



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

**Report of a Regional Roundtable, Prague, February 7th-9th 2003**



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*Report of a Regional Roundtable*

*Prague, February 7th – 9th 2003*

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# Introduction

In their famous book, *Corrupt Cities*, Klitgaard, MacLean and Parris give a down-to-earth, practical list of how corruption is damaging the daily life of municipalities. Let me quote them:

1. *Bribes lead to the misallocation of subsidized housing.*
2. *Kickbacks to procurement officers mean that city contracts often go to unworthy firms.*
3. *City police departments sometimes look the other way at criminal offences in exchange for a bribe.*
4. *Public property is used by city officials for private ends.*
5. *Permits and licenses are facilitated by speed money, and sometimes purchased for a bribe.*
6. *Bribery enables people to break safety, health, or other rules, thereby creating grave social risks.*
7. *City services may be unavailable without an illegal side payment.*
8. *Tax collectors may extort citizens, or even more often collude with taxpayers to abet evasion in exchange for a bribe.*
9. *Zoning decisions are influenced by corruption.”*<sup>1)</sup>

I am sure the participants of the roundtable – elected officials, employees of city administrations and NGO leaders from the four capitals in the Visegrad countries – could easily expand on this list. However, the purpose of the discussions was not merely to add new insights to the diagnosis of corruption in the four cities. In the Visegrad countries, we are all too familiar with corruption anyway and some of us are even cynical about it. The objective of the roundtable was to identify ways and viable strategies to curb corruption in the city governments. Have we succeeded? It is too early to answer that question and it will depend on the follow-up. However, the momentum is there.

You will read the detailed report with all the recommendations. Here, I would like to single out two issues from the very rich discussions we had.

First, the vital need for enforceable codes of ethics for both professional staff (civil servants) and elected officials. The reports from the four capitals and the related discussions clearly demonstrated that there is an overall need for coherent codes of ethics that have practical and enforceable conflict-of-interest and disclosure regulations for both civil servants and city council members. Apparently, much work needs to be done to regulate possible conflict-of-interest situations of elected officials when they sit on the boards of various commercial companies owned fully or partially by the city.

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<sup>1)</sup> *Corrupt cities: a practical guide to cure and prevention/ Robert Klitgaard, Ronald MacLean-Abaroa, H. Lindsey Parris, ICS Press, Oakland, California, 2000. Pp. 1-2.*

Second, positive change requires political leadership as well as outside pressure exercised by strong, vocal and competent watchdog NGOs. When discussing the role of NGOs, it is obvious that much more capacity-building is necessary in order to enable the NGOs – including TI chapters – to play that watchdog role.

As we all know, one of the most forceful ways to influence public policies is to make information public via the media. Furthermore, mayors and city council members seeking re-election are very sensitive as far as their image in the media is concerned. Watchdog NGOs can capitalise on this sensitivity best by applying the good old “name and shame” strategy. Score cards, ratings and rankings are proven tools in creating media attention that will force politicians to react and respond.

Finally, let me raise an issue that was not discussed, which I believe, however, is fundamental for a “corruption-free town hall.” I am referring to the respect and dignity of civil servants. It seems to me that during turbulent historic changes, the healthy balance of responsibilities and competencies held between elected officials (politicians) and professional staff (civil servants) of the municipalities has been distorted. In their drive to control everything, elected officials tend to micromanage in many cities in Central and Eastern Europe. At the very beginning of the transition, they had the political mandate to do so. Perhaps distrust in the “inherited communist bureaucracy” was justified at the outset but 13 to 14 years later, this behaviour is no longer justified. The new political class in Prague, Budapest, Bratislava and Warsaw must understand that it is not they who can run such complex cities as Prague or Warsaw on a daily basis; it is the competent civil servants who do that. When the division of responsibilities becomes clearer and our elected politicians leave more space and professional authority for civil servants, the climate will be much better to combat corruption. No one is more vulnerable to corruption than an intimidated, insecure civil servant. The restored self-esteem of municipal staff is a vital condition for any successful anti-corruption strategy.

Miklos Marschall



# **THE SITUATION IN THE VISEGRAD CAPITALS: OVERVIEW OF THE PLENARY SESSIONS**

# WARSAW

<http://warszawa.um.gov.pl/>

<b>Population:</b>	1,630,000
<b>Area:</b>	518 km <sup>2</sup>
<b>Districts:</b>	18
<b>City administration:</b>	<p>60 City Councillors (Warsaw City Council). 410 District Councillors (District Councils).</p> <p>City representatives: Mayor, four Deputy Mayors and the City Treasurer.</p> <p>The Mayor of Warsaw, City and District counsellors are elected in direct elections.</p> <p>The Mayor of Warsaw designates the Deputy Mayors and the Treasurer.</p>
<b>City office:</b>	<p>Thirty three office departments in a recently restructured City Office. The final field of their activities has not yet been specified.</p> <p>At present, around 5,000- 6,000 civil servants are employed.</p>
<b>Basic economic information:</b>	<p>As of 27. 10. 2002:</p> <p>Value of office buildings: 2.7 million PLN Value of permanent assets: 6.8 million PLN Value of grounds (municipal, communal etc.): 4.4 billion PLN</p>
<b>GDP of the country:</b>	157.6 billion USD (2000)
<b>Inflation:</b>	<p>1.9% (2002) 5.5% (2001)</p>

## Presentation of the Situation in Warsaw City Hall

Plenary speakers:

- Dorota Keller (Member of Council of Warsaw)
- Władysław Stasiak (Deputy Mayor of Warsaw City Hall)
- Areta Wasilewska-Gregorowicz (Head of Warsaw Citizens' Group)

### Summary of speeches

#### Dorota Keller

*Dorota Keller spoke about the improvements made to the city administration after the Warsaw Act and how that has helped the fight against corruption.*

Warsaw used to have four levels of government with different but partially overlapping competences. They were very complicated and there was practically no contact with the citizen at this level of local government.

On 27 October 2002 the new Warsaw Act entered into force and brought a new, simplified system of government for the capital.

- Warsaw became one large municipal commune divided into 18 boroughs.
- A president, with greater responsibilities, is now appointed through general elections. Before 27 October, the president was the superior of only approximately 500 employees of the city board office and not of the employees of the communes, boroughs and the district of Warsaw. Now, the president is the superior of approximately 5000 Warsaw local government functionaries.

Fighting corruption under the previous system was very difficult. Most observations, remarks or proposals concerning the fight against corruption were addressed to the president of Warsaw. This was true, not only for the ordinary citizens of Warsaw, but also for the media and NGOs. In most cases such comments were completely misaddressed. Few realised then that the president of Warsaw actually had very few instruments of control over the communes.

The old multi-level system made it extremely difficult to make decisions that were important for the city and, in turn, that led to wasting public resources. Cloudy decision-making mechanisms under the old system encouraged corruption.

The new president of the city, now acting within the new system, finally has at their disposal serious instruments for diagnosing and minimising corruption in Warsaw's local government.

## Władysław Stasiak

*Władysław Stasiak suggested more concrete measures the city administration could take to fight corruption.*

Warsaw's new political system has eliminated many of the problems connected with corruption. As a result, the operations of the municipal authorities and administrative units will become even more transparent. Stasiak presented various measures to achieve this goal:

- Instituting an explicit administration structure with clearly defined competences and responsibilities of specific functionaries.
- Publishing more information (i.e. resolutions, protocols, decisions, etc.) on the Internet.
- The operation of the municipal offices will be further regulated.
- A system will be devised to supervise the circulation of documents. In particular it will monitor the current status of individual cases and the punctuality of their settlement by the relevant functionaries. Those guilty of delays in handling cases will be liable to disciplinary and financial penalties.
- Time-limits for the settlement of cases, which do not come under the system provided for in the Code of Administrative Procedure, shall be regulated by dispositions.
- In order to avoid corrupt situations, contact between a citizen and the municipal office will take place through the Citizen Service Office, or by mail. Direct contact between functionaries/clerks preparing or making a decision and the applicant will be limited to a minimum.
- The decision-making functionaries will be subject to periodical reshuffles, to give the effect of rotation.
- All municipal administration clerks will be obligated to provide declarations on their financial status, which will then be analysed and verified. The declarations of the functionaries who manage property and take administrative decisions will be subject to particularly thorough inspection.

An important tool for fighting corruption is a proper staffing policy. In the process of recruitment, the following aspects should be taken into account:

- How candidates followed the rule of law in previous government positions.
- Potential conflicts of interest.
- The degree to which the candidate's interest is linked with municipal property.
- Their relations with institutions (companies, co-operatives, funds) that have uncertain links with the municipal administration of Warsaw.

## Areta Wasilewska-Gregorowicz

*Wasilewska-Gregorowicz gave an overview of the NGO perspective on the city's administration reform and anti-corruption measures.*

The city's anti-corruption policy should be based on certain principles:

- Equal access to information procedures, decisions, documents.
- Transparency of tenders, distribution of grants.
- Informing citizens about decisions, undertakings and actions.
- Non-political allocation of seats in the city halls.

Relations between NGOs and the local government after the administrative reforms did not have enough legal standardization. Now the process of laying down the rules of cooperation based on municipal law has begun.

The Warsaw Citizens' Group conducted two surveys – in February 2002 and July 2002. The first survey was conducted among city councillors while the second was conducted among the members of the Council of the Warsaw - Centre District. In both cases, a similar number of surveys were returned – only about 20 percent were completed. There is a widespread opinion in Polish society that many councillors have additional posts in civil ventures and they wanted to check if that indeed was the case. Judging from the material sent back it is difficult to say whether Warsaw councillors having additional posts is something normal. Many were also active on the boards of NGOs and some had posts at state institutions. Although this isn't against the law, it might lead to conflicts of interest.

# PRAGUE

[www.praha-mesto.cz](http://www.praha-mesto.cz)

<b>Population:</b>	1,200,000 permanent inhabitants
<b>Area:</b>	496 km <sup>2</sup>
<b>Districts:</b>	57
<b>City Administration:</b>	<p>The Municipal Assembly of the City of Prague has 70 members. The city representatives' role is to control, pass directives and to create commissions and advisory boards. It also elects the executive body of the city, the City Council. The City Council consists of the Lord Mayor, four Deputy Mayors and six Council members. The highest representative of the city and the head of the executive is the Lord Mayor.</p> <p>The Deputy Mayor for Financial Policy oversees the city finances.</p>
<b>City Office:</b>	<p>Prague City Hall is the city's executive office, consisting of 43 departments and eight specialized sections.</p> <ul style="list-style-type: none"><li>• Economic and Financial Policy</li><li>• City Development Authority of Prague</li><li>• Regional and Municipal Force</li><li>• State Administration Execution in the Field of Area Development and Care</li><li>• Internal Audit and Control</li><li>• Internal Services</li><li>• Property Affairs</li><li>• Administrative Issues</li></ul> <p>Altogether there are 2093 employees.</p>
<b>Basic economic information:</b>	<p>Income: 38 billion CZK (2001) Expenditures: 43.2 billion CZK (2001)</p> <p>20% of the Czech GDP is generated in Prague.</p>
<b>GDP of the country:</b>	51.4 billion USD (2000)
<b>Inflation:</b>	2.4 % (2002)

## Presentation of the Situation in Prague City Hall

### Plenary speakers:

- Pavel Bém (Mayor of the City of Prague)
- Zdenka Pikešová (Head of the City Management Office and Head of the city's Anti-Corruption Task Group)
- Michal Štíčka (Project Manager, Transparency International - Czech Republic)

### Summary of speeches

#### Pavel Bém

*Pavel Bém emphasised some areas to think about when tackling corruption in Prague's City Hall:*

- Lessen the extent of regulation and the dizzying number of necessary permits, rubber stamps and documents.
- Streamline the bureaucracy and the incomprehensibility of management.
- Promote openness, information, comprehensibility and the public control of processes. There is a need to break the mental barriers where politicians and officials would prefer to decide things behind closed doors. This problem must be tackled especially regarding the issue of grants.
- The authorities must actively seek feedback from people. They need to know how people are satisfied with the authority's work and which aspects complicate the process.
- Authorities must be careful that the bureaucracy does not swell while applying regulations. Regulations inevitably create the need for more regulation and more bureaucracy and both officials and citizens find ways around it.

#### Zdenka Pikešová

*Zdenka Pikešová spoke about Prague's Anti-Corruption Programme and how the city is trying to spot potential areas of corruption before they can become problematic.*

Prague's Anti-Corruption Programme was first initiated in June 2001 and is evaluated and updated twice a year. The key principles of the program are spotting and preventing potential cases of corruption and solving existing corruption.

According to Pikešová, the measures taken had been:

- identification and analysis of corruption-prone activities.
- application of working procedures and methods which help contain corruption.
- transparent processes subject to public control.
- creation and subsequent optimisation of an inspection system.

The focus of the Prague council's anti-corruption policy, so far, has been the creation of an "Anti-Corruption Committee" and a Task Group operating under the city jurisdiction. Its main task is to:

- investigate the city's organizational structure.
- spot potential sources of corruption (for instance decision-making processes, issuing of permits, allocating resources, public procurement) and function as a whistleblower.
- investigate working practices and decision-making processes.
- initiate consistent and efficient inspections.
- make information about corruption more public.

Pikešová used an important case study to illustrate the city's fight against corruption. She cited the example of the city's municipal housing policy and its investigation by the Inspection and Internal Audit Department.

By the beginning of 2002, the Inspection and Internal Audit Department analysed procedures related to the approval of lease contracts and exchange of apartments. They analysed everything, including: the record-keeping of free apartments; the criteria for granting apartments; the applications process; the approval process when granting an apartment.

The results of the investigation showed that there were biased procedures and misuse of official documents. The Audit Department made a number of recommendations about organisational reforms and increasing inspection activities.

The council is now focusing its efforts on co-operation between the 12 district councils within the city, setting up rules for public procurement that would be binding for all districts, training staff and examining ways to communicate more openly with the general public. A concrete recommendation was to compile a single database of apartments owned by the City of Prague.

## Michal Štička

*Michal Štička spoke about the shortcomings of the Anti-Corruption Programme and about the recent activities of NGOs dedicated to fighting corruption.*

### **The failures of Prague's Anti-Corruption Programme**

Štička made several critical comments about Prague's Anti-Corruption Programme. He concentrated on three areas:

1. Identification and analysis of corruption-prone activities.
2. Application of suitable working methods and procedures within the decision-making process.
3. Application of an efficient inspection system.

Prague's Anti-Corruption Programme is still in its infancy and the city hasn't gone far enough in its identification of corruption-prone activities. There are other corruption-prone areas that the city administration hasn't recognised, for example provision of grants to both subsidised organisations as well as civil-society organisations.

The "Rules for Assigning Public Procurement Jobs" adopted by the City Council in November 2000 haven't been effective enough. The city authorities have not adopted a unified methodology for the public procurement process and have not been responsive to criticism in the media on this issue.

The authorities' implementations are still lagging behind the expectations of the public. There have been some successes, however, for instance in the field of housing policy. And the city authorities were moving in the right direction, concerning the application of an efficient inspection system. The city should go further by introducing more extra-departmental investigations and external audits carried out by state or private organisations.

### **Recent activities of Prague-based NGOs in fighting corruption**

Czech non-governmental organisations (NGOs) have conducted important activities recently in the field of transparency and corruption in the Prague administration.

#### ***Transparency International - Czech Republic***

In May 2002, Transparency International - Czech Republic (TIC) organised two roundtables where issues of transparency and corruption in Prague's administration were discussed by TIC representatives, city councillors, members of the assembly and City Hall civil servants.

TIC approached all the parties, movements and coalitions running for the municipal elections held in November 2002, asking them to disclose their candidates' attitudes on corruption and transparency in Prague's public administration. The TIC campaign generated responses from 162 (out of a total of 1,025) candidates. The answers showed awareness on the part of many respondents of the City Hall's poor reputation and of the desire for change. Items most frequently named among anti-corruption priorities included to:

- push through transparent procedures, i.e. publish all actions, draw up new methodical instructions for city property administration
- make information available on the Internet and through other media
- establish or strengthen the internal audit department and introduce external audits

#### ***Oživení - Bohemian Greenways***

An interesting project was implemented by another civil society organisation: Oživení - Bohemian Greenways. This organisation monitors potential conflicts of interest on the part of the City Assembly members. In July 2002, the organisation approached all members of the assembly with a form – "Declaration on activities, incomes, gifts and real estate" – and asked members to fill it in. The organisers received 38 percent of the forms back. The initiative was inspired by the declaration of assets duty stipulated by the Conflict of Interest Act, which parliamentary deputies are subject to.

### ***Koalice SOS Praha***

Koalice SOS Praha is a coalition of 57 independent environmental organisations based in Prague. Its main objectives are to enhance public participation in planning and decision-making processes mainly in the field of spatial planning; and to improve communication between the city administration, the private sector and civil society. Recently, the coalition has come up with an alternative proposal for the design of the Prague transport system.

### ***Růžový panter (Pink Panther)***

This organisation analyses selected cases where the law has been breached with respect to the treatment of architectural heritage. In doing so it attempts to detect corrupt behaviour and conflicts of interest in the public administration. In addition, the organisation seeks to initiate criminal proceedings in well-documented cases where a breach of law has been identified.



# BUDAPEST

[www.budapest.hu](http://www.budapest.hu)

<b>Population:</b>	1,812,000 inhabitants
<b>Area:</b>	525 km <sup>2</sup>
<b>Districts:</b>	23
<b>City administration:</b>	<p>The Budapest municipal government consists of an assembly of 66 elected members, 21 standing committees and a directly elected Mayor. Five Deputy Mayors are elected by the assembly from among its own members. All the decisions have to be taken by the assembly. The Mayor has limited decision-making powers. Unlike many other cities, there is no “executive committee” – the Mayor, Deputy Mayors, heads of office and leaders of party factions in power usually have “cabinet meetings,” but these have no formal role.</p> <p>The General Assembly of Budapest has 21 committees with different competencies. Among those the Finance Committee and the Finance Controlling Committee have various controlling competencies over the city budget. The Proprietary Committee has control over the property of the municipality.</p> <p>There are also internal control mechanisms in the Mayor’s Office and the institutions of the municipality are controlled by the Legal and Control Department. In this office there is an independent Supervisory Board, which reports directly to the General Assembly of the City.</p>
<b>City Office:</b>	<p>The city government’s City Office, consists of 28 departments, all with department heads. The City Office is headed by the director, the “city clerk of Budapest.” In 2002, there were 1243 employees.</p>
<b>Basic economic information:</b>	Income: 256.7 billion HUF (2000)
<b>GDP of the country:</b>	46.6 billion USD (2000)
<b>Inflation:</b>	5 %

## Presentation of the Situation in Budapest City Hall

### Plenary Speakers:

- Ferenc Saly (Head of the General Controller's Unit at the Budapest Mayor's Office )
- Gusztav Bager (Director General of the Hungarian State Audit Office)

### Summary of Speeches

#### Ferenc Saly

*Ferenc Saly spoke about the legality of public procurement procedures and the safeguarding of a corruption-free public procurement system in the Budapest Mayor's Office.*

From the 28 departments within the Mayor's Office, 24 have the right to conduct public procurement procedures relating to goods and services or investment within their specific areas. The departments may conduct these procedures on their own or in cooperation with the Investment and Public Procurement Department of the Mayor's Office. The procedures are supervised by a body created specifically for this purpose, the Inspectors' Group.

The detailed provisions of the Public Procurement Act apply to the Mayor's Office and to all its units as government-funded institutions. The Mayor's Office set out the system of internal responsibilities for public procurement processes in 1998, four years before this was required by law. The joint measures taken by the mayor and the city clerk has been continuously modified since then, but is still valid. It regulates:

- the responsibilities of the departments conducting public procurement procedures.
- the responsibilities of the supervisory Inspectors' Group.
- the responsibilities of the deputy clerk and of the city clerk.

Following a comprehensive review and establishment of working processes, the ISO 9001:2000 quality control handbook was introduced on 28 May 2001. From this day on, its contents, including the 98 quality control procedures regulating official processes, contained in the appendix, became compulsory for all employees of the Mayor's Office.

The explicit requirements of the ISO 9001 handbook are to:

- make official activities client-centred.
- to place more emphasis on civil values (to involve citizens by direct and indirect means).
- to keep residents continuously informed about tasks that have been carried out and tasks that are being carried out.
- to ensure equal opportunities and legality.
- to allocate resources in a lawful, expedient, successful and efficient way.
- to maintain clear and economical administrative records that are open to all.

External audits conducted through this program show the situation is improving in Budapest. European Union accession monitoring programs confirm this progress, and EU representatives have indicated that the public procurement act is in keeping with EU standards.

## Gusztav Bager

*Gusztav Bager spoke about the city's State Audit Office and the implementation of the ISO 9001 quality assurance system.*

The 1990s afforded two specific challenges for local and national governments trying to cope with the transitional changes:

- Massive increase in public procurement (the value of public procurement increased three and a half times between 1995-2002).
- Insufficient audit procedures.

In Budapest City Hall, the situation faced by the State Audit Office is similar, with three primary problems:

1. Deficient internal institutional rules.
2. Inappropriate documentation.
3. Inadequate internal auditing.

A comprehensive audit conducted in 1996-1997 by the State Audit Office in Budapest showed similar results to the country average. But there were additional problems: namely a lack of segregation of duties within the City Hall; also financial management issues were not being regulated properly as the rules did not make this possible. Moreover, public procurement and tender procedures were inadequate, and the authenticity of financial statements was questionable. There were plenty of examples of assigning jobs without calling for tenders. The 1996-1997 audit left a lot of room for improvement.

In 2002, the State Audit Office performed a second, follow-up audit of the capital to assess the progress made since the first audit. The office found that the tasks set out in the action plan had mostly been implemented. In particular, the regularity of financial management had improved. There had been, however, delays in implementation and shortcomings remain.

Among the most serious of these shortcomings was the initial omission of an audit of budgetary functions. That is now under the jurisdiction of the State Office. However, the State Audit Office has not received satisfactory cooperation from those offices. Moreover, the Mayor's Office is also not in full compliance.

The implementation, in 2001, of the ISO 9001 quality assurance system meant a step forward for the Mayor's Office. There are now bi-annual audits – in some cases annual – by an independent certified agency. The certification is issued for three periods but it can be withdrawn if the agency decides that the level of service has deteriorated.

However, the internal regulations related to financial management exercised by the Mayor's Office continue to have shortcomings. The transfer of documents among different

departments, for example invoices, could not be monitored due to a lack of a uniform recording system.

The experience of the State Audit Office in Budapest proved the necessity of close cooperation between local government and independent, professional institutions in order to fight corruption.

# BRATISLAVA

[www.bratislava.sk](http://www.bratislava.sk)

<b>Population:</b>	450,000
<b>Area:</b>	368 km <sup>2</sup>
<b>Districts:</b>	17
<b>City administration:</b>	<p>The highest representative of the city and the head of the executive of Bratislava is the directly elected City Mayor. The legislative body on the municipal level is formed by 80 elected representatives. The city representatives' role is to control, pass directives and to create commissions and advisory boards. The executive body of the city is the City Council. It is also an advisory council for the mayor. The members of the City Council are: the mayor of the capital and his deputies, the mayors of the 17 districts and seven city representatives.</p> <p>The City Controller oversees the city finances. He/she is nominated and can be removed from his/her position by the city representatives. The City Controller controls city finances (property, incomes, expenditures and the municipal budget).</p>
<b>City Office:</b>	<p>Five departments with 27 administrative units:</p> <ul style="list-style-type: none"><li>• Economic and Social Development</li><li>• Land Use Programs of the City</li><li>• Management of the Property of the City</li><li>• Transportation and Road Management</li><li>• Facilities</li></ul> <p>Altogether there are 400-500 employees.</p>
<b>Basic economic information:</b>	<p>Income: 4.1 billion SKK (2002) Expenditures: 4.1 billion SKK (2002)</p>
<b>GDP of the country:</b>	19.3 billion USD (2000)
<b>Inflation:</b>	2.9% (2002)

## Presentation of the Situation in Bratislava City Hall

### Plenary speaker:

Emília Sičáková (President, Transparency International - Slovakia)

### Summary of speeches:

#### Emília Sičáková

*Emília Sičáková gave a comprehensive overview about the state of corruption in Bratislava and how NGOs are trying to tackle the problem.*

No one has yet been sentenced for corruption in Bratislava and the city has no explicit anti-corruption policy. Corruption has become an issue widely discussed by the public and hopefully the supply will respond to the demand for corruption exposure fuelled by the media.

There are at least two myths spread in Slovakia – and in many other countries – concerning corruption. The first is that corruption only started after 1989. The general public tend to identify the post-communist period as one with prevailing corruption and protectionism. However, corrupt behaviour has marked all stages of society and exists in every country of the world. Where the individual countries differ is in the extent of corruption and how much society is prepared to fight it.

The second myth is that municipalities are free of corruption. Discussion usually centres on corruption in state bodies and, for a long time, municipalities were not publicly discussed regarding corruption.

Sičáková identified the main areas where corruption occurs on the local municipality level:

- sale of city property, for example non-housing premises.
- allocation of flats.
- renting of premises.
- construction permits.
- public procurement.

Public procurement is a particularly sensitive area. There is a public procurement law in Slovakia but local municipalities are reluctant to use it. There was also a huge resistance from the municipalities to regulate procurement of smaller purchases – or even making information public about these smaller purchases. At the moment only basic information is available on the city's website on the public procurement process.

It is very important to differentiate between elected representatives and those who are the employees of the municipality. A system defined by the law on public service currently governs the process of hiring new employees, but only for managing staff. The new law makes it compulsory to recruit managing staff by a competitive selection procedure. This is problematic because hiring new employees may still be abused for personal or political reasons.

Restrictions for former employees is also a problem. The lack of legislation on so-called "post-employment restrictions" contributes significantly to the growth of hidden corruption. After employment has ended, an ex-employee can use/misuse information they obtained while working, for their own benefit or follow-up business activities.

Slovakia has had a conflict of interest law since 1995. Although the law looks great on paper, in reality, it has no relevance for resolution of conflict of interest issues. Changes to that law have been discussed in parliament but the biggest opponents to the amendments were the local governments. The mayors are a very well-organized lobby and were able to stop discussion of that law. Now, with the new government, there are initiatives to amend the legislation but, again, there has been resistance from the municipalities.

There are various activities that local governments and NGOs can cooperate on in the fight against corruption:

- cooperation in the process of preparing anti-corruption tools on a local level.
- preparing a strategy to fight corruption, conducting complex research and providing expertise.
- cooperation in implementation/enforcement of anti-corruption tools.
- watchdog activities – monitoring the fight against corruption in Bratislava.
- training on various anti-corruption issues.

## Discussion from the Plenary Sessions

### Moderator: Miklos Marschall

There were many pertinent issues discussed during the plenary sessions, but some issues came up again and again. These issues – conflicts of interest, city administration reform and the role of NGOs – are certainly the most pressing and, therefore, in need of the most attention. Participants exchanged experiences about the situations in their cities and discussed possible solutions and recommendations for the region.

### 1. Conflict of interest

Should city councillors be allowed to sit on the boards of directors of key companies owned by the city? And should they be remunerated for doing so? The moderator asked representatives from the cities – and experts – to describe how this issue is approached in their city councils.

#### Budapest

In Budapest, members of the council may only be appointed to supervisory boards, not boards of directors and they receive benefits but no salary for sitting on these boards. Elected officials may not interfere directly with the running of a company – this is left to managers with expertise and experience. In Budapest, councillors must disclose their income and citizens have access to this information. In addition, councillors must always vote in favour of the municipality.

#### Bratislava

In Bratislava, seats on boards, which are salaried positions, are apparently hotly contested by the main political parties and the question raised by Transparency International - Slovakia was that there seemed to be no limit to the number of boards councillors may be members of. Councillor Marta Čarnogurská argued that informed city councillors can and should be given the chance to improve the work of companies serving the municipalities by representing the public interest within these companies. She suggested, however, that proper regulation was needed to ensure that only those representing the public interest and not their own should be allowed to sit on these boards.

Councillor Marta Čarnogurská said that she serves on the boards of companies owned by the municipalities and has also sat on several tendering boards. When asked from the floor about the remuneration for people sitting on the boards of certain companies, Čarnogurská said that sitting on an advisory board was not very lucrative.

#### Warsaw

In Warsaw, city councillors are not allowed to sit on any boards of directors or on the supervisory boards of companies in the commercial service sector (e. g. transport), although

they are allowed to sit on the supervisory boards of hospitals and other companies. The council's role is to manage the executive issues of the city and evaluate the work of the companies providing services. In the event that the council is dissatisfied, it is allowed to issue statements to the management.

## Prague

Councillor Igor Němec said that it was the duty of councillors to sit on the boards of directors where the city had a controlling interest. As the city is responsible for public transport and trash collection (services provided by companies owned by the city), Němec said councillors had to be involved in the running of these companies.

Councillor Němec was then asked, as a member of the Prague City Council, whether he thought a code of ethics (like the one already in place for council staff) should be introduced for elected officials. Němec responded that he had no need for a written code, as he carried his own code in his heart. This was a nice statement, the moderator said, but simply not good enough.

## London

Derek Elliot, a chief auditor from the United Kingdom, said it was very interesting because these were issues that his country was discussing seven or eight years ago. It's difficult, he said, because the more corruption you uncover, people start to think that their society is going belly-up, when, in reality, all you're doing is uncovering what is already there.

In the UK, after lots of discussion and the passing of a law, local councillors do have to declare relevant interests and they are publicly accessible. The relationship between the public and private sectors is getting equally complex. It is often difficult for politicians because they are encouraged to sit on lots of boards of directors and that creates the potential for many conflict of interest situations. They are only starting to realise in the UK what difficult ethical dilemmas we sometimes create for these politicians.

## Conclusions

The moderator and several other members of the audience argued that the interests of these companies and the city were not always the same. The company naturally has to try to ensure a profit, while the city may cut the money it supplies to one service to benefit another, which is definitely not in a company's interest. In the economic interests of the company, the management may sometimes have to take decisions that go against the express wishes of the city and should therefore not be controlled by the council.

From the NGOs' point of view, the question that must be resolved in Prague is whether politicians should be allowed to draw large salaries for sitting on numerous boards. Representatives pointed to the model applied in Warsaw as a possible solution to the situation in Prague.

Speaking about conflict of interest legislation, TI-Slovakia's representative Emília Sičáková said that around 240 NGOs from across the country had formed an alliance which is campaigning for a new conflict of interest law. The problem, she said, is that the current law is a "paper tiger." Recently there were proposed changes to the law and a working group was

set up to monitor the discussion. All political parties had representatives in the working group, and everyone seemed happy with the draft. Only when the draft got to parliament, in May 2002, deputies began to protest it and the draft was not passed. It looked very much like stalling and obstruction.

She concludes that no-one really wanted to change the legislation or solve the problem because they were afraid of stricter provisions. The media and NGOs should explain to the public the role of such amendments. Politicians were less likely to back-track if there was common public knowledge about a conflict of interest law.

## 2. City administration reform as a tool to fight corruption

The discussion focused mainly on Warsaw's new city administration reforms. The moderator asked the panel whether streamlining and centralisation had met with strong political opposition?

### Warsaw

According to council member Dorota Keller, they had managed to find a compromise between centralisation and decentralisation and that it was senseless to continue the old system. She said that it remains to be seen how the relationship will develop between the boroughs and the city's central administration. Keller said that she was glad and proud that they now have the new simplified system and that it was easier for normal citizens to function in this city.

According to the panel the situation in Warsaw was extremely frustrating before the changes. Władysław Stasiak, the deputy mayor, said he wanted to avoid the myth where everything that is decentralised is naturally seen as a success and everything that is centralised is seen as a failure.

A representative from Poland's Batory Foundation spoke about decentralisation and centralisation and which was worse for corruption. On the one hand, she said, by decentralising power more people are exposed to corruption. On the other hand, if the power is centralised, then the citizen has much less direct contact with the authorities and it is harder to control. An opinion poll in Poland showed that citizens living in smaller cities or communes tended to be happier than those living in bigger cities.

### Budapest

There was also criticism of Budapest's system of government – 14 elected local governments in the city – for not being very sustainable and for fostering too many vested interests.

Gusztav Bager spoke briefly about some of the dilemmas and experiences of the State Audit Office in Hungary. He described such organisations as “bridge organizations” that act as a go-between among NGOs and state organisations.

He said that, in the case of Hungary, his organisation had the authority to audit local government as well as central budgetary institutions. That is not the general case for all countries.

The State Audit Office can now start legal proceedings against those found to be in violation of anti-corruption laws. They have done this in some 30 cases recently, although prosecution rates are very low: only one case in five years was brought to trial. In some cases, people have been fired, but there have been no other criminal complaints.

Bager said that traditional auditing procedures – financial audits and performance audits – were not enough in the fight against corruption and that a new type of “ethical audit” was needed.

The moderator asked Ference Saly, the Mayor’s Office representative, if in the last five years any corruption cases have been unveiled in Budapest and whether those cases have been prosecuted? Saly said that one high-profile case, concerning a bribe during a tender process, was under surveillance and a criminal complaint was filed. The case did go to trial but it took years. Saly said that there have been no other cases in the last five years.

Bager then spoke about the distribution of revenue problem between the municipality and the district local governments in Budapest. He said that he wanted to help solve this problem and the government should elaborate the rules and sets of guarantees to solve this very intricate political problem. If there is an uneven distribution of revenues, he said, there will be a higher propensity for corruption in the localities.

## Recommendations

The environment local governments operate in needs to be regulated further. In particular, there is a need for good public procurement regulations.

Future discussions on council representation on company boards should focus on the informal decision-making processes (possibly similar to the model applied in Warsaw), to ensure that all suggestions of undue influence and corruption are removed.

The moderator, Marshall, said that the purpose of this conference is to think about how we can cooperate with each other in the Visegrad countries. There is a momentum – in three cities out of four, new mayors have been elected – so the time is right to establish partnerships. He defined the task ahead as designing viable projects for NGOs and city halls to work together. One idea suggested was to host an additional workshop on the commercial interests of municipalities.

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

## What is the Benefit of Prevention? Codes of Ethics at City Halls

Workshop Coordinator: Adriana Krnáčová, Executive Director, Transparency International - Czech Republic.

Expert: Prof. Wesley Cragg, George R. Gardiner Program in Business Ethics, Schulich School of Business, Chairman, Transparency International - Canada.

Structure: The workshop was divided into three parts:

1. How Codes of Ethics are working in the four capitals
2. Presentation of Prof. Wesley Cragg
3. Discussion and recommendations.

### **1. The existing situation in the four capitals represented (Prague, Warsaw, Bratislava and Budapest)**

#### **Prague**

Prague has a code of ethics for employees only, despite efforts to introduce such a code for elected officials. One participant described his attempts to introduce a code in one of Prague's boroughs, first as an NGO leader and now as an elected official. Several other participants from the NGO sector criticized Prague city hall for having a non-public code in place for employees and not for elected officials. One quoted the mayor as having said that a code of ethics is "unnecessary bureaucracy."

#### **Warsaw**

There is no code of ethics in place in Warsaw, either for employees or elected officials. A set of laws regulates specific issues such as conflicts of interest, but the laws are recent and not codified, according to representatives from Warsaw's NGO community. One city hall representative spoke briefly and agreed that it is necessary to work on a code, but other NGO participants argued that the city council is not taking the initiative and lacks interest in the process.

#### **Budapest**

NGO representatives from Budapest explained that their city also has a set of laws that regulate certain ethical matters such as acceptance of gifts and conflicts of interest but no code of ethics.

#### **Bratislava**

In Bratislava, ethical matters are supposed to be covered by the law on public service, which applies to both elected officials and municipal employees. According to NGO representatives, municipal officials are resistant to the idea of a code of ethics.

## Conclusion:

As it stands currently, none of the cities has a code of ethics that covers both elected officials and employees of city hall. Most of the representatives at the session were from NGOs, and their opinion was that the political will is lacking among officials to instil such a code.

## 2. Expert overview presented by Wesley Cragg: The importance of ethical codes

Professor Cragg presented four primary reasons as to why creating an ethics code is important:

- emphasizing the importance of ethical conduct
- setting standards and values
- building trust
- fighting corruption

He further presented a model for creating a code of ethics, starting with defining the mission of the organization. In municipal governance, the mission must be relevant for all interested parties, employees and elected officials alike. The next step should be ascertaining what values are required to put that mission, vision into effect, stressing that the mission and values should be short and easy to remember. In some cases, organizations may want to go on to create guiding principles for their code, but not all need to take that step.

Municipal codes of ethics should cover the following topics:

- Confidential information
- Gifts and benefits
- Conflicts of interest
- Use of municipal property
- Personal/private business dealings.

The most important step is setting up an implementation system – “No implementation is worse than useless.” For proper implementation, several steps are possible. Education, training, and counselling as well as monitoring are the most crucial of these and should represent a starting point. Once those programs are underway, the code can be further integrated using hiring and promotion, feedback mechanisms, enforcement, and third-party ethics audits.

## 3. Discussion and Recommendations

*NB: Since most participants at this point were representatives of NGOs, discussion centred on how NGOs can work to instil the importance of thinking about ethical codes within municipal government.*

Professor Cragg began the discussion with suggestions for ways to think about promoting codes. According to him, codes must start at the top. Management/top officials must live the values, or no one else will pay attention to them. He also mentioned that in working to convince officials and employees of the value of codes, it pays to be positive. Ethics should represent something to achieve rather than something not to be broken. Finally, the professor recommended finding a champion at the upper echelons of leadership.

Based on these recommendations and the discussion, the following 10 points represent an action plan created by the participants:

1. **Use grassroots efforts to pressure municipal government.** Competition among capitals could be especially useful in this regard – the “name and shame” technique. For example, if an outside organization published a ranking of capitals based on codes of ethics (a “Visegrad Index,” perhaps), the resulting pressure could encourage city halls to tackle ethical issues.
2. **Find someone to champion the cause.** This could be done from within or through the creation of a people’s committee composed of ordinary citizens.
3. **Build coalitions among the various stakeholders,** by working with media to create a climate favourable to accepting a code of ethics. Generate discussion and dialogue.
4. **Use national competitions** to generate pressure on local governments. Just as a “Visegrad Index” could promote national competitions for ethical issues, national competitions such as a “Best and Worst” list could promote municipal rivalries to encourage progress on ethical issues.
5. **Identify leaders within the municipalities** who may have run on anti-corruption platforms or who may be willing to do so. Re-election is a powerful motivator.
6. **Build dialogue with the public** about the importance of ethical municipal governance
7. **Create a “best and worst” list of mayors** from the region or country.
8. **Increase public involvement in audits and monitoring.** Create such reports in readable language and present them to the media.
9. **Find a “big fish to fry”** to launch a campaign to promote the creation of an ethical code.
10. **Employ a “mystery shopper”** technique to measure the effectiveness of public services. Enlist the help of the media or private organizations if funding is prohibitive. Such systems have been used in the UK with a high level of effectiveness.

*Wesley Cragg is the Gardiner Professor of Business Ethics at the Schulich School of Business, York University, Toronto, Canada. As an academic, his research has focused in recent years on topics in business ethics, corporate citizenship, bribery and corruption. He is currently leading a York University research project on the effectiveness of corporate voluntary codes of ethics in establishing sound business standards in international business transactions. He played a leadership role in the launch of TI - Canada in 1996 in collaboration with a number of Canadian colleagues and businessmen. On the launch of TI - Canada he was elected chair and president, positions that he continues to hold. He has worked actively with the international movement and the TI Secretariat as a coordinator of the TI Ethics Codes project.*

## Comments on the workshop

There are a number of things about this workshop that are significant. It is fairly normal for municipalities not to have codes of ethics in place. In England, municipalities are required either to adopt and follow a code of ethics created by the government or to develop their own code and implement it. However, England is an exception. For the most part, in Europe and North America municipalities do not have codes of ethics and are not required by law to create them. In addition, virtually all municipalities will have provisions to deal specifically with issues like conflict of interest.

Neither is it unusual to discover that leaders do not see the necessity for a code of ethics for elected officials or employees, or that an organization like a municipality has a code but is not prepared to make that code public. Leaders often react negatively to the suggestion that a code of ethics would be a good thing because they see it as a criticism of their standards of conduct and those of the people around them. Both elected officials and municipalities also resist creating a code or making a code public because it sets a standard against which their own conduct can be publicly measured and criticized.

As it turns out, all of these are good reasons for encouraging and lobbying elected officials. Codes of ethics do set a public standard against which the conduct of public and elected officials can be measured. And we all know that elected officials are often faced with situations that challenge their commitment to acting in accordance with high ethical standards.

What is crucially important, however, is that any code of ethics is accompanied by a program of implementation. It is very easy for a code to be turned into a piece of public relations. Only if it is carefully implemented can it have any value. Ideally, implementation will include:

- opportunities for education
- training and counselling
- monitoring to ensure the code is being respected
- building ethics into hiring and promotion practices
- feedback mechanisms that allow people to report concerns without fear of retribution
- enforcement
- verification that the code is being respected by objective qualified auditors or evaluators

The action plan proposals that were the focus of discussion in the third part of the workshop were particularly impressive. Motivating elected officials to set high standards of conduct is difficult and challenging. The ideas that were generated were both practical and creative. They will prove to be very helpful in pursuing the goal of corruption-free town halls.

Wesley Cragg

## Conflicts of Interest: Prevention and Practical Solutions

Workshop Coordinator: Grazyna Kopińska, Anti-Corruption Program Director, Batory Foundation, Poland.

Expert: Paul Hoey, Head of Policy and Guidance, Standards Board for England, United Kingdom.

Structure: The workshop was divided into four sections: situations in the three capitals represented, case studies, expert presentation and conclusions and recommendations.

### 1. The existing situation in the three capitals represented (Prague, Warsaw, Bratislava)

#### Prague

In Prague, mayors are not directly elected but chosen by the City Assembly. Members of the City Assembly must declare conflicts of interest and should abstain from voting. Municipal employees have a code of ethics in place.

#### Warsaw

In Warsaw, the mayor is directly elected. Warsaw is served by a very specific and detailed set of laws governing complex situations that may arise for both elected officials and municipal employees, such as:

- Councillors cannot do any work on the basis of a legal civil contract (mandatory contract, job order, agency contract) signed with the commune board, commune head, mayor or president of the town where the councillor was elected.
- Councillors must not undertake additional employment or receive donations which may undermine the trust of voters in the mandate they fulfil.
- Councillors must not undertake any economic activity (in their own name or together with other persons), in which the property used belongs to the commune where they were elected, manage such an activity or be a representative or plenipotentiary for such an activity.
- Councillors must not own more than 10 percent of shares in commercial companies in which the commune legal entities and economic subjects are participants.
- Councillors and their spouses must not be members of managing, supervisory and audit boards or commercial plenipotentiaries of commercial companies in which communal legal entities have shares.
- Councillors must not participate in voting in cases which concern their legal interests.
- Councillors' mandates must not be combined with the mandate of a parliamentary deputy or senator, membership in a body of another territorial self-government unit, or the function of a *voivode* or deputy *voivode*. Councillors' mandates must not be combined either with the post of president, tribunal member, department head or control inspector in a regional audit chamber, member of the self-government appeal tribunal, or the functions of a judge, prosecutor and civil servant.

- Councillors are obliged to submit an annual statement concerning their assets (including the assets being common marital property). The statement is made public.
- Self-government officials cannot get involved in cases, which may give rise to a justified doubt as to their impartiality. Such a situation happens when: the official is an interested party or remains in a legal relationship with one of the parties; the case concerns his/her spouse or relatives; the official issued a now-contested decision in the case at an earlier stage.
- Self-government officials cannot be a member of tender commissions or perform any other duties connected with public procurement proceedings, if: the tenderer is their spouse or relative; three years have not yet passed from the moment when they were employed or commissioned by the tenderer; or if they remain in a legal or factual relationship with the tenderer which may give rise to justified doubt as to their impartiality. Self-government officials representing the territorial self-government body in a tender must declare in writing that the circumstances which may influence them do or do not occur.
- Spouses, cousins, relatives of self-government officials must not be employed in the same office, if one relation would become the direct superior of another. Self-government officials in managerial posts are obliged to submit a written report about the employment of the spouse in the area of "their" territorial self-government unit. They are also obliged to submit a statement concerning any economic activity conducted by the spouse, cousin or relative, if the activity is conducted in their service area. The same concerns civil-law contracts signed by these people with territorial self-government unit bodies.
- Self-government officials must not undertake activities, which would be contrary to their duties or could incite suspicions of bias and partiality. This concerns additional activities of the officials, both remunerable and non-remunerable. Officials are obliged to submit a statement concerning the economic activity, in which they describe its character.
- Self-government officials occupying managerial posts cannot be: members of boards, supervisory bodies or audit commissions in commercial companies; be employed or fulfil other functions in commercial companies which could provoke suspicion as to their impartiality; be members of boards, supervisory bodies or audit commissions in co-operatives (except housing co-operatives); members of boards in foundations conducting commercial activity; possess more than 10 percent of shares or shares tantamount to more than 10 percent of the founding capital in commercial companies; conduct commercial activities by themselves or together with other persons, head such an activity and be a representative or a plenipotentiary in conducting such an activity (except for working in agriculture in the range and form of a family farm).
- Self-government officials occupying managerial posts are obliged to submit annually their statements concerning their separate assets and assets possessed together with their spouses. These statements are public. However, there is no ethical code in place for either group.

## Bratislava

There are no special ethics rules for city employees or codes of conduct for municipalities in Slovakia. General laws apply to local governments.

### Conclusion:

Only Prague has a code of conduct in place and it covers only employees. No country represented has a code of conduct in place for elected officials. In Slovakia, such matters are regulated by federal laws extrapolated to cover specific situations. In Prague, specific laws exist that regulate conflicts of interest. Warsaw has a very specific set of laws governing both employees and elected officials. Representatives agreed, however, that even with laws in place, enforcement is limited.

## 2. Case studies

Three case studies were presented to the participants, who divided into groups and discussed the situations.

### Case #1

In the first case, a developer building a luxury apartment complex offers a city councillor special financing to purchase a flat. The question is if the councillor should take the developer up on the offer.

All three groups agreed that it would be unethical to take the financing offered because the developer was making an exception for the councillor. However, representatives from Bratislava pointed out that in Slovakia there is no law to bar such an agreement. One Prague NGO representative asserted that such arrangements were commonplace in the Czech capital, but an elected official from Prague took exception to this assertion, saying the situation was different. There was some discussion as to whether the councillor could accept the offer if they publicised it first, but it was ultimately agreed that the best solution for the councillor would be not to accept it at all, since it would create a certain dependency on the part of the councillor and would create an unclear relationship.

### Case #2

The second case presented the situation of a computer specialist elected to the city council who actively seeks approval to professionalise the city's Internet presence. When the council agrees, the specialist is offered the contract. The two-part question asks if he should accept the contract or perhaps pass the firm to his wife to avoid the appearance of impropriety.

All groups agreed that the specialist/councillor should neither accept the contract nor transfer ownership of the firm to his wife. Discussion centred on whether all involvement with the project should be discontinued, since his expertise could be useful to the city. One group suggested that he provide assistance to the group awarded the contract by a tender on

a volunteer basis. Representatives from Bratislava mentioned that such situations were commonplace in Slovakia and not barred by law in either Slovakia or the Czech Republic.

### Case #3

The final case concerned an architect who had taken a job at the Department of Architecture in the City Office. Since their job involves approving new architectural designs, the question arose as to whether the architect/city employee could continue running his own architectural firm in the same community and whether he could offer his services to City Office clients after hours.

The groups indicated that this case was less clean-cut and solution will be different in different countries. Under the Polish law regulation such professional “after work” activity of the local government public servant is forbidden. Under the Czech and Slovak law it is not – as a public servant and not an elected official, the architect shouldn’t be barred from practising his trade. However, all agreed that it would be unethical to keep his practice if he were designing structures in the community in which he was also working as a public servant. Participants indicated that their communities have various laws to handle this sort of question: these include bonus pay to prevent moonlighting and an approval process for second jobs.

### Conclusions

The participants were in general agreement about the ethical dilemmas presented, but the most active discussion centred around the differences between law and ethics. Because some of the situations described would not be prevented by existing law, a discussion ensued about whether some of the decisions generally accepted to be unacceptable by ethical standards should be forbidden. There was also broad agreement that the cases used represented situations that could and did happen in the cities and countries of the participants.

### 3. Expert overview, presented by Paul Hoey: The UK model

In the United Kingdom, a Standards Board has been set up to enforce a general code of conduct. In place since 2000, the board has been functioning since May 2002. The purpose of the board is to investigate complaints and promote high standards of local governance. Cases are investigated by the Board and can be referred to a national tribunal in the case of serious breaches of ethics. Municipal employees are covered by contractual law. The overall goal of the program is to raise public confidence in local democracy.

The UK’s program represents a model of dealing with conflicts of interest and other ethical dilemmas with broad brushstrokes. This is in contrast to the situation in Warsaw, where ethical issues are extrapolated from detailed laws. Such detailed, legalistic approaches release the “inner lawyer” and may cause municipal employees to look for loopholes rather than striving to uphold standards of ethical conduct.

## 4. Conclusions and Recommendations

Conflict of interest can be best defined as the collision between private interest and public responsibility. A good way to deal with conflicts of interest is the institution of a code of ethics. Below are the elements the group defined as necessary for a functioning code of ethics to cover conflicts of interest:

- Local codes should cover municipal employees and elected officials with separate provisions.
- Enforcement is more important than a strict code.
- Education and counselling are critical, because prevention is easier than investigation.
- Independent counsellors/advisors must be readily available.
- Public access to information is key.

Local application within the Visegrad region could prove difficult because of resistance to the creation of a new body and the relative inexperience of the countries in developing independent committees. A smaller set of local authorities charged with investigating ethical matters may be more palatable in the short term.

*Paul Hoey is the head of Policy and Guidance at the Standards Board for England. He manages the board's research programme, oversees the production of guidance, policy development and the management of stakeholder relations. Before starting with the board, he worked for the then-Department of Transport, Local Government and the Regions and, before that, the Department of the Environment, negotiating on behalf of the department with both the United Nations and a range of European agencies, largely on issues relating to the environment and sustainability.*

## Comments on the workshop

The workshop on conflicts of interest could be seen as a follow-on to the previous workshop on codes of ethics. At the heart of any transparent system must be a way of ensuring that interests are properly declared and that the public are aware of the interests of their elected representatives. That is why a regime for declaration and registration of interests, gifts and hospitality should be a core element of any code of ethics.

While all of the cities involved in the conference paid some lip service to the need to avoid conflicts of interest, this was not good enough. It is not acceptable to have a system in place that relies on the goodwill of participants and is not enforceable through law.

This is something that has been recognised by the U.K. government and, through the formation of the Standards Board for England, has moved away from local enforcement, which relied on political goodwill, towards a national, transparent and accountable system.

There is clearly a long way to go in the Visegrad region before it is able to reach the standards of transparency and accountability that are regarded as the norm in the United Kingdom. At this stage it would not be feasible to impose such a model. The first step towards moving to

such a goal must be to demonstrate to politicians that it is in their interests, as well as in the public interest, to have a code of ethics with an interests regime.

A code of ethics helps to build public confidence in local democracy and to demonstrate that local representatives are open in their dealings. It also protects politicians as it allows their interests to be placed in the public domain and avoid some of the suspicion, however unfounded, that results from a system which is non-transparent.

Once that argument is won, the next step is to demonstrate that there must be a mechanism for enforcing a code of ethics. This can again be demonstrated to be in the interests of politicians as well as the public. It allows independent adjudication of their actions and, for those who have nothing to hide, helps to remove suspicion as well as helping to remove those politicians whose actions bring all councillors and the democratic process itself into disrepute.

All four cities are some way from achieving this goal but it is clear that there is some will to change, both among local people and some local representatives themselves. The next stage will be to build on this – something which may be best achieved transnationally. If these countries wish to be seen as part of a modern Europe then they must accept that transparency and accountability lie at the heart of the democratic process.

Paul Hoey

## Control and Internal Audit

Workshop Coordinator: Emília Sičáková-Beblavá, President, Transparency International - Slovakia.

Expert: Derek Elliott, District Auditor, Audit Commission, United Kingdom.

Structure: The workshop was divided into three sections: the current situations in the four capitals, expert presentation, and discussion and recommendations.

### 1. The existing situation in the four capitals represented (Prague, Warsaw, Bratislava, and Budapest)

#### Prague

After much delay, a law on financial control came into effect on 1 July 2002. Such a law is required as part of the EU accession process. European institutions are also especially interested in having public finances properly audited. The key problems highlighted were:

- Officials in local government appear to be unaware of the core issues and their responsibilities and that failure to meet new legal requirements can result in a fine of up to 1 million CZK from the auditing authorities.
- Internal audit is still confused with external audit or some form of financial control.
- The obligation of city authorities to introduce an internal audit department has been fulfilled only formally, with internal auditors entrusted with tasks they could not carry out, as to do so they would be in breach of the law.
- The Czech Finance Ministry has not yet given a clear opinion on the options for outsourcing internal audits.
- A lack of expert literature and theoretical aids are a significant problem for the effective implementation of internal audits.
- The independence of internal audit departments remains questionable.
- In smaller towns it is difficult to find people with the necessary qualifications to conduct internal audits.
- The law lacks a precise definition of the 3Es: economy, efficiency and effectiveness.

#### Warsaw

The main issues as presented by Polish representatives were as follows:

- Confusion persists over the definition of control and audit.
- There is a national audit office with a broad scope of auditing powers.
- All government activities can be audited for legality, economy, effectiveness and regularity.
- National audit office is obliged to audit central government and is allowed to audit local government if requested by members of the general public.
- The activities of the national audit office have proven fruitful for local government because of the reports it provides with recommendations, but the office's remit ends there.
- The office cannot prosecute, but only publish conclusions and recommendations.

- A revisions committee audits finances and then reports to the council.
- The main problem is that the auditing of central government activities has only been in place since 2002 and the auditing of local government since the beginning of 2003.
- Auditors are nominated by a commission, but this commission is coordinated by the Finance Ministry.
- As both systems are relatively new, especially local government audits, it is still too early to tell how effective they are. A proper evaluation will be possible in a year or so.

## Bratislava

The main issues as presented by the Slovak representatives were as follows:

- Local governments in Slovakia, particularly assemblies of local deputies on local level, have the power to elect an audit commissioner (in Slovakia called "hlavný kontrolor" - main controller) for a period of six years. This is compulsory, but many municipalities have not created this position yet.
- The audit commissioner provides audits for the approval to the local government assembly and is obliged to provide financial reports and statements.
- The majority of towns in Slovakia have less than 1,000 inhabitants, so it is hard to find people with sufficient education and resources to be able to conduct professional audits.
- Bratislava has a temporary appointed auditor/main controller; it does not currently have an elected auditor. The election of an auditor is subject to political influence.
- There is no recognition of auditors and their powers, no education provided for elected officials as to the legal ramifications of the post. As a result the authorities have no detailed idea of what an auditor is supposed to do.
- As audit commissioners are elected, there is a high probability (as the system is composed) that if they produce negative reports, they will not be re-elected.
- Control performance is defined in very general terms in the Act on Municipal Administration. Municipalities have the power to regulate control performance by issue of ordinance, so each municipality has different regulations and evaluation procedures.
- The audit commissioner is empowered to submit their findings to the municipal assembly. They have no power to stop or abolish a decision taken by a mayor or assembly, nor can they order the implementation of alternative measures.
- State administration bodies can control the use of finances by municipalities only in certain areas where they implement the spending of finances allocated from the state budget. The Supreme Audit Office, an external form of control, is not allowed to control all finances of local governments.

## Budapest

The main issues as presented by the Hungarian representatives were as follows:

- The auditing law in Hungary is 10 years old.
- There is frequent conflict between the law and common practice.
- Previously the country had compliance audits, now there are internal audits and there are conflicts between the two systems.
- Auditors are inexperienced and placed in posts simply to comply with the law.
- In Budapest City Hall, there are four separate committees that can oversee auditing procedures, but all have limited powers.
- Request for audits can be passed to the mayor's office, but the mayor and the officials in charge of the process have limited powers.

## 2. **Expert overview presented by Derek Elliott: The UK Audit Commission**

The Audit Commission was set up in the 1980s. It has broad-reaching powers and is not subject to political control. Its key objectives are:

- Setting standards
- Making auditor appointments
- Setting fees
- Purchasing audit services
- Providing technical support
- Monitoring performance

The main way in which the Audit Commission determines standards is through a Code of Practice approved by the parliament every five years. The Code of Practice identifies managerial as well as audit responsibilities. The Code makes clear that management's role is not just to set up systems, codes and control frameworks, but to ensure they are promulgated and implemented appropriately and subsequently monitored.

In 1995, the Good Conduct and Counter Fraud Network was developed to ensure that the Audit Commission's services across the country were of a consistently high quality, that information regarding new risks and threats could be recognised nationally, as well as ensuring that best practices could be communicated rapidly to auditors and built into audit programmes.

## 3. **Discussion and Recommendations**

The main aim of this workshop was to assess the state of internal audit and external audit processes in the capital cities and local governments of the Visegrad Four.

Derek Elliott made several recommendations:

- All countries need a framework for local government audit.
- The question is how to make it effective and empowered.
- If the objective is framed properly, a joint working group could list key criteria and evaluate progress every six months/one year.
- The group should contrast and compare progress within the Visegrad Four, but also in other countries, for instance in the EU.
- Some of the primary objectives for auditors could include: independence, a central auditor register, a code of practice for auditors, public representation, links to the public and NGOs.
- Emphasis should be placed on training, and skills and recommendations for best practices.
- Constructive criticism is key, as is looking forward rather than dwelling on problems in the past.

All those interested in joining a joint discussion group were asked to sign up. The group came up with two main conclusions/recommendations:

- The problems with internal audit around the region are essentially the same: a lack of experience, legislation is still in its infancy and political influence in the process is still too strong.
- More cooperation between auditors and local government representatives in the Visegrad Four would benefit the process as shared knowledge could help combat the core problems.

*Derek Elliot is a district auditor at the United Kingdom's Audit Commission and has 30 years experience of public sector external auditing. He is CIPFA and ACCA qualified and is a member of the Association of Certified Fraud Examiners. He is currently a district auditor for five inner London boroughs, as well as a number of other local government and health-service bodies in the London area. He has a national role within the Audit Commission working on anti-fraud and corporate governance issues and has been influential in developing the Audit Commission's approach to this area of the auditor's responsibility.*

## Comments on the workshop

It was a great honour to be invited to take part in the roundtable and to assist the control and internal audit workshop. The motivation and enthusiasm of all those who attended the workshop was very impressive, as was the desire to share experiences in order to improve existing structures of governance.

A sound cohesive structure of independent public audit is an essential foundation in attaining and sustaining sound ethical governance and good management in the public sector.

One of the key outcomes of the roundtable was general agreement about the need to identify the elements of successful governance and to benchmark and compare the position of the Visegrad cities against them. Other cities and countries could be included in these comparisons.

This comparative exercise could be summarised in annual reports, with sub-reports and tailored action plans or suggestions for individual cities. Progress could then be monitored at future roundtables.

I wish the Visegrad cities every success in this ambitious initiative.

Derek Elliot

## Transparency of Public Procurement in Municipalities

Workshop Coordinator: David Ondráčka, Project Manager, Transparency International - Czech Republic.

Expert: Leo van der Wielen, Director, Screening and Audit Bureau of the Municipality of Amsterdam, Netherlands.

Structure: The workshop was divided into two sections: an expert presentation and discussion.

The general aims of the workshop were to compare public procurement at the Visegrad town halls – the legal framework, major drawbacks, and corruption opportunities; illustrate the drawbacks of recent individual and “problematic” contracts; and suggest specific measures to improve the selection system.

### 1. **Expert overview presented by Leo van der Wielen: The Amsterdam Model**

Leo van der Wielen opened the workshop with a presentation on the Screening and Audit Bureau (SAB) of the Municipality of Amsterdam.

Formally part of city hall, SAB is under the supervision of the mayor. It has been functioning in the Amsterdam municipality for three and a half years, and might expand its scope to include other provinces in the Netherlands. SAB is unique in Europe (and perhaps worldwide), because of its combination of screening and multidisciplinary anti-corruption activities throughout project implementation, and its access to confidential information.

SAB has several tasks.

- Screening
- Advising
- Controlling

Every project that follows the guidelines of a European tender and matches the selection criteria of SAB must be screened. Contracting organizations must reserve 0.5 percent of the total tender cost for the activities of SAB with a maximum of 220,000 euros per tender.

SAB screens a company on financial and economic stability as well as integrity within the procedure of a public procurement. When conducting a screening, SAB uses:

- Publicly available information.
- Information supplied by the company itself by means of a detailed SAB questionnaire.
- Verification information.
- Closed source information (for example, police records, information from the justice department and information from the ministry of finance).

Using risk-assessment techniques, SAB then issues a recommendation on each company, as well as suggesting “damage control” actions to prevent possible problems, minimize them, or put them in an acceptable framework. Recommendations include advice on measures that should be explicitly put in the granting contract. After the analysis and risk-assessment the government (or governmental body) should know the risks involved with the realisation of the project or the tender.

The inspiration behind SAB was a New York City bureau in charge of monitoring tender applicants for the construction of school buildings. If that bureau found companies to be connected with the Mafia, it would try for three years to make those companies “white” or clean. Similarly, SAB sometimes recommends banning firms from a tender, but the company then has a chance to clean up its act and compete again in the next procurement, even in the same municipality.

Also, if SAB, in its pre-tender evaluation, remains suspicious of a company’s previous activities, it will recommend conducting surveillance, including of all financial records, every three months instead of the normal year. All members of SAB have, for the duration of every project, continuous access to the financial and project administration, and if companies don’t cooperate, they are heavily fined.

They are also forced to work only with subcontractors who are screened and found reliable. The head contractor is responsible for the work and organisation of the subcontractor and must have written permission from the government’s tenderer to use a certain sub-contractor. The head contractor may only work with screened subcontractors.

According to European law, a company may not be prohibited from competing in more than one tender, whereas in Hungary a company can be banned for five years. That, however, can create problems if a company goes bankrupt because of the prohibition and subsequently decides to take legal action against the authorities. The Council of Europe has recommended the compilation of a “blacklist” of corrupt companies, but that has not yet been implemented. SAB hires special consultants to monitor suspicious companies that win tenders.

## 2. Discussion and Recommendations

### Scope of Powers

A participant from Poland said that, in his country, companies also had to provide information while applying for tenders. The main problem is in gathering additional information, including data from other countries, and doing anything resembling intelligence work. In Poland, he said, companies would complain that any information gathering beyond that which the Public Procurement Act outlines would be illegal. Van der Wielen said that he had to push for seven-eight months to receive permission to do intelligence work and have access to police and other information; he is the only one in the Netherlands with this special permission, which is enshrined in law. A policeman also works with him and has a computer linked directly to the police network. Up until now, SAB has prevented any confidential information from leaking.

## Monitoring Tenders in Argentina

Christian Gruenberg from Transparency International - Argentina then spoke about the efforts of his organization to monitor tenders in Argentina, as well as assisting in Costa Rica, Panama and Mexico. He described a very successful example in the city of Moron. The opening up of the tender process to international companies and more inexperienced companies than previously required led to the selection of a winner that agreed to fulfil a waste removal contract for 30 percent less money. Gruenberg said that TI-Argentina strongly advocated public hearings, whereby local government officials convene members of the public, business community and experts to express their objections and suggestions about the planned terms of contracts. These forums thus provide an opportunity to officially note complaints; later, if the government does not follow through on recommendations, officials must explain the reasons. With much publicity from TI and other organizations, these meetings have received strong attendance.

## Avoiding Excessive Costs

A Czech participant from the Prague City Council asked van der Wielen how the Dutch authorities avoid cost overruns. A recent audit of public tenders over the past five years in Prague had shown this to be a major problem – while contracts cited one figure, various appendices had even allowed the winning bids to end up exceeding the original figure by more than 100 percent. Participants agreed that there were few tools available to prevent increased costs during project implementation, except for preparing better, ironclad contracts that prevented any extra, unjustified expenditure.

## Outsourcing Tenders

David Ondráčka, the moderator from TI-Czech Republic, said that Prague City Hall had hired one company to assist with public procurement, but that the firm had turned out to be another vehicle for bribes. Van der Wielen said that SAB had worked hard to vet outside consultants.

The problems associated with outsourcing are:

- Regulations valid for government officials do not apply to outside companies (the municipality cannot always guarantee the moral integrity of these contractors and leaks of confidential information, among other things, can occur).
- It adds another layer to an already complicated process, because governments would first have to hold a tender for companies interested in the outsourcing job.

The benefits of outsourcing are:

- It brings in outside expertise that might not be present in the state administration.
- Companies can be held accountable by legally binding them to pay 10-50 percent of the costs of the work if they break the contract or disclosure agreement. The whole profit then goes back to the government.

## Price Fixing

Participants were generally pessimistic about the fight against price setting and cartels. Van der Wielen mentioned an enormous price-setting scandal among construction companies in

the Netherlands. He advised providing information in writing to individual companies rather than calling a meeting that all of them would attend and thus providing an initial opportunity for collusion. Companies that participate in tenders in Amsterdam must sign a declaration that they are not engaging in price setting. Even with these mechanisms, he said, there was little that could be done. Gruenberg said that in his experience the more open the tender, the greater chance of fighting cartels that divide up the market among themselves. In Central and Eastern Europe, collusion among bidders is more of a problem than the incidence of bribery among officials.

## Recommendations

- Outsourcing organization of tenders to private consultants – it is sensitive and must be well stated in the contract
- Writing better contracts

*Leo van der Wielen is the director of the Screening and Audit Bureau of the Municipality of Amsterdam, Netherlands. The bureau screens and audits entrepreneurs who want to deal with the municipality by looking into their financial stability and integrity. For 28 years he worked with the police force fighting organised crime and terrorism. His last position within the police force was as the chief of the Criminal Intelligence Unit.*

## Comments on the workshop

First of all, in several countries, legislation must be put in order. Visegrad countries must seek out information about European legislation and guidelines concerning tenders. It is important to know what is possible, what is necessary and what is not allowed.

Second, after getting the information about European norms Visegrad countries need to see how changes will impact their national tender laws. Then policy guidelines must be introduced into local government plus a blueprint for how this policy will be implemented within the organisation.

Third, in the Netherlands and Amsterdam there is a lot of talk about integral management. It is better if planning, control and transparency are separated within an organisation.

Leo van der Wielen

## Cooperation between City Halls and NGOs and Participation of the Public in the Decision-Making Process

Workshop Coordinator: Peter Novotný, Project Manager, Civic Eye, Slovakia.

Expert: Christian Gruenberg, Director, Transparency International - Argentina.

Structure: The workshop was divided into two main sections: an expert presentation and discussion and recommendations.

The goals of the workshop were to present different ways of engaging the public in the decision-making process and oversight; present successful examples; and provide best practices and recommendations.

### 1. Expert overview presented by Christian Gruenberg: The experience of TI - Argentina

- A common problem among cities in Latin America and Central Europe is a lack of horizontal and vertical accountability.
- There are three main components of TI - Argentina's strategy: leadership, public information and collective action. The first component is often the most difficult: finding real political leadership to implement reform.
- Correctly timing the sequence of reform steps is crucial. Strong, pilot cases should be facilitated and then showcased (short term), then public opinion mobilized (medium term), and finally the change in behaviour/practice institutionalised (long term).
- The importance of pilot cases cannot be overstressed. Having successful pilot cases to convince politicians and the public is more effective than the grandest of speeches.
- Activist NGOs and crusading journalists often have a hard time understanding the importance of timing because they are impatient for quick changes.
- The goals of TI's cooperative strategies are to: restore the confidence between civil society and government; rebuild institutions; and rescue institutions (especially from private groups who have "captured" elements of the state).

TI - Argentina successfully monitored a tender process in the city of Moron. The city was synonymous with corruption scandals and administrative chaos. The opening up of the tender process to international companies and companies with less years of experience than previously required helped in the selection of a winner that agreed to fulfil a waste removal contract for 30 percent less money. The specific outcomes of the case were:

- Money saved
- Good quality public service
- Social legitimation

In general, it makes sense in Argentina to generate support for cleaner public procurement from new, medium and small-sized firms who want a level-playing field rather than the older, big companies, which are all corrupt.

## 2. Discussion and Recommendations

Gruenberg spoke about different tools employed by TI - Argentina.

### Public Officials Database

One of those is a database of information about public officials (including educational background, criminal records, etc.), gathered using a questionnaire filled out by those officials. While TI began with only elected officials, they have moved on to compile information on non-elected officials – a more difficult endeavour that requires political leadership that will press for the release of such data to the public. TI doesn't verify the information but sees its role as an information provider to civil society and the media, who should be responsible for checking the veracity of the politicians' answers. Once these databases become better known, officials feel more pressure to fill out the questionnaires and journalists make more and more enquiries about using these resources. Key to the project's success in Argentina was a deal signed with the country's biggest newspaper, which agreed to publish the database as an insert. Eight years after it was launched, the anti-corruption office of Argentina took the tool and institutionalised it.

Participants from Central Europe expressed some scepticism about the likelihood that such databases could catch on in this region. A representative from TI - Czech Republic said that his organization had sent a short questionnaire to politicians before the recent local elections, but had received only 30 percent back. After the elections, the situation worsened and only five of those elected to office returned the forms. In smaller towns and villages, politicians have rejected calls to provide personal data, claiming that no one would run for elected office if they had to reveal everything that smelled of possible conflict of interest.

Local politicians in Slovakia said similar things, also asserting that property declarations would encourage kidnappings of rich individuals. On the other hand, some politicians, including the new mayor of Bratislava, answered such questionnaires almost immediately, seeing it as effective PR. In both Hungary and Poland, property declaration legislation exists for parliamentary deputies, but has been misused by, for example, transferring property to family members.

### Freedom of Information Training

Passing freedom of information (FOI) laws has become a real fad in Latin America, but, for the most part, this new legislation has done little to change the culture of government secrecy. TI - Argentina has monitored the implementation of a FOI law in Buenos Aires, the capital, and found that people weren't using the law because they needed training to ask questions properly – as a result, officials had little incentive to change their behaviour. TI's work has thus included public education, but has also focused on government capacity building, namely adapting private sector approaches to improve the information flow in local governments.

Participants from Central Europe expressed mixed experiences with FOI laws. In Poland, such legislation has been on the books for a year – one of the NGOs represented at the workshop submitted requests and received everything it asked for. In Slovakia, NGOs were successful in passing modern FOI law in 2000. Since then NGOs have been challenged by repeated attempts by government officials to try and change the FOI law, by classifying additional information as secret and confidential. Several Slovak NGOs are active in monitoring implementation of the FOI law by the government and local authorities, while some NGOs provide training to authorities.

### **Political Party Financing**

One topic, touched on only briefly, concerned a tool TI - Argentina had developed to encourage transparency in political party financing, which has since been adapted to Latvia, Ukraine and Slovakia. Gruenberg also mentioned a project to track the amounts political parties were spending on advertising, which were often in conflict with their declarations.

### **Recommendations**

The recommendations highlighted during the workshop were as follows:

- Politicians need to be convinced that openly declaring their assets and background information creates an image of honesty and transparency, leading to greater success at the polls.
- In terms of freedom of information, the public needs to be trained to take advantage of new laws, especially in asking questions that officials cannot avoid for bureaucratic reasons.
- A public information campaign is key to the implementation of all tools.
- Tools should not be designed simply for civil society actors, but also for local governments who often don't have the experience or expertise of working with NGOs.
- NGOs who want to affect change – especially smaller citizens' groups – must always be conscious of preserving their credibility, as well as developing a productive relationship with the media.
- Smaller groups would do well to cooperate with more established organizations, especially in using the reputation of those bigger groups as leverage in their local battles.
- If it becomes clear that government officials are not willing to cooperate, NGOs should move on to another strategy (pressure); otherwise, the NGO's reputation will become compromised.
- NGOs need to learn not to be naive about politicians who promise to help, but don't; and to say no to any cooperation if the result they are aiming for will not be achieved. Young NGOs often jump at working with politicians, instead of being more wary.
- NGOs working in similar fields should cooperate, not compete to take all the credit for change.
- NGOs should use public action more often.
- NGOs involved in monitoring public procurement should make use of outside, free-of-charge consultants that work with TI.
- The next meeting could revolve around showcasing "lessons learned" and pilot cases for local governments – a kind of "marketplace" of anti-corruption tools.
- NGOs should avoid conflict-of-interest situations if their members serve on grant-giving boards of local governments.

*Christian Gruenberg is the director of Transparency International - Argentina and the director of the Anti-Corruption Programme of the Poder Ciudadano Foundation, which promotes citizen involvement in public issues and responsibility for controlling governments. He has held training workshops for NGOs and governments on fighting corruption in more than 16 countries from Latin America and Eastern Europe. He has been convened by the World Bank and local governments in Argentina in order to design and implement processes to increase transparency and accountability in infrastructure projects through civic participation.*

## Comments on the workshop

The roundtable will help set up a unique network, which will improve the capacity and professionalism of local governments through the exchange of information and experience in the region. Disseminating this information through participatory workshops will help to mobilize broader coalitions to support collective action and spur institutional reforms.

With limited budgets, local governments in Central Europe are working to provide services, promote economic development, communicate effectively with citizens and operate in a more accountable and efficient fashion. The autonomy of these local governments largely depends on their ability to find solutions to local problems without seeing funding from central government as the only option.

To assist these local governments Transparency International has designed a Tool Kit that will establish the structures to promote civic participation and local governments' integrity, transparency, accountability and efficiency.

The Tool Kit is a collection of tools that have been implemented in various regions. They draw on the experiences of civil society organisations in fighting corruption. The information contained in the Tool Kit has a practical orientation and the tools can be replicated or adapted, in particular taking note of lessons learned. The use of these tools enables NGOs and local governments to mobilize public opinion and create alliances with other sectors.

Some examples of the most successful tools are:

- public information via the Internet
- program for transparent contracts
- database of commodities
- database of public officials
- participatory budget
- monitoring the legislature
- free access to public information system

Christian Gruenberg

## Urban Planning, Building Procedures and Protection of the Architectural Heritage

Workshop Coordinator: Michal Štička, Project Manager, Transparency International  
- Czech Republic.

Expert: Audun Moflag, Senior Adviser, Norwegian Department for Regional Planning.

Structure: The workshop was divided into three sections: case studies from Prague, Warsaw and Bratislava; expert presentation; and discussion and recommendations.

The aim of the workshop was to identify and evaluate the tools that civil society has to influence and be involved in urban planning, the process of issuing building permits, and to protect the architectural heritage. However, the issue of building permits was not addressed, while protection of the architectural heritage was addressed only in passing.

### 1. Case studies from Prague, Warsaw and Bratislava

#### Prague: The Cement Factory

Mr and Mrs Chmelří presented a case in which they were involved with the building authorities in the Prague district of Řeporyje. On a site designated for “services and non-disruptive manufacturing” close to the Chmelřís’ home a cement-producing factory has been set up. When challenged that this was counter to the city’s zoning plan, a court expert justified his decision by saying that the factory was not a “building” but “technical equipment”. This designation enabled the factory to be set up without requiring the approval of the building authorities. The Chmelřís set up a civic organisation to pursue a complaint, however they were excluded from discussions because they were an organisation and only individuals could take part. When they tried to become involved as individuals, they were likewise refused on the grounds that, because their home is approximately 150 metres from the site, they are not neighbours. The current situation is that a court eventually ruled that a mistake had been made and ordered the person who had made the mistake to rectify it.

#### Discussion

Jana Kejvalová, who is the head of the Land Use Zoning Department of the Prague City Office, said she couldn’t comment on this particular case. However, equipment is understood to be something that is mobile. Once it involves the construction of utilities and infrastructure, it ceases to be equipment and becomes a construction. She said that it sounded as if someone had been trying to get around the law.

#### Warsaw: Not in My Back Yard

Piotr Fraczak works for an NGO called ASOCJACJE that represents groups and people whom he described as NIMBYs (Not In My Back Yard).

He described a range of major development projects that had prompted confrontations (e.g., the expansion of airports and highways) and social developments in the Warsaw district designed to enhance the living environment and knowledge of it (e.g., the Pleasant Cities initiative, an information centre).

Public groups' interests fit into one of three categories:

- a) cultural preservation (e.g., campaigns against new McDonald's outlets)
- b) environmental issues
- c) concern about the misappropriation or misuse of funds.

Based on his experience, Fraczak asserted that:

- NGOs and NIMBYs play an important social role.
- the public administration tends to treat investors as being more important. The public administration has also tried to limit the public's participation by levying a fee for each complaint filed. It has also ignored submissions from NGOs.
- The state's response to accusations of corruption have been very lukewarm. It becomes more responsive when prominent public figures become involved.

### **Bratislava: City Planning**

Dušan Nemeč is the chief urban planner in Bratislava. He is currently working on the third major revision of the city's urban plan since 1975. They have been trying to complete a new plan over five years. This has involved three drafts, which attracted a total of 3,500 objections.

The objections were incorporated, but approval was delayed because of the general elections in September. It was then delayed until after the mayoral elections and the new mayor, himself a builder, has raised significant objections.

## **2. Expert overview presented by Audun Moflag: The situation in Norway**

Audun Moflag's presentation provided an overview of the legal procedures followed in Norway and how public participation in the process is ensured.

### **Information disclosure**

- Proposals do not have to be shown on the Internet, but this is becoming more and more common.
- Adverts are legally required to be made available "in any appropriate way but in at least two newspapers that are commonly read in the area".

### **Blocking approval**

- The entire process is open and the system has to accommodate a system of justification and complaints, but these have to be justified (you cannot prevent a neighbour building something; the decision rests with the city).
- Complaints can affect some zoning issues (e.g., the construction of a petrol station).

### Length of process

- The approval process takes at least three months.
- There is a tendency to set more and more time limits.

### Objections: Who decides?

- People can appeal and the appeal can be passed on to the local government, but you cannot go beyond that (citizens could go to court only if the property were private).

### Compulsory buy-outs

- Prices are based on individual assessments, but the price will probably be less than the market price. The price is decided by a commission.
- There are ways of objecting to the price but the process could take up to 10 years, so a fair price is normally agreed with landowners.

## 3. Discussion and Recommendations

### Zoning Plans

Continual changes in the zoning of the city of Prague (four major revisions since 1999) had prompted many companies to try to establish a presence on greenfield sites. Such problems have also undermined the security of ownership deeds. Some of the problems in Prague and its urban plan can be attributed to the size of the area and one solution would be to establish separate urban plans for districts.

Audun Moflag responded by citing his experience in Norway:

- Changes in municipal plans are differentiated as minor and major. Minor issues are decided by the local board. Major issues (including the re-zoning of a residential area for industrial use) have to go through the entire approval process. A major problem that they encounter in Norway is that a raft of minor changes can accumulate and amount to a major change.

### Objections Procedures

Participants also discussed the incorporation of objections in Prague's city plans. There are set procedures and this process is the same as in Norway. But one Prague representative said that:

- The city was reluctant to react to their objections (owners were listened to, but not individuals or organisations).
- The public was not informed in good time and to catch an issue citizens would have to monitor the noticeboards regularly, although information is increasingly being made available on the Internet.
- What information is released is hard to comprehend and the local authorities do not try to help the public interpret what is happening (e.g., maps are usually provided, covered in

various colours and lots of acronyms). This makes the issue of time limits for objections even greater.

### **Providing understandable information early**

The public becomes involved too late because they (a) don't know about it and (b) don't understand. The challenge is to get the public involved earlier.

One participant argued that it is not a problem to get the authorities to provide information. She said that in Bratislava they had held public meetings. Polish contributors said that public meetings were a positive feature but plans should be publicised beforehand. Vladimír Pirošek, a lawyer representing NGOs inter alia in Slovakia, contended that public hearings are often merely public pacification. In some cases something such as local referendums should be considered.

In Slovakia, there is a new law that requires all public information to be expressed in a way that is comprehensible to Joe Public.

In Norway this is being done by, for example, requiring investors to submit a plan along with their application that would (a) state what is going to happen and when, and (b) state the likely impact on the local population (including the environmental impact). This would have to be published in newspapers and on the Internet. This means that investors and the authorities will become better at explaining issues to the public, and the public would receive much earlier warning.

### **Role of NGOs**

Civil society organisations need to clarify their purpose: whether they are intent merely on stopping a process or whether they want to influence and become involved in it. NGOs are not always right and sometimes become part of the problem. They should learn to (a) communicate and not just complain, (b) to take on responsibility and (c) to consider all the issues and impact of their recommendations. The relationship between planners and NGOs should be cooperative, not antagonistic.

### **Recommendations**

The public administration needs:

- to hold public hearings.
- to prolong the period in which individuals and groups can submit their comments and objections to proposals.
- to provide civil society with as much information as possible and as early as possible (including suggestions on the media and form of presentation).
- to help individuals and civil-society groups to interpret proposals.
- to introduce or enhance internal procedures that facilitate communication.
- to ensure a degree of responsibility is carried by officials.

### Civil society should seek:

- to become engaged earlier in the process and to ensure that discussions and interpretation begin sooner.
- to call for longer set periods in which comments and objections can be submitted.
- to call for local referendums, if necessary.

*Audun Moflag is a senior adviser at the Norwegian Environment Ministry's Department for Regional Planning. His main specialisation is improving systems and practices in county planning. Throughout his career he has been dealing with planning and housing issues at a local, regional and central level of government. Before joining the ministry, Moflag worked for six years with the Norwegian Association of Municipalities and County Councils, doing development work on municipal and county planning systems and housing issues.*

### Comments on the workshop

The workshop on urban planning, in my view, succeeded in showing both the similarities and the differences in urban planning between the represented countries, and generated valuable recommendations for the local authorities as well as for civil society. However, due to a lack of time, the participants were given no chance to discuss the other issues on the envisaged agenda: construction permission procedures and the protection of architectural heritage.

In all the countries represented, the general public, maybe with the exception of some NGOs, tends to enter the urban planning process at a late stage, when the essentials have already been decided. The authorities have the tools to secure earlier involvement of the public in the process and should use them in order to make the process more transparent and accountable. The most powerful tool is, naturally, sharing and interpreting the information: for example, public hearings and posting advertisements in the media (the latter is provided for by law in Norway). However, the workshop also showed that the actual willingness of the authorities to include the public in the decision-making process varies to a considerable extent in the Visegrad countries. While Bratislava appears to have progressed most in this respect, Prague and Warsaw still lag behind: NGO representatives from the latter cities reported difficulties in communication with the respective authorities.

Both NGOs and local authorities play their role in promoting the issue of transparency and accountability in the process of urban planning. NGOs must continue to persuade the authorities to introduce or enhance internal procedures that facilitate communication with the civil sector, and must continue to monitor officials' decision making in order to achieve a higher degree of their responsibility. The officials, on the other hand, should not be resistant to this kind of public pressure. Such mutual understanding of the respective roles is, in my view, at the heart of any transparent urban planning.

Michal Štička

# **ACTION PLANS AND RECOMMENDATIONS**

## Warsaw Action Plan

- To review the legal possibilities of establishing a bureau that will make an initial evaluation of companies that want to take part in public procurement procedures.  
**Responsible:** City Hall – Władysław Stasiak (vice-president of Warsaw);  
**Date:** 15 March 2003;  
**Cooperation with NGO:** monitoring;
- To improve the services for citizens in each district by the creation of a Citizens' Service Office.  
**Responsible:** City Hall – Władysław Stasiak (vice-president of Warsaw);  
**Date:** 1 January 2004;  
**Cooperation with NGO:** consultation;
- To work out a code of ethics within the City Hall.  
**Responsible:** City Hall – Władysław Stasiak (vice-president of Warsaw);  
**Date:** 31 May 2003;  
**Cooperation with NGO:** consultation, inviting the NGO;
- To work out a code of ethics within the existing ethics commission in the Council of Warsaw.  
**Responsible:** City Council – Dorota Keller (councilor);  
**Date of initial phase:** 31 March 2003;  
**Cooperation with NGO:** help on the first level, consultation, possibly inviting the NGO;
- To improve the general cooperation between local government and the NGO sector. NGOs will prepare a model of cooperation.  
**Responsible:** NGO – Areta Wasilewska-Gregorowicz;  
**Date of initial phase:** 30 April 2003;  
**Cooperation with other NGOs:** co-operation, consultations;

### Implementation of Warsaw Action Plan (February - April 2003)

On 11 April 2003, representatives of the City Council, the City Hall and Warsaw NGOs met to summarize the development and implementation of the plan established in Prague in February 2003.

The City Hall representative, Dariusz Gwizdala, reported:

- **To review the legal possibilities of establishing a bureau that will make an initial evaluation of companies that want to take part in public procurement procedures.**  
Creation of this kind of bureau in Poland is impossible. The law would have to be changed, because the access to police and tax office information is absolutely impossible.
- **To improve the services for citizens in each district by the creation of a Citizens' Service Office.**

The resolution was passed a month ago. At the moment the managers are being appointed.

- **To work out a code of ethics within the City Hall.**

This step will be taken soon – the deadline is 31 May 2003. A City Hall representative is working on it.

The City Council representative, Dorota Keller (councillor), reported:

- **To work out a code of ethics within the existing ethics commission in the Council of Warsaw.**

The date of the initial phase was 31 March 2003, but on 10 March 2003 the petition was forwarded to debate. The ethics commission exists but has no members. The commission should start working in the near future. At the moment cooperation with NGOs is not possible but NGOs insist on it and are watching the situation.

The NGO representative, Areta Wasilewska-Gregorowicz, reported:

- Warsaw Citizens Group (WCG) contacted several NGOs to review if cooperation between local government and the NGO sector is possible. With other NGOs, WCG is preparing a model of cooperation.

**Responsible:** Areta Wasilewska-Gregorowicz;

**Date of initial phase:** 30 April 2003;

- Grazyna Kopińska asked representatives of the City Hall and the City Council if they could support a conference on corruption that would take place in Warsaw next year.
- Adam Grzegorzółka, the chairman of the Praga-South Council, reported his visit to a conference about conflict of interest in Bratislava, where he was invited by Transparency International - Slovakia.

## TIC Recommendations to Prague City Hall

### Public Procurement

#### *Immediately:*

- To publish on the Internet the conclusions of the latest external audit report on public procurement at Prague City Hall;
- To determine personal responsibility for mistakes and deficiencies proven in external audit reports and to publish the results on the Internet;
- To elaborate on the unified methodology of public procurement.

#### *In six months:*

- To introduce the unified methodology of public procurement (including examples of documents, electronic system of public procurement evidence etc.);
- To implement this methodology in the City Hall, contributory organisations and city companies, and to recommend its adoption to the City districts.

### Internal Audit and Control

#### *Immediately:*

- To guarantee the independence of the internal auditor in the organisational structure of the City Hall (its separation from executive and management levels as well as from the current control level);
- To publish the results of audit and control reports on the Internet.

#### *In the long term:*

- To introduce an internal control system in contributory organisations created by the city;
- To control consistently city companies and to determine the position of city representatives in the boards of these companies from the perspective of conflict of interest, ethics and transparency;
- To evaluate regularly the efficiency of internal audits;
- To raise the professional qualifications of internal auditors according to the law on financial control.

### Spatial Planning:

#### *Immediately:*

- Not to decentralize spatial procedures to city districts;
- To make consistent use of public hearings and to help civil-society organisations interpret proposals;
- To prolong the period in which comments and objections to the proposals can be submitted;
- To accompany each proposal for the change of the urban plan with proof of the change in urban areas;
- To ensure officials are responsible.

#### *In six months:*

- To ensure the earlier engagement of civil society in the process and in the negotiating phase of the urban plan.

## Codes of Ethics:

### *Immediately:*

- To introduce a unified Code of Ethics for councillors, deputies and civil servants in the City Hall;
- To ensure its real implementation in practice;
- To consider the possibility of including the Code of Ethics into job contracts;
- To ensure strict selection of employees for key positions;
- To comply with the “Decree on the ban of any other profit-making activity of civil servants in the City Hall of the City of Prague.”

### *In six months:*

- To consider the possibility of introducing an external ethical audit.

## Conflict of Interest

### *Immediately:*

- To publish on the Internet in which companies councillors and deputies of the city are active in (including financial remuneration they are receiving for this activity);

### *In the long term:*

- To introduce unified rules for councillors representing the city in various companies (the precondition of these changes is the crucial amendment of the current law on conflict of interest in the Czech Republic).

## Transparency of Information

### *Immediately:*

- To publish regularly on the Internet minutes from council meetings, including the voting records of individual councillors, and to archive these minutes for a period of five years;
- To publish regularly on the Internet the voting records of individual members of selected committees and to archive this data for five years;

### *In six months:*

- To introduce a clear mechanism for the involvement of civil society in the decision-making process of the City Hall (to assign a liaison officer for NGOs in each section of the City Hall).

## Housing

### *In six months:*

- To create a unified database of houses and flats owned by the City of Prague and, in this way, to make the housing market more transparent.

## **Implementation of TIC recommendations to Prague City Hall: (February - April 2003)**

Transparency International - Czech Republic (TIC) made recommendations to the Prague City Hall at a press conference on 21 February 2003. Simultaneously, TIC sent its recommendations to the city's mayor, the director of the City Hall and to all deputies. On 15 April 2003, TIC received a letter signed by the director of the City Hall in response to this document.

Below you will find a short summary of actions leading to the implementation of TIC recommendations.

### **Public Procurement**

- Results from the last external audit of public procurement were published on the City of Prague's webpage on 18 February 2003.
- Based on the decree of the Council of the City of Prague no. 302, passed on 18 March 2003, the information on personal responsibility for mistakes and deficiencies proven in external audit reports went public. According to this document, there were 197 cases of misconduct in the process of public procurement, out of them 73 were employees of the Prague City Hall and, of them, 19 had already left. The remaining 124 people were representative of local government, city government or ministries. These people will not be nominated as members of the public procurement commissions in the future.
- The revision of the current methodology of the city public procurement process and analysis of the effectiveness of the implementation of a unified methodology of public procurement has been undertaken.
- A new law on public procurement is currently being prepared by the Czech government, therefore a new methodology on public procurement in the City of Prague will be created after the bill's adoption by the Czech parliament.

### **Internal Audit and Control**

- The current law on financial control does not require the organisational independence of internal auditors. Consequently, the current status quo will be preserved in the City of Prague unless there are new amendments to the law.
- Publishing results of audits and checks is perceived by the management of the City of Prague to be highly desirable because of the greater transparency. What medium this publication will take is currently being discussed.
- The Control and Internal Audit section of the City Hall is preparing "Rules for securing the functioning of an internal control system in contributory organisations created by the City of Prague."
- Checks of city companies are undertaken in cases where it is possible. The City Council is permanently debating the presence of city representatives in the bodies of city companies and has adopted decisions on personal involvement in particular companies – these decisions are available on the Internet. The law regulates the participation of civil servants in the bodies of companies.
- The regular assessment of internal audits and control has not yet been determined, most probably it will be assessed by different bodies of the city or external institutions.
- The professional qualification of internal auditors is being improved permanently.

## Spatial Planning

- The amendment to the Statute of the City of Prague introducing decentralisation of urban planning is already prepared and will be presented to city deputies at the end of May 2003.
- According to the City Hall, public hearings are used properly in accordance with Czech law.
- It is impossible to ensure that officials are responsible when it comes to urban planning decisions, as the final decision is adopted by the City Council.
- Meetings that debate proposed changes to the urban plan are public. Many non-governmental organisations are using this possibility to enter the process.

## Codes of Ethics

- No progress was made in the creation of a Code of Ethics for both employees and elected representatives of the City of Prague. Nevertheless, a new Anti-Corruption Commission was created, and it is expected that the commission, among others, will deal with the code. The NGOs that are part of the commission – TIC and Oživení – are ready to actively cooperate with the city management in order to create such a document.
- The director of the City Hall adopted a decision on the selection of civil servants in the city in accordance with the new law. This should guarantee a qualitative approach to the selection process.

## Conflict of Interest

- The City Council is permanently debating the presence of city representatives in the bodies of city companies and adopts decisions on personal involvement in particular companies – these decisions are available on the Internet. The law regulates the participation of civil servants in the bodies of companies.

## Transparency of Information

- Minutes of the City Council meetings are taken in written and audio formats. The first is archived for 10 years, the second for 12 months.
- The cooperation between Prague City Hall and local NGOs is improving. As an example, three NGOs were invited to take part in the city's new Anti-Corruption Commission. Further development of this cooperation is expected.

## Housing

- The creation of a unified database of houses and flats owned by the city of Prague is in the works.

## NGO recommendations to the City of Bratislava

- To initiate a common website, where corruption issues within the Visegrad capitals can be discussed, compared (even with EU countries) and changes regularly updated;
- To introduce training and workshops for civil servants, especially concerning a Code of Ethics;
- To promote information sharing with other cities and professional associations of local governments;
- To look into new methods of improving control by the city's main controller and introduce external control, for instance a State Audit Office;
- To create a more user-friendly approach for citizens and NGOs to discuss spatial planning and make it easier for them to voice their opinions about land use and building permits in the early stages of the process;
- To continue campaigning, with the cooperation of NGOs, and push for modern Conflict of Interest legislation, which will be applied to local governments;
- To establish better cooperation between NGOs and the City Hall and to adopt the proposed changes as long-term objectives;

### Implementation of NGO recommendations to the City of Bratislava (February - April 2003)

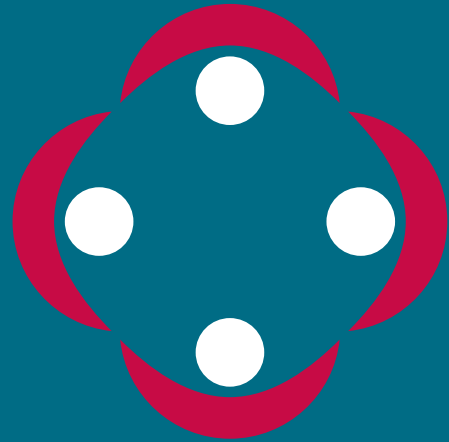
- NGOs held a workshop on "Conflict of Interest in Local Governments," organised by Transparency International - Slovakia and the Citizen and Democracy NGO.
- The NGO coalition STOP Conflict of Interest organized two press conferences on the draft Conflict of Interest Law. The coalition is made up of Transparency International - Slovakia, ELF, Citizen and Democracy and Obcianske oko.
- Bratislava NGOs organised a workshop on "Civic Advocacy Groups and Local Governments."
- Bratislava's NGO Coalition organized a public hearing with the mayor on the issue of urban planning beneath the city's castle.

## Recommendations to the City of Budapest

- To organise a follow-up conference of local NGOs in Hungary with the aim of discussing some of the issues addressed at the Prague conference;
- To improve general cooperation with the NGO sector in the field of municipal transparency;
- To make the municipality's internal audit reports public. These reports are at present undisclosed;
- To create a "Visegrad Four Transparency Index" and to develop, with assistance from the State Audit Office, the relevant methodology;
- To promote the further exchange of internal audit methodology and experience among the Visegrad capitals;
- To introduce "corruption awareness" training for lecturers in law, economics, management and communication at universities and high schools – "Training the trainers."
- To conduct a survey among university students to evaluate how they perceive transparency and corruption in Budapest.







**The Regional Roundtable on Corruption-Free Town Halls in the Visegrad Region was held in Prague's New City Hall on 7-9 February 2003. The event brought together around 80 representatives from non-governmental organisations and city halls from the four capital cities of the region (Bratislava, Budapest, Prague and Warsaw). Also present were seven experts in the field from around the world. The aims of the roundtable were to open up discussion on transparent administrations in these cities and to identify both the problems that these municipalities face and their possible solutions. This publication summarises the proceedings and findings of the roundtable.**



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