

Corruption Offences

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In 2008, 326 offences related to office were registered that is 17% more when compared to 2007 (48 offences), but when compared to 2006 still 36% less. Offences related to office accounted for 0,6% of all criminal offences.

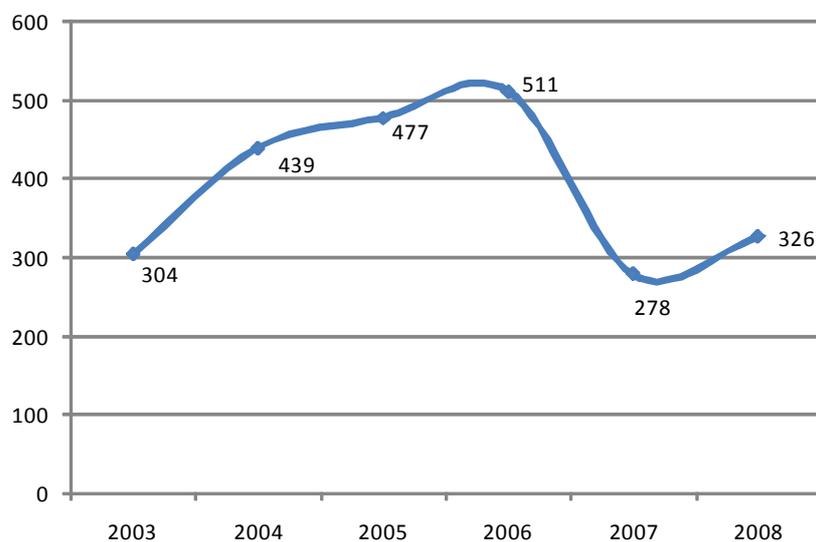


Figure 1. Registered offences related to office in 2003–2008¹

The number of offences related to office has increased first of all due to amendments made to the Penal Code² in 2007 and due to more frequent registration of so-called classical corruption offences: compared to the previous year, there have been more incidents of taking a gratuity or a bribe (respectively §§ 297 and 298) and giving a gratuity or a bribe (§§ 293 and 294), however, the number of offences related to arranging a bribe (§ 296) has also significantly grown. In 2007, 109 incidents of giving, taking and arranging a gratuity or a bribe were registered, in 2008, however, already 224 incidents. As is known, giving, taking and arranging a gratuity are lesser offences than giving, taking and arranging a bribe – the first is given for an act permitted by law, the second for an act not permitted by law.

In 2008, the taking a gratuity or a bribe was registered more frequently than giving a gratuity or a bribe – respectively 109 and 79 incidents. Giving and taking a gratuity or a bribe are mirror offences, which means that there always has to be both a giver and a taker – although it would be logical that there is an equal number of both giving and taking incidents – still, it cannot be assumed. For example, if taking a gratuity or a bribe is ascertained in course of surveillance, there need not be any actual person giving a gratuity and thus there need not be an equal number of giving and taking incidents.

In addition to classical offences related to office, other single criminal offences can be considered as corruption offences as well (e.g. offences related to elections) of which in 2008 only 1 incident was registered - in connection with violation of restrictions established on

¹ Criminal offences specified in § 201 (2) 3; § 209 (2) 1¹; §§ 289–300² of the Penal Code are included in offences related to office. In addition, also § 217² of the Penal Code – abuse of trust by an official – should be included in offences related to office, however, these criminal offences are not reflected on Figure 1 and are also dealt with separately in the text.

² See more specifically “Crime in Estonia 2007“, pp.63–64.

economic activities and assets of political party (§ 402¹). In the given case the Party of Estonian Christian Democrats was accused of borrowing money for the election campaign of the party. Harju County Court acquitted the party, however, Prosecutor Triin Bergmann has filed an appeal against the court judgement (23 February 2009).

Criminal offence of abuse of trust (§ 217²) entered into force only in 2007 and these offences have not been taken into consideration in calculating the total number of offences related to office, as the majority of these are not related to the professional abuse of trust of people working in the public sector. In 2008, 13 offences of abuse of trust were registered (17 in 2007) from which only a couple were related to officials working in the private sector; in case of the rest, the offences were mainly related causing insolvency, material damage etc. to the companies.

In 2007, the violation of procedural restrictions on a large-scale basis established by the Anti-corruption Act was also criminalized (§ 300¹). Both in 2007 and 2008, 4 such criminal offences were registered. Violation of procedural restrictions occurs when an official makes a decision that significantly influences the economic interests of the official, grants an activity license to his/her company, signs a contract with his/her company, etc.

Spread of corruption according to surveys

In 2008, the Ministry of Justice did not carry out a regular corruption survey, however, the European Commission carried out two comparative surveys of the European Union member states; the first dealt with frauds and the perception of frauds among the citizens of the member states (European Commission, 2008) and the second with the Europeans' attitudes towards corruption (European Commission, 2008b).

As the European Union fraud survey indicated, 4% of the respondents have been requested a bribe within the last 12 months – with this Estonia did not differ from the European Union average (4%). Bribes were most frequently requested from the Romanians (23%) and the Lithuanians (16%) and the least from the Dutch, the English, the Swedes and the Danes (around 1%). Bribe was most frequently requested from men, 25-39-years old people and people with higher education. The earlier results of the Ministry of Justice corruption survey also confirm the same – a bribe has been most frequently requested from men and younger people, people with higher and secondary education have come into contact with corruption most frequently (Liiv & Aas, 2007). When the European Union Fraud Survey asked to assess the spread of corruption and fraud in the European Union and international organisations, the Estonians stood out with a large proportion of answers “cannot tell” which may refer to low awareness of Estonians and lack of interest with regard to the topic in question.

Another European Union corruption survey indicated that 5% of Estonians had been requested a bribe (European Union average was 8%). According to this survey as well, bribes were most frequently requested from the Romanians (29%), the Slovaks (29%) and the Lithuanians (27%); bribes were requested the least from the English and the Swedes (1% from both), and the Finns and the Danes (2%). Estonians believed in the efficiency of legal protection to prevent corruption more than the Europeans on the average: 42% of Estonians found that there is a sufficient number of successful corruption proceedings in Estonia that help to prevent bribery offences: the European Union average was 32%. The Finns (49%) and the Austrians (48%) believed in the preventive effect of legal protection the most, the Slovenians the least (17%). According to the survey, 78% of Estonians considered the corruption as a big problem (67% according to the corruption survey of the Ministry of Justice), corruption was considered to be more widespread in the construction sector (47% of

Estonians; the European Union average was 42%), among politicians (respectively 43% and 46%) and in the Police (38% and 31%).

Corruption in law enforcement agencies

As for law enforcement agencies, the highest number of offences related to office is registered in the Police and the custodial institutions. Offences related to the Police accounted for 16% of the offences related to office, the majority of which (65%) were the incidents of abuse of authority (Penal Code, § 291) that are often terminated due to the manifestation of some circumstances precluding criminal procedure (e.g. grounds for a criminal proceeding were lacking, as it seemed to the person driven by initial emotions that the police behaved violently towards him/her, however, often this did not occur). Taking of a bribe by police officers was registered in 9 cases, from which 5 in the Northern district and 4 in the Eastern. Also 5 such incidents were registered where the drivers who had exceeded the speed limit or otherwise violated the traffic rules had tried to offer bribes to police officers, however, this did not always end with the receipt of bribe by police officers.

A typical white-collar offence in a custodial institution is the delivery of prohibited items to prisoners. These criminal offences are legally classified as unlawful delivery of substance or object in custodial institution (§ 325). At the same time, the person delivering the prohibited substance is not always a prison officer; the delivering person can also be a prisoner's visitor or somebody else. Therefore, the criminal offences registered on the basis of § 325 cannot be automatically considered as offences related to office; this can only be done when an official of the custodial institution has committed the act (§ 325, subsection 2, clause 2). In 2008, 3 criminal offences were registered pursuant to that provision. If an official of the custodial institution gives a prohibited item to prisoner and also receives a gratuity for it, this is also legally classified as an offence related to office (for example, as taking a gratuity or a bribe).

8% of offences related to office were committed in custodial institutions, the majority of these in prison and a few also in a house of detention. These criminal offences are divided in two groups: either abuse of authority (§ 291), or offences of a bribe or a gratuity. For example, a prison guard is paid a sum of money (ca 300–1000 kroons), mostly for bringing a prisoner a mobile phone or narcotic drugs. The survey carried out by the Ministry of Justice in 2006 indicated that contrary to common opinion the guards do not deliver the prohibited items to prison because of low salaries, instead the low status of guards, unequal treatment and isolation from the rest of the organization contribute to the misbehaviour, as well as the activity culture and unethical behaviour of the Murru Prison administration of that time (Liiv, Hanni, & Annist, 2006). As a response to several violations and in order to develop the professional ethics of prison officers, the Minister of Justice approved the prison officer's code of ethics in November 2008, pursuant to article 2.1 of which a prison officer shall communicate with prisoners and probationers only within the framework of performing professional tasks (Minister of Justice Directive No. 176 of 13 November 2008).

Regional division and corruption in local governments

Of offences related to office 42% (135) were registered in the Harju County, 25% (82) in the Tartu County, 13% (42) in the Ida-Viru County and 9% (29) in the Pärnu County. While the proportion of corruption offences registered in other counties has remained more or less the same or has slightly decreased, the proportion of criminal offences registered in the Tartu County has significantly increased compared to the previous period – 6% in 2007. This can be explained by a fact that bribery offences are more frequently registered in the Tartu County: when in 2007, the total of bribery offences registered in the Tartu County amounted to 4 (incl.

the taking, giving and arranging); in 2008, the corresponding number was 63. The majority of these criminal offences are related to giving, taking and arranging a bribe upon motor vehicle roadworthiness testing in one testing centre in Tartu where a couple of inspectors repeatedly took bribes from different vehicle owners so that the vehicles which were not in good technical condition could pass the testing. The 2007 corruption survey also indicated that 22% of people living in South Estonia and 7% of people living in the Tartu and Jõgeva counties were asked bribes upon roadworthiness testing, registration of vehicles or applying for driver's licences (the corresponding indicator in all Estonia was 19%) (Liiv & Aas, 2007). It is very likely that the contact of different people with the same officials asking for gratuities will increase the contact percentage. One objective of the Government of the Republic Anti-Corruption Strategy 2008–2012 is to prevent corruption in the grant of the right to drive, in roadworthiness testing and registration of vehicles, whereas one of the measures is increasing supervision over roadworthiness testing by bigger cooperation with the police, the use of video cameras, etc. Evidently, as a result of these efforts the aforementioned incidents have been better detected. In 2008, a total of 101 incidents related to driver's licences or vehicle roadworthiness testing were registered from which only 11 were related to the Estonian Motor Vehicle Registration Centre (ARK). The remaining criminal offences were related to motor vehicle roadworthiness testing in which the same people often participated. In case of 4 ARK incidents people offered the ARK examiner or some other official a bribe, and only in case of one incident the bribe was also received which refers to the opinion that is still widespread among people about easy possibilities of buying driver's licences.

How to explain the number of corruption offences in Tallinn and Pärnu?

Offences related to office were most frequently registered in Tallinn (37) and in Pärnu (25), less frequently elsewhere. Often, criminal offences that have actually been repeatedly committed by the same persons are behind these numbers; for example, an incident when one city government official was repeatedly taking bribes from a member of management board of one company. Fewer offences related to office were registered in other local governments of Estonia, e.g. 6 in Narva, 3 in Jõhvi, 3 at Sillamäe, etc.

Criminal Offenders

119 suspects of offences related to office were ascertained that is 19 persons less when compared to the previous year; at the same time, the number of criminal offences has grown. This situation can be explained by the fact that the same persons committed repeated offences related to office in 2008 (e.g. they repeatedly took bribes).

- 84% from the suspects were men; last year, the proportion of men was smaller (72%);
- 48% were 40–55-years old; compared to the previous year their proportion has increased (42%);
- 93% were citizens of Estonia that is also more when compared to the previous year (88%).

In 2008, 102 persons accused of offences related to office were taken to court, 72 judgements of conviction were made. 31 persons were convicted of taking a bribe (court judgements that have entered into force). Criminal offences of 14 persons were terminated due to lack of public interest in proceedings, as it was found that there is no public interest in proceedings in case of these criminal offences; community service was imposed on 5 of these persons. The remaining persons were imposed a fine with a maximum amount 22 000 kroons for the offence of giving a bribe.

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