

"LATVIA'S FIGHT AGAINST CORRUPTION"

Presentation on a
Country Strategy against Corruption

by
Valdis Birkavs
Minister of Justice of the Republic of Latvia

(Mr.) Chairman,
Mr. Minister,
Ladies and Gentlemen,

Introduction

First, I would like to express my thanks to the South African government and the organisers of the conference.

This conference, by linking the people concerned with catching and prosecuting wrongdoers - the people engaged in corrupt practices - also improves the chances of detection and enforcement. It is very important to have a worldwide support network.

We who came from Europe are fresh from our own home-grown corruption scandal. No one was very surprised about strange hiring practices at the European Commission but it showed how corruption can pop up in places one might least suspect.

The Commission is supposed to guide EU aspirant countries like Latvia on the straight and narrow path to membership. The breakdown of the European Commission (over corruption allegations aimed mostly at one single Commissioner) showed the danger when the very institutions which are intended to provide oversight and judgement are themselves inadequately ethical to handle the job of cleaning up society, and providing discipline.

Thesis

This afternoon/ morning/ evening, I will be speaking about Latvia's efforts to counter corrupt practices. The structure of my presentation will be as follows:

I'll give some background and then I'll describe what we are doing and how we are doing it. The institutions and the mechanisms. Broadly, I will touch on four sectors of action - namely, education, prevention, judgement, and enforcement.

Background

First then, how do we see the problems of corruption and what is the context.

Corruption comes from the Latin word “to break.” Corruption is always associated with a violation of moral standards, and a loss of honour. “Bribes blind the eyes of the wise”¹, our parents warned us.

Corruption is a threat to individuals, to society, to rule of law, and to the democratic system of government.

Corruption is like an iceberg of which only a small part is showing and a huge part remains below the surface. Our job in government is to tug this iceberg into hot water where it will melt.

Corruption affects all societies in all times but it takes different forms and its impact is felt in different degrees. When a man tells you “it ain’t the money, but the principle of the thing; you can be sure it’s the money.”

With corruption, we have an indicator, as we do, for example, with poverty, that the welfare and security of people in society have not been fully ensured. Damage caused by corruption can be measured in terms of lost investment and retarded development.

The issue of how to deal with corruption is one of the priorities receiving serious attention from the Latvian governments since independence in 1991.

To build our country from scratch after the Soviet occupation, we began by examining the experience of other countries. We looked for models worth imitating.

What was clear was not so much the recipe that worked across the board as a recognition that the people must be brought on board in the fight and that corruption can quickly erode the belief of the people in their government. Once this faith is lost, it is very difficult to regain.

Dealing with corruption properly increases the respect of the people for their government. Such respect was severely diminished by the experience of totalitarianism. People learned to expect too little from their public servants. The perception that accountability of public officials has been compromised or eroded is poison to a democracy.

The perception keeps expectations low, and it is correspondingly difficult to involve citizens in the processes of government so that democracy actually functions as it is supposed to, with full participation. People simply don't want to get near something that arouses their cynicism.

On the positive side, corruption has become a widely discussed subject.

Latvia was dominated by a regime which provided a bad example for civic society. Our experience was with a government that milked our resources, and ruled through a system of privileges.

Corruption can also, in some cases, be related to the work of syndicates. The structures of organised crime maintain long-term contacts and receive support and direction from outside the country. This means that they could only be stamped out successfully through international co-operation and assistance.

The presence of corruption, hardened by time, is difficult to uproot. It is like the tradition of gift giving at certain times of year. Money is always an appropriate gift; one size fits all.

¹ Deuteronomy, chapter 16, verse 19.

In Latvia, bribery appears to be the most common form of corruption.

The Latvian Approach

In drafting effective legislation, we began by identifying the so-called "grey zones" : those activities and spheres in which officials in the state administration are most likely to be exposed to corruptive influences and temptations to be dishonest. We identified the "weak points" in the existing system. Areas of high finance involving large scale transactions and privatisation are of concern. Customs agents, police, and judges, are subjects for attention. And anywhere where an urge could arise to lubricate the wheels of government decision-making.

Once the weak points are identified, the determination can be made how to insulate officials so as to reduce the "grey zone" to a minimum.

For example, when does lobbying cease to be lobbying. How can we define illegal lobbying? How can we guarantee the fairness of tenders and procurement procedures?

Other important considerations in identifying the "grey zone" are the gaps between rich and poor. While salary levels are relatively high in the capital, Riga, outside the capital, income levels drop off dramatically. It means that any anti-corruption drive must include attention to the regions and local governments of Latvia. Across the state bureaucracy, we must have codes and rules which are not interpreted one way by one official and another way by another. Interpretation of the law is sometimes a way to get around it.

Institutions and Mechanisms

I would like to turn now for a moment to the question of anti-corruption institutions and the history of their development in Latvia.

The Bible tell us "where there is no law, there is no breaking of the law²."

The opportunities for corruption are enhanced by ambiguity in the law, so we have had to develop legislation rapidly.

The Latvian government fired its first shot in the battle against corruption in 1995. This was the year that the Parliament passed a new law on prevention of corruption based on internationally recognised norms.

Then we spent one year (1996) analysing the modes of corruption in Latvia and which methods would be best suited to the fight them.

In 1997, the Latvian government pushed through the national law on money-laundering and ordered the formation of a Corruption Prevention Council.

The Council is headed by the Minister of Justice. Also designated to attend meetings of the anti-corruption council are the Minister of Finance, the Minister of Interior, the State Prosecutor, the President of the National Bank, the General Director of the Internal Revenue Service, the State

² Romans, chapter 4, verse 15.

Controller, the Head of the Bureau for Reform of the State Administration, the Director of the State School of Administration, and the Head of the Competition Council, among others.

1998 was the big year for the introduction of anti-corruption measures. The Latvian Parliament passed a law on public disclosure (otherwise known as "freedom of information"), a law preventing the use of ill-gotten gains, and in November, the Latvian Parliament ratified the European Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds of crime. In addition, the same year, we opened a centre to coordinate the fight against smuggling, and the Corruption Prevention Program was approved by the Cabinet of Ministers.

At the beginning of 1999, Latvia signed the European Criminal Law Convention on Corruption.

We see the anti-corruption program as an evolving life form, not static. It is alive and changing, growing, and – we hope – getting better all the time. We have been doing something, firing shots, each year, and we are getting always closer to the mark.

The program is, in fact, geared toward facilitating a continuous process of institutional and legislative change, refining mechanisms, improving personnel.... not just to recover from Soviet times but to adapt continuously to new challenges. Progress reports and surveys are standard requirements. The surveys necessarily involve soliciting feedback from the general public.

According to a World Bank report³, our anti-corruption program together with the passage of a law on money-laundering makes Latvia the *first* country among Central and Eastern European states to have organised a realistic attack on corruption.

We are grateful to the World Bank; it has been a provider of advice and financial assistance that was crucial in getting our anti-corruption effort off the ground.

Education

As I mentioned before, the Corruption Prevention Program, our country strategy to fight corruption, has a multi-pronged approach. The first prong I want to talk about is education. Training of government officials is one thing. The administrative capacity question. Informing and involving the public is another and it must be done in parallel to the training. The freedom of information law was developed with this interplay between public and private in mind.

Only the public can push government to do unpleasant things like putting corrupt government officials in jail. They are the best whistleblowers but to speak up they must know what is going on and believe that their voice can make a difference.

We have an outreach program to let the public know what is being done, and how they can help. Conferences are organised and broadcast live on the national radio, survey results are distributed. Public awareness is steadily increasing.

Prevention

The second prong of the government's pitchfork is "prevention." Preventative measures include the legislative basis for avoidance of corruption as well as devices and mechanisms that reduce the

³ *Diena*, January 9, 1999

opportunity for corruption. They include:

- ◆ regular risk assessments on vulnerability of the areas of state administration, monitoring, and action to address the problems uncovered;
- ◆ creating the legal background to limit "conflicts of interest;" and
- ◆ strengthening the laws on financial disclosure.

The Judiciary System

No talk of anti-corruption would be complete without mention of the role of judges. The presence of honest competent, and honourable judges and a smooth running court system are essential to any anti-corruption strategy.

One is reminded of the story to the prisoner who is asked by the judge: "Do you have anything to offer on your own behalf." He replies, "No, your Honour, I've turned every cent I own over to my lawyer and a couple of the members of the jury."

My first and highest priority as Minister of Justice, as I see it, is to raise the quality and prestige of judges. The rigours of training will be increased.

In November 1998, Latvia amended the law on disciplining judges; the system of evaluation of judges was thereby modernised and objectified. We will continue to increase the incentives, the salary levels and the qualifications of judges.

Enforcement

And then there is the enforcement prong. The fourth prong. Enforcement of the law is carried out by various agencies including divisions of the Ministry of Interior and the State Revenue Service. These include:

- ◆ the money laundering unit at the Office of the State Prosecutor;
- ◆ the department of financial analysis in the State Police charge with the responsibility to audit, review, and control of corrupt practices
- ◆ the anti-corruption unit in charge of monitoring compliance with corruption prevention program directives.

In the State Revenue Service, a steering committee headed by the Minister of Finance was established specifically to implement large scale management and organisational reforms. We believe that such modernisation will significantly reduce fraud and increase tax collection (we want to have a good investment climate, not a tax-free "financial paradise"). Next year, we will expand the divisions of the State Revenue Service preoccupied with corruption investigations.

We are computerising the state revenue offices including the customs office using the so-called ASYKUDA system. The computerisation will make it harder to doctor the books and provide state-of-the-art protection. The system will be common to all three Baltic States.

The Next Steps

Some words about the future. In the Corruption Prevention Council, we will be working on

- ◆ increasing competence and quality of public officials;
- ◆ streamlining unnecessary staff;

- ◆ improving the delineation of competencies in the state administration;
- ◆ reducing the time between investigation, prosecution, and punishment;
- ◆ preparing a manual describing what the public has the right to ask of civil servants and what are the functions and duties of public officials;
- ◆ and encouraging an increased role for the media and general public.

We are creating a permanent secretariat in the Corruption Prevention Council. The Secretariat will be responsible for coordinating anti-corruption work and making sure that the public is kept in the loop.

Some other developments include the development of codes of ethics and conduct for civil servants as well as strengthening of a system of internal audits and of background checks on civil servants. Such codes have already been accepted at the offices of the State Prosecutor and the State Revenue Service.

The Ministry of Justice is preparing a law to regulate financing of political parties and we are preparing to accede to the Council of Europe's criminal law convention on corruption. Our own corruption prevention program is based on the principles agreed upon in November 1997 at the Council of Europe Committee of Ministers.

On the legislative front, the Latvian government is considering accession to the OECD Convention on Combating Bribery of Foreign Officials in International Business Transactions as well as participating in the work of the OECD anti-corruption network and GRECO (the group of states against corruption).

We are looking at the possibility of employing the institution of an ombudsman that could act independently as an agent to receive complaints concerning public officials.

We will be looking into an increasing role for the NGO sector. NGOs have a watchdog role. They bark when the government doesn't operate as it should. So, we want them to be part of the process more than they've been before. We hope that this means there will be more barking but softer barking.

While on the subject of watchdogs and whistleblowers, I should mention that we have at the conference here the representative of the Latvian branch of the organisation, "Transparency International." (In Latvian language, it is known as *Delna*, or palm of the hand.) *Delna* has pioneered the work of actively involving the general public in the war against crime.

The Effect of Globalisation

As Foreign Minister from 1994 till July this year, it was part of my daily business to communicate and project Latvia's progress to the world. The achievement of foreign policy objectives like EU membership depended more on the development of internal strength (on, for example, economic competitiveness and administrative capacity), rather than on my ability to argue Latvia's qualifications. Now, in my new job as Minister of Justice, I am more directly involved in trying to create the progress.

In the fight against corruption, much depends on the government and people of Latvia, but to confront cross border corruption and corruption of a transnational character, one must harness the forces of international co-operation.

This year, within the Economic Working Group of the Council of Baltic Sea States, Latvia proposed creation of an anti-corruption support network for advice and action among countries in the Baltic Sea Region. As with the fight against international organised crime, regional and international action can reinforce the national campaign.

A Baltic Network to combat corruption could bring together government officials and representatives of non-governmental organisations from transition economies in the Baltic Sea region as well as EU members, international organisations, the business community, and other interested parties. The purpose of such a network would be to share experience and co-ordinate initiatives to combat public corruption.

The smarter we get at uncovering corruption and catching corrupt officials, and still see that often they are one step ahead of the law, the more we understand that the problems of corruption are not neatly localised. Corruption cannot be easily categorised as a matter of internal affairs. In the past decade, the line between what is foreign and what is internal has been bent inward by the processes of globalisation, and international law has been too slow in adjusting to the new reality.

Conclusion

In conclusion, I believe Latvia is on the right course to keeping corruption under control. We have raised the qualifications that we expect to see in ourselves and we are building a society which will be “self-policing.” The political will to move forward is there. Activities which are not looked upon as corruption in other countries, we in Latvia see as corruption.

We were the *first* country in Eastern Europe to accept the offer of the World Bank assistance in developing an anti-corruption program.

Harmonisation of national legislation with the *acquis communautaire* of the European Union is another reason why Latvia will be moving in the right direction. This process is unavoidable if we wish to join the Union.

We wish to see Latvia becoming just another boring country in the north of Europe – an uninteresting subject for journalists – yet offering a good standard of living and a good atmosphere for all our residents.

In my briefing for this trip, an expert writes the following: “one should never expect short term results in the fight against corruption.” I agree that greater effort is needed to make a dent in corruption but as Minister, I am more optimistic about potential accomplishments. I aim to produce results. And I look forward to working with you who have come to the conference and are also want results now.