

Overall Score:

84 - Strong

Legal Framework Score:

93 - Very Strong

Actual Implementation Score:

77 - Moderate

Category I. Civil Society, Public Information and Media

I-1. ⁸⁰ Civil Society Organizations

1. Are anti-corruption/good governance CSOs legally protected?

100

1a. In law, citizens have a right to form civil society organizations (CSOs) focused on anti-corruption or good governance.

YES | NO

Comments:

Everyone has the right to form and join associations, political parties and other public organizations.

References:

The Constitution of Latvia. Sec.102. http://www.saeima.lv/Likumdosana_eng/likumdosana_satversme.html

YES: A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

1b. In law, anti-corruption/good governance CSOs are free to accept funding from any foreign or domestic sources.

YES | NO

Comments:

The law does not specify what funding sources are permitted. Consequently, any funding source is allowed.

References:

Associations and Foundations Law.

YES: A YES score is earned if anti-corruption/good governance CSOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

NO: A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for CSOs focused on anti-corruption or good governance.

1c. In law, anti-corruption/good governance CSOs are required to disclose their sources of funding.

YES | NO

Comments:

Civil society organizations are required to submit annual reports, which include sources of funding, to the State Revenue Service. These reports are then available to the public.

References:

Associations and Foundations Law, Sec.52.

Annual Report – the Simplest and Most Reliable Way to Learn about Business Partner.”

Information on the Web site of the Enterprise Register of Republic of Latvia. <http://www.ur.gov.lv/drukat.php?t=8&id=998&v=lv>

YES: A YES score is earned if anti-corruption/good governance CSOs are required to publicly disclose their sources of funding.

NO: A NO score is earned if no such public disclosure requirement exists.

2. Are good governance/anti-corruption CSOs able to operate freely?

92

2a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance CSOs.

Comments:

Both informal groups and networks, as well as legally registered, CSOs are free to operate. However, to be able to work effectively, particularly to be able to raise funds, CSOs should register. The registration is sufficiently simple and does not represent an obstacle to the organization of anti-corruption/good governance CSOs.

References:

Miezaine, Z., Simane, M. Politiska līdzdalība Political participation." Published in: Rozenvalds, J. (ed.). Cik demokrātiska ir Latvija. Demokratijas monitorings 2005-2007. "How Democratic is Latvia. Monitoring of Democracy 2005-2007." Zinatne, 2007. P.77.

Pipike, R. Ka NVO kapa pa garo pupu 2005. gada "How NGOs Climbed the Ladder in 2005." Public policy portal Politika.lv. 17.01.2006.

<http://www.politika.lv/index.php?id=5686>

100: CSOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

75:

50: CSOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the CSO. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

0: Other than pro-government groups, CSOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

2b. In practice, anti-corruption/good governance CSOs actively engage in the political and policymaking process.

Comments:

Latvia has a few active anti-corruption/good-governance NGOs. For example, the Latvian chapter of Transparency International" and the Centre for Public Policy "Providus"..These organizations are very active in advocating good governance principles in policy making, raising public awareness on corruption/good governance issues and serving as watchdogs with regard to the activities of politicians. These organizations have also been under harsh and recurring verbal attacks of several of the so-called oligarchs, who control considerable economic and political resources in Latvia.

References:

Nations in Transit 2007. Dreifelds, J. Latvia. Pp. 232. http://www.freedomhouse.hu/images/fdh_galleries/NIT2007/nt-latvia-processed1.pdf

Birzulis, F. NGOs Draw Flack as They Shine Light [Interview with Ms. Agnese Lesinska, Acting Director of the Centre for Public Policy Providus"]. Newspaper "The Baltic Times", 09.03.2006.

100: Civil society organizations focused on anti-corruption or good governance are an essential component of the political process. CSOs provide widely valued insights and have political power. Those CSOs play a leading role in shaping public opinion on political matters.

75:

50: Anti-corruption/good governance CSOs are active, but may not be relevant to political decisions or the policymaking process. Those CSOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

25:

0: Anti-corruption/good governance CSOs are effectively prohibited from engaging in the political process. Those CSOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

2c. In practice, no anti-corruption/good governance CSOs have been shut down by the government for their work on corruption-related issues during the study period.

YES | NO

Comments:

Latvia does not have any serious limitations on the freedom of association. Consequently, there have not been any instances of the government having to shut down organizations for their work on corruption-related issues.

References:

Miezaine, Z., Simane, M. Politiska līdzdalība [Political participation]. Published in: Rozenvalds, J. (ed.). Cik demokrātiska ir Latvija. Demokratijas monitorings 2005-2007. [How Democratic is Latvia. Monitoring of Democracy 2005-2007]. Zinatne, 2007. P.77.

Nations in Transit 2007. Dreifelds, J. Latvia. Pp. 231-234. (http://www.freedomhouse.hu/images/fdh_galleries/NIT2007/nt-latvia-proofed1.pdf)

YES: A YES score is earned if there were no CSOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period.

NO: A NO score is earned if any CSO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the CSO's work may not be explicit, however the burden of proof here is low. If it seems likely that the CSO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3. Are civil society activists safe when working on corruption issues?

100

3a. In practice, in the past year, no civil society activists working on corruption issues have been imprisoned.

YES | NO

Comments:

In 2006 or 2007 no civil society activists working on corruption issues have been imprisoned.

References:

No media reports appeared in 2006 or 2007 about civil society activists working on corruption issues having been imprisoned.

Nations in Transit 2007. " Dreifelds, J. Latvia. Pp. 228, 234. http://www.freedomhouse.hu/images/fdh_galleries/NIT2007/nt-latvia-proofed1.pdf

YES: A YES score is earned if there were no CSO activists imprisoned because of their work covering corruption. YES is a positive score.

NO: A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the person was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. Imprisoned" is defined here as detention by the government lasting more than 24 hours.

3b. In practice, in the past year, no civil society activists working on corruption issues have been physically harmed.

YES | NO

Comments:

In 2006 or 2007 no civil society activists working on corruption issues have been physically harmed.

References:

No media reports appeared in 2006 or 2007 about civil society activists working on corruption issues having been physically harmed.

Nations in Transit 2007. Dreifelds, J. Latvia. Pp. 228, 234. http://www.freedomhouse.hu/images/fdh_galleries/NIT2007/nt-latvia-proofed1.pdf

YES: A YES score is earned if there were no documented cases of CSO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist's work. YES is a positive score.

NO: A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3c. In practice, in the past year, no civil society activists working on corruption issues have been killed.

YES | NO

Comments:

In 2006 or 2007 no civil society activists working on corruption issues have been killed.

References:

No media reports appeared in 2006 or 2007 about civil society activists working on corruption issues having been killed.

Nations in Transit 2007. Dreifelds, J. Latvia. Pp. 228, 234. http://www.freedomhouse.hu/images/fdh_galleries/NIT2007/nt-latvia-proofed1.pdf

YES: A YES score is earned if there were no documented cases of CSO activists being killed because of their work covering corruption in the specific study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual's history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

4. Can citizens organize into trade unions?

75

4a. In law, citizens have a right to organize into trade unions.

YES | NO

References:

The Constitution of Latvia.

Sec.102: Everyone has the right to form and join associations, political parties and other public organizations.

Sec.108: Employed persons have the right to a collective labor agreement, and the right to strike. The State shall protect the freedom of trade unions.

http://www.saeima.lv/Likumdosana_eng/likumdosana_satversme.html

YES: A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

4b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

Comments:

Since the end of the 1990s, trade unions have experienced a decline in membership. Moreover, the formal membership figures are most likely considerably higher than the number of individuals really involved in labor union activities. These peculiarities hamper increasing the political relevance of trade unions.

References:

Rajevska, F., Vanags, A. Ekonomiskas un socialas tiesibas [Economic and Social Rights]. Published in: Rozenvalds, J. (ed.) Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. (How Democratic is Latvia. Monitoring of Democracy 2005-2007). Zinatne, 2007. P.38.

Auers, D. Vai sarkana roze uzplauks? [Will the Red Rose Blossom?] Public policy portal Politika.lv 18.10.2005.

<http://www.politika.lv/index.php?id=3326>

100: Trade unions are common and are an important part to the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

75:

50: Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

25:

0: Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

I-2. Media

5. Are media and free speech protected?

100

5a. In law, freedom of the media is guaranteed.

YES | NO

Comments:

Everyone has the right to freedom of expression, which includes the right to freely receive, keep and distribute information and to express their views. Censorship is prohibited.

In the Republic of Latvia any person, any group, institutions of state agencies and of any kind of company and organization have rights to freely express their views and opinions, disseminate announcements in the press and other mass media, receive through the media information on any issue of their interest and social life. Censorship of the press and other mass media is not allowed.

The freedom of speech and media is legally guaranteed although the legislation contains some provisions regulating the language of broadcasts.

References:

The Constitution of Latvia. Sec. 100

http://www.saeima.lv/Likumdosana_eng/likumdosana_satversme.html

Law On the Press and Other Mass Media". Sec.1 Freedom of the press.

YES: A YES score is earned if freedom of the press is guaranteed in law, including to all political parties, religions, and ideologies.

NO: A NO score is earned if any specific publication relating to government affairs is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

5b. In law, freedom of speech is guaranteed.

YES | NO

Comments:

Everyone has the right to freedom of expression, which includes the right to freely receive, keep and distribute information and to express their views. Censorship is prohibited.

References:

The Constitution of Latvia. Sec. 100. http://www.saeima.lv/Likumdosana_eng/likumdosana_satversme.html

YES: A YES score is earned if freedom of individual speech is guaranteed in law, including to all political parties, religions, and ideologies.

NO: A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

6. Are citizens able to form print media entities?

88

6a. In practice, the government does not create barriers to form a print media entity.

100 | 75 | 50 | 25 | 0

Comments:

The registration of a mass media requires a fee of approximately US\$190. There have never been indications of barriers in forming a print media entity in Latvia. However, it is impossible to form a media entity without interaction with government authorities.

References:

Law On the Press and Other Mass Media”. Sec.9. Mass media shall be registered at the Enterprise Register of the Republic of

Latvia.

Website of the Enterprise Register of the Republic of Latvia. Mass Media. <http://www.ur.gov.lv/index.php?t=3&a=129&v=eng>

Sulmane, I., Kruks, S. Plassazinas lidzekli demokratiska sabiedriba [Mass Media in a Democratic Society]. Published in: Rozenvalds, J. (ed.). Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. [How Democratic is Latvia. Monitoring of Democracy 2005-2007]. Zinatne, 2007. Pp.70-75.

100: Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50: Formation of print media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

0: Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

6b. In law, where a print media license is necessary, there is an appeal mechanism if a license is denied or revoked.

YES | NO

Comments:

Mass media must register with the Enterprise Register of the Republic of Latvia. Decisions and actions of the Enterprise Register may be appealed in the administrative court.

An applicant has the right to dispute a decision/action by a state notary of the Enterprise Register in the order proscribed by the Administrative Procedure Law. They submit an application to the Chief State Notary of the Enterprise Register. An applicant has the right to appeal a decision and action by the Chief State Notary of the Enterprise Register in the order proscribed by the Administrative Procedure Law in the court.

References:

Law On the Press and Other Mass Media". Sec.10.

YES: A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied print media license, including through the courts. A YES score is also earned if no print license is necessary.

NO: A NO score is earned if there is no appeal process for print media licenses.

6c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The statutory time period for obtaining a print media license is 10 days. According to the Ms. Lilita Strode, Head of the Department for the Registration of NGOs and Mass Media of the Enterprise Register, the actual time period is currently five days. Moreover the time necessary for obtaining a print media license is not perceived as an obstacle of any seriousness for media freedom in Latvia.

References:

Law On Press and Other Mass Media". Sec.9.

Interview with Ms. Lilita Strode, Head of the Department for the Registration of NGOs and Mass Media, the Enterprise Register of the Republic of Latvia, 08.08.2007.

Sulmane, I., Kruks, S. Plassazinas lidzekli demokratiska sabiedriba [Mass Media in a Democratic Society]. Published in: Rozenvalds, J. (ed.). Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. [How Democratic is Latvia. Monitoring of Democracy 2005-2007]. Zinatne, 2007. Pp.70-75.

100: Licenses are not required or licenses can be obtained within two months.

75:

50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

6d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The registration of a mass media requires a fee of approximately US\$190. Submitting an application requires a visit to the Enterprise Register 's office. No known reports show that obtaining a print media license presents a financial burden.

References:

Regulations on the State Fee for the Registration of Publishing Activity and Mass Media.

Regulations of the Cabinet of Ministers, No. 73, 31.03.1995. Point 1.1.

The Web site of the Enterprise Register of the Republic of Latvia: <http://www.ur.gov.lv/index.php?t=3&a=38&v=lv>

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

7. Are citizens able to form broadcast (radio and TV) media entities?

63

7a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | 50 | 25 | 0

Comments:

Broadcast licenses are awarded by the National Radio and Television Council on the basis of public tender, with the exception of the public television, which receives a license automatically. Tenders are open to all individuals and legal entities or groups registered in Latvia, in the EU Member States, or in countries of the European Economic Area. According to the law, applicants must submit a general program strategy specifying the nature of the channel, the target audience, the language(s) in which the channel will be broadcast, and the planned proportion between programs produced in Latvia and those produced in other European countries or elsewhere. The demand for a general program strategy is vague and the specific procedure for making decisions on licensing is not defined in sufficient detail.

After having obtained a license, an applicant must register the mass media at the Enterprise Register.

References:

Open Society Institute. EU Monitoring and Advocacy Program. Television Across Europe: Regulation, Policy and Independence. Latvia." (2005) Pp. 974, 975. http://www.eumap.org/topics/media/television_europe/national/latvia/media_lat1.pdf

Kruks, S., Sulmane, I. The Media in a Democratic Society. Published in: Rozenvalds, J. (Ed.) How Democratic is Latvia. Democratic Audit. LU Akademiskais apgads (2005).

P.138. http://www.president.lv/images/modules/items/PDF/item_498_Audit_of_democracy.pdf

Law "On the Press and Other Mass Media". Sec.9. Mass media shall be registered at the Enterprise Register of the Republic of Latvia.

100: Broadcast media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50: Formation of broadcast media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

25:

0: Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

7b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeal mechanism if a license is denied or revoked.

YES | NO

Comments:

A decision by the National Radio and Television Council regarding the results of a competition for obtaining a license can be appealed to the court within 10 days from the publication of this decision in the official bulletin. The Council has the right to adopt decisions with regard to electronic media only in cases provided for in this law. Such decisions can be appealed to the court in the order established by the law.

References:

Radio and Television Law.
Sec.12, Clause 5
Sec.45, Clause 5

YES: A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied broadcast media license, including through the courts. A YES score is also earned if no broadcast license is necessary.

NO: A NO score is earned if there is no appeal process for broadcast media licenses.

7c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

100 | 75 | **50** | 25 | 0

Comments:

A major private TV broadcaster TV3 struggled to obtain a national broadcasting license for two years (the license was obtained in February 2001). Opportunities for such delays have not been ruled out since this took place.

References:

Open Society Institute. EU Monitoring and Advocacy Program. Television Across Europe: Regulation, Policy and Independence. Latvia." (2005) P.974. http://www.eumap.org/topics/media/television_europe/national/latvia/media_lat1.pdf

Kruks, S., Sulmane, I. The Media in a Democratic Society. Published in: Rozenvalds, J. (Ed.) How Democratic is Latvia. Democratic Audit. LU Akademiskais apgads (2005). P.138. http://www.president.lv/images/modules/items/PDF/item_498_Audit_of_democracy.pdf

100: Licenses are not required or licenses can be obtained within two months.

75:

50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

7d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Obtaining a license costs between approximately US\$1,000 and US\$2,000. The submission of an application requires a visit to the National Radio and Television Council in the capital. Applicants may also be requested to be present at a meeting when applications are being reviewed.

The registration of mass media at the Enterprise Register requires a fee of approximately US\$190. Submitting an application also requires a visit to the Enterprise Register office.

Because the setting-up of broadcasting media is a rather expensive activity in itself, the above costs do not represent a major portion of the total cost.

References:

Decision of the National Radio and Television Council No.35.
28.09.2000. [http://www.nrtv.lv/resources/File/lemumi/2000.09.28.%20\(35\).doc](http://www.nrtv.lv/resources/File/lemumi/2000.09.28.%20(35).doc)

Rules of competitions. Available on the website of the National Radio and Television Council. www.nrtv.lv

The Web site of the Enterprise Register: <http://www.ur.gov.lv/index.php?t=3&a=38&v=lv>

Kruks, S., Sulmane, I. The Media in a Democratic Society." Published in: Rozenvalds, J. (Ed.) "How Democratic is Latvia. Democratic Audit." LU Akademiskais apgads (2005).

P.138. http://www.president.lv/images/modules/items/PDF/item_498_Audit_of_democracy.pdf

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

8. Can citizens freely use the Internet?

100

8a. In practice, the government does not prevent citizens from accessing content published online.

100 | 75 | 50 | 25 | 0

Comments:

According to the U.S. State Department: There were no government restrictions on access to the Internet or reports that the government monitored email or Internet chat rooms. Individuals and groups engaged in the peaceful expression of views via the Internet, including by electronic mail. The Internet was widely used by the public."

References:

Sulmane, I., Kruks, S. Plassazinas lidzekli demokratiska sabiedriba Mass Media in a Democratic Society.” Published in: Rozenvalds, J. (ed.). Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. “How Democratic is Latvia. Monitoring of Democracy 2005-2007.” Zinatne, 2007. P.73.

Report on Human Rights Practices – 2006. Latvia. The Bureau of Democracy, Human Rights, and Labor of the the U.S. State Department. http://riga.usembassy.gov/EN/site/R/rep20070307/rep20070307_3

100: The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

75:

50: Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

25:

0: Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

8b. In practice, the government does not censor citizens creating content online.

100 | 75 | 50 | 25 | 0

Comments:

According to the U.S. State Department: There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups engaged in the peaceful expression of views via the Internet, including by electronic mail. The Internet was widely used by the public.”

References:

Sulmane, I., Kruks, S. Plassazinas lidzekli demokratiska sabiedriba Mass Media in a Democratic Society.” Published in: Rozenvalds, J. (ed.). Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. “How Democratic is Latvia. Monitoring of Democracy 2005-2007.” Zinatne, 2007. P.73.

Report on Human Rights Practices – 2006. Latvia. The Bureau of Democracy, Human Rights, and Labor of the the U.S. State Department. http://riga.usembassy.gov/EN/site/R/rep20070307/rep20070307_3

100: The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

75:

50: In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

25:

0: The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

9. Are the media able to report on corruption?

83

9a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

YES | NO

Comments:

Everyone has the right to freedom of expression, which includes the right to freely receive, keep and distribute information and to express their views. Censorship is prohibited.

References:

The Constitution of Latvia. Sec. 100. http://www.saeima.lv/Likumdosana_eng/likumdosana_satversme.html

YES: A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

NO: A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

9b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | **50** | 25 | 0

Comments:

The mass media are generally free from government censorship. However, the editorial independence from the owners of the media is quite underdeveloped in a number of media organizations. Moreover, there have been occasions of the court requesting journalists disclose their sources. In 2006 there was also a case of illegal telephone tapping of a leading investigative journalist.

References:

Sulmane, I., Kruks, S. Plassazinas lidzekli demokratiska sabiedriba Mass Media in a Democratic Society." Published in: Rozenvalds, J. (ed.). Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. "How Democratic is Latvia. Monitoring of Democracy 2005-2007." Zinatne, 2007. P.72.

Report on Human Rights Practices – 2006. Latvia. The Bureau of Democracy, Human Rights, and Labor of the the U.S. State Department. http://riga.usembassy.gov/EN/site/R/rep20070307/rep20070307_3

100: The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

75:

50: The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

25:

0: The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

9c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

100 | 75 | 50 | 25 | 0

Comments:

No instances of pre-publication censoring by the government have been reported in Latvia.

References:

Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. How Democratic is Latvia. Monitoring of Democracy 2005-2007." Zinatne, 2007. P.73.

Report on Human Rights Practices – 2006. Latvia. The Bureau of Democracy, Human Rights, and Labor of the the U.S. State Department. http://riga.usembassy.gov/EN/site/R/rep20070307/rep20070307_3

100: The government never prevents publication of controversial corruption-related materials.

75:

50: The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. This score is appropriate if in countries where illiteracy is high, the government may allow a free print press but censor broadcast media.

25:

0: The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

10. Are the media credible sources of information?

40

10a. In law, print media companies are required to disclose their ownership.

YES | **NO**

References:

Sulmane, I., Kruks, S. Plassazinas lidzekli demokratiska sabiedriba Mass Media in a Democratic Society.” Published in: Rozenvalds, J. (ed.). Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. “How Democratic is Latvia. Monitoring of Democracy 2005-2007.” Zinatne, 2007. Pp.71-72.

YES: A YES score is earned if print media companies are required by law to disclose all owners of the company.

NO: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being disclosed.

10b. In law, broadcast (radio and TV) media companies are required to disclose their ownership.

YES | **NO**

References:

Open Society Institute. EU Monitoring and Advocacy Program. Television Across Europe: Regulation, Policy and Independence. Latvia.” (2005) P.993, 996, 997. http://www.eumap.org/topics/media/television_europe/national/latvia/media_lat1.pdf

YES: A YES score is earned if broadcast media companies are required by law to disclose all owners of the company.

NO: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain type of entities or agents from being disclosed.

10c. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | **50** | 25 | 0

Comments:

Journalists in Latvia generally do not share common standards of professional activity. There is no single code of conduct. Skewed coverage, influenced by the interests of the media owner, are commonplace in some media.

Journalists, as a group of professionals, are poorly organized. The Latvian Union of Journalists has been virtually impotent for a long period of time. In 2007 the union obtained new leadership with plans to invigorate the organization, but it is still struggling to be universally accepted as an umbrella organization of the profession.

References:

Sulmane, I., Kruks, S. Plassazinas lidzekli demokratiska sabiedriba Mass Media in a Democratic Society.” Published in:

Juzefovics, J. Negodiga spele "Unfair Game." Public policy portal Politika.lv. 27.02.2007. <http://www.politika.lv/index.php?id=13521>

100: Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

75:

50: Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

25:

0: Editors and journalists are widely known to sell" favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

10d. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | 50 | 25 | 0

Comments:

The parliamentary election of 2006 is the most recent one in Latvia. Overall, the media outlets provided a full variety of opinions and political alternatives ,although within single media source, the variety of views was often limited. The score falls short of 100 because most private media groups generally do not act as disinterested parties in an election.

References:

OSCE. Office for Democratic Institutions and Human Rights. Republic of Latvia. Parliamentary Elections Oct, 7 2006.

OECD/ODIHR Limited Election Observation Mission Final Report. Warsaw, Feb. 8, 2007. Pp.12-14. http://www.osce.org/documents/odihr/2007/02/23213_en.pdf

Sulmane, I., Kruks, S. Plassazinas lidzekli demokratiska sabiedriba Mass Media in a Democratic Society." Published in: Rozenvalds, J. (ed.). Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. "How Democratic is Latvia. Monitoring of Democracy 2005-2007." Zinatne, 2007. Pp. 72,73.

100: All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

75:

50: Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

25:

0: The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

10e. In practice, political parties and candidates have equitable access to state-owned media outlets.

100 | 75 | 50 | 25 | 0

Comments:

Public media outlets generally ensure fair treatment of political parties. Nevertheless, two features stand out: larger parties and party politicians who are public officials (government ministers, members of Parliament) predominated the air time of both public and private broadcasters. However, parties of the parliamentary opposition received generally proportionate coverage.

References:

OSCE. Office for Democratic Institutions and Human Rights. Republic of Latvia. Parliamentary Elections Oct. 7, 2006.

OECD/ODIHR Limited Election Observation Mission Final Report. Warsaw, Feb. 8 2007. Pp.12-

14. http://www.osce.org/documents/odihr/2007/02/23213_en.pdf

Rozukalne, A., Hanova, T., Jermaks, M., Cigane, L. (ed.). 2006.gada Saeimas vešanas medijos: partiju reprezentacija un slepta reklama 2006 Saeima Elections in the Media: the Representation of Parties and Hidden Advertising.” Centre for Public Policy “Providus” (2007) <http://www.politika.lv/index.php?id=12875>

100: The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

75:

50: The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

25:

0: The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

11. Are journalists safe when investigating corruption?

100

11a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

YES | NO

Comments:

Latvia has had no indications in 2006 or 2007 about journalists having been imprisoned.

References:

No media reports appeared in 2006 or 2007 about journalists having been imprisoned.

YES: A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period. A YES score is positive.

NO: A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist's work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. Imprisoned" is defined here as detention by the government lasting more than 24 hours.

11b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

YES | NO

Comments:

Latvia has had no indications in 2006 or 2007 about journalists investigating corruption being physically harmed.

References:

No media reports appeared in 2006 or 2007 about journalists investigating corruption being physically harmed.

YES: A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues. A YES score is positive.

NO: A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

11c. In practice, in the past year, no journalists investigating corruption have been killed.

YES | NO

Comments:

Latvia has had no indications in 2006 or 2007 about journalists being killed.

References:

No media reports appeared in 2006 or 2007 about journalists being killed.

YES: A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period. A YES score is positive.

NO: A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to

his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

82
I-3. Public Access to Information

12. Do citizens have a legal right of access to information?

67

12a. In law, citizens have a right of access to government information and basic government records.

YES | NO

Comments:

Everyone has the right to freedom of expression, which includes the right to freely receive, keep and distribute information and to express their views.

References:

The Constitution of Latvia. Sec.100. http://www.saeima.lv/Likumdosana_eng/likumdosana_satversme.html
Freedom of Information Law.

YES: A YES score is earned if there is a formal right to access government documents, including constitutional guarantees. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request.

NO: A NO score is earned if there is no such right.

12b. In law, citizens have a right of appeal if access to a basic government record is denied.

YES | NO

Comments:

An administrative act issued by an institution or the factual action performed may be disputed or appealed according to the procedures specified in the Administrative Procedure Law.

References:

Freedom of Information Law. Sec.15.

YES: A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

NO: A NO score is earned if there is no such formal process.

12c. In law, there is an established institutional mechanism through which citizens can request government records.

YES | **NO**

Comments:

Information may be requested at any government or local government institution orally or in writing. There is a uniform procedure for handling such requests. However, no single special mechanism exists for such requests. Most government institutions do not have any dedicated staff or a dedicated internal office for the handling of access to information requests.

References:

The Freedom of Information Law. Chapter 3. Provision of Information, Re-use and Protection of the Rights of Applicants for Information.

YES: A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

NO: A NO score is earned if there is no such formal mechanism or institution.

13. Is the right of access to information effective?

65

13a. In practice, citizens receive responses to access to information requests within a reasonable time period.

100 | **75** | 50 | 25 | 0

Comments:

In a study carried out by Sabiedriba par atklātību – Dēlna (the Latvian chapter of Transparency International), 295 requests for information were submitted to various state and local government institutions. In state administration agencies, the average time of answer to a request of information was close to but not exceeding 15 days, which is the time limit allowed by law. However, for a number of cases, reminders had to be submitted after the initial requests for information. Delays were more common in local government institutions.

References:

Austere, L. Informācijas pieejamības valsts un pašvaldību iestādes Access to Information in State and Local Government Agencies.” Sabiedriba par atklātību – Dēlna. 2003. Pp. 8-10. <http://www.politika.lv/index.php?id=5481>

Evaluation Report on Latvia. GRECO, 02.07.2004. Pp.8, 12,
13. [http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoEval2\(2004\)4_Latvia_EN.pdf](http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoEval2(2004)4_Latvia_EN.pdf)

100: Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

75:

50: Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

25:

0: Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

13b. In practice, citizens can use the access to information mechanism at a reasonable cost.

100 | 75 | **50** | 25 | 0

Comments:

Public institutions tend to charge more for photocopying than it would be a normally cost in the market. Retrieving public information may require a visit to the authority in question. However, in general excessive costs do not appear to be a major obstacle regarding access to information.

References:

Austere, L. Informācijas pieejamības valsts un pasvaldību iestādes Access to Information in State and Local Government Agencies.” Sabiedrība par atklātību – Delna. 2003. Pp. 8-9. <http://www.politika.lv/index.php?id=5481>

Evaluation Report on Latvia. GRECO, 02.07.2004. Pp.8, 12,

13. [http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoEval2\(2004\)4_Latvia_EN.pdf](http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoEval2(2004)4_Latvia_EN.pdf)

Compliance Report on Latvia. GRECO, 13.10.2006.

Pp.5. [http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoRC2\(2006\)4_Latvia_EN.pdf](http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoRC2(2006)4_Latvia_EN.pdf)

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

13c. In practice, citizens can resolve appeals to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Refusals to disclose information/incomplete disclosure can be appealed in the administrative court, according to the general procedure established by the Administrative Procedure Law. In 2006 the average time for the review of a case in the administrative court of first instance was 11.7 months.

References:

2006.gada tiesu darba statistikas analize Analysis of Court Performance Statistics of Year 2006." Court Administration. P.7. http://www.ta.gov.lv/UserFiles/statistikas_analize_06.doc

Kucs, A. Likuma vara un taisniguma nodrošināšana "The Rule of Law and Provision of Justice" Published in: Rozenvalds, J. (ed.) Cik demokrātiska ir Latvija. Demokratijas monitorings 2005-2007. "How Democratic is Latvia. Monitoring of Democracy 2005-2007." Zinatne, 2007. P.22.

Speech of the President of the Supreme Court. "Tiesu sistēmai beidzot vajadzīga attīstības koncepcija" "The Court System at Last Needs a Vision of Development." 12.05.2006. <http://www.at.gov.lv/fails.php?id=557>

100: The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

13d. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Applications to dispute refusals to disclose information, which are submitted to higher-ranking public officials or agencies, are reviewed free of charge.

Applications in a court require payment of fee of approximately US\$19. Appeals to a higher court instance require payment of fee of approximately US\$9.50.

Because there are no reports or indirect indications of unofficial charges required in the administrative court for filing an appeal, official information on the fees is the only source.

References:

Latvijas tiesu portāls Portal of Latvian Courts." Information on expenses in administrative court proceedings. <http://www.tiesas.lv/index.php?id=180>

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

25:

0: The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

13e. In practice, the government gives reasons for denying an information request.

100 | 75 | **50** | 25 | 0

Comments:

In cases when public institutions refuse to disclose information, occasionally the institution does not provide any reasoning.

References:

Austere, L. Informācijas pieejamības valsts un pasvaldību iestādes Access to Information in State and Local Government Agencies.” Sabiedrība par atklātību – Delna. 2003. Pp.19. <http://www.politika.lv/index.php?id=5481>

Evaluation Report on Latvia. GRECO, 02.07.2004. Pp.8, 12,
13. [http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoEval2\(2004\)4_Latvia_EN.pdf](http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoEval2(2004)4_Latvia_EN.pdf)

Compliance Report on Latvia. GRECO, 13.10.2006.
Pp.5. [http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoRC2\(2006\)4_Latvia_EN.pdf](http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoRC2(2006)4_Latvia_EN.pdf)

100: The government always discloses to the requestor the specific, formal reasons for denying information requests.

75:

50: The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

25:

0: The government does not regularly give reasons for denying an information request to the requestor.

II-1. Voting & Citizen Participation

14. Is there a legal framework guaranteeing the right to vote?

100

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

YES | NO

Comments:

All citizens of Latvia who enjoy full rights of citizenship and, who on election day have attained 18 years of age shall be entitled to vote.

References:

The Constitution of Latvia. Sec.8. http://www.saeima.lv/Likumdosana_eng/likumdosana_satversme.html

YES: A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

NO: A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

14b. In law, there is a legal framework requiring that elections be held at regular intervals.

YES | NO

Comments:

The Saeima shall be elected for a term of four years.

References:

The Constitution of Latvia. Sec. 10.
http://www.saeima.lv/Likumdosana_eng/likumdosana_satversme.html

YES: A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

NO: A NO score is earned if no such framework exists.

15. Can all citizens exercise their right to vote?

92

15a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

Comments:

It must be noted that about 17 percent of the population are not citizens of Latvia nor of any other country and are not entitled to vote. A controversial legal norm prohibits adult citizens who have been convicted of crime and are serving their prison sentences from voting.

References:

The Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights. Republic of Latvia. Parliamentary Elections Oct. 7, 2006. OECD/ODIHR Limited Election Observation Mission Final Report. Warsaw, Feb. 8, 2007. http://www.osce.org/documents/odihr/2007/02/23213_en.pdf

Study on Citizens Participation in the Baltic Sea region by the CBSS Working Group on Democratic Institutions under the Swedish Chairmanship 2005-2006. Presented at the 6th Baltic Sea States Summit in Reykjavik 2006. The Secretariat Council of the Baltic Sea States. P.18. <http://www.politika.lv/index.php?f=1042>

100: Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

75:

50: Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

25:

0: Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

15b. In practice, ballots are secret or equivalently protected.

100 | 75 | 50 | 25 | 0

Comments:

The Office for Democratic Institutions and Human Rights reported that voters in 2006 election occasionally did not use screens, which were intended to preserve secrecy, while marking election ballots. Moreover, in some polling sites the number of screens was insufficient for the number of voters.

References:

The Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights. Republic of

Ikstens, J., Runcis, A. Brivas un godigas vešanas Free and Fair Elections.” Published in: Rozenvalds, J. (ed.). Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. “How Democratic is Latvia. Monitoring of Democracy 2005-2007.” Zinatne, 2007. Pp.40-44.

100: Ballots are secret, or there is a functional equivalent protection, in all cases.

75:

50: Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

25:

0: Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

15c. In practice, elections are held according to a regular schedule.

100 | 75 | 50 | 25 | 0

References:

Nations in Transit 2007. Dreifelds, J. Latvia. P.225. (http://www.freedomhouse.hu/images/fdh_galleries/NIT2007/nt-latvia-proofed1.pdf).

Ikstens, J., Runcis, A. Brivas un godigas vešanas Free and Fair Elections.” Published in: Rozenvalds, J. (ed.). Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. “How Democratic is Latvia. Monitoring of Democracy 2005-2007.” Zinatne, 2007. P.44.

100: Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

75:

50: Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

25:

0: Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

16. Are citizens able to participate equally in the political process?

95

16a. In law, all citizens have a right to form political parties.

YES | NO

Comments:

Everyone has the right to form and join associations, political parties and other public organizations. However, a party can be founded only by a group of 200 Latvian citizens or more who have reached the age of 18.

References:

The Constitution of Latvia. Sec.102. http://www.saeima.lv/Likumdosana_eng/likumdosana_satversme.html

Political Party Law. Sec.12. Founders.

YES: A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

NO: A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

16b. In law, all citizens have a right to run for political office.

YES | NO

Comments:

According to the Constitution, any citizen of Latvia, who enjoys full rights of citizenship and, who is more than 21 years of age on the first day of elections may be elected to the Saeima. However, the right to run for election in the Parliament is effectively limited in that only candidates included in party lists may do it.

According to Saeima Election Law, persons are not to be included in the candidate lists and are not eligible to be elected to the Saeima if they:

- 1) have been recognized as incompetent in accordance with the procedure set by law;
- 2) are serving a court sentence in a penitentiary;
- 3) have been sentenced for a deliberately committed crime exceptions: persons who have been exonerated or whose previous criminal record has been expunged or annulled;
- 4) have committed a criminal offense in a state of mental incompetency or a state of limited mental competency or who, after committing a crime, have become mentally ill and are incapable of taking conscious action or controlling it and as a result have been subjected to compulsory medical treatment or their cases have been dismissed without applying such a compulsory measure;
- 5) belong or have belonged to the salaried staff of the USSR, the Latvian SSR or another countrys state security, intelligence or counterintelligence services;
- 6) after Jan. 13, 1991 have been active in the Communist Party of Latvia (CPSU), the Working Peoples International Front of the Latvian SSR, the United Board of Working Bodies, the Organization of War and Labour Veterans, the All-Latvia Salvation Committee or its regional committees;
- 7) [waived]8) have been punished by a prohibition to run for elections of the Saeima, European Parliament, city councils, county councils and rural municipality councils unless they have been exonerated or their criminal record has been expunged or annulled.

A list of candidates may be submitted:

- 1) by a legally registered political organization (party);
- 2) by a legally registered association of political organizations (parties).

References:

The Constitution of Latvia, Sec.9.

http://www.saeima.lv/Likumdosana_eng/likumdosana_satversme.html

<http://web.cvk.lv/pub/public/28126.html>

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if Individuals with a history of violence, terrorism, or criminality are banned from running for office.

NO: A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

16c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

References:

Auers, D., Ikstens, J. Politisko partiju loma demokratija The Role of Political Parties in a Democracy.” Published in: Rozenvalds, J. (ed.). Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. “How Democratic is Latvia. Monitoring of Democracy 2005-2007.” Zinatne, 2007. Pp.45, 46.

Study on Citizens Participation in the Baltic Sea region by the CBSS Working Group on Democratic Institutions under the Swedish Chairmanship 2005-2006. Presented at the 6th Baltic Sea States Summit in Reykjavik 2006. The Secretariat Council of the Baltic Sea States. Pp.20,21. <http://www.politika.lv/index.php?f=1042>

100: While there is no guarantee of electoral success, political parties can form freely without opposition.

75:

50: Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties’ political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

25:

0: Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

16d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

Comments:

No sources report any illegal barriers in the registration of political parties running in elections. However, the costs of running a political campaign, when calculated per capita, are so high that they can discourage parties that do not have access to considerable sources of funding. Moreover, no individual candidates outside party lists are allowed to run for national parliamentary elections.

References:

Ikstens, J., Runcis, A. Brivas un godigas vešanas Free and Fair Elections.” Published in: Rozenvalds, J. (ed.). Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. “How Democratic is Latvia. Monitoring of Democracy 2005-2007.” Zinatne, 2007. P.41, 42.

The Organization for Security and Co-operation in Europe’s Office for Democratic Institutions and Human Rights. Republic of Latvia. Parliamentary Elections Oct. 7, 2006. OECD/ODIHR Limited Election Observation Mission Final Report. Warsaw, Feb. 8, 2007. http://www.osce.org/documents/odihr/2007/02/23213_en.pdf

100: While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

75:

50: Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office.

25:

0: Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

16e. In practice, an opposition party is represented in the legislature.

100 | 75 | 50 | 25 | 0

Comments:

Opposition parties currently have 42 out of 100 seats in the Latvian Parliament. They can freely introduce bills or other issues to a vote, although the governing coalition is unlikely to amend any of its policies because of opposition efforts.

References:

Nations in Transit 2007. Dreifelds, J. Latvia. Pp. 227, 231. http://www.freedomhouse.org/images/fdh_galleries/NIT2007/nt-latvia-validated1.pdf

Ikstens, J., Runcis, A. Brivas un godigas vešanas Free and Fair Elections.” Published in: Rozenvalds, J. (ed.). Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. “How Democratic is Latvia. Monitoring of Democracy 2005-2007.” P.44. Zinatne, 2007.

Members of the 9th Saeima in parliamentary groups: http://www.saeima.lv/deputati_eng/1deputati.html

100: The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

75:

50: The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition’s ability to force votes or publicly debate certain topics may be limited.

25:

0: The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

II-2. Election Integrity

17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

100

17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

YES | NO

Comments:

The Central Election Commission is a specifically designated body responsible preparing and conducting Saeima elections or national referendums, including referendums on legislative initiatives, as well as the elections of local government councils.

References:

Law On the Central Election Commission".

The Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights. Republic of Latvia. Parliamentary Elections Oct. 7, 2006. OECD/ODIHR Limited Election Observation Mission Final Report. Warsaw, Feb. 8, 2007. Pp.14-15. http://www.osce.org/documents/odihr/2007/02/23213_en.pdf

YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to ensure the integrity of the election process.

NO: A NO score is earned if no domestic agency or set of domestic agencies/entities that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

18. Is the election monitoring agency effective?

85

18a. In law, the agency or set of agencies/entities is protected from political interference.

YES | NO

Comments:

The Central Election Commission has nine members, eight of whom are appointed by the Saeima on the basis of nominations by parliamentary parties and one nominated by the Supreme Court. Despite this appointment procedure, which involves parliamentary parties, the commission enjoys broad and uncontested public confidence.

References:

Law On the Central Election Commission”

The Organization for Security and Co-operation in Europe’s Office for Democratic Institutions and Human Rights. Republic of Latvia. Parliamentary Elections Oct. 7, 2006. OECD/ODIHR Limited Election Observation Mission Final Report. Warsaw, Feb. 8, 2007. Pp.14-15. http://www.osce.org/documents/odihr/2007/02/23213_en.pdf

YES: A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | **50** | 25 | 0

Comments:

The Parliament elects eight out of nine members of the Central Election Commission most of whom are party members. On the other hand, recruitment of commission’s support staff is done based on professional qualifications.

References:

Website of the Central Election Commission www.cvk.lv

Centralas velesanu komisijas 2006. gada publiskais paskats (Annual Report of the Central Election Commission, 2006). P.8. http://www.cvk.lv/cvkserv/Publiskais_parskats_2007.pdf

The Organization for Security and Co-operation in Europe’s Office for Democratic Institutions and Human Rights. Republic of Latvia. Parliamentary Elections Oct. 7, 2006. OECD/ODIHR Limited Election Observation Mission Final Report. Warsaw, Feb. 8, 2007. Pp.14-15. http://www.osce.org/documents/odihr/2007/02/23213_en.pdf

100: Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

18c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The Central Election Commission has three full-time members (the chairman, deputy chairman and secretary) and an additional support staff of 12 (2006).

References:

Centralas velesanu komisijas 2006. gada publiskais paskats (Annual Report of the Central Election Commission, 2006). P.9. http://www.cvk.lv/cvkserv/Publiskais_parskats_2007.pdf

OSCE. Office for Democratic Institutions and Human Rights. Republic of Latvia. Parliamentary Elections Oct. 7, 2006. OECD/ODIHR Limited Election Observation Mission Final Report. Warsaw, Feb. 8, 2007. http://www.osce.org/documents/odihr/2007/02/23213_en.pdf

100: The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

75:

50: The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

18d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | 50 | 25 | 0

References:

OSCE. Office for Democratic Institutions and Human Rights. Republic of Latvia. Parliamentary Elections Oct. 7, 2006. OECD/ODIHR Limited Election Observation Mission Final Report. Warsaw, Feb. 8, 2007. http://www.osce.org/documents/odihr/2007/02/23213_en.pdf

Centralas velesanu komisijas 2006. gada publiskais paskats (Annual Report of the Central Election Commission, 2006). P.13. http://www.cvk.lv/cvkserv/Publiskais_parskats_2007.pdf

100: Reports are released to the public on a predictable schedule, without exceptions.

75:

50: Reports are released, but may be delayed, difficult to access, or otherwise limited.

25:

0: The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

The Central Election Commission does not have powers to impose penalties. According to the law, the Central Election Commission may review complaints and proposals regarding the decisions and work of other local election commissions and annul their unlawful decisions. Breaches of law are referred to the police. However, the commission enjoys broad public confidence, it has not evoked suspicions of acting in a partisan manner or of being ineffective.

References:

Law On the Central Election Commission” Sec.6, Point 8.

<http://web.cvk.lv/pub/public/28127.html>

The Organization for Security and Co-operation in Europe’s Office for Democratic Institutions and Human Rights. Republic of Latvia. Parliamentary Elections Oct. 7, 2006. OECD/ODIHR Limited Election Observation Mission Final Report. Warsaw, Feb. 8, 2007. Pp.14-15. http://www.osce.org/documents/odihr/2007/02/23213_en.pdf

Ikstens, J., Runcis, A. Brivas un godigas vešanas “Free and Fair Elections.” Published in: Rozenvalds, J. (ed.). Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. “How Democratic is Latvia. Monitoring of Democracy 2005-2007.” Zinatne, 2007. Pp.40-44.

100: When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

75:

50: The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

19. Are elections systems transparent and effective?

96

19a. In practice, there is a clear and transparent system of voter registration.

Comments:

Parliamentary elections are run without a voter register, allowing eligible citizens to vote anywhere in the country. Voters are required to present passports, which are marked at polling stations in order to prevent multiple voting.

References:

The Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights. Republic of Latvia. Parliamentary Elections Oct. 7, 2006. OECD/ODIHR Limited Election Observation Mission Final Report. Warsaw, Feb. 8, 2007. Pp.14-15. http://www.osce.org/documents/odihr/2007/02/23213_en.pdf

Information for voters in parliamentary elections. Web site of the Central Election

Commission: <http://web.cvk.lv/pub/public/28813.html>

100: There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

75:

50: There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

25:

0: The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and ghost^o voting by non-existent voters is common.

19b. In law, election results can be contested through the judicial system.

YES | NO

Comments:

Submitters of election lists have the right to access the vote counting protocol and, after it has been decided to approve its results, appeal it to the Central Election Commission. The decision of the Central Election Commission about the contested vote counting protocol can be appealed to the court within three days.

References:

The Saeima Election Law.

Sec.35.1, Clause 1- 2.

Sec.51, Clause 1.

YES: A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

NO: A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

19c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

A few parties, which failed to gain representation in the parliamentary elections of 2006, appealed election results in the court. The grounds for the appeal were extensive campaign advertising by the so-called third parties in order to help some political organizations circumvent the statutory limit on campaign expenditure. The court did not support the claim. Nevertheless, this is an actual instance of trying election results in the court of law. Moreover, the court issued a by-decision, which requires the elimination of loopholes in the control of election campaign process.

References:

The Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights. Republic of Latvia. Parliamentary Elections Oct. 7, 2006. OECD/ODIHR Limited Election Observation Mission Final Report. Warsaw, Feb. 8, 2007. Pp.14-15. http://www.osce.org/documents/odihr/2007/02/23213_en.pdf

Ikstens, J., Runcis, A. Brivas un godigas vešanas Free and Fair Elections." Published in: Rozenvalds, J. (ed.). Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. "How Democratic is Latvia. Monitoring of Democracy 2005-2007." Zinatne, 2007. Pp.40-44.

100: The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

75:

50: The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

25:

0: The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

19d. In practice, the military and security forces remain neutral during elections.

100 | 75 | 50 | 25 | 0

Comments:

The involvement of the military and security forces during elections has not been an issue of concern in Latvia.

References:

Kamenska, A., Lejins, A. Civila kontrole par karaspeku un policiju [Civilian Control Over the Military and Police]. Published in: Rozenvalds, J. (ed.). Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. How Democratic is Latvia. Monitoring of Democracy 2005-2007." Zinatne, 2007. P.57.

100: The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

75:

50: The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

25:

0: The military or other security forces are an active and explicit player in politics and overly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

19e. In law, domestic and international election observers are allowed to monitor elections.

YES | NO

References:

The Saeima Election Law. Sec.18.2.

YES: A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

NO: A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

19f. In practice, election observers are able to effectively monitor elections.

100 | 75 | 50 | 25 | 0

Comments:

Election observers have access to polling sites. The Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights reported limited access in one polling site before the 2006 parliamentary election. Latvian legislation is not clear about the rights and obligations of observers.

References:

The Organization for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights. Republic of Latvia. Parliamentary Elections Oct. 7, 2006. OECD/ODIHR Limited Election Observation Mission Final Report. Warsaw, Feb. 8, 2007. Pp.14-15. http://www.osce.org/documents/odihr/2007/02/23213_en.pdf

100: Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers’ activities.

75:

50: Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

25:

0: Election observers’ movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

94 II-3. Political Financing

20. Are there regulations governing political financing?

100

20a. In law, there are regulations governing private contributions to political parties.

YES | NO

References:

Political Organizations (Parties) Financing Law. Sec. 4, 6, 7.

YES: A YES score is earned if there are any formal rules (by law or regulation) controlling private contributions to political parties.

NO: A NO score is earned if there is no regulation of private contributions to political parties.

20b. In law, there are limits on individual donations to candidates and political parties.

YES | NO

Comments:

An individual may contribute no more than approx. USD 19,000 (LVL 10,000) per party per year. An individual may contribute financial donations only from means legally earned during three preceding years.

References:

Political Organizations (Parties) Financing Law. Sec.2, 4.

YES: A YES score is earned if there are any limits, regardless of size, on individual contributions to political candidates and political parties. A YES score is earned if individual contributions are prohibited.

NO: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties/candidates in a discriminatory manner.

20c. In law, there are limits on corporate donations to candidates and political parties.

YES | NO

Comments:

Corporate donations to political parties are prohibited in Latvia.

References:

Political Organizations (Parties) Financing Law. Art. 4.

YES: A YES score is earned if there are any limits, regardless of size, on corporate contributions to political candidates and political parties. A YES score is earned if contributions are prohibited.

NO: A NO score is earned if there are no limits on corporate contributions to candidates or political parties. A NO score is also earned if limits are applied by the government on opposition parties/candidates in a discriminatory manner.

20d. In law, there are limits on total political party expenditures.

YES | NO

Comments:

A political party (or a union of parties) that has submitted a list of candidates for a parliamentary election may spend on the election campaign an amount, which does not exceed approx. USD 0.38 (LVL 0.20) per voter in the previous parliamentary election.

References:

Political Organizations (Parties) Financing Law. Art.8.4.

YES: A YES score is earned if there are any limits, regardless of size, on political party expenditures. A YES score is earned if all party expenditures are prohibited.

NO: A NO score is earned if there are no limits on political party expenditures. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20e. In law, there are requirements for disclosure of donations to political candidates and parties.

YES | NO

Comments:

Within ten days after having received a donation, a party shall publish in the internet information on this donation (type, amount, date of receipt, individual who donated).

References:

Political Organizations (Parties) Financing Law. Sec. 4.

YES: A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties or candidates.

NO: A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties or candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations.

20f. In law, there are requirements for the independent auditing of the finances of political parties and candidates.

YES | NO

Comments:

At least once a year, a sworn auditor shall audit the financial and economic activity of each political party.

References:

Political Organizations (Parties) Financing Law. Sec.11.

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of candidate and party finances. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties and candidates or if such requirements exist but allow for candidates or parties to self-audit.

20g. In law, there is an agency or entity that monitors the political financing process.

YES | NO

Comments:

Corruption Prevention and Combating Bureau supervises the implementation of the Political Organizations (Parties) Financing Law and audits the finances of parties.

References:

Political Organisations (Parties) Financing Law. Sec.13.
Corruption Prevention and Combating Bureau Law. Sec.2, Clause 1., Sec.9.

YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around political financing. A YES score is earned even if the agency/entity is ineffective in practice.

NO: A NO score is earned if there is no such agency or entity.

21. Are the regulations governing political financing effective?

50

21a. In practice, the limits on individual donations to candidates and political parties are effective in regulating an individual's ability to financially support a candidate or political party.

100 | 75 | 50 | 25 | 0

Comments:

Various sources suggest that election campaigns are in part run with the help of undeclared financial means. Consequently there is very little transparency and possibilities to regulate contributions to this unofficial part of campaign budget.

References:

Cigane, L. 9. Saeimas velesanu izdevumi: partiju un citu personu prieksvelesanu kampanas izdevumi (Expenditure at the elections of the 9th Saeima: pre-election campaign expenditure by parties and other persons). Centre for Public Policy PROVIDUS. 22.02.2007. <http://www.politika.lv/index.php?f=1096>

Ikstens, J. Prieksvelesanu kampanu regulejums Latvija, politikas kopsavilkums [Regulative Framework of Preelection Campaigns in Latvia, Policy Brief]. Public policy portal Politika.lv 10.05.2005. <http://www.politika.lv/index.php?id=3317>

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a candidate or political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a candidate or political party. However, exceptions and loopholes exist through which individuals can indirectly support candidates or political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate or party; unregulated loans to candidates or parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a candidate or political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

21b. In practice, the limits on corporate donations to candidates and political parties are effective in regulating a company's ability to financially support a candidate or political party.

100 | 75 | **50** | 25 | 0

Comments:

Donations from corporate entities to political parties are prohibited in Latvia. However, various sources suggest that election campaigns are in part run with the help of undeclared financial means. Consequently there is very little transparency and possibilities to check whether contributions to this unofficial part of campaign budget stem from corporate entities.

References:

Cigane, L. 9. Saeimas velesanu izdevumi: partiju un citu personu priekšvelesanu kampanas izdevumi (Expenditure at the elections of the 9th Saeima: pre-election campaign expenditure by parties and other persons). Centre for Public Policy PROVIDUS. <http://www.politika.lv/index.php?f=1096>

Ikstens, J. Priekšvelesanu kampanu regulejums Latvija, politikas kopsavilkums [Regulative Framework of Preelection Campaigns in Latvia, Policy Brief]. Public policy portal Politika.lv 10.05.2005. <http://www.politika.lv/index.php?id=3317>

100: Existing limits represent the full extent to which a company can directly or indirectly financially support a candidate or political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support a candidate or political party. However, exceptions and loopholes exist through which companies can indirectly support candidates or political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate or party; unregulated loans to candidates or parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to a candidate or political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

21c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

Comments:

During the campaign of parliamentary elections of 2006, two political parties (the People's Party and the coalition of the Latvian First Party and party Latvian Way") used extensive advertising, which was formally placed by the so-called third-party organizations. These were formally independent entities that, however, were set up by people closely related to these parties. This was essentially a way to circumvent the limit on party expenditure. The advertising appeared to have largely influenced the election outcome and showed major weaknesses in the enforcement of the expenditure limit.

References:

Cigane, L. 9. Saeimas velesanu izdevumi: partiju un citu personu priekšvelesanu kampanas izdevumi (Expenditure at the elections of the 9th Saeima: pre-election campaign expenditure by parties and other persons). Centre for Public Policy PROVIDUS. <http://www.politika.lv/index.php?f=1096>

Ikstens, J., Runcis, A. Brivas un godigas velesanas [Free and Fair Elections]. Published in: Rozenvalds, J. (ed.). Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. [How Democratic is Latvia. Monitoring of Democracy 2005-2007]. Zinatne, 2007. Pp.40-44.

Auers, D., Ikstens, J. Politisko partiju loma demokratija [The Role of Political Parties in a Democracy]. Published in: Rozenvalds, J. (ed.). Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. [How Democratic is Latvia. Monitoring of Democracy 2005-2007]. Zinatne, 2007. Pp.45-48.

100: Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

75:

50: Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

21d. In practice, when necessary, an agency or entity monitoring political financing independently initiates investigations.

Comments:

The Corruption Prevention and Combating Bureau routinely scrutinizes the financial activity of all parties and investigates possible irregularities whenever they appear to have taken place. However, the effectiveness of this scrutiny varies from case to case.

References:

Cigane, L. 9. Saeimas velesanu izdevumi: partiju un citu personu priekšvelesanu kampanas izdevumi (Expenditure at the elections of the 9th Saeima: pre-election campaign expenditure by parties and other persons). Centre for Public Policy PROVIDUS. <http://www.politika.lv/index.php?f=1096>

Ikstens, J., Runcis, A. Brivas un godigas vešanas [Free and Fair Elections]. Published in: Rozenvalds, J. (ed.). Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. [How Democratic is Latvia. Monitoring of Democracy 2005-2007]. Zinatne, 2007. Pp.40-41.

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to political financing. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power.

21e. In practice, when necessary, an agency or entity monitoring political financing imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

The Corruption Prevention and Combating Bureau routinely scrutinizes the financial activity of all parties and investigates possible irregularities whenever they appear to have taken place. However, the effectiveness of this scrutiny and consequently the practice of imposing penalties vary from case to case.

References:

Cigane, L. 9. Saeimas vešanas izdevumi: partiju un citu personu priekšvešanas kampanas izdevumi (Expenditure at the elections of the 9th Saeima: pre-election campaign expenditure by parties and other persons). Centre for Public Policy PROVIDUS. 22.02.2007. Pp.4, 9. <http://www.politika.lv/index.php?f=1096>

The Corruption Prevention and Combating Bureau. Annual report 2006. Results of activities in the checking of the implementation of rules on financing political parties and their unions. Pp.31-33. http://www.knab.gov.lv/uploads/pdf/publiskais_parskats_2006.pdf

Ikstens, J., Runcis, A. Brivas un godigas vešanas [Free and Fair Elections]. Published in: Rozenvalds, J. (ed.). Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. [How Democratic is Latvia. Monitoring of Democracy 2005-2007]. Zinatne, 2007. Pp.40-41.

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power.

21f. In practice, contributions to political parties and candidates are audited.

100 | 75 | 50 | 25 | 0

Comments:

The Corruption Prevention and Combating Bureau scrutinizes regularly contributions to all political parties. However, the Bureau's effectiveness in the investigation of unofficial contributions appears to be weak.

References:

Cigane, L. 9. Saeimas velesanu izdevumi: partiju un citu personu priekšvelesanu kampanas izdevumi (Expenditure at the elections of the 9th Saeima: pre-election campaign expenditure by parties and other persons). Centre for Public Policy PROVIDUS. 22.02.2007. <http://www.politika.lv/index.php?f=1096>

The Corruption Prevention and Combating Bureau. Annual report 2006. Results of activities in the checking of the implementation of rules on financing political parties and their unions. Pp.31-33. http://www.knab.gov.lv/uploads/pdf/publiskais_parskats_2006.pdf

Ikstens, J. Priekšvelesanu kampanu regulejums Latvija, politikas kopsavilkums [Regulative Framework of Preelection Campaigns in Latvia, Policy Brief]. Public policy portal Politika.lv 10.05.2005. <http://www.politika.lv/index.php?id=3317>

100: Political party and candidate finances are regularly audited using generally accepted auditing practices. This includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

75:

50: Political party and candidate finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party or candidate may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

25:

0: Party and candidate finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

22. Can citizens access records related to political financing?

100

22a. In practice, political parties and candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Political parties publish their donations within ten days from the receipt of such donations. This is done through a data base, which is run by the Corruption Prevention and Combating Bureau.

References:

Auers, D., Ikstens.J. Democratic Role of Political Parties. Published in: Rozenvalds, J. (Ed.)How Democratic is Latvia. Democratic

Audit. LU Akademiskais apgads (2005).

P.94. http://www.president.lv/images/modules/items/PDF/item_498_Audit_of_democracy.pdf

The official data base of political party finances: <http://www.knab.lv/db/>

100: Political parties and candidates disclose their sources of funding and expenditures at least every quarter.

75:

50: Political parties and candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

25:

0: Political parties and candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

22b. In practice, citizens can access the financial records of political parties and candidates within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The database contains complete records of donations to parties as well as financial declarations, which are legally required. It is available instantly on-line for any user.

References:

The database of parties' financial records on the website of the Corruption Prevention and Combating Bureau. <http://www.knab.lv/db/>

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take two to four weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

22c. In practice, citizens can access the financial records of political parties and candidates at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The database is available on-line at no cost.

References:

The database of parties' financial records on the website of the Corruption Prevention and Combating Bureau. <http://www.knab.lv/db/>

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

Category III. Government Accountability

III-1. ⁸⁵ Executive Accountability

23. In law, can citizens sue the government for infringement of their civil rights?

100

23. In law, can citizens sue the government for infringement of their civil rights?

YES

NO

Comments:

According to the Constitution, everyone has the right to defend their rights and lawful interests in a fair court. According to judicial law, each person has the right to have court cases tried in accordance with the rules of legal procedure prescribed by law.

References:

The Constitution of Latvia. Sec. 92. http://www.saeima.lv/Likumdosana_eng/likumdosana_satversme.html

Law On the Judiciary". Sec.1, Clause 4.

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

NO: A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

24. Can the chief executive be held accountable for his/her actions?

88

24a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | 50 | 25 | 0

References:

Golubeva, M. Reinholde, I. Government Effectiveness and Accountability. Published in: Rozenvalds, J. How Democratic is Latvia. Audit of Democracy. LU Akademiskais apgads (2005). Ch.7. Pp. 99-109. <http://www.politika.lv/index.php?f=140>

Nations in Transit 2007. Dreifelds, J. Latvia. Pp. 228, 234. ([http://www.freedomhouse.hu/images/fdh_galleries/NIT2007/nt-latvia-
proofed1.pdf](http://www.freedomhouse.hu/images/fdh_galleries/NIT2007/nt-latvia-proofed1.pdf))

100: The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

75:

50: The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

25:

0: The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

24b. In law, the judiciary can review the actions of the executive.

YES | NO

Comments:

According to the Constitution Court Law, the Constitutional Court shall review cases regarding:

- 1) compliance of laws with the Constitution;
- 2) compliance with the Constitution of international agreements signed or entered into by Latvia (even before the Saeima has confirmed the agreement);
- 3) compliance of other normative acts or their parts with the legal norms (acts) of higher legal force;
- 4) compliance of other acts (with an exception of administrative acts) by the Saeima, the cabinet of ministers, the president, the chairperson of the Saeima and the prime minister with the law;
- 5) compliance of regulations by which the minister, authorized by the Cabinet of Ministers, has rescinded binding regulations issued by the Dome (Council) of a municipality with the law;
- 6) compliance of the national legal norms of Latvia with the international agreements entered into by Latvia, which are not contrary to the Constitution.

References:

Constitutional Court Law. Sec.16. Cases to be reviewed by the Constitutional Court.

<http://www.satv.tiesa.gov.lv/?lang=2&mid=9>

YES: A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

24c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

Comments:

Since its establishment in 1996, the Constitutional Court has reviewed 32 regulations and ordinances of the Cabinet of Ministers. When found in conflict with the Constitution or other higher-ranking legal acts, regulations and ordinances have been voided.

References:

Cases of the Constitutional Court (including full texts of judgments) where regulations or ordinances of the Cabinet of Ministers have been disputed: <http://www.satv.tiesa.gov.lv/?lang=1&mid=19&smode=1>

Melderis, N. Satversmes tiesas brīdinājums Warning from the Constitutional Court.” Public policy portal Politika.lv. 04.03.2003. <http://www.politika.lv/index.php?id=4750>

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power. It does not need to relay upon the executive to initiate a constitutional or legal review.

75:

50: The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

24d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | 50 | 25 | 0

Comments:

Since the renewal of Latvia's prewar Constitution in 1993, the use of its Section 81 has been controversial. This article authorized the Cabinet of Ministers to adopt orders with the force of law in periods between the sessions of the Parliament. Although such orders lost their force unless subsequently approved by the legislature, they were often seen as a way for the executive to circumvent proper public scrutiny of proposed legal acts. The controversy culminated in the beginning of 2007 after the executive used these powers to adopt extremely controversial amendments to two laws that regulate national security issues. As the result, the Parliament excluded the Section 81 from the Constitution on March 5, 2007.

References:

Golubeva, M., Reinholde, I. Parvaldes strukturu efektivitate un atbildiba The Effectiveness and Accountability of Governance Structures." Published in: Rozenvalds, J. (ed.) Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. "How Democratic is Latvia. Monitoring of Democracy 2005-2007." Zinatne, 2007. P.53.

Araja, D. Labot. Bet ne mirkla vajadzibai (Amend. But not for a Momentary Need, interview with a former president of the Constitutional Court Aivars Endzins). Public policy portal Politika.lv. 20.03.2007. <http://www.politika.lv/index.php?id=13741>

Jurista Vards "The Lawyer's Word," 20.03.2007. Juristi analize Valsts prezidentes ricibu un Satversmes 81.pantu (Lawyers Analyse the Action of the President of State and Section 81 of the Constitution). http://lv.lv/index.php?menu_body=DOC&id=154596 (for authorized users)

Amendments to the Constitution of Latvia. 03.05.2007. Vestnesis, 17.05.2007.

100: The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

75:

50: The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

25:

0: The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

25. Is the executive leadership subject to criminal proceedings?

100

25a. In law, the heads of state and government can be prosecuted for crimes they commit.

YES | NO

Comments:

No immunity exists for the protection of the head of government against prosecution. The president of state may be subject to criminal liability if the Parliament consents thereto by a majority vote of not less than two-thirds.

References:

The Constitution of Latvia. Sec.54. http://www.saeima.lv/Likumdosana_eng/likumdosana_satversme.html

YES: A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

25b. In law, ministerial-level officials can be prosecuted for crimes they commit.

YES | NO

Comments:

No immunities or other special legal protection exist against the prosecution of ministerial-level officials.

References:

The Constitution of Latvia.

YES: A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

NO: A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

26. Are there regulations governing conflicts of interest by the executive branch?

88

26a. In law, the heads of state and government are required to file a regular asset disclosure form.

YES | NO

Comments:

All public officials, from lower civil servants to heads of government and state, are required to submit declarations of income and assets annually. Most of the information submitted is published.

References:

Law On Prevention of Conflict of Interest in Activities of Public Officials". Chapter IV, Declarations of Public Officials.
http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

YES: A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if either the head of state or government is not required to disclose assets.

26b. In law, ministerial-level officials are required to file a regular asset disclosure form.

YES | NO

Comments:

All public officials, from lower civil servants to heads of government and state ,are required to submit declarations of income and assets annually. Most of the information submitted is published.

References:

Law On Prevention of Conflict of Interest in Activities of Public Officials". Chapter IV, Declarations of Public Officials.
http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

YES: A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

NO: A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

26c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

YES | NO

References:

Law On Prevention of Conflict of Interest in Activities of Public Officials." Articles 13 and 14. http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

26d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

YES | NO

References:

Law On Prevention of Conflict of Interest in Activities of Public Officials". Chapter V, Review of Violations and Verification of Facts.

http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

26e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

YES | NO

Comments:

Two statutory restrictions stay in force for two years after the heads of state and government and ministers leave respective offices:

First, the president, prime minister, deputy prime ministers, ministers, and ministers for special assignments, as well as their relatives, shall not be the shareholders, stockholders and partners of such commercial companies or individual merchants that receive orders for procurement for state and local government needs, state financial resources, state-guaranteed credits or state privatization fund resources, except the cases where they are granted as a result of an open competition.

Second, all public officials are also prohibited for two years after leaving office from taking employment or obtaining shares of companies, regarding which the public officials have made decisions on procurement for state or local government needs, allocated state or local government resources and state or local government privatization fund resources or have performed supervision, control or punitive functions.

References:

Law On Prevention of Conflict of Interest in Activities of Public Officials". Sec. 10.

YES: A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if no such restrictions exist.

26f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100 | 75 | 50 | 25 | 0

Comments:

Official sources do not have any data on the violation of regulations restricting post-government private sector employment for heads of state and government, and ministers.

References:

Informatīvais ziņojums Par Korupcijas novēršanas un apkarošanas biroja darbību no 2006. gada 1. jūlija līdz 31. decembrim” (Informative report “On the Activities of the Corruption Prevention and Combating Bureau from July 1 until Dec. 31, 2006). http://www.knab.gov.lv/uploads/pdf/KNABzino_050207.pdf

Administratīvie pārkāpumi korupcijas novēršanas joma 2006.gada “Administrative Violations in the Area of Corruption Prevention”. Corruption Prevention and Combating Bureau. 28.02.2007. http://www.knab.gov.lv/uploads/pdf/KNAB_APK_2006.pdf

100: The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off” period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

26g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

References:

Kalnins, V. Korupcijas mazināšana [Restricting of Corruption]. Published in: Rozenvālds, J. (ed.) Cik demokrātiska ir Latvija.

Vai amatpersonas drīkst piedalīties sīkas dzimsanas dienas svinības? "May Public Officials Participate in a Posh Birthday Party?" LTV Panorama, 22.12.2005. <http://www.tvnet.lv/onlinetv/ltv1/panorama/article.php?id=158129>

100: The regulations governing gifts and hospitality to members of the executive branch are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

26h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | **75** | 50 | 25 | 0

Comments:

The State Revenue Service checks the submission and accuracy of public officials' declarations. In cases of doubt about whether the expenditure of a public official is commensurate with their official income, the Corruption Prevention and Combating Bureau audits the case in cooperation with the State Revenue Service. In 2006, 354 public officials were penalized for a failure to submit declarations in due time or because of false data i (all in all 67,461 public officials were registered as of Jan. 1, 2007). Moreover, upon recommendation of the Corruption Prevention and Combating Bureau, the State Revenue Service carried out tax audits of 47 public officials.

No targeted audits of declarations of ministers are carried out.

References:

The State Revenue Service of the Republic of Latvia. Annual Report. 2006. P.42. <http://www.vid.gov.lv/getfile.aspx?sid=1360>

Corruption Prevention and Combating Bureau. Annual Report. 2006. Pp.14-

15. http://www.knab.gov.lv/uploads/pdf/publiskais_parskats_2006.pdf

100: Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Executive branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

27. Can citizens access the asset disclosure records of the heads of state and government?

100

27a. In law, citizens can access the asset disclosure records of the heads of state and government.

YES | NO

References:

Law On Prevention of Conflict of Interest in Activities of Public Officials”.

Sec.26. http://www.knab.gov.lv/uploads/en_hm/EN_officials.htm

YES: A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

27b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

There are no reports or studies about access to asset disclosure records because this access is very obvious. Section 26 of the law On Prevention of Conflict of Interest in Activities of Public Officials” provides legal grounds for public access to the publicly accessible parts of declarations of public officials.

This Web site (http://www6.vid.gov.lv/vid_pdb/vad.asp) allows any user to instantly access the publicly accessible parts of declarations of public officials (not for officials of security agencies), including those of heads of state and government.

References:

The following are not studies but references to a law and official Web site.

Law On Prevention of Conflict of Interest in Activities of Public Officials,” Sec.

26. http://www.knab.gov.lv/uploads/en_hm/EN_officials.htm

Web site: http://www6.vid.gov.lv/vid_pdb/vad.asp

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some additional delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

27c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

There are no reports or studies about access to asset disclosure records because this access is very obvious. Section 26 of the law On Prevention of Conflict of Interest in Activities of Public Officials” provides legal grounds for public access to the publicly accessible parts of declarations of public officials.

This Web site (http://www6.vid.gov.lv/vid_pdb/vad.asp) allows any user to access the publicly accessible parts of declarations of public officials (not for officials of security agencies), including those of heads of state and government. Access is free of charge.

References:

The below are not studies but references to a law and official Web site.

Law On Prevention of Conflict of Interest in Activities of Public Officials”,
Sec.26. http://www.knab.gov.lv/uploads/en_hm/EN_officials.htm

Website: http://www6.vid.gov.lv/vid_pdb/vad.asp

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

28. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

50

28. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

References:

Stafecka, L. Timofejevs, P. The Use of Administrative Resources in Election Campaign. Political Conflicts of Interest: Concept and Solutions. Published in: Kalnins, V. (ed.) Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2005. First Semiannum. Pp.36-47. <http://www.politika.lv/index.php?f=269>

Kazoka, I. Political Conflicts of Interest: Concept and Solutions. Published in: Kalnins, V. (ed.) Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2005. Second Semiannum. Pp.61-75. <http://www.politika.lv/index.php?f=947>

100: Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

75:

50: The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be the use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

25:

0: The government bureaucracy is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

III-2. Legislative Accountability

29. Can members of the legislature be held accountable for their actions?

67

29a. In law, the judiciary can review laws passed by the legislature.

YES | NO

Comments:

According to the Latvian Constitution, there shall be a Constitutional Court, which, within its jurisdiction as provided for by law, shall review cases concerning the compliance of laws with the Constitution, as well as other matters regarding which jurisdiction is conferred upon it by law. The Constitutional Court shall have the right to declare laws or other enactments or parts thereof invalid.

The Constitutional Court Law says the court shall review cases regarding:

- 1) compliance of laws with the Constitution;
- 2) compliance with the Constitution of international agreements signed or entered into by Latvia (even before the Saeima has confirmed the agreement);

- 3) compliance of other normative acts or their parts with the legal norms (acts) of higher legal force;
- 4) compliance of other acts (with an exception of administrative acts) by the Saeima, the Cabinet of Ministers, the President, the Chairperson of the Saeima and the Prime Minister with the law;
- 5) compliance of Regulations by which the minister, authorized by the Cabinet of Ministers, has rescinded binding regulations issued by the Dome (Council) of a municipality with the law;
- 6) compliance of the national legal norms of Latvia with the international agreements entered into by Latvia, which are not contrary to the Constitution.

References:

The Constitution of Latvia. Sec.85. http://www.saeima.lv/Likumdosana_eng/likumdosana_satversme.html

The Constitutional Court Law. Sec.16.

YES: A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

29b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

Comments:

Since its establishment in 1996, the Constitutional Court has completed reviews of approximately 65 cases where particular norms of laws adopted by the legislature have been disputed. When found to be inconsistent with the Constitution, the norms have been voided.

References:

Cases of the Constitutional Court (including full texts of judgments) where norms of laws have been disputed: <http://www.satv.tiesa.gov.lv/?lang=1&mid=19&smode=1>

Skujeniece, V. Satversmes tiesas skola The School of the Constitutional Court." Public policy portal Politika.lv 27.03.2002. <http://www.politika.lv/index.php?id=4728>

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

75:

50: The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

29c. In law, are members of the national legislature subject to criminal proceedings?

YES | NO

Comments:

Members of parliament are covered by immunity against criminal prosecution. However, the parliament may lift this immunity. In such case, members of the national legislature are subject to criminal proceedings.

References:

The Constitution of Latvia. Sec.30.

http://www.saeima.lv/Likumdosana_eng/likumdosana_satversme.html

YES: A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

NO: A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings.

30. Are there regulations governing conflicts of interest by members of the national legislature?

86

30a. In law, members of the national legislature are required to file an asset disclosure form.

YES | NO

Comments:

All public officials, from lower civil servants to members of Parliament, are required to submit declarations of income and assets annually. Most of the information thus submitted is published.

References:

Law On Prevention of Conflict of Interest in Activities of Public Officials". Chapter IV, Declarations of Public Officials.

http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

YES: A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any member of the legislature is not required to disclose assets.

30b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

YES | NO

Comments:

Two statutory restrictions stay in force for two years after the heads of state and government and ministers leave respective offices:

First, members of Parliament as well as their relatives cannot be the shareholders, stockholders and partners of commercial companies or individual merchants that receive orders for procurement for state and local government needs, state financial resources, state-guaranteed credits or state privatization fund resources, except the cases where they are granted as a result of an open competition.

Second, all public officials are also prohibited for two years after leaving their offices from taking employment or obtaining shares of companies, in which public officials have made decisions on procurements for state or local government needs, allocated state or local government resources and state or local government privatization fund resources, or have performed supervision, control or punitive functions.

References:

Law On Prevention of Conflict of Interest in Activities of Public Officials". Sec. 10.

YES: A YES score is earned if there are regulations restricting national legislators' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

30c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

YES | NO

References:

Law On Prevention of Conflict of Interest in Activities of Public Officials". Sec.13 and 14.
http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

30d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

YES | NO

References:

Law On Prevention of Conflict of Interest in Activities of Public Officials". Chapter V, Review of Violations and Verification of Facts.

http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

30e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100 | 75 | 50 | 25 | 0

Comments:

Official sources do not show any data on the violation of regulations restricting post-government private sector employment for heads of state and government, and ministers. Nevertheless, members of Parliament are known to become lobbyists right after leaving their office. Such practice is not technically illegal, but raises ethical concerns.

References:

Informatīvais ziņojums Par Korupcijas novēršanas un apkarošanas biroja darbību no 2006. gada 1. jūlija līdz 31. decembrim" (Informative report "On the Activities of the Corruption Prevention and Combating Bureau from July 1 until Dec.31, 2006). http://www.knab.gov.lv/uploads/pdf/KNABzino_050207.pdf

Interview with Ms. Ilze Kuzmina, reporter on parliamentary affairs, newspaper "Latvijas Avīze", 13.08.2007, Rīga.

100: The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

30f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

References:

Kalnins, V. Korupcijas mazināšana [Restricting of Corruption]. Published in: Rozenvalds, J. (ed.) Cik demokrātiska ir Latvija. Demokratijas monitorings 2005-2007. (How Democratic is Latvia. Monitoring of Democracy 2005-2007). Zinatne, 2007. P.63.

Vai amatpersonas drīkst piedalīties sīkas dzimšanas dienas svinības? May Public Officials Participate in a Posh Birthday Party?" LTV Panorama, 22.12.2005. <http://www.tvnet.lv/onlinetv/ltv1/panorama/article.php?id=158129>

100: The regulations governing gifts and hospitality to national legislators are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to legislators. Legislators never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to national legislators are routinely ignored and unenforced. Legislators routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

30g. In practice, national legislative branch asset disclosures are audited.

Comments:

The State Revenue Service checks the submission and accuracy of public officials declarations. In cases of doubt about whether the expenditure of a public official is consistent with their official income, the Corruption Prevention and Combating Bureau audits the case in cooperation with the State Revenue Service. In 2006, 354 public officials were penalized for failure to submit declarations in due time or indication of false data (all in all 67,461 public officials were registered as of Jan. 1, 2007. Moreover, upon recommendation of the Corruption Prevention and Combating Bureau, the State Revenue Service carried out tax audits of 47 public officials.

No targeted audits of declarations of members of parliament are carried out.

References:

The State Revenue Service of the Republic of Latvia. Annual Report. 2006. P.42. <http://www.vid.gov.lv/getfile.aspx?sid=1360>

Corruption Prevention and Combating Bureau. Annual Report. 2006. Pp.14-15. http://www.knab.gov.lv/uploads/pdf/publiskais_parskats_2006.pdf

100: Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Legislative branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

31. Can citizens access the asset disclosure records of members of the national legislature?

100

31a. In law, citizens can access the asset disclosure records of members of the national legislature.

YES | NO

References:

Law On Prevention of Conflict of Interest in Activities of Public Officials,” Sec.26.

YES: A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

31b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

There are no reports or studies about access to asset disclosure records because this access is very obvious. Section 26 of the law On Prevention of Conflict of Interest in Activities of Public Officials” provides legal grounds for public access to the publicly accessible parts of declarations of public officials.

This Web site (http://www6.vid.gov.lv/vid_pdb/vad.asp) allows any user to access the publicly accessible parts of declarations of public officials (not for officials of security agencies), including those of members of Parliament.

References:

The below are not studies but references to a law and official website.

Law On Prevention of Conflict of Interest in Activities of Public Officials”, Sec.26. http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

Website: http://www6.vid.gov.lv/vid_pdb/vad.asp

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

31c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

There are no reports or studies about access to asset disclosure records because this access is very obvious. Section 26 of the law "On Prevention of Conflict of Interest in Activities of Public Officials" provides legal grounds for public access to the publicly accessible parts of declarations of public officials.

This Web site (http://www6.vid.gov.lv/vid_pdb/vad.asp) allows any user to access the publicly accessible parts of declarations of public officials (not for officials of security agencies), including those of members of Parliament. Access is free of charge.

References:

The below are not studies but references to a law and official Web site.

Art. 26 of the Law "On Prevention of Conflict of Interest in Activities of Public Officials."

Web site: http://www6.vid.gov.lv/vid_pdb/vad.asp

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

32. Can citizens access legislative processes and documents?

100

32a. In law, citizens can access records of legislative processes and documents.

YES | NO

Comments:

According to the Constitution, sittings of the Saeima shall be public. According to Saeima Rules of Procedure, transcripts of open sittings and the attached written answers to questions, as well as statements of members explaining the reasons for their voting, shall be published in the newspaper Latvijas Vestnesis.

Transcripts of open sittings include records of open votes.

References:

The Constitution of Latvia. Sec. 22, Sec.100.
Saeima Rules of Procedure.
Sec.147, Clause 1
Sec.159. Committee meetings shall be open to the public.

YES: A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

NO: A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there exemptions to the general right that are not clearly defined by formal rules.

32b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Records of legislative processes and documents are accessible online instantly.

References:

Full and instant access to records of parliamentary sittings: http://www.saeima.lv/Likumdosana/likumdosana_stenogrammas.html

Full and instant access to pending and adopted bills:

<http://www.saeima.lv/saeima9/reg.likprj>

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

32c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Records of legislative processes and documents are accessible online at no cost.

References:

Full and instant access to records of parliamentary sittings: http://www.saeima.lv/Likumdosana/likumdosana_stenogrammas.html

Full and instant access to pending and adopted bills:

http://www.saeima.lv/saeima9/reg_likprj

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

88
III-3. Judicial Accountability

33. Are judges appointed fairly?

100

33a. In law, there is a transparent procedure for selecting national-level judges.

YES | NO

References:

Law On the Judiciary”.

Sec.60. Order of Appointment and Affirmation of a District (City) Court Judge.

Sec.61. Order of Affirmation of a Regional Court Judge.

Sec.62. Order of Affirmation of a Supreme Court Judge.

YES: A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

NO: A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

33b. In practice, there are certain professional criteria required for the selection of national-level judges.

100 | 75 | 50 | 25 | 0

Comments:

The list of established criteria for judges is rather limited, but strictly followed. These include the age limit of at least 30 years, higher education in law, at least five years experience in a legal profession, successful qualification examination result. The contents of the qualification exam are not disclosed in a public document.

References:

Requirements for judges: <http://www.tiesas.lv/index.php?id=130>

Elksne, I. Varna varnai aci var ieknabt [Interview with Mr. Andris Gulans, President of the Supreme Court.] Public policy portal Politika.lv. 04.04.2006.

<http://www.politika.lv/index.php?id=9468>

100: National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

75:

50: Most national-level judges selected meet these qualifications, with some exceptions.

25:

0: National-level judges are often unqualified due to lack of training or experience.

33c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

YES | NO

Comments:

Judicial appointments shall be confirmed by the Saeima and they shall be irrevocable.

References:

The Constitution of Latvia. Sec.84 http://www.saeima.lv/Likumdosana_eng/likumdosana_satversme.html

YES: A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency independent from the body appointing the judges.

NO: A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by a body directed by the body appointing the judges (such as review by the head of police if judges are appointed by the executive).

34. Can members of the judiciary be held accountable for their actions?

83

34a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

YES | NO

Comments:

According to Civil Procedure Law: The reasoned party shall state the facts established in the matter, the evidence on which the conclusions of the court are based, and the arguments by which such evidence, or other evidence, has been rejected. This party shall also set out the regulatory enactments, to which the court has acted pursuant, and a judicial assessment of the facts determined in the matter, as well as the conclusions of the court regarding the validity or invalidity of the claim. The reasoned part shall indicate a reference to the law in accordance with which the adjudication was taken, and shall justify the conclusion made.

In the reasoned party shall be set out:

- 1) the facts determined in the matter, the evidence upon which the court conclusions are based and the arguments pursuant to which one or more items of evidence have been rejected;
- 2) the norms of law on which the court has based itself;
- 3) legal assessment of the facts determined in the matter;
- 4) references to published court judgments and legal literature, as well as to other special literature, which has been used by the court in its reasoning; and
- 5) the court conclusions regarding the validity of the application.

References:

Civil Procedure Law. Sec.193. Form and contents of a judgment.
Clause 5.

Criminal Procedure Law. Sec.320. Structure of an Adjudication.
Clause 4.

http://www.knab.gov.lv/uploads/htm/EN_procedure.htm

Administrative Procedure Law. Sec.251. Form and Content of Judgments.
Clause 5.

YES: A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

NO: A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

34b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | **50** | 25 | 0

Comments:

The President of the Supreme Court Andris Gulans spoke of missing grounds in some judgments: The Supreme Court carried out a court practice summarization on the quality of judgments of appellate courts and the Supreme Court Department of Civil Matters prepared recommendations for the argumentation and adherence to the norms of the civil process of appellate judgments. [...] The Senate Department of Civil Matters [instance of cassation] recently turned down two judgments of the Riga Regional Court that opposed the judgments of the court of first instance. However, differing from the first instance, the appellate judgments did not present an assessment of evidence, did not have argumentation and their conclusions contradicted the actual merits of the case.”

References:

Speech of the President of the Supreme Court. Kadu tiesu varu Latvija mes velamies? [What Kind of Judiciary do We Want in Latvia?] 09.03.2007.

<http://www.at.gov.lv/fails.php?id=795>

Skujeniece, V. The Quality of Court Judgments. Centre for Public Policy Providus” (2003). <http://www.politika.lv/index.php?f=887>

100: Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

75:

50: Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

25:

0: Judges commonly issue decisions without formal explanations.

34c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

YES | NO

Comments:

Matters concerning disciplinary and administrative violations by judges of district (city) courts, Land Registry Offices, regional courts and the Supreme Court shall be examined by the Judicial Disciplinary Board.

References:

Judicial Disciplinary Liability Law. Sec.2, Clause 1.

YES: A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary.

NO: A NO score is earned if no agency or mechanism is specifically mandated to act as a disciplinary mechanism for the national-level judiciary.

34d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

YES | NO

Comments:

The composition of the Judicial Disciplinary Board reflects the principle that judiciary officials only shall review the disciplinary matters of judges.

References:

The Judicial Disciplinary Liability Law. Sec.2, Clause 2. The composition of the Judicial Disciplinary Board shall be the Chief Justice of the Supreme Court and his or her deputy, three judges of the Supreme Court, two Chief Judges of regional courts, two Chief Judges of district (city) courts and two Heads of Land Registry Offices. The members of the Judicial Disciplinary Board (with the exception of the Chief Justice of the Supreme Court) shall be elected by secret ballot for four years at a conference of judges.

YES: A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is operationally independent from political interference by the executive, legislative and judicial branches.

NO: A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an inherently subordinate organization, such as an executive ministry, legislative committee, or by an internal judiciary committee or council that can only act with the approval of judges themselves.

34e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

The Judicial Disciplinary Board reviewed 19 disciplinary matters in 2005, 17 in 2006, and eight in the first half of 2007.

References:

Web site of the Judicial Disciplinary Board
<http://www.at.gov.lv/index.php?a=23&v=lv>

Elksne, I. Varna varnai aci var ieknabt [Interview with Mr. Andris Gulans, President of the Supreme Court.] Public policy portal Politika.lv. 04.04.2006.
<http://www.politika.lv/index.php?id=9468>

100: The judicial disciplinary agency (or equivalent mechanism) aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The judicial disciplinary agency (or equivalent mechanism) is fair in its application of this power.

75:

50: The judicial disciplinary agency (or equivalent mechanism) will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The judicial disciplinary agency (or

equivalent mechanism), though limited in effectiveness, is still fair in its application of power.

25:

0: The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies' investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power.

34f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

100 | **75** | 50 | 25 | 0

Comments:

The Judicial Disciplinary Board has applied the following penalties:

In the first half of 2007: one annotation, four reprimands, one reduction of salary for one year.

In 2006: five annotations, five reprimands (including one case also sent to the Judicial Qualification Board for a decision regarding the downgrading of the qualification category of the judge), three recommendations to remove judges from office.

In 2005: two annotations, nine reprimands, one recommendation to remove a judge from office.

References:

Web site of the Judicial Disciplinary Board

<http://www.at.gov.lv/index.php?a=23&v=lv>

Elksne, I. Varna varnai aci var ieknabt [Interview with Mr. Andris Gulans, President of the Supreme Court.] Public policy portal Politika.lv. 04.04.2006.

<http://www.politika.lv/index.php?id=9468>

100: When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

35. Are there regulations governing conflicts of interest for the national-level judiciary?

86

35a. In law, members of the national-level judiciary are required to file an asset disclosure form.

YES | NO

Comments:

All members of the national-level judiciary are required to submit declarations of income and assets annually. Most of the information thus submitted is published.

References:

Law On Prevention of Conflict of Interest in Activities of Public Officials". Chapter IV, Declarations of Public Officials.
http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

YES: A YES score is earned if all members of the national-level judiciary are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any member of the national-level judiciary is not required to publicly disclose assets.

35b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

YES | NO

References:

Law On Prevention of Conflict of Interest in Activities of Public Officials". Sec. 13 and 14.
http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the national-level judiciary.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the national-level judiciary. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

35c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

YES | NO

References:

Law On Prevention of Conflict of Interest in Activities of Public Officials". Chapter V, Review of Violations and Verification of

Facts.

http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

35d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

YES | NO

Comments:

All public officials, including judges, are prohibited for two years after leaving their offices from taking employment or obtaining shares of companies in which the public officials have taken decisions on procurement for state or local government needs, allocated of state or local government resources and state or local government privatization fund resources or has performed supervision, control or punitive functions.

References:

Law On Prevention of Conflict of Interest in Activities of Public Officials”.
Sec.10. http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

YES: A YES score is earned if there are regulations restricting national-level judges ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

35e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

100 | 75 | 50 | 25 | 0

Comments:

Official sources do not present any data on the violation of regulations restricting post-government private sector employment for judges. A related problem, which has been mentioned in the media and by the president of the Supreme Court, is a practice whereby judges who have been dismissed from office for serious violation are admitted to the bar.

References:

Informativais ziņojums Par Korupcijas noversanas un apkarošanas biroja darbību no 2006. gada 1. jūlija līdz 31. decembrim” (Informative report “On the Activities of the Corruption Prevention and Combating Bureau from July 1 until Dec. 31, 2006). http://www.knab.gov.lv/uploads/pdf/KNABzino_050207.pdf

Speech of the President of the Supreme Court. “Tiesnesu un advokatu profesionāla ētika, uzvedība un atbildība.” [The Professional Ethics, Conduct and Responsibility of Judges and Lawyers].08.06.2006. <http://www.at.gov.lv/fails.php?id=567>

100: The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no or few cases of judges taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain cases, judges are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

35f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

100 | 75 | **50** | 25 | 0

References:

Kalnins, V. Korupcijas mazināšana [Restricting of Corruption]. Published in: Rozenvalds, J. (ed.) Cik demokrātiska ir Latvija. Demokratijas monitorings 2005-2007. (How Democratic is Latvia. Monitoring of Democracy 2005-2007). Zinatne, 2007. P.63.

Vai amatpersonas drikst piedalīties sīkas dzimšanas dienas svinības? [May Public Officials participate in a Posh Birthday Party?] LTV Panorama, 22.12.2005. <http://www.tvnet.lv/onlinetv/ltv1/panorama/article.php?id=158129>

100: The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to judges. Judges never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to members of the national-level judiciary are routinely ignored and unenforced. Judges routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

35g. In practice, national-level judiciary asset disclosures are audited.

100 | **75** | 50 | 25 | 0

Comments:

The State Revenue Service checks the submission and accuracy of public officials declarations. In cases of doubt about whether the expenditure of a public official is commensurate with their official income, the Corruption Prevention and Combating Bureau audits the case in cooperation with the State Revenue Service. Some 354 public officials were penalized for a failure to submit declarations in due time or because of false data in 2006 (all in all 67 461 public officials were registered as of 01.01.2007). Moreover, upon recommendation of the Corruption Prevention and Combating Bureau, the State Revenue Service carried out tax audits of 47 public officials.

No targeted audits of declarations of judges are carried out.

References:

The State Revenue Service of the Republic of Latvia. Annual Report. 2006. P.42. <http://www.vid.gov.lv/getfile.aspx?sid=1360>

Corruption Prevention and Combating Bureau. Annual Report. 2006. Pp.14-15. http://www.knab.gov.lv/uploads/pdf/publiskais_parskats_2006.pdf

100: National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: National-level judiciary asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: National-level judiciary asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

36. Can citizens access the asset disclosure records of members of the national-level judiciary?

100

36a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

YES | NO

References:

Law On Prevention of Conflict of Interest in Activities of Public Officials".
Sec.26. http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

YES: A YES score is earned if members of the national-level judiciary file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for members of the national-level judiciary. A NO score is earned if the form is filed, but not available to the public.

36b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

There are no reports or studies about access to asset disclosure records because this access is very obvious. Section 26 of the Law On Prevention of Conflict of Interest in Activities of Public Officials” provides legal grounds for public access to the publicly accessible parts of declarations of public officials.

This Web site (http://www6.vid.gov.lv/vid_pdb/vad.asp) allows any user to access the publicly accessible parts of declarations of public officials (not for officials of security agencies), including those of judges instantly.

References:

The below are not studies but references to a law and official Web site.

Law On Prevention of Conflict of Interest in Activities of Public Officials”, Sec.26. http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

Website: http://www6.vid.gov.lv/vid_pdb/vad.asp

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

36c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

There are no reports or studies about access to asset disclosure records because this access is very obvious. Section 26 of the Law On Prevention of Conflict of Interest in Activities of Public Officials” provides legal grounds for public access to the publicly accessible parts of declarations of public officials.

This Web site (http://www6.vid.gov.lv/vid_pdb/vad.asp) allows any user to access the publicly accessible parts of declarations of public officials (not for officials of security agencies), including those of judges. Access is free of charge.

References:

The below are not studies but references to a law and official Web site.

Law On Prevention of Conflict of Interest in Activities of Public Officials”, Sec.26. http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

III-4. Budget Processes

37. Can the legislature provide input to the national budget?

83

37a. In law, the legislature can amend the budget.

YES | NO

Comments:

According to the Constitution, annually, before the commencement of each financial year, the Saeima shall determine the State Revenues and Expenditures Budget, the draft of which shall be submitted to the Saeima by the Cabinet.

References:

The Constitution of Latvia. Sec.66. http://www.saeima.lv/Likumdosana_eng/likumdosana_satversme.html

Rules of Procedure of the Saeima. Ch.2. Legislative Procedure. http://www.saeima.lv/Likumdosana_eng/likumdosana_kart_rullis.html

Law On the Budget and Financial Management". Sec.22, Clause 1.

YES: A YES score is earned if the legislature has the power to add or remove items to the national government budget.

NO: A NO score is earned if the legislature can only approve but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

37b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

Comments:

Law On Budget and Financial Management”.

Sec. 9. Appropriations

(1) State budget appropriations shall be allocated in accordance with the annual State budget law.

(2) Any amendments that refer to the amount, purposes or terms of appropriations shall be made in accordance with the provisions of this Law.

Sec.13. Official Secrets (Secret Expenditures)

(1) Secret expenditures provided for prescribed national security measures shall be approved in an annual State budget law without being described.

(2) The Minister for Finance shall submit a description of secret expenditures in the State budget to a special commission of the Saeima, which shall provide a separate report on such to the Budget and Finance (Taxes) Commission prior to the approval of the State budget unless the Saeima has adopted a different decision.

References:

Interview with Ms. Ilze Kuzmina, reporter on parliamentary affairs, newspaper Latvijas Avize”, 13.08.2007, Riga.

Janova, K. Deputati ka viltus Ziemassvetku vecisi {MPs as False Santa Clauses}. Public policy portal Politika.lv, 05.01.2006. <http://www.politika.lv/index.php?id=3334>

Law “On Budget and Financial Management”.

Sec.9. Appropriations

Sec.13. Official Secrets (Secret Expenditures)

100: All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

75:

50: Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive’s personal budget, or other expenses.

25:

0: The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

37c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

Comments:

The support staff of members of Parliament is limited to one or two assistants per member and a few consultants for each of the legislative committees. Consequently, their capacity to scrutinize the budget bill is limited.

References:

Interview with Ms. Ilze Kuzmina, reporter on parliamentary affairs, newspaper Latvijas Avize", 13.08.2007, Riga.

Golubeva, M., Reinholde, I. Parvaldes strukturu efektivitate un atbildiba [The Effectiveness and Accountability of Governance Structures]. Published in: Rozenvalds, J. (ed.) Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. (How Democratic is Latvia. Monitoring of Democracy 2005-2007). Zinatne, 2007. P.52-53.

Janova, K. Deputati ka viltus Ziemassvetku vecisi [MPs as False Santa Clauses]. Public policy portal Politika.lv, 05.01.2006. <http://www.politika.lv/index.php?id=3334>

100: Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

75:

50: Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

25:

0: Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

38. Can citizens access the national budgetary process?

58

38a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | **50** | 25 | 0

Comments:

The formal budget debate and adoption takes place in public. However, observers report the great significance of informal deals on specific decisions, which are not discussed in public unless the media or other independent parties manage to raise these issues.

References:

Interview with Ms. Ilze Kuzmina, reporter on parliamentary affairs, newspaper Latvijas Avize", 13.08.2007, Riga.

Janova, K. Deputati ka viltus Ziemassvetku vecisi [MPs as False Santa Clauses]. Public policy portal Politika.lv, 05.01.2006. <http://www.politika.lv/index.php?id=3334>

100: Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

75:

50: There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

25:

0: Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

38b. In practice, citizens provide input at budget hearings.

100 | 75 | **50** | 25 | 0

Comments:

More often than not information from citizens or CSOs is listened to but hardly taken into account when actually making budget decisions.

References:

Interview with Ms. Ilze Kuzmina, reporter on parliamentary affairs, newspaper Latvijas Avize", 13.08.2007, Riga.

Janova, K. Deputati ka viltus Ziemassvetku vecisi [MPs as False Santa Clauses]. Public policy portal Politika.lv, 05.01.2006. <http://www.politika.lv/index.php?id=3334>

100: Citizens, usually acting through CSOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

75:

50: Citizens or CSOs can provide input, but this information is often not relevant to budget decisions.

25:

0: Citizens or CSOs have no formal access to provide input to the budget debate.

38c. In practice, citizens can access itemized budget allocations.

100 | **75** | 50 | 25 | 0

Comments:

Each year the legislature adopts a law on the state budget, which includes itemized budget allocations. The law with budget allocations is easily accessible online. However, some budget items provide little detail.

References:

Website with budget allocations for 2007: <http://www.fm.gov.lv/page.php?id=3106>

Interview with Ms. Ilze Kuzmina, reporter on parliamentary affairs, newspaper Latvijas Avize", 13.08.2007, Riga.

100: Citizens, journalists and CSOs can access itemized lists of budget allocations. This information is easily available and up to date.

75:

50: Citizens, journalists and CSOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

25:

0: Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

39. In law, is there a separate legislative committee which provides oversight of public funds?

100

39. In law, is there a separate legislative committee which provides oversight of public funds?

YES | NO

References:

Rules of Parliamentary Procedure. Sec.149, Clause 1, Point 12. Public Expenditure and Audit Committee.

YES: A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

NO: A NO score is earned if no such body exists within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).

40. Is the legislative committee overseeing the expenditure of public funds effective?

44

40a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

Comments:

The Public Expenditure and Audit Committee audits the Parliament's expenditures and reviews a budget account of the government twice a year, but visits by department heads are not common.

References:

Interview with Ms. Ilze Kuzmina, reporter on parliamentary affairs, newspaper Latvijas Avize", 13.08.2007, Riga.

Golubeva, M., Reinholde, I. Parvaldes strukturu efektivitate un atbildiba [The Effectiveness and Accountability of Governance Structures]. Published in: Rozenvalds, J. (ed.) Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. (How Democratic is Latvia. Monitoring of Democracy 2005-2007). Zinatne, 2007. P.53.

100: Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

75:

50: Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

25:

0: There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

40b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | 50 | 25 | 0

Comments:

The distribution of seats in the Public Expenditure and Audit Committee is overall proportionate to the distribution in the house but the influence of opposition members is limited. <http://www.delfi.lv/archive/article.php?id=18400577>

References:

Interview with Ms. Ilze Kuzmina, reporter on parliamentary affairs, newspaper Latvijas Avize", 13.08.2007, Riga.

Terzens, A. "Saeimas isais kurss" [Short Introduction to the Saeima, Interview with a Member of Parliament Ms. Ilma Cepane]. Kabinets, 07.07.2007.

Membership in the Saeima committees:

http://www.saeima.lv/deputati_eng/1komisijas.html

100: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee's work to roughly the same extent as any other member of the committee.

75:

50: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members' ability to shape the committee's activities.

25:

0: The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

40c. In practice, this committee is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

Political incentives are felt in the activities of any parliamentary committee in the Latvian legislature, including the Public Expenditure and Audit Committee. It is an often cited problem that members of Parliament excessively follow the lead of political parties.

References:

Interview with Ms. Ilze Kuzmina, reporter on parliamentary affairs, newspaper Latvijas Avize", 13.08.2007, Riga.

Golubeva, M., Reinholde, I. Parvaldes strukturu efektivitate un atbildiba [The Effectiveness and Accountability of Governance Structures]. Published in: Rozenvalds, J. (ed.) Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. (How Democratic is Latvia. Monitoring of Democracy 2005-2007). Zinatne, 2007. P.53.

100: This committee operates independently of the political process, without incentive or pressure to render favorable judgments on politically sensitive issues. Investigations are rarely praised or criticized by political figures.

75:

50: This committee is usually independent but is sometimes influenced by negative or positive political incentives. This may include public praise or criticism by the government.

25:

0: This committee is commonly influenced by personal or political forces or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties that ultimately influence the committee's behavior and decision-making. Negative incentives may include threats, harassment or other abuses of power by the government.

40d. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | 50 | 25 | 0

References:

Interview with Ms. Ilze Kuzmina, reporter on parliamentary affairs, newspaper Latvijas Avize", 13.08.2007, Riga.

Golubeva, M., Reinholde, I. Parvaldes strukturu efektivitate un atbildiba [The Effectiveness and Accountability of Governance Structures]. Published in: Rozenvalds, J. (ed.) Cik demokratiska ir Latvija. Demokratijas monitorings 2005-2007. (How Democratic is Latvia. Monitoring of Democracy 2005-2007). Zinatne, 2007. P.53.

100: When irregularities are discovered, the committee is aggressive in investigating the government.

75:

50: The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

Category IV. Administration and Civil Service

IV-1. ~~85~~ Civil Service Regulations

41. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

100

41a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

YES | NO

Comments:

The purpose of this law is to establish the legal status of the civil service, which is loyal to the legal government, professionally and politically neutral, ensuring the legal, stable, effective and transparent activity of state administration.

References:

State Civil Service Law. Sec.1

YES: A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

NO: A NO score is earned if there are no formal rules establishing an independent civil service.

41b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

YES | NO

References:

State Civil Service Law.
Sec 8. (Competitive Recruitment)
Sec 35, 36. (Performance Assessment, Qualification Categories)

State Civil Servants Disciplinary Liability Law.
Sec. 8. (Burden of Proof upon the State)

YES: A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

NO: A NO score is earned if no such regulations exist.

41c. In law, there is an independent redress mechanism for the civil service.

YES | NO

Comments:

The State Civil Service Board is the agency charged with reviewing complaints both about the activities of civil servants and from civil servants about disciplinary penalties imposed on them. The board also reviews complaints about competitions for civil service positions.

References:

The Constitution of Latvia. Sec. 92. Everyone has the right to defend their rights and lawful interests in a fair court.
http://www.saeima.lv/Likumdosana_eng/likumdosana_satversme.html

Law On the Judiciary". Sec. 1, Clause 4. Each person has the right to have court cases tried in accordance with the rules of legal procedure prescribed by law.

Administrative Procedure Law.

State Civil Servants Disciplinary Liability Law. Sec.32. Appeal of disciplinary penalties.

State Civil Service Law. Sec.4. State Civil Service Board.

YES: A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. Civil servants are able to appeal the mechanism's decisions to the judiciary.

NO: A NO score is earned if no such mechanism exists.

41d. In law, civil servants convicted of corruption are prohibited from future government employment.

YES | NO

Comments:

A person may be a candidate for a civil service position who:

[..]5) has not been convicted of deliberate criminal offenses, or has been rehabilitated, or for whom the conviction has been set aside or extinguished;

6) has not been dismissed from a civil service position by a court judgment in a criminal matter.

References:

State Civil Service Law.

Sec.7. Mandatory Requirements for Candidates

YES: A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

NO: A NO score is earned if no such rules exist.

42. Is the law governing the administration and civil service effective?

72

42a. In practice, civil servants are protected from political interference.

100 | 75 | **50** | 25 | 0

References:

Ierednu socialpsihologiskais profils un motivacija. Petijuma 1. posma zinojums [Social-psychological Profile and Motivation of Civil Servants. Report of the 1st Stage of Study]. SIA Analitisko petijumu un strategiju laboratorija". July, 2005.

P.10. http://petijumi.mk.gov.lv/ui/DocumentContent.aspx?ID=2966#_Toc108935808

Petersone, A. Vai augstakie ieredni klust politiski krasaini? [Do Higher Civil Servants Become Politically Colored?] <http://www.politika.lv/index.php?id=3331>

100: Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

75:

50: Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

25:

0: Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

42b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | **50** | 25 | 0

References:

Ierednu socialpsihologiskais profils un motivacija. Petijuma 1. posma zinojums [Social-psychological Profile and Motivation of Civil Servants. Report of the 1st Stage of Study]. SIA "Analitisko petijumu un strategiju laboratorija". July, 2005.

P.11. http://petijumi.mk.gov.lv/ui/DocumentContent.aspx?ID=2966#_Toc108935808

Ierednu socialpsihologiskais profils un motivacija. Petijuma 3. posma zinojums [Social-psychological Profile and Motivation of Civil Servants. Report of the 3rd Stage of Study]. SIA "Analitisko petijumu un strategiju laboratorija". October, 2005.

P.57,59. http://petijumi.mk.gov.lv/ui/DocumentContent.aspx?ID=2965#_Toc120423869

100: Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

42c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

100 | **75** | 50 | 25 | 0

Comments:

Recruitment to lower-level civil service positions is up to each particular public administration authority, but the possibility of political influence in recruitment to senior positions has increased since legislative amendments in 2003.

References:

Petersone, A. Augstako ierednu un to politiskas vadibas mijiedarbiba Latvija [Interaction between Higher Civil Servants and Their Political Leadership in Latvia]. Vidzeme University College, 2005. P.96. <http://www.politika.lv/index.php?f=161>

Petersone, A. Vai augstakie ieredni klust politiski krasaini? [Do Higher Civil Servants Become Politically Colored?] Public policy portal Politika.lv. 22.11.2005.

<http://www.politika.lv/index.php?id=3331>

100: Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

75:

50: Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

25:

0: Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

42d. In practice, civil servants have clear job descriptions.

100 | 75 | 50 | 25 | 0

Comments:

As a rule, civil servants have job descriptions that are sufficiently clear in establishing levels of subordination and functions. Nevertheless, their actual use (rather than just formally having) in regular managing of human resources still remains somewhat limited.

References:

Petersone, A. Augstako ierednu un to politiskas vadibas mijiedarbiba Latvija [Interaction between Higher Civil Servants and Their Political Leadership in Latvia]. Vidzeme University College, 2005. P.50. <http://www.politika.lv/index.php?f=161>

Vitisa, K. Cilvekresursu attistibas strategija un darba samaksas reforma [Strategy for Human Resources Development and Reform of Remuneration]. A speech at the conference Topical Problems of Public Administration", 10.11.2004. <http://www.politika.lv/index.php?id=3697>

100: Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable means to map positions to both human capital requirements (including the position's authority and responsibilities) and base pay.

75:

50: Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

25:

0: Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

42e. In practice, civil servant bonuses constitute only a small fraction of total pay.

Comments:

According to government regulations, the basic salary should amount to no less than 70 percent of civil servants' total pay. Nevertheless, exceptions exist. For example, in the beginning of 2007, the basic salary of the average civil servant at the Ministry of Finance amounted to only 45 percent of their total pay.

References:

Ierednu socialpsihologiskais profils un motivacija. Petijuma 3. posma zinojums [Social-psychological Profile and Motivation of Civil Servants. Report of the 3rd State of Study]. SIA Analitisko petijumu un strategiju laboratorija". October, 2005.

P.58. http://petijumi.mk.gov.lv/ui/DocumentContent.aspx?ID=2965#_Toc120423869

Libeka, M. "Piemaksas lielakas par algu" [Bonuses larger than Salary]. Newspaper "Latvijas Avize", 12.04.2007. Article about the results of the State Audit Office checks in government ministries and their salary systems.

100: Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

75:

50: Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.

25:

0: Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

42f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

Comments:

Because there have been no indications of inaccuracies in the official information about the numbers of civil service positions and vacancies, no other sources apart from the State Civil Service Board exist.

References:

The list of state agencies where the civil service has been introduced, list of the number of civil service positions and civil servants actually employed (in the general and specialized civil service) and the number of positions of employees [other than civil servants] and actually employed employees as of 30.06.2007.

www.vcp.gov.lv/data/file/06_2007_statistika_ML.pdf

100: The government publishes such a list on a regular basis.

75:

50: The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

25:

0: The government rarely or never publishes such a list, or when it does it is wholly incomplete.

42g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | 50 | 25 | 0

Comments:

Any civil servant has a procedure at his/her disposal to dispute against an unfavorable decision by a superior to a higher authority or the State Civil Service Board. The effectiveness of this procedure is supported by increasing numbers of complaints from civil servants received at the State Civil Service Board.

References:

Head of Civil Service Control Department of the State Civil Service Board, Mr. Maris Knoks. Valsts parvaldes amatpersona ka sabiedribas kalps [Public Administration Official as a Servant to the Public]. Speech at the conference Vara un tauta: tuvinasanas iespējas? [Power and People: Opportunities for Coming Together?], 10.06.2005. <http://www.politika.lv/index.php?id=3777>

Petersone, A. Augstako ierednu un to politiskas vadibas mijiedarbiba Latvija [Interaction between Higher Civil Servants and Their Political Leadership in Latvia]. Vidzeme University College, 2005. <http://www.politika.lv/index.php?f=161>

100: The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

75:

50: The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

25:

0: The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

42h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

References:

No media or other reports are known about delays in the pay of civil servants in the past year.

100: In the past year, no civil servants have been paid late.

75:

50: In the past year, some civil servants have been paid late.

25:

0: In the past year, civil servants have frequently been denied due pay.

42i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

Comments:

Section 7, Point 5 of the Civil Service Law prohibits convicted persons from applying for a position as a civil servant. Latvia has, however, received recommendations to strengthen the checking of candidates placed in senior posts in public administration.

According to The Group of States against Corruption (GRECO) evaluation, a systematic checking of the data in application forms and in particular of candidates to high-ranking positions still needs an appropriate legal basis. Therefore, the [GRECO evaluation team] recommends to provide a proper legal basis for checking data of candidates to senior posts in public administration.”

References:

Evaluation Report on Latvia. The Group of States against Corruption (GRECO), 02.07.2004.

P.13. [http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoEval2\(2004\)4_Latvia_EN.pdf](http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoEval2(2004)4_Latvia_EN.pdf)

Petersone, A. Augstako ierednu un to politiskas vadibas mijiedarbiba Latvija [Interaction between Higher Civil Servants and Their Political Leadership in Latvia]. Vidzeme University College, 2005. P.39. <http://www.politika.lv/index.php?f=161>

100: A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

43. Are there regulations addressing conflicts of interest for civil servants?

79

43a. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

YES | NO

Comments:

Civil servants are public officials and as such subject to the requirements of the law On Prevention of Conflict of Interests in the Activities of Public Officials”.

A public official is prohibited, in the performance of the duties of the public official, to prepare or issue administrative acts, perform the supervision, control, inquiry or punitive functions, enter into contracts or perform other activities in which such public officials, their relatives or counter parties are personally or financially interested.

References:

Law On Prevention of Conflict of Interests in the Activities of Public Officials”. Sec.11, Clause 1.

http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

YES: A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

NO: A NO score exists if no such requirements exist in regulation or law.

43b. In law, there are restrictions for civil servants entering the private sector after leaving the government.

YES | NO

Comments:

All public officials including civil servants are prohibited for two years after leaving their offices from taking employment or obtaining shares of companies, in which the public officials have made decisions on procurement for state or local government needs, allocated state or local government resources and state or local government privatization fund resources or has performed supervision, control or punitive functions.

References:

Law On Prevention of Conflict of Interest in Activities of Public Officials”. Sec.

10. http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

YES: A YES score is earned if there are regulations restricting civil servants’ ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

43c. In law, there are regulations governing gifts and hospitality offered to civil servants.

YES | NO

References:

Law On Prevention of Conflict of Interest in Activities of Public Officials". Sec. 13 and 14.
http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

YES: A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

NO: A NO score is earned if there are no such guidelines or regulations.

43d. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | 0

Comments:

Official published sources do not present any data on the violation of regulations restricting post-government private sector employment for civil servants. Some anecdotal evidence, however, exists of civil servants who have entered labor relations with businesses that had previously been within their area of supervision.

References:

Informativais ziņojums Par Korupcijas noversanas un apkarošanas biroja darbību no 2006. gada 1. jūlija līdz 31. decembrim" (Informative report "On the Activities of the Corruption Prevention and Combating Bureau from July 1 until Dec. 31, 2006). http://www.knab.gov.lv/uploads/pdf/KNABzino_050207.pdf

Administratīvie pārkāpumi korupcijas noversanas joma 2006.gada [Administrative Violations in the Area of Corruption Prevention]. Corruption Prevention and Combating Bureau. 28.02.2007. http://www.knab.gov.lv/uploads/pdf/KNAB_APK_2006.pdf

100: The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

43e. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | 50 | 25 | 0

References:

Kalnins, V. Korupcijas mazināšana [Restricting of Corruption]. Published in: Rozenvalds, J. (ed.) Cik demokrātiska ir Latvija. Demokratijas monitorings 2005-2007. (How Democratic is Latvia. Monitoring of Democracy 2005-2007). Zinatne, 2007. P.63.

Vai amatpersonas drikst piedalīties sikas dzimšanas dienas svinības? [May Public Officials Participate in a Posh Birthday Party?] LTV Panorama, 22.12.2005.

100: The regulations governing gifts and hospitality to civil servants are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to civil servants. Civil servants never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

43f. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | 75 | **50** | 25 | 0

Comments:

The law "On Prevention of Conflicts of Interest in the Activities of Public Officials" denotes specific instances when a public official (including civil servants) may find him/herself in a conflict of interest. However, generally the law defines a narrow range of conflict of interest situations. For example, the law does not apply to instances where a civil servant acts with regard to cousins and in-laws as these are considered too distant relatives.

The Corruption Prevention and Combating Bureau reports that situations of conflict of interest are still rather common.

References:

Cigane, L., Karklina, R. Minimizing Corruption. Published in: Rozenvalds, J. (ed.) How Democratic is Latvia. Audit of Democracy. Zinatne, 2007. Pp.125-126.
<http://www.politika.lv/index.php?f=140>

Informatīvais ziņojums Par Korupcijas novēršanas un apkarošanas biroja darbību no 2006. gada 1. jūlija līdz 31. decembrim" (Informative report "On the Activities of the Corruption Prevention and Combating Bureau from July 1 till December 31 of 2006). http://www.knab.gov.lv/uploads/pdf/KNABzino_050207.pdf

100: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

75:

50: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

25:

0: Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

44. Can citizens access the asset disclosure records of senior civil servants?

100

44a. In law, citizens can access the asset disclosure records of senior civil servants.

YES | NO

References:

Law On Prevention of Conflict of Interest in Activities of Public Officials”, Sec. 26. http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

YES: A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

NO: A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

44b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

There are no reports or studies about access to asset disclosure records because this access is very obvious. Sec.26 of the Law On Prevention of Conflict of Interest in Activities of Public Officials” provides legal grounds for public access to the publicly accessible parts of declarations of public officials.

This Web site (http://www6.vid.gov.lv/vid_pdb/vad.asp) allows any user to access the publicly accessible parts of declarations of public officials (not for officials of security agencies), including those of civil servants instantly.

References:

The below are not studies but references to a law and official website.

Law On Prevention of Conflict of Interest in Activities of Public Officials”, Sec.26. http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

Website: http://www6.vid.gov.lv/vid_pdb/vad.asp

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

44c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

There are no reports or studies about access to asset disclosure records because this access is very obvious. Sec.26 of the Law On Prevention of Conflict of Interest in Activities of Public Officials” provides legal grounds for public access to the publicly accessible parts of declarations of public officials.

This Web site (http://www6.vid.gov.lv/vid_pdb/vad.asp) allows any user to access the publicly accessible parts of declarations of public officials (not for officials of security agencies), including those of civil servants. Access is free of charge.

References:

The below are not studies but references to a law and official website.

Law On Prevention of Conflict of Interest in Activities of Public Officials”, Sec.26. http://www.knab.gov.lv/uploads/en_htm/EN_officials.htm

Website: http://www6.vid.gov.lv/vid_pdb/vad.asp

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

45. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

56

45a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | **NO**

Comments:

Latvia does not have specific rules for the protection of public officials who report cases of corruption. This was noted particularly in Evaluation Report on Latvia adopted by The Group of States against Corruption (GRECO) on 02.07.2004.

References:

No legal acts can be identified, which protect specifically public officials.
Evaluation Report on Latvia. The Group of States against Corruption (GRECO), 02.07.2004.
P.12. [http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoEval2\(2004\)4_Latvia_EN.pdf](http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoEval2(2004)4_Latvia_EN.pdf)

YES: A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for public-sector whistleblowers.

45b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | **75** | 50 | 25 | 0

Comments:

Within investigations of the Corruption Prevention and Combating Bureau, there is the possibility of protecting sources of information. Nevertheless, one case is known when an informer had to leave his job because he was identified within his agency as the person who has provided information to the investigation. The Corruption Prevention and Combating Bureau reacts also to reports in which reporters do not want to disclose their identities. Thus they are fairly protected although in some cases one cannot exclude the possibility that particular people are eventually identified.

References:

Information prepared upon request by the Corruption Prevention and Combating Bureau, Department of Public Relations and Education, 17.08.2007.

Evaluation Report on Latvia. The Group of States against Corruption (GRECO), 02.07.2004.
P.12. [http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoEval2\(2004\)4_Latvia_EN.pdf](http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoEval2(2004)4_Latvia_EN.pdf)

Compliance Report on Latvia. GRECO, 13.10.2006. Pp.6-
7. [http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoRC2\(2006\)4_Latvia_EN.pdf](http://www.coe.int/t/dg1/greco/evaluations/round2/GrecoRC2(2006)4_Latvia_EN.pdf)

100: Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

45c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

Comments:

It is prohibited to punish an employee or directly or indirectly when an employee has exercised his/her rights in a permissible manner within the framework of legal labor relations, as well as when he/she informs competent authorities or public officials about suspicion of a criminal act or administrative violation at the workplace.

References:

Labor Law. Sec.9, Clause 1. Prohibition to create disadvantageous consequences.

YES: A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for private-sector whistleblowers.

45d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | **50** | 25 | 0

Comments:

Private sector corruption is almost never dealt with publicly in Latvia. So it unknown if there are whistle-blowers in the private sector and whether they face retaliation. No protection mechanism exists apart from the statement in the Labor Law that It is prohibited to punish an employee or directly or indirectly ... when an employee has exercised his/her rights in a permissible manner within the framework of legal labor relations as well as when he/she informs competent authorities or public officials about suspicion of a criminal act or administrative violation at the workplace.”

The Corruption Prevention and Combating Bureau, which is a high profile anti-corruption agency and the only one of its type in Latvia, protects people who report to the Bureau. However, its mandate does not cover corruption in the private sector.

References:

No media reports have been identified about private sector whistleblowers, their protection or retaliation.

Voika, I. Does CPCB Meet Expectations: Performance in the First Three years. Published in: Kalnins, V. (ed.) Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2005. Second Semiannum. (2006) P.30. <http://www.politika.lv/index.php?f=947>

100: Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

46. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

100

46. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

YES | NO

Comments:

The Corruption Prevention and Combating Bureau runs a report center and has a hot line where both regular citizens and civil servants can report corruption. This can be done both by stating one's identity and anonymously.

References:

Web site of the Corruption Prevention and Combating Bureau: <http://www.knab.gov.lv/en/about/report/>

Evaluation of the Specifics of KNAB Operations and Analysis of the Situation with Corruption in Latvia. PHARE project No. 2003/004-979-01-03 Enhancing the Institutional and Professional Capacity of the Corruption Prevention and Combating Bureau". February 14, 2006. Pp.5-6. http://www.knab.gov.lv/uploads/pdf/Analysis_KNAB.pdf

YES: A YES score is earned if there is a mechanism, or multiple mechanisms for multiple national government agencies, through which civil servants can report cases of graft, misuse of public funds, or corruption.

NO: A NO score is earned if no such mechanism (or equivalent series of mechanisms) exists.

47. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

47a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

An official of the Corruption Prevention and Combating Bureau said "For instance, the Reporting Center should have four employees, but there is only one very overburdened employee."

References:

Evaluation of the Specifics of KNAB Operations and Analysis of the Situation with Corruption in Latvia. PHARE project No. 2003/004-979-01-03 Enhancing the Institutional and Professional Capacity of the Corruption Prevention and Combating Bureau". February 14, 2006. P.6. http://www.knab.gov.lv/uploads/pdf/Analysis_KNAB.pdf

Voika, I. Does CPCB Meet Expectations: Performance in the First Three years. Published in: Kalnins, V. (ed.) Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2005. Second Semiannum. (2006) P.26. <http://www.politika.lv/index.php?f=947>

100: The agency/entity has staff sufficient to fulfill its basic mandate.

75:

50: The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

25:

0: The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

47b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The Reporting Center is an integral unit of the Corruption Prevention and Combating Bureau and as such is funded from the regular budget of the Bureau.

References:

Evaluation of the Specifics of KNAB Operations and Analysis of the Situation with Corruption in Latvia. PHARE project No. 2003/004-979-01-03 Enhancing the Institutional and Professional Capacity of the Corruption Prevention and Combating Bureau". February 14, 2006. Pp.5-6. http://www.knab.gov.lv/uploads/pdf/Analysis_KNAB.pdf

Voika, I. Does CPCB Meet Expectations: Performance in the First Three years. Published in: Kalnins, V. (ed.) Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2005. Second Semiannum. (2006) P.25. <http://www.politika.lv/index.php?f=947>

100: The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

47c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Quote from an interview with an official of the Corruption Prevention and Combating Bureau: The KNAB investigates all cases that fall under its purview. Other complaints are forwarded to those institutions whose competence it is to deal with the relevant issues. We often receive anonymous reports (approximately 5 percent of these are so incomplete that there is no point of reference, and then nothing more can be done). If the information is sufficient, then the KNAB immediately begins an investigation of the relevant case.”

Source: Evaluation of the Specifics of KNAB Operations and Analysis of the Situation with Corruption in Latvia. PHARE project No. 2003/004-979-01-03 “Enhancing the Institutional and Professional Capacity of the Corruption Prevention and Combating Bureau”. February 14, 2006. Pp.6-7. http://www.knab.gov.lv/uploads/pdf/Analysis_KNAB.pdf

References:

Evaluation of the Specifics of KNAB (Corruption Prevention and Combating Bureau) Operations and Analysis of the Situation with Corruption in Latvia. PHARE project No. 2003/004-979-01-03 Enhancing the Institutional and Professional Capacity of the Corruption Prevention and Combating Bureau”. February 14, 2006. Pp.6-7.

http://www.knab.gov.lv/uploads/pdf/Analysis_KNAB.pdf

Voika, I. Does CPCB Meet Expectations: Performance in the First Three years. Published in: Kalnins, V. (ed.) Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2005. Second Semiannum. (2006)

<http://www.politika.lv/index.php?f=947>

100: The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

47d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

Comments:

Quote from an interview with an official of the Corruption Prevention and Combating Bureau (KNAB): The KNAB investigates all cases which fall under its purview. Other complaints are forwarded to those institutions whose competence it is to deal with the relevant issues. [...] If the information is sufficient, then the KNAB immediately begins an investigation of the relevant case.” Source: Evaluation of the Specifics of KNAB Operations and Analysis of the Situation with Corruption in Latvia. PHARE project No. 2003/004-979-01-03 “Enhancing the Institutional and Professional Capacity of the Corruption Prevention and Combating Bureau”. February 14, 2006. Pp.6-7. http://www.knab.gov.lv/uploads/pdf/Analysis_KNAB.pdf

References:

Evaluation of the Specifics of KNAB (Corruption Prevention and Combating Bureau) Operations and Analysis of the Situation with Corruption in Latvia. PHARE project No. 2003/004-979-01-03 Enhancing the Institutional and Professional Capacity of the Corruption Prevention and Combating Bureau”. February 14, 2006. Pp.6-7. http://www.knab.gov.lv/uploads/pdf/Analysis_KNAB.pdf

Voika, I. Does CPCB Meet Expectations: Performance in the First Three years. Published in: Kalnins, V. (ed.) Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2005. Second Semiannum. (2006) <http://www.politika.lv/index.php?f=947>

100: When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies’ investigations.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

81
IV-3. Procurement

48. Is the public procurement process effective?

85

48a. In law, there are regulations addressing conflicts of interest for public procurement officials.

YES | NO

Comments:

Members and experts of a procurement commission may not represent the interests of a candidate or bidder, nor may they be related to a candidate or bidder. The law further specifies what it means to be related. The mentioned persons are also requested to sign a declaration confirming that no circumstances exist that would subject their impartiality to doubt.

Moreover members of a procurement commission are also subject to restrictions of the law On the Prevention of Conflict of Interest in the Activities of Public Officials.”

References:

Public Procurement Law. Sec.23., Clause 1.

The law On the Prevention of Conflict of Interest in the Activities of Public Officials”. Sec.4, Clause 1, Point 24.

YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

NO: A NO score is earned if no such rules exist.

48b. In law, there is mandatory professional training for public procurement officials.

YES | NO

Comments:

The Public Procurement Law includes the following provisions with regard to training for public procurements officials and their skills:

Sec.22. Formation of procurement commission:

(2) When forming a procurement commission, it shall be ensured that this commission is competent in the procurement area in which a contract is to be concluded. A procurement commission, in the execution of its duties, has the right to invite experts.

According to Sec. 81, Point 6 of the law, the Bureau for Procurement Supervision has a function to provide methodological assistance and consultations, as well as trainings for contracting entities, vendors of goods, lessors, constructors and providers of services.

While one could interpret these rules as potentially falling short of requiring mandatory professional training for public procurement officials, the spirit is one of promoting a professional and specialized cadre of procurement officers.

References:

Public Procurement Law, Sec. 22, Clause 2, Sec. 81, Point 6.

YES: A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process.

NO: A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, unrelated to procurement processes, or voluntary.

48c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | **50** | 25 | 0

Comments:

Latvia has adopted a new Public Procurement Law since the publication of the book Fighting Corruption and Promoting Integrity in Public Procurement” by the Organization for Economic Co-Operation and Development (OECD). However, the control of conflict of interests for public officials (including procurement officials) remains, by and large, the same as it is regulated by another law: “On Prevention of Conflict of Interest in the Activities of Public Officials”.

References:

Fighting Corruption and Promoting Integrity in Public Procurement. Organization for Economic Co-Operation and Development (OECD), 2005. P.186.

Cigane, L., Karklina, R. Minimizing Corruption. Published in: Rozenvalds, J. (ed.) How Democratic is Latvia. Audit of Democracy. Zinatne, 2007. Pp.125-126.

<http://www.politika.lv/index.php?f=140>

Informativais ziņojums Par Korupcijas novēršanas un apkarošanas biroja darbību no 2006. gada 1. jūlija līdz 31. decembrim” (Informative report “On the Activities of the Corruption Prevention and Combating Bureau from July 1 until Dec. 31, 2006). http://www.knab.gov.lv/uploads/pdf/KNABzino_050207.pdf

100: Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

75:

50: Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

25:

0: Conflict of interest regulations do not exist, or are consistently ineffective.

48d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

YES | NO

Comments:

Members of a procurement commission are subject to restrictions of the law On the Prevention of Conflict of Interest in the Activities of Public Officials.” This law provides a system whereby the assets, incomes and spending habits of public officials are monitored.

References:

The law On the Prevention of Conflict of Interest in the Activities of Public Officials”. Sec.4, Clause 1, Point 24., Chapter IV, Declarations of Public Officials.

YES: A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

NO: A NO score is earned if no such mandate exists.

48e. In law, major procurements require competitive bidding.

YES | NO

Comments:

The general rule is that competitive bidding is mandatory for procurement of supplies above approximately US\$95,000 and construction works above approximately US\$229,000.

References:

The Public Procurement Law.
Sec.8. Types of procurement methods and their application. Clause 3.

YES: A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

NO: A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

48f. In law, strict formal requirements limit the extent of sole sourcing.

YES | NO

Comments:

The Public Procurement Law that not provide for a sole sourcing method. However, there is a negotiation procedure, which allows the participation of suppliers that have been selected and invited by the contractor. This procedure is allowed if the value of procurement exceeds approximately US\$19,000 and one of the conditions stipulated in the law has been fulfilled: no suitable supplier applied for competitive bidding, the character of the supply is such that does not allow for sufficiently concrete specifications, or extraordinary circumstances necessitate an urgent procurement with no time for holding competitive bidding.

References:

The Public Procurement Law. Sec.8. Types of procurement methods and their application. Clause 5.

YES: A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

NO: A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

48g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

YES | NO

References:

The Public Procurement Law. Sec.83. The right to submit an application about the violations of procurement procedure.

YES: A YES score is earned if there is a formal appeal process for unsuccessful bidders.

NO: A NO score is earned if no such process exists.

48h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

YES | NO

Comments:

Section 85 of the Public Procurement Law provides the right to appeal in court decisions made by the commission of the Procurement Supervision Bureau, which is the designated administrative body to review complaints about public procurement.

References:

The Public Procurement Law. Sec.85. Appeal of decisions of the commission.

YES: A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

NO: A NO score is earned if no such process exists.

48i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

YES | NO

Comments:

According to the law, the contractor shall exclude a candidate or bidder from further participation in procurement procedure and shall not review a bidder's proposal if, in a court of law, such candidate or bidder has been found guilty of participation in a criminal organization, corruption, financial fraud or money laundering.

References:

The Public Procurement Law. Sec.39, Clause 1, Point 1.

YES: A YES score is earned if there are formal procurement blacklists, preventing convicted companies from doing business with the government.

NO: A NO score is earned if no such process exists.

48j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | 25 | 0

Comments:

The Latvian procurement system has no blacklisting procedure. Moreover, because only a few individuals have been prosecuted for corrupt activities in public procurement, no systemic practice has developed in dealing with these individuals applying for public procurement contracts repeatedly. As for violations, which would fall under administrative penalties, no agency is in charge of imposing these penalties. Consequently, there is no ground for setting up a register or list of penalized suppliers.

References:

Cina pret korupciju faktos: 2006. gada otrais pusgads. [Combating Corruption. Facts: the Second Six Months of 2006] Published in: Korupcijas °C. Paskats par korupciju un pretkorupcijas politiku Latvija. 2006. gada otrais pusgads. [Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2006. Second Semiannum]. Pp. 10, 11. <http://www.politika.lv/index.php?f=1108>

Combating Corruption. Facts: the First Six Months of 2006. Published in: Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2006. First Semiannum. P.11. <http://www.politika.lv/index.php?f=1063>

Combating Corruption. Facts: the Second Six Months of 2005. Published in: Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2005. Second Semiannum. P.11. <http://www.politika.lv/index.php?f=947>

Opinion of Corruption Prevention and Combating Bureau on the draft law Public Procurement Law". (Reg. No.1422) (Doc. No.4928, 4928A) P.3.

100: A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

49. Can citizens access the public procurement process?

92

49a. In law, citizens can access public procurement regulations.

YES | NO

Comments:

According to the law, if the contractor fails to ensure free and direct electronic access to procurement procedure documents and all additional necessary documents, the contractor shall send them to all interested suppliers within three days after the receipt of a request for these documents, provided the request has been sent in sufficient time before the deadline of submitting offers. However, the contractor shall ensure a possibility for interested suppliers to acquaint themselves with procurement procedure documents on the spot, starting with the moment of announcing the procurement procedure.

References:

Public Procurement Law. Sec.30. Handing out of Procurement Procedure Documents.

YES: A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

NO: A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

49b. In law, the government is required to publicly announce the results of procurement decisions.

YES | NO

Comments:

According to the law, the contractor shall send a notice about the results of a procurement for publication no later than 48 days after a decision to award a contract or general agreement.

References:

The Public Procurement Law. Sec. 27, Clause 1.

YES: A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

49c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

As a rule, procurement regulations are available immediately upon request, but in many cases a visit may be necessary to the

procuring agency in whatever location of the country it is situated. Because of the decentralized access to procurement regulations, peculiarities in the practice and culture of various agencies may impact the easiness/difficulty of access.

References:

Database of procurement announcements and terms of access to public procurement regulations: http://www.iub.gov.lv/iub/ads_all/?cat=862

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information. These records are defined here as the rules governing the competitive procurement process.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

49d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

As a rule, procurement regulations are free of charge. However, in many cases a visit may be necessary to the procuring agency in whatever location of the country it is situated.

References:

Database of procurement announcements and terms of access to public procurement regulations: http://www.iub.gov.lv/iub/ads_all/?cat=862

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line. These records are defined here as the rules governing the competitive procurement process.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

49e. In practice, major public procurements are effectively advertised.

Comments:

Public procurements in value, which exceed approx. US\$19,000 (10,000 lats), are advertised on the Web site of the Procurement Supervision Bureau. In 2006 14,233 procurements were announced on the Web site of the Procurement Supervision Bureau.

References:

Searchable database of public (state and local government) procurement advertisements: http://www.iub.gov.lv/iub/ads_all/?cat=862

Parskats par iepirkumu uzraudzibas biroja darbu 2006.gada (Vadibas zinojums) [Report on the Activities of the Procurement Supervision Bureau in 2006. Management Report]

P.3. http://www.iub.gov.lv/iub/images/modules/items/item_file_1715_vadibas%20zinojums_2006_garais.doc

100: There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

75:

50: There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising major public procurements or the process is superficial and ineffective.

49f. In practice, citizens can access the results of major public procurement bids.

Comments:

A procurement contract may be awarded no earlier than on the 11th day after the publication of the procurement results on the Internet.

References:

The database of announcements of awarded public procurement results (state and local government): <http://www.iub.gov.lv/iub/2nd/?cat=877>

Public Procurement Law. Sec.67, Clause 4.

100: Records of public procurement results are publicly available through a formal process.

75:

50: Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

25:

0: This information is not available to the public through an official process.

IV-4. Privatization

50. Is the privatization process effective?

83

50a. In law, all businesses are eligible to compete for privatized state assets.

YES | NO

Comments:

According to the law, a person or a legal entity eligible to purchase movable or immovable property in Latvia, can be a privatization applicant.

References:

Law On Privatization of State and Municipal Asset Units". Sec.4. Privatization applicant.Clause 1.

YES: A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

NO: A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

50b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

YES | NO

References:

Law On Privatization of State and Municipal Asset Units". Sec.10. Restrictions to the Latvian Privatization Agency employee rights and the liability. Clause 1-2.

YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil

servants, including privatization officials.

NO: A NO score is earned if there are no such formal regulations.

50c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | **50** | 25 | 0

Comments:

The law "On Prevention of Conflicts of Interest in the Activities of Public Officials" denotes specific instances when a public official (including privatization officials) may find him/herself in a conflict of interest. However, generally the law defines a narrow range of conflict of interest situations. For example, the law does not apply to instances in which a civil servant acts with regard to cousins and in-laws as these are considered too distant relatives.

References:

Cigane, L., Karklina, R. Minimizing Corruption. Published in: Rozenvalds, J. (ed.) How Democratic is Latvia. Audit of Democracy. Zinatne, 2007. Pp.125-126.

<http://www.politika.lv/index.php?f=140>

Informativais ziņojums Par Korupcijas novēršanas un apkarošanas biroja darbību no 2006. gada 1. jūlija līdz 31. decembrim" (Informative report "On the Activities of the Corruption Prevention and Combating Bureau from July 1 until Dec. 31, 2006). http://www.knab.gov.lv/uploads/pdf/KNABzino_050207.pdf

100: Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

75:

50: Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

25:

0: Conflict of interest regulations do not exist, or are consistently ineffective.

51. Can citizens access the terms and conditions of privatization bids?

85

51a. In law, citizens can access privatization regulations.

YES | NO

Comments:

According to the law:

Clause 1. No later than one week after the privatization regulations for a state asset unit have been approved, the Latvian Privatization Agency shall:

- 1) publish announcement regarding the approval of the privatization regulations in the official newspaper "Latvijas Vestnesis" and the newspaper of the region or town where the state asset unit in privatization is located;
- 2) mail the approved privatization regulations for a state asset unit in a registered letter to those privatization applicants who have filed their privatization proposals within the term stated by the Latvian Privatization Agency, as well as to employees' trade union of the state asset unit in privatization, but if there is no such employees' trade union in the state asset unit in privatization, – then to the employees of the asset unit in privatization.

Clause 2. In the announcement on the approval of the privatization regulations for the state asset unit and the letter to privatization applicant, the Latvian Privatization Agency shall state the deadline for filing the statement of intent to privatize the respective asset unit in compliance with the approved privatization regulations for the state asset unit.

Clause 3. The privatization applicant shall have the rights to examine the approved privatization regulations for the state asset unit and file, pursuant to the procedure stipulated by the Latvian Privatization Agency, a statement of intent to privatize the asset unit in compliance with these regulations.

References:

Law On Privatization of State and Municipal Asset Units". Sec.24. Information on approved privatization regulations for state asset unit. Clause 1-3.

YES: A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

NO: A NO score is earned if privatization rules are officially secret for any reason or if there are no privatization rules.

51b. In practice, privatizations are effectively advertised.

100 | 75 | **50** | 25 | 0

Comments:

As a rule, privatizations are advertised. However, for example, the State Audit Office reports exceptions where loopholes are found to avoid sufficient transparency. There are also indications that not all state-owned property is properly registered. This leads to a risk of hidden and illegal privatization.

References:

The State Audit Office, Department of Privatization Audits. Activity Report (Including the Review of Irregularities in the Privatization of Residential Apartments), 2003. <http://www.lrvk.gov.lv/index.php?id=2109>

Vaivars, A. Sudraba: haosa apstaklos daziem ir komfortablaka sajuta [Sudraba: Some Have It More Comfortable in the Conditions of Chaos, Interview with the Auditor General Ms. Inguna Sudraba]. Newspaper "Dienas Bizness", 05.07.2007.

100: There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

75:

50: There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising privatizations or the process is superficial and ineffective.

51c. In law, the government is required to publicly announce the results of privatization decisions.

YES | NO

Comments:

According to the law:

Clause 1. No later than one month after the purchase agreement for a state asset unit comes into effect, the Latvian Privatization Agency shall publish information on the new owner and the privatization terms of the asset unit in the official newspaper "Latvijas Vestnesis" and in the newspaper of the region or town where the privatized unit is located.

References:

Law On Privatization of State and Municipal Asset Units". Sec.30. Announcement on completion of state asset unit privatization. Clause 1.

YES: A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

51d. In practice, citizens can access privatization regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The privatization process is regulated in legal acts that are published and available both in print and online.

References:

Web site of the Privatization Agency of Latvia, list of property to be privatized: <http://www.lpa.bkc.lv/lpa/lpa.php?ID=3>

100: Records (defined here as the rules governing the competitive privatization process) are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

51e. In practice, citizens can access privatization regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The privatization process is regulated in legal acts that are published and available both in print and online free of charge.

References:

Web site of the Privatization Agency of Latvia, list of property to be privatized: <http://www.lpa.bkc.lv/lpa/lpa.php?ID=3>

100: Records (defined here as the rules governing the competitive privatization process) are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

Category V. Oversight and Regulation

V-1. ~~80~~ National Ombudsman

52. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

52. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

YES | NO

Comments:

Tiesibsargs" is the title of this official, which means literally "the protector of rights" and is usually translated as the Ombudsman.

References:

The Ombudsman (Tiesibsargs) Law.

YES: A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

NO: A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

53. Is the national ombudsman effective?

70

53a. In law, the ombudsman is protected from political interference.

YES | NO

Comments:

According to the law:

Clause 1. In its activities, the Ombudsman is independent and subject only to the law. No one has the right to influence the Ombudsman in the execution of its functions and tasks.

Clause 2. The office of the Ombudsman is incompatible with belonging to political parties.

References:

The Ombudsman Law. Sec.4. The independence and inviolability of the Ombudsman. Clause 1-2.

YES: A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

53b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

The National Human Rights Bureau (former equivalent of the Ombudsman Office) was generally not subject to direct political pressures. However, the Bureau appeared cautious in taking up politically sensitive matters in a high profile manner.

Romans Apsitis, newly elected Ombudsman and former judge of the Constitutional Court, said: Well, I have not felt that during these years NHRB [National Human Rights Bureau] achieved [...] its independence. Therefore, I think that the Ombudsman Office must strengthen this.”

References:

Tiesībsargs nesola drīzu revolūciju [The Ombudsman does not Promise Early Revolution. Interview with the Ombudsman Mr.Romans Apsitis]. Newspaper Latvijas Vestnesis”, 06.03.2007. http://lv.lv/index.php?menu_body=DOC&id=153943 (for authorized users)

Araja, D. Ar sirdi, bez aizmugures [“From the Heart, with no Backing”, interview with the Director of the National Human Rights Bureau]. Public policy portal Politika.lv 31.05.2005. <http://www.politika.lv/index.php?id=7938>

100: This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information. .

75:

50: This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

53c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | **75** | 50 | 25 | 0

Comments:

According to the law: The Ombudsmans powers shall terminate in the following cases:

- 1) due to the release of the Ombudsman from the office;
- 2) due to the termination of the powers of the Ombudsman;
- 3) if the Ombudsman has been convicted of committing a criminal offense and the judgment has come into legal effect; or
- 4) due to the death of the Ombudsman.

Latvia established the Ombudsman Office in January 2007. The Ombudsman was appointed and the issue of his removal has never been raised. Before then the functional equivalent of the Ombudsman Office was the State Human Rights Office. The head of the Human Rights Office was elected in 1997 and served for two full consecutive terms. The actual level of protections is, however, hard to assess because the the head of this office has never found himself in sharp political controversies.

References:

Ombudsman Law. Sec.9. Termination of the Ombudsmans Powers

Araja, D. Ar sirdi, bez aizmugures [From the Heart, with no Backing”, interview with the Director of the National Human Rights Bureau]. Public policy portal Politika.lv 31.05.2005. <http://www.politika.lv/index.php?id=7938>

100: The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

53d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | **75** | 50 | 25 | 0

Comments:

According to the temporary Web site of the Ombudsman Office the number of staff was 38 as of July 2007.

References:

The temporary Web site of the Ombudsman Office: <http://www.vcb.lv/index.php>

Tiesībsargs nesola drīzu revolūciju [The Ombudsman does not Promise Early Revolution. Interview with the Ombudsman Mr.Romans Apsītis]. Newspaper Latvijas Vestnesis", 06.03.2007. http://lv.lv/index.php?menu_body=DOC&id=153943 (for authorized users)

100: The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

53e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | **75** | 50 | 25 | 0

Comments:

Romans Apsītis who was elected as the first Ombudsman in Latvia in March 2007 is generally regarded as a reputable and independent lawyer with no conflicts of interest and of high professional capabilities. Before he was a judge of the Constitutional Court. Doubts were, however, cast upon the hasty and non-transparent political shuffles (nomination of another, poorly suited, candidate) preceding the nomination and election of Apsītis.

References:

Ko sagaidam no pirma tiesībsarga [What Do We Expect from the First Ombudsman. Opinions about the newly elected Ombudsman Mr.Romans Apsītis]. Newspaper Latvijas Vestnesis", 06.03.2007.

Head of Civil and Political Rights Department of the National Human Rights Bureau, Ms. Kovalevska, A. Tiesibsargs. Vai Latvija bus efektiva ombuda institucija (Will Latvia Have an Effective Ombudsman Institution]. Newspaper "Latvijas Vestnesis", 02.01.2007. http://lv.lv/index.php?menu_body=DOC&id=150835 (for authorized users)

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

53f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The Ombudsman Office has predictable funding ensured from the state budget. The state budget allocation for the Ombudsman Office is approximately US\$2,481,000 (1,300,164 lats). Nevertheless, the level of this funding is not permanently earmarked for the future and, like almost any budget allocation, may over the years be influenced by political considerations.

Romans Apsitis, the newly elected Ombudsman and former judge of the Constitutional Court, said: The office has been allocated a decent amount – 1.3 million lats – and salaries may be regarded as good."

References:

Law On the State Budget for Year 2007". Appendix No.4. P.8. <http://www.fm.gov.lv/budzets/2007/p4.pdf>

Tiesibsargs nesola drizu revoluciju [The Ombudsman does not Promise Early Revolution. Interview with the Ombudsman Mr.Romans Apsitis]. Newspaper "Latvijas Vestnesis", 06.03.2007. http://lv.lv/index.php?menu_body=DOC&id=153943 (for authorized users)

Head of Civil and Political Rights Department of the National Human Rights Bureau, Kovalevska, A. Tiesibsargs. Vai Latvija bus efektiva ombuda institucija (Will Latvia Have an Effective Ombudsman Institution]. Newspaper "Latvijas Vestnesis", 02.01.2007. http://lv.lv/index.php?menu_body=DOC&id=150835 (for authorized users)

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

53g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

Comments:

The National Human Rights Bureau, which was the predecessor of the Ombudsman Office made substantial reports every quarter of the year. They included a substantial review of the types of complaints received, opinions of the Bureau, applications to the Constitutional Court filed by the Bureau, etc. However, the transformation of the Bureau into the Ombudsman Office (January 2007) has temporarily suspended the publication of the reports. The latest report covers the third quarter of 2006.

References:

Part of the Web site of the State Human Rights Bureau (functional equivalent of the Ombudsman until December 2006) where reports are published: <http://www.vcb.lv/index.php?open=info&it=publikacijas>

Araja, D. Ar sirdi, bez aizmugures [From the Heart, with no Backing", interview with the Director of the National Human Rights Bureau]. Public policy portal Politika.lv 31.05.2005. <http://www.politika.lv/index.php?id=7938>

100: The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

53h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

During the first six months of 2007, the Ombudsman has issued 24 opinions (nine to parliamentary committees, six to ministries, five to the Constitutional Court). Examples are opinions on the draft Patient Rights Law, draft amendments to the law On Meetings, Demonstrations and Pickets" and amendments to the Criminal Law. The National Human Rights Office, which preceded the Ombudsman Office (established in 2007), occasionally experienced difficulties in obtaining necessary information from public agencies. The experience of the Ombudsman office has not been publicized in this regard, yet.

The National Human Rights Bureau, which was the predecessor of the Ombudsman Office, has been reproached for excessive caution in taking up politically sensitive human rights issues, for example, some racially motivated assaults.

References:

Head of Information and Communication Department of the Ombudsman Office, Smiltnieks, A. Ar ko bijis nodarbinats tiesībsargs [What the Ombudsman Has Been Engaged In]. Newspaper Latvijas Vestnesis", 31.07.2007. http://lv.lv/index.php?menu_body=DOC&id=161059 (for authorized users)

Head of Civil and Political Rights Department of the National Human Rights Bureau, Kovalevska, A. Tiesibsargs. Vai Latvija bus efektiva ombuda institucija (Will Latvia Have an Effective Ombudsman Institution]. Newspaper "Latvijas Vestnesis", 02.01.2007. http://lv.lv/index.php?menu_body=DOC&id=150835 (for authorized users)

Araja, D. Ar sirdi, bez aizmugures ["From the Heart, with no Backing", interview with the Director of the National Human Rights Bureau]. Public policy portal Politika.lv 31.05.2005. <http://www.politika.lv/index.php?id=7938>

100: The agency aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The agency is fair in its application of this power.

75:

50: The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

53i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | **25** | 0

Comments:

In the performance of the functions and tasks specified by this Law, the Ombudsman has the right:

- 1) to request and receive free of charge from an institution the documents necessary for a verification procedure (administrative acts, procedural decisions, letters), explanations and other information;
- 2) to visit institutions in order to obtain the information necessary for a verification procedure;
- 3) at any time and without a special permit to visit closed-type institutions, to move freely within the territory of the institutions, to visit all premises and to meet in private the persons held in closed-type institutions;
- 4) to hear the opinion of a child without the presence of his or her parents, guardians, employees of educational or child care and instructional institutions, if the child so wishes;
- 5) to invite any private individual to submit documents, provide explanations and other information regarding the issues of fundamental importance in a verification procedure;
- 6) to initiate a verification procedure on his or her own initiative;
- 7) to request and receive opinions of specialists in a verification procedure;
- 8) to submit an application regarding the initiation of proceedings in the Constitutional Court if an institution that has issued the disputable act has not rectified the established deficiencies within the time limit specified by the Ombudsman;
- 9) upon termination of a verification procedure and establishment of a violation, to defend the rights and interests of a private individual in court, if that is necessary in the public interest;
- 10) upon termination of a verification procedure and establishment of a violation, to apply to a court in such civil cases, where the nature of the action is related to a violation of the prohibition of differential treatment; and
- 11) on the basis of the materials at his or her disposal, to consult other competent institutions in order to decide the issue regarding the initiation of proceedings.

According to the law the Ombudsman has no powers to impose penalties on offenders. Consequently, no questions arise whether in practice penalties could be imposed.

Still the Ombudsman can recommend the imposition of disciplinary liability upon public officials (this has been done in a number of cases in 2007) and apply to the court in the interest of an individual if the case represents general importance to the society (no instances of such applications have taken place as of mid-September 2007).

References:

The Ombudsman Law. Sec.13. Rights of the Ombudsman

Interview with Ms. Liga Biksiniece, Head of Department at the Ombudsman office, 18.09.2007, Riga.

100: When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

53j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

100 | 75 | **50** | 25 | 0

Comments:

Martins Mits, professor at Riga Graduate School of Law and human rights expert, said: The National Human Rights Bureau [predecessor of the Ombudsman Office] has operated within its possibilities but it did not succeed in making state institutions take its recommendations sufficiently into consideration.” The actual role of the Ombudsman Office, which was established in January 2007 (the Ombudsman himself was elected as late as in March 2007), cannot be fully assessed, yet.

References:

Ko sagaidam no pirma tiesibsarga [What Do We Expect from the First Ombudsman], Newspaper Latvijas Vestnesis”, 06.03.2007. http://lv.lv/index.php?menu_body=DOC&id=153944 (for authorised users)

Araja, D. Ar sirdi, bez aizmugures [“From the Heart, with no Backing”, interview with the Director of the National Human Rights Bureau]. Public policy portal Politika.lv 31.05.2005. <http://www.politika.lv/index.php?id=7938>

100: Ombudsman’s reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, ombudsman’s reports are acted on, though some exceptions may occur for politicalally sensitive issues, or particularly resistant agencies.

25:

0: Ombudsman reports are often ignored, or given superficial attention. Ombudsman reports do not lead to policy changes.

53k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | **75** | 50 | 25 | 0

Comments:

The National Human Rights Office, which preceded the Ombudsman Office (established in 2007), occasionally had difficulties in timely review of complaints because it could not receive information from other public agencies. Otherwise there are no reports of delays in the review of complaints.

References:

Head of Civil and Political Rights Department of the National Human Rights Bureau, Kovalevska, A. Tiesībsargs. Vai Latvija bus efektīva ombuda institūcija (Will Latvia Have an Effective Ombudsman Institution]. Newspaper Latvijas Vestnesis", 02.01.2007. http://lv.lv/index.php?menu_body=DOC&id=150835 (for authorized users)

Valsts cilvēktiesību biroja 2005. gada ziņojums [Report of the National Human Rights Bureau 2005]. Chapter: VCB saņemto sudzību analīze un Latvijas tiesību normu analīze [Analysis of Complaints Received by the NHRB and Analysis of the Legal Norms of Latvia]. Pp.6-7. <http://www.politika.lv/index.php?f=991>

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

54. Can citizens access the reports of the ombudsman?

92

54a. In law, citizens can access reports of the ombudsman(s).

YES | NO

Comments:

According to the law:

(1) The ombudsman once a year shall provide the Saeima and the president with a written report regarding the activities of the Ombudsman Office.

(2) The ombudsman has the right to provide the Saeima, its commissions, the president, the Cabinet, the state administrative institutions and international organizations with reports with respect to specific issues.

The Ombudsman Law does not address the issue of the accessibility of its reports. Consequently, according to Latvian legislation, such reports are to be accessible by default.

References:

The Ombudsman Law. Sec.15. Reports of the Ombudsman

Part of the website of the Human Rights Bureau (functional equivalent of the Ombudsman until December 2006) where reports are published: <http://www.vcb.lv/index.php?open=info&it=publikacijas>

YES: A YES score is earned if all ombudsman reports are publicly available.

NO: A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

54b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Reports are instantly available online. However, since the Ombudsman Office replaced the Human Rights Bureau in January 2007, the Web site has not been reorganized and new publications have ceased.

References:

Part of the Web site of the Human Rights Bureau (functional equivalent of the Ombudsman until January 2007) where reports are published: <http://www.vcb.lv/index.php?open=info&it=publikacijas>

100: Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

54c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Reports are available on-line at no cost. However, since the Ombudsman Office replaced the Human Rights Bureau in January 2007, the Web site has not been reorganized and new publications have ceased.

References:

Part of the Web site of the Human Rights Bureau (functional equivalent of the Ombudsman until December 2006) where reports are published: <http://www.vcb.lv/index.php?open=info&it=publikacijas>

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

V-2. Supreme Audit Institution

55. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

55. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

YES | NO

References:

The Constitution of Latvia. Chapter VII. The State Audit Office. http://www.saeima.lv/Likumdosana_eng/likumdosana_satversme.html

YES: A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

NO: A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

56. Is the supreme audit institution effective?

84

56a. In law, the supreme audit institution is protected from political interference.

YES | NO

Comments:

According to the law:

Sec.1

(1) The State Audit Office is an independent, collegial, supreme audit institution in the Republic of Latvia.

(2) The State Audit Office shall be subject only to law.

Sec.29.

(1) The Auditor General prior to the term specified in ... this law, as well as members of the Council of the State Audit Office prior to the term specified in ... this law shall be removed from office by the Saeima only on the basis of a court judgment in a criminal matter.

References:

State Audit Office Law. Sec.1. and Sec. 29

YES: A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

56b. In practice, the head of the audit agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

Since the renewal of the State Audit Office in 1993, no Auditor General has been removed from office other than upon the expiration of their term. Because no such removal has been either attempted or carried through, no data exist to assess the practical functioning of the legal protection provided in section 88 of the Constitution [Auditors General shall be appointed to their office and confirmed pursuant to the same procedures as judges, but only for a fixed period of time, during which they may be removed from office only by a judgment of the Court].

References:

No reports exist on either attempted or executed removal of the Auditor General.

100: The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the agency can be removed at the will of political leadership.

56c. In practice, the audit agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Since her appointment in December 2004, the Auditor General Inguna Sudraba carried through a major personnel reform at the State Audit Office. In particular she introduced a payment system for auditors, which allows the State Audit Office to compete with employers in the private sector. However, certain shortages in personnel certainly remain.

References:

Arklina, I. Prom no socialas majas” [Away from the Social Establishment]. Newspaper “Diena”, 01.11.2005. Article on the personnel reform initiated by the then recently elected Auditor General Inguna Sudraba.

Annual Report – 2006. Legal Basis, Rights of the State Audit Office, and Structure and Personnel of the State Audit Office. <http://www.lrvk.gov.lv/index.php?id=2267>

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

56d. In practice, audit agency appointments support the independence of the agency.

100 | 75 | 50 | 25 | 0

Comments:

Appointments to the State Audit Office are largely politically neutral. The neutrality was strengthened in 2005 when the then recently-appointed Auditor General reformed recruitment criteria and the Parliament abolished the requirement that each department head within the State Audit Office had to be approved by the Saeima. However, members of the Council of the State Audit Office are still appointed by the Parliament upon recommendation of the Auditor General.

References:

Degis, A. Jaspej rast uzticibu sabiedribas acis [One Has to be Able to gain Public Confidence, opinion of the Auditor General Ms. Inguna Sudraba]. Newspaper Latvijas Vestnesis”, 21.06.2005. http://lv.lv/index.php?menu_body=DOC&id=110937 (for authorized users)

Benfelde, S. Liela problema ir kompetence un atbildiba [Competence and Responsibility are the Major Problem, Interview with the Auditor General, Ms. Inguna Sudraba]. Magazine “Nedela”, 01.09.2006. <http://www.tvnet.lv/zinas/intervijas/article.php?id=307357>

100: Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political

party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

56e. In practice, the audit agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

In 2007 the budget funding for the State Audit Office amounts to approx. US\$9,194,000 (4,817,860 lats).

References:

Law On the State Budget for Year 2007". Appendix No.4. P.112. <http://www.fm.gov.lv/budzets/2007/p4.pdf>

Annual Report – 2006. Appendix 1. Budget of the State Audit Office. <http://www.lrvk.gov.lv/index.php?id=2258>

Degis, A. Jaspej rast uzticibu sabiedribas acis [One Has to be Able to gain Public Confidence, opinion of the Auditor General Ms. Inguna Sudraba]. Newspaper "Latvijas Vestnesis", 21.06.2005. http://lv.lv/index.php?menu_body=DOC&id=110937 (for authorized users)

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

56f. In practice, the audit agency makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

The State Audit Office regularly publishes audit reports, as well as reports to the Parliament and Cabinet of Ministers. Nevertheless, parliamentary debates of these accounts tend to be formal with little scrutiny.

References:

Results of audits on the Web site of the State Audit Office: <http://www.lrvk.gov.lv/index.php?id=570>

Interview with Ilze Kuzmina, reporter on parliamentary affairs, newspaper "Latvijas Avīze", 13.08.2007, Riga.

100: The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

25:

0: The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

56g. In practice, the government acts on the findings of the audit agency.

100 | 75 | **50** | 25 | 0

References:

Vaivars, A. Sudraba: haosa apstākļos dāzēm ir komfortablāka sajūta [Sudraba: Some Have It More Comfortable in the Conditions of Chaos, Interview with the Auditor General Inguna Sudraba]. Newspaper "Dienas Bizness", 05.07.2007.

Benfelde, S. Liela problēma ir kompetence un atbildība [Competence and Responsibility are the Major Problem, Interview with the Auditor General, Inguna Sudraba]. Magazine "Nedēļa", 01.09.2006. <http://www.tvnet.lv/zinas/intervijas/article.php?id=307357>

Golubeva, M., Reinholde, I. Parvaldes struktūru efektivitāte un atbildība [The Effectiveness and Accountability of Governance Structures]. Published in: Rozenvālds, J. (ed.) Cik demokrātiska ir Latvija. Demokrātijas monitorings 2005-2007. (How Democratic is Latvia. Monitoring of Democracy 2005-2007). Zinatne, 2007. P.53.

100: Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

56h. In practice, the audit agency is able to initiate its own investigations.

Comments:

Auditor General Inguna Sudraba said, The law states that the State Audit Office shall have an approved plan of audits. There is a set procedure for the drafting of this plan. First, priorities are determined, directions where audits shall be carried out next year. Certainly auditors follow topical issues in the society but first of all they follow information that they have about authorities within their area of responsibility. ... According to the law, we inform about our plans to the Saeima Public Expenditure and Audit Committee, which is our immediate partner in the Parliament. Of course we take into account the opinion of MPs about areas where audits may be necessary. MPs forward to us complaints from individuals. But we will never carry out an audit to check some individual case, about which there has been a complaint. We will definitely check if we see a problem in the system. It is important that our resources shall not be wasted for solving tiny problems."

References:

Bez politiska spiediena [Without Political Pressure. Interview with Auditor General Inguna Sudraba]. E-Vestnesis. http://lv.lv/index.php?menu_left=TEMA&menu_body=TEMA&menu_top=EV&action=1&id=142067

Degis, A. Jaspej rast uzticibu sabiedribas acis [One Has to be Able to gain Public Confidence, opinion of the Auditor General Ms. Inguna Sudraba]. Newspaper Latvijas Vestnesis", 21.06.2005. http://lv.lv/index.php?menu_body=DOC&id=110937 (for authorized users)

100: The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

75:

50: The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

25:

0: The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

57. Can citizens access reports of the supreme audit institution?

100

57a. In law, citizens can access reports of the audit agency.

YES | NO

Comments:

According to the law:

(1) The State Audit Office shall disclose the opinion of a completed audit after the coming into force of such opinion

References:

State Audit Office Law. Sec.58.

YES: A YES score is earned if all supreme auditor reports are available to the general public.

NO: A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

57b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Audit reports are available online, i.e. usually instantly.

References:

The State Audit Office. Audit Results: <http://www.lrvk.gov.lv/index.php?id=570>

100: Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

57c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Audit reports are available online free of charge.

References:

The State Audit Office. Audit Results: <http://www.lrvk.gov.lv/index.php?id=570>

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

95
V-3. Taxes and Customs

58. In law, is there a national tax collection agency?

100

58. In law, is there a national tax collection agency?

YES | NO

References:

Law On State Revenue Service.”

YES: A YES score is earned if there is a national agency formally mandated to collect taxes.

NO: A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

59. Is the tax collection agency effective?

100

59a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

In 2006 the State Revenue Service had 3,351 staff members for the collection of taxes, which is slightly fewer than planned (3,714).

References:

The State Revenue Service of the Republic of Latvia. Annual Report. 2006. P.7. <http://www.vid.gov.lv/getfile.aspx?sid=1360>

Valsts ienemumu dienesta Personāla vadības un attīstības stratēģija 2006.2011.gadam (Strategy for the Personnel Management and Development in the State Revenue Service for Years 2006-2011). Approved on 07.09.2006.

<http://www.vid.gov.lv/getfile.aspx?sid=1240>

Appendices: <http://www.vid.gov.lv/getfile.aspx?sid=1241>

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

59b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Budget funding for the tax administrations is approximately US\$96,264,000 (50,442,741 lats) in 2007.

References:

Law On the State Budget for Year 2007". Appendix No.4. Pp.26,27. <http://www.fm.gov.lv/budzets/2007/p4.pdf>

The State Revenue Service of the Republic of Latvia. Annual Report. 2006. Budget Information.

Pp.51,52. <http://www.vid.gov.lv/getfile.aspx?sid=1360>

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

60. In practice, are tax laws enforced uniformly and without discrimination?

60. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

Comments:

In January 2005, in a national survey some 13 percent admitted that they used friendship relations or unofficial payments in their relationship with the State Revenue Service (answers from those only who had business with the State Revenue Service were taken into account).

References:

Anderson J.H., Gray C.W. Anticorruption in Transition 3. Who Is Succeeding... and Why? 2006. Chapter Taxation". P.46-48. <http://siteresources.worldbank.org/INTECA/Resources/ACT3.pdf>

Pieredze saskarsme ar korupcijas problemam. Latvijas iedzivotaju aptauja (Experience in Facing Corruption Problems. Latvian Population Survey). SKDS (2005). http://www.knab.gov.lv/uploads/pdf/iedzivotaju_pieredze_2005.pdf

100: Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

75:

50: Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

25:

0: Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

61. In law, is there a national customs and excise agency?

100

61. In law, is there a national customs and excise agency?

YES | NO

Comments:

The customs agency is a unit within the State Revenue Service.

References:

Law On State Revenue Service."

YES: A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

NO: A NO score is earned if that function is spread over several agencies, or does not exist.

62. Is the customs and excise agency effective?

100

62a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

In 2006 the State Revenue Service had 1,410 staff members for customs operations, which is slightly fewer than planned (1,560).

References:

The State Revenue Service of the Republic of Latvia. Annual Report. 2006. P.7. <http://www.vid.gov.lv/getfile.aspx?sid=1360>

Valsts ienemumu dienesta Personāla vadības un attīstības stratēģija 2006.2011.gadam (Strategy for the Personnel Management and Development in the State Revenue Service for Years 2006-2011). Approved on 07.09.2006. <http://www.vid.gov.lv/getfile.aspx?sid=1240>

Appendices: <http://www.vid.gov.lv/getfile.aspx?sid=1241>

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

62b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

Budget funding for the tax administrations is approximately US\$69,237,000 (36,280,290 lats) in 2007.

References:

Law On the State Budget for Year 2007." Appendix No.4. P.27. <http://www.fm.gov.lv/budzets/2007/p4.pdf>

The State Revenue Service of the Republic of Latvia. Annual Report. 2006. Budget Information. Pp.51,52. <http://www.vid.gov.lv/getfile.aspx?sid=1360>

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

63. In practice, are customs and excise laws enforced uniformly and without discrimination?

50

63. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | **50** | 25 | 0

Comments:

In January 2005, in a national survey some 38 percent admitted that they used friendship relations or unofficial payments in their relationship with the customs (answers from those only who had business with the customs taken into account).

References:

Anderson J.H., Gray C.W. Anticorruption in Transition 3. Who Is Succeeding... and Why? 2006. Chapter Taxation". P.50-52. <http://siteresources.worldbank.org/INTECA/Resources/ACT3.pdf>

Pieredze saskarsme ar korupcijas problemam. Latvijas iedzivotaju aptauja (Experience in Facing Corruption Problems. Latvian Population Survey). SKDS (2005). http://www.knab.gov.lv/uploads/pdf/iedzivotaju_pieredze_2005.pdf

100: Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

75:

50: Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

25:

0: Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

64. In law, is there an agency or equivalent mechanism overseeing state-owned companies?

0

64. In law, is there an agency or equivalent mechanism overseeing state-owned companies?

YES | **NO**

Comments:

State-owned companies are formally established by an order of the Cabinet of Ministers. Then the Cabinet of Ministers designates a public institution to be the holder of state capital shares. It could be any of the ministries or other public institutions. Although the law "On State and Local Government Capital Shares and Companies" does provide some rights and duties of such holders of state capital shares, there is no single agency or elaborate mechanism for overseeing such companies.

References:

Law "On State and Local Government Capital Shares and Companies". Chapter B. Holder of capital shares and a representative of capital share holder.

YES: A YES score is earned if there is an agency or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. State-owned companies are defined as companies owned in whole or in part by the government.

NO: A NO score is earned if this function does not exist.

65. Is the agency or equivalent mechanism overseeing state-owned companies effective?

45

65a. In law, the agency or equivalent mechanism overseeing state-owned companies is protected from political interference.

YES | **NO**

Comments:

It is explicitly stated in the law that the Cabinet of Ministers designates public institutions to oversee state-owned companies. These institutions are commonly ministries.

References:

Law "On State and Local Government Capital Shares and Companies". Chapter B. Holder of capital shares and a representative of capital share holder.

YES: A YES score is earned only if the agency or equivalent mechanism has some formal operational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency or equivalent mechanism is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

65b. In practice, the agency or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The Cabinet of Ministers designates public institutions to oversee state-owned companies. These institutions are commonly ministries and ministries always have professional, full-time staff, although whether or not that staff is fully sufficient varies from ministry to ministry. An often-cited problem is the close links between public officials who oversee state-owned companies and political parties. The officials are often very highly paid but are expected to donate a share of the payment to political parties.

References:

Statistical data on civil service in Latvia as of 30.06.2007. Data by the Civil Service Board of Latvia. http://www.vcp.gov.lv/data/file/06_2007_statistika_ML.pdf

Karpovics, A., Stafecka, L. Partiju ienakumu analize: Valsts un pasvaldibu uzņemumu padomju un valzu parstavju ziedojumi. Starpzinojums [Analysis of Parties Revenue: Donations by Members of Councils and Boards of State and Local Government Companies]. Sabiedriba par atklatibu – Delna (2006).
<http://www.politika.lv/index.php?f=990>

100: The agency or equivalent mechanism has staff sufficient to fulfill its basic mandate.

75:

50: The agency or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

65c. In practice, the agency or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The Cabinet of Ministers designates public institutions to oversee state-owned companies. These institutions are commonly ministries and ministries receive guaranteed regular funding from the state budget. To be sure, the relative increase or decrease in the total funding available to any single ministry may vary according to political considerations.

References:

Law On the State Budget for Year 2007.”
<http://www.fm.gov.lv/page.php?id=3106>

Karpovics, A., Stafecka, L. Partiju ienakumu analize: Valsts un pasvaldibu uzņemumu padomju un valzu parstavju ziedojumi. Starpzinojums [Analysis of Parties Revenue: Donations by Members of Councils and Boards of State and Local Government

100: The the agency or equivalent mechanism has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The the agency or equivalent mechanism has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

65d. In practice, when necessary, the agency or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | **50** | 25 | 0

Comments:

Because there is no single agency or mechanism (other than the council and board of each company) for overseeing state-owned companies, it understandably cannot initiate investigations.

However, ministries that oversee state-owned companies – through designated officials – appoint and supervise council and board members of the companies. Important decisions require the consent of the council or shareholders, i.e. the ministry. A problem exists with regard to personalities appointed to company posts. They are often representatives of the political party of the minister, which is a detriment to impartial supervision.

Moreover, council and board members of state-owned companies are public officials and as such are required to submit asset declarations and subject to investigations of the Corruption Prevention and Combating Bureau should suspicions of violations occur.

References:

Law On State and Local Government Capital Shares and Companies”

Law “On Prevention of Conflict of Interest in Activities of Public Officials”. Sec.4, Clause 1, Point 17. [Public officials].

Written comment sent by Viktors Sadiņovs, teacher at the Faculty of Law, University of Latvia; former senior official of the Latvian Privatization Agency; co-author of a number of legislative bills in the field of company management.

100: When irregularities are discovered, the agency or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

75:

50: The agency or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

65e. In practice, when necessary, the agency or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | **50** | 25 | 0

Comments:

Because there is no single agency or mechanism (other than the council and board of each company) for overseeing state-owned companies, it understandably cannot impose penalties on offenders.

However, council and board members of state-owned companies are public officials. As such they are required to submit asset declarations. They are subject to administrative penalties imposed by the Corruption Prevention and Combating Bureau. Company officials may also be held responsible to cover losses caused by their action.

The penalty system functions effectively. However, a problem exists with regard to personalities appointed to company posts. They are often representatives of the political party of the respective minister, which is a detriment to impartial supervision.

References:

Law On State and Local Government Capital Shares and Companies”

Law “On Prevention of Conflict of Interest in Activities of Public Officials”. Sec.4, Clause 1, Point 17. [Public officials].

Written comment sent by Viktors Sadinovs, teacher at the Faculty of Law, University of Latvia; former senior official of the Latvian Privatization Agency; co-author of a number of legislative bills in the field of company management.

100: When rules violations are discovered, the agency or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

75:

50: The agency or equivalent mechanism enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency or equivalent mechanism does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

66. Can citizens access the financial records of state-owned companies?

85

66a. In law, citizens can access the financial records of state-owned companies.

YES | NO

Comments:

State-owned companies operate according to the law On State and Local Government Capital Shares and Companies.” This law

does not stipulate any special disclosure requirements. In matters other than those regulated by the above laws, state-owned companies operate according to private law. According to the law “On the Annual Accounts of Undertakings” all companies depending on the volume of activity shall either publish their annual accounts or they shall be available from the State Enterprise Register upon payment of a state fee. Special disclosure requirements may apply where a business enterprise is entrusted with the implementation of public policy.

References:

Law On State and Local Government Capital Shares and Companies”
Law “On the Annual Accounts of Undertakings”. Sec.66, Clause 4 and 5.

YES: A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

NO: A NO score is earned if any category of state-owned company is exempt from this rule, or no such rules exist.

66b. In practice, the financial records of state-owned companies are regularly updated.

100 | 75 | 50 | 25 | 0

Comments:

Reports on delayed annual reports do not mention any larger state-owned companies. With some exceptions, the annual reports of state-owned companies are accurate and up to date.

A problem has been mentioned in the media that state-owned companies that were transformed into state agencies became subject to a lower standard of financial transparency.

References:

Vaivars, A. Sudraba: haosa apstaklos daziem ir komfortablaka sajuta [Sudraba: Some Have It More Comfortable in the Conditions of Chaos, Interview with the Auditor General Inguna Sudraba]. Newspaper Dienas Bizness”, 05.07.2007.

Sauka, E. Ministriju un valsts iestazu gada parskatos VK saskata nepilnibas [The State Audit Office Sees Deficiencies in the Annual Reports of Ministries and State Institutions]. Newspaper “Diena”, 23.05.2006.

Ercmane, E. Kave valsts agenturu kontroli [Control Over State Agencies Hindered]. Newspaper “Diena”, 22.07.2005.

Ercmane, E. Gada parskati klust gudraki [Annual Reports Become Smarter]. Newspaper “Diena”, 24.01.2005.

100: State-owned companies always disclose financial data, which is generally accurate and up to date.

75:

50: State-owned companies disclose financial data, but it is flawed. Some companies may misstate financial data, or file the information behind schedule.

25:

0: Financial data is not available, or is consistently superficial or otherwise of no value.

66c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

100 | 75 | 50 | 25 | 0

Comments:

All companies whose indicators exceed certain criteria are audited by a sworn auditor commercial company. Thus exceptions apply only to small companies. Nevertheless, according to the Auditor General, the quality of the annual reports of state-owned entities do not always give the correct view of the situation.

References:

Vaivars, A. Sudraba: haosa apstaklos daziem ir komfortablaka sajuta [Sudraba: Some Have It More Comfortable in the Conditions of Chaos, Interview with the Auditor General Inguna Sudraba]. Newspaper Dienas Bizness", 05.07.2007.

Ercmane, E. Gada parskati klust gudraki [Annual reports Become Smarter]. Newspaper "Diena", 24.01.2005.

On the Annual Accounts of Companies. Sec.62, Clause 1.

100: Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

75:

50: Financial records of state-owned companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

25:

0: State-owned companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

66d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

No later than seven months after the end of the accounting year, companies must submit a copy of the audited annual accounts and of the report of the sworn auditor (if such exists) to the State Revenue Service and to the State Enterprise Register. The accounts of larger companies are published in the official bulletin and as such are freely available. All annual accounts are available instantly online.

References:

Web site where annual accounts are available: www.lursoft.lv

Law On the Annual Accounts of Companies". Sec.66.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

66e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

The cost of a scanned electronic page of an annual account is approximately US\$0.38 (0.20 lats), which is higher than the cost of a photocopy in the market at large.

References:

Price list of the company Lursoft, which runs an electronic data base of information from the State Enterprise Register: <http://www.lursoft.lv/?a=34>

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

43
V-5. Business Licensing and Regulation

67. Are business licenses available to all citizens?

94

67a. In law, anyone may apply for a business license.

YES | NO

References:

Commerce Law.

YES: A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

NO: A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required

67b. In law, a complaint mechanism exists if a business license request is denied.

YES | NO

Comments:

According to the law:

Decisions and action by a state notary of the Enterprise Register can be disputed in the order prescribed by law, by submitting an application to the Chief State Notary of the Enterprise Register.

A decision and action of the Chief State Notary of the Enterprise Register can be appealed in a court in the order prescribed by law.

References:

Law On the Enterprise Register of the Republic of Latvia". Sec.19. Review of Disputes.

YES: A YES score is earned if there is a formal process for appealing a rejected license.

NO: A NO score is earned if no such mechanism exists.

67c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

According to the law:

An official of a commercial register authority shall adopt a decision on making an entry in the commercial register, refusal or postponement of making an entry within three days (excluding public holidays and festivities) from the day of the receipt of an application.

The statutory limit for the registration of a business entity is three days. Officials of the Enterprise Register confirm over the telephone that this this term is observed also in the practice.

References:

Web site of the Enterprise Register of the Republic of Latvia.

<http://www.ur.gov.lv/?t=3&a=3&v=lv#2>

Commerce Law. Sec.10, Clause 3.

100: Licenses are not required, or licenses can be obtained within roughly one week.

75:

50: Licensing is required and takes around one month. Some groups may be delayed up to a three months

25:

0: Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

67d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | **75** | 50 | 25 | 0

Comments:

The registration of a company requires visiting the State Enterprise Register. The registration fees are approx. US\$480 (250 lats) for a joint-stock company and approx. US\$190 (100 lats) for a limited company. In addition, the registration of a company requires a publication in the state official bulletin, which costs approx. US\$45 (24 lats). Officials of the Enterprise Register confirmed over the telephone the above amounts. They do not represent a real financial burden on business but are still more than irrelevant.

In the popular perception, the Enterprise Register enjoys the reputation of rather high integrity. In January 2005 on a scale from one (very honest) to five (very dishonest), this agency received a rating of 2.7, which made the ninth most honest among 36 institutions. Therefore, the official payment figures can be viewed as rather trustworthy.

References:

The State Enterprise Register. Procedure of Registering New Subjects. <http://www.ur.gov.lv/index.php?t=3&a=109&v=eng>

Attieksme pret korupciju Latvija. Latvijas iedzivotaju aptauja [Attitude Toward Corruption in Latvia. Population Survey]. SKDS (2005). <http://www.politika.lv/index.php?f=251>

100: Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

68. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

68a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

YES | NO

Comments:

Business regulatory requirements for meeting public health standards are available online at the Web site of the State Sanitary Inspectorate. Health standards in the area of food circulation are available online at the Web site of the Food and Veterinary Service.

References:

The Web site of the State Sanitary Inspectorate, legal acts: <http://www.vsi.gov.lv/?sadala=4>
The Web site of the Food and Veterinary Service, legal acts: <http://www.pvd.gov.lv/?sadala=95>

YES: A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

68b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

YES | NO

Comments:

Business and other regulatory requirements for meeting public environmental standards are available online at the Web site of the State Environmental Service.

References:

The Web site of the State Environmental Service, legal acts: <http://www.vvd.gov.lv/liikumi.php>

YES: A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

68c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

YES | NO

Comments:

Regulatory requirements for meeting labor and fire safety standards are available online at the Web sites of the State Labor Inspectorate and State Fire and Rescue Service.

References:

The Web site of the State Labor Inspectorate, legal acts: http://www.vdi.gov.lv/index.php?menu_id=6&lang_id=1

The Web site of the State Fire and Rescue Service, legal acts:

<http://www2.112.lv/content/blogsection/6/39/>

YES: A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

69. Does government effectively enforce basic health, environmental, and safety standards on businesses?

67

69a. In practice, business inspections by government officials to ensure public health standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

Comments:

There are sufficiently clear criteria and requirements, but the capacity of inspecting agencies is rather low. This results in limited enforcement in some areas. There are no reports of convicted corrupt officials from agencies that ensure the implementation of health standards.

References:

Interview with Elina Egle, Director General of the Employers Confederation of Latvia, 17.08.2007, Riga.

Kalnins, V. Korupcijas apkarošanas bilance – iztiesasana no 2004. līdz 2006. gadam [The Bottom Line of Combating Corruption – Adjudication from 2004 till 2006]. Published in: Korupcijas °C. Paskats par korupciju un pretkorupcijas politiku Latvija. 2006. gada otrais pusgads. [Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2006. Second Semiannum]. Pp. 19-22. <http://www.politika.lv/index.php?f=1108>

100: Business inspections by the government to ensure that public health standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public health standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

69b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | **50** | 25 | 0

Comments:

Criteria in the area of environmental standards are not sufficiently clear. Inspecting agencies do not always know what is to be checked and, without knowing fully the exact requirements, dubious situations are said to occur at times.

The head of the State Environmental Service was convicted of corruption in 2004.

References:

Interview with Elina Egle, Director General of the Employers Confederation of Latvia, 17.08.2007, Riga.

Kalnins, V. Korupcijas apkarošanas bilance – iztiesasana no 2004. līdz 2006. gadam [The Bottom Line of Combating Corruption – Adjudication from 2004 till 2006]. Published in: Korupcijas °C. Parskats par korupciju un pretkorupcijas politiku Latvija. 2006. gada otrais pusgads. [Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2006. Second Semiannum]. Pp. 19-22. <http://www.politika.lv/index.php?f=1108>

100: Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public environmental standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

69c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

Comments:

In the area of labor safety, there are strict requirements but the enforcement is sufficiently balanced. No extortion takes place. Inspecting agencies have rather low capacity, which at times lead to limited enforcement. Official penalties are perhaps even too mild in some instances.

In the area of fire safety, four officials of the State Fire and Rescue Service were convicted for corruption in 2006.

References:

Interview with Elina Egle, Director General of the Employers Confederation of Latvia, 17.08.2007, Riga.

Kalnins, V. Korupcijas apkarošanas bilance – iztiesasana no 2004. līdz 2006. gadam [The Bottom Line of Combating Corruption – Adjudication from 2004 till 2006]. Published in: Korupcijas °C. Pārskats par korupciju un pretkorupcijas politiku Latvija. 2006. gada otrais pusgads. [Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2006. Second Semiannum]. Pp. 19-22. <http://www.politika.lv/index.php?f=1108>

Olins, V. Divkarsojies darba inspekcijas sodito skaits [The Number of Penalties by the Labor Inspectorate Double]. Newspaper "Dienas Bizness", 25.07.2007. <http://www.db.lv/Default2.aspx?ArticleID=4f273b70-5d0b-4fd3-9564-fbbf77a2f853>

100: Business inspections by the government to ensure that public safety standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public safety standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

Category VI. Anti-Corruption and Rule of Law

VI-1. ⁸⁵Anti-Corruption Law

70. Is there legislation criminalizing corruption?

100

70a. In law, attempted corruption is illegal.

YES | NO

Comments:

Section 15 of the Criminal Law establishes conditions of criminal liability for attempted crimes, including corruption crimes.

References:

Criminal Law. Sec.15. http://www.knab.gov.lv/uploads/pdf/EN_Criminal_Law.pdf

YES: A YES score is earned if corruption laws include attempted acts.

NO: A NO score is earned if this is not illegal.

70b. In law, extortion is illegal.

YES | NO

References:

Criminal Law. Sec.320, Clause 1 and 3.
http://www.knab.gov.lv/uploads/pdf/EN_Criminal_Law.pdf

YES: A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

NO: A NO score is earned if this is not illegal.

70c. In law, offering a bribe (i.e. active corruption) is illegal.

YES | NO

References:

Criminal Law, Sec.323.
http://www.knab.gov.lv/uploads/pdf/EN_Criminal_Law.pdf

YES: A YES score is earned if offering a bribe is illegal.

NO: A NO score is earned if this is not illegal.

70d. In law, receiving a bribe (i.e. passive corruption) is illegal.

YES | NO

References:

Criminal Law. Sec.320.

http://www.knab.gov.lv/uploads/pdf/EN_Criminal_Law.pdf

YES: A YES score is earned if receiving a bribe is illegal.

NO: A NO score is earned if this is not illegal.

70e. In law, bribing a foreign official is illegal.

YES | NO

References:

Criminal Law. Sec. 316, 323.

http://www.knab.gov.lv/uploads/pdf/EN_Criminal_Law.pdf

YES: A YES score is earned if bribing a foreign official is illegal.

NO: A NO score is earned if this is not illegal.

70f. In law, using public resources for private gain is illegal.

YES | NO

Comments:

According to the law On Prevention of Conflict of Interests in the Activities of Public Officials:"

Public officials may handle state or local government property, including financial means, in the order stipulated by law, regulations of the Cabinet of Ministers, and binding regulations of local government councils.

Using public resources for private gain, if done by a public official, is effectively criminalized with Section 318 of the Criminal Law (Using Official Position in Bad Faith).

References:

Law On Prevention of Conflict of Interests in the Activities of Public Officials”. Sec.18, Clause 1.

Criminal Law. Sec.318. http://www.knab.gov.lv/uploads/pdf/EN_Criminal_Law.pdf

YES: A YES score is earned if using public resources for private gain is illegal.

NO: A NO score is earned if this is not illegal.

70g. In law, using confidential state information for private gain is illegal.

YES | NO

References:

Criminal Law. Sec. 94, 317, 318, 329, 330.

http://www.knab.gov.lv/uploads/pdf/EN_Criminal_Law.pdf

YES: A YES score is earned if using confidential state information for private gain is illegal.

NO: A NO score is earned if this is not illegal.

70h. In law, money laundering is illegal.

YES | NO

References:

Criminal Law. Sec.195.

http://www.knab.gov.lv/uploads/pdf/EN_Criminal_Law.pdf

YES: A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

NO: A NO score is earned if this is not illegal.

70i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

YES | NO

References:

Criminal Law.

Sec.20. Joint Participation.

Sec.21. Organized Groups.

Sec.48. Aggravating circumstances.

http://www.knab.gov.lv/uploads/pdf/EN_Criminal_Law.pdf

YES: A YES score is earned if organized crime is illegal.

NO: A NO score is earned if this is not illegal.

VI-2. Anti-Corruption Agency

71. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

71. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

YES | NO

Comments:

Latvia has a specialized anti-corruption agency – Corruption Prevention and Combating Bureau. Its mandate includes prevention of corruption, investigation of corruption and the education of the broader public and public officials.

References:

Corruption Prevention and Combating Bureau Law.

YES: A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

NO: A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

72. Is the anti-corruption agency effective?

72a. In law, the anti-corruption agency (or agencies) is protected from political interference.

YES | NO

Comments:

The Corruption Prevention and Combating Bureau is an institution of the state administration under the supervision of the Cabinet of Ministers. According to section 7, clause 5 of State Administration Structure Law, supervision means the power of a higher authority to check the legality of a lower-ranking agency or public official and cancel an illegal decision, as well as making a decision of an illegal failure to act. This status effectively limits opportunities to interfere in the regular legal activities of the Bureau.

Moreover, the Corruption Prevention and Combating Bureau Law provides rather strong protection for the dismissal of the head of the Bureau. In case of suspicion that the head of the Bureau is inappropriate for office, a commission is set up, which is headed by the Prosecutor General or a public prosecutor specially authorized by the Prosecutor General. If the commission finds that the person is inappropriate for the office, the Parliament may dismiss him or her based upon the recommendation of the Cabinet of Ministers. Thus an agreement of three branches of state is required for the dismissal of this public official.

References:

Corruption Prevention and Combating Bureau Law. Sec.2. (Status of the Bureau). Sec. 4. Clause 1. (Head of the Bureau). Sec. 5. Clause 7. (Officials of the Bureau, their appointment and dismissal). .

State Administration Structure Law. Sec. 7, Clause 5.

YES: A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

72b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

The Corruption Prevention and Combating Bureau has been largely free from hard governmental interference in its investigations or other activities. However, the prime minister and a few other members of government, as well as members of Parliament, often criticize the Bureau for alleged disrespect to the rights of suspected persons and leaking investigation data to the media. Interpretations vary but a common view is that these reproaches are motivated first of all by the politicians' dislike of the growing effectiveness of the Bureau.

In 2006 Prime Minister Aigars Kalvitis also initiated two disciplinary actions against the head of the Bureau. One of these actions resulted in a disciplinary penalty, which was later appealed.

References:

Kalnins, V. (ed.) Corruption C. Report on Corruption and Anti-corruption Policy in Latvia. 2006. First Semiannum 2006. P.7. <http://www.politika.lv/index.php?f=1063>

100: This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information. .

75:

50: This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

72c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

Since the establishment of the Corruption Prevention and Combating Bureau, no head of the Bureau has ever been removed. Therefore, there are limited possibilities to assess how the legally provided guarantees would work if there were a situation with governing political parties trying to remove this official.

The Corruption Prevention and Combating Bureau Law provides rather strong protection for the dismissal of the head of the Bureau. In case of the suspicion that the head of the Bureau is inappropriate for the office, a commission is set up. The commission is headed by the Prosecutor General or a public prosecutor specially authorized by the prosecutor general. If the commission finds that the person is inappropriate for the office, the Parliament may dismiss him or her based upon the proposal of the Cabinet of Ministers. Thus an agreement of three branches of government is required, which in principle should qualify as a due process where dismissal would be possible only with significant justification.

Because, in practice, this procedure has never been tried, there is little ground for worry. However, because the reason of dismissal – inappropriateness – is rather vague and existing protection is effective only when different branches of authority balance each other, under hypothetical conditions the procedure could be abused.

References:

Corruption Prevention and Combating Bureau Law. Sec. 4. Clause 1. (Head of the Bureau). Sec. 5. Clause 7. (Officials of the Bureau, their appointment and dismissal).

100: The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director(s) can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director(s) can be removed at the will of political leadership.

72d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

Initially, when the Corruption Prevention and Combating Bureau started its operations in 2002/2003, most employees were recruited based on individual invitations from the management. Gradually the Bureau has expanded recruitment through open competitions, which strengthen merit-based selection. However, due to the special character of investigative functions, hiring in open competitions is still not the common method applied.

References:

Frequently asked questions about the Corruption Prevention and Combating Bureau. <http://www.knab.gov.lv/uploads/htm/FAQ1.htm>

Voika, I. Does CPCB Meet Expectations: Performance in the First Three Years. Published in: Kalnins, V. (ed.) Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2005. Second Semiannum. (2006) P.26. <http://www.politika.lv/index.php?f=947>

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

72e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

As of end 2006, the Bureau had 133 employees (112 public officials and 21 other employees) and 17 vacancies. Sixty eight of the Bureau's employees had education in law.

References:

Korupcijas noversanas un apkarošanas birojs, publiskais pārskats, 2006 (Corruption Prevention and Combating Bureau, Annual Report, 2006). Pp.54-55. (http://www.knab.gov.lv/uploads/pdf/publiskais_parskats_2006.pdf).

Voika, I. Does CPCB Meet Expectations: Performance in the First Three years. Published in: Kalnins, V. (ed.) Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2005. Second Semiannum. (2006) P.26. <http://www.politika.lv/index.php?f=947>

100: The agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

72f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The Bureau receives stable funding from the state budget and it does not appear to be affected by political considerations in any significant way. The overall actually used funding of the Bureau for the year 2006 was approximately US\$6,040,000 (3,165,776 lats). This was an increase over 2005 by 31percent. The planned budgetary funding for 2007 is approximately US\$6,650,000 (3,487,747lats).

References:

Korupcijas noversanas un apkarošanas birojs, publiskais pārskats, 2006 (Corruption Prevention and Combating Bureau, Annual Report, 2006). Pp.54-55. http://www.knab.gov.lv/uploads/pdf/publiskais_parskats_2006.pdf

Law On State Budget for Year 2007", appendix No. 4.
<http://www.fm.gov.lv/budzets/2007/p4.pdf>

Voika, I. Does CPCB Meet Expectations: Performance in the First Three Years. Published in: Kalnins, V. (ed.) Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2005. Second Semiannum. (2006) P.25.
<http://www.politika.lv/index.php?f=947>

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

72g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

The law obliges the Bureau to report to the Cabinet of Ministers and Saeima (Parliament) at least once every six months. These reports provide full statistics on the activities of the Bureau in the areas of controlling conflicts of interest of public officials, controlling the finances of political parties and investigating crimes of corruption.

References:

Public reports of the Corruption Prevention and Combating Bureau (annual).

Reports to the Cabinet of Ministers and Saeima (Parliament) on the activities of the Corruption Prevention and Combating Bureau.

Informative reports about the implementation of the Corruption Prevention and Combating State Program for 2004-2008.

All available at: <http://www.knab.gov.lv/publication/reviews/>

100: The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

72h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

References:

Voika, I. Does CPCB Meet Expectations: Performance in the First Three Years. Published in: Kalnins, V. (ed.) Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2005. Second Semiannum. (2006) P.25.
<http://www.politika.lv/index.php?f=947>

Snipe, A. KNAB: sis suns tikai rej uz partijam, vai ari koz? [CPCB: Does This Dog Only Bark at Parties or Bite as Well?] Public policy portal Politika.lv, 23.11.2004.
<http://www.politika.lv/index.php?id=4280>

Vilks, A. Dazas kludas Artas Snipes pamac+ba kost [A Few Mistakes in the Advice to Bite by Arta Snipe]. Public policy portal Politika.lv, 30.11.2004.
<http://www.politika.lv/index.php?id=4281>

100: The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

75:

50: The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

25:

0: The agency (or agencies) lacks significant powers which limit its effectiveness.

72i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

References:

Cina pret korupciju faktos: 2006. gada otrais pusgads. [Combating Corruption. Facts: the Second Six Months of 2006] Published in: Korupcijas °C. Paskats par korupciju un pretkorupcijas politiku Latvija. 2006. gada otrais pusgads. [Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2006. Second Semiannum]. Pp. 7-11.

<http://www.politika.lv/index.php?f=1108>

Voika, I. Does CPCB Meet Expectations: Performance in the First Three years. Published in: Kalnins, V. (ed.) Corruption °C. Report on Corruption and Anti-corruption Policy in Latvia. 2005. Second Semiannum. (2006)

<http://www.politika.lv/index.php?f=947>

100: When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

75:

50: The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

73. Can citizens access the anti-corruption agency?

75

73a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

Comments:

Quote from an interview with an official of the Corruption Prevention and Combating Bureau:(KNAB) The KNAB investigates all cases that fall under its purview. Other complaints are forwarded to those institutions that deal with the relevant issues. We often receive anonymous reports (approximately 5 percent of these are so incomplete that there is no point of reference, and then nothing more can be done). If the information is sufficient, then the KNAB immediately begins an investigation of the relevant case.”

Source: Evaluation of the Specifics of KNAB Operations and Analysis of the Situation with Corruption in Latvia. PHARE project No. 2003/004-979-01-03 “Enhancing the Institutional and Professional Capacity of the Corruption Prevention and Combating Bureau”. February 14, 2006. Pp.6-7. http://www.knab.gov.lv/uploads/pdf/Analysis_KNAB.pdf

References:

Evaluation of the Specifics of KNAB Operations and Analysis of the Situation with Corruption in Latvia. PHARE project No. 2003/004-979-01-03 Enhancing the Institutional and Professional Capacity of the Corruption Prevention and Combating Bureau”. February 14, 2006. Pp.6-7. http://www.knab.gov.lv/uploads/pdf/Analysis_KNAB.pdf

Voika, I. Does CPCB Meet Expectations: Performance in the First Three years. Published in: Kalnins, V. (ed.) Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2005. Second Semiannum. (2006) <http://www.politika.lv/index.php?f=947>

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

73b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

Comments:

The Corruption Prevention and Combating Bureau accepts and acts upon complaints even if they are anonymous. Thus, it is possible to complain without fear of recrimination. However, the trend is allegedly for fewer and fewer people to submit information anonymously, which may be interpreted with caution as a sign of growing confidence that even non-anonymous reporters will be sufficiently protected.

References:

Evaluation of the Specifics of the Corruption Prevention and Combating Bureau (KNAB) Operations and Analysis of the Situation with Corruption in Latvia. PHARE project No. 2003/004-979-01-03 Enhancing the Institutional and Professional Capacity of the Corruption Prevention and Combating Bureau. February 14, 2006. Pp.6-7. http://www.knab.gov.lv/uploads/pdf/Analysis_KNAB.pdf

100: Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

75:

50: Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

87
VI-3. Rule of Law

74. Is there an appeals mechanism for challenging criminal judgments?

75

74a. In law, there is a general right of appeal.

YES | NO

References:

Criminal Procedure Law.

Law On the Judiciary”, Sec.16, Clause 1.

YES: A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

NO: A NO score is earned if there is no such process.

74b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | **50** | 25 | 0

Comments:

Lengthy court proceedings remain a significant problem in Latvia's judiciary. Senior judiciary officials seem to be aware of this

problems and steps have been made to deal with it. Disciplinary actions have been taken against judges who deliberately delayed cases, a new Criminal Procedure Law provides more efficient procedures, priority has been given to cases involving juvenile delinquents and persons in pre-trial custody. Nevertheless, Latvia still has not tackled this problem satisfactorily.

The President of the Supreme Court Andris Gulans admitted in a speech on May 12, 2006 that the caseload and time of adjudication kept on increasing in the courts of all levels.

References:

Kucs, A. Likuma vara un taisniguma nodrošināšana [the Rule of Law and Provision of Justice] Published in: Rozenvalds, J. (ed.) Cik demokrātiska ir Latvija. Demokratijas monitorings 2005-2007. (How Democratic is Latvia. Monitoring of Democracy 2005-2007). Zinatne, 2007. P.22.

Speech of the President of the Supreme Court. Tiesu sistēmai beidzot vajadzīga attīstības koncepcija” [The Court System at Last Needs a Vision of Development]. 12.05.2006. <http://www.at.gov.lv/fails.php?id=557>

100: Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

25:

0: Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

74c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

No fees are levied for appeals to challenge criminal judgments. However, defendants may face private expenses in cases in which they are not entitled to the state guaranteed legal assistance. This cost may vary largely, depending on what sort of lawyer is hired and how long the preparations and processes take.

Persons who are found guilty may be required to reimburse fully or partially the so-called procedural costs, e.g. expenses incurred by witnesses and victims to visit the court, expenses for legal assistance if such has been paid for by the state.

Because there have been no reports of unofficial charges to be able to use the appeals mechanism, no other sources cover this question. Certainly there may be expenses associated with private legal assistance but those are not formally regulated and may vary extremely.

References:

Latvijas tiesu portāls [Portal of Latvian Courts]. Information on procedural costs in criminal matters. <http://www.tiesas.lv/index.php?id=170>

Criminal Procedure Law. Sec. 367, 368.

Interview with Ilona Kronberga, former director of the Judicial Training Center, 14.09.2007, Riga.

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments.

25:

0: The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments.

75. In practice, do judgments in the criminal system follow written law?

75

75. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

Comments:

No solid data is available about facts where court judgments, which enter into force after appeal procedures, in the criminal system failed to meet written requirements of the law. A major problem, however, is the lack of consistency in judgments of different courts in similar cases. Because the wording of the law often allows for rather wide discretion, this lack of consistency represent a risk of corruption.

References:

Tieslietu ministrijas darbības stratēģija 2007. – 2009. gadam (Strategy of the Ministry of Justice for 2007-2009), adopted by the Cabinet of Ministers on November 3, 2006.

P.13.

(http://www.tm.gov.lv/lv/documents/politikas_planosanas_doc/Strategijja.doc).

Skujeniece, V. The Quality of Court Judgments. Centre for Public Policy Providus" (2003). <http://www.politika.lv/index.php?f=887>

100: Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

75:

50: Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

25:

0: Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

76. In practice, are judicial decisions enforced by the state?

76. In practice, are judicial decisions enforced by the state?

100 | 75 | **50** | 25 | 0

Comments:

Latvia lacks a reliable mechanism for the implementation of court judgments. Moreover, the flaws of the current practice have not been thoroughly studied. So a comprehensive policy still remains to be formulated. The Ministry of Justice reports large numbers of complaints about court bailiffs.

References:

Tieslietu ministrijas darbības stratēģija 2007. – 2009. gadam (Strategy of the Ministry of Justice for 2007-2009), adopted by the Cabinet of Ministers on November 3, 2006.

Pp.32,33.

(http://www.tm.gov.lv/lv/documents/politikas_planosanas_doc/Strategjija.doc).

Gailite, D. Etika un korupcija Latvijā tiesās [Ethics and Corruption in Latvian Courts, Interview with the President of Latgale Regional Court, Mr. Karlis Valdemiers]. Newspaper "Latvijas Vestnesis", 09.01.2007.

http://lv.lv/index.php?menu_body=DOC&id=151114 (for authorized users)

100: Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

75:

50: Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

25:

0: Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

77. Is the judiciary able to act independently?

69

77a. In law, the independence of the judiciary is guaranteed.

YES | NO

References:

The Constitution of Latvia. Sec. 83. Judges shall be independent and subject only to the law.

(http://www.saeima.lv/Likumdosana_eng/likumdosana_satversme.html)

Law On the Judiciary". Sec. 1, Clause 1 and 2. (Principles of independence) Sec. 117, Clause 3. (Duty to allocate budget in a manner that guarantees judicial independence and effective protection of individual rights).

YES: A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence include financial issues (drafting, allocation, and managing the budget of the courts).

NO: A NO score is earned if there are no formal rules establishing an independent judiciary.

77b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

Judges in Latvia are typically independent, however, there have been reports of isolated cases where politicians tried to influence particular decisions by voicing their opinion or in one case of a politician even making a telephone call to a judge. Otherwise it is more common to view the independence of judges as an issue of competing for influence between the judicial and executive branches of state authority.

References:

Bezgaliga cina par tiesu varas speku un godigumu [Neverending Struggle for the Power and Integrity of the Judicial Authority]. Jurista Vards, 10.07.2007. http://lv.lv/index.php?menu_body=DOC&id=160130 (for authorised users)

Elksne, I. Varna varnai aci var ieknabt [Inteviu with Mr. Andris Gulans, President of the Supreme Court.] Public policy portal Politika.lv. 04.04.2006. <http://www.politika.lv/index.php?id=9468>

100: National level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

75:

50: National level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

25:

0: National level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

77c. In law, there is a transparent and objective system for distributing cases to national-level judges.

YES | NO

Comments:

According to the law, the president of a court shall approve a plan for the distribution of cases at the beginning of each year. The president may amend the plan in cases of an overburdened or under burdened judge, change of a judge, or a judge's inability to fulfill duties. The law, however, does not specify how such plan is to be drafted and thus does not exclude opportunities for setting up a subjective assignment system.

References:

Law On the Judiciary". Sec. 28.1. Distribution of cases.

YES: A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

NO: A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

77d. In law, national-level judges are protected from removal without relevant justification.

YES | NO

Comments:

The Parliament can remove judges in two cases: 1) if a judge has been convicted of a crime and the judgment has entered into force; 2) based on a decision of the judicial disciplinary commission, such decision may be made in the case of a proven disciplinary offense.

References:

Law On the Judiciary". Sec. 83.

YES: A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

NO: A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

78. Are judges safe when adjudicating corruption cases?

100

78a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

YES | NO

Comments:

Latvia has had no reports in 2006 or 2007 of judges having been physically harmed because of adjudicating corruption cases.

References:

No media reports appeared in 2006 or 2007 about judges having been physically harmed because of adjudicating corruption cases.

YES: A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

78b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

YES | NO

Comments:

No judges have been murdered in Latvia in 2006 or 2007.

References:

No media reports appeared in 2006 or 2007 about judges having been killed because of adjudicating corruption cases.

YES: A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

79. Do citizens have equal access to the justice system?

79

79a. In practice, judicial decisions are not affected by racial or ethnic bias.

100 | 75 | 50 | 25 | 0

Comments:

In the Court Visitors' Survey, respondents were asked about the attitude of courts toward specific groups: 52 percent responded that ethnic minorities received the same treatment as everyone else, 7 percent said worse, 1 percent said better, 40 percent said they did not know.

Of the 200 respondents were surveyed: 28 percent were witnesses, 37 percent were plaintiffs and 35 percent were defendants.

References:

Tiesu apmekletāju aptauja. Aptaujas rezultātu analīze. (Court Visitors' Survey. The analysis of survey results). Latvijas Fakti (September 2002). P.118. http://www.tm.gov.lv/lv/documents/petijumi/430_Tiesu_apmekletaju_aptauja.doc

Report on Human Rights Practices – 2006. Latvia. The Bureau of Democracy, Human Rights, and Labor of the the U.S. State Department.

http://riga.usembassy.gov/EN/site/R/rep20070307/rep20070307_3

100: Judicial decisions are not affected by racial or ethnic bias.

75:

50: Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

25:

0: Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

79b. In practice, women have full access to the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

In the Court Visitors' Survey, respondents were asked about the attitude of courts toward specific groups: 52 percent responded that ethnic minorities received the same treatment as everyone else, 7 percent said worse, 1 percent said better, 40 percent said they did not know. Of the 200 respondents were surveyed: 28 percent were witnesses, 37 percent were plaintiffs and 35 percent were defendants.

References:

Tiesu apmekletāju aptauja. Aptaujas rezultātu analīze. (Court Visitors' Survey. The analysis of survey results). Latvijas Fakti (September 2002). P.118. http://www.tm.gov.lv/lv/documents/petijumi/430_Tiesu_apmekletaju_aptauja.doc

Report on Human Rights Practices – 2006. Latvia. The Bureau of Democracy, Human Rights, and Labor of the the U.S. State Department.

http://riga.usembassy.gov/EN/site/R/rep20070307/rep20070307_3

100: Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

75:

50: Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

25:

0: Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence. For this

indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

79c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

YES | NO

References:

Criminal Procedure Law, Sec.20, Clause 4.

YES: A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

NO: A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

79d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

Comments:

Although generally legal counsel is available to defendants who cannot afford it, the state faces certain difficulties in this area particularly because the amount of salary does not motivate legal counselors sufficiently.

References:

Tieslietu ministrijas darbības stratēģija 2007. – 2009. gadam (Strategy of the Ministry of Justice for 2007-2009), adopted by the Cabinet of Ministers on November 3, 2006. P.34. (http://www.tm.gov.lv/lv/documents/politikas_planosanas_doc/Strategjija.doc).

Kucs, A. Likuma vara un taisnīguma nodrošināšana [the Rule of Law and Provision of Justice] Published in: Rozenvalds, J. (ed.) Cik demokrātiska ir Latvija. Demokratijas monitorings 2005-2007. (How Democratic is Latvia. Monitoring of Democracy 2005-2007). Zinatne, 2007. P.22.

100: State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

75:

50: State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

25:

0: State-provided legal aid is unavailable to most impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

79e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

Comments:

According to administrative procedure, when an individual sues a public agency, applications in a court require payment of fee of approx. US\$19 (10 lats). Appeals to a higher court instance require payment of fee of approx. US\$9.50 (5 lats).

When an individual sues another individual or a company, one has to pay: a state fee (from approximately US\$19 (10 lats) to several thousand of dollars depending on the amount of claim), chancery fees (minor expenses depending on particular services),

expenses incurred in the litigation, e.g. payments to experts, search of defendant.

In addition, there are costs of a lawyer's services, costs of gathering evidence, etc.

Expenses payable to the state are waived for certain categories of disputes, e.g. concerning labor relations, alimony. Eventually litigation costs are to be reimbursed by the losing party (limits apply to the reimbursement of lawyer's services).

All in all, while the costs of administrative litigation are low and affordable virtually to anyone, the expenses of civil litigation can vary extremely depending on the nature of the case and cost of legal assistance. Nevertheless the cost of a typical lawsuit, which is likely to be brought by an average citizen, is not prohibitive in the majority of cases.

The average annual salary in Latvia is approximately US\$7,600 (4,000 lats).

References:

Administrative Procedure Law. Sec.18, 124.

Civil Procedure Law. Chapter 4. Litigation Expenses.

Latvijas tiesu portāls [Portal of Latvian Courts]. Information on expenses in administrative court proceedings. <http://www.tiesas.lv/index.php?id=180>

Latvijas tiesu portāls [Portal of Latvian Courts]. Information on expenses in civil court proceedings. <http://www.tiesas.lv/index.php?id=26>

The Central Statistics Board of the Republic of Latvia. <http://www.csb.gov.lv>

Interview with Ms. Ilona Kronberga, former director of the Judicial Training Center, 14.09.2007, Riga.

100: In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance.

75:

50: In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive.

25:

0: The cost of engaging the legal system prevents middle class citizens from filing suits.

79f. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

Comments:

According to administrative procedure, when an individual sues a public agency, applications in a court require payment of fee of approx. US\$19 (10 lats). Appeals to a higher court instance require payment of fee of approx. US\$9.50 (5 lats).

When an individual sues another individual or a company, one has to pay: a state fee (from approximately US\$19 (10 lats) to several thousand of dollars depending on the amount of claim), chancery fees (minor expenses depending on particular services), expenses incurred in the litigation, e.g. payments to experts, search of defendant. In addition, there are costs of a lawyer's services, costs of gathering evidence, etc. Expenses payable to the state are waived for certain categories of disputes, e.g. concerning labor relations, alimony. Eventually litigation costs are to be reimbursed by the losing party (limits apply to the reimbursement of lawyer's services).

All in all, while the costs of administrative litigation are low and affordable virtually to anyone, the expenses of civil litigation can vary extremely depending on the nature of the case and cost of legal assistance. Nevertheless the cost of a typical lawsuit, which is likely to be brought by a typical small retail business, is not prohibitive in the majority of cases.

References:

Administrative Procedure Law. Sec.18, 124.

Civil Procedure Law. Chapter 4. Litigation Expenses.

Latvijas tiesu portāls [Portal of Latvian Courts]. Information on expenses in administrative court proceedings. <http://www.tiesas.lv/index.php?id=180>

Latvijas tiesu portāls [Portal of Latvian Courts]. Information on expenses in civil court proceedings. <http://www.tiesas.lv/index.php?id=26>

Interview with Ms. Ilona Kronberga, former director of the Judicial Training Center, 14.09.2007, Riga.

100: In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance.

75:

50: In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive.

25:

0: The cost of engaging the legal system prevents small businesses from filing suits.

79g. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | 75 | **50** | 25 | 0

Comments:

Civil and criminal courts of first instance are distributed geographically so as to cover the whole country evenly. So geographical accessibility should not present a major problem. The situation is much more problematic with the administrative courts because there is only one administrative court of first instance and it is located in the capital. The current Cabinet has stated an intention to tackle this problem but no practical steps have been taken yet.

References:

Tieslietu ministrijas darbības stratēģija 2007. – 2009. gadam (Strategy of the Ministry of Justice for 2007-2009), adopted by the Cabinet of Ministers on Nov. 3, 2006.

P.10.

(http://www.tm.gov.lv/lv/documents/politikas_planosanas_doc/Strategija.doc).

100: Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

75:

50: Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

25:

0: Courts are unavailable to some regions without significant travel on the part of citizens.

VI-4. Law Enforcement

80. Is the law enforcement agency (i.e. the police) effective?

67

80a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

Until recently, the State Police in Latvia have been facing a severe shortage of personnel due to low salaries and other unfavorable job conditions. This has led to difficulties in applying sufficiently rigorous professional criteria. Due to the somewhat closed character of the police in Latvia, it is difficult to assess the extent to which, apart from the budget restrictions, other non-merit-related aspects play a role in recruitment and appointments.

References:

Leitans, I., Konstantinovs, N. Sveiciens policijas diena [Greeting in the Police Day]. Newspaper Diena", 06.12.2006. Article in relation to the appointment of a new head of the State Police.

Lase, I. Varu sastradaties ar jebko, pat laci [I Can Work with Everyone, Even a Bear. Interview with the State Secretary of the Ministry of Interior Mr. Juris Reksna]. 25.10.2005. <http://www.politika.lv/index.php?id=7950>

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

80b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | **50** | 25 | 0

References:

Leitans, I., Konstantinovs, N. Sveiciens policijas diena [Greeting in the Police Day]. Newspaper Diena", 06.12.2006. Article in relation to the appointment of a new head of the State Police.

Lase, I. Varu sastradaties ar jebko, pat laci [I Can Work with Everyone, Even a Bear. Interview with the State Secretary of the Ministry of Interior Mr. Juris Reksna]. 25.10.2005. <http://www.politika.lv/index.php?id=7950>

Strategy for the Ministry of Interior for Years 2007 – 2009. Adopted by the Cabinet of Ministers on October 24, 2006. P.69. http://www.mk.gov.lv/doc/2005/IEMStrat_120906_Strat.zip

100: The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

25:

0: The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

80c. In practice, the law enforcement agency is protected from political interference.

100 | **75** | 50 | 25 | 0

Comments:

Hardly any data suggest the direct influence of political incentives in the performance of the police . However, the dismissals and appointments of the heads of the police have been largely at the discretion of the minister of interior. Moreover shifts in the positions of the minister of interior are said to cause disruptive changes in the priorities of the police policies and plans.

References:

Leitans, I., Konstantinovs, N. Sveiciens policijas diena [Greeting in the Police Day]. Newspaper Diena", 06.12.2006. Article in relation to the appointment of a new head of the State Police.

Lase, I. Varu sastradaties ar jebko, pat laci [I Can Work with Everyone, Even a Bear. Interview with the State Secretary of the Ministry of Interior Juris Reksna]. 25.10.2005. <http://www.politika.lv/index.php?id=7950>

100: The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

75:

50: The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

81. Can law enforcement officials be held accountable for their actions?

92

81a. In law, there is an independent mechanism for citizens to complain about police action.

YES | NO

Comments:

In law, citizens can complain about the police to following authorities: a higher-level police institution, public prosecutor's office, the court and the Ombudsman.

References:

Law On the Police". Sec. 27. An administrative act or a factual action of a police officer can be disputed in an order established by normative acts that regulate the administrative procedure.

Office of the Prosecutor Law.

Sec.2. Functions of the Office of the Prosecutor.

The Office of the Prosecutor shall:

- 1) supervise the work of investigative institutions and the investigatory operations of other institutions;
- 6) protect the rights and lawful interests of persons and the State in accordance with the procedures prescribed by law.

Sec.16, Clause 3.

A prosecutor shall also carry out an examination, if a submission from a person regarding the violation of his or her rights or lawful interests is received, moreover, such submission has been reviewed by a competent state institution and its refusal to rectify the violation of law referred to in the submission has been received or no reply at all has been provided within the term specified by law.

The Ombudsman Law.

YES: A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.

NO: A NO score is earned if there is no such mechanism

81b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

According to I. Rukere, The requirement, which is established in international standards, to start investigation "immediately" [e.g. after an incidence of the police violence ir reported] is not guaranteed in all cases."

References:

Rukere, I. Sudzibu izskatisana un policijas atbildiba. [Review of Complaints and Police Responsibility]. Sabiedriskas politikas centrs Providus. 2005. P.87.

<http://www.politika.lv/index.php?f=253>

Report on Human Rights Practices – 2006. Latvia. The Bureau of Democracy, Human Rights, and Labor of the the U.S. State Department.

http://riga.usembassy.gov/EN/site/R/rep20070307/rep20070307_3

100: The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

81c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

YES | NO

Comments:

The Corruption Prevention and Combating Bureau's functions include the investigation of corruption of all public officials, including law enforcement officials. Prosecution of corruption like of other crimes is the function of the Public Prosecutor's office.

References:

The Corruption Prevention and Combating Bureau. Operates in accordance with the Corruption Prevention and Combating Bureau Law.

Sec.2, Clause 1. The Bureau is an institution of the State Administration under the supervision of the Cabinet of Ministers, performing the functions defined in this Law to prevent and fight corruption and monitor compliance of political organizations (parties) and their associations with party financing regulations.

Sec. 8, Clause 1. The Bureau shall perform the following functions in the fight against corruption:

- 1) charge State officials with administrative liability and impose punishment in cases of administrative violations in the area of corruption, as provided by law;
- 2) carry out investigation and operative actions to discover criminal offenses in the area of corruption in the National Civil Service, as provided in the Criminal Law.

YES: A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

NO: A NO score is earned if no such agency/entity exists.

81d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | 50 | 25 | 0

Comments:

In 2006 the Corruption Prevention and Combating Bureau requested the prosecution of eight law enforcement officials.

References:

Corruption Prevention and Combating Bureau. Annual Report 2006.

P.37. http://www.knab.gov.lv/uploads/pdf/publiskais_parskats_2006.pdf

Kalnins, V. Korupcijas apkarošanas bilance – iztiesasana no 2004. līdz 2006. gadam [The Bottom Line of Combating Corruption – Adjudication from 2004 till 2006]. Published in: Korupcijas °C. Paskats par korupciju un pretkorupcijas politiku Latvija. 2006. gada otrais pusgads. [Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2006. Second Semiannum]. Pp. 19-22. <http://www.politika.lv/index.php?f=1108>

100: When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

81e. In law, law enforcement officials are not immune from criminal proceedings.

YES | NO

References:

No immunity exist in the Latvian legislation to protect law-enforcement officials from investigation and prosecution.

YES: A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

NO: A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

81f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | 50 | 25 | 0

Comments:

At least 33 state and municipal law enforcement officials were convicted for corruption in 2004, 43 were convicted in 2005, 41 in 2006.

References:

Kalnins, V. Korupcijas apkarošanas bilance – iztiesasana no 2004. līdz 2006. gadam [The Bottom Line of Combating Corruption – Adjudication from 2004 till 2006]. Published in: Korupcijas °C. Pārskats par korupciju un pretkorupcijas politiku Latvija. 2006. gada otrais pusgads. [Corruption °C. Report on Corruption and Anticorruption Policy in Latvia. 2006. Second Semiannum]. Pp. 19-22. <http://www.politika.lv/index.php?f=1108>

Corruption Prevention and Combating Bureau. Annual Report 2006. P.37. http://www.knab.gov.lv/uploads/pdf/publiskais_parskats_2006.pdf

100: Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

75:

50: Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

25:

0: Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.