



KORUPCIJAS NOVĒRŠANAS UN APKAROŠANAS BIROJS
CORRUPTION PREVENTION AND COMBATING BUREAU

Alberta street 13, Rīga, LV-1010, tel.: + 371 7356161, 7356140, fax: + 371 7331150, e-mail: knab@knab.gov.lv

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Oliver Stolpe
Rule of Law Section
UNODC
P.O.Box 500, 1400 Vienna
Austria
Fax: + 43 1 26060 5933
Email: oliver.stolpe@unodc.org

Dear Mr. Stolpe,

Further to the letter from the Secretary-General of the United Nations on 25 June 2007 regarding resolution 1/8 of the Conference of the State Parties to the UN Convention against Corruption entitled "Best practice in the fight against corruption", we are pleased to provide you with proposals regarding best practice to fight corruption in the Republic of Latvia.

We will be pleased to present this experience during the second session of the Conference of the State Parties. Also, we would be happy to contribute to the preparation of this discussion drawing on our practical experience.

For further information, please contact Ms. Inese Gaika, inese.gaika@knab.gov.lv, tel. +371 7356135.

Yours sincerely,

Alvis Vilks
Acting Director

July 27, 2007

**BEST PRACTICES IN IMPLEMENTING THE UNITED NATIONS
CONVENTION AGAINST CORRUPTION –
EXPERIENCE IN THE REPUBLIC OF LATVIA**

In recent years Latvia has undertaken a number of fundamental, pro-active steps to address the problem of corruption in the public service. Corruption is a challenge to democratic and economic development and jeopardizes the rule of law so as fair access of citizens to the state and public services as well as overall decreases the trust of citizens in public institutions. Understanding this, the following measures that have been taken with the aim to counter corruption in the public service can be considered as Latvia's best practice in the fight against corruption.

Specialised and independent anti-corruption body
(Articles 6, 36 and 13)

In order to address corruption in an effective and comprehensive manner a single independent institution was set up in Latvia through the Law On Corruption Prevention and Combating Bureau (KNAB) adopted on 18 April 2002. Since February 2003 KNAB is operational. Today KNAB plays the leading role in preventing and combating corruption, and controlling party financing in Latvia. The work of KNAB is threefold: prevention of corruption, combating of corruption and education of the society on anti-corruption matters.

Establishment and effective carrying out of functions of KNAB has enabled that anti-corruption legislation has been successfully implemented. One of important elements which allow KNAB to implement successfully its functions is the independent status. According to the Law on Corruption Prevention and Combating Bureau KNAB is a public administration body of direct public administration supervised by the Cabinet of Ministers. The supervision is executed by the Prime Minister and it is limited to assess the lawfulness of decisions of the Director, revoke unlawful decisions, or demand to take decision in cases of unlawful lack of action. The Director of KNAB is elected by the Parliament for a term of 5 years.

KNAB in close co-operation with other institutions involved in the anti-corruption fight has elaborated the National Strategy and the National Programme for Corruption Prevention and Combating for 2004-2008. These two documents are fundamental for the national anti-corruption policy at their root as the first one identifies the basic principles, objectives and the main priorities and the second one comprehensively defines the precise tasks, responsible institutions and timeframe for implementation of the strategy. KNAB is responsible for coordination of the Programme's implementation. These two documents ensure enduring, coherent and accountable anti-corruption policy.

In order to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations (NGO) and professional associations and organizations, in the prevention of and the fight against corruption the Public Consultative Council of the KNAB has been set up. The Public Consultative Council is an advisory body which guarantees a public access and public consultations. It includes members from the NGO sector, mass media and private sector. The purpose of this Council is to ensure involvement of representatives of the society in formation and implementation of corruption prevention policy and in education of the society.

Another forum - the Foreign Advisory Panel (FAP) is aimed to involve diplomatic representatives, international organisations and foreign businesses working in Latvia to exchange information with KNAB. FAP is operated through regular meetings organised by KNAB. The meetings allow not just informing foreign partners on main achievements and results of the work of KNAB but also provide an opportunity to both parties to express interest for further cooperation and support.

**Prevention of conflict of interest through
effective enforcement and training (Articles 7 and 8)**

Conflict of interest in the public sector has become one of key issues in Latvian anti-corruption policy. A rapid privatization process of public assets, providing of services to public bodies by private companies had created opportunities for corruption. If not adequately identified and managed, this can provide opportunities for public officials to take advantage of their public position for personal benefit. It can impose a heavy cost on a country's economy, distort the competition, as well as waste of public money and weaken citizens' trust in public institutions.

Latvia has taken a comprehensive and effective approach in order to regulate conflict-of-interest situations in the public sector. In this regard, Latvia has an appropriate legislation in place since 1995 – Corruption Prevention Law, which later transformed into the Law on Prevention of Conflicts of Interest in the Activities of Public Officials. The control of implementation of the abovementioned law is within the competence of the KNAB. The purpose of this Law is to ensure that the actions of public officials are in the public interest, prevent the influence of a personal or financial interest of any public official, his or her relatives or counterparties upon the actions of the public official, to promote openness regarding the actions of the public officials and their liability to the public, as well as public confidence regarding the actions of public officials. The law provides prevention of conflict of interest in activities of public officials by stipulating concrete restrictions and prohibitions for public officials in the following areas: additional employment; additional income; commercial activities; taking administrative decisions in personal interest or interest of close persons; on accepting gifts and donations; using public resources; using public information and certain other restrictions.

Besides, public officials are obliged to submit declarations of their income, assets and property upon assuming the office, annually, upon terminating the duties of office and for a certain time period after the performance of duties of office has been terminated. These declarations are a very good tool in examinations of public officials' activities and checking whether a public official is in a situation of conflict of interest. There is also a mechanism for the verification of the declarations of public officials in place.

In order to effectively enforce these rules, it is crucial to raise awareness among public officials and provide the opportunity to discuss concrete, practical cases that they are facing. KNAB regularly carries out training seminars; it has developed a public sector ethics resource (<http://www.knab.gov.lv/ethics/>) and brochures "Ethics in Activities of Public Officials" and "Code of Ethics in State and Municipal Institutions". In 2006, officers of KNAB participated in 32 seminars explaining conflict of interest rules involving more than 1000 public officials from all across Latvia.

Enforcement of Rules on Parties Financing (Article 7, paragraph 3)

The role of money in politics is a major fear for any democratic nation. This raises anxiety because it can create unequal opportunities for political participation, and the legality and transparency of sources of funding can become a major concern. For that reason, on 19 July 1995 the Law on Financing of Political Organisations (Parties) was adopted by the Parliament. Later, in 2004 this law was significantly amended in order to reinforce control of parties financing. The aim of the law is to promote transparency, respect of law and values of parliamentary democracy in the area of parties and pre-election campaigns financing.

The law sets out legitimate sources of political parties' financing, provides financing restrictions and prohibitions: for example - a threshold of 10 thousand lats (about 14 thousand euros) from one natural person per year, as well as prohibits donations from legal persons, prohibits anonymous donations and donations from foreigners, intermediation in donations and a person who has donated money to a political party has to have a proof of respective source of income. Illegally acquired funding has to be returned to the state budget by a party which has received such donation. On the basis of decisions of KNAB from 2003-2006, political parties in Latvia have paid to the state budget illegally acquired funding in the total amount of 367 thousand euros. The law also obliges political parties to submit political parties' annual financial declaration as well as financial declarations before and after elections.

KNAB is the authority in charge of monitoring political parties' compliance with party financing regulations and in cases provided by law, it is authorized to charge with administrative liability and impose appropriate sanctions. At the same time KNAB is also authorized to perform investigations in order to discover criminal offences as provided in the Criminal Law if linked to violations of party financing regulations by political organizations (parties) and their associations. On the basis of a request from KNAB, and with a permission of a judge of the Supreme Court, commercial banks in Latvia have obligation to submit information about transactions related to political parties. In general, officers of KNAB has rights to request and receive free of charge information, documents and other materials from public institutions, companies, organisations, officials and other persons, regardless the level of the confidentiality of the requested information.

KNAB has created a unique public data base on political parties' finances on its website, at <http://www.knab.gov.lv/db> (information is available in Latvian). It contains all data of political parties' donations received and political parties annual financial declarations. This data base is available to the public and you can find it on KNAB's official homepage (<http://www.knab.gov.lv>). Since KNAB has started to control implementation of the respective law, a number of violations of the law have significantly decreased, thus ensuring a greater transparency and accountability.

Report Center (Articles 6, 7, 8 and 33)

KNAB has introduced a public reporting system – the Report Center. The Report Center is in charge of receiving reports and complaints on corruption cases from citizens. The reports and complaints can be anonymous or in person, in writing, by phone, e-mail or fax. This reporting system substantially facilitates the procedure of lodging complains. It is a major instrument to provide access and to build trust of citizens in public institutions. Complaints from citizens are providing an important source of information for KNAB to start disclosing corruption related offences or violations of conflict of interest rules. KNAB relies on these reports to

prevent and fight corruption. For example, in 2006 number of visitors of the KNAB Report Centre reached 194, and 1110 phone calls to the free line were received.

Information provided and the identity of persons reporting to the KNAB Report Centre is protected by various legal and normative acts of Latvia. For instance, if there is an administrative investigation, information about the fact from whom this information was received can not be disclosed to other parties of the administrative process.

Effective and independent investigations **(Chapter III, incl. Articles 30, 50)**

Apart from preventive functions KNAB has also a key function to combat corruption through law enforcement. KNAB is authorized to: 1) perform operational activities aimed at gathering information and the necessary evidence (criminal intelligence) for disclosing offences related to corruption; and 2) conduct criminal investigations.

An element of success is the specialisation of KNAB exclusively in public corruption related crimes and violations. Therefore, the officers conducting operational activities and investigators are specialised and adequately trained. Over 5 years of work of KNAB its officers have gained experience and knowledge about nature of this specific crime and violations and about the necessary techniques to combat it.

Knowing that corruption crimes have latent character due to their hidden nature and the fact that both parties benefit from the crime, KNAB considers that effective means for gathering evidence for disclosure of such crimes are the following: adequate legal powers, including rights to gather criminal intelligence; adequate technical means to perform operational activities; qualified and specialised staff; staff working as a team; such oversight of law enforcement and judicial authorities that does not allow undue influence; for instance, from political or economic interest groups; seeking to safeguard confidentiality; and regularly inform the society about detected crimes and other results of work.

KNAB is authorized to perform the following operational activities in order to gather criminal intelligence: operational inquiry; surveillance and undercover observation (shadowing); operational inspection; operational acquisition of samples and operational research; operational examination of a person; operational (undercover) entry; operational experiment (sting operations); controlled delivery; operational monitoring of correspondence; operational acquisition of information through technical means and operational wiretapping of conversations. In order to perform these activities KNAB has to receive an approval from the Supreme Court if significant infringement of the constitutional rights of persons is concerned, but in other cases an approval of the Head of Division or Deputy Director of KNAB and in case of operational experiment (sting operation) an approval of a prosecutor has to be obtained.

As it was already mentioned, independence of KNAB is vital. It is ensured by the limited supervision executed by the Prime Minister. The independence of criminal investigations of KNAB is ensured through common rules applying to criminal investigations in Latvia that are set out in the Criminal Procedure Law: an investigation is started by investigator or a prosecutor. No other person or institution can oblige KNAB as an institution or its investigators to start or stop a criminal investigation.

When conducting an investigation, investigator who is assigned to carry out these proceedings, the so-called "person directing the proceedings", according to the Criminal

Procedure Law, enjoys quite significant independence. He conducts the investigation in his discretion until it is transferred to the prosecution office suggesting starting criminal prosecution. During this period the investigator takes all the necessary decisions about what procedural steps should be taken to proceed with the investigation. He is not obliged to ask his superior to approve these decisions. Meanwhile, the work of the investigator is overseen by a prosecutor. The investigator has to comply with the instructions of the overseeing prosecutor, as well as with the instructions of his direct superior, higher prosecutor or the investigative judge, for instance, permission of the judge to conduct a search. Decisions of the investigator can be appealed to the overseeing prosecutor.

Another effective mean for disclosure of corruption crimes is the release from liability. The provision of the Criminal Law provided that a person who has given a bribe shall be released from criminal liability if this bribe is extorted from this person or if, after the bribe has been given, he or she voluntarily informs of the occurrence. A person who has given a bribe can be released from criminal liability if he or she voluntarily informs of the occurrence. Due to such provision investigations can be more effective as a result of this provision an investigator can get the valuable evidences.