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LATVIAN ENERGY POLICY: TOWARDS A SUSTAINABLE AND TRANSPARENT ENERGY SECTOR

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1. Summary

Energy has become one of the key issues of the day on the global, regional and national agenda. There are a number of factors that have contributed to the raising profile of energy: the negative consequences of climate change that are having an increasingly obvious effect on global growth and development; limited deposits of natural resources and the growing competition and prices; and regional conflicts over natural resources, particularly gas. The emerging challenges have both helped to develop a better understanding of the need for a long-term balance between social, economic and environmental rationales, and created opportunities for implementing long-term policies. Latvia, an integral part of the global and regional system, is also facing challenges to ensure sustainability, both in general development and in the energy sector. The Energy section of Latvia's Sustainable Development Strategy 2030 identifies several goals: renewable and safe energy, reduced dependency on energy imports, the use of local renewable sources, increased energy efficiency and the formation of a joint regional energy market. The understanding of the need for an evaluation of Latvia's energy policy gave birth to the idea to assemble experts from various fields (the energy sector and political science, among others) and conduct a study of the political, legal and institutional aspects of the Latvian energy sector, with a particular emphasis on the playing field; in other words, on the environment in which different actors operate and in which decisions are taken. The study addresses the issues of the sustainable energy sector policy in the context of Latvia's political and economic development; the significance of renewables in policy documents and in practice; institutional and legal regulations; the sustainable development policies of the EU and Latvia's capacity to implement them; decision-making on energy-related issues and the transparency of this process. The authors of the study give recommendations on improving the quality of the decision-making environment as well as the quality of decisions themselves, and thus contribute to an even broader, more open and more focused discussion aimed at defining a set of goals and measures needed to establish a sustainable energy sector, a sector that would be a fundamental part of Latvia's sustainable development model.

Reaching the long-term goals of Latvia's energy sector is a complex process that involves finalizing a long-term strategy, defining and justifying feasible goals and tasks, as well as establishing concrete political, legal and institutional frameworks and tools. Considering the global, regional and local challenges, as well as the constant transformation of these challenges, the process will not be easy. That is why the decisions being made today will have a substantial long-term impact. It is at this very moment when Latvia is being built as a contemporary, transparent state, which enjoys the support of its citizens and has sustainable development at its foundation. The energy sector has, to a large extent, become an important prerequisite to such development.

2. Key findings

The main finding: the energy policy in Latvia in general and the support mechanisms for renewable energy sources in particular have suffered from inconsistencies and, despite public interest in these issues and the EU's legal requirements, the policy has been subject to political interests.

The main challenges of Latvia's energy sector can be roughly divided into the following groups of issues:

2.1. Reducing energy dependency from imported primary energy and from supply monopolies is **a key goal** of the energy sector. Nevertheless, **the actual policy is lacking in consistency**. Immediately after the restoration of Latvia's independence (in 1991), dependency on imported energy accounted for almost 90%. The drop in local demand for imported energy, the growing use of local renewables, particularly wood, as well as the gradual growth of energy efficiency reduced that number to 65 – 70%. However, positive trends notwithstanding, Latvia remains heavily dependent on imported energy, with one of the highest dependency rates in the EU. Nearly all natural gas and oil comes from Russia. The situation in the electric power sector is a little better: here, local resources and imports from other neighbouring countries make up a significant proportion of the total. However, with imported electricity at 30%, dependency is still an issue. Although the Baltic states are gradually transforming from Europe's energy "island" into a "peninsula", all three are still heavily integrated with Russia' s electric power grid.

Even though the new EU member states have the biggest incentive to support the common energy security and solidarity principles of the EU and to reduce the level of dependency on imports of Russian gas and oil by means of supply diversification, the position of the Latvian government on this issue has been rather inconsistent. The political factor has been deliberately played down and energy security frequently described in terms of stable supplies and predictable prices. Some of Latvia's decision-makers have expressed interest in the Russian-German *Nord Stream* pipeline project, particularly, in diverting a branch of the pipeline to Latvia. They have also indicated interest in the expansion of the Incukalns and Dobele underground gas storage facilities and building a new gas power station. In 2008, the priorities of the energy strategy underwent a reshuffle, but the new priorities should be treated with caution. The events of late 2009 showed that caution is justified: the government, in closed meetings, re-introduced the issue of building a new gas-fuelled power station, discussed a few years ago, to its agenda. The project involves a reconstruction of TEC-2, a thermal power station in Riga owned by the energy company *Latvenergo*. Early this year, the Economy Ministry of Latvia approved the project, thereby choosing the energy sector development option that envisages giving up on long-term goals such as the diversification of primary energy resources and reduction of supply risks, for the sake of short-term benefits of a project that serves the interests of a small circle of entrepreneurs. This approach does nothing to boost economic activity and infrastructure development for other alternatives such as biomass solid fuel stations or the use of other locally available resources. The government's support for the aforementioned option clearly contradicts one of the goals defined in various strategy documents, namely, diversification, and also the earlier government decisions regarding coal-fuelled power stations, green energy and the need to engage the wider public in discussions about energy policy goals. The episode leaves an impression that the gas lobby has prevailed over democratic decision-making.

2.2. Latvia's policy on renewable energy resources has been inconsistent, unbalanced, lacking in economic reasoning and dependent on the changeability of local political opinions and interests.

It would make sense for Latvia to utilize the potential of local renewable sources. Hydro power already covers a significant part of Latvia's energy needs. Wood, wind and biogas could be equally useful. These resources are able to cover a large proportion of Latvia's energy consumption needs. For example, the economic potential of wood is estimated around 45.5 – 82 PJ a year, which constitutes nearly half of the total consumption. Providing that balancing capacity is adjusted accordingly, wind power stations could provide up to 15% of power produced in Latvia. Biogas has a similar potential and could be used in cogeneration stations for the production of electricity and heating. Unfortunately Latvian policy for the support of renewables has a number of flaws and limitations:

2.2.1. There are no legal mechanisms to prevent frequent, politically-induced changes in support schemes for renewables, including changes in purchase conditions and pricing. For example, Regulation No 198 of the Cabinet of Ministers (Regulation on Electric Power Production and Pricing Using Renewable Energy Sources), passed on 14 March, 2009, gives grounds for concern about the fairness of the criteria for the feed-in tariffs scheme. The Regulation permitted formal compliance with the criteria but had no provisions for verifying that the criteria are met: this gave grounds to suspect that the criteria were deliberately designed to suit certain lobby groups. A couple of months later, amendments to the Regulation were passed and the ambiguities were eliminated.

2.2.2. The quota system used in the feed-in tariff scheme does not assist in reaching the renewable energy target, 49.3% by 2010, as defined in the Electricity Market Law. Considerable numbers of businesses that have been granted the feed-in tariff rights are not building the planned new power stations whilst the businesses that would have the capacity to do so have no quotas.

2.2.3. The pricing formula for the feed-in tariffs should have economically sound calculations at its heart, such as the investment costs into renewable energy technologies, the cost of resources, the differentiation of support level to different power stations, earlier government support for biogas, wind power stations and small hydro power stations. However, that is not the case in Latvia. Also, the feed-in tariff pricing for energy produced by biomass and biogas power stations depends on the differential tariff rates for the end users of natural gas. This can seriously complicate cost and income planning for the businesses in question, as well as increase their risks in dealing with lending institutions.

2.3. The measures to increase competitiveness and market liberalisation have mixed results. Market liberalisation and the promotion of competition and competitiveness are closely intertwined issues on local, regional and European agenda. Measures aimed at increasing competitiveness and introducing relevant emphases in the government policies are, undoubtedly, in Latvia's interest. Nevertheless, the government's actions leave the impression that the prevailing motivation for these actions is the need to formally comply with the EU requirements and obligations, and not the desire to establish well-thought-out conditions that encourage competitiveness and are effective in the long-term. However, there are some examples when compliance with the EU regulations has had a positive effect. The privatisation of *Latvenergo* and de-monopolisation of the gas sector is not feasible in the near future, but some positive trends are emerging in the electricity sector. There is a long way to go to reach a transparent and well-balanced market, but it is worth noting that Latvia stands out among the Baltic states as the country most

advanced in terms of competitiveness in the electricity sector. *Latvenergo* is looking for ways of increasing its own competitiveness, too. And, considering the ever-growing political, institutional and financial presence of the EU in the energy sector of the Baltic region, there are a few signs of market integration and increased competitiveness, which consequently lead to some potential economic benefits to consumers.

The least straightforward and most inconsistent picture emerges in the areas where the EU allows member states a relatively high level of freedom and a large room for manoeuvre, namely, taxation and support schemes for investment and procurement. Latvia has not shown much initiative in introducing energy taxes and, as a result, has missed the momentum when energy prices were low and economic growth was fast. Energy taxes are an easily administrable source of income for the state budget. The raised excise duty and VAT on oils, natural gas and electricity is easy to divide between various groups of taxpayers and businesses. And, most importantly, such taxes would help Latvia to reach a goal that is of crucial importance, namely, building up stimuli for the effective use of energy and increased competitiveness. The policy, yet again, has been inconsistent. In December, 2008 the parliament (Saeima) abolished the lowered tax rate on the locally produced biomass whilst upholding the lowered rate (10%) for natural gas imported from Russia. This measure unquestionably hinders the competitiveness of local renewables and strengthens the position of Russian gas. Only a year later, in December, 2009 the amendments to the law On Excise Duty were passed. According to the new law, natural gas used as fuel will have the excise duty of 15.6 LVL per 1000 cubic meters and natural gas used for heating will have the excise duty of 70 LVL for 1000 cubic meters. The new excise duty, in effect, increases the competiveness of local renewables. However, the process of adopting this legislation was, once again, non-transparent and unpredictable. It left the impression that the reasoning behind the decision was the need to reduce the budget deficit and not the need to act in accordance with the priorities of the energy sector or the need to promote sustainable development of the country's economy.

2.4. The legal requirements of **EU membership** and the concrete obligations associated with it play **an increasingly important role** in Latvia. Even though the country retains a large say in choosing concrete objectives and tools for reaching them, the commitments to the EU and the increasingly thorough EU legislation lay down a framework for local government actions. The EU legislation on liberalisation of the market has assisted the de-monopolization of the Latvian energy market, at this point mainly electricity, and also facilitated bigger competition. **EU policies** could become an important driving force for Latvia's advancement towards bigger transparency and sustainability and towards conditions that encourage the use of renewables. When it comes to the issues that have an impact on sustainable development scenarios, Latvia has to take into account the goals and interests of the whole EU. Energy consumption and reasonable use of energy are the issues at the very heart of sustainable development. Before, the key concerns were sufficient volume of energy supply, its price and ease of use, but these days the top priorities are **the quality and security of energy supply and the environmental impact**.

2.5. Two conflicting trends emerge when we examine **energy policy decision-making**. The first trend has its roots in the political and business culture of the post-Soviet era, which has a few defining characteristics, namely, non-transparent energy sector and ambiguous decision-making, a large influence from corporate interests, close ties between business and politics, considerable presence of foreign, primarily Russian, energy suppliers' capital in the country. The second trend is pulling the sector in the European direction: the EU regulations and the position of the European Commission have a growing role in the energy sector; public interest in the energy issues and public participation is on the rise; and small producers and business associations are increasingly active in setting the agenda for the sector and implementing it. Analysis of the legal framework of the energy sector and institutional decision-making in recent years shows that elements of sustainability in the energy policy are on the rise. There are reasons to conclude that the main driving force behind the increasing sustainability and transparency in decision-making as well as behind the promotion of a renewable energy-friendly legal environment stem both from local and EU policy.

> **2.5.1.** Interested parties do not have enough say in setting the energy policy agenda. And the lack of transparency prevents the wider public from following the process of decision-making. That is why many decisions are made, possibly intentionally, behind closed doors. Analysis of individual decisions suggests that political and business elites in Latvia have merged. Lobbying is not sufficiently regulated and the rules of engagement are not clear either to the government officials or to interested parties and thus the current situation fails to ensure adequate openness and creates unfair conditions for interested parties.

Under the leadership of the Corruption Prevention and Combating Bureau (KNAB) a paper, *The Need for a Legal Framework for Lobbying in Latvia*, is currently being drafted, the relevant rules of professional conduct for public officials dealing with the lobbyists are also being drafted and the Criminal Law is being amended in order to define the difference between lobbying and trading in influence. However, those are just the first steps towards introducing an open and legally defined lobbying system. Unlike the majority of the EU countries, Latvia chose not to establish a lobbyists' register and there has been very limited public information about the role of lobbyists in making particular decisions, with only a few exceptions such as the Ministry of Environment. Moreover, there is no system of supervision over the process of making lobbying-related information public and the issue of the

parliament members' duty to disclose lobbyists they are working with has been removed from the parliament's agenda.

2.5.2. Access to information is a problem in the public energy supply system of Latvia: information is withheld citing sensitivity of commercial information and mutual agreement of the signing parties. The frequently used argument goes that energy consumers do not understand this complex issue and therefore no information needs to be released to the general public, except for the regulated energy tariffs. Yet sustainable development is unfathomable without the awareness and understanding of energy producers' and energy consumers' actions and their mutual interconnectivity. Latvia has not made sure there is a system allowing energy consumers to obtain information about the sources of the energy they consume, about the security of energy supply, price predictability and alternative energy options. The lack of such a system hinders the development of a clear policy of the energy sector and impedes investment.

2.5.3. The current institutional framework of the energy sector raises questions about coordination, efficiency and transparency. In 2009, due to the financial crisis and the need to achieve greater efficiency, a number of institutional changes were introduced and more are planned in the future. The Agency for Construction, Energy and Housing has ceased to exist as of 1 July, 2010. The municipal energy regulators have been abolished as of 1 November, 2009 and several energy-related functions previously performed by various state agencies are being transferred to the Economy Ministry. The changes may make financial sense and could lead to greater efficiency, but, inevitably, in the period of transfer of functions the existing institutional frameworks may experience contradictory developments, become weaker and more susceptible to political pressure.

2.5.4. There is a noteworthy positive trend in civil society: in recent years, professional associations, journalists, scientists, students, financial institutions, environmental not-for-profit organisations, property managers and other civil society actors have been showing increasing interest in energy issues.

3. Recommendations

The key recommendation is that the institutional and legal framework of the energy sector and its support mechanisms, particularly for renewables, has to be endorsed with sustainable development and independence in mind, and above all independence from changeable local political opinions and interests. The concrete recommendations are as follows:

3.1. Sustainable development

Energy issues cannot be perceived only in the context of energy, they have to be considered in relation to the sustainable development of the country. The reduction of the end consumption and increase in energy efficiency are issues that require more attention.

3.1.1. A balance needs to be found between short-term expenses and the promotion of sustainable long-term development. We have to be aware of the fact that higher initial expenses in a particular sector of the economy may bring about bigger benefits in other sectors. Furthermore, lower initial expenses are not necessarily beneficial to the overall development. The elimination of short-term symptoms does not solve the fundamental issues and may limit the opportunities for solving them in the long-term. That is why we suggest promoting an integrated and coordinated approach to the energy sector, considering its links with the economy, agriculture, education, environment and foreign affairs.

3.1.2. The reduction of the end consumption requires greater attention; the increase of production capacity cannot be the only focus. We recommend more engaged support for measures of energy efficiency (residential housing, public buildings and heating mains). For buildings that undergo reconstruction, artificial hurdles need to be abolished such as the responsibility of the residents for reaching a certain level of energy efficiency. Also, a solution needs to be found for the renovation of low income residents' housing. And the government, in cooperation with lending institutions, has to establish stimuli for loans that help to achieve greater energy efficiency. Thermal imaging of heating mains is an economical way to determine the actual state of the mains and start the upgrading process. We recommend doing thermal imaging in a centralized manner, in all large towns.

3.2. The quality of decisions

In order to improve the quality of decisions institutional frameworks need to be put in order. An audit of functions and responsibilities has to be carried out followed by the harmonization of these functions so as to firmly determine which institutions are responsible for which functions and procedures. We recommend encouraging transparent communication of the relevant institutions with the public and promoting efficiency and public participation (public

consultations on crucial policy papers and legal documents, among others). Attempts to improve the quality of decisions have to be based in the assumption that there can be no restrictions on proposals and initiatives.

3.2.1. The quality of policy impact assessment needs to be improved. For that, government and municipal officials need to undergo training in policy impact assessment management and academic and education institutions need to draft the impact assessment criteria, which would help to make the assessment more relevant to the pressing social and economic needs of the country. Also, the assessment carried out by the EU has to be adapted to the situation in Latvia.

3.2.2. There are opportunities for improving the coordination, responsibility and reliability of the relevant institutions. We recommend ensuring that the Department of Energy of the Economy Ministry is free of any suspicion of a conflict of interest. In order to achieve that, the structure has to be strengthened and the management selection procedure has to be transparent, as do the responsibilities of specific officials. When widening and reinforcing the competences of the Department of Energy the external supervision and internal quality control need to be strengthened too, because the decision quality control has to be a meaningful process, not a formality. The Department's capacity could be enhanced by establishing an Energy Agency that would carry out the analysis and studies needed for the energy policy planning documents and draft legislations, a practice widely used in other EU countries.

3.3. Policy transparency

In order to ensure policy transparency the government institutions have to establish an open and effective communication with the public; public participation in decision-making has to be encouraged (public consultations on strategically important policy papers and legal documents, among others); and lobbying needs to be regulated. The necessary measures include:

3.3.1. Regulated lobbying that would distinguish between legitimate lobbying and illegitimate thereby encouraging larger civic legal participation. What needs to be regulated is not just the responsibility of public officials to disclose the lobbyists they are working with, but also the responsibility of lobbyists themselves. This can be done by introducing lobbyists' register. It is of utmost importance to finally spell out the fact that both lobbying of business interests and professional lobbyists exist in Latvia. In order to achieve maximum openness and equality lobbying opportunities need to have straightforward guidelines as do business interests, professional lobbyists and non-for-profit organisations.

3.3.2. Another task is to make the work of the Parliament and the government more open and accessible by the means of clear-cut regulation of various forms of participation at different stages of the legislative process. The Parliament, the Cabinet of Ministers and the ministries have to improve their electronic document databases and websites so that they can provide timely and comprehensive information about the decision-making process. We recommend persistence in the work on the aforementioned Lobbying Paper, which deals with the issues of openness and the rules of professional conduct for public officials.

3.4. Reshuffling the renewables sector

We recommend setting up economically viable and flexible support tools for renewable energy that will help Latvia to achieve the goal to have 40% of energy coming from renewable resources by 2020. Nothing less than thorough calculations and a broad public discussion will be able to provide grounds for the most reasonable and economical model and determine the funding necessary to reach the 2020 target for renewables (in heating, transport and electricity). That is why all interested parties should be engaged in drafting Latvia's plan for renewable energy, including environmental organisations and associations of renewable energy producers. Latvia needs a predictable, sustainable and reasonable legal framework for renewable energy that would encourage trust in renewable energy-related decisions.

3.4.1. The government needs to assess the existing system of quotas for the feed-in tariff of electricity produced from renewable sources, weigh up the impact of the quotas on reaching the targets for renewables and consider the abolishment of this system. Besides, in production of biogas the benefits it brings to the environment and to agriculture have to be considered. Environmental protection is a precondition for catching or extracting biogas with the intention of turning it into a useful energy.

3.4.2. We recommend developing more flexible support mechanisms for the electricity produced from renewables in order to encourage market relationships in the electricity sector. When drafting the green energy amendments to the legislation on the feed-in tariffs it is crucial to ensure that the amendments entail the EU-style differentiation of support for the new power stations and the old ones, built several years ago (in the case of Latvia they are mainly hydroelectric power plants). The existing returns on investments, achieved through double tariffs, the feed-in tariffs scheme or investment support, has to be reconsidered. We also recommend abolishing the natural gas tariffs as an element of the pricing formula for electricity produced at biogas and biomass power stations.

3.4.3. The regulation of permits is in need of significant improvement: this way the investment climate will become much more predictable. There are shortcomings at all levels, from distribution of permits by the government to conditions set by individual system operators for connection to the grid. The restructuring of the permit system entails improvement of planning, among other measures, as well as drafting a regulation for building offshore wind farms.

3.4.4. The support mechanisms for renewable energy have to apply not only to businesses, but also to individuals. The renewable energy support has to relate to all relevant areas, such as energy efficiency, preferential conditions for the supply of individually produced energy to the grid as well as the use of renewable energy without turning it into electrical power.

3.4.5. Regulation No 198 of the Cabinet of Ministers hinders the establishment of the renewable energy electricity market. The Regulation requires producers to sell all of the energy produced to the public energy trader. Dividing energy is not an option, even though it would be desirable and beneficial to market relationships. We recommend introducing a flat price list for all new renewable energy operators that sell energy to *Latvenergo*.

The current rules on connecting energy producing plants to the grid do not include a clear breakdown of the costs of connection and the costs of improving the capacity of the system. The structure of administration and distribution tariffs has an impact on the operators' capability to develop their own systems and the use of renewable resources. It is also one of the reasons why lobbyists who represent the producers seek inflated feed-in prices.

3.4.6. We recommend clarifying the policy on bio fuel and spelling out the definitions depending on the source of energy. We also suggest choosing sustainable support schemes. The possible impact of support schemes on the food production chain has to be considered, including the alteration of the land and the demand for food in the world market. Exaggerations in feed-in pricing discredit the principles of using renewable energy for sustainable development.

3.5. A European approach

The EU operates on the basis of the rule of law, which is laid out in the founding documents, the documents that the member states have voluntarily joined. Consequently, in Latvia, the main source of legislation is the EU legal and procedural initiatives. The energy policy of the EU is developing at a dynamic pace and is being integrated into the policies of other sectors. The policy is aimed at designing a system of coordinated targets and legislative initiatives that are needed in cases when the policy benefits the entire community and transcends the capacity and narrow interests of individual member states.

3.5.1. When Latvian energy policy is being put into practice it has to be in harmony with the EU political targets, namely, the reduction of dependency on imported primary resources and on supply monopolies. The development of small and medium businesses also has to be in line with the EU policies as do measures aimed at improving supply security by using local resources and renewables and policies towards a wider range of services supporting energy efficiency, bigger competition, access to information and openness.

3.5.2. We recommend using the best practices of legal and institutional energy frameworks from other EU countries. For example, the structure of the Utility Regulator (SPRK) in Latvia differs from the models used elsewhere in the EU, but is similar to the approach used in several states of the US where regulation is based in legal procedures and public hearings. This system is seemingly cheaper than the use of individual professional regulators, but the decision-making is politicized and removed from the industry and the true interests of consumers. The Regulator's indecisiveness is noticeable when it needs to make professional decisions; frequent reporting to the political backers also suggests that SPRK is lacking in confidence.

3.5.3. The EU offers a unique opportunity for Latvian education, science and energy industries to join the EU Strategic Energy Technology Plan and receive support from it. Latvian policy on energy, environment, transport, agriculture and manufacturing has to match the opportunities offered by the implementation of the Strategic Plan and also correspond to access to financial resources, scientific cooperation and education transfer.

Sustainable energy sector policy in the context of Latvian political and economic development: prospects and limitations

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1. Introduction: the growing importance of energy in the context of sustainable development

Energy has become one of the key issues of the day on the global, regional and national agenda. There are a number of factors that have contributed to the raising profile of energy: the negative consequences of climate change that are having an increasingly obvious effect on global growth and development; limited deposits of natural resources and growing competition and prices; and regional conflicts over natural resources, particularly gas. Undoubtedly, there are certain political factors that facilitated these trends. However, to a large extent, the prominence of energy was determined by rapid economic growth. The emerging challenges have both helped to develop a better understanding of the need for a sustainable strategy, and created opportunities for implementing it. The principles of sustainable development were first spelled out back in 1987, in the Brundtland Report *Our Common Future*, and in 1992, in *Agenda 21*, a United Nations program for transition to sustainability in the 21st century. Yet, the understanding of the need for a long-term balance between social, economic and environmental rationales only began to turn into concrete policy instruments in the last decade.

In recent years, the European Union (EU) has assumed a leading role in developing policies of sustainability. The EU Strategy for Sustainable Development was drafted in 2001 in Gothenburg and amended in 2006. The European Commission has also published a major document on energy, the Green Paper[1]. The European Commission (EC) has set a number of important goals for the energy sector, namely, secure, competitive and sustainable energy. The EC has also drafted several proposals and regulations to enable the execution of these goals. Latvia, as an integral part of the global and regional system, is also facing challenges to ensure sustainability, both in general development and in the energy sector. Latvia's Sustainable Development Strategy 2030 is currently being drafted. At the heart of the document is the notion of boosting human, economic, social and natural capital, which, among other things, entails "increasing productivity in response to global challenges." The Strategy deals extensively with the topic of energy and, in this field, identifies several goals: renewable and safe energy, reduced dependency on energy imports, the use of local renewable sources, increased energy efficiency and the formation of a joint regional energy market[2].

Reaching these long-term goals is likely to be a complex task: the long-term strategy will have to be finalized; feasible goals and tasks will have to be identified and supported by rationale; and concrete political, legal and institutional frameworks will have to be established. Considering the global, regional and local challenges, as well as the constant transformation of these challenges, the process will not be easy either. That is why the decisions being made today will have a substantial long-term impact. At this very moment Latvia is being built as a contemporary, transparent state, which enjoys the support of its citizens and has sustainable development at its foundation. The energy sector has, to a large extent, become a litmus test of a country's sustainable development. The understanding of the need for an evaluation of Latvia's energy policy gave birth to the idea to assemble experts from various fields (the energy sector and political science, among others) and conduct a study of the political, legal and institutional aspects of the Latvian energy sector, with a particular emphasis on the playing field; in other words, on the environment in which different actors operate and in which decisions are taken. The authors of the study give recommendations on improving the quality of the decision-making environment as well as the quality of decisions themselves, and thus contribute to an even broader, more open and more focused discussion aimed at defining a set of goals and measures needed to establish a sustainable energy sector, the sector that would be a fundamental part of Latvia's sustainable development model.

[1] Green Paper: A European Strategy for Secure, Competitive and Sustainable Energy; March 8, 2006; available at http://europa.eu/documents/comm/green_papers/pdf/com2006_105_en.pdf

[2] *Latvia's Sustainable Development Strategy 2030*, the 1st draft, November, 2008, pp.48 – 54.

2. The energy sector in Latvia: structural issues

When assessing the political environment of the energy sector and the quality of energy-related decisions we need to look into the structural issues of the sector first. The energy sector in Latvia has a history stretching back several decades and this fact naturally sets certain limits, but also allows us to see possible advantages and unused opportunities. Even though there have been significant changes and improvements in the post-Soviet period, the socialist legacy in the energy sector remains: the primary energy resources have largely remained unchanged, as have the supply routes and infrastructure, as well as energy consumption trends and energy efficiency levels. Nevertheless, there is a basis, both at national and regional level, for changing the established structures and trends, although changes will require concrete political decisions.

After the restoration of Latvia's independence, economic activity shrunk dramatically, above all in manufacturing, and, as a result, primary energy consumption also experienced a rapid decline. Between 1990 and 1995 energy consumption dropped by 40%. When the economic growth returned in the late 1990s, energy consumption picked up too. It started at 273 PJ in 1991, later in the decade stabilized around 160 PJ and, in the first years of the new century resumed growth, particularly after the EU accession in 2004, when it reached 200 PJ. With consumption on the rise the issue of energy deficit became more pressing. The financial crisis and subsequent recession affected consumption somewhat, but as soon as recovery starts and economic growth returns sustainable energy supply will become one of the key issues of Latvia's development.

After the restoration of independence, Latvia has experienced some changes in the shares of various primary resources. Initially, the proportion of oil dropped and the use of wood grew considerably. At the same time natural gas retained its considerable share and, to a certain extent, even strengthened it. For example, in heating natural gas increasingly replaces black fuel oil. The significant role of natural gas is further reinforced by the existing natural gas infrastructure and underground storage facilities as well as the limited consumption of renewable resources and the lack of infrastructure for renewables. Undoubtedly, the use of gas is also related to the role that powerful interest groups play in the Latvian energy policy. Yet, the use of green energy is becoming increasingly crucial, considering the need to diversify the primary energy resources in Latvia, the potential of local resources and Latvia's international obligations. At the moment the share of renewable resources of the total energy consumed in Latvia is around 30 to 35%. This is largely on account of wood (over 80% of the renewable energy) and hydroelectric power (around 16%). Meanwhile, the use of so-called new renewables: biogas and wind, is only 1% of the whole energy consumed. The use of green energy needs to grow, particularly considering Latvia's commitment to reach 40% green energy share by 2020.

Table 1. Primary energy resources (share by type, %)

Year	Oil	Wood	Natural gas	Electricity	Other
2007	35.0	22.2	30.3	10.0	2.5
2006	32.8	24.1	31.8	9.2	2.1
2005	31.2	24.9	31.8	10.0	2.1
2004	31.3	25.4	31.8	9.7	1.8

Sources: The Central Statistical Bureau of Latvia, Latvijas Gāze[3]

In the face of the expected shift of the global economy, energy sector and technology towards an "electric society", advancement of the electricity sector and the supply of electric power will grow to be the most important and indicative energy sector development trends. In 2007, the end use of electric power in Latvia was around 6.6 TWh (gross national electricity consumption was around 7.8 TWh), of which approximately 4.1 TWh were produced by *Latvenergo*. The largest share of the remaining energy Latvia imported from the neighbouring countries. With consumption on the rise, the issue of electric power deficit will become even more pressing.

At the moment, the share of renewable resources in the total electric power consumed is relatively high, on average, over 40% (the share can fluctuate year-on-year). Latvia has committed itself to raising the renewable energy share to 49.3% by 2010[4]. The relatively significant share of renewables notwithstanding, the electric power sector faces several challenges. Firstly, the energy production is largely centralized. In the last five years, around 65% of all

[3] *Latvijas Gāze*, Facts and Figures 1997-2007; available (in Latvian) at http://bit.ly/c8iz38

[4] The Economy Ministry of the Republic of Latvia, *Renewable Energy Resources* and *Cogeneration;* available (in Latvian) at http://bit.ly/9Lcs7D

electric power consumed in Latvia came from the five big local power stations (three HEPP and two thermal power plants or TEPP) and only 3 to 6% came from distributed generation. Nearly a third of electric power comes from Russia, Estonia and Lithuania. Secondly, the three hydroelectric power plants (HEPP) on the river Daugava mainly work to cover the peak-hour energy consumption, which makes it hard to calculate the exact contribution of these stations to the total electric power; the share can fluctuate significantly over the course of only a couple of years. On average, the three hydroelectric power stations produce around 2.7 TWh a year (or 45% of the total demand), the share can fluctuate year-on-year. For example, in 1996 they produced only 1.8 TWh (or 29%), whilst in 1998 the figure grew to 4.3 TWh (68%)[5]. That is why the need for a balancing capacity is so frequently stressed[6]. Thirdly, imported natural gas has retained its significant role in electric power production: it makes up 1.3 TWh or 20% of the total consumption. Moreover, both thermal power stations in Riga, which have cogeneration systems, produce heating for the part of Riga on the right bank of the Daugava. Fourthly, the issue of local and regional electric power deficit has become critical after the closure of the Ignalina nuclear power plant (NPP) in 2009.

Table 2. Generating capacity of electric power producers (2007)

Electric power production units	Capacity (MW)
Plavinas HEPP	868.5
Riga HEPP	402
Kegums HEPP	261
Riga TEPP 1	144
Riga TEPP 2	330 (since 2009, 600)
Small HEPP (149)	26.2
Wind farms (16)	26.9
Other (2)	7.3
Distributed cogeneration (28)	65.6

Source: The Economy Ministry of the Republic of Latvia, Latvenergo[7]

Energy import is an important component of the Latvian energy sector. After the restoration of Latvia's independence, dependency on imported energy accounted for almost 90%. The drop in local demand for imported energy, the growing use of local renewables, particularly wood, as well as the gradual growth of energy efficiency reduced that number to 65 – 70%. However, positive trends notwithstanding, Latvia remains heavily dependent on imported energy, with one of the highest dependency rates in the EU. Nearly all natural gas and oil comes from Russia. The situation in the electric power sector is a little better: here, local resources and imports from other neighbouring countries make up a significant proportion of the total. However, with imported electricity at 30%, dependency is still an issue. Although the Baltic states transform gradually from Europe's energy "island" into "peninsula", all three are still heavily integrated with Russia's electric power grid. Moreover, between 2004 and 2010 the joint power generating capacity of the three Baltic states have shrunk by 3000 MW- 3500 MW, largely owing to the closure of the Ignalina NPP. Due to the closure, the share of Russian natural gas consumed in the region may increase as the countries will try to compensate for the electric power formerly produced by the Lithuanian NPP[8].

One of Latvia's advantages, which also serve as a kind of short-term guarantee of continual supply, is its underground gas storage facilities. The total capacity of the currently functional Incukalns underground storage facility is 4.4 billion cubic meters and the amount of active gas may reach 2.3 billion cubic meters[9]. In recent years, Latvia used on average 1.6 to 1.8 billion cubic meters a year. In winter (November-March), all supplies to the local consumers, about 900 million cubic meters, and to the regional partners, about 800 million, were delivered from the underground

[5] International Atomic Energy Agency, *Analyses of Energy Supply Options and Security of Energy Supply in the Baltic States*, Vienna, February 2007, 46–47.

[6] The Report by the Economy Ministry, *A Scenario for Introduction of Balancing Capacity for Electric Power Production*; 19 February 2008, pp. 8-9

[7] See, for example, *Latvenergo* information on energy production; available (in Latvian) at: http://bit.ly/cTIt2O

[8] International Atomic Energy Agency, *Analyses of Energy Supply Options and Security of Energy Supply in the Baltic States*, Vienna, February 2007, 6.

[9] Data provided by *Latvijas Gāze*, available at: http://bit.ly/bu4ZH0

storage facilities[10]. There are plans to increase the amount of active gas in the Incukalns facilities to 3.2 billion cubic meters. The total capacity of all Latvian underground facilities may even reach estimated 50 billion cubic meters. The expansion of these storage facilities may bring about several significant advantages, such as strategic reserves, economic benefits and improvement of regional energy supply. Nevertheless, we have to keep in mind that it may also boost local energy and production companies' inclination to use imported gas instead of exploring sustainable local options by means of increasing energy efficiency and using renewables. Latvia's Sustainable Development Strategy 2030 calls for 60 to 65% share of local energy resources in the total energy consumed thereby reducing the dependence on imports to 35 to 40%.[11]

Considering the aforementioned local and regional challenges, as well as the EU commitments, it would make sense for Latvia to utilize the potential of local renewable sources. Hydro power already covers a significant part of Latvia's energy needs. Wood, wind and biogas could be equally useful. These resources are able to cover a large proportion of Latvia's energy consumption needs. For example, the economic potential of wood is estimated around 45.5 – 82 PJ a year, which constitutes considerable part of the country's total energy consumption. Wind power plants could provide up to 15% of the electric power produced in Latvia[12]. Biogas has a similar potential and could be used in cogeneration stations for the production of electricity and heating[13]. One of the authors of this study, Ojārs Balcers will address the issue of renewable resource potential in detail and he will also point out the need to keep in mind the wider context, namely, the issues of energy efficiency and climate change, in other words, to think about the energy sector in the context of sustainable development. Daina Eberšteina will explore the institutional and legal aspects of renewable resource potential and will analyze, in depth, the current support mechanisms pointing out the importance of policy development and decision-making.

3. Energy policy assessment: the decisions and decision-makers

The structural aspects are the ones that determine both opportunities and limitations for energy policy development and implementation. At the same time there is a room for manoeuvre in the process of energy policy decision-making. That is why it is important to determine the factors that influence energy policy and the actors involved in it. Clearly, the existing legal and institutional frameworks, the distribution of power, the influence of various interest groups involved in energy policy development, as well as the prevailing political and business culture have an impact on the decision-making and implementation.

3.1. The playing field and the players

Formally, Latvia's energy policy is being developed in accordance with the principles of the distribution of power accepted in other developed countries. The Parliament, the highest legislative body in the country, approves the legal framework for energy policy development and implementation. The Energy Subcommittee of the Parliament's Economy Committee discusses energy sector-related issues on a regular basis. In some cases, other relevant parliamentary committees join the discussion, for example, the Foreign Affairs Committee. However, the primary responsibility for the strategic development of the energy sector lies with the Cabinet of Ministers. The distribution of responsibility is plainly spelled out in the Energy Law: "Management of the energy industry shall be carried out by the Cabinet and the Ministry of Economics and the Minister responsible for the energy industry shall implement it. The Cabinet shall determine the procedures in accordance with which new facilities of energy supply merchants are to be installed and issue technical regulations for the installation, operation and safe usage of equipment and installations for the use of energy."[14] The Ministry of Economics and its Energy Department are responsible for the coordination of energy policy; concrete energy strategy proposals; drafting plans and programs and relevant regulation; calling tenders and issuing licences. Undeniably, the Ministry of Foreign Affairs plays an important role, too, particularly in the area of foreign relations and defining the national position on various issues. Other ministries are also involved in energy policy development and implementation: first and foremost, the Ministry of Environment, but also the Ministry of Agriculture and the Ministry of Regional Development and Local Government. The Finance Ministry is responsible for taxation policy, and some of the tax policy initiatives, such as excise duty, may either increase or reduce the economic profitability of certain energy resources.

[10] See *Latvijas Gāze*: Annual Assessment Reports of Natural Gas Management System Operator

[11] *Latvia's Sustainable Development Strategy 2030*, the 1st draft, November, 2008, p.48

[12] *The Basic Conceptual Principles of Renewable Energy Use 2006-2013*, 2006, pp.18-30.

[13] Kalniņš, Arnis, *The Economic and Environmental Benefits of Biogas Production*, Riga, 2009

[14] Energy Law, adopted by the Parliament on 3 September 1998, Section 76

The supervision of energy supply is being done by the regulatory institutions. Up until 1 November, 2009 there were two-tier regulators, national and regional. The Public Utility Regulator (SPRK), an independent government institution, is responsible for the regulation of electric energy and gas energy sector, issuing licences and approving tariffs, among other duties[15]. There are several government agencies, both national and local, whose job it is to coordinate and facilitate implementation of various energy-related goals. For example, in 2008, the Agency for Construction, Energy and Housing started working under the auspices of the Economy Ministry. Before taking on the energy-related duties from the Investment and Development Agency of Latvia, the institution was known as the Housing Agency. Among other things, the Agency has been in charge of the management and implementation of the international and local support programs for housing, energy and construction projects, and also programs aimed at increasing energy efficiency of residential and non-residential buildings. Similar duties at the municipal level are being performed by the Energy Agency of Riga, which was established in 2007 in the capital city. Other local governments are following suit.

Various interest groups are also having a say, directly or indirectly, in setting the energy policy agenda. The big energy companies *Latvijas Gāze* and *Latvenergo* evidently play an important role in decision-making process. We have to keep in mind that both companies, on a regular basis, supply the government with information and expertise on the energy sector development and possible solutions to issues that emerge, for example, in the annual Assessment Reports of Natural Gas Management System Operator. Social partners take part in the process too: the Association of Local and Regional Governments, the Employer's Confederation of Latvia and Latvian Chamber of Commerce and Industry. Local governments play a particularly crucial role in dealing with heating supply issues. Various associations are also becoming increasingly proactive in promoting their interests: the Wind Energy Association, the Biomass Association, the Small Hydroelectric Plants Association, the Confederation for Renewable Energy Resources, the Heating Business Association and others. The scientific expertise and recommendations are provided by the Academy of Sciences of Latvia, the Latvian Committee of the World Energy Council, as well as several research institutions. So far, the input of non-governmental institutions in the general debate on sustainable development has not been overly influential or continuous. In the future, their role in the debate would have to increase.

Having established what constitutes the formal structure of the energy sector's playing field, we must determine what are its main trends and prevailing business and political culture. To begin with, the development of the energy sector and the policies implemented there illustrate the general trends of the country's maturity and the characteristics of its political and business culture and practice. Moreover, the energy sector, being one of the most important sectors of the country's economy and also one that attracts the biggest turnover, has clearly attracted the interest of business interest groups and political parties. The established custom in Latvian political circles of "giving custody" of a particular economy sector to a political party has also played a role in this state of affairs. Despite some European influences in both the content of energy policy and the form of its implementation, on the whole, transparency and accountability remain limited and the room for behind-the-scenes business dealings still exists. The decisions taken by the state suggest that, when it comes to the energy sector, the principles of political and financial bargaining and the desire to maintain the profitability of political businesses prevail and strategic planning and strategic choices are put aside.

Secondly, the established institutional framework raises questions about efficiency and transparency and, without a doubt; there are opportunities for improving mutual coordination, accountability and reliability of the institutions involved. For example, the funding for the Public Utilities Regulator (SPRK) comes from the revenues obtained by collecting the state fee from all providers of public utilities in the regulated sectors[16]. Since the amount of the fee depends on the particular company's turnover, higher tariffs, set by SPRK, increase the agency's budget. This practice gives grounds for suspicion of conflict of interests. This issue was first discussed in the Parliament in early 2009 when information emerged that Estonian consumers pay less than their Latvia counterparts for the gas that comes from the same source, the Incukalns underground storage facility[17]. In 2009, due to the financial crisis and the need to achieve greater efficiency a number of institutional changes were introduced and more are planned in the future. The Agency for Construction, Energy and Housing has ceased to exist. The municipal energy regulators have been abolished as of 1 November, 2009 and several energy-related functions previously performed by various state agencies are being transferred to the Economy Ministry. The changes may make financial sense and could lead to greater efficiency, but, inevitably, in the period of transfer of functions the existing institutional frameworks may experience contradictory developments, become weaker and more susceptible to political pressure.

[15] The Law On Regulators of Public Utilities came into force on 1 June, 2001

[16] The Law On Regulators of Public Utilities, Section, pp.

[17] Rūtenberga-Bērziņa, Ilze; *Estonians Are Paying Less, Latvijas Avīze*, 19 February, 2009

Thirdly, policy-making in the energy sector has long been portrayed as a privilege reserved to a small circle of experts and energy companies. The sector does, indeed, have certain technological and financial particulars; however, this state of affairs seems to suggest a desire to "hold the reigns in one pair of hands", which serves, first and foremost, the interests of the large energy companies[18]. Gradually, though, the discussion is widening and energy issues are ceasing to be a subject confined to one sector of economy instead turning into a burning political, economic, social and geostrategic topic. Experts knowledgeable in concrete energy issues, as well as experts in finance, policy and foreign relations are playing an increasing role in the emerging energy debate. They offer their vision of the energy sector development, its goals and objectives[19].

Fourthly, we can observe a growing European influence in the energy sector that manifests itself via concrete commitments that gradually transform the framework of decision-making. Energy expert Juris Ozoliņš points out that Latvia retains substantial room for manoeuvre nationally in its choice of concrete objectives and tools for implementing them. Nevertheless the EU commitments and the increasingly broad European legislation put a certain 'cap' to Latvia's actions. For example, the EU legislation on the liberalization in the energy market has led to de-monopolization of the Latvian energy market (for the time being, primarily the electricity market), and has also helped the emergence of influential foreign players, such as *Eesti Energia*, and thus contributed to bigger competition in the energy market.

And, finally, despite the changes in the playing field and increased transparency, two large monopolies, *Latvenergo* and *Latvijas Gāze* retain a prominent place in the energy-related debate. Two other players, the gas supplier *Itera Latvija* and the biggest heating company *Rīgas Siltums* cannot be ignored either, because of their financial potential and the part they play in decision-making process. Viesturs Silenieks, one of the leading members of the ruling coalition and co-chairman of The Greens and Farmers Union, gave a summarizing description of the role of *Latvenergo*: "When it comes to energy issues, the Ministry of Economics is being constantly run by *Latvenergo*, not by the minister, and it doesn't matter whether the minister is there or not, and whether ministers change or something."[20] Even if the validity of this statement is questionable, *Latvenergo*, a producer of 90% of the country's electricity generation, clearly plays an important role in energy policy development and implementation. To a certain extent, the position of the company is boosted by the fact that, in the late 1990s, privatization of *Latvenergo* was abandoned as a result of public pressure. In 1999, the parliament amended the Energy Law giving up privatization plans and retaining its status of state-owned enterprise.

~~*Latvijas Gāze* was privatized in the late 1990s and, currently, is owned by *E.ON Ruhrgas* (47%), *Gazprom* (34%) and *Itera Latvija* (16%).[21] According to the plans announced in 2005, de-monopolization of the gas sector was supposed to start in 2010, as stipulated in an agreement with the EU. In late 2009, the plans were postponed till 2015. *Latvijas Gāze* has repeatedly threatened litigation against the government should the de-monopolization plans materialize, because a contract between the company and the government, signed in 1997, guaranteed *Latvijas Gāze* exclusive gas supply and distribution rights till 2017~~. Considering the leading role of *Gazprom* in the company, it comes as no surprise that Russian gas supply is being portrayed as the most favourable energy solution for Latvia. Chairman of the Board of *Latvijas Gāze* Adrians Dāvis said at the December 2008 joint meeting of the World Energy Council's Latvian National Committee and National Board: "Gas has to remain Latvia's energy priority till 2020, as a minimum. Renewable resources have to be postponed; the wealthy world can occupy itself with them. The coal station is an absurd idea, too. We must put the new gas power unit in place, without any doubts whatsoever. And what is all that whining about the monopoly of *Latvijas Gāze*? Have we ever failed to supply anyone?" In his mind, the Principles of the Energy Sector Development, adopted by the government, have to be "scrapped immediately", because they contain no reference to gas. "There is no need to be afraid of the European Union, they will have the next lot elected and everything will change," he said[22]. The quotes reveal not only the priorities that the company supports, but also the awareness of the company's influence and confidence to show it.

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[18] See Miķelsons, Kārlis, *Not Everyone Who Holds the Reigns Can Ride, Latvijas Avīze*, 17 April, 2008; An interview with Juris Savickis, *Biznes Klass*, September, 2008, p.22.

[19] Recently, a number of studies into energy issues have emerged, conducted by non-governmental actors. The Institute of Energy Systems and Environment of the Riga Technical University (RTU) has produced two research papers, *Evaluation* of Possibilities for Using *Renewable* Energy *Sources* in *Latvia* until *2020*, December, 2008, and *Model* and Action Plan for Increasing *Latvia's Use of Renewable* Energy *Resources* and *Energy Efficiency*, July, 2009; Stockholm School of Economics and the Baltic International Centre for Economic Policy Studies has published a paper on the use of wind energy in electricity production, *Renewable Energy: Is There a Latvian Master Plan?*, December, 2008; there has also been a study by Pēteris Strautiņš, chief economist at *Swedbank*, Riga, Latvian *Energy Sector: Opportunities, Risks and Solutions*, January, 2009; and a study on regional energy issues by the Latvian Institute of International Affairs, *Energy: Pulling the Baltic Sea Region Together of Pulling Them Apart?*, June, 2009.

[20] „The Economy Ministry is Run by *Latvenergo*", an interview with Viesturs Silenieks, weekly magazine Nedēļa, N 22, 17 December, 2007.

[21] Information on *Latvijas Gāze* shareholders available (in English) at: http://bit.ly/bkWSJj

[22] As quoted in Melbārzde, Līva, „Adrians Dāvis: Gas Should Be Latvia's Priority, Until 2020 At Least", business daily *Dienas Bizness*, 18 December, 2008.

It is hardly surprising that *Itera Latvija* expresses similar stance on the energy policy priorities. Even though the company is officially owned by the Cyprus-based *Davonte Holding Limited* (66%) and also by *Danish Inter Energia Holding ApS* (34%), it is identified as a daughter company of the Russian *ITERA*. *Itera Latvija* owns 16% of *Latvijas Gāze* and its alleged share in Latvia's gas supply is 30%. As in other countries, big businesses use lobbying and protect their interests at the highest political level. Aiga Grišāne will look into this phenomenon in detail in her article. Nevertheless, new challenges to such methods of pushing big business agenda are emerging. In the second half of 2008, head of *Itera Latvija* Juris Savickis criticized the government's support for the coal plant project, calling it a result of economically and environmentally disadvantageous political lobbying.[23] Justified or not, this comment revealed the complicating dynamics of the corporate factor in the energy sector.

Consequently, one can talk about two conflicting trends in the energy policy decision-making in Latvia. The first relates to the legacy of post-Soviet political and business culture, which commonly implies a lack of transparency, the existence of powerful business interests, the close ties between politics and business, and the notable presence of foreign energy suppliers' assets (first and foremost, Russian). The second trend relates to the ever-growing authority of the European Commission in the energy sector of Latvia, as well as the increasing engagement of general public, small producers and professional associations in setting and implementation of the energy sector agenda.

3.2 Strategy, legislation and practice

The Latvian government and parliament have produced a number of planning documents, legislations and regulations concerning energy. Latvian National Development Plan 2007-2013 is a framework strategic planning document. An updated and more comprehensive Sustainable Development Strategy 2030 is being drafted that will take further the Principles for Sustainable Development, passed in 2002. These strategic documents deal with the issues of energy, among others. However, the key strategic document for the energy sector is The Principles of Energy Sector Development 2007-2016, adopted in 2006. The Principles of Renewable Energy Resource Use 2006-2013 have also been passed and there are a number of energy sector-related medium-term programmes and action plans, for example, The Climate Change Mitigation Programme 2005-2010, Latvia's Rural Development Programme 2007-2011, the programme Biofuel Production and Use in Latvia 2003- 2010, the Programme for Development of Biogas Production and Use 2007-2011, as well as the EU action plans: the Action Plan for Energy Efficiency 2008-2010 (passed in 2008), the Action Plan for Renewable Energy (expected to be submitted for approval by June, 2010). The most important energy-related legislative documents are the Energy Law (2005), which regulates the use of and support for all renewable resources. The government has also adopted a series of regulations; the most notable among them is the Regulation No 198 (24 February, 2009) and the Regulation No 486 (26 May, 2009), which defined the feed-in tariffs for electricity, produced by using renewable resources.

The Principles of Energy Sector Development 2007-1013 define the fundamental principles of the Latvian government policy, as well as long-term goals and course of action in the energy sector. The importance of the energy sector in the context of overall sustainable development is acknowledged: "The sufficiency of energy supply in the country is the issue of economic development, the quality of life and state security. The goal of the energy sector development is to ensure balanced, safe, sustainable high quality supply of energy for the economy and country's residents." The goals spelled in the document are identical to the "three whales" of the energy sector as defined by the EU, namely, secure supply, encouraged competition and competitiveness, and use of renewable resources. Nevertheless, in actual fact, the implementation of the stated goals, and the government decisions related to them, have not been very consistent.

3.2.1 Security and diversification of energy supply

Even though the new EU member states have the biggest incentive to support the EU common security and solidarity principles and to reduce the level of dependency on imports of Russian gas and oil by means of supply diversification, the Latvian ruling coalition, which came to power in 2006, chose a different priority, focusing on economic opportunities rather than diversification. The political aspect of security was deliberately undermined and economic considerations were brought to foreground. According to the government's position, the security of energy supplies primarily lies in the stability of supply and pricing. Dealing with gas-related issues became symptomatic. The decision-makers in Latvia expressed their interest in "diverting" a branch of Russian-German *Nord Stream* pipeline to Latvia, in the prospective underground gas storage facilities in Dobele and in building a gas power station. The reasoning for it was that an increase in gas share would help to deal with the need for additional resources and capacity in electricity production. Moreover, the argument goes, gas is a relatively cheap resource and, by using it, Latvia would have lower greenhouse gas emissions than if it used coal. The government's conscious intensification of economic and

[23] Akopova, Inna, „Coal Plant Conquers Gas One"", daily newspaper *Telegraf*, 24 September, 2008.

energy cooperation with Russia coincided with the emergence of the aforementioned pro-gas opinions among the big energy company bosses. Adrians Dāvis of *Latvijas Gāze* and Juris Savickis of *Itera Latvija* repeatedly stressed the potential of the energy partnership with Russia and the reliability of hitherto supplies.[24]

Nonetheless, a re-evaluation of the energy strategy did take place in 2008, likely related to the Russian-Georgian crisis. As then foreign minister Māris Riekstiņš put it: "I believe the recent events will compel us to reconsider our energy policy [...]. We cannot measure everything in either lats (Latvian national currency) or roubles."[25] Prime Minister Ivars Godmanis echoed his remarks by saying, that, in his view, the construction of *Nord Stream* pipeline or its branches in Latvia can only go ahead if all EU member states support the project and the EU declares it a priority. In the government's priorities, the previously supported gas power plan was replaced by a coal plant. However, these policy changes, too, should be treated with caution. Firstly, the question arises whether the changes in the ruling coalition's position were prompted by a sudden strategic awareness or by a realisation of domestic political consequences of the previous policy in the context of falling approval ratings. Secondly, in late 2008, in addition to the support for the coal plant, the government, without too much publicity, decided to give its approval to another project, a liquid gas terminal. Thirdly, the request for the European Commission to evaluate the coal power station's compliance with the EU requirements is questionable and, in actual fact, seems to be signalling desire to put off the decision and its implementation or to give up on it altogether. And, the fourth point is that in December, 2008 the parliament abolished the lowered tax rate on the locally produced biomass whilst upholding the lowered rate (10%) for natural gas imported from Russia. This measure unquestionably hinders the competitiveness of local renewables, strengthens the position of Russian gas and contradicts the objectives of diversification. Kaspars Gerhards, who was the economy minister at the time, criticized this decision; even though he himself should assume part responsibility for the fact that it was passed[26]. His remarks may seem confusing and paradoxical, but this manner of conduct is not unusual in the Latvian political circles. In December, 2009 the amendments to the law On Excise Duty were passed. According to the new law, natural gas used as fuel will have the excise duty of 15.6 LVL per 1000 cubic meters and natural gas used for heating will have the excise duty of 70 LVL for 1000 cubic meters. The new excise duty, in effect, increases the competiveness of local renewables. However, the process of adopting this legislation was, once again, non-transparent and unpredictable. It left the impression that the reasoning behind the decision was the need to reduce the budget deficit and not the need to act in accordance with the priorities of the energy sector or the need to promote sustainable development of the country's economy. Moreover, it turned out that the government, in closed meetings, was simultaneously discussing a project of building a new 400 MW gas power plant, or, in other words, the second stage of reconstruction of TEC-2, a thermal power station in Riga.[27] Should the government decide to endorse the project it would be in an obvious contradiction both with the diversification objective and the previously adopted decisions to support the coal plant and to engage wider public into discussion on the energy sector objectives.

3.2.2 The use of renewables, mitigation of climate change and energy efficiency

Justifiably, the use of renewable resources in the energy sector has been given a lot of attention in recent years, particularly in relation to electricity production. The promotion of energy efficiency and protection of the environment has also been high on the agenda. Even though these issues carry a significant individual weight, they are tightly interlinked aspects of sustainable development. In their chapters, Ojārs Balcers and Daina Eberšteina will provide a thorough assessment of the execution of these goals. On the whole, the trends prevalent in energy policy development are present here, too, namely, sporadic, contradictory decisions, unpredictability and lack of transparency in decision-making process. To name a few symptomatic examples, the Economy Ministry's tender for wind energy feed-in tariff rights was announced and then cancelled a few weeks before the deadline in December, 2008; only to be changed a few months later by the adoption of government regulations No 198 and No 486.

3.2.3 Increasing competitiveness

When it comes to market liberalization and the promotion of competition and competitiveness, the issues have been closely intertwined, both at the national and regional and the EU level. Even though increased competitiveness and the priorities serving that goal would be, first and foremost, in Latvia's own interests, the government's actions leave an impression that its leitmotif is the need to comply with the EU directives

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[24] For example, in Krastiņa, Laura, „The Intimate National Pride of Dāvis", an interview with Adrians Dāvis, magazine *Republika*, 7-12 April, 2006; Dūmiņa, Zaiga, „Gas Storage Facilities, Nation's Riches", an interview with Adrians Dāvis, daily *Diena*, 7 May, 2007.; Strautiņš, Pēteris, "Gas for Half a Century", an interview with Juris Savickis, daily *Diena*, 18 February, 2007; Fast, Tatyana, "Let Russia and the US Be Friends in Latvia, not Fight", an interview with Juris Savickis, daily *Telegraf*, 17 September, 2008

[25] As quoted in Sloga, Gunta, "Diplomat Without a Spark", daily *Diena*, 31 August, 2008 .

[26] News Agency *LETA*, "Gerhards Admits Local Energy Producers Are Being Discriminated", 13 February, 2009.

[27] Melbārdze, Līva, „Government Looking for 300 Million to Fund TEC-2 Reconstruction", *Dienas Bizness*, 27 November, 2009.

and commitments, rather than the need to design well-thought-through preconditions and environment that would be primed for greater competition and effective in long-run. In his chapter, Juris Ozoliņš will look into interactions between EU and Latvia. The author will evaluate the depth of "europization" in Latvia's energy policy, both in terms of legal requirements and European values.

We may say that Latvia formally adheres to the EU directives and this fact has positive impact. Even though the privatization of *Latvenergo* or de-monopolization of the gas sector is most unlikely in short term, in the electricity sector we can observe some positive trends. Since 2007, the electricity market in Latvia has been open and about 5% of it is controlled by *Eesti Energia*, or, to be more precise, by its daughter company Enefit. *Latvenergo* has managed to lure back a few customers by offering them better deals. There is still a long way to go to a completely open, transparent and balanced market, but it is worth noting that Latvia stands out among the Baltic states as the country most advanced in terms of competitiveness in the electricity sector. *Latvenergo* is looking for ways of increasing its own competitiveness, too.[28] And, considering the ever-growing political, institutional and financial presence of the EU in the energy sector of the Baltic region[29], there are a few signs of irreversible market integration and increased regional competitiveness.

Nevertheless, some ambiguity and inconsistency persist, particularly in the areas, where the EU gives the member states more freedom and room for manoeuvre, that is, in the system of taxation and support mechanisms for energy purchase and investment. As our authors point out, the rules of the game in Latvia raise doubts if there is a genuine support for honest competition and sustainable development of the energy sector. The inconsistent and frequently ambiguous implementation of the energy sector priorities is not surprising, considering the current layout of the energy sector playing field, as well as the prevalent business and political culture in the country.

4. Conclusions: towards a sustainable, competitive and safe energy sector

In any modern society, the energy sector is one of the key sectors of economy, one that has a long-term impact on overall development of a particular society. Thus, when we open a discussion about the energy sector we have to be fully aware of its systemic role in facilitating economic, technological, social and political development. Firstly, the energy sector has an indisputable impact on economic development. In order to create a sustainable model of economic development, one needs to promote competition and competitiveness, support growth of small and medium businesses and diversify development opportunities in agriculture and regional development. Obviously, the use of local renewable resources contributes to the same end, too. For too long a time the energy sector has been centralized, both in terms of production and investment, and still is. This state of affairs raises questions about the levels of transparency and efficiency in the energy sector and economy as a whole. Besides, there are concerns that the symptoms of the so-called Dutch Disease may start appearing, in other words, disproportionate investment in big projects hindering development of small and medium enterprises and also makes the country's economy less flexible and more susceptible to changes in external factors.

Secondly, Latvian government has repeatedly proclaimed that the country needs to build a knowledge economy. The presence of fossil fuels in the energy sector cannot be ruled out, but future innovative potential lies, first and foremost, in the new energy technologies, ones that are environmentally friendly and efficient, as well as in greater competition and support for small and medium businesses. Innovations, technological improvements and the promotion of energy efficiency, in turn, may bring bigger revenues from emission trade. In other words, they will provide additional funds for further technological improvements. Therefore, we need to support an upward spiral of development, where positive transfers lead to more positive effects, creating conditions for further development.

Thirdly, a way of promote social stability, which, in broader terms, means public support for the country's long-term goals and for government actions towards reaching them, is through increasing the engagement of the wider public and through encouraging citizens to assume co-responsibility for the implementation of concrete projects. In the energy sector, this primarily relates to an opportunity to widen the potential of local resources and promote energy efficiency. Communication of the long-term goals and transparent execution of concrete support mechanisms, without a doubt, promotes trust in government actions and in the efficiency of public administration. That trust, in turn, promotes social stability, even in the times of economic and financial hardship. Conversely, frequent flux in long-term goals and tools for reaching them create distrust and, in the long-run, contribute to social and political tensions.

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[28] See, for instance, Āboltiņš, Reinis, „Towards a Joint Market, With Brussels' Support", an interview with Juris Ozoliņš, advisor to the European Energy Commissioner, and Gatis Junghāns, head of the Sales Department of the Electricity Wholesales at *Latvenergo*; magazine *Energoforums*, 4 August, 2009.

[29] In 2008 and 2009, the EU produced two documents that have a direct impact on the energy sector development of the Baltic Sea region: *A European Economic Recovery Plan and Baltic Energy Market Integration Plan* (BEMIP).

Lastly, for small countries, constant boosting of their external sovereignty, both political and economic, is particularly important. And promotion of self-sufficiency of the energy sector is one of the key tools for reaching that goal. Currently, in terms of energy supply structure, Latvia is one of the most vulnerable EU member states. The level of self-sufficiency is low and dependency on one resource and one supplier is high. Moreover, the position of that supplier's capital in the local energy market and in the economy in general is significant, as is that of the associated business culture; also, the chance of political and economic manipulation is ever-present whilst opportunities for supply diversification and greater balance are limited in the short-term and medium-term. The use of local renewables and improvements in energy efficiency should, clearly, become the priority objectives in diversification efforts and promotion of self-sufficiency. This way, the end consumption will be reduced. At the same time, gradual integration of the Baltic 'energy peninsula' into the 'continent' of the EU energy infrastructure, and its legal and technological framework, creates conditions for energy security, particularly for crisis situations, as well as supports the upgrading of the energy sector and development of the country's economy in general.

It is important to be aware of the long-term or the so-called macro goals; but equally important is to keep in mind the other side of the coin, namely, the implementation of concrete steps or projects. Only through the micro level actions can the long-term goals obtain concrete content. When particular emphases are being put in the process of actual project implementation, the previously stated long-term goals may undergo transformation. Currently, some of the most significant and indicative projects and decisions include the development of underground gas storage facilities, a branch linking *Nord Stream* to these potentially large facilities, a possible coal power plant construction, as well as support schemes for local renewable resources. Even though these issues may seem to be only vaguely interconnected, the manner of their implementation, their essence and conceptual linkage may have an impact on the future development of the energy sector.
Should the branch to the underground facilities come into being, diversification of supply will not be promoted in Latvia, and a gas power station will exacerbate the trend. The branch could be closed or left unused eventually turning into a tool for manipulation, rather than a guarantor of security. It is apparent that the big gas projects would strengthen the role of Russian energy companies in Latvia, most notably *Gazprom*. That is why the claim by the previous government that it needs to comply with free market principles in the energy sector has, in fact, little to do with free market principles in long-term. A company like *Gazprom* can hardly be called free market actor, because, in reality, it is controlled by the Russian government, its business structure is non-transparent and its business activities are not always based in economic reasoning. That is why the growing dependence on gas and the ensuing dominance of *Gazprom* in the energy sector of Latvia can only contribute to the so-called "gazpromization" of the energy sector, in other words, to increased monopolization and non-transparency of the business environment, which would subsequently have an effect on political milieu and decision-making. The pro-gas choices could have a negative impact on the country's long-term development. Instead of the diversification of resources and promotion of competition, the increased reliance on gas would, in fact, lead to stronger desire for limited competition and market monopolization in the energy sector and economy in general. In other words, the pro-gas attitude to diversification and energy security would only strengthen the existing energy supply structure and trends.

In this context, of course, alterative options acquire particular importance. That is why we should not underestimate the government's regulation on support schemes for the local renewables, even if they do not lead to immediate changes. The fact that the decision to endorse the coal power plant has, to a certain extent, prompted doubts about the adequacy of this notion, underlines the importance of decisions on renewables for the energy sector and economy in general.

However, at the moment, the support decisions raise a few questions. For example, support mechanisms for biogas made us learn several lessons and left plenty of room for improvement. Firstly, the regulation of the Cabinet of Ministers on feed-in purchase changed without leaving an impression that the changes were justified. Legislation and government regulation has to be predictable, sustainable and justified in order to gain public trust in the energy sector-related decisions. Secondly, several investment support mechanisms exist at present, but transparency and harmonization of those mechanisms should be put high on the agenda. For example, the investment support could be focused on connection to the grid, which presently is one of the key obstacles to promotion of distributed generation and islanding. Thirdly, there are doubts about the justification for the system of feed-in quotas as well as about transparency of quota distribution. The quotas would need to be abolished and businesses encouraged applying a complex approach and using market mechanisms. Fourthly, the feed-in tariff pricing formula does not seem to be reasonable. Particularly questionable is the major difference in pricing for the power plants below and above 2 MW capacity (0.13 LVL per kWh for the plants below the said threshold and 0.09 LVL per kWh for those above). Also, the formula that links the feed-in tariff for electricity produced in the power plants above 2 MW to the price for natural gas. In other words, the plants producing less than 2 MW of electricity have a stable and predictable feed-in price, whilst those above 2 MW have a changing one. The abolishment of the linkage with the gas price needs to be considered. Lastly, the current pricing formulas, which are rather inflexible, not only raise doubts about the reasoning behind them, but also do little to motivate businesses to improve and do not encourage initiatives aimed at a more complex approach to biogas production and use, the initiatives that would consider its impact on the energy sector, agriculture and environment. A good example of such approach is the German system with its scale

of payments and bonuses that are linked to the use of agriculture by-products and liquid manure, to air pollution reduction, cogeneration, and the use of innovative technologies. As a result, the feed-in price may rise from a base level of 12 Eurocents to 27 Eurocents per kWh (0.19LVL). In Latvia, the fixed amount the smallest producers can get is a little over 0.16 LVL per kWh. In this context, it is worth considering future prospects for development of emission trade and sales of the so-called released quotas, as well as introduction of carbon tax.

Evidently, the integration of two levels, macro (understanding of and support for strategic approach to the systemically important energy sector in the framework of overall sustainable development) and micro (concrete implementing decisions, e.g. government regulations) is primarily the responsibility of political power and public administration. In the light of this, we have several recommendations, mainly related to the executive power and its duties, responsibilities and suggested course of action in the energy sector.

Firstly, the government has to assume the central role in restructuring the energy sector. The key leitmotif should be as follows: a more thorough approach today will lay the foundation for a more structured policy tomorrow. The government will always have to be active; will always have to assume responsibility in this sector, the sector of technological dynamism, which is at the centre of international economic and political processes. Market and business will never be able to solve all energy-related issues alone, as energy is increasingly relevant to all facets of human development. Yet, if institutional, economic and administrative issues are dealt with now, then the need for political interference in the future may decrease. And less political interference in a particular situation will lead to fewer suspicions that any decisions made are politically motivated.

Secondly, as stressed before, no issue can be referred to in energy terms alone, we should always consider it in the context of overall sustainable development. Naturally, a certain balance is needed, harmonizing short-term costs with the promotion of long-term sustainable development. At the same time we need to be aware that higher costs in one sector may translate into a positive transfer in other sectors. And vice versa, low short-term costs are not necessarily beneficial for human development. Elimination of the existing symptoms does not solve fundamental problems; moreover, such elimination may even hinder solutions to fundamental problems in the longer run. Besides, the reduction of the end consumption requires greater attention; the increase of production capacity cannot be the only focus. And, once more, we need to promote a coordinated and integrated approach to the energy sector, keeping in mind its linkage with the economy, agriculture, environment and foreign policy.

Thirdly, the institutional framework requires restructuring. An audit of functions and responsibilities has to be carried out (it could be defined as "an adequate institutionalization") so as to firmly determine which institutions are responsible for which functions and procedures. Some steps in this direction have already been taken, particularly in relation to the functions of the Department of Energy of the Ministry of Economics. However, along with the efficiency-related efforts, the government has to ensure that the Department of Energy raises no suspicion whatsoever of conflict of interest. That is why the procedure of the Department's management selection has to be transparent as do the responsibilities of the managers. Whilst making the Department institutionally stronger and broadening its competences, external supervision and internal auditing must also be improved. The quality control has to be robust, not a mere formality. Interaction and coordination with other government structures and relevant non-governmental actors also has to be encouraged, and in particular, with social partners.

Fourthly, the legal framework requires attention, too, both the documents dealing with the energy sector (support mechanisms) and those dealing with the playing field surrounding it. The law has to stipulate clearer and more powerful motivational tools and initiatives, both 'sticks' and 'carrots', that would work in line with the three priorities: support for greater competitiveness, innovations, and small and medium enterprises. In setting the right emphases, taxation policy is crucially important (excise duty, carbon tax, tax credits and reduced tax rates), as is support for investment, particularly in the area of energy efficiency. For example, at the moment Latvia lags behind other EU countries in terms of energy efficiency promotion. That is why new motivational tools are needed, as well as stricter control mechanisms, because some energy efficiency initiatives have already been discredited. As one of our authors Ojārs Balcers points out, there are several measures that could increase energy efficiency, for example, upgrading heating mains, increasing the responsibility of real estate managers over the insulation of the buildings in their care. Administrative restrictions should certainly be reduced (problems connecting to the grid, inflated bureaucratic procedures) and the best practices of other countries need to be adopted.

Lastly, many government decisions are already met with distrust by the general public, NGOs and businessmen. That is why the decision-making process has to be transparent, and all suspicions of conflict of interest and political motivation have to be cleared. The energy sector provides an opportunity for the government to regain some of the public trust, thereby contributing to a more responsible and sustainable development-oriented image of the country. The law has to lay down a clearer decision-making procedure. The role of social partners and experts also requires a clearer definition, but the key priority is to induce transparency in the relationships between the government institutions and lobby groups, as Aiga Grišāne points it out in her paper. Transparency would reduce doubts about dubious practices and would increase trust in the decisions that have already been made. Even though several steps have been taken, namely, the Corruption Prevention and Combating Bureau has drafted a paper, *The*

Need for a Legal Framework for Lobbying in Latvia, relevant rules of conduct for government officials have been written, and amendments in the Criminal Law have also been drafted in order to define the difference between lobbying and trading in influence, there is still a long way to go to a transparent and legally defined lobbying practice in Latvia. Unlike the majority of the EU member states, Latvia chose not to establish a lobbyists' register and there has been very limited public information about the role of lobbyists in making particular decisions, with only a few exceptions such as the Ministry of Environment. Moreover, there is no system of supervision over the process of making lobbying-related information public and the issue of the parliament members' duty to disclose lobbyists they are working with has been removed from the parliament's agenda. The regaining of trust will not only require legislative work, but also changes in political thinking and the prevailing political culture. Partly this could be encouraged through more active engagement of the non-governmental sector, as well as through greater influence of the European practices. In practical terms, the latter means socialization and institutionalization of the public administration practices, norms and values common in the developed European democracies in the decision-making milieu of Latvia. Without a doubt, the stronger the arguments put forward by experts and citizens about the public benefits of concrete energy policies in the context of sustainable development, the harder it will be for the politicians to ignore them. Or else, they will have to pay an inescapably high political price.

Renewable energy resources in Latvia's policy, obligations and practice

Ojārs Balcers, Ph. D.

In early August of 2009, the news agency *LETA* reported that the Spanish slug Arion lusitanicus has been spotted in Pastende. The Spanish slug is a highly invasive slug species and a pest. The native distribution of the Spanish slug is the Mediterranean Region, not Latvia. In the 20th century, the species started rapidly spreading northwards across Europe. Having arrived in new territories, the slug rapidly multiplied and soon became a serious pest.

To the climate minded readers, this *LETA* news item also indicates that the beneficial effects of the hitherto climate and energy policies may arrive too late for them to have a delaying effect on the reaction of eco systems to the atmospheric pollution by the greenhouse gasses, which man has been releasing into the atmosphere since the beginning of the so-called industrial revolution, in other words, for the last two hundred years or so.

This example illustrates the fact that Latvia is not immune to climate change and its effects. **In this context, that of the climate and energy policy**, the author of this chapter recommends energy policy decision-makers to consider the issues related to renewable resources, energy efficiency, energy security, self-sufficiency, system stability, and costs, among others.

Yet, is the unwelcome arrival in Latvia of the slug native to the Iberian Peninsula indeed related to Latvia's policies on renewable resources? Unfortunately, that is the case. The government's renewable energy policies have to invest, primarily, in energy efficiency measures and reduction of reliance on fossil fuels so that we could fulfil our international obligations and use new opportunities provided by an energy efficient economy. In the framework of commitments and partnerships we can have either beneficial or harmful effect on the planet's climate, via these obligations we can maintain dialogue within the European Union and, ideally, mitigate climate change and limit the disastrously fast reduction in biodiversity across the world [30] [31] [32] [33] [34].

At the time of writing this chapter, the use of renewable resources and energy efficiency measures in Latvia relies on the country's commitments within the EU climate change and energy policy framework. By 2020, 40 % of primary energy resources in Latvia will be renewables. It would be the second highest figure in the EU, after Sweden. The Ministry of Economy is currently drafting **a detailed plan** on reaching these goals, to be discussed and approved in Brussels in 2010.

The development of a national plan for Latvia on reaching the 40 % renewable resource share by 2020 relies entirely on the Ministry of Economy. Its decisions will determine the format of the plan and the manner of its implementation.

The fact that there are three government institutions overseeing energy-related policy in Latvia does not make the Economy Ministry's task any easier. In addition to the Ministry of Economy, the Ministry of Agriculture and the Ministry of Environment also have some energy-related responsibilities. Moreover, decisions on taxation, such as the excise duty and V.A.T., as well as measures on multi-storey apartment building renovations and maintenance of the heating mains are directly influenced by decisions made by other government institutions. Perhaps, it could be better for the energy policy practice in Latvia if the European Commission made a multi-stakeholder approach a binding criterion for the national plan development. A wider participation would assist, at least partly, in creating a document of satisfactory quality. Timely, broad discussion would determine the key directions for development and set the medium-term goals and it would also help to ensure that funds will be made available

[30] Intergovernmental Panel on Climate Change. Climate Change 2007: The Physical Science Basis. Cambridge University Press, 2007

[31] Intergovernmental Panel on Climate Change, http://www.ipcc.ch/

[32] United Nations Environment Programme, Global Environment Outlook: Environment for Development, http://www.unep.org/geo/geo4/media/

[33] EU policy documents on climate change, http://ec.europa.eu/environment/climat/home_en.htm

[34] J. Rockstorm et al. "A Safe Operating Space for Humanity", Nature, v. 461/24, pp. 472-475, 2009

for the implementation of the plan. The obligations that the plan will stipulate will only work if they are included in policy documents, if the amount and source of funding is clear, if the feasible medium-term goals are spelled out and the deadlines are clearly set.

So, what we know at present is that, in general, a certain share of renewable has to be reached by 2020, but we have very little idea as to how it translates into the renewable share in heating, electricity and in transport energy. Consequently, we have no data on costs. In actual fact, we know very little. The short term goals are the ones that count in Latvia. It has to be kept in mind that the average lifespan of a Latvian government is less than two years and thus, **the government fails to produce realistic strategies and ensure continuity**. Unquestionably, this is the main and biggest problem in Latvia's energy sector; other issues are secondary. This notion is illustrated by the figure below, which shows the energy share in the boom years.

Primary Energy Resources, 2006: 206PJ

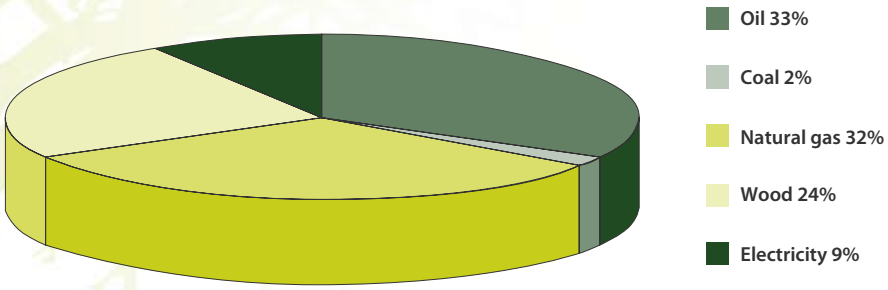

Figure 1. The total energy demand in Latvia in 2006 was 206 PJ. 19 PJ or 9 % of that was electrical energy. The share of wood was 50 PJ or 24% and the rest of the pie accounts for fossil fuels, oil (33 %), natural gas (32 %) and coal (2 %). The use of other resources was insignificantly low. The share of renewables is growing: it was 27% in 1994 and 36 % in 2004. If fossil fuel power plants will be built, the share of renewables will have to be increased at a much faster pace. The energy balance of imported energy versus locally produced is around 3 to 4 %.

In order to reach 40 % renewable energy share by 2020, considerable funds will be needed. That is why it is imperative to decide whether to give priority to reducing natural gas consumption and replacing it with biomass cogeneration, or to reduce oil consumption in the transport sector in favour of renewable fuels and public transport. Perhaps we should invest in renovation of heating mains and in upgrading apartment buildings? Or should we build offshore wind farms? In Liepaja, we could opt for a biomass power plant, or perhaps for a coal one. Alternatively, we could follow an example by Ventspils, Jelgava and Tartu and decide in favour of biomass cogeneration. Should we build the extension for TEC-2 in Riga fuelled by natural gas and what will be the capacity of the new bloc? Only by making these choices will we be able to find the most beneficial option that serves public interest best. And there is not much time for making choices: the calculations will have to be finalized soon in order to formulate a clear and reasonable direction.

Are the recent government decisions on renewable energy **transparent, reasonable and based in sound economic arguments? An example: the calculations on the share of renewable resources and related costs in heating, transport and electricity sectors**[35]. Another example is the case of the TEC-2 reconstruction project when the necessary amendments to a government regulation were passed a few days before Christmas in 2009. The funding involved in the project was considerable: according to the European Investment Bank 100 million EUR loan papers, the costs of the project are 388 million EUR. A few days after the government's endorsement, on 6 January, 2010, *Latvenergo* board member (Aigars Meļko) (currently detained along with other high-ranking *Latvenergo* officials over suspected corruption) gives the following reaction to the objections expressed by environmental NGOs and biomass producers: "The public discussions about the project and all publications happened in accordance with the law, so what is there to discuss?" (*sic*).

Has a **meaningful discussion** indeed happened? And what further discussions could there be, and on what issues? In the author's view, Mr. Meļko asked a question of the utmost importance for the energy sector of Latvia. Let us explore possible answers.

[35] In 2009, The Institute of Energy Systems and Environment of the Riga Technical University produced a research paper *Model* and Action Plan for Increasing *Latvia's Use* of *Renewable* Energy *Resources* and *Energy Efficiency*, funded by the Latvian Environmental Protection Fund. Available (in Latvian) at http://bit.ly/bPnTnI

Perhaps energy sector planning requires a long-term approach, one that would enable us to the see the development of the energy sector in the context of overall economic development? The author is truly interested to learn, how much 'the billion LVL **nuclear power** station' will truly cost and what will be the return on that investment? And how much will the nuclear waste storage cost, annually? What are the sources of funding for a nuclear plant's construction, maintenance and closure? Is it true that the used nuclear fuel has to be stored in a waterproof storage for at least 10 000 years, which is longer than the age of the Baltic Sea? Prime Minister Valdis Dombrovskis and his Estonian and Lithuanian counterparts have agreed to seek a strategic investor for a nuclear power plant. The agreement was reached on 6 November 2009 at the Baltic Council of Ministers meeting in Vilnius, and it means that this Latvian government, in effect, wants to be part of the new nuclear power plant project. This seems to be (yet another!) example of non-transparent decision-making. It evokes parallels with the government's decision to bail out the *Parex Bank* in 2008: the government became the bank's majority stakeholder almost overnight, the sums involved were vast and came from taxpayers' pockets, the commitments were long-term, the reasoning dubious and the process, non-transparent.

How are the decisions on the coal power plant or, say, the **biomass plant in Liepaja** being taken? Do we know if the power station in question will have a condensation or a cogeneration system in place? What will be the capacity? And who will fund it? How much will it cost? How are we planning to use the process-generated heat? Does the project consider possible price rise in Latvia's wood market and CO_2 emission trade during the existence of the power plant in question? Is there a critical assessment of the electricity consumption forecasts made by the previous system operator? Are these forecasts reasonable? To say that they are "unreasonably optimistic" would be to put it mildly, rather they could be referred to as forecasts "that repeatedly ignore the factors of Latvia's shrinking and ageing population; the non-competitive nature of industries reliant on imported energy; the prospects offered by greater energy efficiency."

Meanwhile, it turns out that the responsibility for reconstruction of apartment buildings lies with the residents. No matter that the country has record unemployment figures: according to Eurostat, Latvia's unemployment has been the highest in the EU for several months in a row, reaching 22% in November, 2009. Moreover, because of the ill-considered apartment privatisation practices, social background of the new owners and the debt burden that many of these buildings carry, reconstruction, in most cases, is simply inconceivable.

It would be sensible to carry out an assessment of the economic impact of natural gas import reduction, which would result from apartment building reconstruction and switching from natural gas to biomass cogeneration. It may show that this scenario will not only lead to economic benefits but also help to determine a clear development in energy policy. In the author's mind, it is imperative for the free market citizens to see that, in the times of economic hardship, it is not just a selected group of private sector players that receive the government's assistance. The actual energy policy execution will show what choice we had made: to keep the predictable (and large) funds generated by heating supply in our own country or to help other countries' economies and, consequently, in which country we want to support job-creation.

Does this **energy dependency** not bother us? It the recent years it has stayed within the range of 66 to 70%. Such level of dependency, undoubtedly, is a fertile ground for exercising political influence. Latvia's main resource is wood. In order to significantly reduce dependency on imported fossil fuels Latvia needs to reduce fossil fuel consumption and increase energy efficiency (multi-storey apartment block renovation, heating mains), gradually replacing fossil fuels with energy produced by wood and offshore wind. With solar and biogas energy costs in decline, opportunities for using these types of energy are growing.

In **the transport sector** we need to reduce greenhouse gas emissions. For that, well-thought-through political decisions will be needed, as well as a strategy and considerable investment. The strategy could, perhaps, contain a provision on bigger tax burden for larger cars to encourage land transport to switch to smaller and more efficient vehicles. A shift in transportation modality could also be considered, using rail and sea transport more and air transport, less. Energy efficient public transport should be a much bigger priority: for example, in Stockholm buses use biogas. Encouraging bicycle use and, eventually, the use of electric cars, could contribute to reducing air pollution in cities; Riga, in particular, could benefit from it because of its low ambient air quality. Political decisions related to the transport sector will have a direct impact on renewables. "Green Procurement" (for example, recycled paper), waste recycling, personnel practices encouraging walking or cycling to work, or using public transport are just a few tools that would enable "green changes" in the public sector, both at the government and local level.

The Climate Conference in Copenhagen in December 2009 made us realize a few things. Among others, the fact that only large groups of nations are able to influence climate and energy-related decisions. Also, that the percentage points of reduced greenhouse gas emissions will not come cheaply. So, for Latvia, it will not be enough just to insulate a few dozen apartment buildings, to renovate 20% of the heating mains and make ten biomass power plants operational (including those that currently exist only on paper). Latvia will need tangible, substantial investment and real work! Focused calculations would help to ensure that large investments are reasonable, well-considered and properly debated in society. Among other things, it would make sure that the use of hundreds

of millions of the emission trade-generated LVL will be properly considered. It is this money that enabled Latvia to set up the Climate Change Financial Instrument (KPFI), which operates under the auspices of the Ministry of Environment.

1 The importance of the energy sector in the sustainable development of the country

1.1 The importance of the energy sector in the economy

The most important criteria are energy efficiency, the use of local energy resources, decentralized energy generation and exploitation of opportunities provided by a knowledge economy. Some solutions, such as carbon capture and storage, are, to a large extent, projects of the future. However, they are very suitable for capturing emissions from fossil fuels (natural gas) as well as from biomass cogeneration power plants and, therefore, can be used as basis for demonstration projects, particularly considering Latvia's advantage, i.e. geological resources.

Climate protection and energy security are well-matched issues that are a cornerstone of the energy policy. In this respect, Latvia is not and cannot be an exception. Consequently, the policy on renewables has to be aimed at assisting these objectives.

The key renewable resource in Latvia is well known: wood and biomass in general[36] [37] [38] [39]. The heating consumed in the country should come, to a much larger extent than it is now, from local renewables. A relatively small, but nevertheless important source of renewable energy is hydroelectric power of the Daugava River. Solar energy and offshore wind energy are also worth exploring. These resources are addressed in other papers (see, for example,[40] and other aforementioned publications), which is why this chapter mentions them only briefly.

1.2. Energy independence and external security

When we address the issue of energy independence we need to be aware of our "invisible ties" with Estonia and Lithuania. With interconnected networks developing further and foreign investment inflow growing, these ties will become wider. That is why it is misleading to emphasize the role of electricity in the primary energy demand (which counts for about 10%) and claim that we need a coal plant in the western part of Latvia, Kurzeme, or "our own" nuclear power plant, or another thermal electric plant in Riga. Taxpayers and electricity consumers are presented with a bill and told that Latvia requires balancing capacity or else lights will go off any minute. The author remembers well the past warnings when the imminent closure of Lithuania's Ignalina nuclear power plant was presented by some as a shortcut to blackouts. A retrospective look at those discussions shows that the fear mongering was groundless; the lights are still on, even at peak hours. The Chernobyl-style nuclear power station in Lithuania is now closed, but nevertheless continues to consume energy; the maintenance and storage of nuclear fuel and radioactive waste will carry on putting strain on the country's finances for years to come. In general, nuclear power projects tend to be technologically challenging and the environmental responsibility associated with them is very high. Some in Latvia now say that if Estonia decides to close its oil-shale power stations, then, in 2016, Latvia will experience power cuts for sure. Estonians themselves are saying that it will not happen, because they are planning to upgrade their power plants. Meanwhile, they have built biomass cogeneration plants in Tartu and near Tallinn, and are working on large offshore wind farm projects. Estonians are already selling a certified green energy to green-minded consumers, but Latvenergo says it will start offering this option in 2010, possibly.

In the context of the EU, it would probably make sense to talk about the existing regional capacities and liberalization of the energy market. The existing capacities have to be commensurate with maximum demand, the development and liberalization of the energy market (the latter has not really come to fruition yet), as well as with the signals about market prices, the capacity and energy security compliance of the network interconnections, investment climate favourable for building new capacities and, of course, the government support for energy efficiency and a much wider use of renewable resources. Thus, a predictable energy policy can be designed, which would enable us to fulfil the international obligations with regards to climate change and renewable energy targets, i.e. 40% of the total energy consumption by 2020.

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[36] "Energy Efficiency Policies and Programmes of Latvia 2007. In-depth Review", Energy Charter Protocol on Energy Efficiency and Related Environmental Aspects (PEEREA), 2008, Brussels, Belgium.

[37] "Monitoring of Forest Resources", Latvian State Forest Research Institute Silava, the summary available (in Latvian) at http://bit.ly/9ILTqv

[38] "Utilization of Renewable Energy Resources in Latvia's Regions and Assessment of Economic, Environmental and Social Benefits at National and Local Level", the final report, the Institute of Physical Energetics, Riga, 2006

[39] Holmberg, Rurik, "Perspectives for R&D in Bioenergy in the Baltic States", Technopolis Group, November 2009. Report published by the Nordic Council of Ministers.

[40] Overview of Energy Resources, December, 2006, *Hansabanka (Swedbank)*, http://bit.ly/cvSEBz

Incidentally, how, at what time and at what price in Latvia's free electric energy market can a climate-conscious energy consumer buy local environmentally friendly energy (for instance, produced at a biomass cogeneration plant)? No matter that it would be a little more expensive; if the producer is recognized, respects the environment, is socially responsible and otherwise agreeable then, most likely, his green energy will find a keen buyer. If only Latvia offered such option. Why does the law[41] stipulate that the producer can only sell all of his energy and he cannot **split** it into feed-in energy and energy sold in the free market at a contractual price to any interested consumer? Is it not an obvious absurdity that needs to be dealt with as soon as possible? The author favours such an approach as it would promote development of the market of renewable resources, and suggests applying it.

An important topic of discussion is the role of renewable resources in electricity and heating production. The Association of the Electricity Industry in Europe *Eurelectric* suggests the following: a system of certification for the green origin of renewable energy has to be designed and part of that energy has to end up on the open market. To put it in simpler terms, if a climate-conscious consumer wants to buy electricity and heating that has been produced in a responsible, environmentally friendly way, is it possible? The answer is: he does not have such option. There are various renewable energy support systems in place in different countries, but the EU does not ask for them to be harmonized. Consequently, the systems vary enormously. For example, a citizen in Austria can put up a solar panel in order to qualify for support, but in Latvia only a selected, small circle is eligible to receive solar energy quotas. In other words, some countries in the EU (or, at least one) have no energy market to speak of, and, moreover, they have created *a tribe* of politicians connected to the renewable energy business. Access to government support is unfair, and the rules of the game do not apply to everyone. So, in these countries , and, first and foremost, in Latvia, the regulation of the government support for renewable energy has to guarantee opportunities for all renewable energy producers to sell their energy in the market at prices that are fair, predictable and equal for everyone.

Besides, **private individuals** should also be entitled to sell energy, not just registered businesses, as is the case at the moment. There are numerous solar panels on people's roofs all over Europe, in Sweden, Austria and elsewhere. There, people's desire to be green receives practical support too.

When we talk about environmentally friendly energy it is worth keeping in mind that, actually, sometimes it is advantageous not to convert energy into electricity. For example, electric water heaters are very popular. But it is much more beneficial to heat water using solar collectors and unplug numerous electric heaters from the mains for up to six months thus saving a lot of energy and reducing greenhouse gas emissions. The author recommends including support for such projects, both private and business, into the Climate and Energy Law and the government regulations.

Renewable energy ought not to be unreasonably subsidized and therefore expensive for a taxpayer, but production of renewable energy has to comply with the principles of sustainability, for example, preservation of biodiversity, mindfulness of the ecological boundaries of the Baltic Sea ecosystem. Once the issue of connection to the grid, and the related costs, is solved (at the moment a prospective producer in Latvia, for some reason, is required to invest into the fixed assets of the richest state enterprise – SSC *Latvenergo*) and once the producer's investment has secured protection against possible devaluation of the LVL, the feed-in tariff of 0.10 to 0.12 LVL for a kilowatt-hour for the first 10 to 12 years of operation would count as a sufficient support. In many countries, support is being gradually reduced. Once the investment has paid off, the operator becomes a full market player. Investment in energy is always long-term: capacities created today will serve for thirty, forty or even fifty years. We can learn best practices for renewable energy policy execution from Germany, Austria and the Czech Republic.

2. Existing energy policy and support for renewables

2.1. Strategy documents and the context

The Ministry of Economy has developed the most important documents on energy; all of them can be found on the ministry's website. Unfortunately, many good ideas have remained on paper. For example, upgrading of heating mains and the reconstruction of multi-storey apartment blocks has not happened at a statistically significant level. Latvia's problem is the large influence of energy lobby groups vs. insubstantial and ineffective government energy policy. The system of feed-in quotas is **outrageous and should be abolished** immediately. Offshore wind parks' connection to the grid has to be defined enabling offshore producers to deliver their energy and making sure that offshore parks develop at a pace compatible with the general development of the grid and other types of electricity. For example, when production level reaches the amount comparable to other renewables, it would make sense to withdraw the targeted government support.

[41] Regulation No 198 of the Cabinet of Ministers (Regulation on Electric Power Production and Pricing Using Renewable Energy Sources), Chapter II, Article 20

A unified pricelist for connection to *Latvenergo* grid has to be devised so that a potential investor knows how much the connection would cost, how it can be done and what are the liabilities of both parties. Currently, the situation is nothing short of absurd as investors are required to pay for the development of Latvenergo's network (i.e. connection), the deals are individually priced, the deadlines are unpredictable and the investor does not benefit from the outcome of his investment. So, the system of connections has to be changed and it has to be done swiftly.

The pricing formula for energy produced by wood, which is tied to the price for natural gas, does not make sense and should also be abolished. The government regulation dealing with support for renewables change too often and the requirement for investors to invest into the fixed assets and infrastructure of *Latvenergo* in order to access the network are very hard to explain to prospective producers, particularly considering the fact that an increased share of renewable energy is a stated government objective, which is also stipulated in Latvia's international commitments. Moreover, citizens are lacking government support for individual use of renewables, such as placing solar panels on their roofs. It is high time we changed the existing practice. Only the parliament can do it and only by the means of **a law on climate and energy**. The author recommends drafting such a law and acknowledging that the existing practice, which is mainly governed via government regulation, has a lot of room for improvement.

Wider use of renewables will also mean technical changes in electric energy management. A shift towards renewables would require investment and support for research. Well thought-through and large investment in the economy of resource efficiency and eco-innovations is needed urgently.

2.2. The inconsistency of Latvia's energy strategy

It would not be correct to talk about an energy strategy, as it does not yet exist. Or, to be more precise, the current basic principles have not been followed up by an action plan and funding and, perhaps, that is the reason why the action is lacking. Or maybe, in some cases, decisions are being made, only without proper public discussions? The author expects that the declared 2020 targets for renewables will be taken more seriously in the future and is hopeful that members of parliament will develop a climate and energy strategy that will not overlook the significant local resources, the need for supporting research and expertise centres, individual producers, and simple demonstration projects, and that they will also engage wider public in creating this strategy.

2.3. Reconstruction of apartment buildings

Reconstruction of apartment buildings, including insulation, is not being completed in sufficient quantities, considering how many buildings require renovation. The results so far are unsatisfactory and the remaining work enormous, if we want to finish renovation within the lifespan of one generation. Additionally, many residents are experiencing crisis-related financial constraints and are learning, for the first time, what mortgage payments actually mean. The differences among the residents in terms of income are vast, particularly after the financial crisis.

It would be advisable to explore the experience of other countries, first and foremost, former East Germany. If Latvia is lacking political courage to nationalize apartment buildings, to renovate them and later rent them out, then only one option is available, namely, to invest heavily (using the EU structural funds) into programs supporting insulation of private properties. Local authorities could be propped too, for instance, by "buying" their saved greenhouse emissions. There are various models for renovation funding, this chapter mentions only a few of them.

The artificial barriers need to be abolished, such as a partial reimbursement for renovation projects, which is tied to a certain level of energy efficiency. Tell me, how could residents, many of whom are struggling to make ends meet, know that the effect will be 10, 15 or 20%? In the Soviet days, apartment blocks were built haphazardly and the standards of construction varied from one day to another. Thus, the result of insulation in any of the Soviet-era apartments is impossible to predict. A couple of very complex issues need to be solved, namely, quantity surveying and site and **project supervision**. Currently, there is no help with these issues either for the elderly or for single parents. The design of apartment blocks also varied and, keeping all that in mind, why cannot the government come and help, particularly considering that the issue is of utmost importance. The majority of residents are not professional construction supervisors. The questions potential funding recipients would have are likely to be fairly typical and the energy agencies could be of assistance to them. If they perform that role then their objectives have to be clearly spelled out and be commensurate to the total amount of reconstruction; also, the results of their work have to be quantitative (in percentage points or the number of renovated buildings), and the results have to be easily accessible and comprehensible to the wider public. Banks will only co-finance renovation if they will be assured that their investment is safe.

Furthermore, if we have the energy agencies why not make renovated buildings' heat insulation targets against a set deadline one of their performance assessment criteria? The author recommends organizing apartment building reconstruction in a way that allows reaching tangible and quantifiable results within a certain timeframe.

There are three key steps that need to be taken in order to fine-tune policy execution: there has to be an institution responsible for renovation targets, with clearly defined competences; cooperation mechanisms between the

interested parties have to be in place; and motivational tools have to be designed to assist residents at different times of economic reality. For example, at the time of writing this article, there is a very high unemployment in the country and the term "mortgage" no longer evokes an image of *a warm and cosy flat* in a residential high-rise. Also, the "invisible self-regulating hand" of the free market so frequently referred to in the new economic doctrine probably should not be cited now, after the big blow to the world financial system delivered by the credit crunch and the subsequent recession. The sooner **building reconstruction plans and government policy** acquire some concrete parameters, the sooner the policy starts to support agreed targets and provide adequate funding, the sooner we will start to enjoy the opportunities such policies open up, namely, nationwide building reconstruction and ensuing jobs for various professionals, builders, engineers, project leaders, accountants and mortgage specialists. The author recommends designing such a well-thought-through and easily quantifiable policy for building reconstruction.

The author suggests that part of the funding should come from the government and local authority, another part, from the EU funds and the rest could be funded by the residents, with an option of delaying payments by 3 to 5 years and compensating low income residents up to a certain level of expenses. There is no need to invent a new mechanism: elsewhere in the EU, particularly in Eastern Europe, exist tried and tested mechanisms for apartment building reconstruction. The specifics of Latvia are such that we are lacking a practice of efficiency assessment comparative analysis, and we are also lacking the boldness to acknowledge that, perhaps, we need less of fossil fuels and more of good governance.

2.4. Upgrading heating mains

In winter, it is easy to do thermography and determine heat loss. In Latvia, there are a high number of centralized heating systems and this fact calls for decision-makers to carry out an assessment of heating loss in 30 to 50 largest mains. The result of this assessment would need to be presented to the local governments and energy agencies working in the particular area so that they could prepare recommendations and action plan for greater efficiency. It is an easy and efficient measure towards increasing energy efficiency. Average heating loss in heating mains is about 17%, but, in some cases, it may even reach 20 to 30%. Currently, only about 20% of heating mains have been upgraded, out of approximately 1700 kilometres total. The upgrading process would have to be synchronized with apartment building reconstruction and further assessment of the capacity of energy generating units.

2.5. Excise duty on fossil fuels

Excise duty is a very effective tool for reaching the desired share of fossil fuels. In Latvia, excise duty is applied to fuel, however, unlike in many other EU member states, it is not applied to fossil fuel used in heating or electricity production. The author recommends doing it, but it would be desirable to carry out comparative analysis with other countries beforehand and to assess opportunities for using this tool more extensively as an approach to reaching the 40% renewable target. **It is imperative to apply excise duty to new equipment!** These decisions would have a social aspect (heating tariffs and tax burden), political aspect (energy self-sufficiency and import/export balance). The experience of other countries, such as Austria, Sweden and France, shows that excise duty and carbon tax may have a significant impact on energy policy outcomes.

2.6. Reforestation

In the first half of 2009, the government of Valdis Dombrovskis stopped the support program for forest regeneration, citing economic difficulties, and, almost instantaneously, increased the forest-cutting volumes. These decisions contradict each other and, in the author's mind, support for reforestation has to be reintroduced as soon as possible, using the structural funds. The beneficial effects of such decision on Latvian economy and in every citizen's life will be present long after 2020.

It is worth noting that the Spanish presidency of the EU (started in January 2010) has named sustainable forest use one of its priorities, where forest functions as important carbon sink.

3. Recommendations

Hitherto policy practice on renewables has not been successful. In the current situation, the most important step would be to choose a clear model and harmonize it with the national renewable energy targets. It has to be stipulated in law, not in government regulations, because experience shows that government regulations undergo far too frequent changes. Governments in Latvia tend to be unstable and only the parliament and the laws it passes can guarantee that Latvia fulfils its international obligations by 2020. The author would like to reiterate the need to draft a law that would spell out the aims and principles of Latvia's climate and energy policy; only then will the support mechanisms for renewables be steady. In this context, energy policy exceeds its economic dimension and enters the realm of political choices. Perhaps, we could start by abolishing the renewable quota system, without any delay, and creating a support scheme for renewables, which would have clear deadlines and would be aimed at turning operators into environmentally friendly market players after the end of the support.

Another important issue that requires urgent attention is the cost and timeframe of potential renewable producers' connection to the grid. Perhaps we could make it a legal obligation of the profitable state monopoly *Latvenergo* to create unified regulation on new and upgraded renewable units' connection to the grid, including deadlines and prices. The costs, deadlines and ownership structure of renewable operators have to become transparent and all operators have to start enjoying tangible support from the government and the opportunities such support provides.

A relatively new risk and pressure emerges due to the value of the national currency. Consequently, biomass energy pricing formula has to be detached from the changing price of natural gas, which is determined by players outside of Latvia.

It is imperative that a predictable investment estimation mechanism is designed, which would enable private individuals and businesses alike to take part in the market and, under certain circumstances and in a limited way, sell the energy produced on their property, taking advantage of government support that encourages the production of renewables.

In relation to this objective various aforementioned tools have to be applied. Clearly, **renovation of multi-storey apartment blocks** is an urgent priority and the slogan about the "invisible hand of the free market", which will sort out everything, has to be abolished. Many issues, including this one, which concerns the sensitive social sphere and large funding, are in critical need for support by the parliament.

The issues connected to those mentioned before are as follows: support and clear objectives for **central heating mains upgrade** (which mainly entails insulation of the old mains), introduction of up-to-date, locally produced biomass cogeneration, which would cover all centralized heating generating units, with an exception of those that have been recently renovated and use fossil fuels, where provisions will have to be made for equipment depreciation. Support has to be clearly spelled out and aimed at the desired impact, that is, efficient heating supply, cogeneration and the use of local resources in order to replace imported fossil fuels.

And lastly, in addition to biomass offshore wind, solar energy and biogas are renewable resources with good prospects. Individual private property owners should be able to enjoy some support for the production of some of these renewables. The mistakes made in the past, the quota system, unreasonably high feed-in tariffs for renewables, the lack of incentives for future competitiveness in the energy market, the damage to the ecosystem, inefficient technical solutions, *de facto* restrictions for the residents of Latvia to take part in climate change efforts by generating energy, investing into energy efficiency in their own properties and businesses. Only a wide-reaching and well-considered support will enable us, in the space of one decade, to move away from the inflexible, fossil-based energy sector, which uses cheap energy resources wastefully and contributes to climate change.

4. Road map

The first and most pressing goal concerning renewables is to distribute the expected 2020 renewable resource share across the board – heating, transport and electricity – in a fair, transparent and balanced manner. This job is of key importance, if we want to ensure that the wider public has a comprehensive understanding of the tasks, objectives, costs and support mechanisms. At the moment, the government regulations No 221 (on cogeneration) and No 198 (electricity) are of particular importance. The fuel used in transport is regulated by policy on excise duty and the compulsory additives. Decisions of the Utility Regulator (SPRK), as well as the government's and local governments' support for renovation of apartment buildings and heating mains will determine the price of energy. In the current situation, there is room for improvement, and the author of this chapter has a few suggestions.

4.1. Potential use of cogeneration

The goal is clear, to switch the centralized heating production units to local biomass as rapidly as possible. Unfortunately, this goal has not made it into the policy documents yet, despite the fact that regional and local authorities are willing to support it, not just for the climate and energy reasons, but also because of the higher employment and tax revenue. The author recommends to start with the ten centralized heating producers in Latvia's ten biggest cities, to consider connecting as many households to them as possible and join the units with biomass cogeneration stations. It is easily done. The Economy Ministry, local authorities, regional energy agencies and the persons authorized to invest either public or private money have to sit down at the same table and come up with an agreement, if there is a political will to do so, that is.

It is puzzling why the government regulation cannot lay out such a tariff support and guarantees that would make renewable energy projects an appealing investment option for lenders. Of course, it is important to keep in mind the risks of changing currency value. However, government guarantees and borrowers' successful history would encourage lenders' interest.

Development of a modern cogeneration would contribute significantly to the country's economy and self-sufficiency, and would increase supply security and promote entrepreneurship. Since biomass cogeneration is one of the most promising ways towards reaching the renewable energy targets, it would seem reasonable to find substantial funding for research and create intellectual property in this field, focusing, in particular, on efficiency and international competitiveness.

4.2. Regulation No 198

This government regulation deals with feed-in tariffs for different types of renewables. Other countries have similar mechanisms. The author suggests three feasible improvements.

First, we need a clearly defined amount of government support per year, in millions of lats, which would be comparable to the government support in the closest neighbouring countries (the tariffs would need to be determined only after comparing the connection costs and external technical network costs). The tariff formula has to be based in economic reasoning and the quota system needs to be abolished. The quota system is the exact opposite of a transparent market of renewables. Where are all those wind farms and solar stations? Businesses cannot even construct them, because the quotas have already been "distributed". (By the way, rumour has it that some quotas are up for sale.) Meanwhile, tangible renewable energy is not being produced and freely sold to the environmentally responsible and climate conscious Latvian businesses.

Second, the **feed-in prices need to be reduced** to 1.3 to 1.5 of the overall retail price for electricity, **gradually reducing the tariff on an annual** basis after the first decade of government support. At the same time, unified rules and pricelist for connection to *Latvenergo* grid need to be introduced. It would reduce the discussions about meddling with the electricity meters of renewably generated and grid-purchased electricity and enable every potential renewable energy operator to connect his equipment within reasonable time and at a reasonable price. True, if the quota system is abolished and the range of tariffs is reduced then the 'exotic' types of energy production will go down, too, because the costs of production per one kilowatt hour are higher, owing to the expensive technology. Currently, one of these new types of renewable energy is wave energy. For a small Eastern European country it is not feasible, we need to focus on realistic renewable energy options. At the same time, support for energy pilot projects needs to continue: it is a different task, related to education, rather than energy production. By the way, the pricing practice in other EU countries is such that, over a period of time, the feed-in prices and volumes go down. It would make sense to adopt it in Latvia, too, and aiming at turning government-supported renewable energy operators into independent market players after 10 to 15 years in business. Latvia does not have to reinvent the wheel, we could learn from the countries where support for renewables has been tried and tested for years.

A feed-in tariff scheme is not the only way of selling green electricity. Many climate conscious users would be ready to choose green energy, even if it were more expensive, but on the condition that the distributor or a third person (an auditor) authenticates sustainable origins of this energy and the fact that the money reaches the producer. It is likely that the green consumer will be buying just a part of the energy produced by biomass cogeneration. As mentioned before, there has to be an option of **splitting** green energy so that **one part** of it could be sold via feed-in and another, on the free electricity market.

The biggest stumbling block in the government Regulation No 198 is that it provides for 'reserved' future production capacities thereby limiting the number of market players and creating risks of corruption. Instead, the government could guarantee that certain energy output levels are reached, which would be a much more acceptable goal, and easier to implement. The concrete energy output levels and relevant level of support need to form the core of support policies ahead of 2020. For example, biomass and biogas cogeneration is 2.75 TWh, offshore wind is 1.5 TWh, photovoltaic (PV) is 0.25 TWh etc and these figures are supported by calculations and clear reasoning, agreed on by experts and discussion participants. If biomass and biogas cogeneration is made a strategic priority then it has to be approached comprehensively, with attention paid to education, research, innovations and export support. In other words, this is not just about importing, installing and operating valuable equipment, but primarily about reaching reasonable electricity costs and tariffs within a reasonable period of time, and also about real competitiveness of the sector and export capacity of the acquired knowledge. For example, in the fields of solar energy and wind power, Latvia could consider promoting particular technological processes. However, in order to focus the limited available resources, we need to be clear about where we stand at the moment and what we want to achieve.

The concrete development measures regarding the key renewables could be as follows:

- It is not clear whether the tariff support principle applies to biomass and biogas depending on whether the process heat is used efficiently. The parameters of equipment maintenance need to be clarified so that equipment would comply with the criteria for support, which ensure sustainable use of resources during the entire lifespan of equipment and resources.

- Offshore wind farms cannot be built at the moment, as there is no legal framework to regulate them. Even if the framework is in place, the issue of network capacity will need to be dealt with. In this respect Latvia is lagging behind its neighbour, Estonia.
- Only **businesses** are eligible for support in using solar panels or photovoltaic equipment. **Individual citizens** and property owners and managers cannot apply for it. It would make sense to support individuals, particularly because it is expected that between the years 2010 – 2020 the cost of installing equipment will go down. Photovoltaic energy has a great potential for distributed generation, because it conforms to the public understanding of environmentally friendly energy policy and its desire to support it.
- The residents of Latvia are not sufficiently engaged in setting the key goals of the energy and climate policy. Public participation, understanding and support are of critical importance.
- Solar collectors (for heating water) and cellars (well-known in Latvian countryside) are not among the supported green solutions, even though they are technologically elegant, sustainable and, in some cases, the most suitable for rural businesses and households. The author recommends creating support and certification mechanisms for these solutions. They should also be made more accessible to private individuals and more appealing to lending institutions (for example, by means of government guarantees).
- It is not clear why support for small hydroelectric power stations is not being considered in connection with public benefits from fish resources, biodiversity and recreation. In Latvia, only a few small hydroelectric plants have fish bypass and even fewer of those actually work. A suggestion: in the future, support for small hydroelectric power plants has to be tied to building functioning fish bypasses in all **salmon river** basins. Besides, the equipment used has to be operated with fish resources, biodiversity and recreation opportunities in mind. It is imperative for small hydroelectric station operators to comply, in practice, with the Section 1123 of the Civil Law, which stipulates:"In order to prevent damage to the fields of a neighbour from water raised by damming for water-power utilisation installations, the installation sluices shall, everywhere it is shown to be necessary, be left open four weeks prior and four weeks after *Jāņu* day. [St. John's day, 24 June] When fish spawn, at each water power utilisation installation sluices shall be left open or fish paths shall be installed for their passage." Support policy for renewables must not focus exclusively on electricity production, forgetting about spawning fish. Fish cannot bypass closed sluices, dams and dysfunctional fish paths. Not a single salmon can get past our small hydroelectric power station, or Riga Hydroelectric Station, for that matter, which have no fish bypasses. We will only be richer as a society if salmon rivers will once again be filled with fish and biodiversity, in general, will be preserved. The Spanish slugs are here. Their impact is harmful. One can only hope that spawning salmon in Latvia will not become victims of energy and climate policy.

Institutional and legal framework: the rules of the game

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1. Introduction

Depending on the energy policy issue, the rules of the game in policy development have specific characteristics. Due to the limits set by the format of this article and for the sake of greater clarity, the institutional and legal rules of the game in energy policy need to be analyzed individually, singling out particular subsectors of this policy. **The sustainability and transparency aspects of the national energy policy could be looked at from different angles:** for example, we could analyze the increase in energy self-sufficiency, including balancing capacity in electricity production and optimum solutions in the electricity sector in general; or we could analyze the electricity and gas market and promotion of its openness; or support for renewables and environmentally friendly technologies; or the use of imported fossil fuels on energy security etc.

However, considering the fact that, in today's world, sustainable energy policy is not feasible without legal and political frameworks that favour it, **the focal points of this article will be Latvian policy on renewables and institutional and legal issues in the context of support mechanisms for electricity production and renewable energy resources**. The support mechanisms entail the so-called quota system[42], the mandatory procurement rights (feed-in) as well as the guaranteed capacity payments to businesses. Briefly, the author will also examine the available and planned investment support tools, even though they are not comparable to the mandatory procurement and capacity payments in terms of regularity and predictability.

The current trends in energy policy development both at the EU and national level show that renewables are playing an increasingly significant role in the energy sector. **Unlike the traditional fossil fuels[43] the use of renewables in the economy has a much greater potential in terms of sustainability and environmentally friendly development**; it also brings about various "side-effects", which benefit a country's long-term competitiveness. One of the key advantages associated with renewables[44], is the use of locally available resources, such as wind, hydroelectric power, solar power, geothermal energy, and biomass. This way, not only are new jobs being created and tax revenues increased, but also dependence on imported energy resources is reduced and, as a result, the economic and political risks such dependency entails also diminished. Increased use of renewables strengthens energy supply security because it brings about a diversification of energy sources, supply routes and the range of suppliers. If renewable energy policy planning is efficient, the initially high costs gradually go down, as renewable energy use becomes more widespread and technologies used in renewable energy productions develop. Renewable energy technologies are flexible and easily adaptable to local energy solutions, including in remote areas with outdated grid infrastructure. This way, the high costs of connection to the grid and infrastructure building can be avoided.

2. Latvian energy policy decision-making framework and legal regulation: an example of energy resource policy

Latvia joined the EU in 2004, but the energy policy planning and decision-making framework remains largely an issue of national competence, with a few exceptions[45]. A comprehensive and completely harmonized EU energy policy, which would entail a binding energy sector regulation for all member states, does not yet exist, although in some areas, particularly in the recent years, some common policy elements have been increasingly present. This new trend emerged in 2006 when the European Commission published the Green Paper "A European strategy for

[42] According to the law, part of the Latvian energy end users' total consumption has to come from the electric energy produced by using renewable energy resources

[43] Mainly natural gas, oil and coal

[44] Increasing Global Renewable Energy Market Share: Recent Trends and Perspectives, Beijing International Renewable Energy Conference Background Report, 2005, p.7; available at: http://bit.ly/cz0xU5

[45] For example, the regulation on liberalization of electricity and gas markets, the introduction of binding renewable energy targets by 2020, legal provisions regarding environmental aspect of the energy sector, and others.

sustainable, competitive and secure energy," [46] which prompted a discussion on the need for a joint EU energy policy. As a result, in the three subsequent years, a series of integrated energy and climate policy documents and legal acts were drafted and passed containing legally binding requirements and quantitative targets regarding a greater share of renewables, greenhouse gas emission reduction and increased energy efficiency.

2.1. The impact of EU energy policy and regulations on Latvia's renewable energy policy development and targets

Renewable resources is one of the areas where the EU has been trying, since the beginning of the nineties, to introduce quantitative targets in order to increase the share of renewables in the overall energy consumption in the EU. Initially, the targets were defined as political guidelines[47], but later included in the Directive 2001/77/EC[48] in the form of legally binding renewable targets for each of the member states. **Eventually, in 2009, the Directive 2009/28/EC[49] came into force, which introduced the EU-wide 20% goal for renewables by 2020 and individual legally binding targets for the member states** were devised from that figure, considering the renewable share already reached and the level of prosperity of a particular country. In accordance to the new Framework Directive on the promotion of the use of renewable energy, Latvia has the second highest renewable target among the EU countries, **40% of the overall energy consumption by 2020**.

It has to be noted that, in the EU energy policy history, **Directive 2009/28/EC is the first attempt to create a comprehensive legal framework for the promotion of the use of renewables in the main sections of the energy sector, namely, electricity production, heating supply, cooling and transportation**. Before this Directive, the EU initiatives were fragmented and focused on individual energy subsectors, such as electricity and fuel for transportation, neglecting the great potential renewables possess in the areas of heating and cooling.

The first EU directive, which dealt with the promotion of the use of renewables, the aforementioned 2001/77/EC, introduced the following:

- 21% indicative target for electricity produced from renewable energy, to be reached by 2010
- reference values for the member states' national indicative targets
- harmonized principles for the promotion of electricity produced from renewables and clearly defined renewables energy sources
- the application of support schemes
- green certificates guaranteeing the origins of energy produced from renewables.

When Latvia joined the EU in 2004, it subscribed to the requirements of 2001/77/EC with regards to the renewable energy targets and, in the national Electricity Market Law, included provisions that deal with the following:

- the promotion of the use of electricity produced from renewable resources
- the rights of energy producers to sell green energy under the terms of mandatory procurement
- the legally binding share of electricity produced from renewables in accordance with the national indicative targets as stipulated by Directive 2001/77/EC.

According to the requirements of Directive 2001/77/EC, **by 2010, Latvia has to produce 49.3% of electricity from renewables**. In 2007, the share was 36.4%.

Directive 2001/77/EC left it up to the member states to choose support mechanisms, as long as they complied with the permitted government support as stipulated by the Treaty establishing the European Economic Community[50]. The new directive, 2009/28/EC, also allows the member states to determine support tools for renewables.

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[46] Commission Green Paper of 8 March 2006: "A European strategy for sustainable, competitive and secure energy" , available at http://bit.ly/2u0O9

[47] In 1993, the European Commission suggested doubling the renewable share in the overall consumption from 4% in 1991 to 8% in 2005, as part of ALTENER Programme. The 1997 White Paper raised the targets, making it 12% by 2010.

[48] Directive 2001/77/EC of the European Parliament and Council of 27 September 2001 on the promotion of electricity produced from renewable energy sources in the internal electricity market, available at http://bit.ly/cYT3i0

[49] Directive 2009/28/EC of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC

[50] According to the Article 87 of the Treaty establishing the European Economic Community (EEC Treat, 1957), "save as otherwise provided in this Treaty, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the common market." Part 3 of the Article lists the types of support that may be considered to be compatible with the common market.

Latvia has chosen the mandatory procurement mechanism, which is one of the types of guaranteed procurement[51]. It is the most common support tool for the promotion of electricity produced from renewables among the EU countries[52]. Experts agree that a feed-in system could be an efficient tool and encourage a higher renewable share[53], although the level of success in different member states varies, because the tool, which entails a guaranteed procurement for a higher fixed price, is applied in different ways depending on the country.

2.2. The institutional decision-making framework for Latvian policy on renewable energy resources

According to Article 4 of the Energy Law[54], the Cabinet of Ministers determines the basic principles of the energy policy, its goals and objectives and adopts relevant policy documents.

The key institution of the executive power in this respect is the Economy Ministry, which, via its Energy Department, fulfils the duties of energy administration[55]. It drafts policy documents and legislative proposals, including those regarding renewables, and is responsible for the efficient use of energy and the economic utilisation of resources supplied to energy consumers, as well as for the promotion of investment into the energy industry, and into the modernisation and construction of energy facilities[56].

The existing system of institutional cooperation implies that the draft regulatory documents produced by the Economy Ministry have to be discussed with several institutions: other ministries, the Utility Regulator (SPRK), social partners, mainly energy sector associations, as well as with the big energy companies *Latvenergo* and *Latvijas Gāze*. The circle of partners may change depending on the subsector the particular issue concerns.

In accordance with the Energy Law, the regulation of energy supply is performed by the regulator, SPRK[57]. The Regulator is an independent public service regulatory institution established in accordance with the Law on Regulators of Public Utilities. With regards to the promotion of renewables, the law obliges the Regulator "to facilitate the utilisation of local and renewable energy resources in energy supply"[58].

In 2009, the energy supply regulation decision-making became more centralized. According to the July amendments to the Law on Regulators of Public Utilities, as of 1 November 2009 **SPRK is in charge of the regulating functions in the relevant sectors, which were previously performed by local regulators or municipal councils**. Due to the abolishment of local regulators the role of the local councils in institutional decision-making changed; nevertheless the law still leaves space for the local authorities' input in SPRK decisions within the framework of a consultative authority[59]. According to the Law, the consultative authority had to be set up by 31 October, 2009 in order to represent the interests of local governments and explore different opinions.

In addition to the aforementioned institutions, several other actors are involved in decision-making, but they will not be listed here in detail. Overall, the administrative and institutional procedures applicable to prospective energy producers could be divided into three large groups:

1. The procedures that are related to the authorization to operate in a particular energy subsector (a permit to install a new production capacity, a licence, and a permit by the system operator to establish connection with the grid)
2. The procedures that are related to the regulation of environmental protection (environmental impact assessment, a permit to conduct a polluting activity or to emit greenhouse gasses)
3. The procedures that are related to obtaining government support for electricity production using renewables or electricity production by cogeneration.

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[51] In English, this type of support is commonly referred to as 'feed-in'. The definitions of feed-in mechanisms vary depending on a country, however, experts and scientists have defined a set of requirements that the feed-in scheme should comply with. Among others, a guaranteed priority access to the grid, a duty of the network operator to purchase the electricity produced from renewables, a price for renewable-based electricity set for a longer period of time, limits regarding the amount of renewable-based electricity that is permitted to enter the grid (member states are allowed to introduce quotas, but it is not considered a good practice).

[52] Monitoring and evaluation of policy instruments to support renewable electricity in EU Member States. A research project funded by the German Federal Environment Agency and the German Ministry for the Environment, Nature Conservation and Nuclear Safety. Fraunhofer Institute Systems and Innovation Research, Germany, September 2006, p.2; available at: http://bit.ly/cxAArk

[53] See, for example, Feed-In Systems in Germany and Spain and a comparison. Fraunhofer Institute Systems and Innovation Research, Germany, 2005, p.17; available at: http://bit.ly/cJFz9K

[54] Energy Law, adopted by the Parliament on 3 September 1998

[55] In accordance with Article 76 of the Energy Law.

[56] In accordance with Article 77 of the Energy Law.

[57] Article 83 of the Energy Law.

[58] Article 84 of the Energy Law.

[59] Section 15.1 of the Law on Regulators of Public Utilities.

Both the Economy Ministry and SPRK are responsible for issuing permits to businesses that would like to enter electricity production. In order to install a new production capacity (and, also, to produce energy from renewables or by cogeneration), a business needs to obtain a permit from the Economy Ministry to increase electricity-generating capacity or install a new capacity[60]. In the cases when the planned capacity exceeds 1 MW, businesses need to obtain an electricity generation licence from SPRK. Both permits are interconnected, because SPRK would not issue the licence unless the new generating capacity permit or capacity increase had already been obtained from the Economy Ministry. And vice versa, the Ministry may withdraw a positive decision on granting a business the right to sell the energy produced from renewables under the mandatory procurement if the power plant with a capacity over 1 MW has failed to obtain a SPRK licence[61].

2.3. National support mechanisms for the use of renewable resources in Latvia

So far, the most significant and, in practice, **the only consistent tool for the promotions of renewables has been the mandatory procurement scheme**, which entails a guaranteed procurement price for electricity produced from renewables[62].

In addition to the aforementioned mandatory procurement scheme, in April 2008, Chapter VII of the Electricity Market Law dealing with the electricity production and pricing was amended[63]. Section 29.1[64] now stipulates that energy production businesses with generating capacity above 1 MW, which use biogas or biomass, can apply for **a guaranteed imbursement for the generating capacity** set up in biomass and biogas power plants. As of March, 2009[65], the rules of issuing the rights to obtain the guaranteed imbursement and the requirements the applicants have to meet are laid out in the Cabinet Regulation No 198.

In addition to the aforementioned regular support mechanisms, Section 29 of the Electricity Market Law stipulates that the Cabinet of Ministers shall specify the measures that would promote electricity production from biomass.

2.3.1. Mandatory procurement of electricity

In accordance to the existing legal requirements, businesses that are producing electricity, or planning to, can apply for the mandatory procurement (feed-in) rights and sell a certain amount of energy produced at a set price to the public trader *Latvenergo*. The price is much higher than the market price if the electricity produced comes from:

1. Power stations that use renewable resources, namely:
   - biogas
   - biomass
   - wind energy
   - hydroelectric power
   - solar energy

2. Power stations that use cogeneration from the following resources:
   - renewables and peat
   - fossil fuels.

According to the Electricity Market Law, the right to sell electricity via the mandatory procurement can be obtained by a producer who produces energy from renewables (Section 29, Part 1) or a producer who produces energy by means of cogeneration (Section 28, Part 1).

The Law stipulates that a certain part of Latvian energy end users' total consumption has to come from the electricity produced from renewables. The Cabinet of Ministers defines the specific share of this energy in each of the energy sectors in accordance to the target of 49.3% (of all electric energy consumed), which has to be reached by 31 December, 2010. The public trader *Latvenergo* determines the amount of renewable energy purchase, based on the government's targets, and publishes the numbers on its website and in the newspaper *Latvijas Vēstnesis*.

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[60] In accordance with the Cabinet Regulation No 883, of 11 August, 2009, "On Permits for Increased Electricity Generating Capacity or New Generating Capacities"

[61] In accordance with the Cabinet Regulation No 198, of 24 February, 2009, "On Electric Power Production and Pricing Using Renewable Energy Sources"

[62] Cabinet Regulation No 198, of 24 February, 2009, "On Electric Power Production and Pricing Using Renewable Energy Sources"

[63] The amended Electricity Market Law, of 10 April 2008, came into force on 15 May, 2208

[64] Section 29.1 of the Electricity Market Law came into force on 1 January, 2009

[65] The Cabinet Regulation No 198 was passed on 24 February, 2009 and came into force on 14 March, 2009

If a producer wants to sell the electricity produced in a cogeneration plant via the mandatory purchase scheme, then, providing his plant complies with the criteria set by the government, the public trader purchases all the energy excluding that for the producer's own consumption at the price set by the government and following the official purchase rules.

The public trader registers the amount and cost of energy bought under the mandatory purchase scheme separately. The costs are covered by all energy end users corresponding to their individual electricity consumption by purchasing from the public trader a definite portion of the electricity produced in cogeneration power plants or by compensating the expenses of the procurement thereof. The Cabinet specifies the procedures for the coverage of the procurement expenses, whilst the Regulator specifies the methodology of the expense extension calculation (Section 28, Part 5).

Producers using renewables for electricity production or to produce energy in cogeneration, providing their power plants meet the government's criteria, are entitled to receive a proof of origin, in accordance to the procedures set by the Cabinet of Ministers. The proof is issued by the authorized institution, the Economy Ministry.

Section 31 of the Electricity Market Law stipulates producer rights of choice. If a producer wants to apply for the use of the rights specified in the Law, i.e. the rights to sell the electricity produced in cogeneration or the rights to sell the electricity produced from renewables, the producer may use only one of the referred to rights of his or her own choice.

Compliant to Part 1, 2 and 5 of Section 29.1 of the Electricity Market Law, **the Cabinet Regulation No 198, of 24 February, 2009, "On Electric Power Production and Pricing Using Renewable Energy Sources"** replaces the Cabinet Regulation No 503 and henceforth will regulate the mandatory purchase of electricity produced from renewables at a set price, as well as the rights to receive guaranteed price for production capacity built in biomass and biogas power plants exceeding 1MW.

The Cabinet Regulation No 198 stipulates the following share of different types of electric power stations according to the targets of renewables-based electricity in the total consumption of end users in Latvia:

Type of the power plant	Share, % of the total, 2009	MWh[66] 2009	Share, % 2010 and henceforth
HEPP, 5 MW capacity and above	36.35 %	2`300`987	34.31 %
HEPP, up to 5 MW	**1.88 %**	**119`006**	**1.98 %**
Wind farms, up to 0.25 MW	0.20 %	12`660	0.27 %
Wind farms, 0.25 MW and above	3.88 %	245`607	5.10 %
Biogas power plants	6.90 %	436`776	7.93 %
Biomass power plants	3.46 %	219`021	4.97 %
Solar power plants	0 %	0	0.01 %

According to Part 2 and 7 of Section 28.1 of the Electricity Market Law, the Cabinet Regulation No 221, Regarding Electricity Production and Price Determination Upon Production of Electricity in Cogeneration, regulates the mandatory procurement at a set price of the electric energy produced in cogeneration, as well as determining the rights to receive a guaranteed payment for the capacity installed should it exceed 20 MW. Thus, the electricity producers who use renewables such as biogas or biomass, or are planning to, are able to meet the criteria for obtaining the procurement rights by choosing the most appropriate regulation, either No 198 or No 221.

2.3.2. The guaranteed payment for the installed electric capacity

According to the Cabinet regulation No 198, the businesses that are producing electric energy in power plants using biogas or biomass[67], or are planning to, are given an opportunity to choose, which of the two support schemes stipulated in the Cabinet Regulation No 198 to apply for:

1. Selling the electric energy produced from renewables via the mandatory procurement
2. Receiving a guaranteed payment for the capacity installed in biomass or biogas electric power plants.

[66] In accordance with the 2009 quota volume determined by the public buyer

[67] Including the energy produced in cogeneration

In the case of a producer applying for the mandatory procurement rights, the existing regulation stipulates the compulsory share of electricity from renewables (of the total electricity consumption) for the years 2009 - 2020[68]. Whilst in the case of **the guaranteed payment for the installed capacity in a biogas or biomass power plant**, the rights to use the support scheme are given **for the period up to 15 years**, beginning from the day when a business receives the executive order from the Economy Ministry[69]. The guaranteed payment for the installed electric capacity can only be received if the capacity of the biomass or biogas electric power plant exceeds 1 MW and the number of hours the installed capacity is used exceeds 8000 h a year[70].

The requirement to use the installed capacity for more than 8000 hours a year makes this support scheme less attractive for businesses, compared to the mandatory procurement option. Many experts in the field stress that this requirement increases the risk of the producer losing his rights for support because of the unreasonably high usage time threshold.

2.4. Investment support schemes

The investment support schemes aimed at promotion of the use of renewables are not comparable, in terms of constancy and predictability, to the national renewable support scheme such as the mandatory procurement.

Part 4 of Section 29 of the Electricity Market Law spells out the government's competency to introduce measures to promote energy production from biomass that could be interpreted as the rights to support investment into electric power plants using biomass.

Section 3 of the Cabinet Regulation No 198 lists the sources of funding that have to be used for co-funding the projects that promote energy production from biomass. The sources are as follows:

- The EU support instruments administrated by the Ministry of Agriculture
- The EU support instruments administrated by the Economy Ministry
- Funding obtained from the country's carbon emission trade, administrated by the Ministry of Environment.[71]

Before, investment support for the development of renewable energy power plants was available from the Economy Ministry-administered EU Cohesion Fund money, based on the Cabinet Regulation No 165[72]. The total amount of funding available was 17.4 million LVL, enough to fund a small number of projects[73].

3. Current risk factors and obstacles for development of sustainable and transparent policy on renewables

The current practice of institutional decision-making in Latvia, as well as the current legal framework for renewable energy support enables us to identify several risk factors and possible impediments to development of sustainable and transparent policy on renewable energy resources.

3.1. Risk factors in the sphere of institutional decision-making

In 2004, the participants of the International Conference for Renewable Energies in Bonn came to the conclusion that, at the governmental level, **one of the key tasks aimed at efficient renewable energy sector development is building human resources capacity, not just in terms of technical expertise, but also in terms of the training and motivation of the employees of policy planning and executive institutions who work on policy documents and support programmes for renewable energy**[74].

When we examine the role of the Economy Ministry in decisions regarding renewable energy, **one of the most evident risk factors is the low professional capacity of people involved in the drafting of energy policy decisions and policy objectives and also insufficient analytical and technical support, which has to come from the National Energy Agency**, an institution established for that very reason. In the EU, such practice is

[68] Annex 1 of the Cabinet Regulation No 198.

[69] As stipulated by Section 13 of the Cabinet Regulation No 198.

[70] As stipulated by Section 6 of the Cabinet Regulation No 198.

[71] According to Subsection 3.3. of the Cabinet Regulation 198, the funding administrated by the Ministry of Environment can also be used for co-funding projects involving biogas.

[72] Regulation Regarding Activity 3.5.2.2., 'Development of Renewable Electric Power Plants', of the Operational Programme 'Infrastructure and Services'; in force since 12 March, 2009

[73] Out of 58 funding applications, seven received support for installing electric cogeneration plants. The total amount of the EU Cohesion Fund's co-funding was 15 323 142.95 lats.

[74] Policy Recommendations for Renewable Energies: Key Outcomes of the International Conference for Renewable Energies, Bonn, 2004, p.11.; available at: http://www.renewables2004.de/pdf/policy_recommendations_final.pdf

common: government ministries responsible for the energy policy use the services of energy agencies that provide in-depth analysis and technical expertise needed in policy planning document drafting process, as well as educate the general public about the use of renewables and energy efficiency opportunities in people's daily lives. In Latvia, for a short period of time, the Agency for Construction, Energy and Housing performed these functions. However, after the partial closure of the Agency in July, 2009 the workload has been transferred to the Energy Department of the Economy Ministry.

The lessening of the Environment Ministry's role in the renewable energy policy is unlikely to have a direct impact on promotion of renewables in Latvia, because, even before the changes took place, the Economy Ministry was primarily in charge of electricity production support mechanisms whilst the Ministry of Environment focused on renewable energy policy development in the context of climate change mitigation and was also responsible for assessment of renewable energy prospects, including policy guidelines for renewable energy use[75].

Certainly, **the high level of political influence over the renewable energy support mechanisms is another risk factor related to institutional decision-making. It cannot be ruled out that the political and administrative leadership of the ministry in charge of the energy policy exercises its influence over the energy policy documents in order to adjust legal provisions to suit the wishes of certain political and business interest groups**. Some elements of the previous regulations regarding mandatory procurement of electricity produced from renewables serve as confirmation of that (this topic will be examined in more detail in the next subsection). Considering that the ministry in question is internally politicized and the likelihood of illegitimate lobbying is high, it is imperative that the transparency of institutional decision-making is ensured regarding the mandatory procurement rights to sell the energy produced from renewables. For example, a register of requests from businesses for the procurement rights could be created and made public on the Internet. Because of the limited number of quotas available, the sequence of candidates is of a particular importance.

The political leadership of the ministry in charge of the energy policy definitely has opportunities to control administrative process inside the ministry and influence energy policy-related decisions. However, **when the political leadership introduces changes in the existing decision-making procedure then the legal reasoning behind such a decision has to be examined**. An example of such practice is the Decree No 151 issued by the economy minister on 15 April, 2009[76]. By this Decree, the minister assumed control over the decision-making on the rights to sell the energy produced from renewables via mandatory procurement. **The minister decided, citing the need to assess the mandatory procurement rights in the overall context of the Cabinet Regulation No 198 and quoting Part 2 of Section 64 of the Administrative Procedure Law, which allows extension of decision-making "for objective reasons", to lengthen the period of deliberation to four months**, i.e. the time between the submission of businesses' request and the executive order by the Ministry or the decision to terminate the matter. According to the currently valid version of the Cabinet Regulation No 198, businesses had no reason to expect a significant lengthening of decision-making procedure[77] resulting from changes in institutional decision-making.

The quality of institutional decision-making is, obviously, indirectly influenced by a consistent relation of energy policy issues to the wider public. In order for the energy policy development to be transparent, the public administration institutions involved in policy-making, primarily the Economy Ministry, have to communicate with the public effectively and promote public participation. Current practice shows that the public does not receive timely information about changes and amendments to the renewable energy support mechanisms introduced by the relevant government institutions.

3.2. Legal framework-related obstacles to efficient promotion of renewable energy resources and sustainable policy

When we scrutinize obstacles that hinder renewable energy promotion and transparent decision-making, the most significant documents that enable us to identify these obstacles are as follows: the Electricity Market Law and

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[75] Renewable Energy Policy Guidelines 2006-2010, approved by the Cabinet of Ministers decree No 835 on 31 October, 2006

[76] Issued in accordance with Section 37 of the State Administration Structure Law.

[77] Regulation No 198 of the Cabinet of Ministers (Regulation on Electric Power Production and Pricing Using Renewable Energy Sources) stipulates that the Economy Ministry has to consider a business' request within 30 days of submission. It has to verify the information included in the submitted documents and check the compliance with the requirements of the Cabinet Regulation No 198. In cases when the submitted request lacks sufficient information, some of the required documents are missing, or some of the attached documents are not considered valid, the Economy Ministry requests that the submitter provides the missing information or documents within 30 days. If the submitted request complies with all legal requirements as stipulated in the Regulation No 198, the Ministry issues its decision within 30 days from the day when all documents were submitted. It either issues an executive order granting the rights to sell the energy produced from renewables via the mandatory procurement or an executive order granting the rights to receive a guaranteed payment for the capacity installed in a power plant (the decision depends on the kind of support a business has applied for).

several government regulations that regulate, or used to, the mandatory procurement of electricity produced using renewable energy resources, including the Cabinet Regulation No 503, No 198 and No 486.

When we examine the changes in the rules of the mandatory procurement and in the requirements for those applying for support, several issues come to the foreground raising doubts about the support mechanisms' compliance with the principles of sustainable development and transparent policies:

- **the inflexibility of the quota system[78] does not assist in reaching the renewable energy target, as spelled out in the Electricity Market Law (49.3% by 2010)**
- **the pricing formulae for the mandatory procurement are not based in economically sound criteria** (such as the cost of investment into a particular renewable technology; the cost of resources; differentiation of support level depending on the power plant; or the fact that, so far, mainly hydro-electric power plants and wind farms have received support)
- there are no restrictions that would prevent frequent changes, or changes lacking in economic/welfare reasoning, in the mandatory procurement and prices
- the mandatory procurement prices fluctuate depending on the differentiating tariff on natural gas
- because of the loopholes in the legal framework access to quotas is not ensured in a transparent and unambiguous way and competition between businesses is not fair, because the Cabinet Regulation no 198 does not set a clear deadline for businesses to start applying for next year's quotas
- the changes made thus far in the Cabinet Regulation No 198 raise suspicion that some of the criteria for the mandatory procurement rights might be related to the activities of certain lobby groups, because some of the requirements for businesses that have been introduced make it easy to comply on paper whilst the tools for ensuring the actual compliance are lacking.

The inflexibility of the quota system

The restrictive effect the quota system (the mandatory procurement as stipulated in the Cabinet Regulation No 198) **on the share of renewable resources in the electric energy sector is related to the fact that the Regulation has no provisions on how to ensure that businesses, which have been granted the mandatory procurement rights, do not omit the installation of planned new capacities**. At the same time, there could be businesses willing to install new capacities, but they have no quotas. **That is why the Regulation fails to serve its main purpose, to ensure that Latvia reaches 49.3% renewable share** of the total electric energy consumed by 2010.

The quota system creates an unpredictable environment for businesses. It is impossible to tell whether the quotas are available at the moment when a business decides to submit a request for the mandatory procurement rights in accordance with the Cabinet Regulation No 198. The number of other applicants is also unknown, as is the timeline of activity.

The key risk ingrained in the current system is that the end users' total consumption may drop. As a result, the quotas for all power plants may go down in line with the individual share by the type of power plant, and the drop may be so steep that, if the legal framework remains unchanged, granting of the mandatory procurement rights may stop altogether.

According to the Economy Ministry's report on the annual Assessment Report of System Operator[79] 2008[80], a significant reduction in the total volume of electricity consumption is expected in 2010. Compared to 2008, the end consumption will drop by 694 GWh or 9.16%. Moreover, the Economy Ministry forecasts that the 2008 level of electricity consumption may only be reached in 2015. Thus, **the Economy Ministry concludes in its report that there can be no other mandatory procurement of the energy produced from renewables in addition to the existing volume**, as stipulated by the Cabinet Regulation No 198. That is why the Ministry suggested overhauling the current support schemes for the electricity produced from renewables, introducing stricter monitoring mechanisms for the recipient businesses so that the execution of the projects can be monitored and unproductive granting of mandatory procurement rights avoided.

[78] The quota stands for the mandatory share of electricity produced from renewables resources, as a percentage of the end users' total consumption. The quota system is regulated by the Cabinet Regulation No 198 in accordance with Part 1 of Section 29 of the Electricity Market Law

[79] The electricity transmission system operator is the company Augstsprieguma Tikls AS

[80] The Report is available in Latvian at: http://bit.ly/bxVvof

Based on the aforementioned report by the Economy Ministry, the Cabinet of Ministers, at its meeting on 10 November, 2009, decided:

- to instruct the Economy Ministry to prepare and submit for government's consideration amendments to the Cabinet Regulation No 198 of 24 February, 2009 'Regulation on Electric Power Production and Pricing Using Renewable Energy Sources', that amendments stipulating that, as of 2010, a new mandatory procurement principle will be introduced
- not to increase the feed-in volume of the electricity produced from renewables considering the fact that, in 2010, a significant drop in total consumption is being forecast
- to instruct the Economy Ministry to submit, by 1 March, 2010, for the governments consideration a governmental legislative initiative Law on Renewable Resources.

This way, the mandatory procurement volume (quotas) for 2010 will not be increased. Businesses, possibly, will be able to receive the rights only if and when additional quotas will become available from the businesses that will fail to use their quotas in compliance with the requirements of the Cabinet Regulation No 198 or within the given timeline.

Politically-motivated and economically unreasonable price levels for the electricity produced from renewable energy resources

Section 22 of the Cabinet Regulation 198, which deals with the mandatory procurement pricing formula, based on which the energy produced in hydro-electric, wind, solar, biomass and biogas power stations is purchased, does not rely on objective, economically reasonable criteria. There are several factors that expose political motivation behind the different support levels:

- the pricing formulae for different types of power plants is devised without consulting unbiased scientific research relevant to the situation in Latvia and without considering independent economists' assessment of investment cost for different types of power plants
- there is no distinction between the cost of biomass and biogas resources when the support level is decided
- there is no differentiation of support level depending on whether the existing power plant had already been receiving the double feed-in tariff or mandatory procurement rights; it is also unrelated to the amount of possible investment support. This issue is primarily significant in the case of hydro-electric power plants and, to a lesser extent, wind farms, because the double feed-in tariff[81] prompted a rapid expansion of this type of power plants between 1996 and 2002.

The majority of small hydroelectric power plants in Latvia were built or renovated by 2002 when the electricity produced in them could be sold at a double tariff. The Cabinet Regulation No 198 does not acknowledge the return on investment in the power plants that had benefited from the double tariff and Section 21.7 of the Regulation sets the same procurement formula for all small hydro-electric plants, both those built earlier and new ones. The regulation stipulates that the pricing formula applies for 10 years from the decision by the Economy Ministry to grant the rights to sell the energy via the mandatory procurement (instead of 10 years from the moment when the plant becomes operational).

Changes in the mandatory procurement regulation

The frequent changes in the mandatory procurement regulation (the Cabinet Regulation No 503 was replaced by the Cabinet Regulation No 198 in February 2009, only to be amended in May, 2009 with more amendments to come into force in January 2010) as well as the habitually high level of political influence over the support tools for renewable energy indicate that the regulation of the mandatory procurement will remain susceptible to sharp opinion changes of the public officials involved in the energy policy development and of the political leadership of the ministry responsible for the renewable energy policy.

Owing to the fact that there exists the EU regulation that makes renewable energy promotion a legally binding obligation of the member states (the choice of support mechanisms is left to the national governments) and because of the provisions of Section 29 of the Electricity Market Law[82] it is doubtful that the current mandatory

[81] Wind energy – the facts: A guide to the technology, economics and future of wind power. European Wind Energy Association, London: Earthscan, 2009, p.515.

[82] Part 4 of Section 29 of the Electricity Market Law stipulates that "The Cabinet shall specify the conditions for the production of electricity by using renewable energy resources, as well as the criteria for the qualification of producers for the receipt of the right specified in Paragraph one of this Section and the procedures for waiving thereof, the procedures for the determination of the electricity price depending on the type of the renewable energy resources, the procedures for the determination, implementation and supervision of the mandatory procurement amount, the procedures for covering the expenses of the mandatory procurement amount, as well as the measures for promotion of electricity production from the biomass."

procurement formulae for the energy produced using renewables will remain in their current[83] form. It is likely that the energy policy developers will abolish the tariff on natural gas as an element of the pricing formula for electricity produced from biogas and biomass, as this element makes pricing unpredictable and, moreover, there is a risk of price going up because of possible natural gas price hike.

Fluctuations of the mandatory procurement prices related to the differential tariff rates for the end users of natural gas

In Latvia, the price for natural gas is tied to the price for black fuel oil[84] and diesel fuel[85] or to the FOB ARA[86], as well as to the rate against the US dollar as set by the European Central Bank[87]. When black fuel oil and diesel fuel barge swaps fall or climb or EUR exchange rate changes, consumer tariffs approved by the Regulator change, too, in line with the particular consumer group's consumption volumes. The consumers who use more than 25 000 cubic meters of natural gas a year have their **tariffs changed once a month, on the first day of the month. This, according to the Cabinet Regulation No 198, also applies to the pricing formula for the mandatory procurement of electricity produced in biomass power plants with the installed capacity up to 4 MW or to biogas power plants with the production capacity over 2 MW**. Changes in pricing are announced by the 10 of each month and published in the newspaper *Latvijas Vēstnesis* and on the website of *Latvijas Gāze www.lg.lv*.

Thus, **the differential tariff rates for natural gas are predictable only for a short period of the calendar year, which may significantly complicate revenue and cost planning for businesses that are producing electricity in biogas and biomass power plants** in accordance with the provisions of the Cabinet Regulation No 198 (it has to be noted that natural gas price fluctuations have no impact on those businesses that have obtained the rights to sell electricity produced in biogas power plants with the capacity up to 2 MW, as the pricing formula for these power plants is not tied to the natural gas tariffs[88]). This way, businesses that have obtained the rights to sell electricity via the mandatory procurement in accordance with the Government Regulation No 198, are a subject to the price fluctuation risks and, when planning monthly revenues from the energy sold to *Latvenergo* under the mandatory procurement scheme, they will have to take into account possible price fluctuation.

By way of example we could use the changes in mandatory procurement prices in the period between July, 2008 and November, 2009 for power plants producing energy from biomass or biogas with the production capacity or 0.6 to 0.8 MW[89]. The example uses the tariffs approved by the Regulator (SPRK) for the natural gas user group No 4.

Month, year	Natural gas tariff for the users group No 4, without VAT (in LVL per 1000 m^3)[90]	Mandatory procurement price for 1 MWh[91], for the PP with 0.6-0.8 MW capacity[92]
07.2008	212.15	110.04
08.2008	212.15	110.04
09.2008	212.15	110.04
10.2008	**299.99**	**155.61[93]**
11.2008	294.99	153.01
12.2008	294.99	153.01
01.2009	274.99	142.64
02.2009	274.99	142.64
03.2009	274.99	142.64
04.2009	274.99	142.64
05.2009	234.99	121.89

[83] 7 December, 2009

[84] With sulphur content up to 1%

[85] With sulphur content up to 0.1%

[86] Free on Board Amsterdam, Rotterdam, Antwerp

[87] According to the information provided on the website of *Latvijas Gāze*; available in Latvian at http://www.lg.lv/index.php?id=139

[88] As stipulated in Sections 21.9 and 21.10 of the Cabinet Regulation no 198

[89] The calculations for this example are based on the pricing formula as stipulated in Section 21.3 of the Cabinet Regulation No 198 and on the price differentiation ratio for the particular production capacity (1.072) as stipulated in Annex 3 of the Regulation

[90] The tariffs approved by the Regulator are available on the website of Latvijas Gāze, in Latvian: http://www.lg.lv/index.php?

[91] The example shows the fluctuations of the mandatory procurement price that follows the changes in natural gas tariffs for the users group No 4, as approved by SPRK

[92] In accordance with the pricing formula for electricity produced in biomass power plants with the production capacity up to 4 MW and biogas power plants with the production capacity of 2 MW or more, as stipulated in Section 21.3 of the Government Regulation No 198

[93] The highest price in the given 17-month period

06.2009	199.99	103.74
07.2009	194.99	101.14
08.2009	194.99	101.14
09.2009	194.99	101.14
10.2009	189.99	98.55
11.2009	**179.99**	**93.36**[94]

Between April and November of 2009, we can see a sharp drop in the natural gas tariff, from 274.99 to 179.99 LVL per 1000 cubic meters. As a result, the price for the energy produced in cogeneration decreased significantly, too. In November, 2009 the tariffs approved by SPRK reached the lowest level.

Another risk embedded in the mandatory procurement pricing formula, which includes the natural gas tariff as one of its elements, is the possibility that, due to unpredictable external factors, the price for natural gas may rise disproportionately and, as a result, the mandatory procurement price level will also increase. This factor may undermine businesses' trust in the stability of business environment in the renewable energy sector. Therefore, in order to avoid unreasonable increase in electricity costs for an average consumer, the energy policy decision-makers would, most likely, have to change the mandatory procurement pricing formula. For example, in the case of the electricity produced in biogas and biomass power plants, the reliance of the mandatory procurement pricing on natural gas tariff fluctuations would have to be abolished.

The pitfalls of legal framework that encourage unfair competition

The most significant unfair competition-inducing drawback of the Government Regulation no 198 is the lack of straightforward, legal interpretation-proof time frame for applying for the mandatory procurement support when the quotas for the year in progress have already been exhausted but the new year has not started yet. The practice of following the Government Regulation No 503 of 2007, which was amended in 2009 and replaced by the Regulation No 198, shows that the majority of businesses choose to apply for new quotas in the beginning of the new year and a much smaller part do in the current year, but no earlier than December. Lawyers and experts of the ministry responsible for the energy policy assessed the compliance of the applicants in accordance with the Regulation and, by means of legal interpretation, tried to determine whether to accept or refuse applications based on the timing of their submission.

A good illustration of the scope of such interpretation is the way in which the solar power station quotas for 2010 were distributed. In accordance with the economy minister's decision the entire volume of solar quotas was granted in the first half of 2009 to two businesses that were planning to start producing electricity from solar energy[95].

Indications of lobby group influence

Current amendments to the Government Regulation No 198 give **grounds for suspicion that some of the mandatory procurement criteria are linked to activities of certain lobby groups**. By way of example, the initial version of the Regulation[96] included the criterion for wind farms with the installed capacity above 0.25 MW that required businesses to submit wind resources measurements for one year. At the same time neither the Government Regulation no 198, nor other legal documents had any provisions on the criteria for verifying these measurements and did not specify technical requirements for conducting measurements, as is common practice in other EU countries. Therefore, there were reasons to suggest that the aforementioned requirement for wind farms was designed in a way that would enable businesses to comply with it only on paper, because the Economy Ministry, the institution in charge of granting procurement rights, would have no tools for verifying the actual compliance.

3.3. The need to improve participation of the energy policy decision-making institutions in policy development at the EU level

In order to successfully represent Latvia's interests at the EU level, it is imperative that the institutions in charge of the energy policy (public administration, professional associations, NGOs, and others) improve their participation in the EU policy development, including policy on renewables.

[94] The lowest price in the given 17-month period

[95] Information on the 2010 quotas available in Latvian at: http://bit.ly/arfrHk

[96] The Government Regulation No 198 as approved on 24 February, 2009, excluding the 26 May amendments (Regulation no 486), which abolished the criterion in question

3.3.1. Encouraging proactive participation in the EU energy policy decision-making

When we analyze the aspects of EU decision-making, such as the institutional structure of the organization, the history of policies in various sectors of economy, and traditions of official and informal decision-making, we could conclude that the efficiency of member country's participation in the EU relies, heavily, on the way it defends the interests that constitute an economic priority (including energy issues) in the EU institutions and secures a place for them in the EU policy documents and legally binding regulation. Success also relies on the volume of the arguments the country uses to support its stance. The Copenhagen Criteria set a minimum number of requirements for the EU membership, but it does not follow that a country compliant with them is capable of using, in an efficient manner, all opportunities offered by the membership.

The record of Latvia's membership reveals that the country has a marginal place; there is general adjustment, dominated by reactive rather than proactive participation in the EU processes. Possibly, one of the reasons for it is the fact that, in Latvia in general and in its public administration in particular, there is a lack of experts with wide-ranging interdisciplinary and multidisciplinary knowledge, which is an important prerequisite for successful articulation and defence of complex national interests at the EU level.

3.3.2. Improving collaboration in recognizing national interests

In Latvia, there is an apparent lack of strategically planned participation of public administration, political leadership and civil society in shaping the EU policy. Moreover, research on efficiency of collaboration between governmental and non-governmental sectors and on public participation is scarce, as is practical experience of such cooperation.

Considering that, at the EU level, the energy policy is placed at the heart of sustainable development and competitiveness, successful participation in energy policy development within the EU should be a main concern for Latvia, particularly in view of the country's energy dependency.

In the recent years, the EU energy policy underwent radical changes dominated by the desire to harmonize[97] several relevant sectors[98], which had previously been the competence of national governments, and to set quantitative objectives to the member states, as well as combine energy and environmental policies[99]. The new EU Directive 2009/28/EC[100] makes it a responsibility of all member states to develop, by mid-year 2010, a national action plan on renewable energy resources, the plan which would include measures national governments are planning to undertake in order to reach the 2020 renewable energy targets. In the case of Latvia, the target is 40% of the total energy consumption. At the time of writing this paper, it is premature to judge government's efforts to inform and engage general public in developing the action plan. Nevertheless, we can already say that the level of public awareness and participation in developing and discussing this crucial renewable energy policy document will be an indication of transparency of energy policy in Latvia.

In Latvia, the opportunities and pitfalls in defining national energy interests have not been examined properly (including the participation of professional organizations and general public), and knowledge is scare on how efficiently these interests have been represented at the national and international level (including informal ways of influencing decisions). There is a lack of research papers that could be used in energy policy planning and national interest representation in the EU.

The issue of Latvia's participation in shaping the EU energy policy, and deepening of this participation, could be examined from three perspectives, namely:

1. relationship between political developments in Latvia and in the EU (such as influence of the most notable political actors on the EU decision-making; strategic planning for public administration in Latvia and in the EU)

2. communication with the public by the institutions responsible for the energy policy planning; a comparative analysis of public participation at the national and the EU level (such as the role of administrative culture; the role of interest groups and factors galvanizing interest representation in the EU energy policy)

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[97] Commission Green Paper of 8 March 2006: "A European strategy for sustainable, competitive and secure energy", available at: http://bit.ly/2u0O9

[98] Renewable energy resources and energy efficiency, among others

[99] More on the EU policy at Climate Action – Energy for a Changing World: http://bit.ly/9qFVSm

[100] Directive 2009/28/EC of the European Parliament and the European Council of 23 April 2009 on the promotion of the use of energy from renewable sources amended and subsequently repealed Directives 2001/77/EC and 2003/30/EC. The Directive is available at: http://bit.ly/dgs8JN

3. representation of Latvia's national interest in the EU (such as opportunities for the public administration institutions, professional associations and interest groups to influence formal and informal decision-making processes in the EU institutions and other structures).

Such analytical and politically neutral (or, as neutral as possible) research would be helpful in developing action recommendations for the government, the key political actors, NGOs and interest groups, particularly professional associations of the energy sector, so that they can build up a strategically designed, target-oriented Latvian participation in the EU policy planning and representation of Latvia's interests in developing the EU's sustainable development strategy for the energy sector and the renewable energy subsector.

4. Findings and recommendations

Analysis of the latest Latvian laws and regulations on the energy sector, which was conducted with the renewable energy subsector in mind, reveals some elements of growing sustainability in the Latvian energy policy. However, **the main agent of change pushing Latvia towards more sustainable and transparent institutional decision-making and towards a legal milieu more favourable to the renewable energy use is not so much the national policy, but rather the EU**. The EU is where binding energy policy decisions are being made and basic principles of policy of the sector are being devised; the EU is also the originator of the compulsory renewable energy targets.

Sustainable and transparent policy development and execution practice cannot be ensured by policy guidelines and legal framework alone, even it that framework encourages transparent decision-making in the energy sector. Efficient performance of the institutions responsible for the energy policy execution and its further development is equally important. Among the prerequisites of such performance are the capacity of human resources, the employee training and the motivation and willingness of the leadership to promote cooperation with other renewable energy sector actors, government institutions, professional associations, non-governmental organizations, energy companies, and research institutes. Furthermore, it is important that this cooperation exceeds the legally required minimum of formally approving policy planning documents by various institutions; this collaboration needs to ensure more sustainable and proactive stance when it comes to identifying public interests, those of both businesses and consumers, and when it comes reducing to administrative obstacles.

The EU has stepped up efforts to harmonize policies on the promotion of the use of energy from renewables in all member states by defining legally binding policy principles for the renewable energy promotion measures and setting individual renewable energy targets for each of the countries. Despite that, Latvia's renewable energy support policy, particularly the mandatory procurement scheme for the energy produced in power plants using renewables, is an area with an unstable legal framework, susceptible to frequent fluctuations in political opinions and interests, which often are not based in the country's economic and welfare considerations.

In the recent years, Latvia's energy policy practice was marked by inconsistencies and the lack of socio-economic reasoning, which allows, in some cases, to suspect influence of lobbyists on the development of legal framework. Examples of that trend are the aforementioned frequent changes in the mandatory procurement regulation and the feed-in pricing formula, which is politically motivated rather than based in thorough economic reasoning.

What we see in the energy sector, is **the lack of flexibility in the mandatory procurement scheme**, which is meant to promote the use of renewable energy resources. The inflexibility may lead to situations when support schemes follow the letter of the EU directives, but not the spirit. The quota system supports the renewable energy target (49.3%) on paper, but **the structure of the system does not prevent the situation when the businesses with the procurement rights do not set up the planned renewable energy plants whilst the businesses that would be willing to do so have no access to the quotas**.

Even though **there is no consistent legal framework ensuring regular investment support** for developing renewable energy power plants, such as annual co-funding, there are reasons to expect new support measures for such plants in the medium term both at the national and, possibly, the EU level. The grounds for such forecasts are twofold: the latest trends in the EU energy policy and the new opportunities offered by the Directive 2009/28/EC[101], which makes it a legal obligation to reach 20% renewable energy share in the EU by 2020.

[101] Directive 2009/28/EC of the European Parliament and the European Council of 23 April 2009 on the promotion of the use of energy from renewable sources amended and subsequently repealed Directives 2001/77/EC and 2003/30/EC. The Directive is available at: http://bit.ly/dgs8JN

Recommendations for building a sustainable and transparent energy policy in Latvia in the context of promotion of the renewable energy use:

- The government institutions responsible for the energy policy guidelines and policy execution (primarily the leading energy policy institution, the Economy Ministry) have to develop a consistent employee professional training strategy aimed at improving their work on energy policy planning documents, programmes and legislative proposals, and to establish monitoring mechanisms to determine the qualitative outcomes of such strategy.
- There is a need to boost the capacity of the Economy Ministry and establish the Energy Agency, which would carry out analysis and research needed for development of energy policy planning documents and legislative proposals, as is common practice in other EU countries.
- There is a need to reduce the volatility of renewable energy support mechanisms and their dependency on political opinion and interest fluctuations; among other things, the energy produced using renewable resources needs to receive the level of support, which is based in sound economic reasoning; also, abolishment of the link between the price for the energy produced in biogas and biomass power stations and the natural gas tariff has to be considered.
- When amendments to the legal framework for the mandatory procurement scheme are developed, the government has to make sure that different support levels are introduced in line with the best support scheme practice in the EU: there should be differentiation between the new power plants and those launched several years ago (in the case of Latvia they are mostly small hydro-electric power plants) and support needs to be tied to the return on investment, which had been assisted by the double tariff, the mandatory procurement or by investment support.
- More flexible support mechanisms for the energy produced from renewables needs to be developed and assessment made of the impact of the existing quota system on reaching the binding renewable energy targets.
- The government has to ensure transparency of decisions regarding the mandatory procurement rights to sell the energy produced from renewables (such as a publicly available register of the applicants; a more detailed and more transparent procedure for submitting applications etc.).
- The pitfalls in legal framework, which undermine fair competition, need to be eliminated (the aforementioned Government Regulation No 198 does not specify the time frame for applying for the next year's quotas).
- Effective and transparent communication with the public by the institutions in charge of the energy policy needs to be promoted as does public participation (that includes, for example, public consultations on strategically important documents and legislation).
- The institutions responsible for the energy policy have to be encouraged to take a more proactive part in shaping the EU energy policy on renewable resources; they need to develop specific guidelines for the energy sector and identify national interests in this regard, as well as encourage informal representation of Latvia's interests in line with the best practices in the EU (lobbying in the EU institutions, in the energy industry associations and other member state associations).

Sustainable development policy of the European Union and Latvia's capacity to implement it

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1. Introduction: sustainable development and energy policy in the EU and in Latvia

There are dozens of different definitions of sustainable development. The term was first mentioned in the nineteen seventies. But as an established term it appeared later, in 1987 when the World Commission on Environment and Development (WCED) published the report Our Common Future otherwise known as the Brundtland Report[102]. According to the most commonly used explanation of the term, sustainable development performs a threefold function, namely, environmental, economic and social justice. It could be described as development serving today's needs without endangering the needs of future generations. Somewhat sarcastically, sustainable development is also referred to as the religion of the last decade, and the concept has both advocates and adversaries. Critics call it an invention of wealthy and developed nations that are trying to impose their trade rules and technologies on the developing world. Even more heated are the debates about the true reasons of climate change and whether man has contributed to it in one way or another. The natural cyclical nature of the Earth temperature is juxtaposed with the impact of human activities. In Latvia, too, such criticism is frequently voiced, particularly in relation to the national position in the European Council or the Council of Ministers when issues of energy, transport, agriculture and environment are being discussed. It should not be considered something out of the ordinary, because the diversity of opinions is not based in malice, but rather in different levels of knowledge and the use of knowledge in judging correlations and causalities. In the course of its history, the European Union (EU) has experienced an evolution of the term 'sustainability', which progressed in step with the economic situation and processes in nature.

In this part of the paper, I will compare the procedures and traditions in decision-making about energy sector-related legislation in the EU and in Latvia (after the accession on 1 May, 2004). I will focus on the background for decisions and on impact assessment, as well as on the pitfalls of the current regulatory system. I will examine the influence of lobby groups on the quality of impact assessment and on decision-making itself. Keeping in mind the space restrictions for this work, my analysis will mainly focus on the issues of energy production, transport and economic sustainability.

2. Legal basis of the EU energy policy: from Paris to Lisbon

On 18 April, 1951 in Paris, the Treaty establishing the European Coal and Steel Community was signed[103]. The Treaty formed a basis for the concept of sustainability, as it included a provision that the Community "shall see that conditions are maintained which will encourage enterprises to expand and improve their ability to produce and to promote a policy of rational development of natural resources, avoiding inconsiderate exhaustion of such resources."[104] However, this good intention did not lead to practical results until much later, after a serious environmental pollution crisis in Western Europe in the sixties.

A later document, the Treaty on European Union (The Maastricht Treaty) of 1992 introduces a special section on the environment[105], which authorizes the Council to make decisions on environmental issues, including fiscal decisions. The Treaty opened up new opportunities for the integration of policies in different sectors and we now see the results of that: there is a wide-ranging convergence of energy, environmental, transport and agricultural policies. Significantly, the Treaty makes it a legal obligation of the member states to consult the European Economic and Social Committee (EESC) and the Committee of the Regions (CoR). This forms the legal framework for assessment, consultations and public participation in the issues of energy supply and sufficiency, and sustainable development. It is crucial that "The Polluter Pays" principle becomes law in this Treaty.

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[102] Report of the World Commission on Environment and Development: Our Common Future, available at http://www.un-documents.net/wced-ocf.htm

[103] The signatories of the Treaty of Paris were former enemies of the World War II: France, West Germany, Italy and the three Benelux countries, Belgium, Luxembourg, and the Netherlands. The treaty was part of the so-called Schuman Plan.

[104] Article 3 of the Treaty of Paris

[105] Title XVI of the Maastricht Treaty

In the area of policy integration, the Lisbon Treaty (2009) takes one step further by introducing a legal correlation between environment protection and responsibility for climate change. The Treaty makes provisions for deeper integration of environmental and energy policies, on the one hand, and legislation, on the other. It also specifies that the member states shall express solidarity in reaching the following objectives:

1. ensuring the functioning of the energy market
2. ensuring security of energy supply in the EU
3. increasing energy efficiency and energy saving and the development of new and renewable forms of energy
4. promoting interconnections of the energy networks.

Nevertheless, the member states retain exclusive rights to choose their sources of energy, the structure of supply and use their own energy resources[106].

The functioning of the EU is based in the rule of law, as its founding treaties stipulate. The member states have all subscribed to these treaties, having joined the Union in a free and democratic manner. Thus, the main source of laws in Latvia is the EU treaties and procedural initiatives. When it comes to the issues that affect scenarios of sustainable development, Latvia has to keep in mind the interests and objectives of the whole Community, providing the decisions made are in line with the mandate included in the treaties.

3. Priorities of the EU energy policy and Latvia

Energy is the driving force of the EU economy and a key factor of welfare growth. In developing its energy policy the EU faces the biggest challenges of our time, namely, climate change, unprecedented dependency on imported energy resources, and the need to ensure access to resources for all energy users. The latter issue is linked to development of energy networks, distribution of energy sources and the ability of end users to pay for the energy supplied to them. In actual fact, the need to ensure access is the main raison d'être for all energy supply systems. The EU policy does not discriminate against any energy resources or technologies, so long as environmental protection and safety requirements are met. There is an exception though: nuclear power plant, which do not have inbuilt nuclear safety barriers[107]. The EU energy policy or, more specifically, the policy on energy resources and energy conversion for users' consumption, covers the entire spectrum of energy:

1. fossil fuels: oil, gas and coal
2. nuclear energy
3. renewables: solar energy, wind power, hydroelectric power, biomass, tidal energy, wave energy, and others.

The EU energy policy does its utmost to make sure that the institutional decisions and legislative proposals of the EU are in agreement with the member states' economic interests and capacity. In recent years, due to some economically painful events such as the steep rise in oil price and sudden disruption of gas supply, persistent calls for a unified EU energy policy have emerged[108]. The EU is consistently moving towards such unified policy. The main strategic objectives have already been included in EU directives and are consequently being incorporated in to the member states' legislation. However, there are significant differences in the understanding of the unified policy's structure and goals. The reason for these differences is twofold, both economic and geopolitical. The Eastern European and Baltic states entered the EU with a network of oil and gas pipelines inherited from the Soviet era and they have all traditionally been supplied almost exclusively by Russia. That is why politicians from these countries understand the unified policy rather narrowly, as a response to political risks, which constitute the main threat to supply security. The situation is made worse by the fact that an influential industrial lobby operates in these countries, which is trying, with a notable degree of success, to influence local policies. Business influence on domestic politics contributes to further instability. Serious political disagreements on the issues of gas pipelines and upgrading of nuclear power plants surfaced in Hungary, Bulgaria and elsewhere in the region, mainly before and after elections and change of government. Latvia is no exception, and the opinions on energy security are highly polarized. Even though the policy guidelines on energy supply and energy use formally comply with the EU energy and environmental policy principles[109], there are problems with the execution of this supposedly long-term document and the actual implementation of political initiatives. Such a state of affairs creates an unpredictable investment climate and, regrettably, deliberate chaos in the legislative structure.

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[106] Title XXI of the Consolidated Treaty on the Functioning of the European Union

[107] This applies to several nuclear reactors in several post-socialist countries: Bulgaria, Lithuania and Slovakia. In Germany, the closures of outdated nuclear reactors were finalized soon after the country's reunification.

[108] During the election campaign for the European Parliament elections, nearly all Latvian MEP candidates promised to work towards establishing a unified EU energy policy. The discussion and adoption of the regulation on energy security will be the first test of the newly elected MEPs' understanding of the term 'a unified policy'.

[109] The Principles of Energy Sector Development 2007-2016; (in Latvian) http://polsis.mk.gov.lv/view.do?id=2017

The actual execution of Latvia's energy policy does conform to the key political goals of the EU, namely, reduced energy dependency and the free development of small and medium businesses involved in producing energy security-boosting power and providing relevant services.

The main elements of this finding will be analyzed in more detail below, in connection with two key problems of supply security, the disproportionate dependency on one type of energy and one source of supply, and also in connection with opportunities to overcome that dependency through the use of renewable resources and increased energy efficiency.

Even though the EU energy policy is wide-ranging, one can easily spot the priorities, which could form a basis for the unified energy policy in the future, both near future and long-term. It is worth noting, once again, the main current trend in the EU policy, i.e. convergence of energy, environmental, transport, agricultural and industrial policies under the joint call for climate change mitigation and sustainable development. A particularly widely used catchphrase in the present sector policy rhetoric is 'low carbon economy'; it marks a new path for the development of new technologies and a starting point for a new industrial revolution. The EU is planning to devote billions of EUR to research and science in order to promote this revolution[110]. The EU is an economic union evidently dependent on energy imports. Only one of the member states, Denmark, is able to meet all of its own primary energy needs. Disruptions in energy supply to one of the countries or to a particular industry have an impact on the functioning of the whole Union. From this viewpoint, we could examine the most effective political tools at the EU's disposal that could reduce supply security risks.

3.1. Increased energy efficiency, energy saving and sensible use

This subtitle constitutes the best and cheapest response at consumers' disposal to the supply security risks and price hikes. It is seemingly easy to agree on this measure as an economic and political priority, but, when it comes to actual implementation, it turns out to be a hard task, which demands a high level of understanding and intelligence, as well as the ability to assemble resources and engage the wider public, or at least a sizable part of it. The problem lies in the fact that, on the consumer part, every member of the public has to be involved in the efficiency efforts. Considering the traditional paternalistic attitudes, this turns out to be a big challenge. Politicians love to refer to the state's duty to supply consumers with cheap energy, which is why the regulators of the energy supply system do their best to make certain that consumers do not see the true cost of the energy, the ways it is being produced and the impact its transportation has on environment. This state of affairs is the key factor that hinders positive corrections in consumer behaviour and sensible use of energy.

The oil and oil product markets are much more liberal and less regulated than the so-called grid energy, electricity and natural gas. As a result, reactions of road transport users to the changing energy prices are quick and effective. Together with reasonable energy taxes, the "right" price fluctuations lead to revolutionary changes in automobile industry. Consumers started demanding economical and environmentally friendly cars, and the industry responded. In order to promote energy efficiency, the EU uses the tool of energy taxation, but time and again it provokes opposition, political turmoil and extreme reactions such as road and harbour blockades. Taxes on energy could have been an effective and easily administrable source of income for the state budget, and a source of funding for energy efficiency projects, particularly in the time of economic downturn[111].

Latvia has nearly always been an opponent of energy taxation, which is why the best opportunities for introducing them – when energy prices were low and economy was growing at a fast pace – have been missed. In the process of budget consolidation, energy taxes could provide an easily administrable source of income for state coffers. The raised excise duty and VAT on oils, natural gas and electricity is easy to divide between various groups of taxpayers and businesses. In comparison to income tax increase, reduced pensions or raised tax-free threshold, this measure could be less painful for lower income groups. But, most importantly, it would help to reach the goal, which is so crucial for Latvia, namely, to establish stimuli for efficient energy use and increase country's competitiveness. The current system of taxation helps the suppliers of imported energy to thrive and feel comfortable. The government does its best to strengthen their position in the Latvian energy market.

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[110] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Investing in the Development of Low Carbon Technologies (SET – Plan); available at http://bit.ly/2SApxF

[111] The annual road tax is comparable to an energy tax, providing it promotes energy efficiency and environment protection goals. However, the reasoning behind the road tax increase, which was recently done as part of state budget consolidation, is old-fashioned and lacking in motivating incentives. The dependency of the tax on the weight of the car is incorrectly explained and does not help to promote reduced fuel consumption. The tax, once again, mainly harms large families and the owners of gas-guzzlers. The best and most fair method would be to link the tax to the CO_2 emissions and engine size. This way, the tax would serve three purposes: environment protection, social justice and fiscal benefits.

A particularly challenging task was increasing energy efficiency in buildings, above all public and commercial ones, where energy costs could be simply transferred to users, without it having any effect on the owners of the premises. This concerns libraries, post offices, hotels, etc. In the last couple of years, the EU amended the Energy Performance of Building Directive twice. It turned out that the member states' interpretation of the Directive varied enormously, even the terminology was perceived differently. Nevertheless, the Council's agreement to reduce energy consumption by 20% by 2020 through energy efficiency measures remains in force (the reduction is calculated against the projected consumption level as it would have been without any efficiency measures, in other words, 'business as usual'). In Latvia, energy efficiency efforts in residential buildings remain sluggish, despite the available EU co-funding for such projects. It proved to be exceptionally hard to put ownership rights in order in multi-storey apartment buildings and to make decisions on cost-efficient measures. Considerable political uncertainty surrounds the issues of floor space tax and property tax. A significant success at the EU level is the agreement on new energy-saving standards and energy performance certificates, which will apply to all buildings built after 2020.[112]

In Latvia, the Law on the Energy Performance of Buildings (of 13 March, 2008) does not spell out energy efficiency measures adequately as it is mostly focused on administrative procedures to determine the level of efficiency and on reporting procedures to the European Commission.

3.2. Energy markets that work efficiently

There is an established opinion in the EU that functioning and competing electricity and gas markets provide the key to increased supply security and to most advantageous energy distribution. Both electricity and natural gas markets rely on interconnected networks and national energy distribution systems. Both energy carriers thus acquire value as goods and high local and regional mobility. The EU has produced two new directives[113] concerning common rules for the internal market in electricity and natural gas. They repeal two previous directives on the same subject. In order to ensure competition and enable consumers to buy energy for the most attractive price, the member states and regulating bodies have to promote the option of purchasing energy from varied sources and promote access to cross-border trade. The plan to interconnect the Baltic electricity market and the related EU financial support for a cable connection between Lithuania and Sweden, and for upgrading Latvia's distribution network has gained big publicity[114]. Those who would like to have a deeper insight into opportunities for consumers to integrate into the Baltic and Swedish electricity markets and to know more about the principles of interconnectivity could consult the Memorandum of Understanding, signed on 8 and 9 July, 2009 by the CEOs of the Latvian energy company *Latvenergo*, the Lithuanian Consortium and *Svenska Kraftnät*, a Swedish state utility. The Memorandum cannot be found in the Latvian Internet, but information can be obtained from the *Svenska Kraftnät* website[115].

If energy network management is not detached from the production and supply (trade) activities, there is a risk that network activities will be undermined and vertically-structured companies will not make sufficient investments into the grid and, consequently, into the market development. A successful separation of these activities and subsequently improved performance of the markets can only be achieved by eliminating the incentive of vertically-structured companies to block competitors' access to the grid. The easiest and surest solution to this would be the abolition of natural conflicts of interest and an increase in supply security by separating the network ownership from the production and trade assets. However, there is an alternative, which allows retaining network asset ownership rights, and it is establishment of an independent network operator to provide services to consumers. But, in this case, operators have limited influence over investment or asset sale. The overall control over decision-making stays with the management of the integrated company (the mother company). This is the way that *Latvenergo* has chosen[116]. Such an approach calls for the regulating body to assume responsibility over network development and over security of energy supply in the interests of consumers. It also implies that small and medium businesses

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[112] More on the agreement at: http://bit.ly/aofvC4

[113] Directive 2009/72/EC of The European Parliament And of The Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC; available at http://bit.ly/b0wvsp

[114] More on the EU financial assistance to the projects in the field of energy at http://bit.ly/9ZSSkp

[115] The Memorandum available in English at: http://bit.ly/b97RdY

[116] To be fair, it would be hard to imagine it taking any other approach, because the Energy Law stipulates: (1) Being a national economy object of State importance, the stock company *Latvenergo* shall not be privatised. All stocks of the stock company *Latvenergo* are the property of the State, and they are not to be privatised or alienated. (2) The Pļaviņas, Ķegums and Rīga hydroelectric power plants on the River Daugava, the Rīga 1 and 2 thermal power plants, electricity transmission networks, and existing electricity distribution and telecommunications networks, and equipment in the ownership of the stock company *Latvenergo* may not be utilised as a pledge for the provision of credit or the securing of other liabilities, and these objects as not to be privatised property may be transferred and be the property or in the possession of only such a capital company where all the capital shares are the property of the stock company *Latvenergo* and which may not be privatised or alienated. (3) If the stock company *Latvenergo* is reorganised, the newly established holder of the right shall be a successor in rights and obligations of the stock company *Latvenergo* and the provisions referred to in Paragraph one and two of this Section shall apply thereto. (Section 20.1 of the Energy Law)

have to cover some of the costs related to system development in addition to those related to the new connections that they require[117]. *Latvenergo* lives in a permanent crisis of revising tariffs for network services: supply and distribution tariffs are frequently rejected, for political, rather than economic reasons. As a result, non-transparent internal subsidies are commonplace, which have nothing to do with the actual quality and development of public services.

Even the earlier directives on the internal gas and electricity markets called for establishment of the regulating bodies with a specific mandate. Nevertheless, experience showed that their mandate and freedom of action was still limited due to regulatory capture, in other words, excessive submission to the government influence or that of the companies they are charged with regulating. In order for the internal market to function properly, the regulators should be able to make professional decisions on all relevant issues, including supply security. The member states have to consider the availability of human resources and opt for a makeup of the regulating body that promotes professionalism and independence from political and economic interests. If we examine Latvia's regulating model against the backdrop of all the requirements of the EU directives related to energy supply security, functioning of the internal markets, competition, the use of renewable resources, sustainable development and climate change, then it seems doubtful that this universal regulatory model is able to deliver sufficiently professional and well-considered decisions. This should not be perceived as criticism of the Regulator (SPRK) Council members' intellectual capabilities, but rather as criticism of the chosen regulatory system, which makes it impracticable for decision-makers to acquire in-depth knowledge of all sectors they are charged with regulating, namely: rail transport, postal services, electronic communication, information technologies, natural gas and electricity and competition in these two sectors, and further, centralized heating supply, renewable energy resources, climate change, integrated types of energy, manufacturing, agriculture, transport and environmental policies and the Trans-European Networks (TEN). The tendency in the EU and in other systems is to move towards specialized regulation and deeper engagement of the regulating bodies in the issues of supply security and resource sufficiency. In actual fact, the requirements for energy and finance regulators' responsibility are not dissimilar.

The utility Regulator in Latvia differs from the models used elsewhere in the EU, but is similar to the approach used in several states of the US where regulation is based in legal procedures and public hearings. This system is only outwardly cheaper than the use of individual professional regulators, because the decision-making is politicized and removed from the industry and the true interests of consumers. There is a clear lack of confidence in SPRK when it comes to making professional decisions and its frequent glances back at the political backers are also apparent. No lessons whatsoever have been learned from the outcome of the litigation Latvijas Gāze vs. Latvia[118] in the Stockholm International Court of Arbitration. In the environment of general euphoria over the economic growth, the writing off of eight million LVL was an everyday occurrence, not worth mulling over.

The regulating bodies are expected to take an active part in supervision of the electricity and gas markets and also to cooperate closely with the finance regulators. The EU has allocated funds for the establishment of an Agency for the Cooperation of Energy Regulators[119], but the place for its headquarters has not been chosen yet. This decision stresses, once more, the need to increase the professional capacity of the regulating body. One requirement for the regulating body, which Latvia does not fully meet, is consumer protection and awareness-building. Section 9 of Article 3 of the Directive 2009/72/EC stipulates:

"Member States shall ensure that electricity suppliers specify in or with the bills and in promotional materials made available to final customers:

(a) the contribution of each energy source to the overall fuel mix of the supplier over the preceding year in a comprehensible and, at a national level, clearly comparable manner;

(b) at least the reference to existing reference sources, such as web pages, where information on the environmental impact, in terms of at least CO_2 emissions and the radioactive waste resulting from the electricity produced by the overall fuel mix of the supplier over the preceding year is publicly available;

(c) information concerning their rights as regards the means of dispute settlement available to them in the event of a dispute.

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[117] Nearly all businesses that use renewable resources for electricity production fall into this category.

[118] *Latvijas Gāze's* claim to the Stockholm International Court of Arbitration demanded the state of Latvia to cover the company's losses after it was banned from hiking gas supply tariffs for industrial and commercial consumers. The court ruled that the state of Latvia must compensate LG's losses

[119] According to the Regulation (EC) No 713/2009 Of The European Parliament And Of The Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators, available at: http://bit.ly/adwouV

As regards points (a) and (b) of the first subparagraph with respect to electricity obtained via an electricity exchange or imported from an undertaking situated outside the Community, aggregate figures provided by the exchange or the undertaking in question over the preceding year may be used. The regulatory authority or another competent national authority shall take the necessary steps to ensure that the information provided by suppliers to their customers pursuant to this Article is reliable and is provided, at a national level, in a clearly comparable manner."

Even in such a conflict-ridden place as Ukraine information about the gas supplies from Russia is publicly available (quarterly gas prices, trade volumes)[120], whilst in the Latvian public domain there is no information on past prices and supply sources for gas and electricity. As a result, misleading and incorrect information is used in discussions about supply security and sustainability. This practice, of course, hinders the development of energy sector policy and legislation, as well as diminishing opportunities for investment decisions that are made in informed collaboration with the public and interest groups. The activities of consumer and industrial lobby groups in the majority of the EU member states are aimed at encouraging new technologies, sustainability and corporate social responsibility. Unhindered access to balanced information and competent analysis of that information is both a precondition and starting point for innovative processes in manufacturing, agriculture, transport and the energy sector itself.

In Latvia, there is no system in place enabling consumers to obtain information about the origins of the energy they receive, its environmental impact, price predictability and opportunities to choose alternatives. This fact delays the development of an unambiguous energy sector policy and hinders investment placement decisions.

A rather peculiar situation could be observed at the parliament's Economic Affairs Committee meeting on 3 December, 2009 when liberalisation of the natural gas distribution was being discussed. Looking back at the proceedings and voting results of the parliament session on 21 November 2002[121] and comparing them to the debates in 2009 a reasonable question arises: what motivates MPs to oppose liberal principles in the interest of energy consumers? Some of the ruling coalition parties have been consistent in their opposition to consumer interests, which could be understood and their position, justified. The opponents include parties the New Era (JL), the Greens and Farmers Union (ZZS) and the First Party of Latvia (LPP). However, the position of the Peoples Party (TP) is baffling: between 2002 and 2009, it has changed to the exact opposite. Interestingly, the majority of MPs from this party have remained the same. Once again, there are reasons to suspect that professional and open assessment of the impact of such decision has not been done and, also, the boundary between lobby group activities and possible corruption is blurred.

In the context of the EU, Latvia belongs to the group of countries that has a very conservative view on the subject of limiting the influence of monopolies and introducing liberal principles in the internal energy markets. Quite possibly, the reason for this is ignorance and trust in efficiency of centralized governance and energy distribution.

3.3. Climate change mitigation: emission cut and emission trade[122]

One of the cornerstones of the EU climate strategy is the cap and trade system, which rewards companies that have cut their CO_2 emissions and penalizes those that have exceeded their quota. This system, which came into force in 2005, applies to about 12 000 factories and production facilities, whose combined CO_2 emissions constitute about a half of the EU's total. CO2 is the main contributor to global warming.

The EU member state governments set a limit or cap on the amount of a CO_2 that can be emitted for energy-hungry manufacturing industries, for example, electric power plants and steel and cement factories. If these factories emit more CO_2 than the cap allows the missing quotas have to be bought from the companies that have been thriftier. In the future, new industries will be added to the list, for example, airlines and oil refineries, and EU member states will have the option to compensate extra emissions by trading with CO_2 reduction projects outside the EU.

As of 2013, environmentally safe CO_2 capture, transportation and geological storage will have to be included in the EU system via harmonized regulation. Revenues from cap auctions will be at the member state's disposal, in accordance with the emission trade volume in the particular territory, and the funds could be used for efficiency-

[120] Executives of the Ukrainian gas and oil company NAK Naftogaz Ukraini regularly inform mass media about the former and upcoming trade conditions for gas. Information about electricity imports and exports is also available. As a result, industries and local authorities choose supply sources consequently prompting significant changes in energy consumption structure. The government's policy on renewable and local resources is very vigorous.

[121] The transcript of the parliamentary session is available in Latvian at: http://bit.ly/d0iA4A

[122] Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2003/87/EC so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community; available at: http://bit.ly/doq1kG

boosting measures and technological development. Currently, a Directive on carbon dioxide capture and safe storage is being drafted[123]. In the long-term, energy efficiency and renewable energy resources constitute the most sustainable solution for supply security and climate change. However, the EU and worldwide CO_2 emissions cannot be cut by 50% by 2050 without using the carbon storage option, i.e. capturing carbon dioxide from the gases discarded by industry and transporting and injecting it into geological formations (the so-called CCS system). In the next decade, about a third of the electricity produced from coal in Europe will be replaced by other kinds of energy. At the international level, energy consumption in China, India, Brazil, South Africa and Mexico will lead to a global rise in energy demand, which, quite possibly, will be met by means of fossil fuels. The new legal framework is designed to ensure that carbon capture and storage is an accessible emission reduction option, which is used safely and responsibly.

3.4. Technology development and innovations

Mindful of new challenges and opportunities, the EU has developed the European Strategic Energy Technology Plan SET Plan[124]. The Plan is a blueprint for Europe to develop a world-class portfolio of affordable, clean, efficient and low emission energy technologies through coordinated research. In 2007, the proposal was endorsed by the member states and the European Parliament as the appropriate way forward. It lays out the EU's strategy to accelerate the development of these technologies and to bring them more quickly to the market. Global competition in this sector has already started and the financial crisis has exacerbated the trend. The green technology sector had already been active in the pre-crisis period, as shown on the following graph. The company New Energy Finance has devised a clean energy index (NEX), which indicates global trends in green energy investment. In the pre-crisis period green company shares showed better growth performance than other industrial companies and oil companies, and after the crisis they recovered faster. This indicates that private finance trusts technologies and that further development, to a large extent, relies on dependability of the energy and climate policies of national governments. The task of the SET Plan is to meet these expectations and boost the private sector's willingness to take business risks.

NEX Clean Energy Index 2003- 2009

AMEX Oil, Nasdaq and S&P 500 rebased
30 Dec 2002 = 100
Source: New Energy Finance, AMEX

NEX – WilderHill New Energy Global Innovation Index is comprised of companies whose innovative technologies and services are aimed at clean energy production, energy saving and energy efficiency, which contribute to renewable energy development.

The SET-Plan describes concrete actions to build a coherent energy research landscape in Europe. The idea is to better organize research and education efforts across Europe, so that Europe could successfully compete in global markets, increase its energy supply security and mitigate climate change.

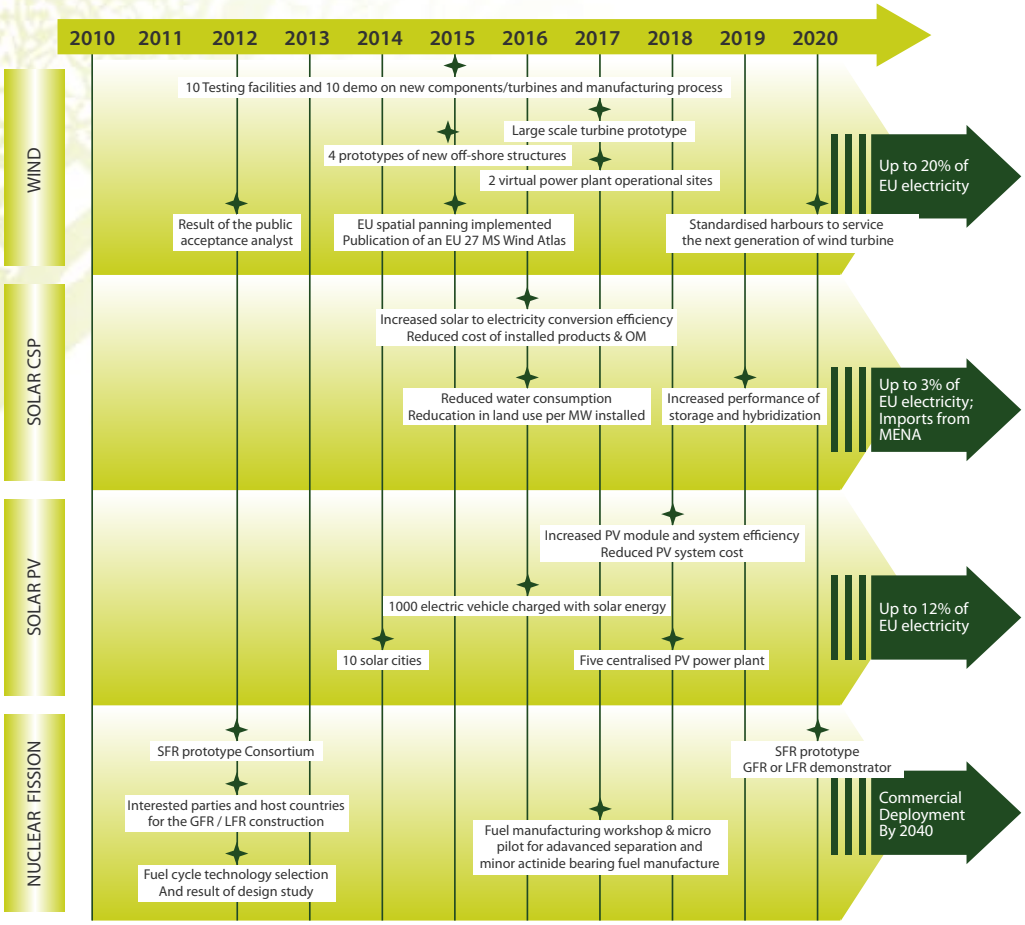
[123] Commission proposal for a Directive on the geological storage of carbon dioxide amending Directives 85/337/EC, 96/61/EC, 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC and Regulation No 1013/2006

[124] More on the SET Plan at http://bit.ly/aKUuZC

The energy, environmental, transport and industrial policies in Latvia have to be aligned with opportunities opened by the Set-Plan implementation across the EU, and also take into account access to funding, as well as scientific cooperation and education transfer opportunities. The education system has to be adjusted to meet these specific criteria, by engaging industry and private sector.

The global road map of the SET-Plan provides an insight into technology development prospects and could also be used as a reference point for the education system.

Key Milestones for the European Industrial Initiatives



4. Latvia's actions in the context of the EU renewable energy policy

The use of renewable energy resources had been at the core of human development up until the 18th century when fossil fuel resources were introduced, first coal and, later, oil. Fossil fuels provided momentum for the industrial progress, because they made energy transportable, thanks to the high concentration of it in one unit of volume. The places of energy use became detached from the places of energy extraction and trade acquired new impetus, along with new problem, environmental pollution and new threats to human health. Presently, the most dominant kind of fossil energy is crude oil. The fact that sources of oil are often located in politically unstable regions and the talk about possible exhaustion of the world's oil reserves prompted development of renewables, which has recently been boosted further by climate change considerations and concerns about the future of the planet. That said, it would be premature to talk about the end of the fossil fuel era. Back in 1956, American geoscientist Dr. M. King Hubbert came up with a mathematical model for calculating a point of maximum oil production, the model known as the *Hubbert peak theory*. According to his theory, the rate of oil production tends to follow a bell-shaped curve: late in the curve, production declines because of the resource depletion. Hubbert believed that the peak of the curve would be reached in the nineteen eighties, but discoveries of new oil deposits and modern extraction technologies allowed us to push the peak into the future. However, one thing is clear: the time has passed when oil was cheap and its cheapness fanned consumption, thus contributing to inefficient use of energy. Oil extraction is moving deeper, consequently becoming more expensive. There are similar trends in natural gas production, although, compared to oil, it has a smaller effect on climate change[125]. At the moment, the most pressing discussion concerns the issue of whether renewable energy could compete with fossil fuels in the marketplace and whether the price of fossil fuels reflects their true costs, considering their impact on the environment.

[125] In order to produce a comparable unit of energy, natural gas uses half as much CO_2 as oil products or coal.

In the discussion on economic competition between fossil and renewable energy resources, there are two additional factors to consider, namely:

- Supply security is the most tangible argument in favour of using renewables for energy production in any country, not just in those that import fossil fuels. Latvia's nearly 70% dependency on imported energy should become the primary challenge and the main risk that needs to be addressed by the country's economic policy.
- Renewables have a large role to play in climate change policy, which, in turn, has to be a fundamental part of economic and manufacturing policies. In combination with technological change and new jobs, climate change policy has to stimulate economic recovery and help overcome the growing unemployment both in developed and developing countries. This factor will be addressed in more detail in the subsection on emission cuts and emission trade, and the upcoming technology revolution.

The fact that the EU issued a new directive on renewables replacing the previous, outdated document[126] confirms that the EU takes renewable energy resources very seriously and sees that the two aforementioned factors have to be incorporated in its energy policy. The core stipulation of the Directive is the binding 20% target for the overall share of energy from renewable sources by 2020. The EU's overall political commitment to reach 20% translates into mandatory targets for each of the member states. Using statistical data and information on the availability of renewables, the European Commission devised national overall targets that are listed in Annex I of the Directive. Combined, the national targets should enable the EU to reach the overall target of 20%.

The Directive underscores that, in order to be able to achieve the national objectives set out in Annex I, the State aid guidelines for environmental protection recognise the continued need for national mechanisms of support for the promotion of energy from renewable sources[127].

National overall targets for the share of energy from renewable sources in gross final consumption of energy in 2020

Share of energy from renewable sources in gross final consumption of energy, 2005 (S2005)		Target for share of energy from renewable sources in gross final consumption of energy, 2020 (S2020)
Belgium	2.2 %	13 %
Bulgaria	9.4 %	16 %
Czech Republic	6.1 %	13 %
Denmark	17.0 %	30 %
Germany	5.8 %	18 %
Estonia	18.0 %	25 %
Ireland	3.1 %	16 %
Greece	6.9 %	18 %
Spain	8.7 %	20 %
France	10.3 %	23 %
Italy	5.2 %	17 %
Cyprus	2.9 %	13 %
Latvia	32.6 %	40 %
Lithuania	15.0 %	23 %
Luxembourg	0.9 %	11 %
Hungary	4.3 %	13 %
Malta	0.0 %	10 %
Netherlands	2.4 %	14 %
Austria	23.3 %	34 %
Poland	7.2 %	15 %
Portugal	20.5 %	31 %
Romania	17.8 %	24 %
Slovenia	16.0 %	25 %
Slovak Republic	6.7 %	14 %
Finland	28.5 %	38 %
Sweden	39.8 %	49 %
United Kingdom	1.3 %	15 %

[126] Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC, available at: http://bit.ly/dgs8JN

[127] Annex I of tDirective 2009/28/EC

The mandatory targets for the member states have been set with the intention of promoting investment security and new technology promotion, as well as to ensure greater stability. Previous measures and indicative targets in the EU renewable energy policy did not provide sufficient stability and failed to ensure an investment-friendly climate. In different member states, the term 'sustainability' was interpreted differently, to match present political conditions. Fossil fuel lobby groups are able, to a varying degree, to influence local politicians to serve their business interests. The new Directive makes the process more transparent and introduces the concept of solidarity in the EU and beyond.

In Latvia, the policy on renewable energy has so far been very uneven, inconsistent and, in terms of legal framework, incomplete. On the international stage, Latvian politicians have praised the country as the greenest in the EU. However, if we consider the amount of renewable resources available in Latvia and the amount of renewables actually used, the accomplishment does not seem nearly as impressive as politicians make out. Supply security and risk mitigation measures could be greatly boosted by more consistent policies and legislation.

Each member state shall ensure that the share of energy from renewable sources in all forms of transport in 2020 is at least 10 % of the final consumption of energy in transport in that member state. However, situation analysis shows[128] that the EU is unlikely to reach the target of 5.57 % share of the market for petrol and diesel in transport in 2010. The reason for that is that the so-called first generation biofuels are grown on the lands, which are useful for food production and where the accumulation CO2is so high that, from the point of view of climate change mitigation, benefits are minimal. This practice brings about more controversies than advantages. That is why time is needed to move towards the so-called second generation biofuels and relevant technologies[129].

In Latvia, definitions of biofuels need to be clarified depending on their origins, as does the government policy on biofuels. Also, sustainable support schemes need to be opted for. The support scheme impact on food production chain requires assessment, including land use and demand for foodstuffs in the world markets.

4.1. National renewable energy action plans

In line with the provisions of the Directive, each member state shall adopt a national renewable energy action plan. The national renewable energy action plans shall set out member states' national targets for the share of energy from renewable sources consumed in transport, electricity and heating and cooling in 2020, taking into account the effects of other policy measures relating to energy efficiency on final consumption of energy. Member states have to submit their national renewable energy action plans to the European Commission by 30 June 2010. Where a member state considers that, due to force majeure, it is impossible for it to meet its share of energy from renewable sources in gross final consumption of energy in 2020 set out in the third column of the table in Annex I, it shall inform the Commission accordingly as soon as possible. The Commission shall adopt a decision on whether force majeure has been demonstrated. In the event that the Commission decides that force majeure has been demonstrated, it shall determine what adjustment shall be made to the member state's gross final consumption of energy from renewable sources for the year 2020.

The need to devise an action plan of high quality could serve as good motivation for defining stimuli for sustainable development and eradicating relevant legislative pitfalls. This is the main aim of the Directive.

4.2. Administrative procedures, regulations and codes

Member states shall ensure that any national rules concerning the authorisation, certification and licensing procedures that are applied to plants and associated transmission and distribution network infrastructures for the production of electricity, heating or cooling from renewable energy sources, and to the process of transformation of biomass into biofuels or other energy products, are proportionate and necessary. Member states must, in particular, take the appropriate steps to ensure that:

- subject to differences between Member States in their administrative structures and organisation, the respective responsibilities of national, regional and local administrative bodies for authorisation, certification and licensing procedures including spatial planning[130] are clearly coordinated and defined, with transparent timetables for determining planning and building applications

[128] COM(2006) 845 of 10.1.2007: Communication From the Commission to the Council and the European Parliament Biofuels Progress Report ' Report on the progress made in the use of biofuels and other renewable fuels in the Member States of the European Union', available at http://bit.ly/bbhviw

[129] Second generation biofuels are produced from food industry waste, algae, woody material and grasses

[130] So far, the principles of spatial planning have not been reflected in the Latvian renewable energy policies and legislation. Some references could only be found in the sustainable development strategy Latvia 2030, which is a work in progress.

- comprehensive information on the processing of authorisation, certification and licensing applications for renewable energy installations and on available assistance to applicants are made available at the appropriate level
- administrative procedures are streamlined and expedited at the appropriate administrative level
- simplified and less burdensome authorisation procedures, including through simple notification if allowed by the applicable regulatory framework, are established for smaller projects and for decentralised devices for producing energy from renewable sources, where appropriate
- member states shall, in particular, encourage local and regional administrative bodies to include heating and cooling from renewable energy sources in the planning of city infrastructure.
- member states shall introduce in their building regulations and codes appropriate measures in order to increase the share of all kinds of energy from renewable sources in the building sector.

In the case of biomass, member states shall promote conversion technologies that achieve a conversion efficiency of at least 85% for residential and commercial applications and at least 70% for industrial applications.

The feed-in tariff (the mandatory procurement of the energy produced from renewables), a method of support Latvia has chosen, is a straightforward and effective way to reach the renewable targets. This approach is widely used in other member states, too. However, it also bears a number of risks, namely: the procurement price and support timeline is tied to the moment when the energy production equipment becomes operational; and the pricing formula relies on electricity prices and fossil fuel prices. A thorough and unbiased analysis of conditions needs to be carried out s well as a calculation of reasonable return on assets. The pace and direction of technological progress needs to be estimated, a hard task. Misjudgements in setting the procurement price and the length of support could go both ways. Truly effective, market-based mechanisms are yet to be found. In Latvia, a quick analysis of the procurement price for the energy produced from biogas or in established hydro-electric power plants reveals overestimates. The quota system favours a closed circle of businesses, whose ties to the political parties are apparent. No wonder the Ruling Coalition Council had to agree on the pricing principles and quota volumes before the decision was made by the Cabinet of Ministers.

Unreasonable procurement pricing undermines the principles of renewable energy use for sustainable development.

4.3. Information and training

Member states shall ensure that information on support measures is made available to all relevant actors, such as consumers, builders, installers, architects, and suppliers of heating, cooling and electricity equipment and systems and of vehicles compatible with the use of energy from renewable sources. Member states, with the participation of local and regional authorities, shall develop suitable information, awareness-raising, guidance or training programmes in order to inform citizens of the benefits and practicalities of developing and using energy from renewable sources.

So far, information about the Latvian government measures to promote the use of renewables has not helped to underline the benefits, but rather to emphasize that renewable resources are expensive, scarcely available and unsustainable. As a result, the support schemes are only available to a limited circle of businessmen and landlords. The system works under a political patronage and access to the government support is open only to those who have made a deal with the ruling political parties.

4.4. Access to networks and maintenance

According to the provisions of the Directive, member states have to carry out measures that reduce restrictions of the use of energy produced from renewables, including, among others, access to the grid and various purchase-related measures. If due to certain operational circumstances[131] it is not possible to ensure transmission and distribution of electricity produced from renewable energy sources without affecting the reliability or safety of the grid system, the distribution system operators have to submit reports on any restrictions to the regulating body. It is particularly important in the cases when the inability to transmit and distribute energy results in the unredeemable loss of resources. In these reports, the operators have to list planned action steps to ensure that the unwelcome restrictions are abolished. Member states shall require that the transmission and distribution system operators develop and publish standard rules on bearing and sharing costs for connection to the grid reinforcements, improved operation of the grid and the non-discriminatory application of the grid codes. Such practice is needed to integrate into the network new players, who produce electricity from renewable resources. These rules shall be based on objective, transparent and non-discriminatory criteria taking particular account of all the costs and benefits associated with the connection of those producers to the grid and of the particular circumstances of producers located in peripheral regions and in regions of low population density. The rules may provide for different types of connection, taking account of the need to reduce losses of electricity in transmission and increase supply safety standards[132].

[131] Such as the distribution system operator's ban on simultaneous use of the biogas production equipment and the distribution network.

[132] This is the issue of positive impact of distributed generation.

The system operators' rules on connecting generating capacities to the grid do not draw a clear line between the costs of connection and improved operation of the grid. This is a result of the Latvian regulatory regime (the setting of tariffs for the system of transmission and distribution), which affects the operators' ability to develop their systems effectively and promote renewable energy use. This is also one of the reasons why the producing lobby pushes for unreasonably high feed-in prices.

4.5. Monitoring and reporting

Each member state shall submit a report to the European Commission on progress in the promotion and use of energy from renewable sources by 31 December 2011, and every two years thereafter. The report shall detail, in particular:

(a) the sectoral (electricity, heating and cooling, and transport) and overall shares of energy from renewable sources in the preceding two calendar years and the measures taken or planned at national level to promote the growth of energy from renewable sources;
(b) the introduction and functioning of support schemes and other measures to promote energy from renewable sources, and any developments in the measures used with respect to those set out in the member state's national renewable energy action plan, and information on how supported electricity is allocated to final customers;
(c) how, where applicable, the member state has structured its support schemes to take into account renewable energy applications that give additional benefits in relation to other, comparable applications, but may also have higher costs, including biofuels made from wastes, residues, non-food cellulosic material, and ligno-cellulosic material;
(d) the functioning of the system of guarantees of origin for electricity and heating and cooling from renewable energy sources and the measures taken to ensure the reliability and protection against fraud of the system;
(e) progress made in evaluating and improving administrative procedures to remove regulatory and non-regulatory barriers to the development of energy from renewable sources.

A progress report will not only inform the Commission, but also be a good tool to articulate the national policy and efforts to raise public awareness about the impact of renewable energy support schemes on the end prices for energy and supply security, as well as about the role of renewable energy in economic development.

In the process of developing and discussing the Directive, the European Commission and the European Parliament came across contradictory information about the impact of biofuel production on food prices and on food sufficiency. The transformation of land use from food production to energy extraction had an effect on the global food balance. Even though in Latvia this issue has not yet acquired urgency, in the future, global trends will have to be taken into account and national policies will have to be adjusted accordingly. Biofuel production from food sources has also been unsuccessful in delivering the expected results in climate change mitigation. In the production cycle, a significant amount of fossil fuels and resources is being used. From the perspective of the Latvian national position, supply security would have to be considered as more important, compared to climate change. The Directive allows for change in policies and legislation, in particular if evidence shows that biofuel production competes with food production. The Commission shall monitor the origin of biofuels and bioliquids consumed in the Community and the impact of their production, including impact as a result of displacement, on land use in the Community and the main third countries of supply. Such monitoring shall be based on member states' reports and those of relevant third countries, intergovernmental organisations, scientific studies and any other relevant pieces of information. The Commission shall also monitor the commodity price changes associated with the use of biomass for energy and any associated positive and negative effects on food security.

The Commission shall maintain a dialogue and exchange information with third countries and biofuel producers, consumer organisations and civil society concerning the general implementation of the measures in this Directive relating to biofuels and bioliquids. It shall, within that framework, pay particular attention to the impact biofuel production may have on food prices. The Commission shall report every two years to the European Parliament and the Council. The first report shall be submitted in 2012. In reporting on greenhouse gas emission saving from the use of biofuels, the Commission shall use the values reported by member states and shall evaluate whether and how the estimate would change if co-products were accounted for using the substitution approach.

In its reports, the Commission shall, in particular, analyse:

(a) the relative environmental benefits and costs of different biofuels, the effects of the Community's import policies thereon, the security of supply implications and the ways of achieving a balanced approach between domestic production and imports;
(b) the impact of increased demand for biofuel on sustainability in the Community and in third countries, considering economic and environmental impacts, including impacts on biodiversity;
(c) the impact of increased demand for biomass on biomass using sectors;
(d) the availability of biofuels made from waste, residues, non-food cellulosic material and ligno-cellulosic material; and
(e) indirect land-use changes in relation to all production pathways.

The Commission shall, if appropriate, propose corrective action.
By 31 December 2014, the Commission shall present a report, addressing, in particular, the following elements:
(a) a review of the minimum greenhouse gas emission saving thresholds on the basis of an impact assessment taking into account, in particular, technological developments, available technologies and the availability of first and second-generation bio-fuels with a high level of greenhouse gas emission saving;
(b) an assessment of the feasibility of reaching the target whilst ensuring the sustainability of biofuels production in the Community and in third countries, and considering economic, environmental and social impacts, including indirect effects and impacts on biodiversity, as well as the commercial availability of second-generation biofuels;
(c) the impact of the implementation of the target on the availability of foodstuffs at affordable prices.

On the basis of that report, the Commission shall submit, if appropriate, proposals to the European Parliament and the Council.

Considering the quota system for renewable energy producers, adopted by Latvia[133], it is worth examining closely the Commission's view on biogas extraction methods and support for biogas production: "The use of agricultural material such as manure, slurry and other animal and organic waste for biogas production has, in view of the high greenhouse gas emission saving potential, significant environmental advantages in terms of heat and power production and its use as biofuel. Biogas installations can, as a result of their decentralised nature and the regional investment structure, contribute significantly to sustainable development in rural areas and offer farmers new income opportunities." From this follows that biogas capture and conversion into energy is an important objective of environmental and agricultural development policies. In such cases energy policy becomes secondary.

The Latvian chosen method for biogas production support and the quota system applied to the support recipients does not take into account the true benefits to the environment and support for agriculture in an integrated form. Farmers who have to comply with requirements of environmental protection (smell, soil and water pollution, etc.) are being discriminated and excluded from support schemes. The same applies to sewage treatment plants.

5. Challenges to fulfilling Latvia's EU commitments and developing national positions and factors affecting these processes: an assessment of Latvia's institutional structures

This document does not contain a thorough evaluation of Latvian institutions with regards to decision-making on the EU issues and the quality of these decisions. Nevertheless, we can have a notion as to how decision-making works by looking at Latvia's national positions at the discussions on energy and sustainability issues at the Committee of Ministers and the Council of Europe. The overall impression one gets from these positions is that Latvia, nearly always, is opposed to strong measures to improve energy markets and supply security[134].

In order to get an insight into the backdrop of Latvia's representatives position on energy within the EU it is worth looking into the so-called roadmap for participation in the EU structures, approved by the Cabinet of Ministers in 2006, "Latvia's Participation in the European Union: guidelines, objectives, priorities and activities 2007- 2013. Report by the Ministry of Foreign Affairs."

A quote from the section on energy:

"3. Latvia's priorities in the EU

3.3.2. Energy
Considering the importance of energy resources in the development of the country's economy and in each resident's everyday life, it is in Latvia's interests that the EU has a uniform energy policy. In the European Union energy policy development is a responsibility of both the EU and member states. Currently the EU has a uniform policy and legal framework in the following energy-related areas:
- competition in and liberalisation of electricity and gas markets
- duty to establish oil reserves
- the use of renewable resources, energy production in cogeneration and increasing energy efficiency.

[133] Regulation No 198 of the Cabinet of Ministers of 24 February, 2009 (Regulation on Electric Power Production and Pricing Using Renewable Energy Sources)

[134] The announcement of Minister of Foreign Affairs Artis Pabriks on 18 May, 2006, which he made live on air of the Latvian Public Radio, is a fairly typical example. He announced, in an uncompromising and aggressive tone, that Latvia is opposed to increasing energy security and the EU's goal of 20% renewable energy share. And that, despite the fact that Latvia's own renewable energy share was 32%. The Presidency Conclusions of the Brussels European Council of 23/24 March, 2006 are available at http://bit.ly/9066aY

Member states determine the tools for reaching the stated goals. Member states may choose the appropriate structure of primary energy and heating resources, supervise energy supply security issues and introduce measures towards increasing the said security.

For Latvia, the most important interests within the EU energy sector context are to promote integration of the Baltic energy supply systems into the European energy networks by using the tools listed in the Trans-European Networks guidelines; to support the development of a unified EU foreign policy with regards to energy supply countries; to use the available instruments (ESF, Intelligent Energy-Europe) for increasing energy efficiency and support renewable energy resources.

Latvia's position is in favour of the following:
Not to extend the EU powers regarding the structure of the primary energy and heating resources used in member states.
For the EU not to set new and even more ambitious indicative targets for renewable energy use, the targets whose completion could not be justified.
For the EU not to begin the development of a new legislative package on electricity and gas market liberalisation until a truly functioning internal energy market is established overcoming market fragmentation and isolation of certain regions and until the current legal framework has proved itself in practice."

From this position follows the task to public officials who are charged to project Latvia's conservative (and hardly comprehensible) position on the renewable energy use. Even odder is the stance on the energy market improvement measures. If this logic were followed there would be no reason to talk about consumer protection and restricting the dominance of monopolies. What we learn from this position is that problems that occur because governments are being led by the nose of monopolies and because energy giants of the third countries, particularly *Gazprom*, are trying to buy assets of European companies, is supposedly good news for electricity and gas consumers in Latvia.

6. Dilemmas of assessing pressures by influence groups

In the EU, decision impact assessment is a well-established procedure, which follows certain methodology, is rather lengthy and requires significant funds. A common practice is economic modelling and improving and upgrading data bases. Those carrying out impact assessments are, in most cases, not the Commission employees, but research, educational or consultancy institutions chosen by tender. The Commission employees can carry out assessment if the outcomes of the decisions are straightforward and there is no need to work with complex data. Impact assessments comprise a mandatory part of all communication documents, which lay the ground for policy discussions. It is at this stage when the EU encounters impact diversity in each of the 27 member states as well as differences in data gathering and unbiased data use. Further problems arise when assessment results need to be interpreted as part of the decision preparation procedure. The issue of unreasonably high costs of the European Parliament is frequently raised. From the structural point of view, rightfully so. When it comes to the process of assessment analysis and critical evaluation, a large share of funds are devoted to support function for MEPs. These funds are meant to be used to obtain expertise. It is up to each MEP, how efficiently he or she uses these funds. The issue of sustainable development and legal provisions promoting it is a big challenge for the EU and member states.

Lobbyists exercise their influence over both the Commission and the European Parliament by means of their own assessments and masterfully disguised interest outlines. Since public consultations represent an intrinsic part of the democratic process, excluding lobbyists from the decision-shaping process is not an option. Many large European companies and industry associations have set up offices in the vicinity of the Commission and the European Parliament and use their financial and intellectual resources to influence decisions. The same could be said about non-governmental organizations and interest groups. All this constitutes a normal democratic process, which helps to supervise politicians and avoid extremist decisions. However, problems arise when it comes to lobbyists' own honesty and transparency. Because lobbyists, by definition, are a part of the decision preparation process (not to be confused with corruption) and, using their intellectual capacity, can have an influence on the outcome of that process, it is of utmost importance to understand their true objectives. Beside, lobbyists usually have much larger funds at their disposal than those charged with document preparation. The European Commission is working determinedly on setting up a register of lobbyists, but, at this point, cannot claim that it is comprehensive[135]. The initiative to introduce greater transparency was launched in 2005 and the voluntary registration started in June, 2008. In April, 2009 the European Commission and the European Parliament agreed on the need to devise unified guidelines and code of conduct. Even though it is impossible to determine the precise number of lobbyists operating in Brussels, the number frequently cited is 15 000. So far, only 1800 have voluntarily registered.

[135] Registers of Interest Representatives/Lobbyists is available at http://bit.ly/H04xq

The Register of Lobbyists aimed at providing EU citizens with information about the interest representatives who engage with European institutions with a view to influencing policy formation and the decision-making process.

Latvian legislation and draft policy documents have also been amended to include impact assessment and lists of consultations with interest groups. However, when it comes to the quality of execution of these provisions, there are differences between Latvia and the European Commission and the European Parliament. When the EU directives are adopted, member states are obliged to carry out impact assessments. But the deficiency of intellectual resources prevents Latvia from doing it thoroughly. This is due to the insufficient numbers of public officials and lack of intellectual capacity among them, and also due to limited options for outsourcing expertise. Incorrect interpretation of the EU directives and their adaptation 'on paper' stems from this very root. This concerns not only the energy sector and sustainable development, but other areas of legislation, too. The process of state budget consolidation and spending cuts in public administration makes things worse, although, it seems that nothing can be done in this respect in short-term for objective reasons. An improvement could come as a result of structural reforms that are currently being implemented. But, for the time being, new opportunities have opened up for all sorts of lobby groups who can influence decisions, and not only in the interests of the public. Those lobby groups that act through the political parties and influence the ruling coalition decisions directly[136] gain excessively large benefits at the expense of the public. In the process of discussing legislative proposals, lobbyists have no adversaries. As a result, the legislation regarding energy and sustainability has been amended with provisions that establish a closed and privileged circle of businesses operating in the field of renewable energy (the small hydro-electric power plants and biogas producers) and the share of natural gas in the total energy consumption is on the increase[137]. Interestingly, up until 2001 such anomalies were rare, because many legislative initiatives were prepared under the umbrella of technical assistance and with the help of international consultants. The involvement of international consultants stopped openly shameless proposals from making it into the final version of the law.

In the legislative work regarding the energy sector and sustainable development, the line between corruption and lobbying has disappeared. Lobbyists do not need to use their resources to take part in an intellectual fight for the balanced interests. All they need to do is become party donors and their interests are taken care of by government ministers and MPs. This practice is in stark disagreement with the basic principles of lobbying, and should be considered an open inequality of businesses based on their political connections.

7. Conclusions: what improvements should be made and what is feasible to achieve?

Efforts to improve the quality of decisions should be based in the assumption that proposals and initiatives cannot be restricted. That is why most of the efforts should be focused on improving impact assessment and communication process. Latvian politicians like to take part in television talk shows on current affairs, but that is not enough. These shows create an illusion of openness, but, in actual fact, the purpose of discussion is to amplify disagreements and entertain. A discussion of this could only be an addition to the process of communication, but it cannot replace assessment and serve as reference. Mass media, particularly investigative reporting, play a distinctive role in improving decision quality. But it should not be confused with lobbying.

There are three main topics that need to be on the top of the agenda of the energy sector and sustainable development, namely:

1. Improving the quality of impact assessment:
(a) training state and local government institution employees in managing impact assessment
(b) impact assessment implementation via research and educational institutions, which would help bringing it closer to the actual economic and public needs
(c) adopting EU assessments to Latvian conditions.
2. Improving the management and quality of public consultations and vetting procedures:
(a) appointing a consultation moderator and constant coverage of the consultation process on the internet
(b) the administration of policies on energy and sustainable development has to be merged and work under the auspices of the same ministry, because, in terms of economic meaning, these issues are indivisible.
(c) formally approved guidelines for consultations have to be devised and include public access to the details of those who have submitted proposals (name, organization, and web site or telephone number), as well as to the content of the submitted proposals, together with a description of the reasoning behind them
(d) the aforementioned measures do not rule out all kinds of debates in other forums, but those would be opinions with no restrictions on the content and form, rather than part of the government institution-led process.

[136] In Latvia, the line between corruption and lobbying has all but disappeared.

[137] When the amendments to the Electricity Market Law were being discussed, the term 'cogeneration cycle' was replaced by 'cogeneration stations' and, also, rather chaotic payments for the installed production capacity were introduced. As a consequence, significant legal and economic complications arise regarding supply and system operation security.

3.The register of lobbyists and its applicability:

(a) the web site of the relevant ministry has to contain a list of those research and educational institutions, consultancy companies, legal firms and NGOs that are engaged in lobbying activities in this ministry. The list of lobbyists does not preclude individual citizens from submitting their proposals

(b) even though MPs, who represent the will of all voters, have more freedom in choosing motivation for their voting choices than do ministry officials, a list of lobbyists working in the parliament would also be advisable.

Decision-making and transparency

Aiga Grišāne, legal analyst of Transparency International-Latvia

The author of this chapter of the Study will analyze decision-making regarding renewable energy resources from the point of view of public participation and transparency. The author will examine the process of devising legislation and making individual decisions and will highlight problems in the adoption and execution of legal provisions. Due to the limited space all stages of decision-making will not be looked at. For example, local government play a significant role in development of renewables, but local decisions will not be analyzed.

When renewable energy related problems and solutions are being examined, it is impractical to study them as a separate issue; they have to be seen both in the context of the energy sector in general and in the context of overall public participation opportunities in legislative and executive decision-making. Thus, in this article, among other issues, the author will focus on systemic shortcomings and their possible solutions.

The large number of institutions and interested parties involved in legislative work and decision-making on energy policy, the complexity of the issue as well as the lack of public awareness and participation in decision-making create significant corruption risks[138].

In 2000, the World Bank (WB) analyzed corruption in transition economy countries and came to the conclusion that, in Latvia, a high level of political corruption is commonplace. The WB referred to it as state capture, because many political decisions are being tailored to suit the interests of certain economic groups and, in some cases, these groups have exclusive access to political power in the country[139]. This finding is still relevant, if we talk about the energy sector in 2009. Moreover, the results of the WB Enterprise Survey (2009)[140] and the Corruption Perceptions Index published on 17 November, 2009[141] show regression in combating corruption. Public trust in the government and parliament is at a critically low level[142]. All this forms an uninviting backdrop to a discussion about transparent policies and public participation in decision-making.

1. Participation and lobbying

The word 'democracy' means people's power, so public participation is at the heart of any democracy. In a democratic country, citizens, civic organizations and businessmen have the right to express their interests and desires regarding government policy and its execution. Consultations with interest groups are considered an intrinsic element of good governance, and they ensure that there is a link between the power and the people in the period between elections. In Latvia, just like in other democracies, the right to participation in decision-making is one of the fundamental human rights[143].

In the US democracy, which follows the pluralist model, individuals and interest groups compete freely in the process of policy-making. The government is only an intermediary between different interest groups, helping to carry out discussion, which leads to the most effectual compromise. In Europe, including Latvia, the presumed duty of a government is to serve the common good. The state has to be careful not to allow one individual or a group to have too large an influence in order to make sure that decisions are not made to serve that group at the expense of the rest of society. Thus, the government's role in this model of democracy is much greater[144]. Consequently,

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[138] In this study, the term 'corruption' is used in its wider meaning, i.e. misusing publicly entrusted power for private gain

[139] Janova, Karīna, Research paper "Lobbying Needs to be Regulated: International Experience and Recommendations for Latvia", Transparency International Latvia, 2004, (in Latvian) http://www.politika.lv/temas/9165/

[140] Enterprise Surveys, Featured snapshot report Latvia (2009); available at http://bit.ly/aVViuV

[141] Transparency International Corruption Perceptions Index 2009 available at http://bit.ly/2Ra3K6

[142] Luckāns, Uldis, "Among the EU states, Latvia has the lowest public trust in the work of the government and parliament", News Agency LETA, 21 January, 2009

[143] Kalniņš, Valts, "Parliamentary Lobbying Between Civil Rights and Corruption", Public Policy Centre Providus, 2005; http://bit.ly/cVvpw4

[144] Kalniņš, Valts, "Parliamentary Lobbying Between Civil Rights and Corruption", Public Policy Centre Providus, 2005; http://bit.ly/cVvpw4 and Miezaine, Zinta, "Public Governance and NGO Participation: Searching for an Effective Collaboration Model", 2005 (in Latvian); http://bit.ly/dyf7LJ

we could presume that the government has to play a significant role in setting priorities for the energy sector, in developing and executing the energy policy in the service of the common good as defined in The Principles of Energy Sector Development 2007-2016, a document that identifies the basic principles, goals and paths for the energy policy as well as sets the course for the sector's long-term development[145].

In this chapter, the author will analyze public participation aimed at influencing policy, in other words, lobbying regulation, opportunities and practice in Latvia. The term 'lobbying' is not defined in any law in Latvia, there is a legal vacuum and, for that reason, a lack of understanding as to what constitutes lobbying. It is hard to define the term: too broad a definition could include activities that, essentially, are not lobbying whilst a narrower definition could leave out activities that are frequently used in lobbying strategies (for example, conferences and research sponsorship). According to one school of thought, the term 'lobbying' must only include legitimate activities.

For the purpose of this article, the author will employ the definition used in the conceptual paper by KNAB, *The Need for a Legal Framework for Lobbying in Latvia*[146]. The paper defines lobbying as premeditated and regular communication with the subjects of public power (government and local institutions) with an intention of influencing the decision-making process in a way that serves the interests of certain private individuals. It is equally hard to define the term 'lobbyist', because, in actual fact, lobbying could be carried out, and frequently is, by private individuals so, for example, MPs' contacts with their relatives would also need to be regulated, which is unfeasible. That is why, in the regulating documents of other countries, lobbyists are commonly defined as individuals who offer lobbying services. This practice could seriously hamper lobbying regulation, because individual contacts established without professional lobbyists' assistance may have a more significant effect on policies than the contacts established by legally defined lobbyists[147].

In order to clarify who is involved in lobbying in Latvia, a Canadian model of defining lobbyists could be used. The first group are consultants: professionals who provide lobbying services regardless of the topic (commercial lobbying). Former politicians also belong to this group, as do various former high-ranking officials and other individuals close to political circles (assistants to MPs, consultants of the party factions in the parliament). The official status of aforesaid people varies. The second group is comprised of lobbyists representing business interest groups. These are representatives of individual companies or industry associations who are carrying out lobbying on behalf of their sector without any intermediaries[148]. Officials tend to perceive industry associations' involvement in decision-making as more legitimate than that of individual companies. Some officials believe, and this opinion is shared by a large part of society, that there is something illegitimate about the very fact of a lobbyist representing a concrete company's interests; it is seen as corruption. That is why lobbyists, in order to gain greater trust, at times conceal the name of their client or supposedly operate on behalf of an association. The third group of lobbyists consists of people representing public benefit organizations, who work for the interests of a particular public benefit organization[149]. The former two groups carry a greater risk of corruption, because the lobbyists' primary motivation is based in self-interest. It is worth noting that this categorization does not include, for example, government employees and members of the parliament, because their duty is to work towards common good and they cannot be lobbyists, except for the occasions when they have to lobby Latvia's interests abroad.

1.1. Lobbying problems in Latvia

Owing to the fact that lobbying in Latvia in the post-Soviet years has been developing sporadically and is lacking in regulation, many people treat this political process with suspicion or even outright disapproval and feel excluded, because they lack the necessary means and personal contacts to engage in lobbying themselves. There are reasons for such suspicions, because those exerting influence over decision-making have been doing it rather informally[150], commonly outside the official, legally defined participation procedures, and the methods of influence they used frequently provided grounds for suspecting illegal or, at least, unethical actions. There are many unsettling stories in public domain: 'the list of grantees' in the Latvian parliament[151], the secret meetings of high-ranking officials, the joint business ventures of politicians and businessmen, the joint hunting weekends and long-term friendships, the trips abroad at the expense of businesses etc. The public often sees that the actual decision-making is not happening in the parliament committees or in the working groups of the government ministries, but rather at informal meetings of influential people who determine how the MPs should vote and how the government

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[145] The Principles of Energy Sector Development 2007-2016, available in Latvian at http://bit.ly/deQpwy

[146] *The Need for Legal Framework for Lobbying in Latvia*, available (in Latvian) at http://bit.ly/aDhJgl

[147] Kalniņš, Valts, "Parliamentary Lobbying Between Civil Rights and Corruption", Public Policy Centre Providus, 2005; http://bit.ly/cVvpw4

[148] Some believe that those involved in corruption avoid associations or tend to establish their own.

[149] Miezaine, Zinta, "Public Governance and NGO Participation: Searching for an Effective Collaboration Model", 2005 (in Latvian); http://bit.ly/dyf7LJ

[150] The Soviet 'blat system' or informal exchange of favours continued to flourish after the restoration of Latvia's independence.

[151] The list of MPs and public officials who allegedly had been receiving regular payments or 'grants' from the influential Mayor of Ventspils Aivars Lembergs, who himself is charged with a number of serious economic crimes

ministers should act[152]. Or else, the desired outcome could be reached by bribing or otherwise influencing the relevant public officials. In actual fact, in addition to the existing and barely regulated lobbying system, there is a parallel system in place, which, so far, has been more effective, or so it seems. That is why the term 'lobbying' has negative connotations in Latvia: it is associated with corruption, cronyism and other unwelcome phenomena in politics. There is a firm, unifying belief amongst the public that those who think or act differently have definitely been bribed by someone[153].

Exerting influence over decision-making in Latvia happens both legally, using arguments and persuasion and taking part in open, accessible participatory procedures, and in a hidden manner, using illegitimate tools and ways of persuasion. The methods used in Latvia, both legal and illegal, could be categorized as follows:

- focus on a political party (party financing and involvement in party activities)
- focus on a particular public official or MP (bribery, other ways of persuasion unconnected with inducement)
- focus on policy-makers (forming and presenting arguments, preparing policy documents)
- focus on various political actors and on the wider public (using the official and unofficial mechanisms of consultation, educational activities, discussions and seminars, media).

In 2002, the Open Society Institute study 'Monitoring the EU Accession Process: Corruption and Anti-corruption Policy' noted that "one area to which the [European] Commission has paid little attention has been corruption of the legislative process in candidate countries, an example of what the World Bank defines as "state capture". Country reports indicate that uncontrolled lobbying is a serious problem in many candidate countries." The evidence gathered for the purpose of the study showed that, in Latvia, state capture is, indeed, a key problem. According to the study findings, economic power in Latvia is concentrated in the hands of a few conglomerates. Political and business interests are tied by complex and non-transparent ties and entrepreneurship within political parties is becoming more and more widespread. According to the World Bank survey, 40% of Latvia's businesses are affected by the purchase of decisions in parliament and 49%, in the government[154].

The problem of state capture is also indicated in the study by Valts Kalniņš on the parliamentary lobbying[155]. For example, several surveyed lobbyists consider party financing the most effective form of lobbying. But they also note that legal donations are insignificant, because they cannot compete with the illegal funds. Interviewees also acknowledged that bribing public officials is commonplace. Lobbyists underscore that opportunities for buying-off are increasing: if MPs lack understanding on a particular issue they rely on a supposed authority in the field and the authority then can engage in corruption. According to lobbyists, they have clients who have never heard of open and ethical lobbying. Large companies tend to diversify their risks and hire both legitimate lobbyists and those using illegal means. Some of the interviewees noted that only after the elections of the 8th Saeima (parliament) in 2002 did non-corrupt lobbying start to become reasonably effective[156].

Openness is lacking in legitimate lobbying, too. For example, when MPs and public officials openly meet lobbyists, but the purpose and outcome of their meeting is not disclosed, the public does not get a clear idea as to who are initiators of political decisions and in whose interests they are being made[157]. Several existing studies have highlighted the fact that the problems partly stem from a lack of awareness among the general public and decision-makers of the importance and value of public participation. The public and decision-makers also do not fully realize what is legitimate lobbying, in other words, what are permitted methods and tools for influencing decisions and what methods and tools are illegitimate. Ethical activities, too, are being treated with suspicion, which hinders the development of open and honest lobbying. In sum, there is a lack of awareness of the importance of legal lobbying and a lack of knowledge about legitimate means of conducting it, not just deliberately fraudulent activities.

Thus, the key problem in Latvia is twofold: the existence of state capture and a lack of knowledge about legitimate lobbying.

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[152] For example, the official leadership of a political party, the grey cardinals and/or influential individuals affiliated with the party reach a deal with their friends, business partners and/or party donors on solving a particular issue and then all the MPs need to do is to follow the party discipline and press the right button. On other occasions, an issue is solved or zones of influence distributed, or the future rules of the game agreed on at an informal meeting of oligarchs who stand behind particular political parties. The subsequent government decisions are later tailored to fit their mutual agreements.

[153] Putniņa, Aivita, *Reining in the Evil* (in Latvian); http://bit.ly/b3XVuf

[154] Janova, Karīna, research paper "Lobbying Needs to be Regulated: International Experience and Recommendations for Latvia", Transparency International Latvia, 2004, (in Latvian) http://www.politika.lv/temas/9165/; "Monitoring the EU Accession Process: Corruption and Anti-corruption Policy", OSI, 2002, p. 63, http://bit.ly/9kzUfu

[155] Kalniņš, Valts, "Parliamentary Lobbying Between Civil Rights and Corruption", Public Policy Centre Providus, 2005; http://bit.ly/cVvpw4

[156] Ibid.

1.2. Examples of lobbying-related problems in the energy sector

According to the World Bank definition of state capture, "state capture occurs through the illicit provision of private gains to public officials via informal, non-transparent, and highly preferential channels of access". In other words, public officials represent the interests of particular private sector individuals. When decisions regarding the energy sector are being analyzed, the most commonly raised concerns are not only that the political parties represent certain businessmen who provide financial support for these parties, but also that the political leadership is involved in the energy business, particularly in the renewable energy business, which is considered a safe investment. Thus suspicions arise that public officials are personally interested in finding solutions that are beneficial to them. Coverage of the renewable energy business portrays the sector as a dishonest business run by people with political affiliations, and a very lucrative business, because support for renewable energy production in Latvia is higher than elsewhere in Europe.

In early 2009, when the country was already gripped by the economic crisis, the process of adopting the Cabinet Regulation No 198[158] and the content of this document provided fresh grounds for suspicion that the decision was designed with particular energy business interests in mind. The Regulation was approved, quietly and without any publicity, by the government of Prime Minister Ivars Godmanis (the First Party of Latvia) in the last days of its existence. The next government, led by Prime Minister Valdis Dombrovskis (the New Era Party) managed to reduce the tariffs somewhat, but it had to overcome initial resistance by the People's Party. The version passed by Godmanis' cabinet included generous (in experts' opinion, disproportionate) government support for the energy produced in wind farms, biogas plants and small hydro-electric power stations. For example, the price for the energy produced in small hydro-electric plants was increased by 30%, even though the price was rather high to begin with and the hydro-electric support scheme had been in place for several years. In actual fact, all three types of renewable energy (hydro-electric power, wind and biogas) share not only the generous government support, but also the political background. In all three sectors, the biggest players have connections with the ruling political parties, particularly the People's Party[159].

Wind energy

The Economy Ministry, which was then led by Kaspars Gerhards (the People's Party), introduced a higher fixed price for the mandatory purchase of the energy produced in wind farms in the last days of Ivars Godmanis' government. It also cancelled open competition for the mandatory purchase of wind energy. The competition rules stated that the price of the energy cannot exceed 0.07 LVL per KWh. The new Cabinet Regulation had no provisions for competition and the procedure for wind energy purchase was identical to that of biogas, namely, first-come-first-served. Amongst the first applicants were companies affiliated with the People's Party, *Vides Enerģija* and *Rapsoil*. The latter has connections to Jānis Sprinovskis, a business partner of the most influential figure in the People's Party and former prime minister Andris Šķēle and another former prime minister from the same party, Aigars Kalvītis. *Rapsoil* wanted to produce 70% of all wind energy in the country. Sprinovskis is also the owner of *BK Enerģija* and is involved in small hydro-electric plant and cogeneration business.

In May, 2000, then prime minister Andris Šķēle, who was also the acting economy minister, signed a decree giving permission to the businessmen Juris Kaijaks to build 11 wind farms. Wind energy was subject to a double tariff and mandatory purchase scheme. Kaijaks hurriedly registered 20 firms with the name *Vēja Parks* and the corresponding number. Two years later, all these wind farms came into possession of *Rets Investīcijas*, which is now indirectly (via two other companies) owned by the daughters of Andris Šķēle and his wife, and is still selling electricity to *Latvenergo*. The net profit of *Rets Investīcijas* in 2008 was 1.15 million LVL[160].

The business interests of people closely affiliated with the ruling political parties and multiple puzzling changes in the regulation regarding wind farms prompted a suspicion that decisions are being tailored for private gain[161].

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[157] Miezaine, Zinta, "Public Governance and NGO Participation: Searching for an Effective Collaboration Model", 2005 (in Latvian); http://bit.ly/dyf7LJ

[158] Regulation No 198 of the Cabinet of Ministers (Regulation on Electric Power Production and Pricing Using Renewable Energy Sources)

[159] See, for example, Ozoliņš, Aivars, "Wind in Šķele's Sails", Diena, 15 April, 2009 (in Latvian), http://bit.ly/d6LfUw; Brauna, Anita, "What Kind of Business Šķēle Has?", citadiena.lv, 20 November, 2009, (in Latvian) http://bit.ly/d5Ko4n; "Cīrīšu HES Controlled by Kalvītis' Pals", delfi.lv, 26 January, 2006, (in Latvian), http://bit.ly/ctZuFJ; Rulle, Baiba, "A Cash Mill", Diena, 28 April, 2009, (in Latvian), http://bit.ly/9G09Fy

[160] Brauna, Anita, "What Kind of Business Šķēle Has?", citadiena.lv, 20 November, 2009, (in Latvian) http://bit.ly/d5Ko4n

[161] Domburs, Jānis, "Green Latvians, Orange Peculiarities and Electricity Prices", political talk show "Kas notiek Latvijā?", Latvian Public Television, 21 May, 2009, (in Latvian), http://bit.ly/dAI3lQ; Brauna, Anita, "What Kind of Business Šķēle Has?", citadiena.lv, 20 November, 2009, (in Latvian) http://bit.ly/d5Ko4n; Ozoliņš, Aivars, "Wind in Šķele's Sails", Diena, 15 April, 2009 (in Latvian), http://bit.ly/d6LfUw

Small HEPP

Among the biggest owners of 'mills' is Kristīne Kalvīte, wife of the former prime minister and economy minister Aigars Kalvītis, his business partner Edgards Kārkls and the aforementioned hunting buddy Jānis Sprinovskis. They own, either directly or indirectly, the companies *Spridzēnu HES*, *Cirīšu HES* and *Braslas HES*. By the way, back when he was the economy minister, Aigars Kalvītis signed the decree on privatisation of the hydro-electric power plant buildings in Cirīši, which used to belong to the Aglona municipality[162]. In 2008, *Latvenergo* paid altogether nearly a million LVL to the three power plants affiliated with Kalvītis[163].

Since 2000, Roberts Zīle of the Fatherland and Freedom party together with his business partner Gatis Deksnis, own Rankas HES and several small HEPP on the Gauja river, although they are smaller than the HEPP affiliated with Kalvītis[164].

The fact that the support schemes for the small HEPPs are, in experts' opinion, disproportionate, as well as the fact that leading political figures are involved in the renewable energy business prompted suspicion that the economically unsound support mechanisms, which were discussed in detail in the article by Daina Eberšteina, were created deliberately[165].

Biogas

Even though a number of farmers were ready to start biogas production and had even received the Economy Ministry's approval for their projects, all quotas, in accordance with Cabinet Regulation No 198, were distributed among the politically connected, namely, the companies *Bio Energy VB* and *Going Green*, which are affiliated with the veteran of the People's Party Andris Griģis, as well as to *Taka-G*, a company indirectly connected to him. In March, 2009, *Taka-G* had 26 daughter companies. Ten of those were registered at the same address in the city of Liepāja and differ only in terms of sequential number. An official from the Economy Ministry explained that these companies submitted their applications first and thus received all quotas. Businessman Jānis Vinters, one of those who failed to receive biogas quotas, acknowledged that he was warned in advance that the political distribution of quotas had already happened[166].

There are reasons to suggest that, in the energy sector in general, certain players have a heavy influence over the decision-making process both because of their market share and because of their good relationship with policy-makers. This article cites a few examples of close ties between businesses and decision-makers and other individuals involved in the process. These examples raise concerns about uneven opportunities to influence decisions.

Itera Latvija

A secret meeting, which had a large impact on recent Latvian history, happened on 8 March, 2001. Two previously antagonistic political figures, MP and chairman of the People's Party Andris Šķēle and Mayor of Ventspils Aivars Lembergs agreed to "restructure the business environment". One aspect of that meeting has largely escaped public attention, namely, Lembergs and Šķēle were not alone at the negotiating table. On Šķēle's side was Juris Savickis, president and co-owner of *Itera Latvija* and deputy chairperson of the *Latvijas Gāze* council. People involved in the meeting behind the scenes told the press that Šķēle and Savickis represented the tandem of power and money that had been, up until that moment, engaged in a war against Lembergs. The privatisation of *Latvijas Gāze* was the first major project to bring Šķēle and Savickis[167] together.

According to media, regular meetings featuring Šķēle, Savickis and people closely affiliated with them were, and still are, very common. The circle of participants was usually very small, because these meetings, although dealing with the interests of the state, were not meant to be discussed by the wider public. On the agenda of these meetings

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[162] Cīrīšu HES Controlled by Kalvītis' Pals", delfi.lv, 26 January, 2006, (in Latvian), http://bit.ly/ctZuFJ

[163] Rulle, Baiba, "A Cash Mill", Diena, 28 April, 2009, (in Latvian), http://bit.ly/9G09Fy

[164] "Businessmen Affiliated With the Fatherland and Freedom Party Also Involved in Renewable Energy Production", investigative reporting show *Nekā Personīga*, TV3, (in Latvian), http://bit.ly/bN0bbd

[165] "Cīrīšu HES Controlled by Kalvītis' Pals", delfi.lv, 26 January, 2006, (in Latvian), http://bit.ly/ctZuFJ; Rulle, Baiba, "A Cash Mill", *Diena*, 28 April, 2009, (in Latvian), http://bit.ly/9G09Fy

[166] "Nearly All Biogas Quotas Go To Companies Indirectly Affiliated With Businessman Andris Griģis", News Agency *LETA*, 14 April, 2009; "Businessmen Affiliated With the Fatherland and Freedom Party Also Involved in Renewable Energy Production", investigative reporting show *Nekā Personīga*, TV3, (in Latvian), http://bit.ly/bN0bbd

[167] Rulle, Baiba, "Šķēle's Axis", *Diena*, 25 April, 2008, (in Latvian) http://bit.ly/auaxzY

were issues like the distribution of economic interests, the privatization of large state-owned companies, spheres of influence and investment in new projects[168]. For example, in 2008, Savickis met then chairman of the People's Party Kalvītis and the self-professed regular member of the party Šķēle. Savickis told the press that they talked about the liquefied gas terminal project, whilst Kalvītis claimed that the conversation was about ice hockey[169]. Considering that, in the coming months, the government was planning to initiate a competition for a new electric energy facility, which meant building a new power plant, media suspected that the troika was discussing the options for *Itera Latvija* and *Latvijas Gāze* to have a finger in the pie of this ambitious energy project, in other words, they were talking about a gas power station[170].

Besides, Savickis plays tennis at the same club as Godmanis, ex-president Guntis Ulmanis, head of the State Chancery Gunta Veismane and other members of the political elite. Savickis rejects suggestions that they talk shop during tennis matches, but does not deny that, afterwards, they may arrange to meet at the Cabinet of Ministers. "Do you really think I tell him [Godmanis] after the game, "Listen, Ivars, now we are going to talk shop"? No, it does not work that way. Rather, we agree to meet at the Cabinet of Ministers. Most commonly, we do it together, I and Dāvis [Adrians Dāvis, board chairman of the *Latvijas Gāze*], we go to the government. It has happened that we go and see Kalvītis, it has happened that we go and see Godmanis and it has happened that we go and see Šķēle."[171] It has to be noted that Godmanis, in the time of his premiership, watched ice hockey games at the Arēna Rīga sports hall from the box reserved for *Itera Latvija*. Moreover, Godmanis was one of those who helped to establish *Itera Latvija* by bringing together Savickis and Ainārs Gulbis, the owner of *SWH Rīga*, a company Godmanis used to work for.

Latvenergo and Latvijas Gāze

Regarding these big companies, there are concerns about their particular role in the market and excessive opportunities to influence decisions because of the huge resources at their disposal.

In the autumn of 2009, Kalvītis announced that Rīgas Dinamo ice hockey club, partly owned by him, needed to be sponsored by *Latvenergo* and other large state enterprises, the same way it happens, for example, in Kazakhstan and Belarus. Moreover, the issue of sponsorship needed to be discussed with the prime minister and the finance minister, rather than with the management of the club, because it is a political decision[172]. The two big monopolies, *Latvenergo* and *Latvijas Gāze*, had already been involved in sponsoring professional sports. For example, they had given donations to the Latvian Olympic Committee, a step made possible by special provisions made in the 2006 state budget. *Latvijas Gāze*, *Latvenergo* and *Itera Latvija* also sponsor the Latvian Academy of Sciences. *Latvenergo* and *Latvijas Gāze*, in particular, pay for energy-related research[173].

The aforementioned are just a few examples, which reveal the merger of business and political elites and raise concerns about state capture in the energy sector in general and in the renewable energy sector in particular.

1.3. Lobbying regulation

We cannot easily and quickly change the political and social culture in Latvia, but, by introducing a clear boundary between legitimate and ethical lobbying and corrupt methods of influencing decisions, and by achieving a larger share of open and honest lobbying, we can fight the hidden influences much more effectively. For example, if there were a regulation demanding that every MP has to give the reasons behind a proposal and indicate who he had consulted, then the likelihood of radical legislative changes of unclear origin making it to the third (and final) reading in the parliament would be significantly lower than it is now. Because of the access to the background of each proposal, the dubious proposals would be discredited.

Many other systemic improvements are needed in order to mitigate state capture. For example, one of the biggest obstacles to the development of lobbying is the fact that political parties in Latvia are fully dependent on financial donations. Latvia has remained the only country in the EU with no state funding for political parties. As a KNAB official put it: "No businessman gives a donation to a political party just because he likes the manifesto. Donors have a certain agenda and the only thing one can demand from a party is regulation in legislative documents.[174]"

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[168] Ibid.

[169] Leitāns, Ivo, "Liquefied Gas Terminal Will Increase Dependency on Russia, Says Expert", *Diena*, 31 March, 2008, (in Latvian), http://bit.ly/cHb5vg

[170] Rulle, Baiba, "Šķēle's Axis", *Diena*, 25 April, 2008, (in Latvian) http://bit.ly/auaxzY

[171] Ēlerte, Sarmīte, Rulle, Baiba, Dūmiņa, Zane, „Gas, KGB and Ice Hockey", *Diena*, 19 May, 2008, (in Latvian), http://bit.ly/97Visa

[172] „Kalvītis Wants Large State Companies to Take Part in Funding Rīgas Dinamo", *Diena*, 14 August, 2009, (in Latvian), http://bit.ly/UZzFI

[173] See more at http://bit.ly/d6p9r3

[174] Laganovskis, Guntars, "Legal Framework for Lobbying Improved", lv.lv, 19 August, 2009, (in Latvian), http://bit.ly/b5xOQW

Dialogue between members of the public and decision-makers has to follow certain principles. It has to be open, different groups have to have equal opportunities to express their opinion, whilst decision-makers have to be accountable to the public[175]. In order to achieve that, lobbying has to be regulated. The main purpose of lobbying regulation is to provide the public with an opportunity to find out who is engaged in lobbying in a particular government institution, to follow the process of political decision-making and to see which interests may have influenced it and which interests were ignored. Besides, an important objective of regulation is accessibility, both access to information and access to decision-makers (for example, a visitor's pass to enter the parliament). Access to information and opportunities to participate in the necessary meetings may help to mobilize those groups within society that have limited resources and limited experience in lobbying, but for whom a particular issue is of utmost interest.

Undoubtedly, there has been progress in the field of lobbying in Latvia. Several mechanisms have been put in place, such as consultative councils, the National Tripartite Cooperation Council, collaboration memoranda between NGOs and the parliament. The public is better informed about the existence of lobbying and its significance than it used to be. Nevertheless, this field is very far from being properly structured and there are serious pitfalls both in regulation and in practice. In general, there are several different approaches to lobbying regulation. Latvia is closer to indirect, rather than direct, lobbying regulation: there are rules regarding public officials' conduct, which in some way apply to lobbying, for example, the regulation of conflict of interest. In July, 2008 the government approved the third, softer version of the conceptual paper produced by KNAB, ***The Need for a Legal Framework for Lobbying in Latvia in Latvia***, which suggests the introduction of codes of ethics in government and municipal institutions, which, in effect, means improving indirect regulation. The first two versions of the conceptual paper suggested direct regulating mechanisms, such as a register of lobbyists etc. Currently, work is being done on implementing the recommendations of the paper: some suggested measures have already been introduced, for example, separate sections of the ministries' websites dealing with public participation. The paper states that it is a duty of all public officials to disclose all information about their contacts with lobbyists; they also have to make publicly available information about their own economic interests and those of their relatives if they may have an impact on their duties; public officials have to voluntarily suspend their duties in the case of conflict of interest; they have to provide all lobbyists interested in a particular issues with equal access to decision-makers and those charged with preparing decisions; and all interested parties should have access to all necessary information. Introduction of the principles of openness into lobbying in Latvia is currently embryonic: the rules of conduct of public officials in dealing with lobbyists are being introduced, but there is still a lack of knowledge in many institutions as to what form lobbying activities could take.

The chosen option for lobbying regulation solves the problem of openness only in part. Those who are engaged in lobbying still are not obliged to declare their activities, their goals, and who is paying them. Therefore, transparency is made the sole duty of the government.

Regulation and the need to improve it will be examined in more detail in the following chapters, which are dedicated to lobbying regulation in the parliament and the government.

2. Lobbying in the parliament

2.1. General pitfalls and recommendations for improving regulation

When a draft legislation, which has been carefully prepared by the relevant ministry (perhaps even in cooperation with NGOs, business interest representatives and other partners), reaches the parliament, that is when the "true" work starts. As soon as the draft legislation is submitted or an existing law is opened for amendments, MPs start submitting proposal, which, quite frequently, have nothing to do with the reasons why the law had been opened in the first place and propose significant changes in the regulation. Proposals are being submitted for the second, and even the third reading of the legislation. This practice leaves one with an impression that all the efforts that had been put into the preparation, all the arguments spelled out in the working groups of relevant ministries before submitting the document to the parliament, have been pointless, because MPs push forward proposals of a completely different nature. Sometimes these 'different' proposals are supported by the ministry officials, even if previously the ministry had not approved of such solutions.

Since neither MPs nor lobbyists are obliged to disclose the people involved in attempts to influence decision-making process or business interests behind these attempts, it is impossible to determine who has had an impact on decisions and why such decisions were deemed necessary (The Rules of Procedure of the parliament state that

[175] *The Need for Legal Framework for Lobbying in Latvia*, available in Latvian at http://bit.ly/aDhJgI

only draft legislations need a rationalization, not proposals submitted by MPs). If lobbyists were disclosed, it would increase public trust in legislators and would also be helpful to the application of law. Besides, if MPs' business interests remain unidentified it is impossible to reasonably judge their activity or inactivity in discussing a particular decision.

Without being physically present at meetings of the parliamentary committees or working groups, at present it is hardly feasible to follow the reasoning put forward and the decisions made in these meetings, or to determine who regularly takes part in them, whom he or she represents and what he or she is trying to influence. The Rules of Procedure stipulates that committee meetings have to have minutes, all people present need to be listed and decisions described (but not the reasoning or arguments voiced in support of proposals). But these meeting minutes are not available on the parliament's website. Also, the issue of physical access to meetings of the parliamentary committees and working groups is almost completely unregulated. Parliament sessions and committee meetings are, for the most part, open, but one needs a pass to enter the building. The procedure for obtaining the pass is not defined in any external document. On the parliament website, there is no information on the system of passes – single visit, long-term, access to the committee buildings or to the main building - and no explanation as to how to obtain them. One could try to find it out at the Visitors and Information Centre or obtain the pass with a help from an individual MP or his or her assistant, or a Chancery employee. And personal contacts and knowledge of the internal rules could be helpful in this case[176]. NGOs enjoy higher privileges in this respect, because every parliamentary committee has an appointed official dealing with NGOs, so there is a particular person to whom a request for the pass could be addressed[177].

But even if the pass has been obtained, it is not clear whether an individual can take part in committee meetings and in what status. The Rules of Procedure list all the people who are allowed to take part in open committee meetings: among others, these include individuals authorized to represent a party faction or a political block and MP assistants. The Rules of Procedure do not stipulate whether these are the only persons allowed to be present and therefore open meetings are not, in actual fact, open. The Rules of Procedure also allows for experts to be invited, either on a permanent basis or for special occasions, and these experts are paid for their participation in accordance with the budget provisions. Experts have the right to give advice and that presumably means that they are allowed to voice opinion during meetings. However, it is not stipulated whether anyone else could be given an opportunity to speak, somebody who has not been invited as an expert. The manner of choosing experts is also unregulated. By the way, an MP has the right to use the funding allocated to remunerate his or her assistant, or part of that funding, and to pay contractors.

An MP is allowed to hire an assistant (or two), whose job is to manage the daily activities of the parliamentarian, for example, meet voters and organize meetings, provide the MP with information needed for his or her work, following the MP's instructions managing affairs with public officials or institutions (media have raised doubts about the workload of MP assistants and whether they indeed help MPs to do their job[178]). The Rules of Procedure seem to suggest that assistants are the ones who have to deal with lobbyists. Nevertheless, neither assistants' names, nor contact details are available on the parliament's website. The list of MP e-mail addresses is also nowhere to be found; one could only guess the e-mail address of any MP with a middle name or hyphenated surname. Besides, according to parliament employees, many MPs do not use their official emails. Moreover, there is no uniform email system in place at the Latvian parliament, which would make contacts with parliament employees significantly easier, for example, if everybody had the same address name.surname@saeima.lv.

Among other documents and communication, parliamentary committees commonly receive written opinions from municipalities, NGOs and businesses, but there is no regulation as to what to do with these letters. It is not clear whether they should be added to the documents in consideration and distributed among all members of a particular committee, or whether they merit attention at all. At times, peculiar situations arise and such proposals are included in the table of proposals on a particular issue, even though the table should only contain proposals submitted by public officials authorized to submit them. It has to be noted that lobbyists also face the problem that suggestions, which fail to meet the standards of properly defined proposals, are routinely ignored. This, in effect, prevents meaningful participation of those lobbyists who do not possess sufficient legal resources, and that includes the majority of NGOs.

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[176] Miezaine, Zinta, "Public Governance and NGO Participation: Searching for an Effective Collaboration Model", politika.lv, 2005 (in Latvian); http://bit.ly/dyf7LJ

[177] On 30 March, 2006, the parliament approved a document on collaboration between the parliament and civil society organizations "The Declaration on Development of Civil Society in Latvia and Cooperation With Non-Governmental Organizations", thus taking an obligation to work with NGOs, (in Latvian) http://bit.ly/bAIZOS

[178] Sloga, Gunta, "MP Assistants", *Diena*, 5 February, 2009; (in Latvian), http://bit.ly/czaH9x

~~The risk of illegitimate attempts to influence decisions increases significantly when decisions are marked as urgent. In such cases there is neither time nor opportunity to study draft legislation in detail and submit proposals. Not even MPs have this opportunity, and others, even less so. It may even happen that proposal submission is skipped altogether and the first reading is immediately followed by the second, which, in this case, is final. Thus, if somebody has reached an agreement with a political party, the urgent procedure provides an opportunity to achieve the desired regulation in a very short time. Subsequent amendments of the regulation would take much longer, if they happen at all.~~

~~All the aforementioned problems regarding the lack of transparency and vague regulation of participation are very serious, but two issues are of particular importance when we consider the legislative work of the parliament and opportunities for participation. First is the common practice of submitting key proposals to the third reading of a legislation, which, in effect, prevents the public and, for that matter, MPs from studying proposals in detail. The second key problem is the lack of information about the true authors of proposals.~~ A well-known anecdote is that of MP Mihails Pietkevičs (the People's Party) and his habit of submitting proposals for the third reading. Everybody knew that Pietkevičs was not the person behind of these proposals: Pietkevičs was referred to as the Postman From *Mākoņi* [the residence of Andris Šķēle][179].

Following this analysis it is apparent that lobbying in the parliament, which is the main arena of lobbying activities, remains almost completely unregulated and largely hidden from the eyes of an average citizen. The Rules of Procedure and the Law On Prevention of Conflict of Interest in Activities of Public Officials currently provide very little regulation to the boundaries of lobbying in the parliament. For example, the Code of Ethics of the Members of Saeima, which is an annex to the Rules of Procedure, contains the provision that, "A Member of Parliament does not allow a conflict of personal or national interests and tries to avoid situations that may create the appearance that such a conflict exists. A Member of Parliament refuses an invitation, does not participate in an event and tries to avoid any other situations that may give grounds for suspecting the presence of a conflict of interest or that may impair the prestige of the Saeima." It could be argued that, at this moment, the provision does not work and there is no effective compliance mechanism in place[180].

The KNAB conceptual paper *The Need for a Legal Framework for Lobbying in Latvia* calls for greater openness and transparency in the parliament's decision-making. KNAB has submitted proposed amendments to the Rules of Procedure, which stipulate that MPs, when they hand in proposals, will have to provide the reasoning and information on people they have consulted in the process of preparing their proposals. The proposed amendments also introduce the requirement for committee minutes to contain information on accepted and rejected proposals, as well as the reasoning behind the decisions made. Moreover, the minutes of committee meetings have to be made public within five days and published on parliament's website. This legislative proposal was meant to be discussed at the Cabinet of Ministers on 3 November, 2009, but was taken off the agenda and, so far, has not reappeared[181]. Nevertheless, even if these proposals become law, the external process still requires improvement, including the introduction of a register of lobbyists. It is likely that introducing stronger regulation on lobbying will not be easy and there will be problems with execution. Also, regulation in itself will not solve the problems related to dishonest activities. But it will highlight such activities much more clearly and serve as a basis for further actions.

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[179] Egle, Ināra, "The Destroyed Nest", *Diena*, 18 October, 2008, http://bit.ly/dtjRL7[177] On 30 March, 2006, the parliament approved a document on collaboration between the parliament and civil society organizations "The Declaration on Development of Civil Society in Latvia and Cooperation With Non-Governmental Organizations", thus taking an obligation to work with NGOs, (in Latvian) http://bit.ly/bAIZOS

[180] A good code of ethics would increase public trust in the parliament, whereas the current one is akin to the operation manual for a lift. For example, Section 11 stipulates that "A Member of Parliament does not use his/her influence to illegally achieve favourable decision by a public administrative institution". According to Article 179 of the Rules of Procedure, once the Mandate, Ethics and Submissions Committee has determined that a violation of the Code of Ethics has occurred, it shall take one of the following actions: give an oral warning to the MP; issue a written warning; announce it at the Saeima sitting, and publish the decision of the Committee in the newspaper *Latvijas Vēstnesis*. By comparison, according to the US House of Representatives Code of Conduct, an MP in such situation should resign. For similar offences in Italy, Portugal and France MPs, in addition to resigning, are, for a certain time, prevented from running for any elected office. Besides, in Latvia, there is no effective preventive mechanism that would ensure that an MP consults the Ethics Committee before accepting a controversial invitation. According to Article 179.1 of the Code of Ethics, "upon receiving a written request, the Mandate, Ethics and Submissions Committee shall evaluate whether a Saeima Member's intended action in a difficult situation would violate the Code of Ethics for Members of the Saeima." This Article came into force in 2006 and, since then, there has been no record of any MP using it. More on the subject Ījabs, Ivars, "The Saeima Code of Ethics: Turned Out The Usual Way", politika.lv (in Latvian), http://bit.ly/aRhJwz

[181] "Idea to Make Lobbyists Known to the Public Receives Preliminary Approval", delfi.lv, 24 November, 2009, (in Latvian), http://bit.ly/50CWRN

In order to make lobbying more open and access to MPs, more equal, the author recommends the following:

- Similar to the government, the parliament, too, has to make all daily agenda documents available on the internet, listing all invited meeting participants; procedures have to be devised for citizens to announce their intention to express expert opinion or simply to take part in meetings.
- The composition of working groups attached to the standing parliamentary committees has to be made public as does the procedure for applying for participation in these working groups.
- Minutes of open committee meetings have to be available on the parliament's website and they have to contain information about remarks and presentations by MPs and invited participants, as well as reasoning behind the accepted and rejected proposals. Before committee meetings, all proposals and resolutions have to be available on the electronic document database.
- MPs have to write explanatory notes to their own legislative proposals and justify why a particular proposal is necessary and whom has the MP consulted in the process of devising it.
- MPs have to openly announce their business interests and distance themselves from active participation and attempts to influence decisions on issues connected with their interests.
- A register of lobbyists needs to be introduced where the registered individuals will have to declare their interests and the organizations they represent. Lobbyists would have to have access to all documents of the relevant sector or committee. They would receive regular information on relevant meetings and opportunities for participation, and also be given passes for entry into the parliament buildings.
- A uniform style of committee website needs to be introduced and the parliament's website needs to be updated with information about MPs and MP assistants' contact details, a separate section on public participation with an option of receiving electronic newsletters about the work of a particular committee in the sector of subscriber's interest. Such option already exists on the government's website, but in the parliament only a few committees have followed suit.

2.2. An example of discussion on energy issues in the parliament

Off the record, sources acknowledge that discussions and decisions on the energy sector never happen in the committee responsible for the sector, namely, the **Economic, Agricultural, Environmental and Regional Policy Committee. Lobbyists are never seen at its meetings, apparently they work elsewhere. The Economy Ministry representatives are also referred to as mouthpieces of particular interests**.

Amendments to the Electricity Market Law

Initially, the amendments to the Electricity Market Law submitted in August, 2007 included only a few articles and mainly clarified the procedures and a few terms used in the law (the amendments, by the way, were given the status of urgent). The supporting note stated that in the process of devising the amendments the Economy Ministry had not consulted NGOs or informed the public. Nevertheless, the legislation included proposals put forward by Latvenergo[182].

When the Electricity Market Law was opened to make seemingly insignificant changes, MP Kārlis Leiškalns and prime minister and acting economy minister Aigars Kalvītis (both from the People's Party) suddenly submitted radical changes, without discussion in the government or the parliament, as well as without any public consultations. Since there is no requirement to attach a supporting note justifying the proposal, it is hard to determine the rationale behind it and the reason why the Economy Ministry had not submitted it earlier following the regular inter-institutional procedure, approving the amendments in the government before passing them to the parliament.

Among other things, the amendments included several new and controversial provisions, for example, a radical new support mechanism, payments for the installed production capacity instead of the actual volume of electricity produced. The proposal submitted for the second reading of the amendments stipulated that the mandatory procurement applies not only to electricity, but also to capacity, making renewable energy business exceptionally safe. This particular proposal received the parliament's approval in the second reading, but was rejected in the third. Nevertheless, other approved articles included references to payments for the installed capacity. Before the third reading, MP Dzintars Zaķis (the New Era Party), discussing the new procedure on payments for the installed capacity, remarked that only because strategically important proposals are submitted before the third reading, laws end up with poor quality wording. MP Vents Krauklis (the People's Party) responded that there had been sufficiently broad discussions in the committee and several seminars were also organized so that people would understand why such form of support is necessary. Another proposal, which received approval, dealt with support for electricity purchase: the words "in the process of cogeneration" were replaced by "cogeneration", thus potentially widening the circle of support recipients.

[182] Amendments and the supporting note available (in Latvian) at http://bit.ly/bTiCyH

The parliamentary opposition managed to achieve publicity and wider discussion for another proposal. At the parliamentary debates on the second reading, Dzintars Zaķis opposed proposal No 13 by Kalvītis and Leiškalns, pointing out that, in effect, the proposal sanctions construction of a new gas power station. "If the distribution network operator in Latvia establishes that there is an insufficient capacity, which means that there are not enough production units, then Article 23 of this law stipulates the appropriate actions. The title of Article 23 is 'Competition'. And the competition procedure clearly states, how it should be called and how to ensure that new electricity producers start operating in the territory of Latvia. What is the essence of the new Article 15.1, which is proposed in the proposal No 13? It sounds like a good thing, by 2012 Latvia has to produce 80% of its own electricity and, by 2016, 100% of electricity. Let us not forget that the year 2012 is five years ahead, in other words, exactly as many years as is necessary to build one regular electricity power plant. So far so good. Let us proceed. If the distribution network operator establishes that such targets are not achievable he may ask the Cabinet of Ministers for a licence to build such a power station without competition, without applying Article 23. Where is the problem? The problem is that, in this case, competition is avoided. The proposal No 13 goes together with another, No 19. The essence of the 19th proposal is the following: this new producer will be able to receive payment not for kilowatt hours, not for the volume of electricity bought by the consumer, but for the very fact that he exists in the market. Therefore, for the capacity and not for the volume of electricity. This is a new, unique form of support and, perhaps, there would be nothing wrong with it if it supported some kind of renewable resources. But the biggest problem is that the costs of building this new power plant are included in the tariffs. In actual fact, the support is incorporated in the tariffs. Consequently, each of us, electricity consumers, will have to pay for the construction of such power plant. But, dear colleagues, now I am going to spell out the worst news. When the officials eloquently argued at the Committee meeting that all of this is needed in order to restructure the electricity consumption and that we, in Latvia, are still short of production capacities, nobody objected. After all, we exist within the electricity system of the whole Europe. Strangely, we do not talk about interconnections, but talk about building our own capacity. Whilst the nice words were flowing, the committee members did not understand what the story is about. At the end of the long speech we realised that the story is about what Mr. Kalvītis mentioned when he returned from a meeting with the political elite of Moscow. The story is about the need to build an enormous gas-based power station in the territory of Latvia. So, what is it that we do, in fact? In a roundabout way, in a very sophisticated manner, we place in the law [a provision] that in the future we, in Latvia, will have to build a power plant, which will use gas. Dear colleagues, those who will support this decision, you have to be aware that you are directly and unmistakably supporting Latvia's energy dependency on Russia. That is what this decision is about. That is why, dear colleagues, we have to thank God that, in the Committee, the opposition has more votes and that is why the Committee did not support this proposal.[183]"

Uģis Sarma, head of the Economy Ministry's Energy Department said to the press after the rejection of the aforementioned proposal that, without a new power plant with large production capacity, Latvia cannot achieve 80% or 100% share of locally produced electricity. He also pointed out that the proposal does not refer "to any particular power plants, but to the principles and procedure that could be introduced."Nevertheless, he acknowledged that the likelihood of using renewable energy, such as wind, for powering this new plant is close to "science fiction" and gas or coal-powered plant is much more realistic. An advantage of the gas station is that Latvia would have to buy half as many carbon emission quotas, as without it. Referring to the coal station, he said that the biggest disadvantage would be problems in public discussions about the environmental impacts. The Economy Minister official expressed regret that the parliament did not approve the amendments proposed by the prime minister. "The legislator is convinced that, in 2012, electricity will be supplied in full and without any limitations. I do not share that conviction," said Sarma, adding, jokingly, that residents of Latvia should start looking for "the small generators" to prepare for electricity shortages[184]. MP Leiškalns added that the rejected proposals will definitely be put forward for the third reading, because the negotiations about the long-term gas supplies are already in progress. "These amendments are needed in the case a long-term gas supply contract is signed with Latvia," said Leiškalns, adding that these issues have to be considered "with utmost urgency", because, when the Ignalina nuclear plant is closed "Latvia will face a huge electricity deficit.[185] "The facts that were made public suggest that MP Leiškalns was better informed about the government plans than Sarma, the ministry official in charge of these issues. Even though MP Dzintars Zaķis told the media that the Economy Ministry and *Latvenergo* representatives were the ones who informed Committee members that the proposals concern construction of a new gas power plant.

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[183] Interestingly, later MP Vents Krauklis (the People's Party) said in the name of the Committee: "Distinguished colleagues, in our Committee, the opposition indeed has a majority and that is why the proposal was not approved. Nevertheless I would call on the parliament members to be responsible and support this proposal. And..." At this point the chairperson interrupted Krauklis, because Krauklis no longer spoke as the head of the Committee, but rather as an MP despite the fact that he had not registered to speak in the debates. More on the issue (in Latvian) at http://bit.ly/bnroll

[184] "Kalvītis Wants to Legally Guarantee Income for New Power Plant Owners"(updated version), delfi.lv, 9 November, 2007, (in Latvian) http://bit.ly/bnroll

[185] Ibid.

In truth, the fact that there is a plan to build a gas power plant came into light between the second and third reading, when the opposition MPs called an extraordinary meeting of the parliament in order to decide on the proposal to set the energy sector objectives and identify the biggest problems in the sector. MPs suggested charging the prime minister with initiating work on preliminary project for a new electric power station, which would use solid fuels and biomass, as well as initiating work on a preliminary project for the connecting Swedish and Latvian grids[186]. MP Dzintars Zaķis stressed in the debates, "It was important to call such a parliamentary sitting in order to understand the opinion of Prime Minister Mr. Godmanis and that of Aigars Kalvītis, a political heavyweight, so to speak. Gentlemen, please explain, what was the role of the former head of the Foreign Intelligence Department of the Latvian KGB, Juris Savickis, in this rapidly transformed government line? Is it really enough to be the prime minister's partner on the tennis court or a supporter of the former prime minister's newly established hockey club to achieve decisions that benefit him, rather than the country's economy? Is it enough of a reason for Mr. Piebalgs' [Andris, the EU Energy Commissioner] comments about the unreasonably optimistic forecasts of electricity consumption growth and about Latvia's dangerous dependency on Russian gas to become immaterial?[187]"

Kalvītis stressed that the government works professionally and everything is being done in the interests of the country: "So I would encourage to talk about these issues in a professional manner and to trust the government. The Government knows what it is doing. We have suitably experienced people in the government, who have worked with the energy issues for many years. And do not bamboozle people and stir up trouble! That is what we here, in the parliament, need to do now. That is why I would recommend not interfering in other people's competencies and let the government do what it needs to do.[188]"

By the way, Kalvītis met Russian Prime Minister Vladimir Putin[189] in the autumn of 2009, in the status of a businessman, referring to the meeting as "private dinner". Apparently, they discussed mutual investment promotion and investment protection, as well as the double taxation and tax avoidance agreement, which is of particular interest to Kalvītis as a businessman. Later Kalvītis mentioned that, during that dinner, they also talked about the energy issues, including the construction of the gas pipeline Nord Stream and issues concerning electricity. Kalvītis' party comrade, Foreign Minister Māris Riekstiņš was informed about the meeting, but not Economy Minister Artis Kampars (the New Era Party), whose ministry deals with the issues the pair discussed[190].

3. Lobbying in the government

3.1. General pitfalls and recommendations for improving regulation

Unlike in the parliament, lobbying opportunities in the government are more clearly defined. Nevertheless, there are shortcomings in the relevant regulation, because it mostly concerns NGOs, and also does not ensure adequate openness regarding lobbying opportunities before a policy document or a regulation is announced at the state secretaries' meeting or approved by the government.

The only available information and regulation regarding participation opportunities concerns NGOs and social partners and does not include business interest representatives or professional lobbyists. For example, not a single regulation has provisions for an individual businessman's rights to take part in decision-making, and being invited to do so. On the Cabinet of Minister's website, under the title Participation all references deal with NGOs. On the other hand, the conceptual paper on lobbying by KNAB states that high-ranking government officials who are in a regular contact mainly with commercial entities and whose information primarily comes from these sources may fail to pay necessary attention to the interests of all social groups instead focusing on the interests of commercial enterprises. It would be worthwhile to state, at long last, that business interest lobbying and professional lobbyists exist in Latvia and their activities are to be encouraged and regulated in order to achieve maximum transparency. Or else, because the current regulation does not have any provisions for an individual company's participation and because the status of a commercial lobbying is not clear, a company may try to push its interests through an organization or an association creating a false impression of who is behind particular interests.

Opportunities for influencing decisions start at the inception of the idea: when the relevant ministry starts working on a draft for a particular law, a government regulation or a policy document. The draft is devised either by individual employees or in working groups at the ministry and, in working group meetings consultations with the interested parties could take place, if the institution deems it necessary. However, it is the decision of the ministry or, in some case, of the prime minister, whether to invite other partners to get involved in the process, whether

[186] Saulītis, Andris, "Parliament Rejects Proposal on Building New Electric Power Plant", diena.lv, 9 April, 2008, (in Latvian), http://bit.ly/doaWvE

[187] Minutes of the sitting available in Latvian at http://bit.ly/di6nlI

[188] Ibid.

[189] Russian prime minister, among other things, is the ultimate decision-maker on the activities of Gazprom

[190] "Kalvītis: Many Are Jealous of My Meeting With Putin", diena.lv, 2 October, 2009, http://bit.ly/j1NEO

to set up a working group or to write a resolution. In some sectors, the ministries have permanently functioning consultative councils that discuss the relevant document drafts. However, the State Administration Structure law does not have provisions for individual representatives of the public or private individuals to take part in the decision-making process in a ministry upon their own initiative. Naturally, everybody is entitled to send his or her opinion, if lobbyists find out about the proceedings regarding a particular document. But there is no clearly defined mechanism as to how lobbyists, all in equal measure, could obtain information about commencing of work on a particular document, about working group meetings, consultations and other forums that might be of interest for a wider range of lobbyists.

The requirement for the annotation of a draft legislation to indicate all NGOs, social partners and other relevant institutions (such as working groups and consultative councils) involved in preparing the draft, has been in place for a long time. The annotation is also supposed to list the criteria used to select the institutions and organizations involved in consultations. The annotation is an important tool for achieving greater transparency regarding the reasoning behind a new legislative document and the process of drafting it. However, the annotation is available only at the point when the draft reaches the Cabinet of Ministers and, sometimes, it may not be attached at all. Recently, in connection with the implementation of the recommendations of the Conceptual Paper on Lobbying, the Ministry's website launched a special section on participation, which, among other information, includes information on working groups and consultative councils as well as on the lobbying contacts that have happened in connection with a particular draft law. Therefore, the work on making this stage of lobbying transparent has started even though it was only in late November, 2009 when the government gave a preliminary approval to the requirement to make information on lobbying available to the public whilst rejecting the proposed amendments (drafted by KNAB) to a government regulation on making information public on the websites of government ministries. The government also decided that the proposed solutions need to be re-examined to make sure that information is made public without bestowing additional tasks onto the government institutions[191]. It has to be noted that several government ministers stressed that the amendments proposed by KNAB have to be more specific, more clearly put and more consistent. One government member, Minister for Regional Development and Local Governments Edgars Zalāns rejected the very notion that such amendments are needed. He was the most passionate opponent of the amendments, referring to the idea proposed by KNAB as 'cumbersome bureaucracy' and arguing that, in face of constantly shrinking government institution budgets, government employees cannot be asked to take on extra work. Transport Minister Kaspars Gerhards (former economy minister) added that it was not clear how the government institutions will be able to determine whether lobbying has taken place. "Is it going to happen this way: a ministry official walks around and surveys his colleagues asking whom they have met and what they have talked about?" asked the minister. Minister for Health Baiba Rozentāle said that many clarifications are needed and also guidelines for a government institution's course of action as regards registering meetings with lobbyists. KNAB spokesperson Diāna Kurpniece noted that many institutions, for example, the Ministry of Environment, already successfully carry out the practice of registering such meetings[192]. The Economy Ministry, too, has opened a special section Public Participation on its website and publishes information on the current working groups and meetings with lobbyists.

In accordance with the recommendations of the Conceptual Paper on Lobbying, government ministries and affiliated institutions have to introduce rules on contacts with lobbyists in their codes of conduct. The codes of ethics need to include following requirements: information about the economic interests of public officials and their family members has to be made public if these interests may influence the duties of the said officials; public officials have to voluntarily suspend their duties in the case a document in progress may have an influence, or arise suspicions of influence, over the personal or business interests of the said officials, their family members, or organizations and sponsors affiliated with the said officials; they have to provide all lobbyists with equal access to decision-makers and those charged with preparing decisions; all interested parties should have access to all necessary information; and each offer of hospitality has to be carefully weighed up. A public official is not permitted to offer privileges to a certain lobbyist (by supplying him with information on the issues of his interest, providing him with access to decisions, among other privileges) and ignore the principle of equality, unless there are legal or contractual provisions that allow it. It is also forbidden for a public official to accept presents, offers of hospitality or other favours to himself, his family members or an organization he is affiliated with from a lobbyist or an organization employing him. Other favours include covering the costs of transportation, accommodation, food and beverages or any other kind of material goods. A public official is also barred from using his authority or personal contacts to provide a lobbyist with access to the senior officials in charge of decisions regarding the issues of the lobbyist's interest. It is also forbidden to mislead a lobbyist by creating an impression that a public official could ensure such access or influence decisions made by senior officials or government members. It is prohibited to ask lobbyists or organizations that pay them to provide funding for events at the place of a public official's employment or an

[191] More on this government decision (in Latvian) at http://bit.ly/dDAVEE

[192] "Idea To Reveal Lobbyists Approved in Principle", delfi.lv, 24 November, 2009, (in Latvian), http://bit.ly/50CWRN

organization he is affiliated with. A public official shall not represent an individual, a businessman or an organization as a paid or unpaid lobbyist in the government or local institution. Some government ministries have already expressed their willingness to raise their employees' awareness of lobbying-related issues. KNAB suggests including topics of lobbying regulation and transparency into the set of courses at the School of Public Administration[193].

The procedure for submitting an opinion on a draft legislation or regulation, which has been pronounced at the State Secretaries Meeting, as well as the process of document exchange and decision-making, is described, in detail, in the Cabinet of Minister's Rules of Procedure. For example, the Rules clearly state that if the draft has received objections, the responsible ministry has to convene a joint inter-ministerial (inter-institutional) meeting. If agreement cannot be found, the responsible ministry has to provide justification as to why the objections are disregarded[194]. However, these rules apply to NGOs and social partners, other lobbyists' rights are not specified. There is a wide range of opportunities for participation. The Rules of Procedure even have provisions that allow heads of NGOs or social partners to submit, via the responsible government minister, a draft legislation or policy document to the Cabinet of Ministers. If an agreement with the responsible minister cannot be reached the draft may be submitted to the prime minister who then decides on further procedures regarding the document in question.

Unlike in the parliament, the e-portfolio of the government's documents is available online, including meeting minutes, all submitted opinions on draft legislation or regulation and all received letters. Moreover, interested parties could subscribe to a newsletter on the issues of their interest. However, meeting minutes tend to be too general and do not reflect the debate and all opinions voiced.

It is imperative that lobbying activities in connection with the highest government officials, the prime minister and government ministers, are regulated, because, in many cases, these officials are the ones in contact with lobbyists and, ultimately, they are the ones making decisions. In line with the recommendations of the Paper on Lobbying, KNAB has drafted a Code of Ethics, which was made public at the State Secretaries Meeting on 19 November, 2009. The Code states that a government minister, when fulfilling his duties, has to serve the good of the country and use his authority solely for the public interest, distancing himself from any personal financial or other commitments or influence of private individuals. Among other rules, the Code of Ethics stipulates that a government minister is obliged to respect the political neutrality of state administration. When political decisions are made, it is unacceptable that the government minister gives preference to his family members, fellow party members, business partners or other individuals he or she is personally acquainted with. A public official has a duty to reveal information about his or her family members' economic interests if these interests are, or could be, connected to an issue or a decision he or she is charged with handling. The Code makes it an official's duty to resist offers of hospitality or any other favours or presents to him or his family if such actions could provide ground for suspicion that the official's decisions are biased. Moreover, the Code of Ethics introduces an obligation to publish on a ministry's website (or on the website of the State Chancery) information about lobbyists, with whom a government minister has held consultations or from whom has received information, or who has attempted, in any way, to influence decisions that concern a draft legislation or an issue the ministers is in charge of etc.[195]. The Code of Ethics makes it a duty of the government to disclose lobbying activities, but there are no plans to promote regulation of lobbyists that would compel them to declare their interests.

Further work is needed to promote transparency and define clear participation mechanisms at all levels of document processing, as well as identify, in legislation or explanatory documents, who the lobbyists are and what type of lobbying is considered legitimate. Awareness-raising activities are also needed to convey this message to the wider public.

3.2. Example of government deliberations on energy-related issues

Regulation No 198 of the Cabinet of Ministers "On Electric Power Production and Pricing Using Renewable Energy Sources"

Section 1.3 of the article already mentioned the controversial regulation on support for electric power production using renewable energy resources, and pricing of this energy. On 24 February, 2009, in the last days of the government led by Prime Minister Ivars Godmanis, the Cabinet approved Regulation no 198: there were no wider discussions, and only two consultation meetings, where several institutions raised objections, namely, the Legal Department of the State Chancery, the Ministry of Justice, the Union of Local Governments, the Utility Regulator, as well as several associations and businessmen. Despite the objections, the government approved the Regulation

[193] Report on the implementation of the paper *The Need for Legal Framework for Lobbying in Latvia*, (in Latvian); http://bit.ly/ajjnmN

[194] Opportunities for participation in the government-led document drafting could be significantly limited, because, according to the Rules of Procedure, the responsible ministry may decide to submit a draft as urgent or as matter of the Cabinet of Ministers. In such cases only the Justice Ministry and the Finance Ministry need to provide their resolution. The drafts put forward under these provisions, may appear on the government website only on the day of the Cabinet meeting, or even during the meeting.

[195] Draft Code of Ethics of the Cabinet of Ministers (in Latvian), http://bit.ly/agtuf

introducing generous (in experts' opinion, disproportionate) state support for the energy produced in wind farms, biogas power plans and small hydroelectric power stations[196]. Head of the Economy Ministry's Energy Department Uģis Sarma declared that the government support is aimed at promoting green energy production and the pricing formula was devised in consultations with experts[197]. But information available in the e-portfolio shows that the Association of Small Hydro-Electric Energy and the Union of Local Governments expressly opposed the pricing formula stressing that it lacks justification and pointing out that the final formula disagrees with the one included in the first version of the Regulation. The Utility Regulator, too, criticized the pricing formula and the fact that it lacks reasonable justification and set prices higher than in other EU countries[198].

An example: if the new Regulation had not come into force, then the wind power company Grobiņas Vēja Parki, which is affiliated with Andris Šķēle, as of next year would be paid by Latvenergo half as much as it was being paid previously, when the double tariff was still valid. The new amount would have been around 0.05 LVL per kilowatt hour. Each year, Grobiņas Vēja Parki sells around three million LVL worth of energy to Latvenergo, but without the new Regulation the amount would be only half of that[199]. As mentioned before, the new Regulation includes other perks, too.

Few months passed and even in spring, 2009 former economy minister Kaspars Gerhards (the People's Party) still could not provide a clear and law-based justification for terminating the previously announced competition for wind energy procurement. Far from being convinced, would-be wind energy producers grew increasingly suspicious that the competition was deliberately made cumbersome in order for it to fail and for the number of market players to stay artificially low. The previous price was already competitive, but the rules were nevertheless changed. In late March, 2009, one of the wind energy producers, TCK, asked Gerhards' successor Artis Kampars (the New Era Party) to explain what was the legal basis for terminating the competition and whether the company has rights to apply for the mandatory procurement under the new Regulation adopted by Ivars Godmanis' government. The minister decreed that all decisions on the wind energy procurement rights are to be suspended until the legality of the decisions is established. Curiously, the owners of TCK are the so-called adversaries of the aforementioned Mayor of Ventspils Aivars Lembergs, businessmen Olafs Berķis, Igors Skoks and Genādijs Ševcovs[200].

Suspicions of the Regulation being tailored to suit particular individuals were fanned by another stipulation, namely, the requirement to submit measurements of wind resources for one year[201]. Moreover, the aforementioned *Rapsoil*, a company affiliated with the ruling People's Party, was among the first three applicants for the wind energy quotas. Up until June 2006, the sole owner of *Rapsoil* was Andris Šķēle's business partner Janis Sprinovskis. As of November, 2008, the company is owned by *AS Energy&Communications*. Sprinovskis remains connected to *Rapsoil* via its board member Gints Sorokins, who also works for *BK Enerģija* and other companies affiliated with Sprinovskis. *BK Enerģija* was the company that wanted to supply 70% of all mandatory procurement quotas. The new Regulation came into force on Saturday, 14 March, 2009 and, on Monday morning, *Rapsoil* submitted its application. The applicant's documents required by Regulation No 198, including a certificate of ownership of the land where the wind force is high, compliant with the criteria, and where a wind farm could be built, were prepared by *Rapsoil* in advance, or more precisely, in summer 2008. Back then, the only information available to the public was that the Economy Ministry had announced the previous procurement competition. In summer 2008, Gints Sorokins wrote a letter to Mayor of Liepaja Uldis Sesks (he represents a local political party Liepājas Partija or the Party of Liepaja, which works in partnership with the People's Party). These were the official grounds for giving the green light to building a wind farm on the seaside. The Liepāja City Council reserved a plot of land for *Rapsoil*, in the dune zone by the Baltic Sea. Godmanis' government issued permission for *Rapsoil* to build a wind farm on the plot it had selected on 24 February, the same day when the new Regulation was approved. The Liepāja City Council asked Economy Minister Kaspars Gerhards to approve the use of land for the construction of a *Rapsoil* wind farm and the draft decree was prepared by the Economy Ministry's Department of Construction. However, *Rapsoil's* application for quotas later, when Artis Kampars took over the Ministry, was sent back for clarification[202].

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[196] The objections against the Regulation are available in the e-portfolio of the Cabinet of Ministers, including the objections listed in the notes on the submitted opinions and proposals to the draft Regulation On Electric Power Production and Pricing Using Renewable Energy Sources

[197] Rulle, Baiba, "A Cash Mill", *Diena*, 28 April, 2009, (in Latvian), http://bit.ly/9G09Fy

[198] The objections against the Regulation are available in the e-portfolio of the Cabinet of Ministers, including the objections listed in the notes on the submitted opinions and proposals to the draft Regulation On Electric Power Production and Pricing Using Renewable Energy Sources

[199] Rulle, Baiba, "State Support", *Diena*, 21 May, 2009, (in Latvian) http://bit.ly/dru6qu

[200] Rulle, Baiba; Leitāns, Ivo, "The Disproportionate Support", Diena, 14 April, 2009, (in Latvian); http://bit.ly/aEd2Nf

[201] Domburs, Jānis, "Green Latvians, Orange Peculiarities and Electricity Prices", political talk show "Kas notiek Latvijā?", Latvian Public Television, 21 May, 2009, (in Latvian), http://bit.ly/dAI3lQ

[202] Rulle, Baiba; Leitāns, Ivo, "The Disproportionate Support", *Diena*, 14 April, 2009, (in Latvian); http://bit.ly/aEd2Nf

When the new government's proposed amendments to Regulation no 198 were being discussed, *BK Enerģija* and *Rapsoil* objected to the notion of abolishing wind measurements as a criterion, arguing that the government should primarily support the wind farms whose location means they have sufficient supply of wind resources. That is why, they argued, year-long measurements are a necessary criterion. The Ministry of Regional Development and Local Governments also objected to the planned abolishment saying that, this way, quotas may go to wind farms that are located in territories with insufficient wind force, which will not be able to produce enough energy to fulfil the quotas. It has to be noted that the requirement called for wind force measurements to be carried out at the height of 50 metres where a certain level of wind power had to be registered. Experts criticize this requirement as baseless, because wind power technologies and the height of mills could be adjusted. The process of amending Regulation No 198 was slow and the government ministers representing the People's Party were hindering the approval of the amendments by the government.

Commenting on the infamous Regulation and related scandal, Economy Minister Artis Kampars said: "Speaking of the Economy Ministry's Energy Department Head Uģis Sarma, it is clear to me that all regulation, which he had prepared on the energy issues and which had the mandatory procurement price for electricity at much higher level than elsewhere in Europe, I have to say, something is not right about Mr. Sarma's work. Thus, as we are restructuring the Economy Ministry's workforce [...] I have reasons to believe that Mr. Sarma's activities will, most likely, not help him to keep his post.[203]" And he added, "It is very popular to tie particular public officials to certain oligarchs, or to influential economic or political forces. However, I would not want to talk about that, because I do not have any unambiguous, concrete facts.[204] "After losing his job at the Economy Ministry, Uģis Sarma became a department head at former economy minister Kaspars Gerhards' new ministry, the Transport Ministry.

As this study is being put together, the government continues to make decisions on key energy issues behind closed doors, without informing the public and, of course, without any wider discussions. Among other issues being deliberated is the participation of *Latvenergo* in the grid interconnection with Sweden, otherwise known as the *Nordbalt Project*, in which the company is planning to invest 60 million EUR. This issues appears in the government's agenda as a blank entry, with a note attached, saying "A.Kampars". Access to the documents related to another key energy issue, Latvia's greenhouse gas quota trade partners, is also limited[205].

On 17 March, 2009 the environment minister issued a decree approving the Statues of the Climate Technology Cooperation Council, in which associations of renewable energy businesses take part. The aim of the Council is to promote the exchange of information and cooperation between professional associations that work in the sector of climate technologies[206]. In the autumn of 2009, the Council discussed the need to report to the Economy Ministry and to the parliament that the current quota system is damaging and to inquire as to how long the temporary solution (Regulation No 198) will remain in force. The Council members and invited energy experts were brought up to date on the draft Renewable Energy Resources Law and the Action Plan for Renewable Energy Targets (which has to be submitted to the European Commission in the summer, 2010) and, subsequently, the Council decided to send a letter to the Economy Ministry suggesting to include the Council in the work on the aforementioned Law and the Action Plan[207]. Despite the fact that there are several renewable energy associations, the Economy Ministry has not established a consultative council and the Council, which operates under the auspices of the Environment Ministry, currently, to a certain extent, fills that vacuum.

4. Problems of applying regulation on renewable resources

In this chapter of the Study, there will be no detailed analysis of the decision-making problems concerning particular decisions made by the state administration institutions or local governments. Instead, the author will point out several key problems in the application of the law, which may cause risks of corruption and are problematic from the point of view of transparency. Each of the areas is worth examining, be it regulation on energy efficiency, or regulation on support for cogeneration, or territorial planning and construction regulation. However, the main objective of the article is to examine the regulation of participation as a form of lobbying and the related practice and ways of improving it. In the case of individual decisions, though, we have to look at the administrative procedures, in which lobbying, as described in the aforementioned definition, is not mentioned. This level of decision-making is of key importance, too, both from the point of view of individual investors and the general public, and it also carries the risks of corruption and pitfalls regarding transparency.

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[203] "Energy Department Head Uģis Sarma is Set To Lose His Job", nra.lv, 28 April, 2009, (in Latvian), http://bit.ly/cuBTFs

[204] Leitāns, Ivo, "Man Who Prepared the Disproportionate Support May Lose His Job", Diena, 28 April, 2009, http://bit.ly/azY4fA

[205] Jemberga, Sanita, "The Oversecrecy", citadiena.lv, 7 December, 2009, http://bit.ly/7vQNxT

[206] More on the Council (in Latvian): http://bit.ly/bQ9ZjW

[207] The meeting minutes (in Latvian) available at: http://bit.ly/dBydVX

A representative of the French energy giant *Dalkia* in Latvia pointed out, in an interview, the unattractive nature of the investment climate and the schemes designed by the government and local government in 2008. "When you come with an open offer, nothing happens. That is why we have stopped our expansion a little, because we no longer engage in dialogues with a local government, we no longer try to sell our idea actively and explain why a heating supply company would benefit from a private investor. We have realized that, in reality, we do not have any chance whatsoever. It would be easier for us to wait for a local [investor] to buy it and then agree on a concrete price.[208]"

One of the problems that arise in the process of electric energy production is related to an obligation partly regulated by the state, but executed by a private actor, the system operator, and it is the connection to the *Latvenergo* distribution and transmission network. In this area, the *Latvenergo* monopoly is in place (through its daughter companies), which determines prices (the price for connection and the distribution of costs) and connection choices. The monopoly issues a set of requirements that are based in internal documents, which are not available to the public. That is why there is no clear and generally known system of requirements and no uniform application of such system. Moreover, all investment made by individuals goes into the accounts of *Latvenergo*.

Regulation No 198 does not include a clear and standardized application review procedure; there is also no public register of applications that would enable the public to follow the process and apply for quotas. Also, when an applicant submits his application the amount of available quotas is not known, he is not given a sequential number, he is not aware as to how many other applicants there are and what size of quota they had applied for. In other words, he has no way of estimating how high his chances of success are. Cases when an application requires clarification or additional documents and when it has to be reviewed for a prolonged period of time are not regulated and thus it is not clear whether other applications could be considered during that period and how does this situation affect the possible distribution of quotas. This problem was also pointed out by KNAB. Another issue lacks regulation, namely, what happens if the allocated quotas have been used and later new quotas appear because another producer has waived his rights or his rights have been withdrawn. The Regulation only stipulates that the Economy Ministry has to update its decision, but does not specify whether the applications already submitted remain "in the queue" for potentially free quotas or whether they have to submit new applications. It also does not indicate at what point the Economy Ministry has to make a public announcement that the application process for quotas is open again.

There is no straightforward procedure for applying for quotas. For example, the solar power quotas for 2010 were divided between two companies in the summer of the previous year[209]. There are several problems regarding deadlines, too, including ambiguities regarding deadline extension options and criteria. The Regulation also includes different deadline calculation formulas, and inconsistent requirements for the document submission, which have ended up in the Regulation by mistake, but still have not been corrected (the same information has to be submitted to the Economy Ministry three months after the announcement of the Ministry's decision, and again after five months).

Although experts have pointed out Latvia's prospects for wind energy use and investors have expressed interest in working offshore, there is still no regulation on offshore wind farms. The disorganized territorial planning and construction regulation adds to the uncertainties of the business environment. Current laws offer unreasonable freedom to the local governments to make politically motivated planning decisions. Besides, the regulation on heating supply in municipalities also does not encourage cutting costs.

Regarding renewable energy development, there are other problems, too. For example, the unreasonably high number of required documents, which are to be obtained from the government institutions and thus are already in the government's possession; variations in the number of documents required for different kinds of renewable energy producers creating inequality. Regarding cogeneration, there are the requirements on the number of hours in operation, which are impossible to meet. Other problematic issues have seen improvement, such as discriminatory rules that discriminated businessmen based on their country of origin.

Several court cases highlight the problems, too. By way of example: there was a plan to build a cogeneration station near Tukums. Having received complaints from another market participant, the Procurement Supervision Bureau (IUB) declared that the Tukums City Council's actions are illegal. The Council called a competition "On the rights to obtain the land lease for construction of a cogeneration plant on the plot on Asteru Street in Tukums and the rights to supply the consumers of the centralized Tukums City heating supply system with the energy produced in cogeneration." IUB decreed that the decision to sign a contract on heating supply with the competition winner is

[208] Rībele, Marta, "State Itself Creates the Schemes", business magazine *Lietišķā Diena*, 6 May, 2008, (in Latvian); http://bit.ly/b0ikX3

[209] Information on the distributed renewable energy quotas available on the Economy Ministry website (in Latvian): http://bit.ly/arfrHk

illegal and decided to ban the Council from signing the contract[210]. Nevertheless, on 30 June, 2009, the extraordinary meeting of the Tukums City Council decided to grant the land lease contract for 30 years to *Latvenergo*. The decision was marked as urgent, arguing that the project has to be submitted for the EU funding by 31 July[211] At the moment *Latvenergo* has suspended its participation in the project[212], because of litigation in the Administrative Court. KNAB, too, is examining the case.

5. Findings

In the energy sector, including renewable energy resources, one could point to possible corruption risks at all levels:

- high level corruption, i.e., political use of government institutions, which could manifest itself as state capture; establishment of secret power networks in order to participate in corrupt activities; abuse of legislative power; media corruption and corruption in media
- middle level corruption, i.e., interaction within public institutions which could manifest itself as inefficient use and misappropriation of state resources; nepotism; trading in influence and contacts
- lower level corruption, i.e., corruption in the everyday contacts of citizens and public officials, which could manifest itself as bribing officials in order to bypass the rules; unreasonable regulation; deliberate ambiguities in regulation and deliberate disorganization[213].

There are two key issues regarding participation in decision-making on the energy issues: state capture and the lack of regulation and awareness of legitimate lobbying.

We cannot easily and quickly change the political and social culture in Latvia, but, by introducing a clear boundary between legitimate and ethical lobbying and corrupt methods of influencing decisions, and by achieving a larger share of open and honest lobbying, we can fight with hidden influences much more effectively.

In order to eliminate state capture risks other systemic changes and improvements are needed, too, including measures to curb the merger of political and business elites. It could be assisted by introducing state funding for political parties and restricting election advertising. It is imperative that public media and media in general are strengthened, because the capacity of the media to keep officials accountable and provide information to the wider public is an essential element of a responsible civic society.

It is particularly important to clearly spell out that commercial lobbying exists in Latvia as do professional lobbyists. Lobbying opportunities for business interest representatives, professional lobbyists and NGOs have to be unambiguously regulated in order to achieve greater equality and transparency.

Transparency is needed to promote public participation in decision-making and its trust in public administration. The parliament, the Cabinet of Ministers and government ministries have to improve their electronic document databases and websites so that they could publish information in a timely and comprehensive fashion. The work on the implementation of the recommendations in the conceptual paper *The Need for a Legal Framework for Lobbying in Latvia in Latvia* has to be continued with regards to lobbying contacts and public officials' codes of conduct.

A new regulation is needed on support mechanisms for renewable energy, considering the best practice in other countries, involving all interested parties in the regulation's development and opening it up for a wider public discussion.

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[210] More on the decision (in Latvian): http://bit.ly/b4ZbCY

[211] "*Latvenergo* Will Produce Heating From Biomass in Tukums", News Agency *LETA*, 30 June, 2009

[212] "*Latvenergo* Ceases Participation in Cogeneration Project in Tukums", News Agency *BNS*, 8 December, 2009

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