

# Prevention of Corruption in Public Purchases

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**Abstract**—The results of dissertation research "Preventing and combating corruption in public procurement" are presented in this publication. The study was conducted 2011 till 2013 in a Member State of the European Union— in the Republic of Latvia.

Goal of the thesis is to explore corruption prevention and combating issues in public procurement sphere, to identify the prevalence rates, determinants and contributing factors and prevention opportunities in Latvia.

In the first chapter the author analyzes theoretical aspects of understanding corruption in public procurement, with particular emphasis on corruption definition problem, its nature, causes and consequences. A separate section is dedicated to the public procurement concept, mechanism and legal framework. In the first part of this work the author presents cognitive methodology of corruption in public procurement field, based on which the author has carried out an analysis of corruption situation in public procurement in Republic of Latvia.

In the second chapter of the thesis, the author analyzes the problem of corruption in public procurement, including its historical aspects, typology and classification of corruption subjects involved, corruption risk elements in public procurement and their identification. During the development of the second chapter author's practical experience in public procurements was widely used.

The third and fourth chapter deals with issues related to the prevention and combating corruption in public procurement, namely the operation of the concept, principles, methods and techniques, subjects in Republic of Latvia, as well as an analysis of foreign experience in preventing and combating corruption. The fifth chapter is devoted to the corruption prevention and combating perspectives and their assessment. In this chapter the author has made the evaluation of corruption prevention and combating measures efficiency in Republic of Latvia, assessment of anti-corruption legislation development stage in public procurement field in Latvia.

**Keywords**—Prevention of corruption, public purchases.

## I. INTRODUCTION

OFFICIAL'S reliability concept is known since Cicero's time. It is related to the concept of public interest, opposite to private benefit [1]. Public and private interests adjoin in a number of areas, but in particular relevance was public and private sector illegal cooperation based on influencing public procurement results.

Statistics show that in average 10-15% of the world's national budget is assigned to public procurement. At all times, especially in times of crisis among suppliers (the private sector representatives) the struggle for order acquisition becomes aggravated.

The Corruption Prevention and Combating Bureau provides detailed and versatile list of negative impacts of corruption in public procurement field, indicating that added value due to

corruption could cause considerable losses in state budget due to high prices, while quality of services remains the same.

Corruption degrades the business environment, eliminating or distorting competition, as the right to provide services in the public sector gains not the best, most favorable and competitive, but the one that has the contacts and some impact on the decision-makers.

Thus the legitimacy of public decisions becomes endangered, because one gets a disproportionate benefit at the expense of others.

The annual report on the human rights situation in the world (Human Rights Reports) the U.S. State Department has established that corruption has been the most serious problem in Latvia in 2012 [2].

Public opinion survey "Attitude towards corruption in Latvia," which was carried in November 2012, shows that 58.9% of Latvian citizens believe that the current state bureaucracy system forces to pay bribes. 42.1% of the Latvian population is not ready to report openly or anonymously about cases of corruption [3].

Dissertation research questions: 1) prevalence of corruption in contemporary Latvia public procurement domain; 2) corruption determining factors and prevention opportunities in public procurement process.

Dissertation research objects – Latvian and foreign scientists' research on the problems of corruption and development of anti-corruption mechanism in public procurement.

Dissertation subject – corruption preventing and combating prospects in public procurement field.

Dissertation methods: analysis and synthesis, theoretical modeling, sociological studies.

The novelty of the thesis: This dissertation is the first scientific study in Latvia that carries conceptual analysis of corruption problem in Republic of Latvia public procurement domain, as well as offers effective solutions to corruption prevention and combat.

Corruption prevention and combat issues have always been the subject of Latvian legal research, however, corruption in public procurement was not perceived as an object of complex generalization.

Previous studies have been fragmented, for instance, study of Valts Kalninsh "Latvia's Anticorruption Policy: Problems and Prospects " (2002) -there is a separate chapter assigned to corruption in public procurement called "Public Procurement" on extent of only 20 pages [4].

Taking into account existing theoretical and regulatory-legal material while critically analyzing the system of preventing and combating corruption in public procurement, the author brings out the individual elements of the system,

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determining their level of development and efficiency perspective.

Data acquisition and processing (analysis) methods – in order to meet dissertation objectives and achieve the goal of the study, the author examined general theoretical and specific literature of preventing and combating corruption and public procurement problem.

Dissertation data collection methods: 1) analysis and synthesis; 2) survey (interviews, personal conversations, expressed opinions, expert evaluations); 3) analysis of legal literature; 4) modeling (theoretical modeling of the situation); 5) monitoring (observations of daily work progress).

## II. THE STUDIES TO DETECT A CREDIBLE LEVEL OF CORRUPTION IN THE FIELD OF PUBLIC PROCUREMENT

### A. The Extended Structural Interviews with Experts

One of the methods applied in the framework of the doctoral thesis in order to detect the level of corruption in the sphere of public procurement was the qualitative research method – extended structural interviews with experts. The objective of the structural interviews was to obtain information on experience of representatives of specific groups, i.e. – to find out the opinion of various subjects related to public procurements (commissioning parties, the Public Procurement Monitoring Bureau, the Corruption Prevention and Combating Bureau, the State Police of Latvia, entrepreneurs, researchers who study the issue of corruption, the State Audit Office of the Republic of Latvia, legislators, public procurement executors) concerning the problem of corruption in the sphere of public procurement.

The same questions regarding the problem of corruption and additional questions when needed were asked to 10 experts; the answers were carefully recorded. The interviews have been conducted in 12 months period.

### B. The Survey of Residents

Technical information of the survey of residents: Target group - population of the Republic of Latvia; size of target sample - 500 respondents; size of accessible sample - 504 respondents; sampling method - stratified random sampling; geographical coverage - the whole territory of the Republic of Latvia; time frame for conducting the research - June 2012.

### C. The Survey of Entrepreneurs

The research sample was made by entrepreneurs (N=100), who have participated in public procurements in the Republic of Latvia in the last two years. Research and control group was formed by using the free access information at the home page of the Procurement Monitoring Bureau and home pages of the commissioning parties. One of the latest technologies for conducting the research – the on-line survey (on-line mode) was applied in order to find out the opinions of the entrepreneurs. Choice of conducting of electronic on-line surveys ensured such advantages as: convenient addressing of the target group – entrepreneurs in all territory of Latvia; ensured the necessary anonymity (only date and time of survey completion is registered in the data base, IP addresses

of the respondents are not available); the survey completion is easy and convenient at time selected by the respondent, which allows to prepare well considered answers.

Results of all the studies (the extended structural interviews with experts, the survey of residents and the entrepreneurs' survey) was presented by author in oral presentation "The Analysis of the State of Corruption in the Public Procurements of the Republic of Latvia" (Euro-American Conference for Academic Disciplines in Paris, France, 08.04.2013).

## III. CONCLUSIONS

1. Within the frames of dissertation research, the author interprets corruption as an abuse of entrusted public resources for the purpose of satisfying personal interests. The 'narrow' definition of corruption which associates this phenomenon merely with the third parties' influence upon the official, manifesting itself as buying the public official, shall not be supported. Semantics and origin of the word 'corruption' shows that decomposition of power may appear by itself as a result of degradation of public sector officials.
2. The very core of the corruption in public procurements is treachery of entrusted public interests in exchange for personal interests. The basic reason of such conduct is a conflict between the public and the private, i.e. conflict between the collective and the individual. Effectiveness of influence of encouraging internal factors for officials to engage in corrupt activities in its turn depends not on quality or intensity of these factors, but on personal traits and awareness of the individual. It is necessary to reduce both the person's willingness and practical opportunities to engage in corrupt activities in order to prevent potential instances of corruption.
3. As regards level of corruption in public procurements (i.e. during purchase of goods, services or construction work from the third parties performed by the public sector or its authorized person by using public funds) in the modern Republic of Latvia- analysis of several available sources, as well as results of the research conducted by the author of doctoral thesis (interviews with experts, population survey, entrepreneurs' survey) enable to draw the following conclusions:
  - Corruption is a significant problem in the field of public procurement of Latvia;
  - Currently, the level of corruption in public procurements of Latvia is high [5];
  - The level of corruption in the government and municipal procurements of Latvia is higher than the average level of corruption in the country;
  - The society recognizes the corruption problem and is aware of its seriousness, but is not always ready to participate in solving of the problem.
4. The author distinguishes two groups of subjects of corruption in public procurements: an obligatory subject (without it corrupt activities cannot take place) and facultative subjects. Considering that corrupt activities

can be implemented either as a result of interaction of two subjects (bribe taker and bribe giver), or by acting of one person, the bribe givers shall be considered as facultative, non-obligatory subjects of corruption. The obligatory subject of corruption in public procurements is not obligatory an official, it can be any person who has some connection to public resource to such an extent that it enables the use of the public resource for personal interests. Composition of subjects of corruption in the field of public procurement shall be examined more extensively, by comprising not only officials, other persons who are in charge of public resources and bribe givers, accomplices, but also such subjects as 'covering group' and groups that protect webs of corruption.

5. The method of theoretical modeling enables detection of definite actions that may be indicative of corruption taking place in the particular public procurement [6]. Corruption can arise at absolutely every stage of public procurement (including stage of procurement planning, stage of selection of personnel involved into execution of public procurement, stage of elaboration of the procurement procedure documents, stage of performing of public procurement, stage of contract implementation).
6. The corruption prevention politics of the Republic of Latvia has resulted in formally revised regulatory framework, establishment of a specialized institution – Corruption Prevention and Combating Bureau, and gradual education of society as well. Every year the number of respondents who are intolerant of corruption steadily grows. At the same time the careful and uncertain actions of the state in regard to fight against corruption leads also to increase in number of respondents who are ready to engage in corrupt activities. The main achievements in the sphere of corruption prevention in years 1995 – 2012 is regulatory framework in the sphere of fight against corruption that complies with the requirements of the EU and an increasingly rapid polarization of society in regard to issues of anti-corruption: the number of people who are condemning corruption increases, the same tendency refers to supporters of corruption. Such corruption prevention policy cannot be considered as effective. Special attention shall be paid to the fact that from 2005 to 2012 the number of respondents who are not ready to inform the authorities about instances of corruption at all (neither openly, nor anonymously) has almost doubled. In 2012 the number of such respondents has reached 42.1%. The rate mentioned above indicates that considerable proportion of residents does not trust public institutions if it regards counteraction to corruption. The issues of public procurement and corruption prevention opportunities in this segment have not become a subject of systemic research in the Republic of Latvia, even though the corruption risks in the sphere of public procurement in years 2009 – 2011 have increased considerably. Counteraction to corruption in public procurements in the Republic of Latvia is still treated as a part of the general

context of corruption problem. In the field of corruption prevention the Republic of Latvia shall minimize influence of local oligarchs; it shall achieve also that unselfishness, contentment, openheartedness and honesty play due role in the system of values of Latvian officials.

7. Indicators for evaluation of effectiveness of combating corruption are: the number of initiated criminal proceedings regarding corruption in public procurements (percentage of initiated criminal proceedings regarding corruption in public procurements against total number of instances of corruption including latent corruption); the number of court judgments and number of convicts (in percents against the number of initiated criminal proceedings); amount of the illegally obtained money that has been recovered (in percents against the total (including latent) amount of illegally obtained money that pertains to corruption in public procurements). In fact – the bigger number of initiated criminal proceedings and court judgments against the actual level of corruption in public procurements, the more effective is fight against corruption in the sphere of public procurements. Even the very modest assumptions regarding the level of latent corruption in the public procurements in the Republic of Latvia (20% from the total number of procurements performed in 2012) indicate sharp disproportion between the total number of potentially corrupt procurements (3380) and number of the initiated criminal proceedings. The aforesaid fact clearly shows that fight against corruption in the field of public procurements in the Republic of Latvia is still ineffective.
8. The conclusion regarding ineffectiveness of fight against corruption is also confirmed by the fact that the state frequently attempts to substitute real fight against corruption by imposing punishments for conducting other violations of law that are easier to investigate and are provable. Thus, in 2010 when realizing that public procurements operate as a vital mechanism of utilizing of public funds, which is entailed in Latvia with high risks of corruption, the Corruption Prevention and Combating Bureau (KNAB) proposed *'to bring to responsibility persons for violations of laws in the field of public procurement and eventually to appoint an institution that will supervise this sphere'*. Moreover the Corruption Prevention and Combating Bureau considers that administrative liability shall be imposed on officials by the Procurement Monitoring Bureau in order to reduce corruption in the sphere of public procurement. It shall be concluded, that unfortunately the excellent ability of the Corruption Prevention and Combating Bureau to understand risks of corruption in the sphere of public procurement is not enforced by the ability to anticipate and ensure correct and effective solutions of the problem. The second sphere of activity of public institutions is implementation of the conception 'punish without catching in the act' basing on the legal presumption and transference of burden of proving the guilt, as well as enforcing the initial property declaration - the so-called

- 'zero declaration', which in fact substitutes real combating of corruption by fight against consequences of corruption.
9. Having examined and evaluated methods and techniques of fight against corruption, the author comes to conclusion that in order to increase effectiveness of combating of corruption in the Republic of Latvia more frequent appliance of the operational experiment (with a prior improvement of its legal regulation) is necessary, i.e. to conduct preventive operational experiments to check and determine reaction of every official to an offer of a bribe or other gain as well as bring to criminal responsibility those officials, who would accept such offers. Criminal law shall prescribe liability for such corrupt activities as protectionism, favoritism, ungrounded granting of tax allowances etc. The principle of unavoidability of liability shall be implemented consequently – a person shall be held liable irrespectively of his/her material wealth or social status.
  10. National legislation of the Republic of Latvia regulating the field of public procurement tolerates implementing of corrupt schemes by persons engaged in performing of public procurements. The objective of anti-corruption development of the public procurement mechanism shall be fulfilled in four basic directions: A) reducing of the discreet power (monopoly of power); B) applying of innovative anti-corruption solutions in the process of public procurement performing; C) effective and professional control over the process of procurement; D) clear, strict and unavoidable liability [7].
  11. None of the proposed methods and techniques will give the desirable result if it will be applied alone (outside the context of other methods). Every anti-corruption method shall be intensified by correct attitude and patriotism of society, by of infusing the next generation with high moral standards. The aforesaid shows that applying of a complex approach is prerequisite for prevention of corruption.

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