

BASIC GUIDELINES

**"NATIONAL STRATEGY FOR CORRUPTION
PREVENTION AND COMBATING
2004– 2008"**

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1. Introduction

The objective of the Basic Guidelines of the „National Strategy for Corruption Prevention and Combating, 2004-2008” (hereinafter- Strategy) is twofold: firstly, to define actual problems in corruption prevention and combating and secondly, to ensure adequate solutions to those problems thus leading to legal and effective activities of public officials, taken for the benefit of the society.

1) Strategy is a medium-term policy document for a period of five years. Crucial alterations to the current policy are necessary due to the fact that substantial changes have occurred in the sphere of corruption prevention and combating in the Republic of Latvia since 1998 when the previous State Program for Corruption Prevention and Combating was approved (supplemented in 2000 and 2001) and Corruption Prevention Conception was adopted (2000).

2) Corruption prevention policy is related not only to the policy of justice, but also to policies of finance, budget, entrepreneurship, foreign affairs, civil society and democracy, state administration, internal affairs and many other areas of state policy.

The documents related to the policy of corruption prevention and combating that have the greatest impact on implementation of the strategy are the following: the Conception of National Security, the Conception of Payment for Judges and Judiciary, the Conception of e-administration of Latvia, the Strategy of State Administration Reform for 2001- 2006, the Action Plan for Entrepreneurship Environment Improvement and the Conception of Information Technologies Use in Developing the System of Public Procurement.

2. Current situation

1) The corruption prevention and combating policy in Latvia is being implemented since 1995 when the law on Corruption Prevention was adopted and entered into force. The Cabinet of Ministers approved the Corruption Prevention Program on 27th February 1998. This Program defines measures to be taken in areas of corruption prevention, combating and education.

2) The **positive results** of the corruption prevention and combating policy which has been in place up until now are the following:

- a) A system has been implemented for declaring and controlling state officials' property status and personal interest areas;
- b) Public accessibility to state officials' declarations has been ensured;
- c) An institutional system for corruption prevention and combating has been formed;
- d) Improved international cooperation with regard to corruption prevention;
- e) Refined legal regulation for state and municipal procurements.

3) The **substantial deficiencies** of the corruption prevention and combating policy which has been in place up until now are the following:

- a) Delayed development of institutional system for corruption prevention and combating;

- b) Incomplete legal regulation on financing of political organizations (parties) and political associations;
- c) Incomplete control of inhabitant's property status;
- d) Delayed elaboration of the new Criminal Procedure Code;
- e) Insufficient improvement of police work organization and enhancement of protection system for informers;
- f) Public unavailability of court judgements;
- g) Insufficient attention has been paid to introduction and implementation of ethical standards in state administration;
- h) Insufficient information and education of the society with regard to corruption prevention and combating.

4) The perception of corruption as a widespread occurrence is still high among the inhabitants of Latvia.

Transparency International's annual research "The Corruption Perceptions Index 2003" considered the situation in Latvia as not positive. Altogether the scores for the corruption perceptions index in states range from 10 (corruption does not exist) to 0 (a totally corrupt state). For Latvia, the index is 3.8, placing it in 57th position in the world, behind all the European Union Member States and behind Estonia and Lithuania, too. Besides, it has to be pointed out here that in year 2002 the score was slightly better – 3.7, placing Latvia in 52nd position in the world.

The perception of society is illustrated also by petitions and complaints received by law enforcement agencies, containing suspicions about different types of possible corrupt behaviour by state officials. For example, the Corruption Prevention and Combating Bureau received in 2003 1657 complaints from both legal and natural persons regarding this issue.

5) The number of registered corruption related offences in state institutions is not high; it fluctuated from 183 to 205 cases in the time period between 1999 and 2002, amounting to 0.37 - 0.42% of the total number of offences. The number of registered corruption related offences in the private sector is even smaller: in the time period between 1999 and 2002 it fluctuated from 36 to 168 cases or 0.08 to 0.33% of the total number of offences.

6) Insufficiently ensured prevention of conflicts of interest in the actions of state officials. 88.73% of administrative cases against state officials imposed administrative sanctions for not submitting declarations. In comparison, only 9.05% of cases dealt with violations of restrictions imposed on state officials and only 0.58% dealt with violations of restriction on accepting presents. This data illustrates that the State Revenue Service, as the corruption preventing institution, used its resources for examining less important violations of law, not paying enough attention to more important breaches, such as violation of restrictions imposed on state officials or discovering a failure to discontinue an illegally pliant (corrupt) position. This situation demonstrates that the priorities for solving these matters in the country were not determined adequately.

7) The number of state officials' disciplinary offences related to corruption is not high. In the civil service (except the Ministry of Interior and Ministry of Justice) from 1st January 2001 to 10th October 2003 there have been 7 disciplinary hearings involving civil servants (1 case concerned use of official position in bad faith; 2 cases involved accepting material benefits resulting in a detriment; 4 cases dealt with prohibited side work). There have been 4 disciplinary cases against Prosecutor's Office' officials in the time period between 2000 and 2003.

The above mentioned illustrates either ineffective or insufficient internal control mechanisms in these institutions. The disproportion between the society's corruption perception and the insignificant number of disciplinary cases indicates a

possibility to discover violations within the framework of each institution, if the corruption prevention measures were realised internally. In addition, it is not only the internal control mechanism that is insufficient, but also the legal regulation of the conduct of state officials within the institution.

8) Up until now the control of political organization (party) financing has been insufficient. A research made by the World Bank in 1999 shows that a crucial role in party financing has been played by big, successful enterprises or wealthy individuals. This explains how certain members of the society gain influence on political and other decision making in the country.

The Corruption Prevention and Combating Bureau examined legitimacy of political organization financial and economic activities in the time period between 1st February 2003 and 31st December 2003 and discovered the following:

- 117 900 LVL donations were made, using third party intermediation;
- 177 750 LVL donations were made by enterprises having features of a fictitious enterprise;
- 36 867 LVL donations were received in cash, contrary to requirements of law;
- 2 359 LVL donations exceeded the limit of donation allowed by the law;
- 1 109 LVL donations had not been declared.

Most of the donors refer to assets that are not examinable. From 100 requests sent to the State Revenue Service for examination of legality and authenticity of natural persons' donations it was found in 79 cases (in the total sum of 526 775 LVL) that the income of the donors is inadequate to their donations and an audit in these cases has been initiated.

9) Realisation of corruption prevention and combating policy is dependent on creation of an adequate social and legal environment. It is important that the society is adequately informed about measures taken to prevent and combat corruption. Even though the realisation of anti-corruptive measures is received well by public at large, people are not confident of their role in realisation of certain anti-corruptive measures and there is insufficient information regarding possibilities to participate actively in the fight against corruption.

3. Problems in preventing and combating corruption

- **„State capture”¹:** Political parties represent various groups of interest. Often they are in a dire need of financing. This contributes to the fact that political decisions, in practice, often are directly dependent of certain economic interests. It was identified in research by the World Bank, published in 2000, that the high level of „state capture” places Latvia on the second place in the Eastern Europe.
- **Use of state and municipal resources:** Corruptive activities result in inefficient use of state and municipal resources (financial means and property). This has a negative impact on public procurement, use of state loans, credits and warranties; it also adversely affects cases when public officials take decisions on use of the abovementioned resources being themselves in a situation of conflict

¹ „State capture” means activities of individuals or economic groups in public or municipal sphere directed to effect legislation and decision making process with a purpose to acquire personal benefit, furthering illegal private benefit of public officials.

of interest. Proof of the existence of such cases can be found in inquiries and complaints of individuals, as well as in initiated criminal cases and examinations.

- **Control over increase of property:** An effective control system over income of natural persons (including public officials) has not been introduced in Latvia yet and that is a crucial problem in combating corruption. Currently, there are certain obstacles for examining the legitimacy of origin of a person's assets in cases where it has been found that the income of a person is not commensurate with expenditure and property increase surpasses legally acquired income. Current tax legislation allows the possibility to refer legally to sources of previously acquired income; it also provides for an opportunity to legalize that, possibly illicit income. Tax administration has the authority to control and to tax income of persons only for the period of the last three years. The legal presumption has not been introduced in the tax law yet and this creates a possibility of escaping punishment for acquiring means unlawfully.

- **Combating corruption:** Work of law enforcement institutions has improved during the last years, though further improvement is still required due to the small number of disclosed corruptive offences. Wages are not proportionate to the level of responsibility, work load and the risk of corruption. Technical equipment of law enforcement institutions is not sufficient to fight corruption.

Most of the information from inquiries and claims received by the Corruption Prevention and Combating Bureau covers cases of activities performed by public officials in situations of conflict of interest where public officials can not be held liable due to lapse of time. This demonstrates lack of sufficient and well-timed control on the part of controlling institutions. Information from various reports indicates that more attention has been focused on control of declarations of public officials whereas control of activities of public officials in situations of conflict of interest has not been sufficient.

Uncertain and insufficient legal provisions of responsibility for providers of public services (e.g. – teachers, doctors) for committing corruptive offences cause problems in work of law enforcement agencies. In cases where features of bribery are present in activities of the mentioned persons, qualification of these activities under the current legislation does not correspond to either state officials' corruptive behaviour or corruption in private sphere.

- **Allocation and use of funding provided by the European Union and international institutions:** Already today in Latvia there is the possibility to receive funding from the European Union and many international organizations to realise various projects. After acceding to the European Union, this opportunity will increase. That requires not only providing the possibility for all the inhabitants to receive those resources, but also introducing effective control over the allocation and use of those means. By now Service for Rural Support, the administrator of SAPARD funding in Latvia, has been suspicious about violations of legislation in 12 projects and information has been forwarded to the Economic Police. Recommendations for introduction of more strict control of SAPARD projects have been expressed by the European Auditor's Court in November, 2003.

- **Internal anti-corruption systems in state and municipal institutions:** Researches on corruption issues show that administrative corruption is still on the agenda in Latvia. Currently, prevention of corruption is rather unilateral process performed by the Corruption Prevention and Combating Bureau and other law enforcement institutions, while other state and municipal institutions take only a passive part in this process. In many state institutions codes of ethics have not been elaborated and the ones in place are not

completely introduced. Selection criteria of employees for state and municipal institutions are not stated clearly. Managers of state and municipal institutions do not pay enough attention to prevent situations of conflict of interest within the frame of a given institution.

- **Legal awareness:** Level of legal awareness among public officials and in society in general is still low, although improvement of situation has been observed. It is necessary to include bigger part of society in prevention and combating corruption to disclose those moral, social, economical losses caused by corruption, as well as to indicate ways how each one member of the society can participate in introducing anticorruption measures.

4. Basic principles of the corruption prevention and combating policy

The state policy for corruption prevention and combating is based on the following principles:

- 1) Law obedience;
- 2) Political neutrality;
- 3) Systematic and complex approach to the fight against corruption;
- 4) Unavoidability of responsibility of state officials and senior employees of undertakings.

5. Results of corruption prevention and combating policy

Results of introducing policy of corruption prevention and combating:

- 1) Certainty that political power will be used for the attainment of national goals and will increase prestige of the state internationally;
- 2) Lessened impact of shadow economy in the state economy and secured fair competition in entrepreneurship;
- 3) Prevented squander of state and municipal resources, as well as of international funding;
- 4) Increased welfare of the society, trust in the state power and the basic principles of democracy;
- 5) Effective control over status of property of persons;
- 6) High level of legal awareness in the society.

6. Lines of activities for attainment of the objectives and results of the national corruption prevention and combating policy

1. Lines of activities for the prevention and combating of state capture are the following:

- 1.1. Preventing and combating undue influence by private individuals or certain economical groups on state and municipal policies by enhancement of the control of political parties and associations financing;

- 1.2. Improvement of the mechanism for controlling financial activities of parties and associations of voters;
 - 1.3. Development of a system, whereby the involvement of private individuals in the decision making process on a state or municipal level is based on principles of equality, openness and transparency (legalization of lobbying).
2. **Lines of activities for the prevention and combating of inexpedient, inefficient, and illegal use of state and municipal property are the following:**
 - 2.1. Improvement of the legal regulation regarding prevention of squander of state and municipal property;
 - 2.2. Enhancement of control over the expenditure of state and municipal property;
 - 2.3. Improvement of control over state and municipal procurements and provision of the accountability of violators;
 - 2.4. Ensuring the provision of audits regarding the use of state and municipal resources;
 - 2.5. Providing for transparency of state and municipal budgets.
3. **Lines of activities for improving the control of property status are the following:**
 - 3.1. Improvement of legal acts in the field of tax administration, paying due regard to creation of control system over income of individuals (including state officials), as well as creation of an adequate system of penalties;
 - 3.2. Improvement of control over property status of individuals;
 - 3.3. Decreasing legalization of illicitly acquired assets.
4. **Lines of activities for improving corruption combating in ensuring quick and high quality investigation of criminal cases are the following:**
 - 4.1. Improvement of functioning of the Corruption Prevention and Combating Bureau and the relevant collaborative institutions;
 - 4.2. Improvement of social guarantees for employees of those law enforcement institutions that are involved in the fight against corruption, as well as improvement of technical basis of these institutions;
 - 4.3. Ensuring protection of witnesses and *whistle-blowers*;
 - 4.4. Improvement of business environment and development of legal liability for corruptive actions in the field of public service;
 - 4.5. Enhancement of international cooperation.
5. **Lines of activities for ensuring legitimate and expedient allocation of funding of European Union and international institutions and organizations.**
 - 5.1. Provision of control and supervision mechanism over state officials involved in the allocation of funding provided by European Union and international institutions and organizations, as well as control over the process of allocation itself.
 - 5.2. Provision and improvement of cooperation between Latvia and the European Anti-Fraud Office (OLAF).
6. **Lines of activities for providing and improving internal anti-corruption systems in state and municipal institutions are the following:**
 - 6.1. Prevention of state officials' conflicts of interest in state and municipal institutions;
 - 6.2. Introduction of definite criteria for personnel selection in state and municipal institutions in order to reduce the risk of corruption;
 - 6.3. Effective internal control mechanisms in state and municipal institutions, paying due regard to courts, prosecutors and police;

- 6.4. Enhancement of ethics in state and municipal institutions.
7. **Lines of activities for increasing legal awareness of anti-corruptive issues among state officials and other members of the society are the following:**
- 7.1. Education of state officials and members of the private sector with regard to corruption prevention and combating;
 - 7.2. Involvement of the society in decision making, as well as achievement of high integrity policy making by this involvement;
 - 7.3. Informing the society about the problems of corruption, the rights and duties of individuals, the requirements of prevention of conflicts of interest and the observance of ethical norms in institutions;
 - 7.4. Conducting researches and surveys about the extent and manifestation of corruption.

7. Assessment of the national corruption prevention and combating policy on the state and municipal budgets

Additional financing for 2004, which is necessary for realisation of the National Program for Corruption Prevention and Combating (2004-2008) that will be designed to implement the National Strategy, is included in the state budget for 2004.

The additional financing for implementation of the tasks planned for 2005-2008 is the following (indicative):

Year	Sum (millions)
2005.	5
2006.	3
2007.	2
2008.	2
TOTAL:	12,-

8. Substantiation of further activities under the national corruption prevention and combating policy

- 1) For realisation of the national corruption prevention and combating policy the Corruption Prevention and Combating Bureau submits by 31st March 2004 to the Cabinet of Ministers the State Program for Corruption Prevention and Combating for 2004-2008.
- 2) The Corruption Prevention and Combating Bureau holds an overall responsibility for implementation of the national strategy.
- 3) The Corruption Prevention and Combating Bureau prepares and submits annually an informative report on implementation of the national strategy to the Cabinet of Ministers by 1st December.