



# Phare 2003 Twinning Project

“Reducing Corruption in Estonia”

Tallinn/Berlin, July 2005

EE03-IB-JH-02

## FINAL REPORT

### 1. Identification

- Twinning Project No. : **EE03-IB-JH-02**
- Project **“Reducing Corruption in Estonia”**
- Report: **Final Report**
- Period covered by the report: **09.05.2004. – 08.05.2005**
  
- Submitted by: **Mr. Margus Kurm, Project Leader AC**  
**Mr. Jörg Dessin, Project Leader MS**

### 2. Content

The Twinning Project is based on the wider objective to support the Acceding Country to achieve the ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union. The immediate objective of the project is to reduce corruptive behaviours in Estonia.

The Twinning Assistance aims at completing the transition and implementation of framework and sector legislation on analytical and operational capacities of the Ministry of Justice and other public authorities to reduce corruption in Estonia.

Thus Estonia will be able to obtain and provide relevant information in this field concerned on an adequate EU - level.

On the side of the Acceding Country the following institutions are involved in the realisation of this project:

- The Ministry of Justice
- The Ministry of Internal Affairs
- The Ministry of Finance
- The Prosecutor General’s Office
- The Estonian Police Board
- The Security Police Board
- The Border Guard Administration
- The Tax and Customs Board
- The Public Procurement Office
- The Union of Local Government Units
- The Department of Public Administration of the University of Tartu

On the Member States side the following institution is committed to support the achievement of the project results:

- Berlin Criminal Police Agency (Landeskriminalamt/LKA Berlin)
- Berlin Prosecutor’s Office (Staatsanwaltschaft Berlin).

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The partners agreed to achieved the following guaranteed results:

#### Component 1: Producing the Corruption Map on the basis of the specific research

The Corruption Map should answer the following questions:

1. What is the level of corruption in Estonia?
2. What type of corruption is prevalent in the Estonian public sector?
3. What kind of public sector functions and levels are affected by corruption the most?
4. What is considered as corruption, and which attitudes are prevailing?
5. What is the estimated financial impact of corruption?

#### **Fulfilled (Activity 6.1.3)**

#### Component 2: Strategic Analysis

The strategic analysis should have two main results:

- 1) Agreed system of co-operation and exchange of information between all responsible authorities, in particular the Courts, the Prosecutor's Office, the Police, the Security Police, the Tax and Customs Board, the Border Guard Administration, and Local Government Authorities
- 2) Strategies for effective detection and investigation of the corruption offences.

#### **Fulfilled (Activity 6.2.3.1 – 6.2.3.3)**

#### Component 3: Implementation of measures

As a result of the activities of the component 3 the responsible officials are expected to be better prepared for the detection, investigation and prosecution of corruption cases and implementation of anti-corruption measures. They have better knowledge on the ethical infrastructure, which contributes to the internal accountability of the organisations.

#### **Fulfilled (Activity 6.3.3.2.1 – 6.3.3.2.5)**

### **3. Background**

Estonia is widely regarded among the least corrupted countries of the European Union candidate states. However, according to the Transparency International Corruption Perceptions Index, Estonia has dropped to the 29<sup>th</sup> position in the world (from 26<sup>th</sup> position in 1998 and 27<sup>th</sup> position in 1999 and 2000) and, in comparison to most EU Member States (especially Scandinavia), corruption in Estonia is relatively high.

The territorial proximity of Estonia to Russia and Scandinavian countries involves large risks especially upon accession into the European Union. The impact of organized crime on Estonia is first and foremost connected to the illegal trafficking of highly taxed goods (alcohol, cigarettes), drug trafficking and illegal immigration. These kinds of activities depend largely on the level of corruption in certain state authorities like the customs and the border guard. According to the Group of States Against Corruption (GRECO) evaluation group GET, corruption in Estonia in these particular fields is on the rise.

GRECO noted that in Estonia corruptive behaviour characterises mostly lower level officials. According to public opinion, the most corrupt officials are political leaders and police officers, while Estonian authorities regard local government and the Customs Board (from the 1<sup>st</sup> of January 2004

due to the result of the merging of the two agencies, a new institution the Tax and Customs Board was designed) as the main loci of corruption. The European Commission has also repeatedly drawn attention to the need to fight corruption in the police and customs administration. Presumably lack of awareness and tolerance for corruptive behaviour go back to the value system of the Soviet period – i.e. it is a question of lack of public responsibility. The Civil Service Code of Ethics became effective in January 1996. However, there are doubts about its effective implementation. According to the Open Society Foundation EUMAP Report 2002, the Code of Ethics is brief and vague and was not prepared in consultations with the officials it is supposed to affect. Therefore, it is understandable that there are problems with implementation and very little actual awareness of what constitutes corruption among lower level civil servants.

The GRECO Compliance Report on Estonia, which was adopted on 10 July 2003, states that most GRECO recommendations have been fulfilled by Estonian authorities. With regard to recommendation no.1, the steps taken by the Estonian authorities in making existing anti-corruption measures more effective were taken note of. However, GRECO emphasised that the fight against corruption needs to be made more effective and the first round recommendations still needs to be implemented.

Firstly, it is essential to map the actual practices of corruption through research before systematising the coordination of the fight against corruption. A comprehensive research project is necessary to avoid a situation where different ministries analyse a specific corruption risky area while another equally risky area remains without attention. Such research has never been done in Estonia, therefore we do not have an overview of the actual situation regarding corruption.

Secondly the project targets the problem of low administrative capacity and ineffective co-ordination between authorities in charge of dealing with corruption. It seeks to establish a proactive approach in the areas of detecting and prosecuting corruption, and establish effective administrative and co-operation mechanisms between the authorities that deal with corruption cases (instead of just the Security Police). As an example, in order to reduce corruption in all risk areas, the chances of officials to make decisions that have an economic impact on an ad hoc basis without having to justify the criteria for such decisions need to be eliminated. In practice this means the obligation for managers to define potential corruption risks in the work processes of their organisations and organise activities with a risk element accordingly (procedures should be regulated, documented, controllable and as open as possible). The project aims to develop appropriate strategies and methods of dealing with corruption on the basis of the research and analysis, which will also form the basis for the training part of the project. The strategies and methods will focus on issues such as how to detect corruption early, how to identify corruption, how to avoid corruption risk situations, and reporting procedures, etc.

Thirdly, training is foreseen for representatives of the authorities that deal with the problem of corruption in order to introduce them to the effective anti-corruption measures that are based on the actual Estonian circumstances and build their practical skills in dealing with corruption cases. Also as corruption is not just an economic but also an ethical problem, which is often not acknowledged as such or simply tolerated, the project aims to raise the awareness and understanding of the problem of corruption through training.

The Action Plan of the Ministry of Justice, has been developed for the implementation of the Coalition Agreement from 2003-2007, lists the 'long-term strategy and effective activity to fight corruption and organised crime' as one of the main principles of judicial policy. In addition the National Anti-Corruption strategy "Honest State" was approved by the Estonian Government on the 19<sup>th</sup> of February, 2004. This aims at preventing corruption and strengthening the investigation of criminal offences concerning corruption. Altogether there are 21 measures, among which are those that will be implemented through current Phare project. These are: better implementation of the Code of Ethics and if necessary, the creation of special code of ethics for certain groups of officials (measures no 10&11); the annual corruption research in Estonia (measure no 12); and specialisation of officials (prosecutors, policemen etc) whom additional training will be provided (measure no 14).

### **3.1 Acquis Communautaire**

The achievement of all results is highly dependent on the political decision making process in Estonia. Institutional development on legislative as well as organisational level relies on the Ministry of Justice

and other administrative bodies and the decisions of the parliament to realize the foreseen results, especially to further implement the action plan concerning the fight against corruption, which is combined with the National plan for the adoption of the acquis (NPAA).

Based upon these objectives the work of the project will support the implementation of the following EU legislation and other relevant international instruments:

- Council Act of 26 July 1995 drawing up the convention on the establishment of a European Police Office (Europol Convention) (Official Journal C 316, 27.11.1995) and all subsequent instruments relating to Europol;
- Council Act of 3 November 1998 laying down rules governing Europol's external relations with third States and non-European Union related bodies;
- Council Act of 3 November 1998 laying down rules concerning the receipt of information by Europol from third parties;
- Council Act of 3 November 1998 adopting rules on the confidentiality of Europol information;
- Council Act of 3 November 1998 adopting rules applicable to Europol analysis files;
- Council Act of 12 March 1999 adopting the rules governing the transmission of personal data by Europol to third States and third bodies;
- 97/372/JHA: Joint Action of 9 June 1997 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, for the refining of targeting criteria, selection methods, et., and collection of customs and police information;
- EU-Action Plan on drugs 2000-2004;
- Recommendation of 6 May 1994 for a training module on the operational analysis of criminality;
- Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime;
- Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money laundering and subsequent instruments;
- Council Decision of 28 May 2001 setting up a European Crime Prevention Network;
- Joint Action 98/699/JHA, of 3 December 1998, adopted by the Council on the basis of Article K.3 of the Treaty on European Union, on the identification, tracing, freezing, seizing and confiscation of the instrumentalities and proceeds from crime;
- Council Framework Decision 2001/500/JHA of 26 June 2001, on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and proceeds of crime;
- Council Decision 2001/887/JHA, of 6 December 2001, on the protection of the Euro against counterfeiting;
- Joint Action 96/747/JHA, of 29 November 1996 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, concerning the creation and maintenance of a directory of specialised competencies, skills and expertise in the fight against international organised crime, in order to facilitate law enforcement co-operation between the Member States of the European Union;
- Council Decision of 17 October 2000 concerning arrangements for co-operation between financial intelligence units of the Member States in respect of exchanging information;
- Council Framework Decision 2001/413/JHA of 28 May 2001, combating fraud and counterfeiting of non-cash means of payment;
- Council Act of 28 November 2002 drawing up a Protocol amending the Convention on the establishment of a European Police Office (Europol Convention) and the Protocol on the privileges and immunities of Europol, the members of its organs, the deputy directors and the employees of Europol : JO C 312 of 16.12.2002.
- Council Act of 19 December 2002 amending the Staff Regulations applicable to Europol employees, OJ C 24 of 31.01.2003, p.1 ;
- Council Decision 2003/170/JHA of 27 February 2003 on the common use of liaison officers posted abroad by the law enforcement agencies of the Member States, OJ L 67 of 12.03.2003, p.27.
- Council Decision of 28 November 2002 setting up a European Network for the Protection of Public Figures, OJ L 333 of 10.12.2002. Convention of 26 July 1995 on the protection of the European Communities' financial interests: JO C 316 of 27 November 1995 (also relevant for judicial cooperation in penal matters) ;
- Explanatory report on the convention on the protection of the European Communities' financial interests, OJ C 191 of 23 June 1997;
- Protocol of 27 September 1996 to the Convention on the protection of Communities' financial interests, JO C 313 of 23 October 1996 (also relevant for judicial cooperation in penal matters);

- Explanatory report on the protocol to the Convention on the protection of the European Communities' financial interests, OJ C 11 of 15 January 1998;
- Second Protocol to the Convention on the protection of the European Communities' Financial Interests: OJ C 221 of 19 July 1997;
- Explanatory report on the Second Protocol to the Convention on the protection of the European Communities' financial interests, OJ C 91 of 31 March 1999; (4)
- Protocol on the interpretation, by way of preliminary rulings by the court of the European Communities of the convention on the protection of the European Communities' financial interests OJ C 151 of 20 May 1997;
- Convention of 26 May 1997 on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union: JO C 195 of 25 June 1997 (also relevant for judicial cooperation in penal matters);
- Explanatory report on the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union: OJ C 391 of 15 December 1998;
- Council Decision 2003/6642/JHA of 22 July 2003 concerning the application to Gibraltar of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union: OJ L 226 of 10 September 2003, p.27;
- Joint Action on Corruption in the Private Sector, OJ L 358 of 31 December 1998
- Council Framework Decision of 28 May 2001 combating fraud and counterfeiting of non cash means of payment, OJ L 149 of 02.06.2001, p.1;
- Council Framework Decision 2003/568/JHA of 22 July 2003 combating corruption in the private sector, OJ L 192 of 31 July 2003, p.54;
- OECD-Convention on Combating Bribery of foreign public officials in International Business Transactions, of 17 December 1997 (also relevant for judicial cooperation in penal matters);
- Council of Europe Criminal Law convention on Corruption, opened to signature on 27 January 1999 (also relevant for judicial cooperation in penal matters);
- Council of Europe Criminal Law convention on Corruption opened to signature on 4 November 1999.

#### **Other European Union instruments:**

- Joint Declaration of Berlin of September 1994 on combating organised crime;
- Action programme of the member States of the European Union and the associated countries of Central and Eastern Europe including the Baltic States, on judicial co-operation against international organised crime (25-26 September 1995);
- Declaration on organised crime (19-20 March 1995);
- Measures to step up the fight against organised crime (12 December 1995);
- Action plan to combat organised crime (adopted by the Council on 28 April 1997);
- Project-based action against trans-national organised crime - practical guidance (adopted by the Council on 4 December 1997);
- Conclusion of 19 March 1998 on G8 principles on high-tech crime, recommendations on organised crime and related matters;
- Pre-accession pact on organised crime between the Member States of the European Union and the applicant States of Central and Eastern Europe and Cyprus;
- The prevention and control of organised crime: a strategy for the beginning of the new millennium;
- European Convention of 8 November 1990 on money laundering, search, seizure, and confiscation of the proceeds of crime (Council of Europe);
- UN Convention against Trans-national Organised Crime, Palermo December 2000;
- Protocol against the smuggling of migrants by land, sea and air, supplementing the United Nations Convention against Trans-national Organised Crime;
- Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Trans-national Organized Crime;
- Council of Europe Convention on Cyber crime, 8 November 2001

## **National legal acts relevant for the project**

- The Anti-Corruption Act; 28 February 1999
- The Public Service Act, 1 January 1996
- The Public Procurement Act, 1 April 2001
- The Penal Code, 1 September 2002
- The Surveillance Act, 18 March 1994
- The Money Laundering Prevention Act, 1 July 1999
- The Criminal Procedure Code, 1 July 2004
- The Public Information Act, 1 January 2001

## **Political Development**

During the reporting period there occurred no political developments, which might have concrete implications on the project

## **4. Summary of the twinning activities during the reporting period**

### **Component 1 -Producing the Corruption Map on the basis of the specific research**

The survey (the result of which was a report "Corruption Map") was carried out in December 2004 in three parts: interviews with the general population of Estonia (1002 respondents, one-on-one interviews), entrepreneurs (503 respondents, telephone interviews) and employees of the public sector (901 respondents, internet interviews). A separate questionnaire was prepared for each target group, with some of the questions overlapping for the sake of reference. The study was completed by March, 2005.

The objective of the survey "Corruption in Estonia: a survey of three target groups" was to find answers to the following questions:

- 1) how is corruption defined and to what extent it is condemned;
- 2) how far spread is corruption in the opinion of the respondents;
- 3) how frequent is exposure to corruption and what are the situations of potential exposure;
- 4) what is the readiness to report cases of corruption;
- 5) what is the potential material and moral damage caused by corruption?

The Estonian version of the research report and the English translation of the summary can be found on the web-site [www.korruptsioon.ee](http://www.korruptsioon.ee).

### **Component 2 – Strategic Analysis**

#### **Analysis of administrative capacity and co-operation between relevant authorities in the field of the fight against corruption (Activity 6.2.3.1)**

The interviews planned for the analysis were accomplished within the period of the 7<sup>th</sup> of October until the 7<sup>th</sup> of December. Firstly the directors of the authorities involved were interviewed. The respondents from the middle management were designated by the leaders, with whom afterwards in-depth-interviews were completed.

a). The in-depth interviews with the **top-managers** were led in Estonian. It took approximately 1-1,5 hours per an interview. The interviews were recorded, and transcribed.

Interviewers: Mrs. Liiv, AC project manager (Ministry of Justice)  
Mrs. Vihalemm, University of Tartu  
Mrs. Tomingas, PAA Assistant

The interviews were conducted with:

- Aivar Rehe Tax and Customs Board
- Aivar Otsalt Lõuna Police Prefecture
- Kalle Laanet Lääne Police Prefecture
- Kalev Prillop Ida Police Prefecture
- Jüri Pihl State Prosecutor's Office
- Ülo Sarv Public Procurement Office
- Lauri Tabur Central Criminal Police
- Robert Antropov Police Board
- Harry Hein Border Guard Administration

b). As far as the interviews with **the middle-managers and experts** were concerned, in order to avoid misunderstandings, the interview manuals were sent to the agencies in advance. The implementation of the written questionnaires was not possible within the schedule of the project and it would have endangered the completion of the results of the component. Therefore the questions from the questionnaires were transferred to the interview manuals for the middle management and asked orally. The interviews were led in the Estonian language, while project assistant provided simultaneous translation. Furthermore, the interviews were recorded. The duration of the individual interviews amounted to 1-2 hours. For each interview discussion minutes in Estonian and German language were manufactured.

Interviewer: Mr. Golz, PAA  
Mr. Prof. Richter, STE 1  
Mrs. Tomingas, PAA Assistant

The interviews were conducted with:

- State Prosecutor's Office Mr. Norman Aas, Chief State Prosecutor
- Põhja Prosecutor's Offices Mrs. Heli Sepp, State Prosecutor
- Lõuna Prosecutor's Offices Mr. Martin Hirvoja, Chief Prosecutor
- Lääne Prosecutor's Offices Mrs. Krista Aas, Chief Prosecutor
- Viru Prosecutor's Offices Mrs. Helga Aadamsoo, District Prosecutor
- Estonian Police Board Mrs. Lavly Lepp, Chief Prosecutor
- Põhja Prefecture Mr. Rait Kivimets (internal control)
- Lõuna Police Prefecture Mr. Meelis Taniel (internal control)
- Lääne Police Prefecture Mr. Madis Reimand (internal control)
- Ida Police Prefecture Mr. Priit Suve, Paide Police Department
- Central Criminal Police Mr. Jevgeni Fedorenko (investigation department)
- Security Police Board Mr. Jüri Nurme (internal control)
- Tax and Customs Board Mr. Heiki Lugma (investigation department)
- Public Procurement Office Mr. Martin Perling (analyze department)
- Border Guard Administration Mr. Veljo Narrits (internal control)
- Tallinn City Court Mrs. Angelika Timusk, Legal adviser
- State Audit Office Mrs. Carmen Kuus (supervision department)
- Association of Estonian Cities Mr. Urmas Tensing (internal audit)
- Association of Municipalities of Estonia Mrs. Helga Särgava, Chairperson of Court
- Mr. Timo Tupp, Head of Legal Service
- Mr. Jüri Võigemast, Deputy Director
- Mr. Tiit Kirss, Adviser
- Mr. Uno Silberg, Office manager

The qualitative data analysis of the interviews was completed by the end of January 2005. A report was written on the basis of the data analysis by Mr. Prof. Richter (STE) and Mr. Golz (PAA) in German and translated in Estonian.

The activity 6.2.3.1 is completed.

### **Creation of the co-ordination system between the Courts, Prosecutor's Office, the Police, the Security Police, Tax and Customs Board, Border Guard Administration and Local Government Authorities to detect corruption offences (Activity 6.2.3.2)**

On the basis of the strategic analysis a report with recommendations for a co-ordination system was written.

The activity 6.2.3.2 is completed.

### **Elaboration of early detection strategies for police, prosecutors, judges, customs officials, border guards, public procurement office and local government (Activity 6.2.3.3)**

A report with recommendations for early detection strategies was written.

The activity 6.2.3.3 is completed.

## **Component 3 – Implementation of measures**

### **Study Visit (Activity 6.3.3.1)**

The study visit to Berlin took place in the period of 13.02. – 18.02.05 and was accomplished.

Participants of the study visit were:

Margus Kurm, PL AC, Ministry of Justice  
Mari-Liis Liiv, PM AC, Ministry of Justice  
Cerly Vaerand, Ministry of Internal Affairs  
Laura Feldmanis, Põhja Prosecutor Office  
Siret Rätsepp, Põhja Police Prefecture  
Eero Ergma, Central Criminal Police  
Brit Tomingas, PAA Assistant  
Klaus-Peter Golz, PAA

The participants got an overview of the organization of the corruption fight and prevention in Germany related to different institutions (Criminal Investigation Department Berlin, General State Prosecutor Office, State Prosecutor Office, State Audit Office Berlin, Federal Ministry of Justice, Federal Ministry of Interior and Senate Administration of Interior Berlin).

### **Training Seminars (Activity 6.3.3.2)**

As a result of the conducted interviews, it was determined, that some of the officials have not enough experience in the fight against corruption and that the relevant institutions have only minor range of experience concerning the finding out and taxing away the profits of criminal activities.

Further the interviewees indicated that there is a wish for lectures in which the corruption investigators would present a range of concrete cases and on that bases also the methods of evidence collection and evidence evaluation.

As a result, the project-group implemented further training seminars into the project.

The training sessions have been carried out as follows:

1. „Official misconduct“ and „Detection and Investigation“ and „Criminal Law Framework“ (Activity 6.3.3.2.1-6.3.3.2.3), 04.04.05 – 08.04.05 and 18.04.05 – 22.04.05

2. „Fighting Corruption“  
(Activity 6.3.3.2.5), 11.04.05 – 15.04.05 and 25.04.05 – 29.04.05
3. „Seizure of the corruption proceeds“  
(Activity 6.3.3.2.4), 03.05.05 – 04.05.05

In the training seminars participated altogether:

- 11 Prosecutors
- 3 Judges
- 30 Police officials
- 5 Administrative workers of municipalities
- 5 Border guard
- 5 Tax office

Lectures:

Mr. Hawkes (STE), Federal Ministry of Justice  
Mr. Marx (STE), German Railway AG  
Mr. Schmidt (STE), Criminal Investigation Department Berlin  
Mr. Dessin (STE), Criminal Investigation Department Berlin  
Mr. Maas (STE), Criminal Investigation Department Berlin  
Mr. Norman Aas, Chief State Prosecutor Estonia  
Mrs. Kristel Nyiri- Siitam, Prosecutor Estonia  
Mrs. Laura Feldmanis, Prosecutor Estonia

## **5. Evaluation of the Twinning project**

The project can be considered a success, and an attempt to introduce research-based policy making into Estonian public administration. The project was conducted in a completely constructive atmosphere between two twinning partners. Finally, the consideration of the results and especially the recommendations for action offer the opportunity to considerably improve the fight against corruption in long term.

## **6. Conclusion and Recommendations**

All planned measures for the project have been accomplished within the time framework and the available budget lines. All expected results were finished.

The outcome of the project depends on the decisions taken by politicians, being the main lever of successful implementation of the recommendations derived from the two studies. Comparably the use of the knowledge and skills of the prosecutors, policemen etc acquired during the training seminars depends on the priorities of the institutions set by politicians.

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Margus Kurm  
Project Leader (Estonia)

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Jörg Dessin  
Project Leader (Germany)