

# **CORRUPTION-FREE TOWN HALLS IN THE VISEGRAD REGION**

**REPORT OF II REGIONAL ROUND TABLE  
WARSAW, MAY 14<sup>TH</sup>-15<sup>TH</sup> 2004**

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# INTRODUCTION

The II Regional Round Table on Corruption-Free Town Halls in the Visegrad Region was held in Warsaw on 14<sup>th</sup> and 15<sup>th</sup> of May and was a continuation of the project launched a year ago by Transparency International Czech Republic and is based on the experience gained during the project's implementation. More information about the project can be found at: [http://www.transparency.cz/index\\_uk.php?id=44](http://www.transparency.cz/index_uk.php?id=44)

The main goal of this long-term project is to contribute to the creation of corruption-free town halls within the Visegrad region. This is to be done through systematic work in the capitals, aimed at increasing the transparency of town-hall officials of the Visegrad 4 countries, and by annual meetings of a round-table format in one of the four capital cities involved.

The project participants consist of representatives of city halls, city councils and non-governmental organizations from the Visegrad 4 capitals: Bratislava, Budapest, Prague and Warsaw. The planned effect of the program is to develop a network of cities in the Visegrad region in which counselors, city officials and NGO activists are committed to combat corruption and share their experience on the best methods to counteract it.

The first meeting of all parties involved took place in Prague, 7-9 February 2003. The Stefan Batory Foundation was a participant in the previous conference and shared the same responsibilities as the other partners, such as organizing the national delegation, preparing speeches, and leading the workshop on conflicts of interests. During the meeting in Prague, city representatives made a clear and precise declaration to fight corruption.

In 2004 the project's participants are comprised of the same group of representatives from the city halls, city councils and non-governmental organizations from the Visegrad 4 capitals as last year project, as we wanted to establish long-term co-operation within the network of corruption-free city halls in the region.

The Program of the Warsaw conference contained plenary sessions, workshops, and discussion in national groups.

The opening plenary session started with the speech of the President of Warsaw, Mr. Lech Kaczyński. The session followed with the presentation of the decisions in implementation from the recommendations and promises made in Prague, which were presented by the representatives of each country/city.

During the Opening Plenary Session the results of the objective part of the V4 INDEX research project were presented.

The second part of the program contained 6 parallel workshops, divided into two days. During the first day the following parallel workshops were conducted:

- Public Control over Procurement,
- Internal Auditing,
- Index V4 - City Corruption Propensity Index.

During the second day of the conference the following parallel workshops were conducted:

- Conflicts of Interests and Codes of Ethics,
- External Auditing,
- The Challenges and Prospects Deriving from EU Membership for Visegrad Capitals.

Each workshop lasted about 4 hours.

Following the pattern of the 2003 meeting, a moderator and expert (or practitioner in the field) attended each workshop in order to present the international standards on transparent municipalities, their positive examples, and complications which arose during their implementation.

The experts came from well-known institutions and organizations experienced in implementation of projects in cities.

Workshops were prepared and run in English.

The Warsaw meeting was attended by over 100 representatives of city halls, city councils, and non-government organizations from the four Visegrad capitals [Bratislava, Budapest, Prague, and Warsaw] as well as foreign experts in the field.

This publication summarizes the general findings and proceedings

# **SUMMARY OF THE SPEECH OF THE PRESIDENT OF WARSAW, LECH KACZYŃSKI**

I am aware that you are discussing a problem which is one of the most important in our country. Obviously, if in our country, then also our city. I realize that in the past Warsaw was afflicted by a disease of corruption on a considerably large scale. I am not saying that the scale of corruption was greater than in the other municipalities in Poland. My knowledge of that subject indicates that the tide of public opinion in Warsaw is much different than elsewhere. Here in Warsaw we do not have a situation in which the network of corruption includes politicians from both left and right wings, as well as representatives of other important institutions and a considerable part of local press. The process of disclosure of mismanagement and corruption has always had a greater scale in Warsaw than elsewhere. It does not mean that other centers experienced less; rather, the scale of corruption elsewhere was much like Warsaw's own. The only difference is that the public in Warsaw was more often informed of any symptoms of corruption within the municipality, and that the sums of money involved in corruption activity were much higher than elsewhere. The situation could be explained by the fact that Warsaw is the capital of Poland and likewise the richest city in the country.

The reason of our opportunity to meet here today is not only the scale of corruption in Warsaw, but also the wide public debate on this phenomenon.

What we have done to reduce corruption in Warsaw City Hall?

I am not going to say that there is no corruption in our city, for it is impossible to eliminate it totally—just as it is not possible to completely eliminate street crime. The prevalence of corruption can be very high or very low, but corruption is always present. The fight with corruption in Warsaw has been aided by various kinds of institutional measures, such as: the register of public procurements, the electronic list of subsidies, the organization of public procurement control office in City Hall, as well as the organization of legal services on different level. As one of Warsaw University's professors said, Warsaw City Hall is the third largest legal office.

Our office is governed by different rules than others. Legal advisors are obliged to work full 8-hour days. The whole office is made up of more than fifty people. Of course, in the entire sphere of legal services in Warsaw, many more workers are employed. It is a very important issue, especially if you take under consideration the highly complicated law which regulates the every day workings of City Hall and large number of unclear regulations.

The City Chamber of Control is organizationally based on the Supreme Chamber of Control. This is not a perfect institution, but my experience shows that it is the best control institution in Poland. That is why we decided to organize our control office based on this model.

Currently in Warsaw we have six Residential Service Offices (RSOs), whereas Warsaw is divided into 18 districts. Obviously the battle with corruption is not the only reason we have created the RSOs. The main task of the RSOs is to offer inhabitants good quality services. Yet, these institutions are also instruments in fighting corruption because two different people are responsible for each case explanation and for making a formal decision on the case. However, there is no institutional system which is completely invulnerable to mismanagement. I am thinking specifically about corruption now; but this is not the only issue of institutional mismanagement we have to face.

When we are talking about corruption it is worth mentioning that there is no possibility of an honest institution if the attitudes of the management (and not only the boss, but also people working with and under him/her) are not honest. If there is no strong will to adopt proper attitudes, if the people of management are easily tempted, there is no possible way to fight this phenomenon.

According to the law, the Supreme Chamber of Control is obliged to submit suspected cases to the Prosecutor's office. Obviously we have used this law in the past, but with some limitations. We had to take into account the then-prevalent social climate, which was impossible to change at that time. But in spite of all obstacles, in the first period of my governance 1 out of 10 cases submitted to the Prosecutor's office faced further legal action. And I am not talking about acts of accusation, but solely the undertaking of the procedure of case explanation. Now the number of cases facing further legal action has visibly increased. However, if you consider the cases submitted by the Mayor's Office and institutions subordinate to it, 75% of serious cases faced further legal actions. I am speaking of initiated procedures.

According to the Constitution of Poland, the Supreme Chamber of Control is the organ of state control. This institution is much more powerful than local chamber even if we are talking about Warsaw's local unit.

The institutional system is important of course, but a crucial role is played by social climate. Now we have the right moment and the right social climate to act against corruption. The actions undertaken now, within the next few years, will cause Poland to change radically. I would like to say, even though I have been and will be the object of attacks, that Warsaw City Hall is an example which confirms that the limitation of corruption practices is possible; and that on the level of big business, which Warsaw does as a giant company, it is even possible to eliminate that phenomenon. It is a matter of some organizational reforms and good will, and nothing more. We live in a country about which it is possible to say negative things, but in Poland democratic procedures are really working. The possibility for a limitation of the phenomenon of corruption in the upcoming years is simply a matter of public choice.

I would like to thank the organizers for inviting me to the conference. I think that even if the situation has changed over the past 10 years. Today in Poland we have something which you may define as a frontline battle with corruption—though it is full of holes, it is functioning, and gives hope for forthcoming change. I hope that those changes will not be only in the large scale, because corruption also accrues at the small scale.

**PRESENTATION OF THE DECISIONS  
NOW IN IMPLEMENTATION FROM THE  
RECOMMENDATIONS AND PROMISES  
MADE IN PRAGUE**

## Bratislava

### Plenary speakers:

- Eva Chudinová (Speaker of City Hall)
- Emília Beblavá (President of Transparency International Slovakia)

### Summary of speeches:

#### Eva Chudinová

*Ms. Chudinová spoke about the improvements in the field of citizen's services by creating the Front Office.*

Earlier the Bratislava City Hall was located in 5 different city districts. In the spring of 2003 the decision was made to concentrate all services in one point. This was the reason why the Front Office was created.

The description:

- The citizen's service office is placed in one building.
- It is located on the ground floor of the building.
- It is accessible to handicapped people as well as for mothers with small children.
- The departments are labeled with big letters and the interior of the office is made from glass to improve transparency.
- The new staff is working under a video camera monitoring system.
- Confidential zones are prepared for cases which have to be discussed in confidence. Confidential zones are also under the monitoring of cameras.
- The center is open during office working hours to meet citizens' expectations.
- Part of the allowances which were made, was to limit citizens' access to the other parts of the office. Therefore, citizens do not have access to the other entrances. There are entrances which open by chip cards only.

The most visible improvements associated with fighting corruption are in the field of free access to information. Citizens have access to incoming, as well as outgoing, information.

How does the office work currently?

- Citizens receive information together with all necessary explanations how to proceed.
- All conclusions, forms, questionnaires needed are available on the web site and can be filled in and returned by e-mail.
- In the Front Office, the Internet is available for every citizen free of charge.
- Personnel received both professional as well as psychological training.
- In addition to the handbook outlining how to work, a handbook on communication with citizens also exists.

## **Emília Beblavá**

There were six commitments made during the Prague meeting:

- 1. *Initiation of a common, regularly updated, web site where corruption issues within the Visegrad capitals could be discussed and compared. Special training concerning the codes of ethics should also be carried out.***

The web site was created, but the vivid exchange process between our capitals was not developed. Training for the city of Bratislava was carried out by TI Slovakia in 2003. The employees of the municipality also took part in that training.

- 2. *Promotion of the sharing of information within other cities and professional association of local governments.***

For now, the situation is that “obcanske oko” have sent the materials to local governments, but without feedback.

The issues Transparency International Slovakia is concentrating on are more focused on monitoring of corrupt behavior on local level, monitoring of public procurement, researching of decentralization and related aspects of corruption etc.

The examples of Transparency International Slovakia activities in this field are as follows:

- Preparation of a handbook on anti-corruption, which is the basic material for training in the whole country.
- Monitoring of public procurement. The City of Bratislava appeared in the first round among the eight biggest cities in Slovakia. The results were not too optimistic. None of the cities has had any anti-corruption practice.
- The next step is to monitor fifteen Slovak hospitals in order to see how they govern and utilize public funds.

- 3. *Implementation of methods of internal (with the help of State Audit Office) and external control.***

At present, internal control is in many cities at one place. However, external control is not for the whole finances of the city councils. An amendment to the constitution is needed. The representatives of local government are against the establishment of external control. On the other hand, in the survey prepared by the Focus research company, over 70% of citizens agreed that external control in Slovakia is needed. For now the government has managed to block initiatives in this domain. As far as internal control is concerned, there have been no changes since the conference in Prague.

- 4. *To create a more friendly attitude to citizens in local governments.***

The Front Office was created within the City Hall. It promotes a friendly relationship with citizens visiting the local government. Citizens should receive information from newspapers and from the Internet about how the public matters are governed. All information from meetings is publicly available. Citizens can also participate in discussions on various issues.

- 5. *To improve the cooperation with NGO's and to push the modern Conflict of Interests legislation to be applied to local government as well.***

The association “Stop Conflict of Interests” has attempted to force the introduction of more rigorous acts, but again, local government officials stood against the introduction of this law. This is the seventh attempt to force this act into parliamentary debate. We hope that this time

it will succeed. The act which is now in the parliament also concerns representatives of local government.

**6. *Cooperation of non-government organizations with local government in Bratislava in order to fulfil individual obligations.***

As far as I know there were no serious projects of cooperation among anti-corruption organizations and the City of Bratislava.

## Budapest

### Plenary speakers:

- Ferenc Saly (General Controller approved by the General Assembly of Budapest, Head of the General Controller unit, Mayors Office)
- Zolna Berki (Chair-lady of Transparency International Slovakia)

### Summary of speeches:

#### Ferenc Saly

One year ago at the conference in Prague I held a detailed presentation about the organization framework, process regulations and controlling methods applied by the Mayor's Office of Budapest aimed at preventing even the possibility of corruption. I talked about the success stories of the past five years achieved through the operation of an internal controlling system that might have seemed excessively bureaucratic, and I also talked about the problems that we still have to face. I pointed out the challenges posed by the accession to the European Union for the Municipality of Budapest and what measures must be taken, particularly in the field of harmonization of public procurement procedures (the most vulnerable to corruption) with the Directives of the European Union. The most important tasks I mentioned were the following:

- tasks originating from the expansion of the supply market as a result of the elimination of preference of domestic undertakings;
- finding a solution for the regulation of community and national public procurement value thresholds that are unavoidably different, because of significant alterations, but at the same time not mutually exclusive;
- the probable consequences of eliminating the right previously granted to municipalities to make regulations;
- requirements for the introduction and operation of modern controlling methods, adapting to the changing legal and economic environment, to facilitate the prevention of corruption.

When I spoke about these tasks it seemed that Hungary and its capital Budapest was properly prepared for the accession to the European Union. This view was also supported by the fact that the adoption of Community legislation, the revision of laws and central regulations governing activities in specific fields, and harmonization with Community Directives had already commenced in all fields of the society and the economy, and some progress had already been achieved. The drafts of the legislative amendments on the system of internal control of the state budget and public procurements (key areas in respect of the fight against corruption) were completed by the middle of the previous year.

However, as usual, the parties concerned made proposals for modifications again and again in the course of the consultations, and it turned out that the draft legal texts are not in harmony with the contents of the Community Directives in every case and every detail. Finally, the harmonization of the fields mentioned above was fulfilled in November 2003, when the following regulations entered into force:

- modification of the part of the "Act on the State Budget," dealing with the fiscal control system of the state budget, and modernization of the relevant part of the "Government Regulation on the Rules of Operation of the State Budget" related to that;
- the "Government Regulation on the Internal Control of Budgetary Institutions on the Basis of the Authorization of the State Budget Act;"
- the new "Act on Public Procurement."

This modification of internal regulations has begun at the Mayor's Office as well by taking into consideration the rules of the new central regulations. Unfortunately, not all of these changes could be harmonized with national laws and regulations in every aspect. The main reason for this is that the government and the competent ministers failed to execute their obligations specified by the related acts to publish the so-called "special statutory regulations" and other "methodological processes" by the end of April. These measures would enable the creation and the operation of an inner controlling system and a related organization that entirely follows the new requirements, and would ensure the legal framework for the public procurement procedures. Among others, the following are still missing:

In the field of controlling:

- a controlling scheme (which is the task of the head of the office),
- a sample for establishing preliminary and subsequent management control,
- the risk management system, and its detailed guide,
- a summary of the requirements for the contents of the in-house controlling manual, being the responsibility of the head of inner controlling, was not issued either;

In the field of public procurement:

- a detailed regulation of plan tender procedures,
- determination of specifications for centralized public procurements,
- a regulation containing the requirements for electronic procurements,
- samples for bulletins,
- and a regulation of requirements for public procurement advisors and public procurement specialists is also missing.

Since the Municipality of Budapest has been concentrating on making its activities more transparent and corruption-free, the Municipality of Budapest had already started the revision of its controlling system and the public procurement procedures by the beginning of 2003. It is obvious that no perfect regulations can be created without the aforementioned central guidelines, since the regulations of local authorities cannot be in conflict with national ones. The Municipality plans to create its new controlling system and organization (complying with the requirements made by the changing economic circumstances) and the process of public procurement procedures by taking into consideration analyses and evaluations. The preparation of the regulations for these two fields has begun in accordance with the above mentioned facts.

The modification of the requirements in the national regulations creates challenges in both fields.

1. In the field of controlling, contrary to past experiences, the problem is that the internal fiscal control of the state budget handles the supervisory control tasks of internal controlling and related budget organs and institutions as an integrated whole. This means that two types of controlling activities performed in the past are delegated to a single internal controlling organization by central laws in such a way that (given the independence and efficiency of internal controlling) internal controlling can be the exclusive task of the senior executive, similar to requirements also accepted at an international level.

This was not a problem at central budgetary institutions, because the internal controlling organization of the Ministries has already been engaged in supervisory controlling activities at budgetary institutions under its supervision, which were relatively few in number.

However, the situation is quite different at the municipal level, where the practice applied in the case of supervisory controlling and internal controlling also differed by the number of residents living within the limits of the municipality, as well as the number of related institutions and budget organs. In smaller settlements with a couple of thousand residents the budgetary institutions were usually lacking overall financial power, and were integrated

with the Mayor's Office as institutions with partial power, which meant that internal and supervisory controlling was both performed by the internal controller of the mayor's office. In larger municipalities (the majority of which had to employ an auditor as specified by law) internal controlling and supervisory controlling was performed by separate organization units.

The same is true for the Municipality of Budapest, where there are nearly 300 budgetary institutions and for this reason supervisory controlling tasks were performed by a department with a staff of nearly 30 people; while internal controlling tasks aimed at the staff of 1400 people in the office were performed by an internal controlling group having 8 members that was managed by the head of the city manager's office. The establishment of the organization in compliance with the new legal regulations is still causing problems, because a new "centralized" organization, integrating the two former organization units, and established according to the new regulations (also taking into consideration the possible growth of requirements) and having a higher staff number must be subordinated directly to the senior executive—according to present-day central standpoint the head of the office at municipalities, the city manager. However, there is a view opposing those in the statutory regulations that were published, and as a result of the opposing views and the missing supplementary statutory regulations and supports, the controlling system at the Mayor's Office has not been transformed in accordance with the provisions of the act and the government regulation.

The root of the problems at the municipal level is the lack of the required agreement between the "Act on Municipalities" and the "Act on the State Budget," and the related government regulations. The present national debate concerns whether the internal controlling made independent is subordinate to the head of the mayor's office (as a unique budgetary institution) that is, the city manager, or to the Mayor, that is the head of the general assembly providing for the supervision of the budgetary institutions and the office. Being subordinate to the city manager seems to be specified in the "Act on the State Budget" and the so-called "Act on Powers," while subordination to the mayor seems to be indicated in the "Act on Municipalities" and the government regulation on the operation of the state budget.

Independent internal controlling (also comprising on the basis of new specifications, institutional controlling, previously determined as supervisory controlling) is aimed at developing the operation and improving the efficiency of the controlled organization. Thus a systematic and methodological approach is required for evaluating and developing the efficiency of the risk management, controlling and management procedures of the controlled organization. From this point of view it does not matter whether the independent internal controlling organization is subordinate to the city manager or the mayor at municipalities. However, it is important to determine the requirements of the general assembly and its head, the mayor, in respect of the controlling tasks and to integrate those into controlling plans—moreover that the general assembly from time to time revises and utilizes the experiences drawn from controlling as required by laws.

Similar regulatory problems came up at public procurement procedures. The new act withdrew the authorization that granted a right to municipalities to govern the procedure-related tasks (those not regulated by the act) of municipality budgetary institutions, established by them, in regulations. The municipalities are in a peculiar situation here too, because in a normal case the municipality is the tendering authority, but the procedure takes place with the cooperation of the Mayor's Office. The act released a prerequisite of the past, whereby only natural persons (at the municipal level, the mayor) can proceed on behalf of the contracting authority, and makes it possible for the general assembly to decide on behalf of the contracting authority.

Since procurements of smaller value (indicated as below the national value threshold by the Hungarian "Public Procurements Act") may be initiated by the Mayor's Office as well, in specific cases it is possible to regulate separately the tasks and responsibilities of the

participants of public procurement procedures initiated by the municipality and those by the Mayor's Office. At the same time it is also possible to specify the requirements for public procurement procedures by the municipality and the Mayor's Office in an integrated regulation. In the first case, decision-making can be divided between the municipality and the Mayor's Office, and it can be decentralized, because they are independent legal entities. In the second case, the general assembly may transfer its decision-making powers only to the committees or the Mayor, and such powers may not be transferred any further.

The Municipality of Budapest, when considering the second case, intended to regulate powers by making the Public Procurements Committee the decision-maker in public procurements whose value reached or exceeded the national value limit, and the mayor, as the decision-maker in (several thousand relatively smaller-value) procurements below the national value limit. However, this would have solved the problem carried from the past only in part (with differentiated division of responsibility) where no entity other than the Committee and the Mayor can be granted decision-making rights, but places a great burden on the Mayor, as a result of the enormous number of decisions to be made.

The Municipality of Budapest (as contracting authority) prepared the draft of the integrated public procurement regulation for the municipality and its office, as required by law, but the draft was not adopted in April by the general assembly. In practice it is not possible to apply the regulation until the "special statutory regulations" specified in the act are published and put into force. Until then, in spite of the fact that the tasks, rights, and obligations of those taking part in the procedures are specified in the integrated regulation, no new procedure can be launched, because the requirements to compare the procedure are missing; e.g. the requirements for the form and content of the call for proposals, public procurement nomenclatures, rules on public procurement practice being a prerequisite for official public procurement advisor activities and verification of the same, and rules on liability insurance, etc.

Taking into account the uncertainties caused by the missing legal background and in order to fulfil its tasks without any violation of laws, the municipality accelerated its public procurement activities in the first four months of the year on the basis of specifications in force. Any new procedures will be launched only if the special statutory regulations have been published in the meantime. In accordance with the decision of the General Assembly the public procurement regulation will be revised only if the specifications of the special statutory regulations, published in the meantime, can be also taken into consideration. However, the Municipality of Budapest will not stop its consistent efforts aimed at making its activities more transparent, and at the same time, successfully fighting against corruption.

In conclusion we can say that the accession to the European Union might cause problems even at the level of legislation and it is quite probable that numerous problems will arise in practice—the handling of which will require a major effort and will cause temporary obstacles in the successful fight against corruption made by the Municipality in the past few years. However, it is my belief that the regulation of processes will soon become clear and transparent again, after a relatively short transitional period, and the trend of development will be carried on smoothly to enable us to fully comply with EU requirements, including Community specifications on transparency and freedom from corruption.

## **Zolna Berki**

### ***Zolna Berki spoke about the past, present and future activity of Transparency International Hungary***

Last year TI Hungary organized three conferences:

- **Conference focusing on transparency in business life.**

There was little interest in this conference. Firms, institutions and their upper management staff explained that if they decide to participate in the conference they could be suspected of corruption.

- **Training for trainers.**

Many instructors and students from Hungarian universities were invited. We expected that most of them would be interested in this event. Unfortunately, attendance did not meet our expectations.

- **Conference on child protection in the context of corruption.**

This conference was attended by nearly 100 people. In comparison with previous conferences organized by us, this one was surely more successful.

- **Publication of the book “Corruption In Hungary”**

The book summarized corruption related problems observed in the mass media. It contains chapters on corruption and religion and ethical issues, as well as discusses what can be done within the police academy.

### **What we can do in the future to improve the effectiveness of our activity?**

- **Cooperate with the State Audit Office and the City Hall, in order to further develop the new corruption vulnerability index.**

First is vulnerability to corruption among local government employees and second is vulnerability to corruption within society itself. We have tried to compare opinions on corruption within the society-at-large with opinions of the members of the municipal administration.

- **Organize a conference for City Hall’s members, in order to present to them the results.**

We think it could help them to develop a more transparent image of City Hall’s work. We hope that the conference we are planning to organize will be a forum, offering members of city halls the possibility to exchange experiences gained through action aimed at increasing the transparency of their institutions. We hope that, as a result, city halls will be able to meet the expectations of their respective citizens.

## Prague

### Plenary speakers:

- Vladimír Remeš (Head of the Department of Control Methods, City Hall)
- Tomáš Kramár and Lenka Petráková (Oživení, NGO)
- Markéta Reedová (Municipal Assembly Deputy, Vice – chairwoman of Anti-corruption Committee)

### Summary of speeches

#### Vladimír Remeš.

***Vladimír Remeš spoke about the anti-corruption policy of the city of Prague focusing on the internal and external audit of public procurement and the systematic solutions aimed at prevention and reduction of corruption.***

Through internal and external auditing the following irregularities were found:

- oversized advance payment
- raising the value of procurement
- shortcomings in the evaluation of offers.

The personal responsibility of 54 City Council employees has been assessed: 4 heads of departments were dismissed from their positions, while 7 people lost their jobs. The rest received salary decreases. In 12 cases the matter was discussed in the presence of his/her manager, and they were obliged to pay more attention to obeying working rules.

A total of 715 000 coronas were paid as fines and reparation of damages. The value of damages caused by unsuitable advanced payments is 4 700 000 coronas, and will be extracted through due process.

To solve the problem of these irregularities many broad, systematic solutions were implemented which were approved by the City Council / City Assembly.

- New methods of control in some procedures of the public procurement/orders were drawn up.
- A decree describing how to proceed with offers and how to evaluate them has been issued.
- Organizational changes regarding the range of the city investor (the department which is responsible for the realization of the public procurement) has also been implemented.
- The Anti-corruption Commission of the City of Prague was organized. The commission contains both representatives of external organizations (including NGOs) responsible for fighting corruption and the representatives of the state.
- Rules governing the procedures of the internal control system of the City of Prague were published. This system is focused on the reduction of corruption. The control system is checked by the auditor's control. If the mismanagement is detected it is eliminated by the City Hall Employees.
- Based on the internal audit of the City Hall of Prague, a recommendation was formulated to inform all personnel of the actual legislation concerning the financial control and internal auditing, also connected with the accession to EU. Participation of City Hall representatives in training on these issues helped to improve internal control.
- The codes of ethics of the City Hall's employees and a guide on how to communicate with citizens are under preparation.

The number of complaints concerning corruption cases has decreased. In 2003, there were 9 complaints, 5 less than the year before. During 2004 up to now we have received only 4 complaints. The process of an explanation of the complaints has not yet been finished. If considering those cases filed in 2003, 9 out of 7 complaints were found to be unreasonable. Explanation of 2 of those cases is still outstanding.

**Tomáš Kramár and Lenka Petránková**

***The representatives of “Oživení” spoke about issues of conflict of interests and the code of conduct currently under discussion in the Prague City Council.***

There are no guidelines or codes of ethics approved by the City Council.

In the fall of 2002 we translated the codes of conduct from European Union and other countries and we presented it to the council members, aiming to start the debate on adopting and implementation of these rules. In May 2003, we presented a draft of the code of conduct at the City Anti-corruption Commission. City lawyers have legally reviewed the draft. In March 2004, a year later, a discussion on the draft took place, and a newly-revised version of the draft has been presented to the City Anti-corruption Commission.

The final version should be ready in June.

The Commission has discussed mainly the following issues:

- **Access to information**

All information concerning activities of public officials should be public. Any information from the City Council should be publicly accessible. However, the City Council stated that “confidential information must remain confidential.” One example of City Hall practice: City Hall has refused to publish the results of the public procurement audit, although the results have been available for almost a year. Council members prepared a list of about 200 employees of the City, who had violated the law. We thought that the list should be made public, especially in cases when public finances are considered. As the city authorities refused to disclose the list, we decided to publish it on our web site eight months ago. We learned yesterday that the Office of Protection of Personal Data classified our action as a violation of law, but we disagree with them and will continue to defend our actions.

- **Conflicts of interest**

Assets and financial disclosures (additional incomes, activities, gifts and property changes) are a great tool to manage conflict of interests of public officials. Members of Parliament are obliged to turn in such disclosures. We proposed to establish the same rules for the members of the City Council.

Council members agreed to complete and publish their disclosures voluntarily, over 45% in 2001 and 28% in 2002. Requirement of disclosures is included in the draft of code of ethics presented to Councilors.

City Committee for Control should be in charge of controlling the disclosures and should publish it on the Internet according to our proposal. Unfortunately, none of these has been included into the discussed draft.

Currently discussed draft does not include any sanctions for those who would violate it and as such cannot be effective. In comparison, in Great Britain the law offenders can be suspended or dismissed.

Next issue is the representation of city interests in the municipal companies. As it is important to watch over the public interests in the municipal companies, there are two basic

models: (1) experts nominated and paid by the City Council, or (2) Councilors paid by the City Council (not the company) represent the city. The Prague practice is different. Councilors represent the city interests in the municipal companies but are paid by the company usually in great amounts (tens or hundreds of thousands).

Many control functions (positions in Board of Directors and Operating committees) in the companies are being held by the members of the two leading political parties. 25 persons deal with 74 functions. Our proposal is to introduce the rule that any remuneration is approved by the City Council adequately to remuneration in other Municipal bodies. Also this proposal was not included into the draft under discussion.

### **Markéta Reedová**

- **Cutting down on bureaucracy, making the procedures more transparent through increasing the productivity of employees and reducing their number - the key solution to corruption**

The fact is that the number of employees has increased greatly instead of decreasing. Of course, there might be some good reasons justifying this kind of increase.

- **Public procurement**

On the city level, public procurement is one of the most susceptible area to corruption. In 2002, multilayer audit was conducted due to check all the contracts granted in 1999 and in the first half of 2002. In Antimonopoly Office, the analysis of public contracts in Prague was also conducted. The results were:

- bill stated about tenders was not abide in almost each case
- the contract-granting system is so opaque that it is impossible to control it.

All of this caused loss of million's euros. These independent analysis give an opportunity of changing contract granting system as well as identifying people who are responsible for breaking the law, sanctions can be imposed. Instead of that all, there were only cosmetic minor changes in procurement's rules. The crucial changes, like the harmonization of tender rules in cities or in local governments, enlarge openness and ensure information about tender procedures. Transparent and objective rules for granting contracts were not established. Neither the changing of tender commission members nor changes of internal auditors' positions in the city (in order to guarantee more independence and separation from executive and management levels) were enacted. People responsible for problems who were identified during the audit are still on the procurement commission. Although these clerks were dismissed from local government, later on they were reinstated. Only one criminal case took place, in which one person was involved. From the other hand, Chief of the Department, who granted public procurement and was responsible for tragic public procurement system in the City Hall, was not exposed to law procedures.

As an opposition politician, I don't want to mention the lack of punishment for political representatives here.

Regardless of all of that, I hope that the new public procurement bill in effect as of 1 May 2004 will lead to wider discussion and analyses of current rules functioning in the City Hall. This is a matter for auditing experts, i.e. civic organizations, which should be involved in these activities. I am also speaking of representatives of all sides of the political scene in Prague. The law has defined only the method of granting contracts whereas institutions make independent decisions what kind of conditions should be fulfilled to be conducive to better systems, which might have reduced the possibility of manipulation and corruption as well as which might have ensured high quality service for citizens on possibly the lowest

prices. I hope that before the election period, an independent tenders audit in Prague will be conducted to allow us to use changes from the previous audit to initiate a suitable reform.

- **Conflicts of interest**

Why have we recently discussed the matter of conflicts of interest—a problem which still exists in Prague, both among the activities of the City Hall and its deputies? Many of them likewise sit on boards of various companies which are also connected with the City Hall. The main problem concerns payment, because these people are paid (often very generously) by those same companies. This is a clear conflict of interests between these concerns and the city. I honestly believe in the new bill prepared by Transparency International, which is currently in discussion in the Parliament. This law will work out the rules concerning conflicts of interest in local government. Currently, the Anti-corruption Commission has been debating the second proposition of Codes of Ethics for deputies. This would involve income declarations in order to improve the transparency of income sources of deputies and council members. It is expected that this proposition will be discussed in June.

- **Anti-corruption committee** – What results have been achieved?

Other than the proposition concerning the Codes of Ethics, the Anticorruption Commission, of which I'm a vice president, unfortunately has not done much. I agree with the NGO representatives, who are members of the commission, that we will have to propose a reform of the working practices of the commission. The problem is that we have a lot of members, about 50 – 70, and they simply don't appear for every meeting. Furthermore, this body is the advisory body in the council and a lot of commission members are also council members. Quite frankly, we don't have any entitlements. We would like to create rather smallish workgroups, which would concentrate on their chosen fields and would work out recommendations which could be discussed on the City Council level.

- **Access to information** – Is there more willingness to provide the public, NGOs etc. with information?

As far as access to information is concerned, I can only express my disappointment. While deputies have the right to possess essential information to perform their duties, for instance, there is still the matter of funds management, which never was specified as confidential. In practice, we don't have enough access to information. For example, a council member has the right to refuse to present information concerning the means undertaken to sanction those responsible for public procurements problems, as I mentioned before. The Council has the right to refuse on the base of the "Protection of Personal Data Bill," regardless of the existence of the Bureau for Protection of Personal Data. The bill doesn't cover this type of information. Ultimately, I had to ask Minister of Interior to end this dispute and I am still waiting for his final decision. Information concerning the functioning of the Public Procurement Commission, as well as reports from meetings where contracts were discussed and were granted, are still confidential, regardless of any logical or legal explanation. As I know, NGOs have had similar experiences when they try to acquire this kind of information.

## Warsaw

### Plenary speakers:

- Jakub Skiba (Head of Administration and Citizen Affairs Office)
- Dorota Keller (Council Member of the Warsaw City Council)
- Katarzyna Batko (Warsaw Civic Group)

### Summary of speeches:

#### Jakub Skiba

Elements of the Warsaw Action Plan:

- **Improvement of citizens' service in each district by the establishment of Resident Service Offices.**

Establishing of the Resident Service Offices (RSOs) is aimed at the unification and improvement of the citizens service in all (18) districts of the city of Warsaw, as well as a contribution to the emergence of honest, transparent, customer-friendly and professional service for the citizens of Warsaw.

The RSO is a special section in the office building of a given district ("front desk"), where citizens' service is delivered (a "one – stop shopping place").

The idea of the RSO is based on separating the servants receiving applications from those considering them. According to that assumption the clerk in contact with the client does not have any impact on the consideration of the application, whereas the employee responsible for the matter comes into contact with the client only if the nature and procedure of the matter requires such contact. Within the scope of its duties, the RSO is also a formal control and supervision of the consideration of the applications in respect to adherence to time limits and procedures.

RSOs also have the role of information centers for clients. Application forms, informational charts and examples of filled-in applications are displayed there (they are also accessible on the web site). One of the aims of the RSO is also the initial verification of citizens' applications regarding form completion, which decreases the number of calls to asking to "complete the documents."

RSOs have a positive influence on residents' service owing to the shortening of the time needed to get the service as well as an improvement of service quality. Working hours of the office may be fixed in order to match the needs and expectations of clients.

A very important role is played by the interior design of the space where citizens' service is conducted. Citizens need not only efficient and competent service but also comfort during their stay in the office. Therefore the RSO is open to citizens. Every RSO has clear system of labels and easy access to information. The customer numbering system (which will be established in 2004) will make citizens' stays in the office more transparent and less stressful.

The proper functioning of the RSO is based on a well-chosen and trained staff, thus employees of the RSO take part in permanent trainings on administrative law and procedures, as well as on direct customer service methods.

Currently, an electronic system of registering the residents' applications is being introduced in the existing RSOs. It will eventually form part of the general information system of the circuit of documents planned to be established in the following 2-3 years. These electronic systems will be based on around 200 administrative procedures defined and described according to the needs of ISO 9001 norms.

At present over 100 informational charts and applications concerning citizens affairs, communicative affairs, and business activities are available on the web site of the Warsaw Municipal Government Office. They can be downloaded from the website, and in the case of business activities, even filled in at home. However, it is still not possible to sign and send the application via internet.

At the moment, the interior design of the rooms in many of the districts of Warsaw is being renovated. In addition to the 5 Resident Service Offices established on 12 January and the 1 launched on 7 May, additional RSOs will be established in 5 districts in 2004 (Śródmieście, Praga Północ, Wawer, Bielany, Rembertów), in the next 4 districts informative registry centers will be created. It is assumed the plan of implementing the RSO system will be completed in 2005.

- **Review of the legal possibilities of establishing a bureau that will make an initial evaluation of companies that want to take part in public procurement procedures.**

After an analysis of the existing law in Poland was accomplished it turned out that it is not possible to create an office dealing with the initial legal evaluation of the parties participating in the procedures of public procurement within the structure of local government administration.

The creation of such an office would be possible only by means of establishing it as a governmental administration authority on the ground of regulations adopted by the Polish Parliament. The activity of such an office is strictly connected with the necessity of granting access to information collected by, e.g. the police, fiscal administration etc. However, the accessibility of such information is strictly limited by law.

- **Work on a code of ethics within the Warsaw Municipal Government Office.**

In the Warsaw Municipal Government Office work on a code of ethics for the employees of the Office has been launched. The introduction of the code however should be preceded by the creation of a general code of ethics for local government employees, as well as by the creation of the government civil service corp. In reference to the above, the tasks mentioned are presently subject to wide consultations.

## **Dorota Keller**

On 27 October 2002 the new bill on the administrative system of the municipality of Warsaw was implemented, introducing a new, more coherent system of managing the capital. Warsaw became a single administrative unit, divided into eighteen districts. Warsaw's president is currently chosen in direct elections and his office has significantly more jurisdiction.

Thanks to the bill on the administrative system of the municipality of Warsaw, for which the former local government lobbied strongly, the current President of Warsaw has strong control- instruments to combat corruption in the City Hall.

It is worth mentioning that Polish law is very advanced in implementing efficient methods of combating corruption in the local government. The most important control instruments concerning council members are:

- The obligation to submit annually a detailed declaration of assets by all council members,
- The obligation to submit declarations of all business activities undertaken,

- The prohibition of combining the function of council member with executive decision-making functions in City Hall and sitting on the board of any municipal companies.

These laws are the most restrictive out of all of the Visegrad countries and one of the most restrictive in all of Europe.

At the end of last year's conference "Corruption-Free Town Halls in the Visegrad Region," the representatives of the Council of Warsaw committed themselves to submit to the Council a proposal of a project of ethical conduct of Warsaw's council members. The creation of such a catalogue would encompass in a legal-ethical framework of rules, according to which a council member of the municipality of Warsaw should act. This should lead to an increase in the level of society's trust towards their representatives and would underline the importance that Warsaw's council members attach to ethical issues and transparent behavior in fulfilling their mandate.

The participants of the conference submitted the proposal to the Chair of the Council of Warsaw. The problems with its implementation are due to the fact that the members of the political clubs represented in the Council of Warsaw have not, until recently, appointed their representatives to the formally established Committee of Ethics. Currently the code-statute commission is working on the code of the Committee and the elections on its members.

## **Katarzyna Batko**

- **Justification for undertaking regulatory activities**

The necessity to create a model of cooperation between NGOs and the local government is justified by the findings of monitoring grant-giving activities, which was conducted in the years 2001-2002. According to this research, in the monitored municipalities, there were no procedures or they were not followed. The methodology of the research included analysis of the full documentation kept by the city/town halls, press releases and local NGO opinions. The most severe failures included the following:

- lack of a concise code of conduct,
- lack of possibility for repeal,
- lack of publicly announced evaluation criteria,
- lack of monitoring and evaluation of the awarded projects and discretion of the decisions made in the whole process.

At the end of 2002, a new legal situation, potentially influencing the relationship between the municipality of Warsaw and NGOs, appeared. The legal system of the capital was changed by merging Warsaw gminas into one body led by the President elected in general elections.

However, in 2003, successful monitoring of grant-giving activity by the municipality of Warsaw proved the need to introduce improvements into the system. The main drawbacks were

- lack of concise policy,
- frequent changes of the grants' amounts,
- lack of justification for funding,
- lack of the documents' transparency.

In January 2004, a new legal act came into effect which will probably be crucial for regulating the relationship between local governments and NGOs. This act, passed on 24 April 2003

and named the “Law on the Public Benefit Activity and Volunteerism,” obliges local governments to establish annual plans of cooperation with NGOs, to inform the public on the funds available to implement a given public activity and to announce publicly the evaluation criteria.

Therefore, the activities of watch-dogs should focus on advising the government in the area of implementation of transparent procedures and being the source of expertise, rather than on pushing regulation of NGO/local government relations. At the same time, although the goal of the watch-dogs will be slightly different, their role as bodies monitoring the transparency of code of conduct will stay the same.

- **Implementation of the Prague commitments**

The Warsaw Civic Group started to work on the regulation of the grant-giving procedures immediately after the Prague seminar. However, having in mind the necessity to cooperate in this area with other organizations acting in the capital city, the Group addressed the Federation of Serving Organizations “Mazowia” to create a common position. The consultation lasted from 25 June 2003 till 10 February 2004. As attainment of a common position proved to be very complicated, in April 2004, the Warsaw Civic Group decided to present its own proposal on Warsaw/NGO relations.

The proposal was put forward to the President of the City, Mr. Lech Kaczyński, and consisted of the following elements:

- The main rules of cooperation (enclosure 1)
- Possible procedural solutions (enclosure 2);
- A publication containing the report from the monitoring of grant-giving activity in 2001-2003. (enclosure 3)

- **Conclusions**

The “Law on Public Benefit Activity and Volunteerism” supported the Warsaw Civic Group’s efforts to establish guidelines for cooperation between the local government and NGOs. The majority of the conditions needed to make this cooperation transparent, such as access to information and establishing priorities and criteria for the evaluation, do not need additional justification. However, to what extent these conditions will be actually met, depends on the government officer’s code of conduct.

The main rules of cooperation proposed by the Warsaw Civic Group are based on analysis of the existing problems and should help the Warsaw municipal authorities to define where the most urgent actions are needed. The proposal of a possible procedural solution should help the authorities to establish transparent and regulated relations between NGOs and the government.

## **Enclosure Nr.1**

### **Main Rules to Be Respected in the Grant-Awarding Process by the Authorities of Warsaw**

#### **I. Transparency of procedures**

1. Establishment of priorities (a list of activities or/and a list of goals) which will be implemented by non-governmental organizations (the *Law on Public Benefit Activities and Volunteerism*, §5 p. 3 states that *the government is obliged to pass an annual program of cooperation with NGOs*);
2. Wide-spread and freely-available information on call for proposals (the *Law on Public Benefit Activities and Volunteerism*, §13);

3. Establishment of evaluation/assessment criteria of the applications (the *Law on Public Benefit Activities and Volunteerism Act*, §13);
4. Creation of a procedure that avoids conflict of interest;
5. Creating opportunities for appealing against decisions made by the Evaluation Committee (repeal) and opportunity to limit the scope of planned activities in cases where the grant is lower than the requested amount;
6. Definition of the rules of reporting as well as the guidelines for the project evaluations, as regards the implementation of the priorities;
7. Inclusion of a preferential renting rate for NGOs in the grant-giving system.

## II. Civic / Public control

1. Participation of NGO representatives in the process of defining priorities (point I.1);
2. Publication of complete information on applications submitted (information on applicant organization, the requested amount, budget breakdown and applicant's own contribution), the awarded grants and their substantive implementation and financial disbursement;
3. Participation of the social side (including representatives of the beneficiaries of the applying organizations) in the meeting of Evaluation Committee (with reservation to point I.4);
4. Participation of the social side (including representatives of the organizations' beneficiaries) in the evaluation of projects implemented (point I.6).

## III. Competition rules

1. Activities in the field of public benefit should be underpinned by the rules of subsidiary effectiveness and fair competition (the *Law on Public Benefit Activities and Volunteerism*, §5, p.2). This means that non-governmental organizations (having or not having public benefit status) and entities subordinate to or supervised by public administration (the *Law on Public Benefit Activities and Volunteerism*, §11, p.3) should have equal chances in the grant-awarding process.

## Enclosure Nr.2

### Guidelines for financing institution - proposal of the operational procedure

#### Establishing the goals and budget available for grants

The clear scope of goals and tasks to be achieved by NGOs, and the amount of the financial resources allocated to obtain them, should be defined before commencing the grant-awarding procedure.

The list of goals and priorities should be subject to consultation with experts and NGO representatives and should be based on the program of cooperation between NGOs and the municipality prepared separately for each year.

The applications should be handed in at the 'point for submissions' to avoid contact between applicants and municipal officers responsible for the applications' evaluation. Each applicant should be subsequently given the 'Acknowledgment of Receipt.'

Additionally, within 7 working days from the deadline, the list of applicants, their goals, and the amount for which they are applying should be publicly announced on the municipal web site.

#### Evaluation of the applications submitted

Each application should be thoroughly evaluated on the basis of the administrative and technical criteria defined in advance.

The applications that do not meet administrative criteria should be aggregated and presented to the Evaluation Committee as a separate pile. It is up to the Committee's decision whether or not they should be rejected or completed within the period set up by the Committee.

#### 1<sup>st</sup> option:

The evaluation of all applications that meet the administrative and technical criteria should be presented on the standardized evaluation form. The form should include the following information: the applicant's name, a summary of the project description, target groups, budget headings, etc. Copies of the completed evaluation forms should

be presented to each member of the Evaluation Committee and constitute the basis for the discussion of the Evaluation Committee members.

**2<sup>nd</sup> option:**

The application must be submitted in more than one copy (e.g. 3 copies) – 1 copy for the dossier and 2 for the members of the Evaluation Committee.

Two copies of each application compliant with administrative and technical requirements should be available for the Committee members at least one week before the meeting of the Evaluation Committee.

**Evaluation Committee**

The composition and statute of the Evaluation Committee are separately regulated by the Presidential Decree.

The Evaluation Committee should consist of representatives of the City Council, officers of the relevant departments, representatives of NGOs, local personalities and experts. The number of representatives of the social side should be the same as that of the municipal administration. The composition of the Evaluation Committee should not question the impartiality of this body; therefore members of the Committee must not have any relation to the organization applying for a grant. One possible solution to avoid such conflicts of interest is to appoint Committee members from among the representatives of NGOs dealing with different social issues than those that are covered by the applications. Each member of the Evaluation Committee must declare a lack of any conflict of interest

**1<sup>st</sup> option:**

When a possible conflict of interest appears, the offending member of the Evaluation Committee is excluded from voting and discussing the application or organization concerned.

**2<sup>nd</sup> option:**

In the case of an appearance of a conflict of interest, the offending member of the Evaluation Committee must renounce his/her membership in the Evaluation Committee.

Each member of the Evaluation Committee is obliged to become acquainted with the applications submitted before the meeting of the Committee. The Committee can also decide to divide the duty of evaluation and distribute the applications among its members.

Only administratively compliant applications should be evaluated, therefore the first decision of the Evaluation Committee should concern applications with administrative failures—whether they should be rejected or given an opportunity of completion within the period set up by the Committee.

**1<sup>st</sup> option:**

One meeting of the Evaluation Committee with discussion concerning budget distribution among the administratively compliant applications.

**2<sup>nd</sup> option**

Two meetings:

1. preliminary evaluation – both establishing the Committee's course of action and making decisions on the completion or rejection of the applications which are not administratively compliant;
2. final evaluation – rejection of the applications which are not administratively compliant and discussion of the rest of the applications.

**Evaluation of the applications**

The evaluation criteria should be announced along with the call for proposals and must not be changed by the Evaluation Committee afterwards.

**1<sup>st</sup> option:**

Discussion and voting over each application.

**2<sup>nd</sup> option**

Each Committee member is obliged to fill in the Evaluation Grid of a given project. The Evaluation Grid consists of the criteria announced along with the call for proposals, which are the basis for the evaluation. There should be

also some room for the Committee Member to justify their assessment.

On the basis of the score obtained after individual evaluation of the proposals, a ranking list is established. Subsequently, after discussion and voting, the final list of applications awarded a grant is created. The decision concerning each of the applications evaluated should be justified in writing, as well as possible cuts of costs of the preliminary budgets submitted by the applicants.

### **Use of available financial resources**

#### **1<sup>st</sup> option:**

Grants should be awarded up to the budget available.

#### **2<sup>nd</sup> option**

The Committee may decide to reserve a certain amount of funds for applications awarded grants as a result of a justified and acknowledged repeal of the decision of the Evaluation Committee.

### **Repeal procedure**

The repeal procedure should be established and announced to the applicants. It should contain the means of informing the applicant of the Evaluation Committee's decision as well as terms of conduct in the case of a repeal submission. Repeals should be considered within 2 weeks time.

The phase of signing agreements with the applicant may not start before answering all submitted repeals and the approval of the lists of awarded applications by the President of the City. A list of grants (with a breakdown of budget sections and total amounts of sections) should be released to the public, both valid and easily accessible for citizens. Any changes in grant amounts or aims must be thoroughly justified.

### **Information on awarding a grant**

Decisions concerning successful organizations should be announced to the public by means of publication in local newspapers, the Bulletin on Public Information, and on the city website at the moment of closing the procedure of signing the contracts. The following information should be included in such an announcement: the scope of the organization's activities, the time framework for the successful completion of the project, the awarded amount, the target group for the project, and the date to submit the report from the implementation of the project.

### **Evaluation of the project**

On behalf of the President, the relevant departments of the City Hall are given control of the public tasks conducted by NGOs by means of:

1. visiting the organization and monitoring the implementation of activities,
2. demanding compliance with provisions of the law, contracts and Program of Cooperation for the relevant year;
3. analysis and evaluation of the financial and substantive reports;
4. demanding explanations of refunds of overpayments or misused financial resources.

## **Enclosure Nr.3**

### **Monitoring of the activities**

Monitoring of the activities financed by the public budget should be conducted by the city's services (substantive and financial control of the selected initiatives) as well as by the inhabitants (beneficiaries of the activities implemented by the awarded organizations). Organizations implementing the activities should inform the relevant department in the City Hall on the planned undertaking within 14 days in advance. The City Hall should publish this information on its own website.

Moreover, a special system for citizens reporting on the quality of services provided by the successful organizations should be worked out. Every activity financed by public monies should be monitored or evaluated.

### **Reporting**

The documentation submitted by the organization should be thoroughly analyzed in regards to the effectiveness of the activity implemented and the effectiveness of financial management. The approval of the submitted reports by the relevant department of the City Hall is subsequently endorsed by the President along with the approved reports by the other organizations. The list of the awarded applications and its evaluation should also be publicly announced.

A report concerning the implementation of the activities submitted by the applicant, along with the remarks by the beneficiaries and monitoring documentation, should serve in the evaluation and prediction of the project's future achievement of its stated goals, as well as help in establishing future objectives to be attained by NGOs or an assessment of the credibility of applying organizations.

**Evaluation of the activities' effectiveness**

Following the closing phase of every year, the authorities of the City Hall are obliged to report on the effectiveness of public funds distributed among NGOs. This report, along with a document reporting on the completion of the budgetary forecast for a given year, should be publicly announced by press release, as well as through the Bulletin on Public Information and appropriate websites.

**PRESENTATION OF THE RESULTS OF  
THE “V4 INDEX” – THE INDEX OF  
CORRUPTION PROPENSITY**

***The presentation of the results of the V4 Index was divided into three parts. Firstly, Michał Śtička from Transparency International Czech Republic presented the background and the main goals of the project. Then Agnieszka Sora, representative of GFK Polonia Research Company, presented the methodology and the results of the research. At the end Grażyna Kopińska, the director of Anti-corruption Program of the Stefan Batory Foundation commented on the results from an NG representative's point of view.***

### **Michał Śtička**

The Prague conference resulted in an agreement between participants on the necessity of a comparison of Visegrad capitals. We have to assess at what level our cities are in the process of implementation of anti-corruption policy. The Czech chamber of Transparency International undertook this task. We were trying to develop innovative methodology, different from traditional methods, focusing on studying opinions and perception of corruption. Our goal was to measure how effective public administration is, what kind of anti-corruption instruments are implemented in our four cities, and to what degree instruments implemented by the public administration of our capitals are useful. The methodology applied by us is based on 2 pillars: the objective part – focusing on an exploration of how well anti-corruption measures are really applied in four cities, and the subjective part – focusing on an assessment of these instruments' usefulness. As a result, we have two types of aggregated indexes. Today we are going to present the first one. The second will be presented at the end of June.

The implementation of anti-corruption instruments was measured in the following sectors:

- public procurement system
- internal audit and control mechanisms
- codes of ethics
- conflict of interests
- access to information.

This research project was supported by the Open Society Institute Budapest, the British Embassy in the Czech Republic and the Partnership Transparency Funds.

### **Agnieszka Sora**

The research consists of two parts—the qualitative part and the subjective/quantitative. The research was carried out in April. In each Visegrad capital we have conducted two interviews with the highest city authorities to check whether anti-corruption actions have been undertaken and whether certain documents have been issued or already existed. We started with interviews and in the second stage we analyzed the documents.

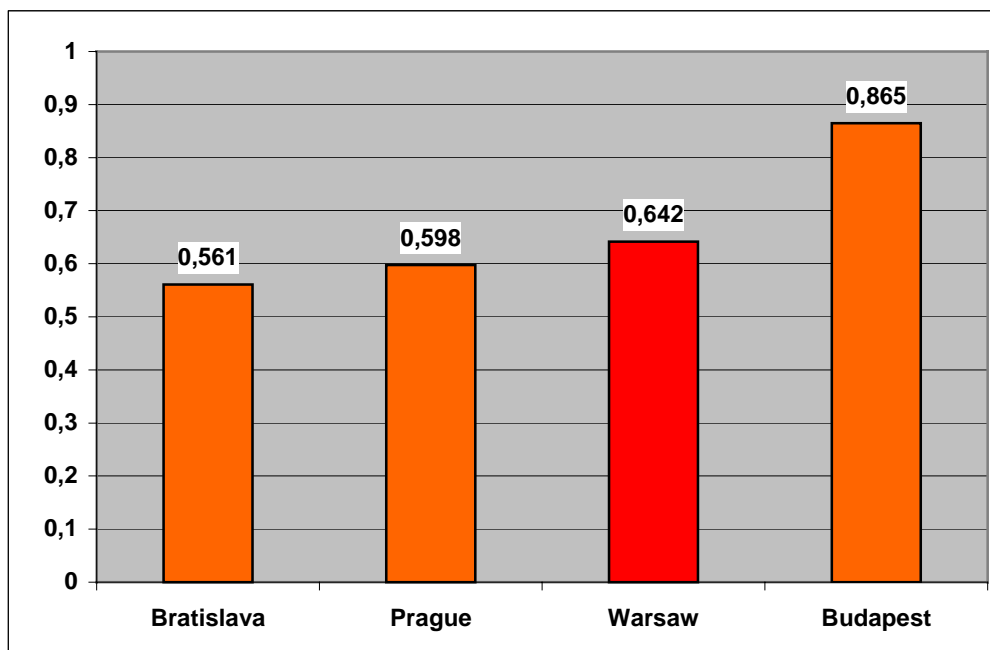
The quantitative part contained 100 interviews with respondents representing different sectors of society. We included city representatives as well as journalists, businessmen (especially from the construction sector), and the companies' managers and owners. We wanted to find out what their perception of the implementation of these anti-corruption instruments is. The data presented below are drawn from this international research project carried out in the capitals of Visegrad countries.

### ***The objective part***

The first objective part contained 100 questions, which were asked to the representatives of the City authorities. Each part contained a different number of questions, but the created index is based on the median value of the results from all five parts.

The indexes may value from 0, which means none of the tested anti-corruption instruments is implemented, to 1, which means that all instruments are implemented. Individual indices were weighed as one fifth from total sum.

### General Indices for all Countries.



[fragment of Press Release prepared by Transparency International Czech Republic and GFK]

The best practices among public administrations fighting with corruption appeared in Budapest (0,865 in the index). Warsaw was ranked as second, Prague as third. Notes for Bratislava were relatively the lowest.

Now I would like to describe the individual indices concerning the qualitative section.

- 1. Public Procurement System** – Budapest and Warsaw received the highest marks, over 0,9. The results of Prague and Bratislava were visibly lower.
- 2. Internal Audit and Control Mechanisms** – Bratislava received the best mark (0,8), but generally speaking the differences between countries in this area were relatively low. Prague was ranked in the second place, Budapest in third. Warsaw received the fourth, and lowest mark.
- 3. Codes of Ethics** – Budapest has the leading position of 0,928. In Warsaw and Bratislava such codes do not exist. This fact has greatly influenced general findings.
- 4. Conflicts of Interest** – Warsaw is located in the first place, with a very high mark (0,857), Budapest is second, and Bratislava third (0,5). Prague received the worst note.
- 5. Access to Information** - Budapest has achieved the highest index, Warsaw is in second place, Bratislava also has a relatively good note. Prague's note is the lowest.

	Prague	Bratislava	Warsaw	Budapest
<b>Total index</b>	<b>0.598</b>	<b>0.561</b>	<b>0.642</b>	<b>0.865</b>
Public procurement system	0.607	0.615	<b>0.904</b>	0.963
Internal audit and control mechanisms	0.728	0.800	<b>0.617</b>	0.761
Codes of ethics	0.800	0.167	<b>0.000</b>	0.928
Conflict of interest	0.357	0.500	<b>0.857</b>	0.786
Information openness	0.500	0.722	<b>0.833</b>	0.889

Index ranges on a scale of 0 to 1.

0 = no measures, 0.5 = half the measures, 1 = all measures.

[fragment of Press Release prepared by Transparency International Czech Republic and GFK]

Budapest achieved the best results in the following sectors: public procurement, codes of ethics and access to information. Warsaw attained the best result in the area of conflict of interest but also a high note in the index on the system of public procurement. The results of the subjective part will be presented in early June.

### Grażyna Kopińska

I have been asked to comment on the implementation of procedures limiting corruption in Warsaw.

I was surprised that in the subjective part of the study interviews with citizens were not included. There are interviews with manufacturers/businessmen and with non-governmental organizations, yet not with inhabitants. I suppose that this is the result of financial limitations; however it is a pity that such interviews were not included. Despite the incompleteness of the results of the research available today, it is possible to formulate several interesting conclusions.

First, about the need for improvement:

- None of the cities have a system of rotating the members involved in the process of tenders of public procurement. Many publications from the field suggest that organizers of public procurement tenders should have a wider group of people for disposal. Commission members should be chosen 48 hours before the start of the public procurement, to give them an opportunity to read the necessary documents. This procedure is undertaken to prevent tenderers from contacting commission members and submitting improper proposals. I am surprised that there have been no attempts to implement such a simple mechanism.
- The mechanisms of internal control in Warsaw are very poor, which is visible, and I think that this issue needs deeper reflection. The President of Warsaw has said that much has been done in this matter, but I have the impression that it has not been enough—even simply in the implementation of the mechanisms, apart from their actual fulfillment. In the part of the Index concerning the mechanisms of internal control, Warsaw received 0 points.
- In Warsaw codes of ethics were neither implemented in the City Hall nor in the City Council. Both obligations were among the commitments from Prague. There is still a lot to do.
- In Warsaw the system creating the ability for safe reporting of unethical behaviors (whistle-blowers) also does not exist. We neither have this kind of solution on the national nor on the municipal level.

The strong sides of the Warsaw City Hall:

- It is worth stressing that in Warsaw, as well as in Budapest, a register of unreliable firms was implemented. This is a very good solution. This register does not necessarily have to be available on the Internet, which may cause concerns of both an ethical and a legal nature. The availability of such a register in the city hall may be useful in many cases.
- As for mechanisms preventing conflicts of interest, Warsaw received the highest note. This is the result of legal acts introduced by Parliament, so it is not the achievement of Warsaw's local government. It is worth remembering that these regulations are widely criticized by members of the Council as too restrictive. Other reports, including one of the latest (prepared by the Supreme Chamber of Control) show that the regulations concerning conflicts of interest are commonly violated also in Warsaw. Especially Article 18 of the act on local government employees, which states that it is not allowed for employees to be involved in additional jobs if it puts him/her under suspicion of any conflict of interests.

In conclusion, Warsaw was ranked quite high in the implementation of anti-corruption instruments. Only Budapest was ranked higher. Warsaw's results were very poor as far as ethical issues are concerned – Warsaw scored 0 points. This area should be governed by the City Hall and the City Council. So there is plenty of room for improvement in this field. There is also much to do in the area of internal control.

We still do not have the final results of the public-opinion interviews about practical, real effectiveness of the implemented solutions. There is only a general measure, which was not presented here. The findings suggest that practical implementation is assessed at a lower level than the existing instruments. It confirms once again that the regulations, although necessary, are themselves not enough. Political will for consequent implementation of the regulations is also needed.

### **Michał Śtička**

The lack of opinion of other social groups is caused by the fact, that in the objective part we wanted to limit our study to finding out what mechanisms regulating the City Hall activity exist. We were focusing on the normative side of this issue. The answer to the question to what degree these instruments really work will be the subject of the subjective part of the research, where we will ask the respondents for their evaluation of the practice. This is why we have proceeded in this way.

As for other questions here, we are aware that in every country some of the anti-corruption instruments are not properly regulated. According to the gaps found by the study these regulations should be implemented and improved.

### **Comment 1**

The information from Bratislava is not reliable, at least in five points.

I would like to suggest checking this information before publishing the results.

I am afraid that some data concerning the facts are simply not true.

### **Comment 2**

Only the fact that certain anti-corruption instruments exist was presented. There was nothing said about their quality.

### **Michał Śtička**

We were checking the existence of chosen anti-corruption tools. With the help of both Czech and foreign experts we have chosen certain anti-corruption tools which we found crucial for the proper functioning of public administration. We have created a questionnaire concerning these standards. The goal of the first part of the research was to answer the question whether these anti-corruption tools truly exist. In the second part of the study we will focus on their real usefulness.

Interviews were carried out with the heads of the offices or the heads of legal departments so any eventual mistakes are caused by the fact that those people had no knowledge of some facts.

**PROBLEMS FACED  
BY THE VISEGRAD CAPITALS:  
OVERVIEW OF THE WORKSHOPS**

# **WORKSHOP I: PUBLIC CONTROL OVER PUBLIC PROCUREMENT**

Moderator: Juanita Olaya, Program Manager, Global Public Contracting Program,  
Transparency International Berlin

Expert: Dariusz Piasta, The Office of Public Procurement, Poland

Aims of the workshop:

The general aims of the workshop were to improve the understanding of corruption in procurement (contracting) and what can be done about it; discuss and explore risks and benefits of both public control and civil society oversight in the contracting process; identify avenues for future work and design appropriate recommendations.

Structure of the workshop:

- I. Contract Award Check According to the Law on Public Procurement – presentation of Mr. Dariusz Piasta
- II. Preventing Corruption in Public Procurement: Opportunities and Limitations for Public Control – presentation of Ms. Juanita Olaya.
- III. Discussion and recommendations

## **I. Contract Award Check According to the Law on Public Procurement**

The presentation described the checking procedure of the Polish Public Procurement Office, the types of checks and their consequences, exploring also the advantages and disadvantages of the system.

The role of the Public Procurement Office President is to check the award of the contract. The purpose of this action is to verify the conformity of award procedures with the law (only legality criterion is taken into consideration). All checks are based on documents provided by awarding entities and take place in the seat of the PPO.

In some instances the employee of the PPO may be excluded from check procedures:

- if an employee is personally related to the persons on the part of the awarding entity or contractor
- if an employee maintained during the 3 years prior to the start of the check procedure a relationship of employment or service with the contractor
- if an employee is in legal or factual relationship with the persons on the part of the awarding entity (doubts as to their impartiality)
- if an employee has personal relations with persons on the part of the awarding entity

The check is commenced either by the submission of a request to the awarding entity to deliver a copy of documentation relating to procurement procedure to the PPO or, in the case of mandatory checking, by submission by the awarding entity to the PPO of the procurement documentation.

All the facts gathered in the process of the check are established on the basis of collected evidence in the form of documentation, explanations or expert opinions.

Having collected all the information, the check report is drafted. The Report contains: the name, the company name and address of the awarding entity, the date of commencement and end of the check, the names of the persons performing the check, the indication of the contract award procedure which was the object of the check, the findings of any infringement and the names of persons responsible of it.

There are two types of check conducted by the PPO: ex ante, which is done prior to the conclusion of the public contract, and ex post—after the award of the public contract.

### **Ex Ante Check**

The ex ante checking procedure may be mandatory (in the case of public contracts valued more than 10,000,000 for public works, 5,000,000 for public supply or services) or non mandatory, independent of the value of the contract. An obligatory ex ante check is commenced immediately after selecting the best tender, and if a protest has been lodged, after its final resolution. Prior to the conclusion of the contract the awarding entity is obliged to submit to the President of the PPO copies of the documentation of the contract award procedure. As for non-mandatory ex ante check, the President of the PPO may check any procurement procedure based on the Public Procurement Legislation (LPP) irrespective of the contract value and at any stage of the procedure. In the case of contracts worth more than 60,000 the awarding entity should notify the President of the PPO in the form of a standard notice on the website of the PPO. Ex ante check should be commenced not later than 7 days after filing the notice. There is no need to fill in this form when dealing with contracts below 60,000, where the source of information may be the awarding entity's web site, complaints to the PPO or press coverage. The ex ante checking procedure may result in a ban on the conclusion of the contract or suspension of the term during which the contractor must maintain its offer. At the end of the check information on the result of ex ante check is to be delivered (no later than 14 days of the date on which requested documents and explanations have been submitted to the PPO).

Who may be excluded from mandatory ex ante check?

- purchasers in WETT sectors who have obtained a certificate of conformity with LPP and EU procedures (for 3 years)
- foreign establishments if the host country is not an EU Member and special economic conditions justify application of special rules

### **Ex post check**

The President of the PPO has the right to check the regularity of the procurement process within 3 years of the award of the contract. After the check has been conducted, the PPO submits to the awarding entity the information confirming an infringement of the procedure or lack of it. In the event of a disclosed infringement of the public procurement law, the President may notify the competent agent and ask for finance discipline, impose a financial penalty or apply to the court to issue a statement of the invalidity of the contract.

## **Financial discipline and penalties**

Bearing in mind that violation of public procurement procedures constitutes violation of public finance, all public officials and other persons who dispose public funds will be held responsible for their acts and will testify before a competent commission. The penalties range from reproof, admonition, fine and even disqualification from managerial posts connected with spending of public resources for a period of 1-5 years.

Financial penalties are imposed by means of an administrative decision; however the party which was punished may turn to the President for a review of the decision (within 14 days from the date of delivery of the decision). The party may also appeal to the Supreme Administrative Court for cassation.

The amount of the penalty depends on the value of the contract:

3,000 PLN	– value of contract 60,000
30,000 PLN	– more than 60,000 but less than 5,000 (supply services) or 10,000 (works)
150,000 PLN	– value of contract more than 5,000,000 (supplies or services) or 10,000,000 (works)

If the results of the check show any reasons for invalidating the contract, the President of the PPO may apply to the common court for a decision to nullify the whole contract, part of it or its modifications.

A public contract is null and void if the awarding entity:

- has failed to send a contract notice to the PPO or OJ
- has not obtained the required administrative decision
- has concluded the contract before the end of the ex ante check
- has concluded the contract before the expiry of the 7 day period for the commencement of the ex ante check
- has selected a tender with any blatant infringement of the LPP
- has infringed the LPP provisions which influenced the result of the procedure

## **Advantages and disadvantages of the system**

The check of public contract awarding procedure by the PPO complements the control by other institutions: Supreme Chamber of Control (NIK), and regional clearing offices (RIO). The work of the PPO helps the awarding entity to correct any irregularities and may prevent procurement actions of awarding entities from being sued by other parties, and in the case of purchases financed from Structural or Cohesion Funds, diminishes the risk that expenditures will be ineligible. On the other hand, there are some drawbacks: the check may be applied to only a fraction of all procedures, and a mandatory ex ante check makes public procurement procedures longer and increases costs within the state budget. Moreover, there is no full guarantee that there is no infraction.

The most common irregularities found by the PPO:

- choice of tender which is not the best
- violation of equal treatment principle
- irregular description of the subject of the public procurement contract

- award of the contract without the consent of the PPO in cases where law requires such consent

## **II. Preventing Corruption in Public Procurement: Opportunities and Limitations for Public Control.**

The presentation focused on how civil society participation and monitoring can help prevent corruption in public contracting processes, its means, risks and limitations, and what role different actors can have for that purpose: governments, businesses and the public in general.

What is good contracting?

- satisfies the needs of the citizens
- is fair to business
- saves waste of public funds
- is proof of good policy, good governance and good government
- saves and creates the Government's credibility and legitimacy

Corruption in Public Contracting has far-reaching and damaging consequences. First and foremost, it provides an unfair competitive advantage as well as encourages competition in bribery rather than in quality or price. Secondly, corruption undermines development and increases poverty and inequality. It is also a non-tariff barrier for those who can not pay for it.

The risk of corruption may appear at all levels of the contracting process:

- Contracting decision: conflicts of interest, unnecessary contracts
- Contract design: over or under-designed, tagged contracts
- Contracting process/bid evaluation: biased decision makers, non-transparent, partial selection procedure, insufficient clarifications for the bidders, confidentiality. This stage is especially prone to corruption.
- Contract implementation: poor quality, insufficient specifications for the contractors may cause damage, biased supervisors

Whereas risks may appear at the earliest stage of the designing and planning process, they remain after it has been finished. They may take the form of bid rigging, collusion, bribery, deception as well as unexposed conflicts of interest. All the risks may be exacerbated by the lack of the transparency.

It should be emphasized that preventing corruption is possible mainly by basing the whole process on transparency, which facilitates monitoring and encourages accountability. However, there is no single solution to the problem (government officials, law, education, access to information, codes of ethics).

Formulating good rules for public contracting to prevent corruption is necessary but not enough. To combat corruption there should be open access to information (price comparisons), monitoring and transparency in the form of public hearings and informative publications. There should also be a general understanding of the social dynamic, which would give the answer to the question – why is contracting in this country corrupt?

Corruption undermines the authority of the Government and trust of the civil society, which may in turn arouse doubts as to whether the Government is able to deal with this grave problem effectively.

What is the role of the Civil Society in procurement?

- trust building
- independent facilitator to the contracting process
- addressing the loopholes of the contracting or procurement laws
- a source of support and sustainability for public policy
- a tool for conflict management and good policy implementation
- CSOs may contribute in bringing balance vs. powerful stakeholders

What are the benefits of the Civil Society's involvement?

- safeguarding integrity
- restoring trust in public institutions
- public sector credibility – allows public opinion to understand the rationale behind a public decision
- providing open discussion about the quality of the public decision
- the third party is conscious of the output of a procurement process but also of the final outcome
- helps important initiatives to survive government change
- preventive role

There are some practical implications that may help combat corruption. First of all, there should be political will and firm's sense of social responsibility. Good news should be made public and acknowledged by the officials and society. Moreover, technical capacity on all sides is crucial to making participation productive and constructive. There should also be a different sense of Government since CSO involvement can not serve as an excuse to postpone Government reform.

Tools to prevent Corruption with the use of public participation:

- Integrity Pact – one of the most important projects implemented in 14 countries; establishes common, shared rules; enables companies to abstain from bribery by assuring that competitors will also do so and that Government officials will not expect or demand it; enables the Government to abstain from corrupt practices, reduces the costs of contracting
- public hearings
- price comparisons
- simple monitoring
- procurement law reform
- risk-maps measurements

### **III. Discussion and recommendations**

The participants of the workshop were encouraged to share their ideas and experiences connected with corruption in public procurement. The aim of the discussion was not to make

any commitments but to exchange different opinions, identify the risks that may appear in the public contracting process, and find effective ways to address the listed problems.

**Areas of risk in public contracting:**

1. pre-contracting decision of the subject of the contract—in many cases the needs of society are overlooked or not taken into consideration by the authorities
2. vague criteria for choosing the company to get a contract—risk of manipulation within the criteria
3. choice of the consultants or advisors for the project—financial, technical, social advisor
4. choice of the agents to design the project—they may be not accountable, risk of bribery, conflicts of interest (private sector)
5. subcontractors are not chosen in tender but by the main contractors
6. collusion of bidders

**RECOMMENDATIONS:**

1. Information concerning public procurement should be given in a clear, transparent way
2. Information should be available for all and at all stages of the procedure. Confidentiality should be kept to a minimum: on legally protected issues
3. Rules to facilitate applications should be efficient
4. Pre-established and objective award criteria
5. Sanctions for bad decisions—personal responsibility
6. Contractors should be chosen in open competition whenever possible.

# WORKSHOP II: INTERNAL AUDITING

Moderator: Paweł Banaś, Supreme Chamber of Control, Poland

Expert: Iwona Warzecha, The World Bank Warsaw, Poland

Structure of the workshop:

- I. Internal Auditing – Theory – presentation of Paweł Banaś
- II. Creation of the Internal Auditing Office – presentation of Iwona Warzecha
- III. Drawing a Map of Risk
- IV. Risk-based Approach to Internal Auditing – presentation of Iwona Warzecha

## I. Internal auditing – Theory – Paweł Banaś:

- **What is the best way to use internal auditing to fight corruption?**  
Internal auditing can be a very useful instrument to fight corruption but can also be a worthless semblance of activity.
- **What determines the quality of internal auditing?**
  - a good, professional staff with a strong sense of integrity
  - properly constructed regulations
- **How is it done?**
  - It is necessary to use the experiences of others (all the countries from Visegrad region have done so, as they learned from Western countries).
  - It is also necessary to understand differences in tradition as well as in terminology – an example of such difficulties is the problem of the basic terms ‘CONTROL’ and ‘AUDIT’ that together with language imply specific manners of work.
- Learning from the British and Scandinavian traditions of internal auditing, not to forget about universal problems: who audits whom, when and what for?
- **Internal auditing as a tool of management—an instrument useful for governing organizations as big as a capital city or a smaller organization**
- **The Task of internal and external audit is:**
  - Internal audit—tool of the management
  - External audit—to evaluate the organization, to certify the financial statement or certain activity of the organization.
- External audit (*ex post*) will occur only in a situation when something is finished, since it is difficult to evaluate something that is still incomplete
- Internal auditor (*ex ante*) occurs during the action in order to find mistakes that might surface
- **Areas of audit:**
  - Financial audit—audit of the organization leading to certification of the final statement
  - Performance audit:
- **How the organization works**
- **How the projects go on**

➤ **What the effects are**

- How should the auditors' work be organized? How should it function?
- It is important who the internal auditors are responsible to, who determines their salaries, bonuses, holidays, etc., and who they report to. This may decide if they are really useful to the management.
- Auditors must have some powers—which begs description:
  - 1) by the law—in state audit
  - 2) by internal regulations—in organizations

In Poland we have rules and regulations that we support with international standards.

- **Characteristics of an internal auditor:**

- Should be an ethical person
- Needs common sense, while avoiding instinct
- Needs to have knowledge of life and well-developed personal values
- There is a real need for codes of ethics in professional situations. These need to be clearly specified.
- Nowadays, auditors **cannot work without CAATs** (= Computer Assisted Audit Tools)
  - IT gives us many tools to be used efficiently, e.g. tools for analyzing financial data
- Procedure of internal audit:
  - Print the results from a visit at the auditee, a document called a protocol, then sign it together with the auditee
  - Next, write a letter to the management, providing them with your opinion

Another problem is:

- **Are internal audits able to fight corruption?**

- In Mr. Banaś's opinion, it is very difficult to do it directly; BUT the work of internal auditors' can be very helpful in preparing an anti-corruption attack by the law enforcement services.
- Very quickly note any irregularities, point to the areas of higher risk, find the situations that look corruption-prone
- Documentation: the police often need documentation to prove corruption and to present later in court.
- Sense of risk: auditors' preventive role—people will work properly and honestly knowing they will one day meet the auditor

## **II. Creation of the Internal Auditing office – presentation of Iwona Warzecha**

### **How Does One Set Up the Internal Audit Department? A Step-by-Step Guide**

#### **1- Definition of internal auditing**

- Review the definitions of internal auditing and internal standards (e.g. International standards for the Professional Practice of Internal Auditing, INTOSAI, ISA)

The European Commission's definition of auditing:

1. The internal auditor shall advise the Community body on dealing with risks [...] and promoting sound financial management.

He/She shall be responsible:

a) for assessing the suitability and effectiveness of internal management systems and the performance of departments in implementing programs and actions by reference to the risks associated with them; and

b) for assessing the suitability and quality of the internal control systems applicable to every budgetary implementation operation.

*[Art. 72, Commission Regulation No 2343/2002, implementing EC Financial Regulation, Council Regulation No 1605/2002:]*

- The Internal Auditor should co-operate with the management that is responsible for the overall action. He should bring systematic information about the assessment of risk.
- Internal audit is not the same as internal control. Internal control, in international standards, encompasses all control procedures (financial, non-financial) and includes internal audit.

## **2 – Interview senior management and board of directors/ audit committee**

- build co-operation
- clarify expectations
- ensure that the top people have a clear picture of the internal audit function
- gather information about the organization, risk areas, and their possible solution

## **3 – Obtain and review the audit committee charter**

- purpose, authority, composition, meetings, responsibilities
- identify relevant activities not included
- the charter must be tailored to the specific organization and governing rules

## **4 – Understand “benchmarking” needs**

- look for similar organizations with similar value of budget, staff size, structure
- compare results of your organization:
  - costs of IAD
  - training budget
  - feedback from clients
  - is short and long-range planning available?

## **5 – Obtain and review your organization’s policies and procedures**

- managerial level – corporate governance and management responsibility
- financial and non-financial
- written vs. practical (procedures)
- look for loopholes or omissions
- availability for the staff and external clients
- Are all main business cycles covered?

## **6 – Discuss internal control issues with external auditors**

- discuss open and closed issues
- identify systematic problems and risk areas

## **7 – Develop the “Audit Universe”**

- prepare a list of all auditable entities, areas (addresses, contact names, etc.)
- identify systematic problems and risk areas

## **8 – Map the major processes/operations within the organization**

- understand the business and its procedures as a whole
- identify the main business areas
- meet with operations managers
- understand their business risks and concerns
- identify related information systems that helps monitor business processes and related risks
- draw a diagram

## **9 – Develop risk assessment**

- macro level assessment including external and internal factors
- identify risks
- assess their impact and probability
- prepare risk matrix
- risk response and strategy
- prepare key risk summaries

## **10 – Develop a charter and audit manual (needs to be approved by the management)**

- charter: legal basis, applied standards, independent competence, tasks, etc.
- manual: organization's background information, overview of the internal audit department and its mission, job descriptions, audit procedures and techniques, etc.

## **11 – Build the budget**

- plan annual cost of IAD including the office, staff and travel
- plan costs for a single audit assignments

## **12 – Develop an audit plan**

- based on risk assessment
- achievable in terms of timing, staffing and other resources
- annual or multi-year
- leave time for management requests (e.g. 10%) – preventive role of internal audit (prevent corruption)

## **13 – Hire your staff and develop a plan for staff training**

- participate actively in recruitment process
- ensure the staff covers the range of expertise needed, based on your risk assessment

## **14 – Promote IAD (Internal Audit Department)**

- ensure that senior management notifies other departments of your existence
- distribute a brochure in hard copy or via Internet
- prepare a short presentation for management and other key staff

## **15 – Enhance quality of IAD**

- co-operate with the management in order to receive feedback and take actions
- follow up on audit recommendations
- establish a quality assurance program (e.g. check-lists or control sheets)
- update your audit methodology including measuring performance

### **Questions and comments:**

A question posed by one of the participants from Prague: Can an internal auditor be independent since he is paid from the inside?

An answer was provided by Mr. Trosiński, delegated to form the Internal Audit Department at the municipal office in Warsaw, who broadly presented the situation in the Warsaw City Hall. First of all Mr. Trosiński claimed that auditors can be independent, as he is, because he is directly employed by the Supreme Chamber of Control (NIK) not by the City Hall.

The delegate's answer was followed by the definition of areas under the highest risk of corruption:

- 1) all sorts of public investment—public partner and public sector—in practice the city has been entering partnerships
- 2) real estate, properties, land management, etc.

- 3) housing, apartments, residentially commercial estates
- 4) decisions on architectural concessions, building permits
- 5) management of public funds—annual use of the town budget

Taxpayers' money has to be spent in an open, transparent way. Otherwise, it is being utilized improperly and without the consent of the taxpayers.

Control results in Warsaw are published on a public web site so that citizens are aware of any irregularities or misuse.

There is a division between financial and performance control, but it is only a formal one that serves to 'specialize' the employees. In reality one is not able to truly divide those two, as one cannot function without the other. To implement projects, funds are required.

In Warsaw there were once 11 independent administration units, now reorganized into one but again divided into 18 districts that are immediately subordinate to the President of the City who plays the role of an overseer.

**Mr. Banaś** remarked that we have an interesting solution in the internal control systems of the Polish Government agencies and ministries. The *Public Finance Act of 2002* called up an internal audit institution. There are two structures:

- 1) traditional: audit (or maybe better put, "inspection") units fully dependent on the Management of Ministry or Agency. They focus on problems.
- 2) new: internal auditors hired by the Director General of the Ministry, by whom they are paid, with protection from dismissal without permission from the general Audit Commissioner—Under-Secretary of State. They have reporting power that in some conditions can be used against the Director General who does not follow the auditor's recommendations. They focus on the system.

### III. Drawing a map of risk

The group started to define areas of special interest for internal auditors, *vis-à-vis* high corruption risk. The following were discussed:

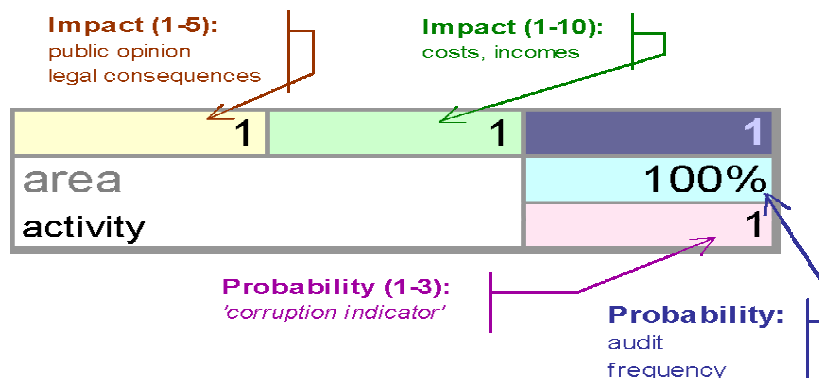
- 1) Major investments
  - a) P2P – focus on major investment joined public and private
  - b) Subcommittees' decisions
  - c) Particular investments
- 2) Urbanization
  - a) plans
  - b) localization
- 3) Real estate (capital cities are the owners of big estates)
  - a) privatization
  - b) re-privatization
  - c) municipal housing administration (procurement with rents)

- 4) Annual budget
  - a) the statement
  - b) grants and subventions
- 5) Sports and leisure
  - a) events
  - b) investments
- 6) City transport
  - a) procurement (activity)—buying not cars but services from private operators
  - b) incomes
  - c) advertisement
- 7) License and permissions
 

There are at least two vulnerable activities:  
(Warsaw Town Hall gives license to)

  - a) taxi services
  - b) alcohol
- 8) Environment
  - a) waste management
  - b) sewage system
- 9) Town Hall management
  - a) IT – computer technologies are often difficult to audit and easy to close off as the “IT-People-Only Domain”. That is, the faster the internal auditors learn it the better, because IT will be more and more present in the town halls
  - b) decision procedures

Further the areas were ‘processed’ with the simple model of an *Audit Item*:



Composition of particular *Audit Items* in a simple 2-dimensional diagram (*audit resources / urgency*) gave an opportunity for deeper discussion on the probability of corruption in certain areas and the probability of uncovering it by Town Hall Internal Audit.

**Budapest** representative's comment:

Budapest is reorganizing the audit rules because field work differed from the standards. The Minister of Finance presented a sample manual. They have five years to finish setting up the same work methodology for municipalities, ministries and organizations.

**Warsaw** adapted the rules used in NIK (The Supreme Chamber of Control) to those used in local governments. It took them three months to adapt the conditions in the Town Hall. The biggest problem was to change the employees' mentality (those who previously worked in control), teaching them to 'courageously' point out to areas prone to corruption, as well as to change their mentality and approaches:

- identify risk areas
- set the directions for the employees

The first major issue was to separate their behavior from their political views, so they no longer look up to the group currently in power. There is no need to adapt their behavior to a given political party's ideas; it is not relevant to the city's operation.

A follow-up question from one of the participants was:  
How do you decide what to control? Is there any uniform rule?

**Warsaw:** "We control all the 18 districts," the Polish representative replied, "the City of Warsaw is divided into. We use statistical methods to choose the area to control. There are also some areas that are often controlled—those where there are large investment undertakings, re-privatization. We do so due to the magnitude of investment.

Also important are the signals that we receive both from the general public as well as the media. We use a statistical method supported by software, but still use our qualitative evaluation of the area and our "nose".

There was a remark that European Union regulations are neither of high importance nor influence on the City Council.

The problem as far as the EU is concerned would be to:

- learn the procedures and standards connected with risk areas, get to know the proper use of EU grants and resources and possible punishment for misuse
- learn how the EU checks the spending
- learn how EU funds should be used, being aware of the possible consequences and how there is need to control the utilization of EU funds
- control the institutions that will be EU funds beneficiaries
- strictly follow the procedures—as a preventive factor

In EU sponsored projects the clue for auditors is not so much implementation but the planning phase, which is the most difficult.

#### IV. Risk-based approach to internal auditing – presentation of Iwona Warzecha

Background reading: Risk-Based Approach for Internal Audit

- Audit work is continually targeted at risk areas, identifying what could go wrong and developing a plan to find out with reasonable assurance, whether anything actually has gone wrong.
- An integral part of this process is an assessment of impact and probability

#### Roles & Responsibilities

- **Management** is responsible for the ongoing financial and operational monitoring of activities, the achievement of objectives, and the reliability of financial data and reporting
- **Internal Audit's** role is to employ a risk-based approach in planning and conducting audits that provides assurance on the adequacy of integrated risk management practices, management control frameworks and information used for decision-making and reporting in the achievement of overall program objectives

#### Different types of risk and factors

- **Fraud risk**—indicators of financial difficulties, undue pressure on management to meet performance targets, interest in related party entities, staff and management attitudes and values, quality of corporate governance, unusual transactions, complexity of organizational structure, appointment of professional advisors, poor quality and transparency of financial information, impact of technology, history of failures of internal controls, reliability of management information, incentive to commit fraud
- **Financial risk**—lack of liquidity, growing debt
- **Operational risk**—quality of the organization's processes, lack of capacity to process the tasks in a timely manner, inability to achieve objectives
- **Management risk**—experience of management, adequacy of management procedures, e.g. cash management, forecasting, adapting to changing conditions
- **Error risk**—weaknesses in accounting systems, delays in producing reports, numerous period end adjustments, over-bureaucratic procedures—low morale means management and staff will bypass the system, changes in activities will not be reflected in the accounting system—reasonableness of estimates and accounting policies, adequacy of management information, experience and competence of financial staff

#### Risk Assessment

- Overall process of identification, measuring impact, probability and risk evaluation
- Understand the business objectives and key business risks
- How does the management identify, assess and monitor risks?

#### Process

1. Understanding the objectives
2. Identification of risks

- Brainstorm and list all possible significant risk areas (e.g. events, hazards, issues, lost opportunities, problems that could lead to an impact) on risk identification worksheet
- For each risk areas conduct an intuitive analysis of the risk level (high/medium/low) to identify the most significant risks

### 3. Assessment of impact and probability

- Prepare a detailed analysis for each risk area:
  - particular concerns (damages, liabilities, operational effect, tarnished reputation)
  - Existing approach for risk management
  - Risk Assessment (1-10)
  - Incremental Risk Mgt. Strategies, Audit Strategy
  - Risk Assessment (1-10)
- **Qualitative measures of Impact:** severe, moderate and minor in three aspects: damage & liability, operational effects, tarnished reputation
- **Qualitative measures of Likelihood:** (e.g. within defined time horizon) high ( $P > 70\%$ ), medium ( $25\% < P < 70\%$ ), low ( $P < 25\%$ )

### 4. Risk matrix

<b>IMPACT</b>	<b>Severe</b>			Unacceptable risk
	<b>Moderate</b>			
	<b>Minor</b>		Acceptable risk	
		<b>Low</b>	<b>Medium</b>	<b>High</b>
		<b>PROBABILITY</b>		

5. Risk response and strategy

- In cases where the estimated residual risk is in the “unacceptable zone” (red fields), additional audit work should be done and recommendations to implement incremental strategies should be made
- Risk response options could include a variety of strategies: e.g. risk sharing, risk transfer, risk avoidance, and concrete actions: e.g. an audit of procedures, performance, or increased reporting requirements

<b>IMPACT</b>	Severe	Significant management required	Must manage and monitor	Extensive management, required
	Moderate	Risks may be worth accepting with monitoring	Management effort worthwhile	Management effort required
	Minor	Accept risks	Accept, but monitor risks	Manage and monitor risks
		Low	Medium	High
		<b>PROBABILITY</b>		

6. Prepare key risk summaries

- Prepare summaries of the particular concerns showing existing measures and audit strategy including risk management strategy
- Group risks into two categories “key risks” (with medium to high residual risk) and “other risks” (low risk areas)
- Utilize the risk assessment results in strategic and annual audit planning, as well as in task audit planning

# **WORKSHOP III: V4 INDEX – THE COMPARISON OF APPROACHES**

Moderator: Prof. Gusztáv Báger (Research and Development Institute of the State Audit Office, Budapest, Hungary)

Expert: PhD. Tadeusz Szawiel (Warsaw University, Department of Sociology)

Structure of the workshop:

- I. Presentation of Hungarian Methodology Proposal
- II. Expert Comments
- III. Open-Floor Discussion
- IV. Conclusion.

## **I. Presentation of Hungarian Methodology Proposal for the Assessment of Local Government Propensity to Corruption.**

The aim of developing the Hungarian methodology proposal was obtaining reliable data on the subject of propensity to corruption. The problem of *corruption* and *propensity to corruption* is very complex. Consequently, the methodology has to adapt a multidimensional research approach. If we want cleaner and more transparent local governments, we should begin with mapping out the soft spots, that is, the areas *prone to corruption*. Our objective is, therefore to identify those areas where the day-to-day operation of local government is most likely to be distorted by abuse of power.

The proposal focused on the following points:

### **Problems of defining corruption**

Corruption has many different definitions. According to one definition, corruption is only when and where the law is breached. A second option is to define corruption as those activities where no legal norm is breached, but our moral sense is offended.

The proposal applies a limited definition of *corruption* to those activities which penal codes define as such.

### **Research methodology:**

A combined methodology based on a mixture of approaches (interviews, questionnaires, analysis of documents) promises the most reliable results. The objective of the method is to produce data which would stand the test of repeated corroborative surveys. The Research and Development Institute is convinced that the combination of various techniques and methods is capable of standing this future test.

Three basic background factors of corruption have been identified:

- **Opportunity**
- **Interest advancement**
- **Social acceptance**

By exploring *these three background factors* we will be able to identify areas of administrative practices *particularly exposed to the risk of corruption*. Only a thorough understanding of the location of at-risk areas and mechanisms of causality would theoretically enable us to outline solutions and make proposals for action-plans at a later stage.

### **1. Opportunity**

Assessing opportunity will be based mainly on studying documents, in order to reveal the interior mechanisms of the organization

Particular attention would be directed to:

- the internal regulatory environment
- external (national, non-local government) legislation
- availability of administrative codes
- internal publicity and transparency
- administrative structure
- organizational culture and traditions
- decision-making processes
- consensus-building processes
- efforts to separate tasks and competence
- risks of exposure for corrupt practices
- sanctions and their application

Then the researchers have to analyze the information taken from the documents.

### **2. Interest advancement**

The method used in this case is conducting interviews with municipal employees. Attention is focused on conflicts of individual and public interest as a potential source of corruption. It is important to choose the *tasks, functions and services performed* by the local government. Interests may be found in the main areas of local government operations:

- public procurement
- asset management
- investments
- licensing by local government
- taxation
- grants

The evaluation and interpretation of the interviews are also important.

### **3. Social acceptance**

Attention is focused on acceptance or rejection of the phenomenon called corruption.

Social acceptance is measured in two different ways: by conducting interviews with local government employees and through a questionnaire for citizens.

The research tries to find out to what extent local government employees and citizens believe there is a *presence of corruption in local government, and whether it is acceptable, tolerable, unavoidable or necessary*.

In the confidential conversations with local government employees, the subject of cases of corruption with the involvement or with the knowledge of the interviewed individual *should be avoided*.

The questionnaire for citizens should be composed of questions as *simple, concise,*

*unequivocal as possible*. This will provide us with clear and precise answers.

#### **4. Summary**

The success of the research in each capital depends in no small measure on the willingness of the local government (elected and non-elected) to co-operate with the researchers. Their identification with the objectives of the project—namely to make local government more transparent and to reduce risks—is also essential.

### **II. Expert Comments**

The expert's evaluation concerns the general framework of the approach and focuses on five main points.

#### **1. Time measurement**

Should the study be a one-time event or should it be extended over time, which would give the opportunity to observe the trends over time, and what are the consequences for both options?

- if a one-time event, it could be a bigger project and unconventional methods could be used
- if repeated: it must have simple instruments and reliable implementation

#### **2. Opportunities**

- the easiest part of the project will require registration of existing procedures on the basis of existing documents, which is not difficult to conduct
- what is however difficult, is developing an instrument to measure the extent of implementation of those procedures

#### **3. Interest advancement**

- very important to identify 'soft spots'
- doubts appeared about identifying 'soft spots' by means of interviewing city hall employees. When asked questions about neglecting some responsibilities at work, most employees would implement the element of self-defense and nobody would be willing to incriminate himself, which may undermine the reliability of the interview
- data obtained from the interviews would be qualitative data, which is difficult to analyze, especially since interviews would take place in four different settings (Prague, Budapest, Warsaw and Bratislava). This would require extensive analysis, very good communication between teams, and a deep understanding of valid indicators.

#### **4. Social Acceptance**

- would be measured with a standardized questionnaire. One way to do it would be to conduct a citizen survey; but the problem is how to recruit the citizens.
- conducting a random citizen sample is very costly. Besides, from the random sample only a small fraction will have any experience dealing with the city halls.

In Warsaw, for example, 95% of adult citizens come to the city halls for their: ID-card, car license, or car registration, or to change their permanent address, while only a small portion will have other interests such as grants, etc. In such a case it is only sensible to ask very general questions to study general attitudes. With more specific questions the obtained data might be artificial due to the lack of proper knowledge of the subject on the part of the

respondents.

## 5. Problem of categorization and formulation of questions

- direct questions on the subject of corruption must be avoided, as they may jeopardize personal self-assessment.

### **Final Expert Proposal:**

To elicit more information, it would be a good idea to target a specific group—enterprises. The idea is to establish a database of the 500 biggest business organizations which seek local government assistance. The study, based on asking questions about co-operation with the city halls, could be repeated each year on a sample of 100 out of those 500 companies, whose employees had contact with the city halls.

### **III. Open Floor Discussion**

The Czech, Polish, Slovak and Hungarian participants of the workshop made comments not only on the Hungarian proposal but also on the V4 Index of the GfK and the Transparency International of the Czech Republic, as well.

#### **Michal Štíčka and David Ondráčka**

The experts of the Czech chapter of Transparency International also expressed their opinion on the Hungarian methodology paper. According to their view, one part of the survey, namely “Social Acceptance,” is to be left out because the cultural differences in the capital cities are so big. Instead of asking average citizens, the researchers should rather question professionals who have some knowledge of the problem—for example businessmen, journalists, experts etc. These groups could be a kind of target group of the survey.

The representatives raised some objections to the technical side of the Hungarian methodology proposal, mostly concerning the scoring (no proper scoring proposal) and measuring procedures, wording, and relevance of the questions.

#### **Emília Beblavá**

She appreciates that the Hungarians discussed their method of research before implementing the survey, while the Czechs did not discuss their method in advance.

The five criteria of evaluation used in the Czech index were not equally important.

The criteria concerned with the code of ethics, which seemed less important than the rest of the criteria, was nevertheless given equal importance in the Czech index.

#### **Gábor Papanek**

The objective part of the Czech index is a kind of simplification; it only helps the city halls' management. In this way the ranking of the cities is impossible. We only have a picture of the deficiencies if we complete the objective part of the Czech index. Average citizens may have information about local government corruption, so we can ask them during the survey.

#### **Michal Štíčka and David Ondráčka**

The Czech Transparency International completed the “objective” part of their index, which is focused on the anti-corruption measures taken by the local governments in the capitals of the V4. The “subjective” part of their index, which aims to measure the efficiency of the anti-corruption procedures in practice, is not ready.

They reported that they would be able to publish the complete V4 index in a month.

Their index had been divided into two main parts: one conducted among the city hall officials, and the second among NGOs, deputies, construction companies, etc.

The index concentrated on the existence of anti-corruption tools and their applicability—not their intention to measure the perception of corruption, but the existing level of corruption.

Their findings correspond to other research conducted by other institutions such as GfK or Transparency International.

As a next step they want to continue their work and prepare another index for use at the

Central European level.

**Zolna Berki:**

Co-operation between different teams is necessary and would be beneficial for the project and for the citizens of all countries.

The president of the Hungarian Transparency International asked that the Czech V4 index not be published until after the election to European Parliament, as the results might be used as a political weapon.

**Michal Štíčka and David Ondráčka**

The index should be used to push politicians to change something, to insist on anti-corruption measures, and it should be used as a tool for lobbyists to change their policies.

The index is meant to be used today, not tomorrow, and all countries should make the best use of it.

**Katarzyna Batko**

She liked the Czech approach and sensed no great difference between the two approaches

**Final Comments:** (*Gusztáv Báger*)

1. Whether the V4 index should be a one-time event or should be conducted on a year-to-year basis, will determine how the methodology should be appropriately constructed
2. Should the index concentrate on measuring the current state of corruption (Czech approach) or rather propensity to corruption (Hungarian approach)?
3. What should be done with the continuous institutional changes in the local governments? How should the level of corruption in the future be measured?
4. The Czech index is a starting point, but only very first step. There is need for a wider-scope project in conducting the V4 index.
5. As the Czech proposal is a good first step, the next step should be put into discussion.
6. The index should be developed in such a way as to best serve the citizens.
7. Social Acceptance needs to be the part of the survey.

**Expert comments:** (*Tadeusz Szawiel*)

1. The measurement over time is better, because it can follow changes over time.
2. The Hungarian index, which measures not only the perception but also the propensity to corruption, is at this stage only a draft. They need to do some work on it. Conducting the project would be costly.
3. Timing is very important in this kind of project.
4. The two teams (Czech and Hungarian) should co-operate if at all possible, if not they should follow two paths.

**IV. Conclusion** (*Prof. Gusztáv Báger*)

The workshop discussed thoroughly the Hungarian proposal for development of the V4 index, mentioning its merit, as well as the weak points of the proposal.

The working group appreciated its wider approach to the index, however it was emphasized that this promising wider approach seems to be costly. The group also suggested that if this method is to be applied, further development is needed, especially for the proposed methods and technical details of the project.

In connection with the Hungarian proposal, the working group paid a lot of attention to the Czech method and its merits and shortcomings, which are connected to its relatively limited approach.

The working group might hope for future co-operation using the two approaches in order to develop a more realistic V4 corruption index in the future. The working group would like to thank Prof. Szawiel for his contribution to the discussion and also for his insightful proposals.

# **WORKSHOP IV: CONFLICT OF INTEREST AND CODE OF ETHICS**

Moderator: Attila Török, Transparency International Hungary

Expert: Rosemary Banner, Cabinet Office, United Kingdom

Structure of the workshop:

- I. The Theoretical Side of Codes of Ethics – presentation of Attila Török
- II. Presentation of Rosemary Banner
- III. Remarks and Conclusions

Mr. Török presented the theoretical side of codes of ethics, whilst Mrs. Banner concentrated on the practical part. She presented case studies and later discussed them with the participants.

## **I. The Theoretical Side of Codes of Ethics – presentation of Attila Török**

When efforts are made to improve the quality of civil service through the non-conventional technique of introducing Ethics Regimes, the two fundamental visions on human motivation have to be considered. One is a Rational–Utilitarian Vision, based on the defining role and the centrality of material rewards and people’s attempts to avoid negative material consequences. The other may be called a Communitarian–Value Driven Vision. In this interpretation, in addition to the ones referred to above, a commitment to values, self-esteem and higher ideals also play a role.

The two visions also interpret values in a rather different fashion. In the Rational–Utilitarian approach, values are made into facts of life by interests. In the Communitarian–Value Driven approach, these are guiding principles demanding action (sometimes successfully!) even against direct material interests.

Future steps depend on which vision is accepted as a better representation of truth. If the Rational-Utilitarian is true, plain administrative regulations can be effective in improving civil service in general and conduct of civil servants in particular. If the Communitarian-Value Driven is nearer to the truth, a comprehensive approach, relying on values and their guidance is needed.

*A vision of public service fully based on the Rational-Utilitarian perspective is characterized by*

**- Clearly and rightly defined:**

- competence
- duties and responsibilities

**- Reliance on external:**

- norms and standards
- sanctions

- administrative processes

- systems of investigation and prosecution

*A vision of public service based on the Communitarian-Value driven perspective is characterized partly by the same features as in the Rational-Utilitarian, but with attempts to create a specific culture within the organization, expressed by*

- Code of Conduct
- Code of Ethics
- Value Statements

If these and other instruments are introduced, an “Ethics Regime (Ethical Infrastructure)” will be put in place. This does not consist of one single initiative, but of many, mutually complementary and supporting elements.

### **CREATING THE “ETHICS REGIME”**

When creating this regime, a further choice is to be made. We have to choose between either a Legalistic or an Extra-Legalistic approach.

The Extra-Legalistic approach is still not the practice in Central Europe.

The LEGALISTIC approach is based on:

- fine tuning of existing external regulations
- a drive to prove that “we are better...”
- instructions, prohibitions
- “What happens if...”
- sanctions that are usually quite clearly stated
- conformity with the rules
- enforcement
- top to bottom
- danger of bordering on contemptuous

The EXTRA-LEGALISTIC on:

- guidance
- ideal of the good civil servant
- identification with higher objectives
- “What a good Civil Servant should be...”
- emphasis is on guidance
- motivation to achieve an ideal
- voluntary submission
- internalization
- danger of bordering on ridiculous

It is important to remember that there is a stark asymmetry between the two positions. It is not “this or that...” A clear choice like this simply does not exist. In reality, the choice is “Only the Legalistic or to some extent the Extra-Legalistic as well.”

Ethics regimes are easier to prepare along the Rational-Utilitarian model. More complex ethics regimes require a very complex understanding of the issues at stake. If this understanding is missing, the result may be an Ethics Regime based on documents which fail to meet minimum standards of professionalism. As a result, they are not just ineffective, but the professional bluff may also be easily called.

Turning to the realities of V4 capitals, a brief summary of existing—not very articulated—Ethics Regimes is given below:

As for February 2003	Code of Ethics	If Yes, regulates what & who?
<b>BRATISLAVA</b>	No	
<b>BUDAPEST</b>	Yes	Gifts and hospitality, travel both elected and unelected
<b>PRAGUE</b>	Yes	Unelected
<b>WARSAW</b>	No	

**Important:** A “system overhaul” needs to start with good administrative regulations and only then proceed with adding more and more layers, gradually shifting the regime towards the Communitarian-Value driven/Extra-Legalistic model.

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## II. Presentation of Rosemary Banner

To place the context of the various Government systems Mrs. Banner explained that in the UK system Government Departments employ civil servants directly, and the chief civil servant’s title in each department is “The Permanent Secretary.” Civil servants are not appointed by politicians, and will not therefore leave their jobs if there is a change of Government. In political terms departments are led by a Minister of the Government, and ministers are accountable to Parliament for the policies and actions of their department. Government Ministers form a ‘cabinet’ to take collective responsibility and are led by the Prime Minister.

As far as local government is concerned, there is also a permanent staff of local officials who work for the Council, and will stay in place whatever political party is currently in power. They do not change over.

The United Kingdom has a very strong system of political neutrality of its civil service and local government officials that has grown up over the last 150 years.

Mrs. Banner presented:

1) **The Seven Principles of Public Life** that belong to everyone participating in public life, whether a civil servant or a politician. Those principles of public life are, namely:

- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

2) **The Civil Service Code** is issued to everyone and sets the standards, ethics and values that civil servants are expected to follow.

There followed 9 different Case Studies supplemented by comments from the expert, Mrs. Banner, as well as the participants of the workshop.

#### CASE STUDY 1

**Summary:** During the course of your work somebody (a representative of a company) offers you some valuable item (e.g. a computer) for private use. You have a lot of extra work to do at home and your organization does not provide you with the equipment you need. You cannot afford to buy one now. You are told that if you do not take the computer it will not be used by anybody any way.

Later on you are asked to sit on the panel that takes a decision (in a tender in which the above mentioned company is one of the bidders) to award of contract on computer equipment.

What should you do?

#### Solution:

- definitely do not accept the computer—ask your boss for guidance
- you cannot justify your action by saying, “If I do not take it, it will lay unused.”
- nor can you justify your action by saying you are going to use the item to do work
- however, organizations should bear in mind when designing a code of ethics that people do sometime make mistakes/the wrong choice, and that it’s better when someone has done something wrong to make it easy for them to admit it and attempt to correct the issue. Otherwise, they will worry that some issues will be exposed.
- If people need to do work at home, their organizations should provide them with the necessary equipment—not expect the employees to pay for it themselves. Management has a duty to assess working levels to remove the need for people to take work home.

#### CASE STUDY 2

This case applies to civil servants and sometimes to politicians.

**Summary:** The problem is that one is sent to an overseas conference as part of their duties. This person is entitled to First Class air ticket. He/she has not been home too often recently and so would rather take his family with him. Three tickets in economy class would add up to even less than one in First Class. Should one ask his boss for a substitute? Why or why not?

#### Solution:

- Mrs. Banner said that in the UK one is not allowed to trade or negotiate allowances.
- Whatever entitlements are available to civil servants or politicians, etc. has been agreed on given their willingness to be ready to work as soon as they get to the place of their destination/return to the UK. These are entitlements related to the job one holds and cannot be ‘traded’.
- If commercial business allows this approach (which they may or may not, as it is not illegal) it doesn’t mean that the public sector has to follow it. The concern is that it would create press-interested criticism that a taxpayers’ money was not being used for the right purposes, even although it did not exceed the original allowance level.

### CASE STUDY 3

**Summary:** Somebody working in a local governmental organization, town hall, city council, etc. would like to work somewhere else part time. Is he or she allowed?

Then this person tells you that with the 'spare' days a week she will have, she will be working for an organization involved in politically controversial subjects. What is your reaction?

#### **Solution:**

- The UK government allows civil servants/local government officials to work part time. However there are rules governing taking a second job—it requires written permission. With regard to working for a political organization as a second job, the civil service code requires that public employees have to be neutral, and be capable of working for whatever political party is in office. This position would therefore contradict the standards of the Civil Service Code and therefore not be allowed.
- Civil servants are not allowed to take part in political activities where they state their position in either written or oral form in a public forum. This includes restrictions of civil servants standing for national election as members of parliament, although it is possible with permission to stand for local government (depending on the job held, e.g. it is not allowed if a senior role had to resign to be able to stand.)

And what if the organization is a well-respected one, and has a high standard for the good work it does?

- It does not matter how good or otherwise the organization is—the key point is the political action.

### CASE STUDY 4

**Summary:** Your city council members have hosted a business/policy meeting with leaders from another large EU city. The event has been worthwhile for both sides. As they are preparing to leave, the visitors offer each councilor a gift that is worth about 200.

What should happen to the gifts?

#### **Solution:**

- The UK Government requires that Public Organizations need to have a policy on what gifts they will allow their staff to accept and who can accept them. This is controlled by setting a monetary value. In Mrs. Banner's department this is currently £25.00. Any gift offered/accepted by an official has to be listed in a 'gifts register,' and this is disclosed to the public if asked.
- What is to be done with gifts exceeding a certain amount of money? The UK system states that gifts over the limit are either declined, handed over to the department, or the individual can pay for the excess and the money goes to the department.
- In the UK this system applies to public sector employees and politicians. Again the person has to enter it into the 'gifts register,' saying where it came from and what the

worth of it is. If it is within the limit they are able to keep it. Usually, the gifts that are too expensive are ones given to ministers and the Prime Minister. These are often kept by the Department and used and may later be given to charity or sold. Even at the level of Prime Minister he/she would have to pay the excess value if he/she wanted to keep an expensive gift.

- The level for politicians is currently £140. Every year a list of gifts is presented to the Parliament. Company accounts in the UK have to declare political donations and these are made public. The level for political donations is set at £1000.
- In the UK it is a disciplinary offence, and in a severe case can lead to dismissal and ultimately a criminal conviction for officials not following the rules on receiving gifts. There are other rules that cover everything from hospitality, to the way you give gifts, and to travel. One is expected to follow these rules. It is not as much of an issue for people in the UK as it is in post-communist countries where habits are different and need to be changed.
- Other punishments for the offence (if it is serious) can range from:
  - not receiving any pay rise for two/three years
  - being denied promotion
  - if it was a corrupt activity, it may even end in prosecution by the police and being taken to court
- The register of gifts received by ministers is presented to Parliament annually, and a copy placed on the Internet that anybody can check. A permanent record is also kept on the library of the Parliament.
- Gift giving is culturally determined, as one of the participants noticed. Not accepting might destroy a relationship, especially if it is a small gift. Not often issue in the UK, sometimes officials do say "I'm sorry I'm not allowed to take that..." This is usually understood and does not cause offence. Often it is praised.

### CASE STUDY 5

**Summary:** One has been asked to set up an advisory group on a "hot" issue, say scientific standards in schools. This has been an issue for a while and there have been attempts to find improvements. Advisory groups need to be set up, consisting of people from business and industry who advise the political bodies. They meet over a certain period of time, and are not paid. After the work is finished they prepare a report.

Are any potential conflicts of interest possible?

#### **Solution:**

- There is more involvement of the private sector with public issues these days and it needs to be handled carefully. In the UK the Government has for many years used outside people to give advice on policy and expert issues. There are various names for such groups. Some are very short term and meet to discuss the issue and disband after a few meetings. Others may last for years.
- The government is not obliged to accept and act on the advice.
- In many cases the outside people are not paid or may just be paid a daily allowance.

- These are not tendering exercises. The government is not seeking to buy anything from them.
- The UK has required such advisory groups to have a Register of Members Interests and a Code of Conduct as to how they will manage to give their advice and not conflict their interests. When this was first introduced, 1997, this seemed very bureaucratic and some groups made heavy weather of it, but the system soon settled down and now on the whole works well.

### CASE STUDY 6

**Summary:** You know of some misconduct/falsehood in your Department. There is an issue that you present to your boss but he takes no steps in order to solve it or investigate. Should you inform the press?

- In the British system if politicians make declarations/statements to the parliament or the public that later turn out to be untrue, they are expected to apologize, and if a deliberate action, they are expected to resign.
- If Ministers mislead Parliament they are expected to resign immediately.
- If the wrong information is simply a genuine mistake, nobody is expected to resign, but they are expected to resign if they make misleading or untrue statements.
- There is severe criticism on the side of the public if you are said to have 'spun' the information.
- Politicians are expected to act honestly, cannot write a speech that is dishonest. This comes back to the Seven Principles of Public Life.

### **Solution:**

- Raise the concern to your manager, then, if it does not help, to a senior manager.
- It is good to have something like nominated officers who are regarded as wise, sensible, and not prone to being dramatic to create an alternative route to raise the issue with top management.
- Nominated Officers take the matter to the senior management if there is an issue raised and not dealt with properly by the management.
- It is expected that civil servants will use the systems within the organization in the first place. A problem needs to be solved within the organization. Civil Servants are not meant to go running to the media to raise issues that should be dealt with "in house."
- A person who requires investigation in a given matter is provided with a report from the investigation.
- It is important to try and have an internal structure.
- The civil servant's duty is to uphold honesty and integrity according to the code. When they know something is wrong they need to report it.
- The first duty is to raise the matter with one's line manager, not the press!

## CASE STUDY 7

**Summary:** An organization needs some examination papers to be printed by an outside company. There is a tender. You work in the above mentioned organization. Your brother's printing company is trying to get the contract. He is able to cut the lowest bid by 15%. What do you do? Is it possible to be fair?

### Solution:

- In the British system, all the bidding offers have to be submitted in sealed packages, so nobody will know the value of the bids until the final day. People can tender whatever value they want. If the system is working correctly no one will know what the bids are until the closing date. So it will not be possible to have knowledge of the value of bids.
- Bidding processes are a subject matter all to themselves
- The UK system has controlled audit procedures.
- There is no requirement in the UK to select the lowest bid.
- Certain variables have to weigh against the price. It is not only the price that matters—quality, reliability, etc.
- No single person is allowed to open the bid offers, it has to be done as a process with more than one person involved!
- Bidding systems where information can leak is unacceptable!
- There is an idea of conflict of interest in the bidding process:
- need a clear procurement process sorted and operating properly that can eliminate a “group of friends”
- information should not be disclosed to anyone's advantage
- procedures must be monitored very closely
- In a good system:
  - Specifications are published.
  - The tender process takes place.
  - The name of the winner is published as well as the value of the contract.
- Nobody is obliged to choose the cheapest offer! The time of delivery, as well as quality, are very important factors.
- There was a comment from a Polish representative that it is not possible for an unknown company to get a contract. Contracts are ‘given away’ before the bidding is done, in his opinion.

### CASE STUDY 8

**Summary:** The UK has seen more joint working between the public and private sectors and new issues crop up because of this. In the UK commercial sponsorship for public issues has arisen. This case study tested the situation of a well-known chain of chemist shops with a network across the country which wanted to assist in promoting a government message. They wanted to issue information/leaflets free of charge throughout their shops. Should they be able to put their logo on it? As mentioned before, the company is well-known so the message will reach many more people than through governmental information channels alone. Should the government do it or not?

#### **Solution:**

- The UK approach is that the government can allow commercial activity/sponsorship, but only if it increases the funding available to the project, and is not 'core' funding; so that if the company withdrew from the program the government's activity overall would not cease.
- The government department can accept their offer, but should make it clear that the government has NO obligation to put the company's logo on any of the products of the government.
- The Government does not need to limit themselves to one company only.
- They can refuse sponsorship from a company with whose policies they do not agree.
- The government can accept funding in addition to their core funding, provided they have no obligation to that company.

### CASE STUDY 9

**Summary:** Are politicians allowed to choose the officials who work in the civil service?

#### **Solution:**

- In the UK it is not possible. A permanent civil service is in place. As part of the civil service code, civil servants have to be able to work for any political party elected to govern. They have a contract of work regardless of which party is in office.
- Politicians may give their specifications for the post, but a special panel deals with recruitment on the basis of merit.
- The chosen person might be asked (if a very senior post) to meet the particular Minister before the appointment. The Minister can either agree with the panel's choice or if they decide that they cannot work with the person the recruitment process has to be repeated.
- What a Minister cannot do is to go through a list of candidates and pick the one he liked most.
- The representative from Hungary made a remark that this is a complex subject and needs working on. The system existing in the UK evolved throughout many years and we need to learn from this experience. The question is whether we want to learn or how to do it.
- A representative from Slovakia mentioned that such Code of Conduct for civil officers is needed. There are many problems with the old system the post-communist countries stem from. There was no transparency before, so there is a need in the civil service for young people who did not experience the previous system and who would be easier to adapt to the new system. The problem is that young people are generally not interested

because they will be underpaid, and there is too much bureaucracy. There is a need to find a solution where the advantages will exceed the drawbacks.

- A delegate from Prague agreed that public service is not appealing to the young and that it is important to set standards for professionals, even if they do not like it.

### III. Remarks and conclusions

- Remarks:
  - There is hope of putting ethics regimes in the four capitals of the Visegrad countries.
  - We talked about setting standards. Now it is time to put the standards into practice. There is a need for control mechanisms.
  - A delegate from Prague concluded that it would be useful to instill the spirit of civil service conduct; there is a need for such workshops in executive bodies, e.g. town halls.
- The conclusions from the workshop and proposals for the next year.
  1. Regular training meetings for officials at the political level were suggested, starting from the top, down. It is necessary to make sure the spirit of their work is properly instilled. Willingness on the side of the participants is important.
  2. Connect the NGOs from the four countries and members of the City Councils who are interested should form a permanent connection and continue working on those issues, improving regulations and ethics regimes.

Here are the names of people who volunteered:

Hungary –	<b>Attila Török</b> , <a href="mailto:deori@axelero.hu">deori@axelero.hu</a>
The Czech Republic –	<b>Lenka Petránková</b> , <a href="mailto:verejne@ecn.cz">verejne@ecn.cz</a>
Slovakia -	<b>Ema Bablava</b> , <a href="mailto:ema@transparency.sk">ema@transparency.sk</a>
Poland -	<b>Grażyna Czubek</b> , <a href="mailto:gczubek@batory.org.pl">gczubek@batory.org.pl</a>

# **WORKSHOP V: EXTERNAL AUDITING**

Moderator: Jacek Jezierski vice president of Supreme Chamber of Control, Poland

Expert: Stefan Knolle, European Commission, OLAF, Brussels

Structure of the workshop:

- I. System and Structure of the Supreme Chamber of Control (NIK) in Poland – presentation of Jacek Jezierski
- II. Mission and Statement of OLAF – presentation of Stefan Knolle
- III. Questions and Comments
- IV. Short Lecture on the New Software Used by OLAF

## **I. System and Structure of the Supreme Chamber of Control in Poland**

The Mission of the Supreme Chamber of Control is to promote economic efficiency and effectiveness in public service to the benefit of Poland

Our vision is to create a Supreme Audit Institution [SAI] with a widely recognized authority, whose reports will be a crucial source of information for organs of the state and the general public.

The Supreme Chamber of Control (NIK), established in February of 1919 by Piłsudski's decree, has 85 years of tradition. The regulations concerning the Supreme Chamber of Control became a part of the "March Constitution" in the year 1921. They have also been a part of the Constitution of Poland, which has been in effect since 1997.

The legal acts regulating the activity of the Supreme Chamber of Control are: the Constitution of Poland and the "Act on the NIK" of 23 December 1994.

The Constitution secures independence and institutional separation of NIK.

The president of the Supreme Chamber of Control is:

- elected by Parliament for a fixed term of 6 years
- is allowed only one subsequent re-election
- practically irremovable
- given immunity
- given certain limitations (no other post, party or trade union membership allowed)

[Act on NIK of 23 December 1994]

The Supreme Chamber of Control (NIK) reports to Parliament through the following basic documents:

- Analysis of execution of state budget and monetary policy guidelines
- Opinion on discharging government
- Annual report—which is the information on NIK activity
- Each of its audit reports—before announcing it to public

The NIK is obliged to carry out audits on Parliament's order, which is in practice very limited. The budget of the Supreme Chamber of Control is audited only by Parliament.

One of the NIK's duties is notifying the Public Prosecutor's Office of suspected crimes and offences. The president of the NIK has the power to bring cases to the Constitutional Tribunal.

The Supreme Chamber of Control also takes part in legislative work and comments on government bills, participates in Parliamentary committees sittings, issues *de lege ferenda* proposals and provides opinions on bills considered by Parliament

The basic issues concerning the NIK's organization are regulated in the "Act on the NIK" of 23 December 1994.

The head of the Supreme Chamber of Control is the **President of the NIK**, who is responsible for its activity before Parliament.

Next in the organizational structure are: the **2nd, 3rd or 4th Vice Presidents** and the **Director General**.

The Supreme Chamber of Control also contains a **Council** in its organizational structure. The council is chaired by the President of the NIK. It contains the Vice-Presidents, the General Director and 14 members: 7 independent legal or economic academics, and 7 Directors or the NIK President's advisors.

The NIK Council's crucial decisions are: validating the analysis of state budget execution, annual report, and passes, giving its opinion of the acting government, drafting statutes, and drafting budget and work plans.

Below the Council in the organizational structure are **the departments**. NIK has four kinds of departments: audit departments (8), departments supporting audit tasks (2), administrative departments (4), and regional offices (16).

As far as the staff is concerned, the Supreme Chamber of Control employs two categories of employees: **auditors** (1250), who are being nominated, trained and examined and have stable employment, and a **support staff**, which consists of around 450 people.

The Supreme Chamber of Control is responsible for auditing government administration bodies, as well as the National Bank of Poland and other state bodies. The audit is based on 4 criteria; legality, the economy, purposefulness, and reliability.

According to the constitution, the NIK has a power to control local (self) government as well as other bodies (i.e. businesses) and the extent to which they use public funds and assets or fulfil financial obligations towards state. The criteria of the audit applied to those bodies are 3: legality, economy and reliability.

There is no strict separation between the financial and performance audit.

The priorities of the audit plan are:

- public finance
- management of public property
- state system reforms
- state actions in solving social problems
- internal security
- EU integration processes
- anti-corruption activity

The NIK has a 3-year action plan. The priorities of the 2003-2005 audit plan are:

- budget deficit and public debt
- restructuring the economy
- health care and social rights
- EU integration

The Supreme Chamber of Control co-operates with 16 Regional Accounting Chambers which are subordinate to the Prime Minister and whose main duty is to audit and supervise local government finance and public procurements. Since February 2002 there has been an agreement of co-operation between those institutions. The agreement contains issues concerning consultation of audit programs and co-ordinating audit work.

Those two organizations have the opportunity to work together on auditing of local government debt and auxiliary units in both central and local government bodies.

**Additional information:**

The NIK has recently developed an Audit Manual, which aims to ensure uniform practice within the EU.

The Audit Manual's content is in line with internationally accepted auditing standards. It is divided into two parts, the principals of the NIK's audit activity and its methodological guidelines.

**Question:** *Which papers are published?*

*NIK does not publish secret reports, as well as the reports which are considered faulty, but the latter are published on request (usually on the web).*

**II. Mission of OLAF – presentation of Stefan Knolle (expert)**

The mission of the European Anti-Fraud Office (OLAF) is to protect the interests of the European Union, to fight fraud, corruption and any other irregular activity, including misconduct within European Institutions. OLAF achieves its mission by conducting, in full independence, internal and external investigations. It also organizes close and regular co-operation between the competent authorities of the member states in order to co-ordinate their activities. OLAF contributes to the design of the anti-fraud strategy of the European Union and takes the initiatives necessary to strengthen the relevant legislation.

OLAF is an administrative law body whose main output is investigation reports for prosecutors in member states and/or for disciplinary authorities in EU Institutions

OLAF has a wide range of administrative powers within EU Institutions (internal), relating to economic operators involved in the EC budget (external) and with trade and aid partners (mutual agreement, contractual etc.).

OLAF does not have national judicial/investigatory/police/customs powers, e.g. to search, to question, to detain, or power to prosecute. OLAF does not have power to bring disciplinary action within the Institutions or to impose administrative sanctions (e.g. agricultural disallowance).

However, OLAF can open investigations of its own motion (Article 5 of Regulation No 1073/1999), and OLAF can bring action against the Commission in the Court of Justice (Article 12(3)).

There are three main areas:

1. **Investigations and Operations:** This covers the full range of support activities (internal and external co-ordination of investigations and operations). It consists of specialists and high-level experts in their various fields.
2. **Policy, Legislation and Legal Affairs:** This defines the overall anti-fraud strategy, drafts the requisite legal instruments and handles follow-up activities relating to recovery.
3. **Intelligence, Operational Strategy & Information Technology:** Information and Intelligence Service consists of specialists in various fields and, in particular, new technologies. It is responsible for matching technical aids to investigations with the operational side.

OLAF does not publish any reports before they are investigated by the member states involved. However, all the yearly Activity-Reports with further information appear on the OLAF-Website.

<http://europa.eu.int/comm/dgs/olaf/index.htm>

### III. Questions and Comments

According to **Mr. Trosiński**, delegated to form the internal audit department at the municipal office in Warsaw, external audit should control internal audit in order to see whether it has identified the risk area correctly and whether the internal audit is objective and reliable. The internal audit department should be independent from the city council, even being physically separated from the institution it controls. It might, for example, be placed in another building.

This system is not yet in operation, but this is the ideal to be achieved over the course of time.

**Mr. Trosiński** said that though numerous companies offer training in auditing, the training offered by the NIK seems the most useful.

**Mr. Jezierski** agreed, but expressed his opinion that the reliability and independence of the internal audit is still too poor. Mr. Trosiński's vision is rather a long-term aim.

**Mr. Skowron** said that the former internal audit control unit at the municipal level was a waste of time and money. It dealt with minor problems, while neglecting major issues which involved a lot of money. Moreover, half of the working time was devoted to training sessions. Internal audit should be more concerned with establishing good laws to reduce the risk of crime and it should audit the procedures.

First of all, it should deal with the irregularities of the past, and only then with present and future risks.

To sum up, the representatives from Poland, firstly, presented their vision of the role of external audit, as a controller and tutor of internal audit. Secondly, they stressed the significance of good law; and thirdly, they focused on the irregularities of the past which must be dealt with.

All the Polish representatives agreed that there should be a legal act concerning public-private partnership.

### **Tomáš Kramár**

In the Czech Republic the Supreme Chamber of Control is concerned only with control at the governmental level. It does not control the municipality. Moreover, there are no regional accounting chambers in the Czech Republic. In the municipalities there is only internal audit, which is not politically independent.

The city contracts external audits from private audit firms—sometimes reliable, like Price Waterhouse Coopers, but sometimes less known. Though this occasionally works, there is a risk of corruption involved.

At the municipal level the Hungarian Chamber of Control lets the mayor know of any risks or irregularities. It investigates the public procurement system, and the investment area. It has recently made a risk analysis, concerning various institutions like the ministry, hospitals, and local government.

According to **Pál Tóth**, auditors in Hungary have too little education and are not properly qualified for the job. Furthermore, there is a tendency for staff rotation.

**Gusztáv Báger** said that auditors should now be at least college or university graduates, however this will take time. There are some courses for auditors organized at universities. In Hungary external audit should primarily focus on public procurement and investments, financial support from private companies and private entities, as well as outsourcing.

The act is already in effect in both Hungary and in Prague but it is not fully operational and is not proved in practice. In Poland a draft of the act is in Parliament.

## **SUMMARY**

- The distribution of a company's shares among municipality and private sector
- Outsourcing (e.g. Buying external audit)
- Qualifications/ training of the auditors (governmental, municipal and private)
- (Exam in internal audit organized by the NIK)
- 5% of staff of internal auditors in any administration
- In Prague there is a need for external audit, but it requires a new act. The city hall must ask for a change in the law.
- In Hungary the internal audit should be strengthened, as there is too great a dependence on external audit

## **RECOMMENDATIONS**

The following issues demand special attention:

- public procurement
- investments
- partnership in establishing private units
- outsourcing
- education of auditors
- co-operation between external and internal audit in terms of training and uniform methodology

### **IV. Short lecture on the new software used by OLAF**

Stefan Knolle emphasized the role of OLAF as a source of information for member states. As he pointed out, OLAF collects enormous amounts of data and uses new software, which facilitates data analysis. This new software uses data mining techniques. This is an extraction of interesting (non-trivial, implicit, previously unknown and potentially useful) information, rules or patterns from data in large databases. It also allows the transformation from unstructured Data to structured Data (Text Mining). This is the process of investigating a large collection of free-form documents in order to discover and use the knowledge that exists in the collection in creating a new structure.

OLAF supplies member states with the necessary support and technical know-how to help them in their anti-fraud activities!

# **WORKSHOP VI: CHALLENGES AND PROSPECTS DERIVING FROM EU MEMBERSHIP**

Moderator: David Ondráčka (Transparency International Czech Republic)

Expert: Katarzyna Janiszyn (representative of city of Delfzijl, The Netherlands)

Structure of the workshop:

- I. The Presentation of the “Integrity Policy” in the Dutch City of Delfzijl
- II. Discussion – “How Will EU Accession Change the Fight against Corruption?”

## **I. The Presentation of the “Integrity Policy” in the Dutch City of Delfzijl**

The workshop began with the presentation on an original idea of so-called “integrity policy” in the Dutch city of Delfzijl, and followed up with a presentation on the ethical measures undertaken in the public service sector in the Netherlands.

The presentation of Delfzijl integrity policy focused on efficient ways of building and introducing an integrity policy within the organization. The main issues mentioned were:

- Management workshops

The necessary steps to prepare well-conducted management are: a trial audit, the definition of a starting point, a mission and vision, and the development of a plan of action.

The results of the management workshop are a company-wide definition of integrity, a description of the work process, a clear definition of core values within the organization, and a commitment to the mission and vision.

- Work process analyses: focuses on identifying and eliminating any risk from each working process, as well as protecting the employees from corruption and designing the measures necessary to eliminate risk.
- Control arrangements—internal as well as external auditing.
- Design of codes of conduct
- Training, workshops and round tables on dilemmas of integrity across all levels within the organization

The presentation also contained a list of recommendations for those who would like to implement the integrity policy in their organizations.

## **RECOMMENDATIONS:**

- Involve a big part of the organization in the project
- Try to work top-down as well as bottom-up
- Start with a pilot program and choose some very motivated employees to work together on the project
- Try at first to achieve a few small successes to convince the organization of the importance of the integrity policy
- Spend a lot of time on training, discussions, workshops about integrity dilemmas

The second part of the presentation focused on ethical measures concerning public services. The presentation started with issues devoted to general issues of ethics appearing in the public service sector in the past few years. Public services in the Netherlands have faced many changes in their organization and function as well as in the attitude of their employees. Public services assumed some of the tasks formerly provided by the central government. Due to this exchange of duties, direct contact between the public administration and the private sector has become more frequent. Fragmentation of the institution and individualization of employees has increased, and loyalty to the organization has become less evident.

The presentation was followed up by an explanation of the recent measures undertaken by the government in order to improve the ethical conduct in public services, and a list of the core values for the public services stated in the legal acts and procedures of promoting the high standards of conduct.

The presentations gave the participants a view of how contact between public administration and private service can be strengthened, without creating suspicion of corruption (active or passive) or partiality in official decision-making. The cornerstones of the idea—a change of the core values of public officials and shaping the behavior and attitudes of the employees in those organizations—opened the floor for the discussion. Participants agreed that it is crucial (and could be much more effective in the future) to put emphasis on behavior, not corruption, per se.

## **II. Discussion – “How Will EU Accession Change the Fight against Corruption?”**

The second part of the workshop was devoted to the topic: how will EU accession change the fight against corruption, and how can EU money be implemented and used in the anticorruption system? The Prague Town Hall representative was rather skeptical of short-term perspectives, stating that since EU membership has not brought any new legislation so far, EU funds can be a fertile ground for corruption (namely rules for distribution of European funds). In the eyes of most participants, although the task is not easy, joining the EU seems positive the long term and the combat of corruption effective, thanks to:

- The introduction of international norms toward greater transparency of the system
- The perception of more pressure on lowering administrative-level corruption (but negative forecast for political level)
- The focus of more attention on prevention
- The sharing of information within EU (OLAF, GRECO, etc.)
- The rising role of the media and NGOs in fighting corruption through providing people with more information

Although everybody agreed it is difficult to try to implement any non-governmental corruption-preventive decisions (officials are often not eager to co-operate), participants agreed that during the accession process the countries joining have made great progress in this field—significantly deeper as opposed to some EU members like Greece or Italy. An important remark was made: that if only the lack of EU reports and external pressure do not diminish the willingness to fight corruption, and if people endure in their enthusiasm to make the situation better, there is hope to make progress.

## **RECOMMENDATIONS**

- Monitoring of structural (and other European funds) distribution
- Intensifying the best practice sharing

# **ACTION PLANS AND RECOMMENDATIONS**

## BRATISLAVA

1. To conduct an anti-corruption training session organized by Transparency International Slovakia (TIS) and the Municipal Government in Bratislava for the representatives of City Hall (focused particularly on issues concerning criminal law, domestic and foreign study cases).
2. To conduct an anti-corruption training session organized by TIS for selected members of the City Council in Bratislava.
3. To establish a more intensive cooperation between TIS and the Chamber of Control of the City of Bratislava.
4. To consider the creation of an anti-corruption platform/working group of NGOs, representatives of City Hall and City Council deputies from Bratislava. They would meet three times a year to discuss the suggestions of citizens, evaluate them, and possibly formulate appropriate anti-corruption policies.

### **Other: (not accepted as a commitment, but intensively discussed)**

5. If the process of the above mentioned training scheme (1 and 2) proves that there is a need, the training session can/will be introduced in the form of systematic (long-term) anti-corruption education.
6. To consider establishing a "register of public orders" in the manner of the city of Vienna.
7. The city of Bratislava, in case of interest, is ready to prolong for citizens (beyond the terms of law) the term of commenting on the draft of the new "urban/spatial plan (Slovak abbr. *UPD*). It likewise commits to consider further updating and improvement of the official web site of the city of Bratislava by adding information extending beyond the terms of the Free Access to Information Law (plan of public procurement, contracts with third persons/firms providing services for the city, the numbers of officials' mobile phones...)
8. The representatives of the Slovak delegation agreed *an bloc* on the conclusion: considering the serious gaps in methodology, but in particular due to a large number of factual inaccuracies in entering data of the so called **V4-Index**, they do not accept its results concerning the city of Bratislava.

## BUDAPEST

1. Promotion of exchange of views amongst the V4 capitals on new developments in the field of internal and external auditing. The purpose of the exchange is to strengthen co-operation between these two types of auditing in city halls. The first area proposed for that exchange would be Public Procurement, which appears to be a common concern for all V4 capitals. The results will be reported during the next conference.
2. The Hungarian Chapter of Transparency International is undertaking the co-ordination of a permanent working group on Ethics Regimes and Tools of Conflict of Interest Management amongst V4 capitals.
3. The Hungarian Chapter of Transparency International, no later than 30 September, 2004, will defer to partners in V4 capitals on the availability of funds to organize the 3rd Regional Round Table on Corruption-free Town Halls in the Visegrad Countries. If funds are available, TI-H will organize the conference.

## Recommendations to Prague City Hall:

### 1. Internal Audit

- Initiate a (legal and organizational) change of position of internal audit within the organizational structure towards greater independence, based on the example of Warsaw City Hall)
- Regularly control implementation of provisions adopted in new legal framework

### 2. External Audit

- The Mayor and council members should support legal changes of external audits procedures (currently discussed in Parliament)
- Carry out regular external audits of selected procurement and publish all findings on the Internet

### 3. Public Procurement

- Revise internal procedures of public procurement after a period of time and involve external experts in the revision
- Publish the personal composition of selection committees
- Publish the minutes of selection committees and the election of individual members
- Introduce pre-screening of companies that enter the procurement process, based on the example of Amsterdam City Hall
- Create a “black list“ of unreliable companies” and share this information with city districts

### 4. Code of Ethics

- Adopt a Code of Ethics for deputies and council members
- Regular ethical training for deputies and council members (seminars, conferences)
- Establish compliance offices

### 5. Conflicts of Interest

- Remuneration of deputies and council members sitting on boards of city companies MUST come from the City Hall—NOT *from companies*
- Change incentives in remuneration
- Ban politicians from the boards of directors of city companies

### 6. Information Openness

- Publish both minutes and individual voting from council meetings

### 7. Other

- Reform the activity and focus of the Prague Anti-corruption commission

## WARSAW

### NGOs:

1. to create a project of Codes of Ethics for the City Council members
2. to create a project of City Hall employees
3. to monitor and pressure the City Council to create a full-functioning Ethics Commission within the City Council
4. to monitor how the relationships between NGOs and City Hall in the matter of grants for public services develops
5. to create a project of training in the field of conflicts of interest for City Hall employees, and to monitor the implementation of the project.

### *Commitments of the City Council:*

1. Because there were no City Council representatives in the group, and the commitments from Prague meeting were not implemented, the commitments from last year are still in effect. That is:
  - Working out the Codes of Ethics within the existing Ethics Commission in the Council of Warsaw.

### *Commitments made by City Hall:*

1. to continue work on the Residential Service Offices (RSOs) By next year's meeting, 6 new RSO will have been opened.
2. to implement the electronic application for registration and monitoring of the flow of cases within City Hall (the first step of the process of creating the electronic system of circulation of the documents)
3. to co-operate with NGOs in creating a Code of Ethics for civil servants
4. to improve the functioning of the bulletin of public procurement (to provide access to full information on the winning companies in public procurement procedures within City Hall)
5. to create an electronic bulletin of grants given to NGOs for the fulfillment of public services

# THE LIST OF PARTICIPANTS

The list contains the names of people who attended the Opening Plenary Session, not the whole conference.

Nr	NAME	SURNAME	FUNCTION	CITY	ORGANIZATION
1	Stefan	Knolle	expert	Brussels	European Commission, OLAF
2	Rosemary	Banner	expert	London	Cabinet Office London
3	Katarzyna	Janiszyn	expert	Delfzijl	Delfzijl parish, Netherlands
4	Dariusz	Piasta	expert	Warsaw	The Office of Public Procurement
5	Iwona	Warzecha	expert	Warsaw	World Bank Warsaw Office
6	Tadeusz	Szawiel	expert	Warsaw	Warsaw University
7	Juanita	Olaya	moderator	Berlin	Transparency International Berlin
8	Jacek	Jeziernski	moderator	Warsaw	Supreme Chamber of Control
9	Paweł	Banaś	moderator	Warsaw	Supreme Chamber of Control
10	Attila	Torok	moderator	Budapest	Transparency Int. Hungary
11	David	Ondracka	moderator	Czech Republic	Transparency Int. Czech Republic
12	Gusztav	Bager	moderator	Budapest	State Audit Office
13	Zsolt	Nemeth	representative	Budapest	Budapest Police Academy
14	Gabor	Papanek	representative	Budapest	GKI Economic Research Company
15	Pal	Toth	representative	Budapest	State Audit
16	Andrea	Korbuly	representative	Budapest	State Audit
17	Zolna	Berki	representative	Budapest	TI Hu
18	Jonas	Boldoczki	representative	Budapest	City Hall
19	Ferenc	Saly	representative	Budapest	City Hall
20	Badriska	Jurzycova	representative	Bratislava	City Council
21	Tomas	Agoston	representative	Bratislava	City Council
22	Peter	Hrib	representative	Bratislava	City Council
23	Helena	Doktorovova	representative	Bratislava	City Council
24	Eva	Chudinova	representative	Bratislava	City Hall
25	Tomas	Satura	representative	Bratislava	City Hall
26	Jana	Jorikova	representative	Bratislava	City Hall
27	Ludmila	Ulicna	representative	Bratislava	City Hall
28	Vladimir	Pirosik	representative	Bratislava	Ti Sk
29	Emilia	Beblova	representative	Bratislava	Ti Sk
30	Ivan	Roncak	representative	Bratislava	Civic Association Vlidacky Parliament
31	Petr	Moos	representative	Prague	City Council
32	Frantisek	Bilek	representative	Prague	City Council
33	Marketa	Reedova	representative	Prague	City Council
34	Martina	Deverova	representative	Prague	City Hall
35	Karin	Seligova	representative	Prague	City Hall
36	Vladimir	Remes	representative	Prague	City Hall
37	Alena	Vojtechova	representative	Prague	City Hall
38	Adriana	Krnacova	representative	Prague	TI Cz
39	Michal	Sticka	representative	Prague	TI Cz
40	Tomas	Kramar	representative	Prague	Oziveni
41	Lenka	Petrakova	representative	Prague	Oziveni
42	Lech	Kaczyński	president of Warsaw	Warsaw	City Hall
43	Robert	Draba	vice president of Warsaw	Warsaw	City Hall
44	Dariusz	Gwiadała	representative	Warsaw	City Hall
45	Andrzej	Jarema	representative	Warsaw	City Hall
46	Jakub	Skiba	representative	Warsaw	City Hall

47	Danuta	Dykowska	representative	Warsaw	City Council
48	Dorota	Keller	representative	Warsaw	City Council
49	Jarosław	Olechowski	representative	Warsaw	Warsaw Civic Group
50	Katarzyna	Batko	representative	Warsaw	Warsaw Civic Group
51	Grażyna	Kopińska	representative	Warsaw	Batoty Foundation
52	Grażyna	Czubek	representative	Warsaw	Batoty Foundation
53	Marta	Kindler	representative	Warsaw	Batoty Foundation
54	Michał	Kidawa	representative	Warsaw	Batoty Foundation
55	Ryszard	Cedrowski	representative	Warsaw	Kema Quality PL
56	Anna	Jasik	representative	Warsaw	Kema Quality PL
57	Alina	Hussein	representative	Warsaw	Supreme Chamber of Control
58	Peter	Kubera	Czech Embassy	Prague	Czech Embassy
59	Kazimierz	Kuberski	representative	Warsaw	City Hall
60	Piotr	Sawostianik	representative	Warsaw	City Hall
61	Jacek	Dziuba	representative	Warsaw	City Hall
62	Jarosława	Czuba	representative	Warsaw	City Hall
63	Andrzej	Grzegdała	representative	Warsaw	City Hall
64	Maria	Błaszczek	representative	Warsaw	City Hall
65	Helena	Langowska	representative	Warsaw	City Hall
66	Przemysław	Bryska	representative	Warsaw	City Hall
67	Mirosław	Wnuk	representative	Warsaw	City Hall
68	Lech	Małecki	representative	Warsaw	City Hall
69	Marcin	Herman	Mayors Office	Warsaw	City Hall
70	Andrzej	Pawłowski	deputy of the Mayor of Wilanów District	Warsaw	City Hall
71	Przemysław	Sujak	Office of Safety and Crises Management	Warsaw	City Hall
72	Maksymilian	Reszczyński	Office of Ownership Supervision	Warsaw	City Hall
73	Małgorzata	Gniter	Office of City Conservator of Monuments	Warsaw	City Hall
74	Piotr	Sójka	vice director of Office of Road-building	Warsaw	City Hall
75	Alicja	Żelichowska	Spokesman of Public Information	Warsaw	City Hall
76	Marek	Wiechowski	TVP 3	Warsaw	Press
77	Cezary	Nobis	representative	Warsaw	City Hall
78	Mirosław	Zysk	Head of Office of Road-Building	Warsaw	City Hall
79	Aurelia	Ostrowska	Director of Office of Health Care Policy	Warsaw	City Hall
80	Andrzej	Jackowski	vice Director of Office of Health Care Policy	Warsaw	City Hall
81	Stefan	Żaja	Head of Ursus District	Warsaw	City Hall
82	Agata	Mikołajczyk	representative	Warsaw	City Hall
83	Zofia	Pieterska	Office of City Conservator of Monuments	Warsaw	City Hall
84	Jan	Deja	Office of Head Architect	Warsaw	City Hall
85	Cezary	Pomarański	deputy of The Mayor of Bielany District	Warsaw	City Hall
86	Szymon	Luczyk	PAP	Warsaw	Press
87	Edyta	Poźniak	Radio "Dla ciebie"	Warsaw	Press
88	Zbigniew	Filipowicz	City Center District	Warsaw	City Hall
89	Leszek	Żebrowski		Warsaw	City Hall
90	Ewa	Rogoń	deputy of the Mayor of Rembertów District	Warsaw	City Hall
91	Marek	Trosiński	Head of Office of Internal	Warsaw	City Hall

			Control and Audit		
92	Mirosława	Terlecka	Praga Południe District	Warsaw	City Hall
93	Elżbieta	Dałek		Warsaw	City Hall
94	Cezary	Mech	Office of Financial Policy	Warsaw	City Hall
95	Maxymilian	Bylicki	Head of Office of Education	Warsaw	City Hall
96	Tomasz	Koziński	Head of Praga-Południe District	Warsaw	City Hall
97	Zdzisław	Sipiera	deputy of Head of Praga-Północ District	Warsaw	City Hall
98	Jan	Dziubecki	deputy of Head of Ursynów District	Warsaw	City Hall
99	Rafał	Pasieka	deputy of Head of Office of Public Procurement	Warsaw	City Hall
100	Katarzyna	Grzesińska	Office of Safety and Crises Management	Warsaw	City Hall
101	Artur	Zbiegieni	Office of City Conservator of Monuments	Warsaw	City Hall
102	Józef	Menes	Mayors Advisors Office	Warsaw	City Hall
103	Grażyna	Melanowicz	Office of Social Policy	Warsaw	City Hall
104	Lech	Skowron	Wilanów District	Warsaw	City Hall