and functions) was partly based on Hong Kong's independent Commission Against Corruption – that had proved to be highly successful model for an anti–corruption institution since 1974. Although the initial concept was adapted during the drafting process, the new institution did preserve the basic features of the original concept.

The legislative review of the anti-corruption bureau were almost parallel to those described above, concerning the conflict of interest provisions. It was agreed that the number and competence of institutions dealing with anti–corruption issues should be diminished.

Basic principles of the draft law were to give the new Bureau:

- Independence -- institutional, functional and financial
- Comprehensive powers
- Responsibilities for prevention, combating corruption, and public education all combined in one institution

After an extensive process of consultation among state administrations, the draft law was promulgated and came into the force on May 1, 2002. The head of the institution, however, was approved by the Parliament only on November 10, 2002 after a long-drawn out procedure (competition). Preliminary actions were started in June 2002 by a provisional group of five people working in the Secretariat for the Corruption Prevention Council (the coordinating institution founded in 1997). Parliamentary elections in October 2002 were another factor creating uncertainty during this period.

***The new Bureau for preventing and combating corruption has the following features:***

- The Bureau comes under the supervision of the Prime Minister.
- The Bureau is a central coordinating institution, responsible for implementation of Anti – corruption strategy and program. Its competence comprehends state and local government institutions.
- The Bureau consists of six departments dealing with prevention and five in combating corruption.
- The main tasks of the bureau are as follows:
  - Controlling the implementation of conflict of interest legislation and state procurement.
  - Combating corruption investigates alleged wrongdoing,
  - Developing the theoretical as well as methodological basis for the operations of the bureau, including legislative initiatives.

***The main benefits and improvements acquired were as follows:***

- Single agency responsible for anti-corruption work. The problem deriving from overlaying competences of various institutions has been successfully overcome.
- Active and concentrated work, as well as responsibility.
- Significantly extended authority and remedies.

The Bureau has an unusual institutional status – being under the direct supervision of the Prime Minister. Intended as the guarantee of its independence, this feature has become a subject of debate. The nature of the involvement of civil society, including public participation and monitoring, has also become part of this public debate.

Participation of the representative of TI L in the elaboration the Law, as well as in the commission designated to choose the director of the institution, has fostered further productive cooperation with the Bureau. Process of the development of the corruption prevention strategy, as well as participation in the workgroups established by the Bureau is an excellent example of this co-operation.

### **Amendments to the political party finance law**

At the beginning of 2001 the government of Latvia initiated a new law on political party finance, aimed at increasing the transparency. The law also envisaged introducing the financing of political parties from the state budget. The proposal suggested that parties would receive a state contribution equal to 1% of the minimum wage (0.6 lats or 1 euro in 2001) per vote received in the previous election. The money was to be kept in an account at the State Treasury and used only for campaign purposes. As the public did not support this idea, the working group decided to focus its efforts on amendments to the existing law concerning financial supervision and control of political parties. The system of government financial support to political parties was not introduced.

The working group mentioned above was established in order to advance the desired changes in a legislative framework.

In the amendments adopted in June 2002 there were following improvements in the transparency and control of political party financing:

- The maximum annual donations to a political party were set at 1000 lats for private persons and 5000 lats for companies (the previous law allowed a single donor to contribute more than 25,000 Lats (Euro 45,000) per year).
- Parties are obliged to disclose their campaign contributions and donors one month before elections and submit full accounts one month after elections.
- Parties are prohibited from receiving donations via third persons.
- The political parties are obliged to submit their financial declarations to the Central Election Committee, which will be responsible for monitoring them. This was a positive development given the independence and professionalism of CEC staff. A month later this duty was transferred to the newly established Corruption Prevention and Combating Bureau.

The new amendments significantly improved the transparency and financial control of political parties. However, restrictions on total spending or expenses for advertising were not included and are still very much needed.

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Table 1. Development of draft laws

<i>Stage</i> <i>Law</i>	<i>Corruption prevention concept Accepted by the Cabinet of Ministers</i>	<i>Rules of the Cabinet of Ministers determining personnel of the workgroups</i>	<i>The first meeting of the workgroup</i>	<i>Final meeting and consideration of the draft law</i>	<i>Coordination process</i>
<b>PPF</b>	8.08.2000	28.08.2000	No protocols	No protocols	Until State secretary meeting (see further)
<b>KNAB</b>	8.08.2000	28.08.2000	8.11.2000	04.04.2001	
<b>CI</b>	8.08.2000	28.08.2000	8.11.2000	Information not available	

Table 2. Legislative process

<i>Stage</i> <i>Law</i>	<i>State secretary meeting</i>	<i>Accepted by the Cabinet of Ministers</i>	<i>Received in the Parliament</i>	<i>Presidium of the Parliament meeting</i>	<i>Plenary session</i>	<i>First reading</i>	<i>Second reading</i>	<i>Third reading</i>	<i>Promulgation By the president</i>	<i>Enters into force</i>
<b>PPF<sup>1</sup></b>	4.01.2001	18.04.2001 (submitted)	30.11.2001	3.12.2001	6.12.2001	7.02.2002	16.05.2002	6.06.2002	26.07.2002	27.07.2002
<b>KNAB<sup>2</sup></b>	5.04.2001	25.09.2001	7.02.2002	11.02.2002	14.02.2002	7.03.2002	18.04.2002	Urgent (2 readings)	30.04.2002	1.05.2002
<b>CI<sup>3</sup></b>	17.05.2001	15.01.2002	7.02.2002	11.02.2002	14.02.2002	7.03.2002	25.04.2002		9.05.2002	10.05.2002

<sup>1</sup> Political party financing law

<sup>2</sup> Law on Corruption prevention bureau

<sup>3</sup> Conflict of interest law

