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TRANSPARENCY OF LOBBYING IN LATVIA

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I. EXECUTIVE SUMMARY AND RECOMMENDATIONS

In Latvia, a large percentage of the population is concerned that public decisions are benefiting a few, at the expense of the many – with Transparency International's Global Corruption Barometer showing that 71% of Latvians believe their government to be run by a few big entities acting in their own best interests.¹ With lobbying practices typically taking place behind closed doors – out of the public eye – undue influence in the decision-making process threatens to undermine public trust in democracy, while also fuelling the assumption that all lobbying is bad. Lobbying, when conducted honestly and transparently, is in fact a very important part of a healthy democracy.

“Lobbying in Latvia” examines existing lobbying regulations, policies and practices in Latvia to assess the extent to which ordinary people have access to information about who is influencing their public decisions in Latvia (transparency), whether there is an ethical framework for lobbying in place (integrity), and whether there are sufficient spaces in the decision-making system to allow for a diversity of voices and input (equality of access). To date there has been very little research on the topic in the country, and thus this report is the first of its kind to provide both a qualitative and quantitative assessment of the lobbying landscape in Latvia.

The report showcases evidence of corruption risks in lobbying practices, in part due to a general lack of lobbying regulation in the country. In particular, the report presents case studies showing the unethical practice of powerful economic interests influencing decision-making processes behind the scenes – whether proposals for legal acts or attempts to influence public decision-makers. The case studies in the report show that there are alarmingly close connections between decision-makers and lobbyists. This report also, however, shows some promising lobbying practices, for example from non-governmental sector lobbyists, and provides recommendations and solutions for decision-makers and interest representatives in both the public and private sectors.

Lobbying in Latvia takes place through formal as well as informal channels. There are some mechanisms to regulate formal channels, including robust regulations on public consultations and participation of stakeholders in decisions. However, informal lobbying is not captured by these regulations and information is not disclosed about the actions made by decision makers after informal consultations. A common form of lobbying in the country is the use of “influential friends” – lobbying outside the normal procedures and disclosing information “exclusively” for a select few. Hidden or shadow lobbying involves decisions being made in such a way that one cannot identify if those decisions have been made for narrow interests or in the broader common interest.

Latvia, as a small country where almost ‘everyone knows everyone’, should have balanced regulation to improve the existing mechanisms of lobbying. The regulation should: recognize who are lobbyists and that lobbying is an important part of consultation with stakeholders; ensure equal access to information and public institutions; improve legislative footprint transparency; improve integrity of public officials, deputies and related employees in the public sector; and improve the transparency of public procurement process.

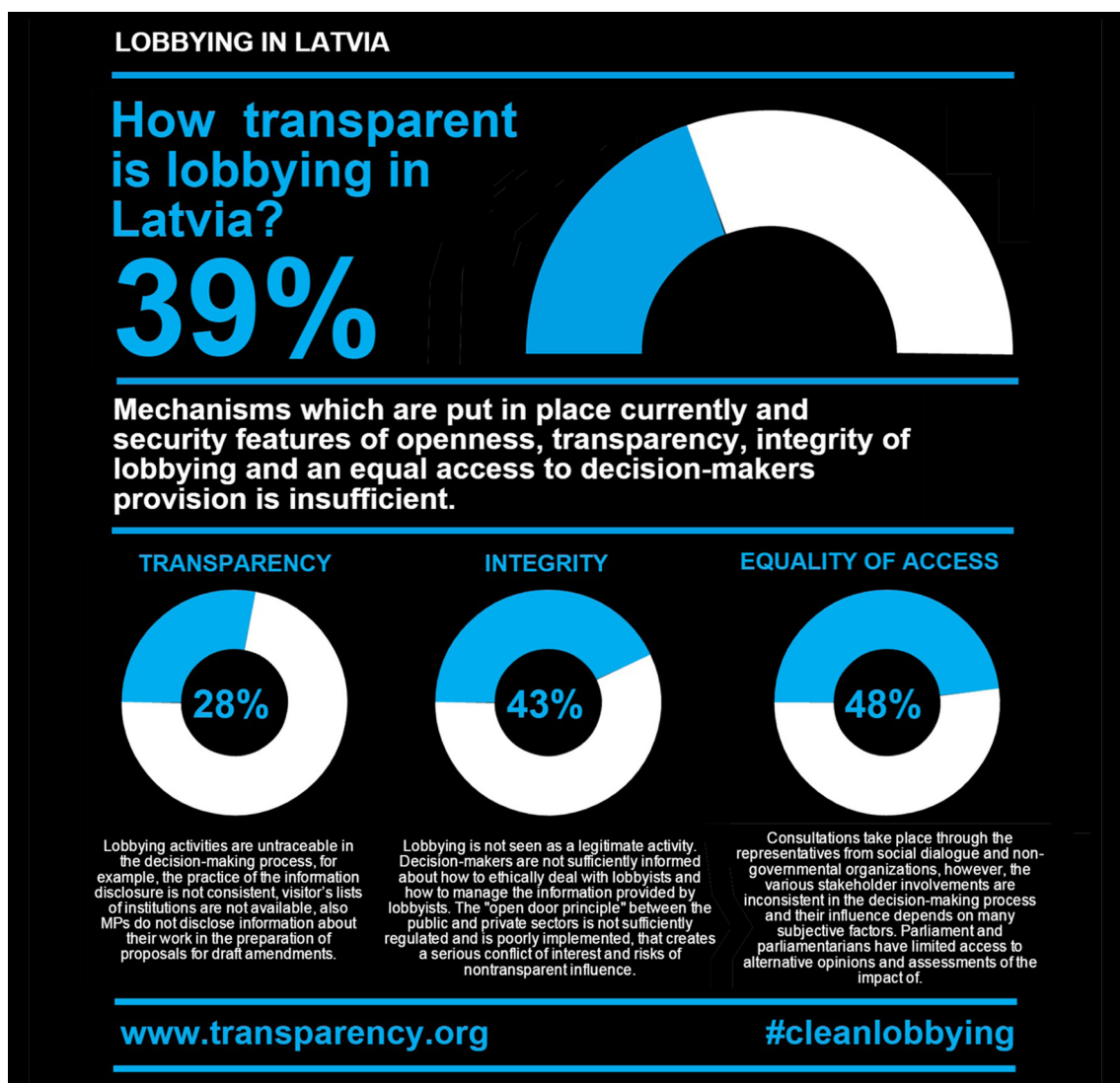
Intransparent lobbying negatively affects quality of life in Latvia, as changes to legal acts influenced by organizations with narrow interests usually ignore the common good. Ensuring transparency and engaging various stakeholders in the decision making process benefits everybody: it raises the quality of legal acts, improves the trust society has in decision makers and politicians. High degree of shadow lobbying and intransparent decision-making damages country's international reputation. In addition, investors avoid working in high-risk environments regarding political decision making.

¹ Transparency International (2013) Global Corruption Barometer: http://www.transparency.org/gcb2013/in_detail

Key findings

While there is no standalone law regulating lobbying in Latvia, there are a number of relevant regulations and laws related to lobbying, including laws regulating access to parliament, disclosure of information by decision-makers and rules governing conflicts of interest. While these constitute a good foundation on which public sector integrity can be built, many of the laws are found to have deficiencies and would need to be strengthened in order to increase public sector integrity and transparency. Existing rules are further undermined by a lack of meaningful implementation.

The research in this report is based on a methodology created by Transparency International as part of a project involving the assessment of lobbying regulations and practices in 19 European countries.² According to this methodology, which evaluates how transparent, open and fair lobbying practices are, Latvia scores 39% in terms of having mechanisms and safeguards in place to ensure transparency, integrity and equality of access to public decision-makers. The findings of this report show that there is insufficient transparency of the interactions and influence of private actors on public decision-making. Neither lobbyists nor public officials are subject to clear and enforceable ethical rules, and there are insufficient safeguards to prevent privileged access to public decision-makers and processes for certain groups.



² The participating countries are Austria, Bulgaria, Cyprus, Czech Republic, Estonia, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, and the United Kingdom.

The transparency of decision-making processes and lobbying has been evaluated at 28%, which includes an evaluation of the sub-categories access of information (50%), registration and disclosure by lobbyists (13%), oversight of register and sanctions (0%) and pro-active disclosure/legislative footprint (50%). Integrity has been evaluated at 43%, which includes an assessment of the sub-categories post-employment and pre-employment restrictions (33%), code of conduct for public sector employees (67%), code of conduct for lobbyists (20%) and self-regulatory codes of ethics (50%). Equality of access has been rated as the highest at 48%, including the sub-categories consultation and public participation in decision-making process (75%) and the composition of advisory/expert groups (20%).

The report shows that there is insufficient transparency of interactions and influence of private actors on public decision-making. Neither lobbyists nor public officials are subject to clear and enforceable ethical rules about lobbying, and there are insufficient safeguards to prevent privileged access of certain groups to public decision-makers and processes.

The main deficiencies identified in this report include:

- At present, the terms lobbying and lobbyists are not defined in any legal act. Therefore lobbying is not considered a normal part of the democratic system and this feeds the perception that it is illegitimate.
- Access to public information and disclosure practices are inconsistent and vary across public institutions. These are critical tools for discerning the influence on public policy and the process of decision-making.
- Access to public institutions, such as the Parliament, is controlled, but the visitor logs are not publicly available.
- A legislative footprint³ should be attached⁴ to laws that are passed, but it is implemented in an ad hoc and inconsistent way.
- Decision makers are not well informed about how to behave ethically in communication with lobbyists and how to deal with the information provided by lobbyists.
- The main lobbying transparency issues are related to legislative initiatives that have influence over economic interests of certain parties or are within highly regulated industries (such as energy). Public procurement procedures are subjected to non-transparent lobbying attempts at all levels of public administration.
- NGOs and investigative journalists play an important role in monitoring and holding to account decision makers and lobbyists, but their capacity is low.
- The revolving door between public and private sectors is inadequately regulated and poorly enforced creating serious risks of conflicts of interest and undue influence.

Key recommendations

Taking into account the size of the country and the small professional lobbying sector, it is crucial to find an effective way to have a balanced approach to regulation. Excessive regulation could prove rigid, burdensome and not cost-effective, especially for the public sector. The main aim is to strengthen the enforcement of existing laws to ensure the public sector's integrity, equality and transparency.

Essential elements to provide an environment for open and ethical lobbying include:

1. Recognition that lobbying and lobbyists are part of the normal processes of democracy;
2. Ensuring transparency of decision making processes by improving legislative footprint legislation and its implementation;
3. Improvement of public access to information, e.g. disclosure of information about visitors to public institutions;
4. Improvement of integrity of public officials, deputies and related employees in the public sector, by providing training, improving declaration of conflicts of interests and ensuring research capacity at Parliamentary level to strengthen the independence of deputies' opinions.

³ A legislative footprint is a document that details the time, event, person, and subject of legislators' and senior public officials contact with a stakeholder

⁴ Rules of Cabinet of Ministers Nr.300, p. 3, 2009.07.04: <http://m.lvportals.lv/likumi-prakse.php?id=257943>

Recognition of lobbying and lobbyists:

- Recognition of lobbying as part of democracy in existing laws – Parliament Rules of Procedure, Law of State Administration and Cabinet Rules of Procedure – by defining who are lobbyists and what is considered as fair lobbying.
- The Criminal Code should be amended to clarify the concept of trading in influence and to separate it from legal forms of lobbying.

Registration and disclosure by lobbyists and lobbied persons:

- Create a register where lobbyists are required to register their details on a public sector administered platform.
- The register should be accompanied by a code of conduct which gives clear guidance on ethical lobbying (no gift-giving, trading in influence, revolving doors, etc.) and disclosure of information on a voluntary basis. Compliance with the code should be monitored and meaningful sanctions should apply for non-compliance.
- Public officials and deputies should report about meetings with lobbyists and follow-up actions, e.g. putting forward lobbyists' proposals, arranging meetings under the request of a lobbyist or any other action related to decision-making processes and the influence of content. Public officials would not have to separately report a contact with a lobbyist if the lobbyist is registered on a government administrated platform and discloses required information. If a public official takes action by introducing lobbyists' proposals into draft laws, it could be disclosed within the framework of existing laws regulating the transparency of the legislative footprint.

Improvement of legislative footprint:

- Improve the Law of State Administration and Cabinet of Ministers Rules of Procedure to disclose information about attempts to influence draft laws and other legal and regulatory proposals. The draft law explanatory note should be improved, so that information about the authors of proposals is disclosed, the protocols of meetings are made available online to the public, the information about participants of meetings and comments made about the proposals are disclosed online on the web pages of public institutions or on a common green paper platform, which is currently being planned (the State Chancellery in May 2014 has introduced a concept note to the Cabinet of Ministers regarding a portal for the elaboration and consultation of legal acts).

Improving integrity of public officials, deputies and related employees in the public sector:

- Improve the code of conduct to include provisions aimed to ensure transparency in the lobbying process. The code of conduct should apply to members of the Cabinet and Deputies.
- Improve the Law on Prevention of Conflict of Interests, forbidding officials to combine their work as a public official with a position in an organization which is engaged in lobbying.
- Consultants, deputy assistants, or any other employee of Deputies and Parliament should declare their conflict of interests and disclose relations with lobbyists.
- A training or education program should be provided for deputies and public officials to improve skills for working with lobbyists' information and the ability to make balanced decisions for the benefit of society.
- It is crucial to strengthen the research capacity of Parliament to be able to work with draft laws and lobbyists information.
- To ensure better compliance with and implementation of code of conduct standards and complaint mechanisms, it is necessary to share best practice cases among public institutions and governing bodies about the practical use and the effect of codes of conduct.

Other recommendations, indirectly related to lobbying:

- **Public procurement:**
 - As the area subjected to the most intense lobbying is public procurement, there is a need to regulate the public purchase technical specification preparation process, including the possibility to consult with advisers from industries under confidentiality agreements or to use any other control mechanisms to lower the possibility of conflict of interests and corruption.
 - Strengthen cooperation between public purchase departments to ensure the best practice related to public purchase technical documentation is shared.
 - To safeguard public procurement integrity it is suggested to use an 'Integrity Pact' – a supervision method for local or EU funded public purchases.
- **Strengthening the capacity of NGOs:**
 - Capacity building and support for NGOs is crucial, as they act as an important intermediary between citizens and the state.

II INTRODUCTION AND METHODOLOGY

The definition of lobbying for this project is: “any direct or indirect communication with public officials, political decision-makers or representatives for the purposes of influencing public decision-making carried out by or on behalf of any organized group”.

‘Lobbyists’ can include not only professional lobbyists, but also private sector representatives (in-house lobbyists), public affairs consultancies, representatives from NGOs, corporations, industry/professional associations, trade unions, think tanks, law firms, faith-based organizations and academics.

Transparency International (TI)’s European National Integrity System (NIS) regional report Money, Power and Politics (2012) found that in most European countries, the influence of lobbyists is shrouded in secrecy and is a major cause for concern. When undertaken with integrity and transparency, lobbying is a legitimate avenue for interest groups to be involved in the decisions that may affect them. Problems arise when lobbying is non-transparent and unregulated. In such instances, privileged access may be granted to a select few while others are excluded from the decision-making processes. Corporate lobbying in particular raises concerns. It often involves companies with vast sums at their disposal, which can develop close relationships with lawmakers, and thus gain undue and unfair influence in a country’s politics and policies.⁵

A recent Eurobarometer report revealed that 81% of Europeans agree that overly close links between business and politics in their country has led to corruption. More than half believe that the only way to succeed in business in their country is through political connections.⁶ This corroborates the data from TI’s Global Corruption Barometer 2013, which found that in many European countries more than 50% of people believe their country’s government to be largely or entirely run by a few big interests.⁷ This report is part of a regional project involving the assessment of lobbying regulations and practices in 19 European countries.⁸

This report begins by mapping the lobbying landscape in Latvia. It gives a contextual analysis of the national historical, socio-political and legal situation with regard to lobbying. Chapter III also discusses the intensity and scale of lobbying efforts. It also explores the various cultural understandings of the term ‘lobbying’ and perceptions of lobbying practices in the country. The chapter discusses several attempts to regulate lobbying. It also assesses the broader legal framework, looking particularly at loopholes which undermine public integrity. Chapter IV looks at lobbying in the country’s transition and post-transition period. It emphasizes the role of NGOs in decision making as well as the influence of social dialogue on decision making processes. Other relevant lobbying issues such as self-regulation of activities, red flags and assessment of professional lobbying are also discussed. The role of the media and civil society as watchdogs in monitoring and reporting on lobbying activities are also reviewed.

Following this, Chapter V of the report assesses the degree to which national regulation (public law and private self-regulation) adequately provides for transparency of lobbying activities and public decision-making. It also assesses whether existing regulation can ensure ethical lobbying and conduct by public officials as well as equality of access to public decision-making processes. The study uses a series of 65 assessment questions to evaluate such criteria.⁹

⁵ See TI (2012) <http://www.transparency.org/enis/report>

⁶ See Eurobarometer (February 2014) Special Report on Corruption: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/index_en.htm

⁷ See TI (2013) <http://www.transparency.org/gcb2013/report>

⁸ The participating countries are Austria, Bulgaria, Cyprus, Czech Republic, Estonia, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, and the United Kingdom.

⁹ See Annex 2 for more details on the methodology and research approach used in this study.

III MAPPING THE LOBBYING LANDSCAPE IN THE REPUBLIC OF LATVIA

New democracy

Latvia is a parliamentary republic that gained its independence in 1918. The development of laws and policy started with the adoption of the Constitution (Satversme), along with the establishment of the Parliament and governmental structures. The political and governmental developments were disrupted after the Republic of Latvia was annexed into the territory of the USSR in 1940. Only in 1991, with the restoration of political independence, did the political and governmental system come into existence. The process has been hampered by the dramatic lack of experienced researchers, policymakers and governmental representatives, in addition to a poorly organized civil society. Nevertheless, over the past 23 years, policymakers, governmental representatives and civil society have developed to the extent that Freedom House considers Latvia to be a free democracy. In line with this, the organization has given both political rights and civil liberties in the country a score of 2, on a scale of 1-7, where 1 is best and 7 is worst.¹⁰

National political context – decision-making tends to be in the hands of rather narrow circles of people

Latvian politics takes place within the framework of a parliamentary representative democratic republic.¹¹ The Prime Minister is the head of government in a multi-party system,¹² which includes 64 registered political parties or unions.¹³ However, not all of them participate in national elections. 13 lists of candidates were presented in the last elections. In the 2014 elections, voter turnout was 58.8 percent,¹⁴ whilst six lists of candidates overcame the threshold of five percent. Latvia's political system lends itself to coalition governments. The Parliament has six political factions, three of which form a centre-right government coalition. The Parliament is also comprised of 15 standing committees.¹⁵ Some experts argue that Latvia's political culture has not caught up with the development of the country's democratic institutions. In particular, the broader Latvian public exerts relatively little willingness to engage in civil society activities.¹⁶ Taken together these characteristics tend to mean that decision-making is left in the hands of rather narrow circles of people. In turn, such narrow circles provide a disincentive for lobbyists to act transparently due to risks that their reputations could be harmed within the circles. One of these narrow circles is the Coalition Council. The Coalition Council has been known to make politically and economically sensitive decisions before the official decision making process has started in Parliament. In the Coalition Council, Members of Parliament negotiate and cooperate over the parliamentary political agenda and which positions to vote for. The Coalition Council is managed by the Prime Minister. Yet, the institution is not recognized by the Constitution. Participants in the Coalition Council can be party leaders, ministers, the Speaker of Parliament or deputies of Parliament. Who attends each meeting depends on the political agenda under discussion. The Coalition Council mandate is approved by coalition agreement. It tends to be signed before the government is created.¹⁷

¹⁰ Freedom House: <http://www.freedomhouse.org/report/freedom-world/2013/latvia#.U6gXN6gRZPY>

¹¹ The President holds a primarily ceremonial role as Head of State. Executive power is exercised by the government. Legislative power is vested in both the government and parliament, the Parliament. The Judiciary is independent of the executive and the legislature.

¹² Education 2020, definition of multiparty: "A system in which several major and many lesser parties exist, seriously compete for, and actually win public offices."

¹³ List of registered parties and their unions from the website of the Register of Enterprises: <http://www.ur.gov.lv/partijas.html>

¹⁴ Summary of the elections to the 12th Saeima on the website of the Central Election Committee: www.cvk.lv/pub/public/

¹⁵ Unless indicated otherwise, the situation is described as of October 2014.

¹⁶ Transparency International, National Integrity System Assessment, Latvia. 2011. P. 23.: http://www.transparency.org/whatwedo/nisarticle/latvia_2011

¹⁷ The Cabinet of Ministers web page about coalition agreement: <http://www.mk.gov.lv/lv/content/ministru-kabineta-vesture>

Socioeconomic context – the country's economic challenges create risks of corruption

After independence in 1991, Latvia's economy went through very difficult times because of the collapse of the Soviet economy. Latvia's GDP fell by around 49 percent between 1990 and 1993. The transition from a centrally planned economy to a free market meant that a lot of systemic changes were necessary. Such changes included the liberalization of prices and trade, in addition to macroeconomic stabilization and privatization. Privatization of all sorts of goods was also started but this has been one of the most controversial processes in the post-independence history of Latvia. On the one hand, privatization was considered positive because it allowed many Latvians to recover their private property or that of their ancestors. On the other hand, many privatizations of business assets were considered unfair and utterly corrupt because it was possible to acquire many possessions of the state, including various types of businesses, for low sums.¹⁸

"You can get rich when a country's political government is changing and when the country is on a road to development"¹⁹ was said by a business person in an interview during the transition period. This citation characterizes the dominant perception of business people at that time, regarding government estate and public good.²⁰ In the context of transition, it may not be surprising that the key sites of lobbying in the 1990s were privatization and financial sector interests, as well as different public service systems like waste management, the health sector and utilities.

Latvia's economic highs and lows stemming from local, regional and global economic crises over the past years has created a situation in which public sector officials are low paid. "The public institutions where there are low salaries and low employee professionalism are high risk areas. They can be influenced by different interest groups, including a high risk of trading in influence and corruption-related crimes," claimed a Corruption Prevention and Combating Bureau (KNAB) representative.²¹ The instability of the socioeconomic situation (low salaries of public officials) in Latvia created high level risks of corruption in the public sector at the lowest governance levels.²² 20% of people in the country say that corruption affects their daily lives (EU average: 26%). Meanwhile, 81% agree that bribery and using connections is often the easiest way to obtain public services (EU average: 73 %). Low salaries in the public sector and even parliament are not attracting high level professionals. This contributes to a lack of parliamentary ability to even work with lobby information. Moreover, public sector officials and deputies have low expectations about following ethics of lobbying. The positive output from the last economic crisis, is that the State Chancellery and other public institutions including the Parliament, understand that there is a need to make structural changes in the public sector to create small, effective and professional public governance, which attracts well paid professionals. Proposals have been put up for discussion in the Cabinet of Ministers and Parliament to elaborate new motivations and education programs for public sector employees (policies of recruitment, evaluation of work, client orientated service approach, etc.). These would aim to ensure the creation of a small, effective and professional public sector. The decision to continue the new approach is in hands of the new Parliament.

International cooperation and influence on the legal context

In 1995, Latvia committed to the process of joining the European Union. This political decision also meant the beginning of the adoption of national legislation conforming to the requirements of the European Union legislation. Among the focal issues have been public administration reforms, strengthening the judiciary, the fight against corruption and the promotion of the Latvian language learning among non-citizens.²³ In 2000, Latvia ratified the Council of Europe's Criminal Law Convention on Corruption.

Latvia became a member of the United Nations on 17 September 1991, and adopted the United Nations Convention against Corruption (UNCAC) on 12 January 2005. The Law adopting the UNCAC stipulates that the Corruption Prevention

¹⁸ Article about corruption in privatisation (October, 2013): <http://www.delfi.lv/news/national/politics/ekspremjeri-atzist-vairakas-kludas-privatizacijas-procesa.d?id=43720282>

¹⁹ Interview with business person

²⁰ Continental European traditional belief that the state must serve the interests of the majority and ensure the common good (common good) is achieved in accordance with the lobbying practices that - if applied in a fair and open way - helps decision makers to know the views of interested community groups and formulate the optimal trade-off between them. Karina Janova, 2004, 3 p. "Lobbying is regulated: World experience and recommendations to Latvia."

²¹ Interview with KNAB representative

²² Article about public sector employment (May, 2014): http://financenet.tvnet.lv/zinas/508465-kops_2008gada_valsts_budzeta_iestades_nodarbinato_skaitis_samazinajies_par_21_000

²³ Ministry of Foreign Affairs report "Latvia – the European Union": <http://www.mfa.gov.lv/data/visit/09-latvija-es.pdf>

and Combating Bureau of Latvia (KNAB) is responsible for coordinating and implementing the country's anti-corruption measures which are outlined in the UNCAC.

The implementation of the European Union Convention on the Protection of the European Community's Financial Interests in Latvia is the responsibility of the Prosecutor General's Office and the Ministry of Justice.²⁴ At the end of 2013, Latvia was officially invited to start the entry process to join the OECD.²⁵

These various international anti-corruption instruments have put pressure on the Latvian authorities to get tough on corruption. They have also provided impetus for discussions on the regulation of lobbying, equality, transparency and integrity as well public governance issues.

Attempts to regulate lobbying and lobbyists have not been successful due to lack of political will and stakeholder engagement

The development of the concept, "regulation of lobbying", was foreseen in the National Corruption Prevention and Combating Programme 2004-2008, approved by the Cabinet of Ministers on 4 August, 2004. The objective of KNAB is to evaluate the necessity of legal regulations for lobbying in Latvia. KNAB is also tasked with gathering information on the relevant regulatory experience of other countries. Such information is used to effectively develop Latvian mechanisms with the aim of ensuring transparency in cases where public decisions are made in the interest of certain persons or their groups. KNAB determined that lobbying is a legal activity, since everyone has the right to free expression and to provide suggestions to public and municipal institutions. Lobbying is legal as long as it is not linked with bribery or acceptance of undue benefits or privileges. Drawing on foreign experience and the current situation in Latvia, KNAB identified several important problems concerning lobbying in Latvia:

- Unequal access to public officials and public information;
- Restricted information about activities of lobbyists;
- In certain cases, lack of clarity of legal requirements;
- Difficulty in differentiating between lobbying and the criminal offence of trading in influence.

Since 2008, KNAB has developed three concept notes. In addition, there were three major attempts to regulate lobbying and lobbyists. The first draft concept note was developed in 2008 and described the three approaches that would attempt to regulate lobbying: (1) develop a special law regulating such aspects as: what is and is not lobbying, who are the lobbyists, what are the basic principles of lobbying. Develop a register of lobbyists and procedure for making information public; (2) include basic principles of lobbying and its legal regulation in the existing legislation related to submission and review of proposals. Develop a register of lobbyists and procedure for making information public; (3) include basic principles of transparency, equity and integrity of lobbying in state and municipal institutions' codes of ethics and relevant normative acts. According to this version, the public official would pro-actively disclose information about persons who contacted the institution with the aim to influence decision-making. Public officials would have the duty to ensure equity in access to information and the decision-making process.²⁶ In the end, all suggestions required financial assistance from the state budget. As a result, the concept note was cancelled.

The second attempt to disclose information regarding lobbyists was in 2009. In that year, the protocol of the Cabinet of Ministers stated that it is necessary to make information about lobbyists publicly available. It was strongly criticized by involved stakeholders. Hence, the protocol was not put forward to the Cabinet of Ministers. Instead, it was decided that new mechanisms to ensure disclosure of information would be developed.²⁷ A third concept note titled "To ensure public accessibility of information about lobbyists" was developed and approved by the Cabinet of Ministers in December 2011. It proposed to develop a special law: the "Lobbying Disclosure Law". The law was drafted in June 2012 with the aim of ensuring transparency and tracking of lobbying. One piece of evidence that could serve as proof of the relationship between a third party and lobbyist would be an agreement which includes information about lobbying as a service for a third party.

²⁴ KNABs web page: <http://www.knab.gov.lv/en/knab/cooperation/>

²⁵ Ministry of Foreign Affairs (December, 2013): <http://www.mfa.gov.lv/en/news/press-releases/2013/december/12-2/>

²⁶ KNAB draft concept about regulation of lobbying developed (March 2007): <http://www.knab.gov.lv/en/knab/news/article.php?id=103164>

²⁷ Cabinet of Ministers Protocol states the support to provide information about lobbyists publicly available (November 2009): <http://tap.mk.gov.lv/mk/mksedes/saraksts/protokols/?protokols=2009-11-24>

The draft law proposed to disclose the contents of any such agreement. The new draft law was going through a difficult discussion process and was criticized by stakeholders from public institutions, NGOs as well lobbyists and potential lobbyists. Social partners and NGOs would not be regulated under the proposed law. The professional lobbies argued that as official professional lobbies are still rare in Latvia, the law would not cover the majority of lobbies that exist. Hence, the law would only apply to several companies that are already transparent and open about their lobbying activities. Even the State Chancellery and ministries objected to the proposal. Some of the objections were taken into account to improve the regulation. However, more than 150 objections were not taken into consideration and the draft law failed to win support from the government. KNAB advocated for the special law to be tabled before Parliament. Yet parliamentary deputies were not interested to make a political decision, arguing that there were still so many objections to be considered.

The main loopholes of the draft law were:

- The definition of lobbying was very narrow. The law would only apply to the lobbying firms which have formal agreements or companies which are using lobbying firm's services. In Latvia, the firms which are promoting lobbying or related services like public affairs, legal consultancy and communication consultancy, do not amount to more than 20. Such firms are mostly already being transparent about their arguments and issues.
- To implement the law, state funding was not meant to be required. That was one of the prerequisites for KNAB; the government had previously stated that the new law should not cost anything extra for public institutions. At the same time, the requirements for public institutions were clear: that they would need to hire new staff (the workload might get intensive to register all contacts with lobbies) and improve IT systems to follow the law. Latvia's Association of Lobbies had calculated that the administrative burden for the public sector would be more than one million EUR per year. This is because more than 400 different public registers would need to be administrated (the registration of lobby contacts would not be centralized but registered in every public institution separately). KNAB's draft law did not provide any solution on how to control the implementation process of the transparency and disclosure requirements.
- The draft law determined the areas of lobby group's interests including industry policies, strategic documents, draft laws and rules of public institutions. Yet public procurement related interests were not included even though the area is the primary interest of lobbies.
- The draft law proposed to regulate lobby agreements with clients such as banning "success fees" which lobbyists would charge upon securing a deal. The proposal was disputed by business representatives and even public institutions, on the basis that this goes against the Law of Commerce.²⁸

As the draft law did not have political and government support, the Cabinet of Ministers decided to impose further transparency work on KNAB and the Ministry of Justice. From the beginning of 2014, both had to develop solutions to ensure lobbying transparency and disclosure of information through changing existing laws and other legal acts, rather than pushing forward the new proposal.

The latest concept note suggests including definitions of lobbying and lobbyist in existing laws, particularly the Parliament's Rules of Procedure as well as the Law of State Administration. The discussions about the definition of lobbyists will be challenging because NGOs and social partners strongly advocate against their type of organization being included in the definition. The final concept note also contains the suggestion of improving the Law of State Administration and the Cabinet of Ministers Rules of Procedure to allow for a more effective legislative footprint. To improve deputies' and public officials' behaviour with lobbyists and lobby information (legislative proposals) it is suggested to amend multiple laws, including: the Law of State Administration, the Parliament's Rules of Procedure, Parliamentarians Code of Ethics and the Rules and Instructions of the Cabinet of Ministers. Specifically, any content of these laws, which are about disclosure of

²⁸ Article about lobbying by Agnese Alksne (January, 2014): <http://www.7guru.lv/blog-raksti/lobesanas-paslepes>

public sector information or regulation of society's participation, should be amended. Discussions over whether the draft calls for enough in this regard and who would be responsible for control and contact registration continue. Regarding the issue of revolving doors, the Conflict of Interests Law will be improved. This most recent concept note calls for improving access to information and adding a requirement that a justification should be provided for all proposals submitted to Parliament. In addition, the concept note calls for amendments to the Criminal Code clarifying the concept of trading in influence to separate it from legal forms of lobbying.

If this concept note gains government and parliamentary support then a big step towards lobby regulation will have been achieved. However, there are still loopholes in the proposed regulation. For many years, TI Latvia has been tracking official meetings, including: the disclosure of agendas, protocols and participants lists. It found that participants lists are not being adequately kept. Neither are the meeting documents available on time, nor are the official web pages kept up to date with full information. The situation in the parliamentary commissions has been significantly improved since TI Latvia lobbied the initiative to disclose information about commission meetings. However, the follow up on disclosure of information tends to depend on public institutions' management understanding of existing laws, as well as their will to follow them. The new concept note does not provide a solution to create one register of lobby contacts or lobbies. Another issue which is not addressed is the transparency of visitor permits to public institutions. For example, the last time that information was disclosed about visitors to parliament was in 2011 by request of TI Latvia. The Chancellery of Parliament refuses to disclose such information pro-actively and on a continuous basis.

Taking into account the size of the country and the small professional lobbying sector, it is crucial to find an effective way to have a stable and balanced approach to regulation. Too much regulation will be rigid, burdensome and not cost effective, especially for the public sector.

Broader legal framework – loopholes undermine public integrity

Although lobbying is not regulated in Latvia, there are a number of related areas of regulation which could support a broader framework for public sector integrity. However, our research has found all of these areas to be deficient, either because of weak legal provisions or insufficient implementation.

Trading in Influence

In Latvia, criminal liability is established for trading in influence. It is defined as the offering of material goods or other benefits, personally or through an intermediary, to any individual who has a professional, official or social status, in order to influence or encourage the official to act illegally. The content of trading in influence is similar to bribery. It should be noted that the Criminal Law provides the possibility to prosecute trading in influence. The law criminalizes both those who offer material value, property or other benefits, as well as those who accept them.³¹

There have been no cases prosecuted under Article 326.1, which criminalizes trading in influence. Yet there are cases that have not been put forward or closed by the Prosecutors Office due to a lack of evidence. It is possible that a law enforcement agency (KNAB) may initiate criminal proceedings against lobbyists, arguing that they have made use of inappropriate methods (the methods are defined very broadly). However, it usually ends with the case being charged with bribery because the evidence tends to be more tangible than for trading in influence.³²

²⁹ KNAB Concept note July 2014

³⁰ KCriminal law: Section 326.1. Trading in influence

(1) The material value, property or benefits of another offering or giving by any person, to make it through their service, professional or social status, to personally influence a public official act or decision, unless the crime does not provide signs of this laws article 323 - punishable by imprisonment for a term not exceeding one year, or by detention or a fine not exceeding fifty times the minimum monthly wage.

(2) The material value, property or benefits of another nature, accepting an offer to be done by any person to make it through their service, professional or social status, to personally influence a public official act or decision or encourage any other person to influence a public official action or decision, unless the crime does not provide signs of this laws article 198 and 320, - punishable by imprisonment for a term not exceeding two years, or with arrest or a fine not exceeding fifty times the minimum monthly wage.

³¹ Interview with Providus political researcher Valts Kalniņš

³² Article about lobbying by Andrejs Judins (Arpil 2006): <http://politika.lv/article/draudzibas-varda-parkapjam-likumu>

Political party financing and control

In Latvia, donors to political parties may sometimes have significant influence on the party leaders and thereby on decisions that these parties make. Election campaigns are becoming very expensive. To avoid restrictions, political campaigns may start between four to six months before the elections. Hence, a great amount of money is spent before the voters make their choices. To get around regulations, money is donated to NGOs which support political parties. Unlike political parties, NGOs are not obliged to disclose information. Another approach to avoiding regulatory restrictions is that several political parties may form an alliance with one another to create one name of political parties, but not one shared financial account. In some cases, three to four parties may put their resources into one political party name advertisement, but resources come from different accounts for the same purpose. The aim is that different accounts under one political party name may give the political allies more money upon which to campaign and even don't break the rules. In many cases, donors are financially supporting many political organizations as they have their interests in politics and elections cannot be predicted.³⁴

The Law on Political Organizations (Parties) Financing was adopted in July 1995. In 2002, however, when KNAB took the responsibility of overseeing political party financing, the analysis of the political party finance structure showed that political parties had been engaging in "black accounting", using "shadow donors" etc. Approximately 2.5 million LVL (3.56 million EUR) of the total money received by parties was found to be illegally financed. Only 15% of this amount was paid back to the state. Most of the cases are still being disputed at the court.³⁵ Since 2010, a budget for campaigning has been given to parties from the state budget. This aims to reduce the impact of money on political parties and public decisions.³⁶

In order for the fight against political corruption to be effective, the following things are essential: control of political party finances, regulation of pre-election campaigning and providing effective regulation of lobbying. This was mentioned in an interview by the lobbyist with long experience working with clients offering lobbying services stated: "At first I was very sceptical about this new approach, but today I understand that limiting donations for political parties, giving money for campaigns from the state budget and restricting advertising amounts in the media, one month before the elections is very effective. The strategy used to lobby issues by paying bribes or donating to parties for a "good cause" is no longer possible so openly; it is too expensive".³⁷ GRECO states that the existing legal and institutional framework in Latvia which regulates the financing of political parties and election campaigns, in particular regarding transparency, supervision and enforcement, is well developed. Moreover, GRECO says that the framework is overall in line with the provisions of Recommendation 4 of the Committee of Ministers of the Council of Europe on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns (2003).³⁸ TI Latvia agrees that the country's regulatory framework has created a more transparent environment compared to the situation a few years ago.

TI Latvia evaluated the donation patterns to political parties before the European Parliament elections in 2014. It discovered the main gaps in regulation for political party financing, including:

- Lack of transparency of donors. There have been cases where donations from physical persons are over their annual income. Meanwhile, donors are hiding their motivation or lying about why they support a political party.³⁹ They make it much harder to identify whose economic interests are represented in political parties by using young adults to make donations. As mentioned in an interview by political researcher: "Half of the donations are a fairy-tale in the sense of donors' incomes. The ability of donors to support political parties, as well their motivation to be involved in politics is not persuasive and realistic enough."
- It is important to ensure fair distribution of media time, especially on TV and radio. This enables citizens to make their choices based on balanced information from different parties, instead of advertisements being dominated by certain wealthy parties.
- It is crucial to control the administrative resources used for the political campaigning of candidates who are already in power.

³³ KNABs web page: <http://www.knab.gov.lv/lv/finances/>

³⁴ KNABs Discussion paper at Octopus Interface conference on Corruption and Democracy, Council of Europe, Strasbourg, 20 - 21 November, 2006: <http://www.knab.gov.lv/en/knab/management/articles/article.php?id=120299>

³⁵ KNABs web page: <http://www.knab.gov.lv/lv/finances/>

³⁶ KNABs web page: http://www.knab.gov.lv/lv/finances/state_funding/

³⁷ Interview Nr1 with lobbyist

³⁸ GRECO report of Latvia: [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2008\)1_Latvia_Two_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2008)1_Latvia_Two_EN.pdf)

³⁹ Article about political party donations (January 2013): <http://www.focus.lv/latvija/politika/ziedotaji-gatavi-atdot-partijai-pedejo-kreklu>

- Social media are used for personal agitation and there is not clear regulation about the usage of the personal or political party accounts in period of agitation restrictions.⁴⁰

The access to information framework

Article 100 of the Constitution of Latvia stipulates that everyone has the right to freedom of expression. This includes the right to freely receive, keep and distribute information and to express their views.⁴¹ Communication, by receiving and distributing information, is an integral and perhaps the most significant part of lobbying. Article 101 of the Constitution grants to every citizen of Latvia the right to participate in the activities of the State and of local government. Article 104 grants the right to address submissions to the state or local government institutions, as well as interaction with the institutions of the state and the local government. This article describes so called petition rights, where anyone essentially has the right to approach government and local public institutions with an application and receive an answer. It is important that any regulation of lobbying does not impinge on individual citizens' rights to petition their government.

Over the last 10 years, significant improvement was made to laws regulating public disclosure of information.⁴² The right to receive information from public institutions is set out in⁴³ the Freedom of Information Law, Law of Application, Rules of Procedures in Parliament and the Cabinet of Ministers. The right assures the availability of information and access to public officials and institutions. It is crucial to mention that there is a different attitude to the level of accessibility of this information for individuals, different NGOs, social partners and professional lobbies like company owners, in-house public affairs advisers, public relations agencies and lobby service organizations. Lobbyists who are not publicly known or identified in official documents, known as lobbies in shadow, are also not expected to disclose information in the same way as public officials. The Freedom of Information principle is applied inversely; institutions do not consider it necessary to justify their reasons for withholding information. Instead, the burden of proof tends to transfer to the requestor who is required to justify their interest in the specific information. The laws, contrary to the Freedom of Information Act and other regulations with the purpose of providing free access to information, are interpreted in terms of institutions' interests rather than the public interest.⁴⁴

⁴⁰ Interview with TI Latvia representative

⁴¹ The Constitution of the Republic of Latvia

⁴² "Throughout the 1990s, the post-Communist leaderships of Eastern Europe—who were responding to demands from civil society that they honor their commitments to open government by enshrining them in law and who were motivated by the desire to join the Council of Europe and the European Union—adopted access to information laws across the region: in the Baltics (Lithuania 1996, Latvia 1998, Estonia 2000), Central Europe (Czech Republic 1999, Slovakia 2000), and South Eastern Europe (Bulgaria 2000, Romania 2001)"

⁴³ State Chancellery research „Structural reform impact assessment”, ID Nr. MK VK 2010/21 ESF

⁴⁴ DTI Latvia research „Information availability in state and local level municipalities institutions” (2011): http://delna.lv/wp-content/uploads/2011/04/Petijumi_9.pdf

IV INTENSITY AND SCALE OF LOBBYING IN LATVIA

Lobbying in the transition period and post-transition period

Lobbying in Latvia can be divided into two time periods: i) the transition period where lobbying was done by individuals considered as oligarchs or criminal authorities. They lobbied in their own interests using methods such as trading in power and bribing; and, ii) the post-transition period when Latvia became an EU member state and institutions like KNAB were founded and started to work towards safeguarding democratic values.

In 2000 and 2003, World Bank experts analyzed corruption in transition countries. They concluded that Latvia, more than in other Eastern European countries, showed signs of so-called "state capture"⁴⁵ in both the public and private sector. They identified activities carried out by individuals, groups or corporations to influence laws, regulations, ordinances and government policy-making in their favor. This resulted in an illegal and covert private benefit provision of certain public officials. Latvia as a transition country was considered as a great target for individuals (local and foreign) gaining capital in the name of country development. Such people used political, media and judicial power to influence laws. This included creating new systems that guarantee an instant money flow,⁴⁶ or influencing, for example, the criminal law.⁴⁷ As stated by ex-Prime Minister Aigars Kalvitis (2004-2007), in an interview with the Latvia Independent Television (May 2014): "The public should be thankful that oligarchs guide the country to enter the EU and NATO. They were able to decide differently but they didn't".⁴⁸ The former premier mentioning the power of oligarchs on national television is proof of their dominance during the transition period in the state's economic welfare and economy. The legacy of this period includes laws which were lobbied for in the 1990s. Such laws support the commercial sectors today, including the finance, recycling, environment and building sectors. Yet they have a lot of gaps and loopholes and provide little protection for society and the country's resources.⁴⁹

In the beginning of 2000, there were enormous changes towards fighting corruption. This included creating the KNAB in 2002,⁵⁰ as well as making amendments to legal acts regulating party financing, etc. In addition, many small steps were made to create an environment in which it is not so easy for political corruption to occur. As one of the lobbyists we interviewed stated: "Today, corruption schemes are more complicated and political corruption has to be done more cleverly to have an effect. There are still signs that some politicians are undertaking politically corrupt actions, which in the public mind is unfortunately considered to be lobbying".⁵¹ This is corroborated by our review of media references, where it is obvious that the word "lobbying" is connected to attempts to influence laws in order to create business opportunities. The word is also connected to attempts to influence public purchase results for personal gain. It is not broadly considered to be part of the normal political consultation process.

For the past few years, TI Latvia's work has been dedicated to releasing parliamentary decision making processes from oligarchs' influence and state capture. The organization has evaluated the last parliament's work towards the reduction of state capture through analyzing it against 10 key points which TI Latvia identified as being crucial to stopping it. The outcome of the evaluation is that the current parliament has made crucial justice and good governance improvement decisions including ensuring criminal liability for certain parties' "slush funds". The new legislation which includes party financing from the state budget has reduced party dependence on their sponsors. Moreover, the parliament has almost completely abolished the closed parliamentary vote.⁵² Hence, it is considered that the situation is improving. TI Latvia together with the research centre Providus has announced the next steps towards a more transparent, corruption free society and government. One of the issues is to ensure transparency of lobbying.⁵³

⁴⁵ Study identified "state capture" signs are: payments, such as members of parliament in order to influence their votes or contributions to political parties to influence government decisions (orders) content. In short - "state capture" means the normative framework, adapted to determine the economic agents' interests. Thus, the illegal lobbying meets state capture features.

⁴⁶ RArticle about fraud of public procurement (June, 2014): <http://delna.lv/2014/06/27/varam-un-vvd-turpina-nesekmigi-istenot-lielos-vides-sanacijas-projektus/>

⁴⁷ TI Latvia web page: www.deputatiuzdelnas.lv

⁴⁸ Latvia National television broadcast - „Dombura studija” (May, 2014): <http://www.tvplay.lv/parraides/dombura-studija/392143?autostart=true>

⁴⁹ Article about fraud of public procurement (Jun, 2014): <http://delna.lv/2014/06/27/varam-un-vvd-turpina-nesekmigi-istenot-lielos-vides-sanacijas-projektus/>

⁵⁰ KNABs web page: <http://www.knab.gov.lv/lv/knab/history/establishment/>

⁵¹ Interview Nr1 with lobbyist

⁵² Providus and TI Latvia research „First 10 steps how to get back stolen country”: <http://providus.lv/musuvalsts/monitorings/1>

⁵³ Providus and TI Latvia research „10 most important steps for better and more fair Latvia”: <http://providus.lv/article/10-svarigakie-darbi-labakai-un-godigakai-latvijai>

Lobbying in practice: Where are decisions made?

Lobbying, when considered not only a method of influencing the people in power but also as a process of representing diverse interests and opinions, permeates all levels of decision-making.

Lobbying in Parliament – it's all about connections!

Lobbying in Parliament is almost totally unregulated, and to a large extent remains hidden from the view of the average citizen. The process is more clear and transparent at government level. Yet when it comes down to institutions controlled by ministries, there is a lot of lobbying activity related to public procurement documentation and lobbying in the interests of businesses and public officials.⁵⁴

Lobbying in Parliament is facilitated by a provision in the Constitution. The provision grants the right of legislative initiative to no less than five members of Parliament (Article 65). It means that the lobbyist has to convince only five deputies about the necessity of submitting a draft law in order to have this issue included in the official agenda. Sometimes it is even possible to set up an agenda in any of the Parliament's commissions by sending a letter with a request to discuss the issue. Parliamentary deputies have the power to ask the ministries' to report immediately about any issue.⁵⁵

Within Parliament, the Coalition Council (description in section 3.2.), is a rather undemocratic institution and the site of much "political trading". "It is not possible to enter that elite politician group being a public official," was confirmed in interviews of an ex-politician and a public official.

Case study

Amendments to the Credit Institution Law

In 2010, the faction of "Saskaņas centrs" (Harmony centre) managed by parliamentarian J. Urbanovičs, submitted amendments of the Credit Institution Law, to the Parliament. Saskaņas centrs actively defended them although they would significantly burden the restructuring of "Parex banka".⁵⁶ In several cases the media assumed that these amendments were developed in the interests of the former owners of "Parex banka", Valērijs Kargins and Viktors Krasovics. "Saskaņas centrs" emphasized that the amendments offered by them would decrease the possible risk of machinations in the restructuring of "Parex banka". These amendments were also actively lobbied for by the former Vice-President of "Parex banka" Līga Puriņa, who at that moment was a consulting PCTVL (political party in Parliament). The data of the KNABs shows that at approximately the same time, people related to the former owners of "Parex banka" provided donations to "Saskaņas centrs" or to parties included in it. For example, the spouse of V. Kargins Anna Barinova donated LVL 9,000. Meanwhile, LVL 10,000 was donated to "Saskaņa" by the former Manager of the Payment Cards Department of "Parex banka" Andris Riekstiņš. On top of this, LVL 9,000 was donated by Valērijs Kargins' son Rems Kargins. J. Urbanovičs denied any relation between the amendments submitted by "Saskaņas centrs" and the donations from people standing close to "Parex banka". "There is nothing illegal in it. The election campaign is approaching and we do not leave without giving attention to anyone, who could provide donations to us. We are going and will keep going, and will keep requesting and asking," J. Urbanovičs told the newspaper "Latvijas Avīze".

It should be added that after the division of "Parex banka" into two parts, one considered to be 'good' (valuable assets) and one 'bad' (problematic credits)⁵⁷. The bad part retained the investments of the former "Parex banka" shareholders. In 2009, the former bank owners received almost five million LVL (EUR 7114359) for investments in interest. Amendments of the Credit Institution Law provided that the bad part would have to operate as a credit institution for at least three years after the division. If during these three years the bad part could not fulfil its requirements towards the credit institutions, it could not be transformed or announced as insolvent. The bank would be propped up by the state, but the former shareholders would receive interest for at least three years on their investments. After long-term discussions and objections from the Finance and Capital Market Commission, the Parliament's Budget and Finance (Taxes) Commission, it has been decided that these amendments will not be advanced for review.⁵⁸

Sources: Zvirbulis, Ģ. Izdevīgā interešu saskaņa (The Profitable Consistency of Interests). Latvijas Avīze. 11.05.2010
Politika.lv, 31.08.2010 LTV news

⁵⁴ Article about fraud of public procurement (June, 2014): <http://delna.lv/2014/06/27/varam-un-vvd-turpina-nesekmigi-istenot-lielos-vides-sanacijas-projektus/>

⁵⁵ Rules of Procedure of the Parliament

⁵⁶ "Parex banka" was the bank that went bankrupt, but government saved it with tax payers money.

Article about the chronology of bankruptcy (February, 2012): <http://www.ir.lv:889/2012/2/23/parex-bankas-krahs>

⁵⁷ Article about "Parex bank" splitting the bank's assets (August, 2010):

<http://www.diena.lv/bizness/finanses/noslegusies-parex-bankas-sadalisana-darbu-sak-citadele-banka-744605>

⁵⁸ Article from TI Latvia source: www.deputatiuzdelnas.lv

Who is lobbying?

There are three main groups of active citizenship recognized by general society and decision makers as fair lobbies, including: citizens lobbying in their own interests, non-governmental organizations (NGOs) and partners of social dialogue. The lobbyists that are 'distrusted' by society are: companies, in-house lobbies and companies or individuals who provide lobbying services (often named as public relations or public affairs. Shadow lobbyists and oligarchs are considered as potential law breakers who balance on the fence between corruption and trading in influence.⁵⁹ TI Latvia considers all of the above to be lobbyists (except citizens who lobby on behalf of themselves). Yet clearly some have a better reputation than others.

NGOs – money does not always define the scale of influence

It is assumed that NGOs represent the more active part of society; those interested in getting involved. As stated by the State Chancellery, policy-making is a complex and time-consuming process, and not all citizens and representatives of NGOs have the opportunity to participate in it at all stages.⁶⁰ The State Chancellery sees that it is important for the public to be aware of its opportunities to engage in the policy process and to know about all the institutions involved.⁶¹

The Parliament, government, ministries and public institutions provide support for NGOs, and most of these institutions have a specialist to coordinate NGO relations. Therefore, NGOs have a contact point who provides access to information or can request access to public institutions. More problematic are the requests for information or draft concept notes or any other document that are economically sensitive or affect economic interests. These types of documents are often not provided on request.⁶² There have been cases reported where NGOs are not invited to participate in consultation meetings.⁶³ In terms of successful lobbying, NGOs face some fairly obvious obstacles. As stated by Edgars Pastars, a lawyer from the Parliament's law office: "Regarding lobbying methods, NGOs lack capacity to prepare arguments and their approach is not always professional. To succeed they need to attract funds and hire professionals or companies offering public relations, public affairs and legal services. But from the other side, competent NGO leaders are always taken seriously by deputies and the media". Another problem about NGOs is the timing "Sometimes it is very hard to help NGOs and individuals because they approach me too late," described Ilma Čepāne, the deputy of Parliament.⁶⁴ The same points were raised in an interview with a public relation agency representative working in the field of public relations and lobbying since the 1990s: "Industry associations and NGOs can be divided into professional and unprofessional industry associations. The example of unprofessionalism is a situation whereby an NGO does not even hire a lawyer, and only one or two people work for the organisation that demonstrates the low capacity of the industry NGO. It would be better if the lobbying would go through industry associations, then process would be much clearer, even from legal point of view it would be possible to introduce in already existing legislation. Business owners have again possibilities to choose to pay for lobbying as service and have individual approach to their case or use industry NGOs looking for partnerships to solve problems. They will choose the strongest lobby and evaluate the capability to deal with their cases."⁶⁵

In a survey conducted by Burson Marsteller, 60% of respondents indicated that the 'corporate' sector often did not understand the policymaking process and often tried to intervene either too early or too late in it. Alternately, NGOs were criticized for basing their positions on emotion rather than facts.⁶⁶

TI Latvia has analyzed several cases of NGOs' advocacy and our research corroborates the opinions expressed above; NGOs lack capacity and expertise. Capacity-building and support for NGOs is crucial, because they act as an important intermediary between citizens and the state. We should also highlight the good evidence-based work being conducted by NGOs. For example, TI Latvia has been an advocate for the need to disclose information about parliamentary commissions' agendas for a number of years, in addition to the ideas of overall openness of data in the public sector.⁶⁷ The proposal was heard and today the data about commissions' work is more or less open and can be followed on the parliament's web page.⁶⁸

⁵⁹ Research by Valts Kalniņš „Parliamentary Lobbying between Civil rights and corruption” (2004)

⁶⁰ Cabinet of Ministers web page: <http://www.mk.gov.lv/en/sabiedribas-lidzdaliba/sabiedribas-lidzdaliba/>

⁶¹ Interview with State Chancellery Head of Communication Laine Kučinska

⁶² Interview with TI Latvia Advocacy and Legal Advice centre representative

⁶³ Interview with TI Latvia Advocacy and Legal Advice centre representative

⁶⁴ Parliament web page: <http://www.saeima.lv/lv/galleries/video/1856>

⁶⁵ Interview Nr.2 with lobbyist

⁶⁶ Effective Lobbying in Europe, Edition 2013 a guide to, The View of Policy-Maker: <http://lobbyingsurvey.burson-marsteller.eu/>

⁶⁷ TI Latvia report „Suggestions for more transparent work at Parliament”: <http://delna.lv/wp-content/uploads/2014/02/115905879-Priek%C5%A1likumi-Saeimas-atkl%C4%81t%C4%ABbas-veicin%C4%81%C5%A1anai-Delna-2012.pdf>

⁶⁸ Parliament web page: <http://titania.saeima.lv/livs/saeimasnotikumi.nsf/webComisDK?OpenView&restrictToCategory=15.10.2014&count=1000>

Case study

NGO Valmiera Region Community Foundation

The NGO Valmiera Region Community Foundation was handed down a penalty of 500 LVL (€711,44) in February 2012 for volunteer accountant recruitment. A State Revenue Service (SRS) punishment was imposed because the accountant did not have a contract of employment with the Fund, thus leading to the suspicion that it was done for tax-avoidance reasons. The NGO turned to the media and there was broad coverage of the topic for a long period of time. The NGO also brought the case to court and after one year, the court decided to cancel the fine imposed by the SRS. The case was well-discussed, involving media interest as well as support from other NGOs. So, after the court decision, the SRS initiated to change the Cabinet of Ministers Regulations No.585, to exclude the requirement of a contract of employment, if the accountant is employed by the association.

This case demonstrates that NGOs that work constructively and have knowledge about legal procedure and legislation can succeed in exerting influence. SRS informed that in the future when deciding on the administrative proceedings and administrative penalty, there would be a case-by-case examination to determine whether there was violation of the law.⁶⁹ The State Chancellery's Head of Communications Laine Kučinska confirmed that for many years, there had been attempts to change this regulation. It is a good example that proves the potential of NGOs to lobby and make a difference. It overturns the myth that only with a lot of money can changes in laws be achieved.

An institutionally good Europe-wide practice is NGO agreements with governments. In Latvia, NGOs have signed the Memorandum of Cooperation with the Cabinet of Ministers to solve NGO-related issues and strengthen NGOs' representation in decision making processes. The memorandum was signed on June 15, 2005 by the authorized representative of the Government – the Prime Minister Aigars Kalvītis alongside representatives of 57 NGOs.⁷⁰

Case study

NGO Campaign: "This is not about politics, this is about life"

The NGO "Hepatitis Society" has been advocating to have 100% compensated medicine for all hepatitis C patients (kids and adults) for the last 10 years. The NGO has worked alone with no support from stakeholders. Hepatitis Society created a coalition of stakeholders, which includes: private sector representatives, municipalities, related public institutions from the health sector and international NGOs with the support of health sector companies that did not have a direct economic interest in the issue. Hepatitis Society was supported by the three largest pharmaceutical companies represented in Latvia to organize the campaign. Together they decided to hire professionals in communication and lobbying to launch a campaign. The communication campaign was set up, in addition to a lobbying strategy. The target was to gain support from civil society, through getting people to sign for the draft law proposal (using the existing society participation platform www.manabalss.lv). With the signatures, Hepatitis Society would approach politicians. More than 12,000 people participated. All legal lobbying mechanisms were used to approach politicians. Many facts and data were provided to politicians, which Hepatitis Society collected through working together with stakeholders. The outcome was that even the government opposition parties were voting for the decision to compensate 100% treatment for kids from hepatitis C. There was a promise and understanding gained from politicians that for adults the compensation will be provided in the next finance planning period.⁷¹

There have been reported cases of 'astroturfing'⁷² or using the status of NGOs to gain personal benefit, or to lobby on behalf of business projects under the guise of an NGO. These cases are hard to prove. As claimed by a representative of KNAB: "There have been cases in which NGOs are lobbying third parties' economic interests. Sometimes companies are members of the particular NGO or donors of NGO".⁷³ A similar tendency was noted by the lobby of the fish manufactur-

⁶⁹Article about the result of the case at www.ir.lv (April, 2013) <http://www.ir.lv/2013/4/18/tiesa-lemj-par-labu-brivpratatgajiem-nevis-vid>

⁷⁰Cabinet of Ministers web page: <http://www.mk.gov.lv/en/sabiedribas-lidzdaliba/sadarbibas-memorands/>

⁷¹Information about the results of the campaign: https://www.facebook.com/Hepatitis/posts/471669616213832?stream_ref=5

⁷²Astroturfing is the practice of masking the sponsors of a message or organization (e.g. political, advertising, religious or public relations) to make it appear as though it originates from and is supported by grassroots participants (s): <http://en.wikipedia.org/wiki/Astroturfing>

⁷³Interview with representative of KNAB

ing industry: "Sometimes NGOs are founded by two or three people to hide their economic interests.⁷⁴ They use the well-structured legal interest representation system to promote their arguments, whilst ignoring public interest. Then the decision depends on politicians. Politicians are responsible for trying to understand whether the public interest is being represented or whether the interests are solely private".

NGOs do not have equal access to decision makers. Organizations like The Foreign Investors' Council in Latvia (FICIL), Latvian Association of Local and Regional Governments (LALRG) and Latvian Chamber of Commerce and Industry (LCCI), have reputations as NGOs being active and with ability to lobby professionally. For example, LALRG even has some specific regulation about rights to consult and participate in the Minister of Cabinet meetings.⁷⁵ This demonstrates the different access possibilities NGOs have to the decision making process. The other conclusion is that NGOs with members who are highly interested in state economic related issues will be more organized and influential, with a higher capacity to lobby. Smaller NGOs must gain the trust of the public and the media, which can support their actions to help lobby for changes in legislation.

Social dialogue

In European countries, important socio-economic decisions are taken via institutionalized consultations. These occur between the government, trade union umbrella organizations and business umbrella organizations. Thus within such a cooperative framework, the separate influence channels of interests assume lesser importance. Hence, there is no explicit need to improve the regulation of social dialogue partners.⁷⁶ In Latvia, social dialogue is regulated by: the Law of Trade Unions, the Law of Employer Organizations and Employer Organizations' Unions, and the regulations of the National Tripartite Cooperation Council and its Sub-councils.⁷⁷ The agreement to join the European Union was anticipated as ensuring tripartite consultations with the government about issues related to employers and trade unions. In Latvia, social dialogue partners include the Employers' Confederation of Latvia (LDDK) which represents 68 different industry employer organizations and around 100 of the largest companies,⁷⁸ and the Free Trade Union of Latvia (LBAS), which unites 21 industry trade unions.⁷⁹

LDDK discloses information about lobbying in its Annual Report. This comes in the form of a description of the results of the organization's strategic aims. For example, LDDK has reviewed around 700 legal acts. From these, LDDK has given 275 opinion papers, proposals and comments, concerning improvements to the business environment. From all the LDDK opinion papers, proposals and comments around 200 have been taken into account. Meanwhile, 58 draft laws concerning the economy and business environment, remain in a process of consultation.⁸⁰

The Rules of Procedure of the Cabinet of Ministers provides the rules for the consultation process. The rules state that social partners' opinion papers should be included for any legal act concerning employees and employer relations. In other words, the government must consult with social partners on every legal act concerning social and economic issues. As stated by LDDK and LBAS the opinion papers or recommendations are discussed with all the members who have expressed the interest about the issue and try to convey the common interest.⁸¹

NGOs and social dialogue partners do not see themselves as lobbyists. Instead, they see themselves as organized civil society that uses lobbying techniques to achieve results. They see themselves as working in the common public interest.⁸²

⁷⁴ Public good definition: In economics, a public good is a good that is both non-excludable and non-rivalrous in that individuals cannot be effectively excluded from use and where use by one individual does not reduce availability to others. Hal R. Varian, *Microeconomic Analysis* ISBN 0-393-95735-7; Mas-Colell, Whinston & Green, *Microeconomic Theory* ISBN 0-19-507340-1; or Gravelle & Rees, *Microeconomics* ISBN 0-582-40487-8.

⁷⁵ Rules of Cabinet of Ministers: <http://likumi.lv/doc.php?id=91094>

⁷⁶ The working paper of the European Parliament Lobbying in the European Union: Current Rules and Practices

⁷⁷ Employers' Confederation of Latvia web page: <http://www.lddk.lv/lapa/socialais-dialogs/>

⁷⁸ Employers' Confederation of Latvia web page: www.lddk.lv

⁷⁹ Free Trade Union Confederation of Latvia (LBAS) web page: www.lbas.lv

⁸⁰ Employers' Confederation of Latvia Annual Report: http://www.lddk.lv/wp-content/uploads/2013/10/LDDK-gada-p%C4%81rskats-2012.gads_.pdf

⁸¹ Employers' Confederation of Latvia Articles

⁸² Authors conclusions while participating at KNABs society consultations council

Professional lobbyists – a rarity in Latvia

Professional lobbyists remain a rarity in Latvia. In interviews with professional lobbyists and representatives of NGOs, respondents were asked to provide a description of a lobbyist and professional lobbying. What kind of characteristics or skills should lobbyists have? Commonly, interviewees felt that lobbyists should have professional competences in law, decision making processes, communication (presentation and debating skills) and professional experience in the field of lobbying issue. Professional experience could also be related to the media, politics, private legal practice or other corporate affairs experience in private industry, as well experience in NGOs.⁸³ The understanding of professional lobbying has changed over the past years and the expectations of lobbyists are high. Every one of the interviewed individuals said that it is rare to see professional lobbyists in public institutions, even in parliament.⁸⁴

As emphasized by lobby professionals: “Professional lobbyists are expensive.”⁸⁵ Professional lobbying involves a team with expertise, including communication and media relations skills, as well as knowledge of the law and decision making processes.⁸⁶ In many cases, companies opt to have in-house lobbyists or public affairs professionals, usually in strongly regulated industries. In this case, they often hire ex-politicians or ex-public officials as public affairs officers. There have been cases where ex-politicians or ex-public officials have become executive directors of companies in which business is highly dependent on relationships with the public sector. The industries that tend to hire former public officials or politicians tend to be pharmaceuticals, waste management, construction, tobacco and the finance sector.⁸⁷

Being a lobbyist is not classified as a professional category in Latvia. Moreover, there are no specific education curricula for the lobbying profession in any of the universities in the country.

According to a rare recent piece of research on lobbying by Mārtiņš Krieviņš, companies that use lobbying come from sectors such as the “pharmaceutical industry, developers and building industry, retailers, waste management industry, information and communication technology industry, non-governmental organizations, food processing industry and others”. Apparently some lobbying activity takes place on behalf of or by individual players of any major sector of the economy, which is subject to public regulation. Krieviņš also notes a recent trend of smaller players in particular sectors of the economy, which are increasingly demanding professional lobbying services.⁸⁸

It has been argued that professional lobbies should be regulated because they will lobby for those who will pay more. As stated by one of the lobbyists interviewed for this report: “I would be happy if the media would approach me while I am having a meeting with a politician. It would give me a chance to explain my clients’ point of view about a draft law.”⁸⁹ We found that, contrary to public perceptions, professional lobbyists are not interested in hiding their purposes and intentions. Instead, they see public discussion as an arena to exchange arguments. One of the interviewed ex-ministers admitted that: “being totally transparent about meetings with all the involved stakeholders, even those who are not necessarily very popular to meet, gives you the possibility to make a better decision. You as a politician may have more information that you could share, but it is very hard to explain the reasons for your contact with different actors to the public.”⁹⁰ We found that most lobbyists were not opposed to being regulated in some form.

It is important to underline that the responsibility of including lobbying information in decision making discussions lies not only on the shoulders of lobbyists but also with public decision makers. Such decision makers are supposed to work in the public interest. Public officials’ professionalism is crucial to ensure that they make proper and balanced decisions for the benefit of society.

⁸³ Conclusion by author: Interviews with ex-public officials and lobbies

⁸⁴ Conclusion by author: Interviews lobbyists

⁸⁵ Interview Nr 3 with lobbyist

⁸⁶ Conclusion by author: Interviews lobbyists

⁸⁷ Article about the former State secretary of Ministry of Health becomes a CEO of pharmacy company (May, 2009): <http://www.db.lv/razosana/valsts-sekretara-vietnieks-klust-par-grindeks-valdes-priekssedetaju-250509>

⁸⁸ Research by Martin Krievins, “Impact Assessment of the New Regulatory Measures Proposed by the Corruption Prevention and Combating Bureau on Professional Lobbying Service Providers in Latvia”, Stockholm School of Economics in Riga (2012)

⁸⁹ Interview N3 with lobbyist

⁹⁰ Interview with ex-minister

How is lobbying done?

The public views lobbying with suspicion. This strengthens the media's doubts about the amendments to any draft laws on the basis that it is in the interests of narrow groups. Since the restoration of independence, lobbying in Latvia has had two key features: (1) lobbying has been informal in nature; and, (2) society has maintained a distrustful attitude towards it.⁹¹ The media focuses attention on unprofessional lobbyists being paid to advocate for select interests or in the interests of their own organization. Meanwhile, less attention is paid to lobbying in the public interest. The media also does not tend to highlight the fair cases of lobbying, which utilize proper methods and improves legislation. Of course, the media prefers a bad news story hence, reporting on fair and equal lobbying is not a priority for them.

In the transition period, interested parties who comprehended the lack of experience and knowledge of politicians and public officials were able to push forward laws for personal economic interests rather than the public good. They managed to influence parliament and government through their close connections to the new political elite. The lobbying methods used in the 1990s are seen today as illegal. Such methods include bribing publicly responsible actors and making political donations in order to trade favours with power and influence. According to our interviewees, these methods of 20 years ago are not supported by most of the companies offering lobbying services today.

Red Flags and Risk areas for shadow lobbying

- It matters where lobbying takes place. Lobbying in Parliament is an almost unregulated field, which to a large extent remains hidden from the view of the average citizen. The lack of a draft law to regulate deputies' ethics creates a "good place to be" for lobbies. The process is more transparent at governmental level.
- When it comes down to institutions controlled by ministries, a lot of lobbying work relates to public procurement documentation. This relates to lobbying in the interests of businesses, because they are not in the media spotlight.
- Lack of revolving door regulation is causing weaknesses in the legal framework. This is because former public officials and deputies can use their network to provide an unfair advantage to their new employer and vice-versa.
- At the local municipalities level, the violation of laws and ethics are enormous, if one takes into account the public institution's closeness to private sector and links to family or friends.
- Individual ethical standards of deputies and other decision making actors is another key determinant of whether lobbying will be a positive or negative force.
- Level of economic interests behind the lobby proposal. The more closely the lobbyist's economic interests are to public sector decisions, the more likely that pressure will be put on public decision makers.
- A red flag should be raised in those cases where, as a result of lobbying, it is obvious that a law is harmonized with particular, narrow interests (rather than the public good more broadly).
- Nepotism and close connections: a red flag should be raised when a decision maker has a personal relationship, previous work experience or has received gifts (direct/indirect) from those who could benefit from a particular decision.
- Capacity and knowledge of deputies or public officials is lacking. In official discussions, the draft law proposals are not argued well in open discussion by deputies or public officials.⁹²

In Latvia, various groups of society enjoy the right of expressing their interests to politicians or engaging in "shadow lobbying". An example of this is about schemes concerning public purchases which are created by politicians through local municipalities. A particular case is described in a quote from the letter to the Ministry of Environment and regional development (MERD) by company "X" about Riga Council's public purchase of waste management: "As a rule, each public purchase competition, organized by the Riga City Council Department of Environment, MERD or Freeport of Riga, involves two or three companies. These companies are under the authority of A.L. (former public officer). Documentation relating to the tender is mainly prepared by company "Y", where the former prime minister I.E. and A.G. (having close friendship ties with I.E. and business partnership with A.L.) work. These involved parties are contractors of Freeport of Riga

⁹¹ Research by Valts Kalniņš, "Parliamentary Lobbying between Civil rights and corruption" (2004)

⁹² Conclusion by author: Interviews with ex-public officials and lobbies

Case studies

Suggestions to the Protection Zone Law

In 2009, K. Leiškalns submitted amendments of the Protection Zone Law to the Parliament. The suggested amendments would substitute the current parliament's protection zone of 300 metres and in populated areas, to 150 meters with a dune protection area of variable width. By narrowing the protection zone, local governments would be able to expand construction sites onto those areas. The Environment Minister, as well as several representatives of public organisations strongly criticized the suggestions, because they would promote construction on intact dunes. "If we were to allow Saka District Council to individually define the width of the protective zone, they would provide it 10 metres wide, and in the finer detail of the plan it would be only two and a half metres wide," said Guna Grimsta, a representative of "Zemes draugi".

Concerns were also caused by the fact that the amendments were only submitted for the third reading of law in the Parliament. Moreover, K. Leiškalns, the person who submitted them, had not been present at any of the three working group meetings, which had been previously organized with the participation of representatives of public organizations, environment experts, ports and local governments. However, K. Leiškalns announced to the press that his idea had been different. He said that following his perspective, local governments would not be able to cut the protection zone down any narrower than 150 metres. "If it turned out otherwise, it would have to be corrected by the commission," he said.

The Parliament did not adopt the amendments about the protection zone of variable width.

Sources:

Vorobjovs, A. Var veicināt neskarto kāpu apbūvi (Construction of the Intact Dunes might be Promoted). Diena. 05.02.2009
Dzedulis, Z. Aizsargjoslu platumi nemainās (Width of the Protective Zones remain the Same). Latvijas Avīze. 16.05.2009

Procurements of Riga Kurzeme District Executive Office

From December 2007 to September 2009, A. Sakovskis was the Chairman of the Procurement Commission in Riga Kurzeme District Executive Office. In 2008 and 2009, Ltd. "Tika" won four procurements. One of them was a price inquiry. Ltd. "Tika" signed the agreements for an approximate amount of LVL 359 000 (EUR 510 810). Ltd. "Tika" Chairman of the Board, Eduards Kiseļovs, was a contributor of the party "Tautas saskaņas partija" (in 2005 Kiseļovs donated LVL 300 (EUR 426,86). "Tautas saskaņas partija" is one of the parties included in the union of "Saskaņas centrs".

In 2009, the newspaper "Diena" wrote that in Riga the winners of the tenders for road asphaltting were all the same companies, which demonstrated uncommon regularity. Information gathered by the newspaper "Diena", which analyzed the asphaltting tenders for the yards of Riga suburbs, provided that each suburb had its favourite asphalt providers. Several company owners had donated to the parties, but a direct link between donation and tender could not be shown.

"Diena" indicated that in 2006 and 2007, in the largest Kurzeme District procurement tenders, the winner was the company "Roadeks" owned by the supporters of LPP/LC Jānis Ansviesulis and Uldis Klaperis. At the time when the Chairman of the Procurement Commission was A. Sakovskis, several companies had won tenders. Most often, however, the winners were Ltd. "Tika", Ltd. and Ltd. "LB Inter", Ltd..

In 2008 and 2009, "Tika", Ltd., signed four agreements for a total approximate amount of LVL 359 029 (EUR 510 852). Yet the name of Ltd. "LB Inter" became more widely known in relation to a scandal. This happened when the TV3 show "Nekā personīga" announced that after winning the procurements of the Executive Office, the company had paved roads that led to the houses of the Deputy Executive Director, Jeļena Baumanē, and of her neighbour, a Lawyer of the Executive Office. This had involved spending more than LVL 10 000 (EUR 14 228) of local government money. "We pave where we are ordered to," the company explained to journalists.

In the summer of 2010, A. Sakovskis indicated to the creators of kandidatiuzdelnas.lv that he had only been a member of the Procurement Commission and rejected any assumptions that he had been influencing procurement procedure.

Sources:

TV3 Nekā personīga. Par pilsētas naudu noburģē celiņu uz pašvaldības amatpersonas mājām. (Road that leads to the House of Local Government Official is paved with City Money). 02.11.2008
Jemberga, S. Savs kaktiņš, savs konkursiņš. (Own Nest, own Tender) Diena. 29.05.2009
VID, IUB

implementing the treatment plant reconstruction project. The company owned local government, known as "Z", will be responsible for reconstruction work".⁹³ The example demonstrates the close ties between companies and policy makers, which limit the opportunities for the public sector to look for improved solutions to provide better public services.

Often those groups or individuals who are interested in a certain legislative issue cooperate with separate deputies, with whom they happen to have informal ties or previous contacts. This lobbying may take the form of meeting the deputy at the Parliament, inviting the deputy to a private party, hunting or other leisure activities, bribery and legal or illegal funding of political parties. An example is the "electronic border crossing system implementation" which is defined in the state border crossing law. The law includes a proposal to delegate implementation of the electronic border crossing system to one specific organization. This proposal sounded suspicious to the Chancellery of the President of the State and they sent the draft law back to parliament for reconsideration. The President claimed the need to ensure that the state had the possibility to choose the service provider. He stated that the state must also keep the power to choose the price of the service as well as its quality. Investigative journalists played a role in this case, to highlight the situation to the wider public. In this case, investigative journalists pointed out the tight business connections between involved parties.⁹⁴

As a result of shadow lobbying, the electorate is not informed about the way various groups or individuals influence deputies who have pledged to work for the general public. Moreover, the possibilities for attracting the deputy's interest may be determined by the existence of personal connections or, in a worst case scenario, readiness to give a bribe or illegal donation for political campaigns. There have been many scandals regarding a party's "black accountancy" and some of these cases are still being investigated under supervision of KNAB.⁹⁵ Under such conditions, it is easy to exclude other groups who also have a legitimate interest in a certain legislative issue.

Lobbying through industry meetings and social networks

Politicians and lobbying practitioners note that industry meetings are the most effective methods to engage politicians on an issue. They were considered the most useful sources of information (80% giving this answer). Two-thirds of respondents cited NGO meetings as useful and the same proportion mentioned personal networks. As for the most used online media sources, specialist news, science and educational websites topped respondents' preferences. Meanwhile, Twitter ranked highest among the most frequently used online media sources (73%).⁹⁶ TI Latvia Director Gundars Jankovs experience the Twitter phenomenon firsthand: "TI Latvia was trying to arrange a meeting with the Minister of Environmental Protection and Regional Development for two weeks. Yet all TI Latvia received was a formal response from the Minister's office to say he was busy. We decided to approach the Minister writing to his personal Twitter account. We got an immediate response and were able to arrange the time and date of the meeting in ten minutes."⁹⁷ In 2012, Ltd "Hauska & Partners" undertook a survey approaching parliamentarians about their communication habits with citizens and lobbies. 50 parliamentarians out of 100 responded that they use the internet every day. The most popular websites were reported to be "gudrasgalvas.lv", then "Twitter" and "Facebook". Some deputies have their own web pages. The most influential is considered to be "Twitter". 62% of respondents claimed that they post regularly on social media accounts because it gives them the opportunity to communicate directly with society.⁹⁸

Lobbying functions and methods – delineating ethical from the unethical practices

According to the research made by Valts Kalniņš, there are six key functions of lobbyists:

- Interest representation – Lobbying is a legitimate activity safeguarded by civil rights.
- Communication or information mediation – In this regard, a lobbyist role is fairly passive in direct decision makers approach; they act as information intermediary, using communication channels, creating partnerships etc.
- Achieving, influencing or preventing decisions – This is sometimes considered to be the core of lobbying. At the same time, it is the aspect of lobbying considered to pose the greatest risk in terms of trading in influence and corruption. However, as already described, lobbying cases often occur in which it is possible to influence a decision making by legitimate means.

⁹³ TI Latvia Advocacy and Legal Advise Centre information

⁹⁴ Latvia television broadcast "Panorama" about business interest lobbying (June, 2012): https://www.youtube.com/watch?v=337RGsT_f0

⁹⁵ Article about TI Latvia position against party black money (February, 2007):

http://www.tvnet.lv/zinas/latvija/215352-delna_aicina_saglabat_partiju_priekšvešanu_kampanu_terinu_griestus

⁹⁶ Effective Lobbying in Europe, Edition 2013 a guide to, The View of Policy-Maker: <http://lobbyingsurvey.burson-marsteller.eu/>

⁹⁷ Article about lobbying (April, 2014): <http://politika.lv/article/ar-kuru-ministriju-tu-gribetu-iedzert-alinu>

⁹⁸ Article about research of social media use by deputies (Jun, 2012): <http://www.kasjauns.lv/lv/zinas/83961/saeimas-deputati-interneta-visvairak-sazinai-ar-veletajiem-izmanto-gudrasgalvaslv-twitter-un-facebook>

- Development of argument – this aspect of lobbying is closely related to influencing decisions. It could be even regarded as one of the means for influencing decisions. However, the tasks of the lobbyist might be limited to the development of the argument, whereas influencing of the actual decision may be left up to the client.
- Selling one's expertise or consultancy – a lobbyist may act as a consultant with regard to the decision-making process. In such cases, the lobbyist may not interact directly with the public institutions being influenced.
- Mediation in re-allocation of resources – this refers to cases in which a private person is employing a lobbyist with the aim of ensuring state budget funding for a specific project. In exchange for such state funding, a donation to a political party, which has helped to allocate funding to the particular project, might be necessary. In such cases, the lobbyist is functioning as an intermediary. In this regard, lobbying almost always overlaps with trading in influence or corruption. This includes activities such as mediation in bribing an official or mediation in financing political parties, which in Latvia almost automatically involves violation of the law.⁹⁹

These functions can be exercised in an ethical or unethical manner. We believe that lobbying is an important part of a functioning democracy. Therefore, it may be useful to separate the unethical forms of lobbying, where it is used for personal economic interest, trading in influence or corrupt purposes, from more positive forms of lobbying.

Table Nr.1 Positive and negative face of Lobbying

Positive face of Lobbying	Negative face of Lobbying
<ul style="list-style-type: none"> • Ensuring communication with society and different interest groups which strengthens trust in fair decision making processes. • Ensures wider public interest involvement, ensuring the most effective solutions for any industry development and overall sustainability. • Lobbying can contribute to information exchange; providing, receiving and analyzing information. It can help the public sector to understand public interests and receive expertise for possible solutions. • "Legalized" lobbying processes help to communicate with the public sector and implement the Constitutional rights. 	<ul style="list-style-type: none"> • If decision making is influenced by illegal payments, material values, services or benefits for public officials, society is pushed to pay for the value added by corruption. • Unequal lobbying – communicating with decision makers through influential friends, or political party members to persuade them to make a decision in favour of a lobby. This approach drives society away from public governance and provokes suspiciousness. • Hidden lobbying – decision making processes are not open to public scrutiny. Hence decisions may be made for narrow interests, not necessarily for the common good. • If lobbying is used as a cover for realizing specific business interests, it may distort the economy and destroy the competition.

Source: TI Latvia publication¹⁰⁰

How much money is spent on lobbying?

It is not possible to provide an accurate some of the total expenditure on lobbying, because data is not collected on this. Private companies providing services like governance relations, public affairs, lobbying, and public relations are around 65 companies (their annual turnover in 2011 was estimated to be 8.5 million LVL (12,09 million EUR), while the top 20 companies have 85% of the market).¹⁰¹ The share of businesses' income from lobbying services is very low. Quoting a PR agency owner; "Professional lobbying is not a serious business share in Latvia."¹⁰² According to self-evaluation of public relations companies, lobbying services constitute on average 15-20% of their turnover. The companies do not see lob-

⁹⁹ Research by Valts Kalniņš, "Parliamentary Lobbying between Civil rights and corruption" (2004)

¹⁰⁰ Research by KNABs, "Difference between legal lobbying and corruption" (2010)

http://www.knab.gov.lv/uploads/free/vadlin_polit_lobesana_vs_korupcija.pdf

¹⁰¹ Article about public relations agencies annual income (September, 2011): <http://www.7guru.lv/zinas/latvijas-sabiedrisko-attiecibu-uznemumu-apgrozijums-pern-8-5-miljoni-latu>

¹⁰² Effective Lobbying in Europe, The View of Policy-Maker, 2013 <http://lobbyingsurvey.burson-marsteller.eu/>

bying as a core field of activity but rather “a necessary supplement in the list of proposed services”. Meanwhile lobbying services are said to be charged at higher rates than usual public relations services.¹⁰³ There is no available data regarding in-house lobby budgets.

Sites of lobbying: key sectors and lobbying targets

According to TI Latvia, the Lobbies association survey showed that the most lobbied industries in the eyes of the society are: construction, energy, finance, agriculture, alcohol and tobacco. In addition, the most positive and ethical lobbyists were named as industry associations and NGOs.¹⁰⁴ Interviews with lobbyists and ex-politicians confirmed this data, but added few more industries, including: healthcare/pharmacy, IT/telecom, defense, trade, transport, sports, retail, waste management and agriculture. Society perceives the most effective lobbyists in Latvia to be the finance sector (94%), energy sector (87%) and agriculture (87%).¹⁰⁵ Both the ‘corporate’ sector and NGOs were considered effective in lobbying on agriculture and financial services, while the former also ranked highly on energy issues.¹⁰⁶

The target of lobbying is not only legislation, but also public procurement.¹⁰⁷ An interview with a public relations agency representative supports this opinion, claiming that: “Today it is rare that changing laws are the target of lobbying. If they are, then lobbying is the job of industry associations (NGOs). Donors of political parties, however, are lobbying public procurement and purchases, but it is on a personal level.”¹⁰⁸

The most lobbied area is public procurement. This is because it provides a possibility to come closer to state money; offering direct short term influence on business results. 37% of business representatives think that corruption has prevented them from winning a public tender in the past three years (EU average: 32%).¹⁰⁹ A company representative working in the lobbying field for many years proposed the following: “Companies are consulting public institutions as they lack knowledge of any industry specific needs e.g. to write proper technical public procurement specifications for public purchase. The solution to this would be to establish a practice of consultations with industries about specific issues in the industry in order to have proper public purchase documentation. Another solution would be to ensure that industry consultations for document preparation include confidentiality agreements or other control mechanisms to lower possibilities of conflict of interest and corruption.”¹¹⁰ A representative of KNABs stated that lobbying is threatening the economy in areas where competition is very high, like in IT, construction, waste management and the health sector.

Long-term lobbying is taking place mainly in relation to those areas of policy where there is extensive regulation (e.g. banking, gambling, alcoholic beverages), public investment (e.g. infrastructure) or both (e.g. energy). Five to six key ministries connected with economic and business regulation, as well as the Parliament and its Standing Commissions, are the most frequent targets of lobbying activities.¹¹¹

Lobbyists claimed in interviews that the most active lobby initiatives are evident just before elections around laws concerning excise goods, gambling, public purchase, environmental protection and construction. Political parties demand donations for election campaigns and in return politicians do not change the laws influencing these businesses. This is done by political party persons who are responsible for fundraising. A representative of KNAB confirmed the lobby practitioners’ statements in interviews: “Politicians are selling their services. And businesses who can afford it (of course, not everyone) are buying it.”¹¹² The amount of money for influence the legislation process differ, but the numbers claimed from lobbyists and confirmed by public officials as well ex-public officials are around 150 000 EUR.

¹⁰³ Mārtiņš Krieviņš, „Impact Assessment of the New Regulatory Measures Proposed by the Corruption Prevention and Combating Bureau on Professional Lobbying Service Providers in Latvia”, Stockholm School of Economics in Riga (2012)

¹⁰⁴ Article about societies perception of lobbying (April, 2013): <http://www.reitingi.lv/lv/archive/ekonomika/78064-aptauja-latvija-netiek-nodrosinatas-vienadas-iespejas-parstavet-savas-intereses-valsts-institucijas.html>

¹⁰⁵ Article about the „Hauska & Partner” Ltd. research (Jun, 2012): <http://www.7guru.lv/zinas/deputati-par-efektivako-digitalaja-komunikacija-uzskata-tviteri>

¹⁰⁶ Effective Lobbying in Europe, Edition 2013 a guide to, The View of Policy-Maker: <http://lobbyingsurvey.burson-marsteller.eu/>

¹⁰⁷ Conclusions by author: Interviews with lobbies and ex-politicians

¹⁰⁸ Interview Nr2 with lobbyist

¹⁰⁹ Transparency International Eurobarometer 2013 Business survey

¹¹⁰ Interview Nr2 with lobbyist

¹¹¹ Mārtiņš Krieviņš, „Impact Assessment of the New Regulatory Measures Proposed by the Corruption Prevention and Combating Bureau on Professional Lobbying Service Providers in Latvia”, Stockholm School of Economics in Riga (2012).

¹¹² Article about lobbying (2004): <https://sites.google.com/site/socialapsihologija/lobisms-latvija>

Cultural Understanding of Lobbying – fear of the unknown?

In 2013, Latvian Association of s Lobbyists survey results showed that inhabitants in Latvia often consider lobbying as something negative. There is a mistaken opinion that lobbying is an element of corruption. In terms of public perception, lobbying remains linked with corruption and undue influence on decision-makers unless lobbying is fully transparent. More than 40% of respondents associate lobbying with bribery, corrupt public sector officials and forbidden agreements. The assumption is that lobbying is a process when the public official is coaxed out of his office to “put information in his head” and as a result the public official will make a hard to explain public decision.¹¹³

Inhabitants of Latvia do not believe that there are equal opportunities to represent their interests in state or local municipalities' institutions. The interests of the society are not respected in cases where influence on public decision-making is hidden from the public and is done through influential friends to ensure that decisions are taken in the interest of a restricted group or individual persons. Therefore, lack of transparency in the preparation of decisions, as well as unequal access to the dialogue with decision-makers, creates public concern that the public decision-making processes are unfair. In other survey¹¹⁴ of lobbying practitioners and politicians, a third of respondents said that the most negative aspect of lobbying was the absence of transparency. Another third said that it gave undue weight to elites and the wealthy. 93% of respondents from the same survey agreed that in Latvia, transparent lobbying would be helpful for policy development. 53% of respondents saw the most positive aspect of lobbying to be ensuring the participation of social and economic actors and citizens in the political process.¹¹⁵

Decision makers use the word “lobbying” when they feel pressure from being approached by many third party representatives and NGOs through different methods (letters, phone calls, proposals for meetings and intensive follow-up) about any specific issue. A parliamentary chairwoman from the legal issues commission said that: “Regarding the new construction law, more than 30 NGOs were interested to express their opinions but the government officials as well deputies did not stand the pressure”.¹¹⁶ The media uses “lobbying” as a description of possible business involvement and suspicion of bribery, while drafting laws.¹¹⁷ NGOs and social partners as well company representatives use the words “interest representation” or advocacy to mean lobbying which is considered to be a “bad action”.

The professional lobbies confirmed that any attempts by KNAB to regulate lobbying will be seen as a threat, signifying distrust of lobbying as a normal democratic process. Associating lobbying with KNAB, the institution that is responsible for fighting corruption may lower the possibility for open public discussion about fair lobbying. Hence the likelihood of changing societal perception about lobbying may be limited.¹¹⁸

Self-regulation of lobbyists' activities – less proactive then expected

In 2012, the Latvia Association of Lobbyists was established. This aimed to build a culture of transparent lobbying. Association Chairman Guntars Grīnvalds is a former minister of justice. He quotes: “Currently lobbying as a professional service is not regulated [...] Interests are not always qualitatively substantiated, discussed, and the process is impenetrable. This will give rise to a decline in public confidence in the governance process. With the establishment of an Association, we are calling for cooperation from industry professionals as well as government officials who participate in lobbying”. In the performance of their duties, members of the association are committed to be open about what interests are represented and what the purpose of lobbying activities is. Members are: Guntars Grīnvalds, Atis Zakatistovs, Jānis Loze, Kristaps Turauskis, Artūrs Grants, as well companies «Šmits, Jēkabsons and partners», «Hauska & Partner», «P.R.A.E. », «Hill and Knowlton Latvia», «Repute», «MRS Grupa» and «Deep White».¹¹⁹ All 12 members have signed the code of ethics.¹²⁰

¹¹³ Article about lobby regulation (July, 2012): <http://www.diena.lv/latvija/viedokli/zanders-izbrina-cik-smagi-latvija-notiek-likuma-par-lobesanu-izstrade-13958781>

¹¹⁴ Effective Lobbying in Europe, Edition 2013 a guide to, The View of Policy-Maker: <http://lobbyingsurvey.burson-marsteller.eu/>

¹¹⁵ Effective Lobbying in Europe, Edition 2013 a guide to, The View of Policy-Maker: <http://lobbyingsurvey.burson-marsteller.eu/>

¹¹⁶ Latvia Radio 1 broadcast about construction law (December, 2013): <http://lr1.latvijaradio.lv/lv/raksts/krustpunkta/ilma-cepane-jaunais-buvniecibas-likuma-regulejums-ir-vel-libera.a31413/>

¹¹⁷ Latvia Television broadcast “De facto” (Jun, 2014): <http://www.youtube.com/watch?v=Cy4h9U7uqU0>

¹¹⁸ Article about lobby regulation by Mārtiņš Krieviņš (April, 2012): <http://www.7guru.lv/lasamgabal/lobisma-likums-nav-vajadzigs>

¹¹⁹ Article about founding Lobbyist Association of Latvia (April, 2012): http://financenet.tvnet.lv/zinas/417745-latvija_nodibi_nata_lobetaju_asociacija

¹²⁰ Interview Nr2 with lobbyist

The Code requires that, in communication with public officials, a lobbyist discloses his/her identity, the identity of his/her client and goals of lobbying. A lobbyist must also provide true and verifiable information; is prohibited to intentionally mislead or deceive; shall not disclose confidential information (unless a client or employer grants permission or legal acts require such disclosure); shall not represent opposing or incompatible interests; and shall not act so as to place public officials in situations of conflict of interest.¹²¹ The Code applies to members of the Association only and contains no sanctions for breaches.

An interview with the public relations agency owner confirmed that there are companies in this business who want to be transparent and have a discussion about the "rules of the game". The owner said that: "Founding the association was an answer to the state's initiative to regulate lobbying. There are more companies that are providing lobbying related services, but they are waiting for the regulation and then they will decide to join the association or not".¹²²

The Association's proposal was to organize and manage a registry which would be recognized by the state, ensuring "benefits", e.g. access to information or premises of public institutions. In the consultation process, the Association's proposals were not accepted on the basis that they would conflict with the Constitution's petition rights.¹²³ As TI Latvia argued before, the petition rights can be narrowed by specific regulation, such as by asking for detailed information from lobbyists, as it has been done in other EU countries.

The Association has been passive since the draft law discussions occurred. It only comments in the media on some cases about lobbying issues, or if there is any discussion about ethics or a new proposal of regulation activities.

So far, there have been no notable initiatives from corporations around responsible lobbying.¹²⁴ The examples of good lobbying practice are set by associations of different industries declaring the principles of transparency and ethics on their company web-pages. For example, The Statoil Fuel & Retail (Ltd.) Lobbying Code of Ethics quotes that a lobbyist is a special intermediary agent, which is used to influence decisions in the public and private sector. A lobbyist may be used only in the case that they fully disclose to the person or organization being lobbied, what the Statoil Fuel & Retail (Ltd.) lobby representative wants to influence. Therefore, the disclosure of all contracts with lobbyists should be made compulsory.¹²⁵ This is a good example and practice that should be implemented by other companies who intensively lobby their interests in public institutions and parliament.

Watchdogs: the role of the media and civil society in monitoring lobbying

Investigative journalism – lacking protection and finances

The Latvian media are independent from state and political parties. However, the unclear media ownership feeds suspicion that some media are not independent and have political sympathies.¹²⁶ Investigative journalism in Latvia is not sufficiently financially supported as it requires.

Nevertheless, investigative journalism is growing. Without investigative journalism, society would never know about many cases in which the law has been violated, conflicts of interests have arisen, and oligarchs have undertaken corrupt actions. Media outlets involved in investigative journalism include: Latvian Radio, Latvian Television ("De Facto", "1:1", TV3 ("Noting personal"), Latvian Independent Television ("Domburs Studio", TOP 10), newspaper "Diena", "Independent Morning Newspaper", regional media "Kurzemes name", "Bauskas life", magazine "IR", etc.¹²⁷

Riga Strains University Head of Communication studies department, Anda Rožukalne, sees that investigative journalists

¹²¹ Lobbyist Association of Latvia code of conduct (approved on 30 March 2012).

¹²² Interview Nr2 with lobbyist

¹²³ Research by State Chancellery, "Structural reform impact assessment", ID Nr. MK VK 2010/21 ESF.

¹²⁴ Article about lobby regulation (July, 2012): <http://www.puaro.lv/lv/puaro/lla-lobesanas-likumam-jaizskauz-kaktu-lobetaji>

¹²⁵ Statoil Fuel & Retail Latvia code of conduct: http://www.statoil.lv/lv_LV/pg1334073180177/par-Statoil/Soci%C4%81%C4%81-atbild%C4%ABba/Uz%C5%86%C4%93m%C4%93jdarb%C4%ABbas-kodekss.html

¹²⁶ Article about public relations independency (February, 2010): <http://www.delfi.lv/news/national/politics/kolats-sabiedriskomediju-neatkariba-ir-loti-iluzora.d?id=29742845>

¹²⁷ Article about investigative journalism (October, 2007): <http://www.delfi.lv/news/comment/comment/anda-rozukalne-vai-latvija-ir-petnieciskas-zurnalistikas-noriets.d?id=19318111#ixzz34DZ2rUiu>

in Latvia are working in two directions. The first approach is to expose representatives of elites in Latvia. The second approach is to gather information about important processes in the country and make conclusions over whether the society's interests are taken into account. Investigative journalism projects are one way of creating content which questions what makes sense in public decision making. A good example of an investigative journalism organization is Re:Baltica. Their actions are independent and do not comply with any media agenda. They were funded by donations and independent funds. It gives us a hope that this approach will lead a progress in investigative journalism.¹²⁸

Re:Baltica is a non-profit organization that produces works of investigative journalism in the public interest. Founded in August 2011, Re:Baltica focuses on in-depth investigations of socially important issues in the Baltic region, such as corruption, crime, finances, entrepreneurship, health and human rights. Re:Baltica journalism encourages transparency and reform. In December 2013, Re:Baltica investigated the potential connections between construction companies donations to political parties and the public purchases the companies received.

As argued by an ex-minister, the higher the concentration of resources, the more likely the decisions will be made by a narrower circle of people. In such instances, the risk of corruption is extremely high. That is why disclosure of the information and raising society's awareness about lobbying is crucial. The responsibility for this lies in the hands of organized civil society and the media.

Journalists who are working on cases of corruption, crime, conflict of interest, political trading, finances and entrepreneurship (close to state interests), are having a hard time dealing with state security services. They are often asked to reveal their sources. They have also been subject to investigation of violating the law protecting confidentiality of information, persons' privacy or any other concern related to the specific situation.¹²⁹

Several cases being investigated by journalists have captured the public's attention for a long time: Janis Domburs (Latvian Television) "Latvenergo 3 million case"¹³⁰ and the Ilze Jaunalksne (TV3) "Digitalgate" case, Ilze Nagla (Latvian Television) was the first to report on "Neo" (whistleblowers name) and a cyber-activist group called The 4th Awakening People's Army. "Neo" later published links to compilations of public sector salaries on the social media application Twitter.¹³¹ The weekly news magazine "Ir", founded by journalists and editors who left daily newspaper "Diena" after a change of ownership in 2009, is the subject of four civil lawsuits alleging slander. One of the lawsuits is from Riga mayor Nils Ušakovs against an opinion piece by Aivars Ozoliņš calling the City Council a "kleptocracy". In addition, two lawsuits are related to a series of articles claiming possible corruption in the process of bankruptcy administration. A further lawsuit is over an article that examined the goals and financing of a pro-life movement in Latvia.¹³²

Journalists have turned to Latvia's courts or even in some cases to the European Court of Human Rights (ECHR) filing complaints about the illegal investigation that journalists are subjected to. The majority of cases have resulted in favor of journalists.

Ethics in journalism have been heavily discussed in recent times, particularly transparency of funding and disclosure of ownership information. For example, there have been cases where the producers of investigative journalism program "Nothing personal" have been commissioned to produce the political campaign advertisement videos of political party "Unity" ("Vienotība").¹³³ This creates risks regarding the objectivity of opinions delivered in a program that is claimed to be investigative journalism. The other issue where journalists may struggle to prove their objectivity is in the validation of data sources and making sure that their data is correct. This often happens when journalists communicate with lobbies, because lobbies are providing the arguments on their behalf. Journalists have to understand in what interests this information has been given to them. At the same time, lobby information as a source is interesting for journalists.

¹²⁸ RArticle about media owners (December, 2013): <http://lv.ejo-online.eu/tag/mediju-ipasnieki>

¹²⁸ Article about police contacts with media in Latvia (January, 2014): http://www.rebaltica.lv/en/investigations/press_intimidation_in_the_baltic_states/a/991/a_summary_of_police_contacts_with_media_in_latvia.html

¹²⁸ Article about the corruption case (September, 1997): <http://www.diena.lv/arhivs/latvenergo-miljonu-lieta-izmeklesana-vel-prieksa-10015865>

¹²⁸ Article about the investigative journalism and whistle-blowers (Jun, 2014): <http://www.delfi.lv/news/national/politics/poikana-paveiktais-iedvesmo-citus-uzskata-nagla.d?id=44580920>

¹²⁸ Article about the investigative journalism (October, 2012): <http://www.ir.lv/2012/10/29/usakovam-nepatik-vards-kleptokrati-ja-iesudz-ir-tiesa>

¹²⁸ Article about investigative journalists reputation (February, 2010): <http://www.puaro.lv/lv/tiesiskums-un-kriminallietas-raksti/liekulibas-karaliene-arta-giga-jurgis-liepnieks>

Watchdogs – struggle with allocation of funds and society indifference

A number of NGOs are active in the area of monitoring and advocating for lobbying transparency and fairness. TI Latvia – better known in Latvia as “Delna” is an organization which acts as a public watchdog and is responsible for providing proposals to reduce corruption and monitoring politicians to ensure that they keep their promises. Delna is keeping an eye on public interests and continues to provide legal advice, as well as drafting the legal framework for whistleblower protection. It also continues to consult on legal issues or in other words to protect people who are ready to report on illegal actions. TI Latvia uses social media including Facebook, Twitter, draugiem.lv and its own platforms like www.delna.lv, www.deputatiuzdelnas.lv (transparency of members of parliament work) and www.kandidatiuzdelnas.lv (transparency of members of European Parliament and members of parliament candidates).

Citizen initiatives

Citizen initiatives that promote transparency, integrity and plurality of lobbying, at the national level are based on an online social initiative platform: ManaBalss.lv “MyVoice.lv”. This allows any individual to promote the proposals for draft laws and involve society to support them. This platform itself had to lobby in order to change the Rules of Procedure of Parliament. Before this change occurred, it was possible to submit citizens’ initiative proposals in Parliament by gathering physical signatures of people. The changes were made to the rules in 2012 stated that not only were physical signatures valid to submit a proposal, but also that digital signatures could be recognized as evidence of citizens’ support for proposals. Today, if anyone wants to submit an initiative to Parliament, they need to gather 10,000 digital signatures on the online platform: www.manabalss.lv. Once submitted, the Commission of Mandates validates the documentation and gives the proposal to the Parliament to be included in parliamentary agenda.

Case Study: Social initiative platform - ManaBalss.lv “MyVoice.lv”

The goal of this initiative is to empower civic participation, as well as furthering democracy, sustainable development and people engagement in public decision making processes. In turn this promotes more efficient and productive work of ManaBalss.lv. ManaBalss.lv is already used by 15% of Latvians and two new laws have been passed thanks to the activity on its website. ManaBalss.lv is recognized as an open government success story across the globe. ManaBalss.lv is a social initiative platform, an 100% legitimate way to submit initiatives, gather supporters and present finished initiatives to the Parliament. Initiatives are checked to comply with ManaBalss.lv and the Parliament’s legal standards. However, the legal consulting provided is community based and the site holds no liability with regards to the political or legal consequences that its initiatives may entail. It is a platform where anyone can submit initiatives to improve the country. Moreover, using the site is completely free. An initiative can be submitted and signed by any citizen of the Republic of Latvia who is at least 16 years of age. This is authorized through a state-registered online bank. ManaBalss.lv ensures privacy and the security of personal data. Authors of initiatives can freely contact volunteer experts in the legal system, politics and other sectors, who will be happy to provide assistance in improving initiatives. Since July 24, 2013 the Foundation for Public Participation has executed project “ManaBalss.lv” under an NGO support program. The project is financially supported by Iceland, Liechtenstein and Norway. The program is funded by the EEZ financial instrument and the Republic of Latvia, as well as public donations.¹³⁴

¹³⁴ Manabalss.lv portal web page: <https://manabalss.lv/docs/EEZ.html>

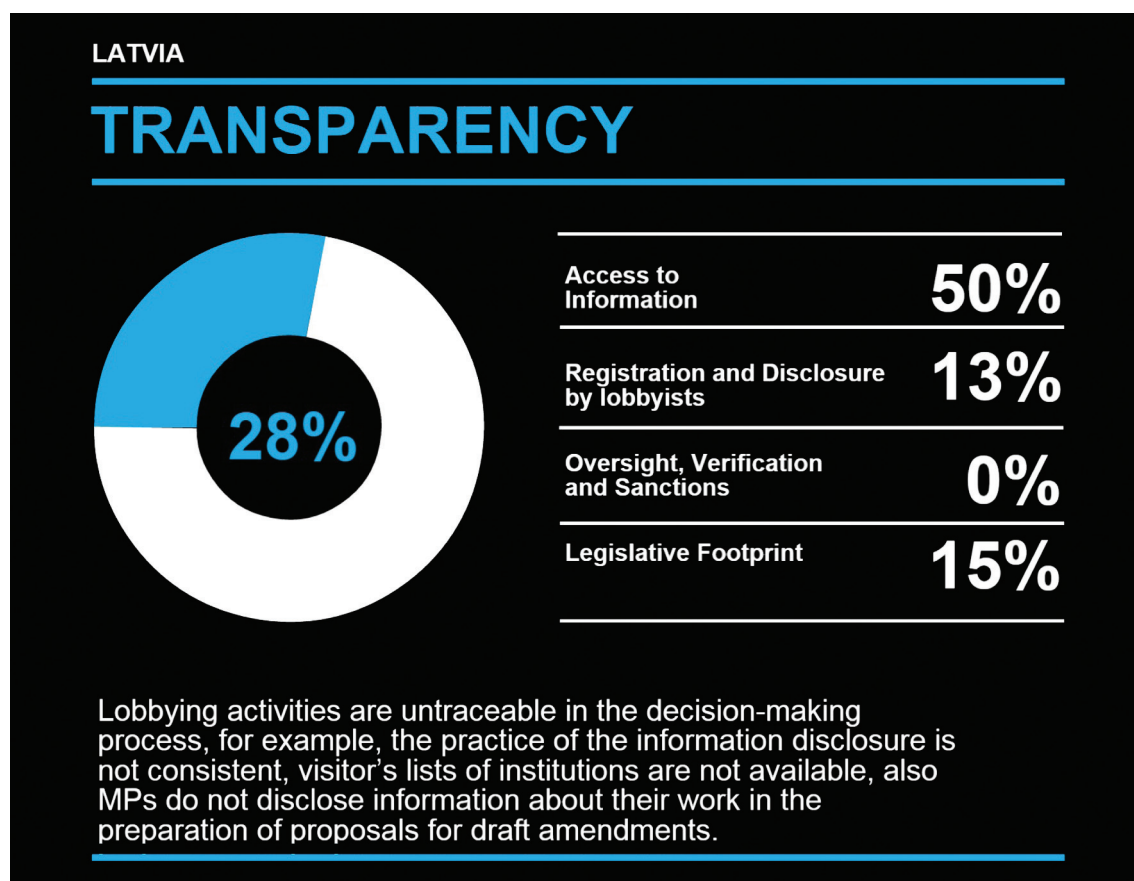
V REGULATING LOBBYING: TRANSPARENCY, INTEGRITY AND EQUALITY OF ACCESS

In this section, we provide a more detailed assessment of the regulation of lobbying and related activities in Latvia, with a focus on transparency, integrity measures and equality of access to decision-makers.

Towards Transparency

When looking at transparency around lobbying practices, our research sought to answer the following overarching question: to what extent does the public have sufficient knowledge of (a) the loopholes in the legislation concerning transparency; and, (b) how lobbies are able to use formal decision making procedures? The key gaps identified are lack of transparency in the legislative footprint of Parliament (deputies are not disclosing information about their work to prepare draft law proposals), disclosure of information about deputies' personal agendas and disclosure of information regarding lobbyist proposals in documents such as explanatory notes for laws. Availability of information about agendas, protocols and records of meetings are not openly available to society.

The scores show that the overall transparency of decision making processes, lobbying and lobbies have been evaluated as 28%, consisting of the main evaluation sub-categories: access of information (50%), registration and disclosure by lobbyists (13%), oversight of register and sanctions (0%), pro-active disclosure/legislative footprint (15%).



With regard to general parliamentary and government transparency, parliamentary sessions, Cabinet meetings, and some of the parliamentary commission meetings, several working groups and consultation meetings regarding draft laws or other legal acts are recorded in audio format. However, the information is not available online and it is complicated to access the information due to bureaucratic burdens (a lengthy process involving a lot of paper work). The last innovation of access to information was introduced in June 2013. Since that time, the public has been able to follow Cabinet of Ministers meetings online.¹³⁵

The meetings of the Parliament's committees are open, unless it has been decided otherwise (Rules of Procedures for Parliament Article 159). Thus, if lobbyists participate in an open committee meeting or if a lobbyist's proposal is successful, representatives of the media as well as other interested persons may be present.

The agenda of deputies' daily work is not regulated. So, every deputy is responsible for their daily work schedule. The mandatory activities for deputies are to participate in plenary sessions, as well as relevant commission and sub-commission meetings. Participating in other events like meetings with electorates, or attending public or private events, are the choice of each deputy. The most active and planned days of deputies' work are from Monday to Thursday. Fridays are considered to be days when politicians are meeting with the electorate.¹³⁶ Deputies do not have to report about their daily schedule and disclose information about whom and where they have met. As mentioned before, it is a deputy's responsibility to add in the explanatory note of a draft law, information about any consultations with lobbies (NGOs, private sector, social partners, etc.).

Legislative footprint exists – it is stated in one of the articles in the Rules of Procedures for Parliament and the Cabinet of Ministers. However, according to an interview with a State Chancellery representative, "the draft laws' explanatory notes are not filled out appropriately and it is hard to follow a real legislative footprint because institutions are not following the rules". The Cabinet of Ministers rule Nr. 171 declares the requirement to publish information online about consultations with organized civil society and individuals. There is no legal framework for lobbying, so information about the activity is not required to be published separately on the parliament's web pages. There are only some public institution web pages where information is disclosed online about consultations or expression of interest to consult with a public institution from social dialogue organizations, NGOs and individual persons.¹³⁷ Lack of control mechanisms is a cost of low quality law enforcement and lack of transparency.

In Parliament, a draft law should enclose an explanatory note (annotation), in which, among other things, all the consultations that have been held while preparing the draft law should be indicated. In principle, such an explanatory note should also indicate the lobbyists with whom the submitter of the draft law has consulted. However, if the submitter does not wish to disclose the lobbyists, there is no mechanism that would compel him or her to disclose such information. Edgars Pastars, the Parliament's legal office lawyer, confirmed this, emphasizing that: "there is a lack of legislative footprint for proposals coming from deputies (in Parliament). This is especially true in cases where deputies cannot offer persuasive arguments in favor of the proposals included in explanatory notes, even when such proposals are signed under their name. This makes such cases suspicious". The laws to oversee the legislative footprint are in place, yet due to a lack of control mechanisms, the laws are not implemented in practice.

Our interviewees noted a real need to understand how decisions come to pass. The legislative footprint should theoretically throw light on this. Edgars Pastars explained that: "It is crucial to understand which actions have been taken by decision makers at any level, after they have had contact with lobbies. In Latvia, we have very close relationship and family ties as the population of this country around 2 million people, so it is not rational to ask for regulation of contacts with lobbies, but it is crucial to achieve the level of transparency when it comes to decision makers action – proposal inclusion in draft laws". This statement was approved by interviews with lobbyists as well as ex-politicians. To improve the quality of existing mechanisms to ensure legislative footprint would be effective, the following changes are necessary: the draft law explanatory note should be improved; information about proposals' authors should be disclosed; the protocols of meetings should be made publicly available online; and, information about all participants of the meeting along with all the comments made about the proposals should be disclosed. As described by a lobby representative in an interview: "If I am representing an industry with 200

¹³⁵ MCabinet of Ministers infographic about open government comparison in other countries: http://www.mk.gov.lv/files/valdiba_tiesraide_infografiks_lv.pdf

¹³⁶ Parliament web page: <http://www.lvportals.lv/skaidrojumi.php?id=248565>

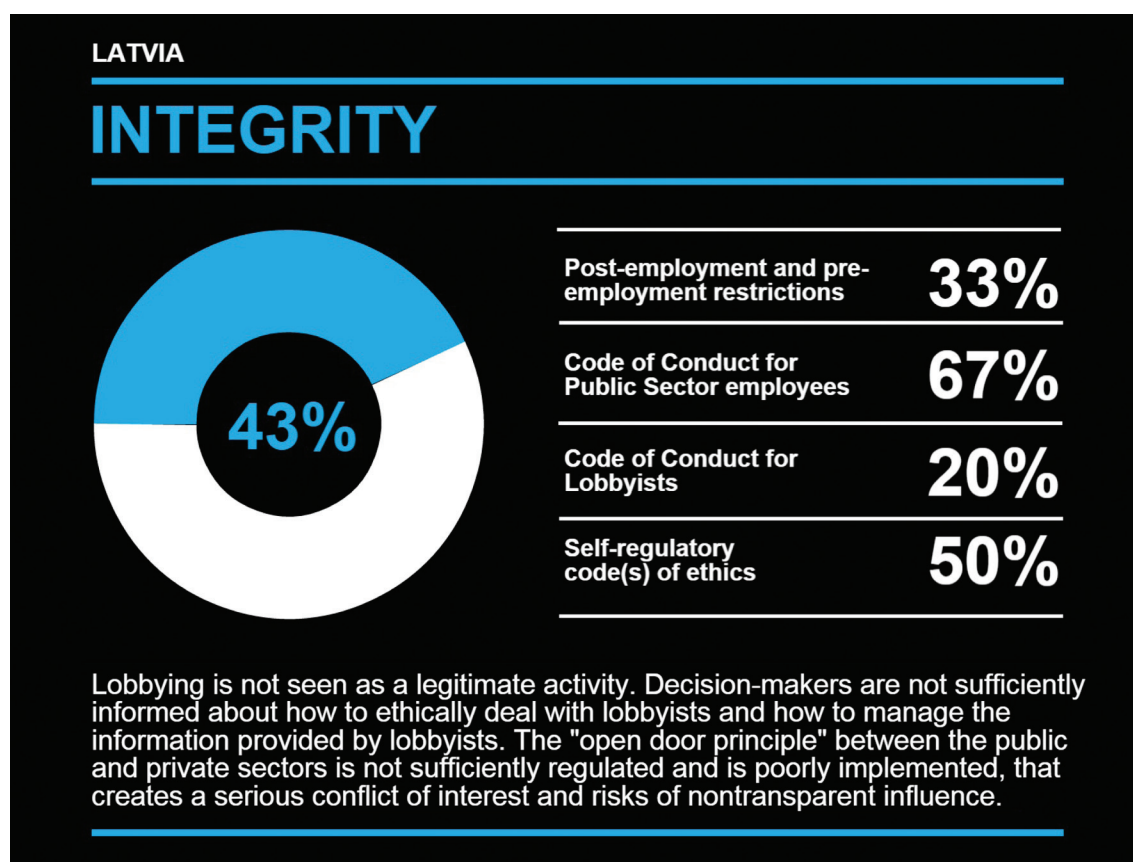
¹³⁷ Environment protection and regional development web page: <http://varam.gov.lv/lat/lidzd/>

enterprises, and public officials are listening to the person who is not able to disclose the information about for whom he or she works, then it is not considered as equal position to lobby from and it should question the ethics of the participant of the discussion and politicians attitude. In professional lobbying there should be competition around and between the argumentation not competition about "whom I know and with whom I am friends with".¹³⁸

In May 2014, the State Chancellery introduced a concept note to the Cabinet of Ministers. The note was about the elaboration of a legal act as well as a consultation platform based online (it is under discussion about the particular form of implementation). The aim of the portal will be to ensure equal rights for civil society, NGOs, social partners, experts and advisors to comment on any draft legal acts that concern them. Laine Kučinska, Head of Communications at the State Chancellery, stated that the portal will be a platform where green papers of legal acts will be made available in addition to explanatory notes. This will provide the public with greater information on issues such as: if and how legal acts influence the state budget, public administration, economy and society. "The new mechanisms will prevent situations in which draft laws are pushed forward without consultation with society and other stakeholders. It will raise the trust in decision making processes and ensure transparency of lobbying activities," said Laine Kučinska. The concept note will be discussed by the Cabinet of Ministers at the end of 2014.¹³⁹

Fostering Integrity

Transparency of lobbying must be embedded within a broader public sector integrity framework. The framework must mitigate the risks of conflicts of interest when important decisions are being taken. Our research sought an answer to the following overarching questions about integrity: Is there a robust ethical framework for lobbyists (and companies) and lobbying targets in the country? If so, to what extent is it working? Is the onus for integrity placed on both lobbyists and public officials/representatives? The key gaps identified are in the code of ethics for public institutions, E.g. the code does not apply to the Cabinet of Ministers. The wider understanding of revolving doors principles and sufficient applicability mechanisms are missing at the he Law of Prevention of Conflict of interests. TI Latvia score: Integrity has been evaluated as 43%. This includes assessment of post-employment and pre-employment restrictions (33%), a code of conduct for public sector employees (67%), a code of conduct for lobbyists (20%) and self-regulatory codes of ethics (50%).



¹³⁸ Interview Nr3 with lobbyist

¹³⁹ Cabinet of Ministers web page: <http://www.mk.gov.lv/lv/mk/tap/?pid=40323250&mode=mk&date=2014-05-26>

According to the information found by KNABs, all ministries except the Ministry of Foreign Affairs and most of the institutions under governance of ministries do not have a code of ethics that includes provisions aimed to ensure transparency in the lobbying process. However, the regulation does not apply to members of the Cabinet or Deputies - the officials who are more focused on lobbying activities and targets.¹⁴⁰

In addition to the Constitution, there are several pieces of legislation in Latvia that indirectly deal with integrity issues of lobbying in the public sector. One of them is: The Law on the Prevention of Conflict of interest in the Activities of Public Officials. This law regulates relationships between public officials, including parliamentary deputies, and third parties, in situations where a conflict of interest for the public official might arise. The Law on the Prevention of Conflict of Interests¹⁴¹ establishes restrictions governing parliamentary deputies to combine their official position with other positions (Article 7.2.). They are also permitted to receive remuneration for work only in those positions that are not prohibited by the law (Article 9.1). Moreover, public officials are forbidden to accept gifts directly or indirectly (Article 13.1). Thus, the law restricts certain relationships that might result in public officials being influenced by external interests that conflict with their duties. 67% of respondents in Latvia say that it is acceptable to give a gift to obtain something from the public administration (this is higher than the percentage for the same question across other EU countries).¹⁴²

In the context of lobbying, the Law on the Prevention of Conflict of Interests is significant for the deputies of parliament. The law's provisions allow the deputies to combine their work as a public official with a position in a public, political or religious organization, or as a pedagogue, scientist, doctor or undertaking creative work (Article 7.2 and 7.3). These norms open up legal possibilities for the deputies to accept positions and receive remuneration from organizations that are engaged in lobbying (such a combination of positions is also allowed for some other groups of public officials).

The Parliament's Rules of Procedure also define the status of an assistant to a deputy (Article 195 and 196). The assistants of the deputies are important, since they themselves might act as lobbyists and also function as contact persons for lobbyists. Some of the duties of the assistants are such that might involve direct cooperation with a lobbyist. Such activities might include: accepting proposals and complaints from the electorate and to review their submissions; receiving the electorate outside the deputy's regular reception hours, providing the deputy with the necessary information and reference materials. Such duties, which include a link with the electorate and collection of information, can also be referred to as lobbying. Since lobbyists are also part of the electorate, they may be an important source of information. Comparing the deputies of the 11th Parliament to previous parliamentary deputies, they are not tending to hire their family members to be their assistants as much as before. However, this practice is not totally eradicated.¹⁴³

The law does not forbid entering the private sector following public sector employment or vice versa, on certain conditions. The conditions allow that a former public official may take up employment in the private sector, so long as they have not made decisions influencing the private company for the first two years of working for them. For example, in 2011, the former state secretary of the Ministry of Finance, Mārtiņš Bičevskis, became the president of the Association of Commercial Banks. This move was considered to represent strengthening of the bank lobby.¹⁴⁴ The executive director of the Latvian Association of Ports, Kārlis Leiškalns, served several periods as a member of parliament between 1993 and 2010. The Chairman of the Board of the Latvian Association of Lobbyists, Guntars Grīnvalds, served as the Minister of Justice for a brief period in 2006. However, despite there being no general prohibition against officials becoming lobbyists after retiring from their public posts, the phenomenon of the "revolving door" is not perceived as particularly damaging in Latvia. Since effective lobbying requires good understanding of the political and socio-economic situation, knowledge in several fields as well as being acquainted with decision makers, it is often the case that the most senior level of company management is directly involved in the provision of lobbying services.¹⁴⁵ **The movement of senior staff between the public and private or NGO sector is not in itself a problem. It is rather a problem, for example, when a former official uses his or her network to gain an unfair advantage for his or her new employer.**

¹⁴⁰ KConcept note about lobbyist disclosure: <http://likumi.lv/doc.php?id=241125>

¹⁴¹ The Law "On Preventing the Conflict of Interests in the Activities of Public Officials." Published in Vēstnesis, 09.05.2002, No. 69. Amended.

¹⁴² Eurobarometer TI survey 2013 EU report

¹⁴³ TI Latvia report, "Suggestions for more transparent work at Parliament":

<http://delna.lv/wp-content/uploads/2014/02/115905879-Priek%C5%A1likumi-Saeimas-atkl%C4%81t%C4%ABbas-veicin%C4%81%C5%A1anai-Delna-2012.pdf>

¹⁴⁴ Article in "Bicevskis will Strengthen the Bank Lobby in the Parliament", «nra.lv», (16.03.2011):

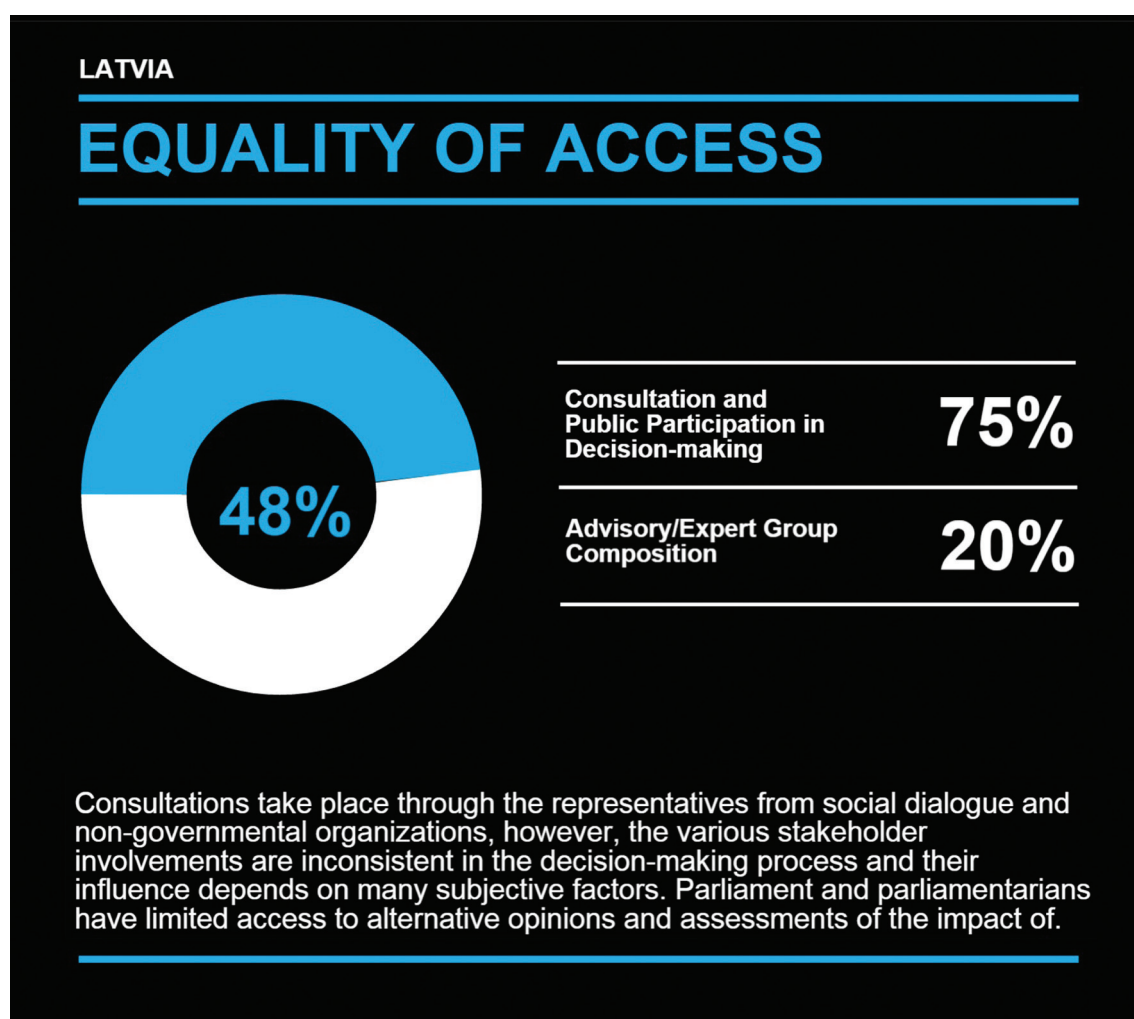
<http://nra.lv/latvija/politika/43476-bicevskis-nostiprina-banku-lobiju-parlamenta.htm>.

¹⁴⁵ Martin Krievins, "Impact Assessment of the New Regulatory Measures Proposed by the Corruption Prevention and Combating Bureau on Professional Lobbying Service Providers in Latvia", Stockholm School of Economics in Riga (2012)

Equality of Access: Levelling the playing field

Regulatory measures are crucial to ensure lobbying transparency and integrity. However, they must be accompanied by rules that allow for equality of access to decision makers. This is essential to fairness and pluralism in the political system. Our research asked whether there are enough spaces in the system to allow for diverse participation and contribution of ideas and evidence by a broad range of interests. We explored whether such participation leads to policies, laws and decisions which best serve society and broad democratic interests. The findings are mixed in this regard. The key gaps identified include: Parliament is not disclosing information about its visitors; the hiring and ethical compliance procedures of advisors, consultants and other personnel are not transparent or recognized; the system to apply for long term permits to visit the Parliament is not transparent; and, the Parliament's research capacity is limited.

TI Latvia's scores showed: Equality of access has been rated as the highest of the three main indicators for fair lobbying practice in the decision making process: 48%. The indicator was created by evaluating the consultation and public participation possibilities in decision-making process (75%) and the diversity of advisory/expert group composition (20%).



The Constitution of the Republic of Latvia sets forth that the Parliament is composed of 100 representatives of the people. The Constitution also states that the Parliament is elected¹⁴⁶ for a term of four years in general, equal and direct elections conducted by secret ballot and based on proportional representation. The Parliament is a very open institution and can

¹⁴⁶ The procedure of the Parliament elections is determined by the Parliament Election Law. The Central Election Commission, a permanently functioning and elected public institution, is responsible for preparing and conducting the Saeima elections.

be easily contacted by any inhabitant of Latvia, such as through writing letters and claims, drafting law proposals to the Chancellery of Parliament or directly to the party factions or deputies. A deputy has the power to decide if the information given to him or her will be included in the agenda of the Parliament's commissions, sub-commissions or Parliamentary session agenda. Deputies can ask for information to clarify any questions: with citizens, lobbies, consultants and assistants hired by the deputy. Consultants employed by political party or deputies may also find information in the Parliament's library as well as asking party consultants. There are no criteria in place to regulate which specific qualities are required for a consultant hired for parliamentary deputies or political parties. NGOs, social partners and individuals can ask for cooperation from Parliament commissions or sub-commissions, for issues to be included on their agendas. NGOs, social partners and individuals can propose to organize official commission meetings, including outbound visits to discuss issues outside the premises of Parliament.¹⁴⁷

Parliament has 100 deputies and they have the option of hiring assistants and they also can have support from Parliamentary groups and commissions' consultants or assistants. However, as the Deputies of Parliament claim, the support is usually technical and it is not possible to employ someone well qualified in any related field. Some commissions have highly qualified consultants and they are paid accordingly. A further way that deputies can attain information to help them make decisions based on public interests is to look for documentation on other countries' experiences in the Library of Parliament. The library is generally able to provide this kind of information. Another way that deputies can better understand the issues is to organize thematic conferences together with experts, advisers and NGOs.¹⁴⁸ This is a good example of how to involve different stakeholders. The issues can be discussed and solved through this approach even in the premises of Parliament. Yet the outcome is not always very effective. On top of this, deputies can invite Commissions and sub-commissions to reach out and talk to visiting NGOs, businesses or other interested stakeholders. Protocols can be made in such outreach visits. However, if the commission does not have quorum, the promises made in the meeting will not be implemented.¹⁴⁹ The Parliament's research capacity is inadequate. Hence, deputies tend to rely on the Cabinet of Ministers or "society's opinions". However, this could be a fair lobbying practice "risk area" in the Parliament – lack of information from different stakeholders or lack of alternative researches can lower the quality of laws.

Access to the Parliament can only be arranged by someone who works in it. A visiting permit must be attained in the parliament's Permit Office. The parliamentary staff member who has invited the external visitor must provide information about them to the Permit Office, including: the visitor's forename, surname and organization, as well where this person is going to participate or who this person is going to visit in the Parliament. The same approach works in other public institutions. Both three month permits are available (usually for social partner or media representatives) as well as permanent permits. Permanent permits are provided for those politicians who voted for independence of Latvia in 1991, in addition to ex-deputies and some media representatives. There are exceptions of course and permanent permits can be given to "consultants". Parliamentary sessions are not usually easy to enter. However, there is a solution: you can get a "tourist permit" to visit the parliament building.¹⁵⁰ Speaker of the 11th Parliament, Solvita Āboltiņa, was against publicizing the list of visitors to Parliament, claiming that it is against the data security law and people's privacy.¹⁵¹ One of the lobbyists told that he does not usually meet politicians or people responsible for the lobby issues in the premises of Parliament. Instead they tend to meet at nearby cafes and restaurants.¹⁵²

A parliamentary committee has the right to invite to their committee meeting an expert in the capacity of an advisor (Article 169). The invited expert can in fact be a lobbyist whose aim is to influence the decision. Their presence is recorded in the meeting's minutes (recorded even on a portable device) (Article 163), which in the case of lobbying means documenting the lobbyist's presence. It is important that the experts are only allowed to participate in a committee meeting upon invitation. Hence, any lobbyist willing to speak at the committee as an expert would first have to obtain such an invitation from the committee.

¹⁴⁷ AA author conclusions according to interviews with: ex-politicians and lobbyists

¹⁴⁸ TI Latvia report, "Suggestions for more transparent work at Parliament": <http://delna.lv/wp-content/uploads/2014/02/115905879-Priek%C5%A1likumi-Saeimas-atkl%C4%81%C4%ABbas-veicin%C4%81%C5%A1anai-Delna-2012.pdf>

¹⁴⁹ Authors professional experience

¹⁵⁰ Author conclusions according to interviews with: ex-politicians and lobbyists,

¹⁵¹ Article about Parliament Speakers opinion about permits to Parliament: <http://www.delfi.lv/news/national/politics/aboltna-kategoriski-iebilst-pret-ierosmi-publiskot-saeimas-caurlaizu-sanemeju-varbus.d?id=42928350>

¹⁵² Interview Nr1 with lobbyist

The Rules of Procedures of the Cabinet of Ministers state that the organizations which have the right to participate¹⁵³ in a public decision making process as a part of organized civil society are: the Latvian Association of Local and Regional Governments, social partners (Employers' Confederation of Latvia and Free Trade Union Confederation of Latvia, together in the Tripartite council), the Memorandum council representative of NGOs (9409 NGOs in 2011) and non-governmental organizations.

Taking into account the size of the country and the small professional lobbying sector, it is crucial to find an effective way to have a balanced approach to lobbying regulation. Too much regulation could prove rigid, burdensome and not cost-effective, especially for the public sector. However, the main aim is to strengthen the enforcement of existing laws to ensure public sector integrity, equality and transparency.

The public sector is considered to be open to the public. It has achieved impressive improvements (See Chapter III) in this regard but such transparent behaviour is not consistent across all public institutions. Limited transparency remains embedded in their institutional culture. Consequently, public watchdog non-governmental organizations and the media still have an important role in following-up the work of public decision makers and lobbyists. To improve the consistency of decisions makers' integrity and equality of lobbying, it is crucial to recognize that lobbying is a normal part of the democratic process. It can help to safeguard the transparency of decision making processes, ensure access to information and uphold the integrity of public officials, especially parliamentary deputies.

¹⁵⁴ Address government, participate in official meetings, include issues in the government agenda with ministerial approval, include in documentation the acts of conclusions about the issues, receive information and participate in consultations.

Annex 1 : Data Collection Questionnaire

Definitions¹⁵⁴

1. To what extent does the law clearly and unambiguously define 'lobbyists' to capture all who lobby professionally including professional lobbyists, public affairs consultancies, and representatives from NGOs, corporations, industry/professional associations, trade unions, think tanks, law firms, faith-based organisations and academics?

Score: 0 – No definition/Wholly inadequate definition covering a small proportion of lobbyists

Commentary on indicator result:

There are no definitions of lobbyists or lobbying in law, but laws (Constitution, Rules of Procedure of Parliament or Cabinet of Ministries or local municipalities) regulate consultation mechanisms for social dialogue partners, non-governmental organisations and citizens.

Check all categories covered by law:

Professional lobbyist
Private Sector Representatives
Public affairs consultancies
Representative from NGO
Representative from a for-profit corporation
Representative from industry/professional association
Trade unions
Think tanks
Law firms
Faith-based organisations
Academics
Other, please specify _____

2. To what extent does the law/regulation define 'lobbying targets' in a sufficiently broad manner to include members of national and subnational legislative and executive branches (including advisors) and high level officials in national and subnational public administration, regulatory bodies and private bodies performing public functions?

Score: 0 – Lobbying targets are not defined in law/ wholly inadequate definition covering a small proportion of lobbying targets

Check all categories covered by law:

National Legislators
Subnational Legislators
National Executive
Subnational Executives
Executive Advisors
High-level public officials
Regulatory bodies
Private bodies performing public functions
Other, please specify _____

¹⁵⁴ ZIn the narrative you should discuss any issues regarding the legal definition of lobbying the country. Is the focus too broad or too narrow? Are individuals lobbying in one's own (business) interests covered? Is there an overt concentration of wealth among a small number of individuals that may justify the inclusion of individuals in the definition? If NGOs are covered by the definition, there should not be any negative consequences for them in other aspects of the law (e.g. Tax law). If this is an issue, it should be discussed here also. It will also be important for the narrative to cover what is not considered 'lobbying' under the law.

3. To what extent is the term 'lobbying'/'lobbying activities' clearly and unambiguously defined in law/regulation to include any contact (written or oral communication, including electronic communication) with lobbying targets (see above) for the purpose of influencing the formulation, modification, adoption, or administration of legislation, rules, spending decisions, or any other government program, policy, or position?

Score: 0 – No definition/Wholly inadequate definition covering a small proportion of lobbying activity

Commentary on indicator result:

As there is no clear definition about lobbyists, but the consultation mechanisms exist, there is regulation that request to disclose information about consultation process (public institutions with society representatives) in explanatory note that is annexed to draft laws. In this document under the section "consultations with society" the information should be disclosed, but not always all consultations are disclosed.

Transparency

Framing Questions to bear in mind when constructing the narrative for this section: To what extent does the public have sufficient knowledge of (a) who is lobbying public representatives (b) on what issues they are being lobbied (c) when and how they are being lobbied (d) how much is being spent in the process (e) what is the result of these lobbying efforts etc? Is the onus for transparency placed on both lobbyists and public officials/representatives?

Access to Information

4. To what extent is there a comprehensive access to information law that guarantees the public's right to information and access to government data?

Score: 1 - Law exists but with inadequacies

Commentary on indicator result:

The law is clear, strong and generally fit for the purpose, but as it was adopted in 1998, it is outdated. The application of law and explanation of norms are considered as good practice. However, the law has been changed many times under its implementation to reflect specific NATO and EU regulations ratified by the Latvian government; today it is somewhat patchy in nature.

5. In practice, to what extent do citizens have reasonable access to information on public sector activities and government data?¹⁵⁵

Score: 1- In practice, access is not always straightforward/citizens often face obstacles to access

Commentary on indicator result:

According to law, citizens have access to information and can expect essential responses from public sector institutions. Access to information is more open to NGOs and social partners than for individuals. If information is sensitive or public sector institutions do not want to answer, there reply is formal according to law.

6. Does access to information laws apply to lobbying data?

Score: 1- Some but not all lobbying data accessible under access to information laws

¹⁵⁵ A useful source for most countries will be the Open Data Barometer: <http://www.opendataresearch.org/project/2013/odb>

Commentary on indicator result:

A specific law does not exist for the disclosure of lobbying information. The law declares that “consultations with society” should be disclosed in an explanatory note. The only place where lobbyist proposals (according to TI definition) are disclosed is in this explanatory note. The explanatory note is available publicly when it is discussed in the Cabinet of Ministers and Parliamentary Commission and sub-commission sessions. The problem is that not all of the information is disclosed as information proposed by Lobbyists’

Registration and Disclosure by Lobbyists¹⁵⁶

7. Is there a lobbyist register in the country?¹⁵⁷

Score: 0 - No register exists

8. Where a register exists, to what extent does it capture all who lobby professionally including professional lobbyists, public affairs consultancies, and representatives from NGOs, corporations, industry/professional associations, trade unions, think tanks, law firms, faith-based organisations and academics in the country?

Score: 0 – Wholly inadequate scope covering only a small proportion of lobbyists

Commentary on indicator result:

Register does not exist.

Check all categories covered by register:

- Professional lobbyist
- Private Sector Representatives
- Public affairs consultancies
- Representative from NGO
- Representative from a for-profit corporation
- Representative from industry/professional association
- Trade unions
- Think tanks
- Law firms
- Faith-based organisations
- Academics
- Other, please specify _____

9. To what extent are lobbyists required to register in a timely (within 10 days of beginning of lobbying activity) manner?

Score: 0 - No compulsory registration

Commentary on indicator result:

Register does not exist.

¹⁵⁶ Where no register exists, it is most likely that Questions 6-23 will be answered in the negative and all be scored 0. This is fine and can be used as a strong advocacy message when the transparency score reflects this lack of attention to lobbying transparency

¹⁵⁷ These questions refer in the main to a public lobbyist registry which would apply to a broad range of lobbying targets across a range of public institutions (see Definition questions for ‘best practice’ scope of institutions and targets that should be covered by a registry). Where individual institutions have adopted their own registries, these should be assessed using the framework but the narrative should explicitly state the limitations in scope of the institutions covered. Furthermore, in such cases, scoring should be discussed with TI-S, as there are comparability issues to consider.

10. To what extent are lobbyists required to report regularly on their lobbying activities and expenditures in a timely manner (max real-time - min quarterly)?

Score: 0 – No requirement to report/Reporting less often than annually

Commentary on indicator result:

Register does not exist.

11. To what extent are lobbyists and organizations that lobby required to publicly disclose relevant personal and employment information: name of the organization (if applicable); address and contact information; names of all active lobbyists working on behalf of the organization (if applicable)?

Score: 0 - No information required to be publicly disclosed by lobbyists

Commentary on indicator result:

Register does not exist.

Check all categories covered by law:

- Name (of individual or organisation)
- Address and contact details
- Names of all active lobbyists working on behalf of organisation
- Other

12. To what extent are lobbyists and organizations that lobby required to publicly disclose relevant information on lobbying objectives and clients: name of the persons or organizations paying for the lobbying activities; names of the lobbyists' clients; specific subject matter lobbied?

Score: 0 - No information required to be publicly disclosed by lobbyists

Commentary on indicator result:

Register does not exist.

Check all categories covered by law:

- Name of the persons or organizations paying for the lobbying activities
- 0 Names of the lobbyists' clients
- 0 Specific subject matter lobbied
- 0 Specific legislative proposals, bills, regulations, policies, programmes, grants, contributions or contracts sought

13. To what extent are lobbyists and organizations that lobby required to publicly disclose relevant information on who they are lobbying and what they are advocating: name and title of the public representative or public body with whom the lobbyist engaged and the date and type of such engagement as well as any information and/or supporting documentation communicated to policymakers?

Score: 0 – No requirement to report

Commentary on indicator result:

Register does not exist.

Check all categories covered by law:

The name of the public representative or public body with whom the lobbyist engaged

Date of engagement

Type of engagement (personal visit, accepted invitation to event, official hearing)

Supporting documentation communicated to policymakers

14. To what extent are lobbyists and organizations that lobby required to publicly disclose lobbying expenditures, including spending on efforts to support lobbying, loans, sponsorships, retainers, or the purchase of tickets for fundraising events?

Score: 0 - No information on expenditures required to be publicly disclosed by lobbyists

Commentary on indicator result:

Register does not exist.

15. To what extent are lobbyists and organizations that lobby required to publicly disclose political donations to parties and candidates?

Score: 2 - Sufficient information on political donations required to be publicly disclosed

Commentary on indicator result:

The disclosure of information about party donations is the responsibility of political parties'. It is required to disclose information about any donations, not specifically those of lobbyists. The information is summarised in KNAB's database, which is publicly available: <http://www.knab.gov.lv/lv/finances/db/donations/>.

16. To what extent are lobbyists required to publicly disclose 'in kind' contributions: In-kind contributions may include advertising, use of facilities, design and printing, donation of equipment, or the provision of board membership, employment or consultancy work for elected politicians or candidates for office?

Score: 2 - Sufficient information on 'in-kind' contributions required to be publicly disclosed

Commentary on indicator result:

It is required to disclose information about any donation and its character, not specifically those of lobbyists. The information is summarised in KNAB's database, which is publicly available: <http://www.knab.gov.lv/lv/finances/db/donations/>.

17. Is information disclosed by lobbyists publicly available online in a searchable machine-readable open-data format?

Score: 0 - Information not available online

Commentary on indicator result:

Register does not exist and is not required to disclose information.

18. To what extent do the lobbyists register and provide sufficient/timely information in line with legislative obligations?

Score: 0 - Little or no compliance with legal obligations

Commentary on indicator result:

Register and control mechanisms do not exist.

Oversight, Verification and Sanctions

19. To what extent is there an independent, mandated and well-resourced oversight entity charged with managing registration of lobbyists, offering guidance to individuals and organisations, monitoring returns, and investigating apparent breaches or anomalies (this includes powers to investigate complaints made but also to instigate investigations even where no complaint has been lodged)?

Score: 0 - No oversight entity exists

Commentary on indicator result:

If there are complaints about lobbying issues, they are usually related to bribery. If this is the case, KNAB is responsible for replying and reacting to the complaints.

20. To what extent is there a pro-active verification mechanism to audit disclosures and reports and detect anomalies?

Score: 0 - No verification mechanism exists

21. In practice, to what extent are anomalies detected and followed up on by the oversight body?

Score: 0 - Little or no detection of anomalies

Commentary on indicator result:

There is no oversight body.

22. In practice, to what extent are anomalies detected and reported by others (e.g. investigative journalists) followed up on by the oversight body?

Score: 0 - Little or no detection of anomalies

Commentary on indicator result:

There is no oversight body. Investigative journalists are following anomalies detected in the disclosure of information, as well as investigating conflict of interests of lobbyists and the use of power to achieve personal good as well as cases where public sector officials or deputies draft laws where private interests prevail over the public good.

23. To what extent does the law provide for penalties for knowingly filing a false lobbying registration return or failure to file a return?

Score: 0 - No penalties exists

Commentary on indicator result:

Register and reporting do not exist, penalties do not exist.

24. To what extent are penalties for knowingly filing a false return or failure to file a lobbying registration return implemented in practice?

Score: 0 - Never

Commentary on indicator result:

Register and reporting do not exist, penalties do not exist.

25. To what extent are oversight bodies required to publicly disclose the names of all individuals or organizations found to have violated lobbying rules or regulations?

0 - No requirement to publicly disclose names of those who violate rules

Commentary on indicator result:

Register and reporting do not exist.

26. To what extent are the names of all individuals or organizations found to have violated lobbying rules or regulations published in practice?

Score: 0 - Never

Commentary on indicator result:

Register and reporting do not exist

Legislative Footprint

27. To what extent does the law require the publication of a 'Legislative Footprint' (document that details the time, event, person, and subject of legislators' and senior public officials' ¹⁵⁸ contact with a stakeholder) as an annex to all legislative records?

Score: 2 - The law requires publication of a legislative footprint as an annex to all legislative records

Commentary on indicator result:

The law requires that information about the stakeholder's name and their argumentation regarding a legislative proposal are disclosed.

28. In practice, do legislators/public officials publish a legislative footprint including details of the time, person, and subject of contacts with stakeholders?

Score: 1 - Some but insufficient information on contacts publicly disclosed by legislators/public officials

¹⁵⁸ Generally senior public officials are considered as those in management positions with decision-making authority.

Commentary on indicator result:

Legislators/public officials publish a legislative footprint including only the name of the organisation.

29. To what extent are senior public officials required to pro-actively publish documentation related to meetings: calendars, agendas, documentation received from lobbyists etc?

0 - No requirement to make documentation related to meetings public

Commentary on indicator result:

The requirement is not mandatory. It is seen as good will or ethical behaviour, but there is no control mechanism in place to evaluate the action of deputies or public officials.

30. To what extent are public representatives (national and subnational legislators) required to pro-actively publish documentation related to meetings: calendars, agendas, documentation received from lobbyists etc?

1 - Piecemeal requirements to make documentation related to meetings public

Commentary on indicator result:

To some extent there is a requirement to publish information about public consultations. Parliament and the Cabinet of Ministers make official meeting agendas and protocols public. The choice to publicise their personal agenda is voluntary. The law states that it is mandatory to add information to draft law explanatory notes about proposals discussed by the public as well as lobbyists, but these are not always completed properly and a control mechanism is lacking.

Integrity

Framing Questions to bear in mind when constructing the narrative for this section: Is there a robust ethical framework for lobbyists (and companies) and lobbying targets in the country and to what extent is it working? Is the onus for integrity placed on both lobbyists and public officials/representatives?

Post-employment and Pre-employment Restrictions

31. To what extent does the law provide proportionate moratoria or 'cooling off periods' before former members of parliament, senior public servants, ministers and advisers can work as lobbyists?

1 - Less than 2 year cooling off period in place

Commentary on indicator result:

There is cooling off period of 2 years for former public officials. They are not allowed to work for organisation if they while being as public official have made any decisions related to the specific organization where they would like to work. The proof of that are e.g. documents signed by the ex-public official. (Prevention of Conflict of Interests for Public officials Law Article 10.7). There are no general restrictions to become lobbyist- they are fragmented.

The Law: <http://likumi.lv/doc.php?id=61913>

32. To what extent do 'cooling off periods' for those who wish to work as lobbyists apply to former members of parliament (national and subnational levels), senior public servants (including in regulatory bodies), members of executive (national and subnational levels) and advisers?

0 - No cooling off period in place

Tick categories covered:

Former members of parliament (national)
Former members of parliament (sub-national)
Former members of national Executive
Former members of subnational Executives
Advisors
Senior Public Servants
Senior staff of regulatory bodies
Other

- 33. In practice to what extent do former members of parliament, senior public servants, members of the executive and advisers move easily and directly into the lobbying sector?**

Score: 1 - There have been a number of cases of former members of parliament, senior public servants, ministers, ministerial advisers to moving directly into the lobbying sector

- 34. To what extent does the law require former members of parliament (national and subnational levels), senior public servants (including in regulatory bodies), members of executive (national and subnational levels) and advisers to receive permission from a designated ethics office/agency before taking up an appointment in the private sector where they could lobby their previous employer?¹⁵⁹**

Score: 0 - No permission required

- 35. In practice, to what extent do former members of parliament (national and subnational levels), senior public servants (including in regulatory bodies), members of executive (national and subnational levels) and advisers seek permission from a designated ethics office/agency before taking up an appointment in the private sector where they could lobby their previous employer?¹⁶⁰**

Score: 0 - Never

- 36. To what extent is there an independent, mandated and well-resourced oversight entity charged with managing post and pre-employment restrictions, offering guidance to individuals and organisations, and investigating apparent breaches or anomalies?**

Score: 2 - A fully mandated and well-resourced oversight entity is in place

Commentary on indicator result:

There is an institution that oversees the issue – KNAB.

Codes of Ethics for public sector employees

- 37. To what extent is ethical/responsible lobbying addressed in public sector codes of conduct (e.g. do they specify standards on how public officials should conduct their communication with interest groups, specify a duty of documentation of contacts, duty to report unregistered or unlawful lobbying to superiors?)**

Score: 1 - Codes of conduct address ethical lobbying in a piecemeal or insufficient manner

¹⁵⁶ Labs informācijas avots par šo indikatoru ir OECD Ziņojuma projekts par paveikto OECD atklātās un godīgas lobēšanas principu ieviešanā (OECD Draft Report on Progress made in implementing the OECD Principles for Transparency and Integrity in Lobbying), 59.-62.lpp.

¹⁵⁷ Labs informācijas avots par šo indikatoru ir OECD Ziņojuma projekts par paveikto OECD atklātās un godīgas lobēšanas principu ieviešanā (OECD Draft Report on Progress made in implementing the OECD Principles for Transparency and Integrity in Lobbying), 63.lpp.

Commentary on indicator result:

Different public sector institutions' Code of Conducts addresses mechanisms of how to deal with or address lobbyists, and how to use information (consulting, meetings, behaviour).

38. To what extent do public sector codes of conduct specify standards on how public officials should deal with conflicts of interest issues?

It is stated in the law on Prevention of Conflict of Interests for Public Officials.

Commentary on indicator result:

It is stated in the law on Prevention of Conflict of Interests for Public Officials.

39. To what extent do public sector codes of conduct specify standards on how public officials should deal with gifts and hospitality issues?

Score: 2 - Codes of conduct comprehensively address reflect gifts and hospitality issues

Commentary on indicator result:

It is stated in the law on Prevention of Conflict of Interests for Public Officials.

40. To what extent do public sector codes of conduct deal comprehensively with interest and asset declaration issues?

Score: 2 - Codes of conduct comprehensively address asset declaration issues

Commentary on indicator result:

It is stated in the law on Prevention of Conflict of Interests for Public Officials. Declaration of income is mandatory and information is made available for the public.

41. To what extent is there a complaint mechanism allowing any public official or citizen to report violations of the public sector code of conduct?

Score: 1 - Complaints mechanism exists but is limited in scope

Commentary on indicator result:

It is possible to submit complaints under Application Law and directly address the Ethics Commission. TI Latvia's recommendations suggest that it is necessary to expand the possibility for the public to refer to the Ethics Commission about the violation of the public sector code of conduct – this has not been taken into consideration by the responsible authorities since 2007.

42. To what extent are there training and awareness-raising programmes for public officials on integrity issues, including lobbying rules and guidelines?

Score: 1 - Piecemeal and irregular approach to training/awareness-raising on integrity issues

Commentary on indicator result:

Training has been provided irregularly, but the focus is on the implementation of the Conflict of Interest Law, anti-corruption laws, etc.

Codes of Ethics for Lobbyists

43. To what extent is there a statutory code of conduct for lobbyists including clear sanctions for failure to adhere to lobbying regulations?

Score: 0 - No code of conduct exists

44. In practice, to what extent are sanctions applied for failure to adhere to lobbying regulations?

Score: 0 - Sanctions rarely/never applied

45. To what extent does the law and/or the lobbyists' code of conduct require disclosure regarding and provide restrictions on lobbyists being hired to fill a regulatory, financial decision-making or advisory post in government?

1 - Insufficient Restrictions and disclosure requirements (e.g. lobbyist must deregister but no further restrictions)

Commentary on indicator result:

The law on Prevention of Conflict of Interests for Public Officials regulates public officials' behaviour and the disclosure of conflict of interests as well as finances. Other positions in public institutions like advisors are not regulated by the Law. Regulation occurs through the side of the public official, not that of the lobbyist.

46. To what extent does the law and/or codes of conduct prohibit simultaneous employment as a lobbyist and a public official?

Score: 1 - Law/Code of conduct discourages but does not explicitly prohibit simultaneous employment as a lobbyist and a public official

Commentary on indicator result:

The law on Prevention of Conflict of Interests for Public Officials regulates public officials. Simultaneous employment for specific professions is allowed and it is stated that if the decision maker has any conflict of interest, they should step back and not be involved in the decision making process, such as family ties to a company. Generally speaking they are not prohibited to work specifically a lobbyist, but the law does regulate restrictions of work combinations of public officials and lobbyists. This is regulated through the side of the public official, not that of the lobbyist.

47. To what extent is there a complaint mechanism allowing any policy-maker or citizen to report violations of the lobbying regulations?

Score: 0 - No complaints mechanism exists

Self-regulatory Codes of Ethics for Lobbyists

48. To what extent are there self-regulatory code(s) of ethics managed by professional association(s) for lobbyists or by companies themselves?*

1 - Code of ethics exists but it is inadequate

Commentary on indicator result:

The Code of Conduct exists, but there are no clear control mechanisms and sanctions for failure to adhere to lobbying ethics.

49. To what extent do existing self-regulatory codes of ethics for lobbyists include specific behavioural principles that steer lobbyists away from unethical situations?*
- ¹⁶¹

Score: 1 - Codes mention behavioural principles but are vague and/or incomplete

Check all categories covered by codes:

- Requiring honesty and accuracy of information provided to public officials
- Requiring early disclosure to public officials of the identity of client and interests being represented
- Refraining from using information obtained in violation of the law
- Refraining from encouraging public officials to violate the law
- Banning gifts above a de minimis value, fees, employment or any other compensation from a lobbyist to a public official.
- Requiring speedy disclosure of any conflict of interest and management of such conflicts of interest or recusal
- Making ethics training a condition of membership in the association.
- Establishing a reasonably independent mechanism for monitoring and enforcing compliance to the ethics code.
- Others, please specify _____

50. To what extent do existing self-regulatory codes require lobbyists to publicly disclose the identity of who they are representing and what they are lobbying for?*

Score: 0 - No information required to be publicly disclosed by lobbyists

51. To what extent do existing self-regulatory codes prohibit simultaneous employment as a lobbyist and a public official?*

Score: 0 - No mention of prohibition of simultaneous employment as a lobbyist and a public official

52. To what extent is there a complaint mechanism allowing any member or non-member of the association to report violations of the lobbying code of ethics?*

Score: 0 - No complaints mechanism exists

53. To what extent are there reasonably independent mechanisms for the monitoring and enforcement of compliance with the ethics code(s)?*

Score: 0 - No monitoring and enforcement mechanisms exists

Equality of Access - The Level Playing Field

Framing Questions to bear in mind when constructing the narrative for this section: Are there are sufficient spaces in the system to allow for diverse participation and contribution of ideas and evidence by a broad range of interests that lead to policies, laws, and decisions which best serve society and broad democratic interests?

¹⁶¹ BBased on OECD (2009) Lobbyists, government and public trust: Promoting integrity by self-regulation, p.33
<http://search.oecd.org/officialdocuments/displaydocumentpdf/?doclanguage=en&cote=gov/pgc%282009%299>

Consultation and Public Participation in Decision-making

- 54. To what extent is the Parliament required by law to allow citizens and the public (corporations and civic organizations) to provide equal input to members regarding items under consideration, with sufficient notice and time incorporated in the legislative process to receive this input?**

Score: 1 - The legal framework allows for citizens and the public (corporations, civic organizations) to provide input to parliament, but it does not make any provisions regarding equal access, sufficient notice and time to receive this input

- 55. To what extent does the legal framework lay out in a law or a group of laws the varied means for public participation in the formulation, implementation, and evaluation of policies, including timeframes and specific mechanisms to disseminate public meeting information, attendance and participation rules, instruments and tools to submit comments and opinion on specific policies?**

Score: 2 - Yes, there is a specific regulatory framework that clearly lays out in a law or a group of laws the varied means for public participation in the formulation, implementation, and evaluation of policies, including timeframes and specific mechanisms to disseminate public meeting information, attendance and participation rules, instruments and tools to submit comments and opinion on specific policies.

- 56. To what extent does the legal framework explicitly require public authorities to ensure equal participation by all affected groups and stakeholders in decision-making processes?**

Score: 1 - Some provisions regarding the equal participation of affected groups exist, but they are not specific, or they are relegated to policy directives.

Commentary on indicator result:

It is stated in a law that stakeholders should be engaged in decision-making processes, but a framework explicitly requiring equality is not ensured.

- 57. In practice, which of the following forms of public participation are routinely used?¹⁶²**

Informal consultation with selected groups
Broad circulation of proposals for comment
Public notice and calling for comment
Public meeting
Posting proposals online
Advisory/Expert Groups
Preparatory Public Commission/committee
Others, please specify _____

- 58. In practice, to what extent are consultations open to participation from any member of the public**

Score: 2 - Consultations are generally open to any member of the public

- 59. In practice, to what extent are the views of participants in the consultation process made public?**

Score: 1 - The views of participants in the consultation process are sometimes but not always made public

¹⁶² A good source of information for indicators 56-58 is the OECD Draft Report on Progress made in implementing the OECD Principles for Transparency and Integrity in Lobbying, p. 20. The indicator questions draw heavily on the OECD draft report.

- 60. To what extent does the legal framework explicitly require public authorities to provide a detailed justification on why and how various submissions have or have not been taken into account in policy and decision-making processes after consultation?**

Score: 2 - The law explicitly requires public authorities to provide a detailed justification on why and how submissions have or have not been taken into account in policy and decision-making processes after consultation.

Commentary on indicator result:

Procedure Rules of Cabinet Nr.20 requires public authorities to provide an explanation why the submissions have or have not been taken into account.

Advisory/Expert Group Composition¹⁶³

- 61. To what extent is there a legal obligation to have a balanced composition (between private sector and civil society representatives) of advisory/expert groups?**

Score: 0 - No requirement to have balanced composition

- 62. In practice, to what extent is there a balanced composition (between private sector and civil society representatives) of advisory/expert groups?**

Score: 1 - Advisory groups are sometimes balanced, sometimes not

- 63. To what extent are lobbyists prohibited from sitting on advisory/expert groups in a personal capacity?**

Score: 0 - Lobbyists can freely sit on advisory groups in a personal capacity

- 64. To what extent are corporate executives prohibited from sitting on advisory groups in a personal capacity?**

Score: 0 - Corporate executives can freely sit on advisory groups in a personal capacity

- 65. With regard to advisory/expert groups, to what extent is membership information, agendas, minutes and participants' submissions required to be made public?**

Score: 1 - Information available, but only on request

¹⁶³ Following the OECD definition, here an advisory or expert group refers to any committee, board, commission, council, conference, panel, task force or any subcommittee set up by government (executive, legislative or judicial branch) or any of its subgroups to provide it with advice, expertise or recommendations. In some countries, advisory groups will be regulated differently depending on which sector/institution is concerned. If this is the case, we suggest the focus should be on parliamentary advisory group involved in the process of legislating. A good source of information for this set of indicators is the OECD Draft Report on Progress made in implementing the OECD Principles for Transparency and Integrity in Lobbying, p. 66-68. The indicator questions draw heavily on the OECD draft report.

Annex 2: Methodology Note

This report is part of the European Commission funded 'Lifting the Lid on Lobbying' project, which sees 19 European countries assess the situation with regard to lobbying and its regulation in their country.¹⁶⁴

The report aims to:

Assess existing lobbying regulations, policies and practices in Latvia

- Compile evidence about corruption risks and incidences related to lack of lobbying control
- Highlight promising practice around lobbying found in Latvia
- Provide recommendations and solutions for decision-makers and interest representatives in the public and private sector

Definitions

The definition of lobbying for this project is "Any direct or indirect communication with public officials, political decision-makers or representatives for the purposes of influencing public decision-making carried out by or on behalf of any organised group."¹⁶⁵

Assessing lobbying rules and practice – our approach

Transparency is crucial if there is any chance of public trust in politics being restored. When looking at transparency around lobbying practices, our research sought to answer the following overarching question: to what extent does the public have sufficient knowledge of (a) who is lobbying public representatives (b) on what issues they are being lobbied (c) when and how they are being lobbied (d) how much is being spent in the process (e) what is the result of these lobbying efforts? We also sought to investigate whether the onus for transparency is placed on both the lobbyist and the public official/representative.

We believe that transparency of lobbying must be embedded within a broader public sector integrity framework which mitigates the risks of conflicts of interest when important decisions are being taken. To understand how well-insulated countries are against undue lobbying, our research sought an answer to the following overarching questions about ethical lobbying: Is there a robust ethical framework for lobbyists (and companies) and lobbying targets in the country and to what extent is it working? Is the onus for integrity placed on both lobbyists and public officials/representatives?

Finally, when regulating lobbying, transparency and integrity measures are crucial but they must be accompanied by rules that allow for equality of access to decision makers, which is essential to fairness and pluralism in the political system. Our research asked whether there are enough spaces in the system to allow for diverse participation and contribution of ideas and evidence by a broad range of interests that lead to policies, laws, and decisions which best serve society and broad democratic interests.

'Lobbyists' can include not only professional lobbyists, but private sector representatives (in-house lobbyists), public affairs consultancies, representatives from NGOs, corporations, industry/professional associations, trade unions, think tanks, law firms, faith-based organisations and academics.¹⁶⁶

¹⁶⁴ The participating countries are Austria, Bulgaria, Cyprus, Czech Republic, Estonia, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, and the United Kingdom.

¹⁶⁵ This definition draws heavily on the Sunlight Foundation Lobbying Guidelines (<http://sunlightfoundation.com/blog/2013/12/03/announcing-sunlights-international-lobbying-guidelines/>), the OECD Draft Report on Progress made in implementing the OECD Principles for Transparency and Integrity in Lobbying (2014, forthcoming) and Council of Europe Parliamentary Assembly Recommendation 1908 (2010) on lobbying in a democratic society.

¹⁶⁶ See Transparency International (2012) Regional Policy Paper 'Lobbying in the European Union: Levelling the Playing Field', accessible online at http://www.transparency.de/fileadmin/pdfs/Themen/Politik/ENIS_Regional_Policy_Paper_Lobbying.pdf

We believe that regulation should capture all who lobby professionally and our definition purposefully excludes individual citizens lobbying on their own behalf as this is considered part of a normal healthy democratic process and not something which should be unduly regulated. A number of case studies are included, which highlight incidences of undue lobbying in the finance sector and about environment protection issues, clearly showing there are risks for society at large when lobbying is allowed to take place in the shadows (specifically around public procurement) or without any regulation. More positively, we also include some promising practices identified in our research practiced by non-governmental organizations and public institutions.

Data Collection and Validation

The research was carried out Agnese Alksne, Transparency International Latvia, (“Sabiedrība par atklātību – Delna”) during the period from March to July 2014. When conducting the research, the researcher drew on numerous secondary sources such as research carried out by Transparency International Latvia: “National Integrity System Assessment, Latvia” (2011); „Availability of Information from state and local level municipality institutions” (2011); „Suggestions for more transparent work at Parliament” (2012). The researcher also drew on Valts Kalniņš’s work „Parliamentary Lobbying between Civil rights and corruption” (2004). Mārtiņš Krieviņš work “Impact Assessment of the New Regulatory Measures Proposed by the Corruption Prevention and Combating Bureau on Professional Lobbying Service Providers in Latvia”, Stockholm School of Economics in Riga (2012), was used to assess the development of ideas for lobbying regulation in Latvia. The researcher used KNAB concept papers regarding the regulation of lobbying produced from 2007 to 2014 and the research „Difference between legal lobbying and corruption” (2010). The GRECO report of Latvia and other European and international reports, as well as country assessments were used to explain the socioeconomic context of lobbying. In order to analyse gaps and define red flags in lobbying, examples were found on TI Latvia web page www.deputatizudelnas.lv and monitoring from the media. To better understand society’s perception of lobbying and decision makers’ views, several pieces of research were important, but the most valuable was the survey carried out by Burson-Marsteller “A Guide to Effective Lobbying in Europe: The View of Policy-Makers” (2013 edition)

This secondary data was complemented by primary data obtained from 15 in-depth interviews with policymakers (and/or former policymakers), lobbyists, investigative journalists and experts in the field of lobbying as well as political researchers and information transparency and governance researchers in the public sector, NGO and business sector.

Interviews were particularly useful for finding out additional information not on public record, and for gathering evidence about the implementation of regulations and more generally, what is happening in practice. A list of interviewees is included in Annex 3 of this report. In a number of cases, anonymity was requested by interviewees because of the sensitivity of the information and this was granted.

The research was primarily qualitative; however a quantitative element was also included in order to evaluate the robustness and efficacy of national regulations and self-regulation mechanisms around lobbying and to allow for some comparison across the countries.¹⁶⁷ To this end, a set of 65 indicators were scored by the researcher, based on the qualitative information gathered through the research.

A 3-point scale was used to score the indicators, with a minimum score of 0 and a maximum score of 2.¹⁶⁸ In order to calculate the overall scores for the country, and for the three dimensions of Transparency, Integrity and Equality of Access, a simple aggregation was performed. Specifically, a total score (as a percentage) was calculated for 10 sub-dimensions (Access to information, Lobbying registration systems, Verification and oversight mechanisms, Legislative footprint, Pre- and post-employment restrictions, Codes of conduct/ethics for policymakers, Codes of conduct/ethics for lobbyists, Self-regulation of the industry, Consultation and participation mechanisms in public-decision-making and Expert and advisory group composition). A simple average was then calculated to provide an overall score for the three key dimensions of Transparency, Integrity and Equality of Access. The overall country score was calculated by averaging these three dimensions.

¹⁶⁷ A regional report compiling and comparing the national results is foreseen for publication in early 2015.

¹⁶⁸ In a limited number of cases, where no logical intermediary position exists, only a minimum value of 0 and a maximum value of 2 are offered.

The completed questionnaire and scores are included as an annex to this report (see Annex 1).

This report provides a detailed look at the lobbying landscape in Latvia and highlights key gaps and deficiencies in the approach to regulating lobbying, which are leaving society exposed to the risks of unclear and unfair decisions being taken by public officials and representatives in the name of the people. Our aim is to bring attention to the issue and promote positive change. To this end, the report puts forward a set of key recommendations and solutions suggesting how the weaknesses identified should be tackled.

Annex 3: List of interviews

TI Latvia report data were collected by interviewing 15 people – lobbyists, public officials, ex-public officials, members of NGO, investigative journalists and researchers of the field.

1. Interview with Providus political researcher Valts Kalniņš
2. Interview with Providus researched Iveta Kažoka
3. Interview with business representative
4. Interview with KNAB representative
5. Interview with investigative journalist
6. Interview with TI Latvia representative
7. Interview with TI Latvia Director Gundars Jankovs
8. Interview with State Chancellery Head of Communications Laine Kučinska
9. Interview with TI Latvia Advocacy and Legal Advice centre representative
10. Interview Nr1 with lobbyist
11. Interview Nr2 with lobbyist
12. Interview Nr 3 with lobbyist
13. Interview with ex-minister
14. Interview with Head of Legal Office in Parliament – Edgars Pastars
15. Interview with researcher of information transparency and governance in public sector
16. Interview with public official
17. Interview with ex-public official

