ANTI-CORRUPTION STRATEGY
2008-2012

TALLINN 2008

Translation: OÜ Luisa Tõlkebüroo

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INTRODUCTION

Objective of the Strategy

The objective of the Strategy to be approved by the Government of the Republic is to reduce and prevent corruption[1] in the public and private sectors and increase society's awareness of corruption and ethics. Corruption in the public sector jeopardises the security of the state and leads to unequal treatment of people; corruption in the private sector restricts fair competition and thus holds back economic development (e.g. diminishing investments).

Specific objectives envisaged by the Anti-Corruption Strategy are:

1. prevention of corruption in the private sector and the non-profit sector
2. prevention of conflicts of interest, and reinforcing the anti-corruption attitude and ethical behaviour of public sector personnel
3. prevention of corruption in local governments
4. prevention of corruption in the health care sector
5. prevention of corruption in foundations established by the state and local governments
6. prevention of corruption in the grant of the right to drive and in roadworthiness testing and registration of vehicles
7. prevention of corruption in the financing of political parties
8. improvement of the efficiency of investigating corruption offences

The measures and activities to be taken and carried out under the Strategy have been planned for the years 2008-2012.

Assessment of the success of the Strategy

The following will serve as the basis for assessing the success of the Strategy:

1. Corruption surveys carried out in Estonia:
   - people's attitude towards corruption has become stricter (corrupt practices are seen as corruption; unethical conduct is being condemned on a growing basis),
   - the number of people who have experienced corruption has decreased, especially in the spheres that are targeted by this Strategy (e.g. the grant of driving licences, registration and roadworthiness tests of vehicles, the health care sector, etc.).
   - the relative share of people who have experienced corruption and who notify law enforcement agencies of the acts of corruption has increased,
   - susceptibility to corruption has decreased (see chapter 5 of the corruption survey).

All of these indicators derive from the corruption surveys conducted by the Ministry of Justice. A corruption survey will also be conducted within the scope of this Strategy in 2010 (see the Implementation Plan of the Strategy). The Strategy could be deemed a success if at least one-half of the indicators per target group (the public sector, entrepreneurs, public at large) have improved since the survey carried out in 2006.

2. International evaluations and indicators assigned to Estonia:
   - the level of compliance with the recommendations given in the evaluation rounds of GRECO and the OECD (the third evaluation round in the case of GRECO),
   - the value of the Corruption Perceptions Index as published by the Transparency International has increased from 2007 (6.5 in 2007).

3. Analysis of crime statistics collected from the state register of criminal matters, the judiciary information system and other databases.

The analysis of statistical data will not be limited to observing the increase or decrease of registered criminal offences, as such an increase can refer to both a growth of the number of corruption offences committed and to the fact that law enforcement agencies focus more on acts of corruption. The analysis of statistical data must be consistent and capable of providing an assessment of the essence of the growth of offences related to office region-by-region, etc. The statistical data must be published along with an analysis of reasons in the series of criminal policy surveys and on the website at www.korruptsioon.ee at least annually.

[1] For the purpose of defining 'corruption,' the working group took as the basis the sociological definition of the term (corruption as the abuse one's official position in personal interests). Therefore, the discussion of corruption is broader than mandated by its purely legal definition.

Points of departure in the development of the Strategy

The Strategy has been drawn up in accordance with Order No. 388 of the Government of Republic of 13 December 2005 titled "Types of Strategic Development Plans and Procedure for Drawing up, Modification, Implementation, Evaluation and Reporting Thereof."

The development of the Strategy was occasioned by the exhaustion of measures implemented under the anti-corruption strategy "Honest State 2004-2007" at the end of 2007, and the chapter titled "Internal security" in the programme of the government coalition for years 2007-2011. Clause 14 of the chapter prescribes a revision of the anti-corruption strategy in 2007.

Connections with the development plans of other spheres and international documents

1. *Guidelines for Development of Criminal Policy until 2010*

The Guidelines for Development of Criminal Policy establish uniform criminal policy principles and long-term goals, i.e. a broader framework for shaping the criminal policy.

2. *Programme of the government coalition for years 2007-2011*

According to clauses 13-15 of the chapter titled "Internal security," the Government shall:

"13) take steps to prevent and fight corruption, incl.
- adopt a new Anti-Corruption Act;
- render the declaration of economic interests substantive while making it possible to declare economic interests electronically;
- confer on the heads of state agencies and local governments the right to require their employees to submit the declaration of economic interests, with refusal to submit the declaration being interpreted as a basis for termination of the employment or service relationship;

14) update the Government's anti-corruption strategy in 2007, providing for additional measures to prevent corruption, and focusing more on combating corruption in the private sector, local governments and in the application of funds received from the European Union; pay special attention to ensuring law and order in Ida-Viru County;

15) reinstate the obligation of the Security Police Board to investigate corrupt practices in larger cities and rural municipalities."

3. *Order No. 53 of the Government of the Republic of 1 February 2007 titled "Internal Security Development Plan 2009-2013"*

The aim of preparation of the Internal Security Development Plan is to engage, in a systematic fashion, the state agencies, non-profit organisations and private sector partners that are responsible for ensuring the security of people and their property, the state security and the capacity to respond to environmental disasters in the long-term planning and implementation of internal security.

4. *Council of Europe Criminal Law Convention on Corruption*

The Convention discusses the main forms of corrupt practices and the criminalisation of such practices. The Convention was prepared by the GRECO Group of States Against Corruption of the Council of Europe in 1999 and it entered into force in 2002. GRECO monitors compliance with the Convention through mutual expert assessments.

5. *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*

The purpose of the Convention is to combat bribery of foreign officials in the entry into international business transactions (so-called active corruption) and to promote fair competition and development of the international economy. The Convention was developed and its implementation is monitored by the OECD's anti-bribery working group. The activities of the working group also contribute to Estonia's accession to the OECD.

6. *Convention on the Fight against Corruption Involving Officials of the European Communities or Officials of Member States of the European Union*

The purpose of the Convention is to strengthen legal cooperation in combating corruption. The Convention was concluded on 26 May 1997 in Brussels and it entered into force on 28 September 2005.

7. *Council of Europe Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector*

The purpose of the Framework Decision is to ensure that both active and passive corruption in the private sector is criminalised in all Member States and that legal persons may also be held responsible for such criminal offences, and that the offences incur effective penalties.

8. *Council of Europe Convention on the Civil Law Aspects of Corruption*

The Convention is an attempt to stipulate the issues of civil law and to ensure that victims receive compensation through civil proceedings. The Convention is divided into three: national measures, international cooperation and supervision and final provisions. Also this Convention was prepared and its implementation is supervised by GRECO.

9. *United Nations Convention against Corruption*

The Convention attends to all the main aspects of fighting corruption: prevention of corruption in the public and private sectors; criminalisation of corrupt practices; development, promotion and support of international anti-corruption cooperation and technical assistance; organisation of transparent public administration and proper management of state assets; recovery of assets acquired through corruption and compensation for damage caused. Estonia has not yet ratified the UN Convention; activities aimed at the ratification are provided for in the work plan of the Ministry of Justice for 2008.

Cost of the Strategy

Costs to be incurred in the implementation of the Strategy have been provided for in the budgets of all the relevant ministries. In addition, the structural funds of the European Union will be used to cover the costs. The cost of the Strategy amounts to 10,855,000 kroons, not including the operating costs of administrative agencies (such as staff costs, etc.). Operating costs have already been taken into account in the budgets of ministries (e.g. the salaries of advisers) and no additional funds will be requested from the state budget for covering these costs. The costs of Activity 9.3 (statutory establishment of the system of internal audits of local governments) will still have to be added to the amount specified above, and will be assessed in the course of that Activity.

Table 1. Estimated cost of implementation of the Strategy in 2008-2012

Estimated cost	**2008**	**2009**	**2010**	**2011**	**2012**	**TOTAL**
Objective I	0	850,000	75,000	0	0	**925,000**
Objective II	0	630,000	600,000	0	0	**1,230,000**
Objective III	0	40,000	0	0	0	**40,000**
Objective IV	0	300,000	200,000	1,400,000	2,000,000	**3,900,000**
Objective V	0	0	0	0	0	**0**
Objective VI	480,000	80,000	0	0	4,000,000	**4,560,000**
Objective VII	0	0	0	0	0	**0**
Objective VIII	0	200,000	0	0	0	**200,000**
TOTAL	**480,000**	**2,100,000**	**875,000**	**1,400,000**	**6,000,000**	**10,855,000**

Implementation, monitoring, modification and termination of the Strategy

The Ministry of Justice coordinates the implementation of the Strategy. Besides the Ministry of Justice the Ministry of the Interior, the Ministry of Finance, the Ministry of Social Affairs, the Ministry of Economic Affairs and Communications along with the agencies in their respective areas of government, the State Chancellery, the Estonian Chamber for Commerce and Industry and civil society organisations will also participate in the implementation of the Strategy (so far the association Transparency International – Estonia has expressed its interest in being involved).

In order to get, at all times, an overview of the activities planned in the Strategy the status of implementation of the Strategy will be evaluated annually. To that end, each of the relevant ministries (the Ministry of the Interior, the Ministry of Finance, the Ministry of Social Affairs and the Ministry of Economic Affairs and Communications) and the State Chancellery are required to compile an overview of implementation of measures and activities in their respective areas of government and submit the overview to the Ministry of Justice not later than by 15 January of the next year. The Ministry of Justice will draw up an overview of implementation of measures and activities in its area of government. The overviews submitted will serve as a basis for a report drawn up under the coordination of the Ministry of Justice regarding the implementation of the Strategy. The report will be submitted to the Government of the Republic for approval not later than in March each year.

The Strategy will be revised and updated, if necessary, at least once a year before the planning of the next year's budget. Proposals for adjustment of the Strategy will be submitted to the Government along with the annual report on the implementation of the Strategy.

To draw up the final report on the implementation of the Strategy, each ministry and the State Chancellery will submit to the Ministry of Justice no later than by 1 February 2013 an overview of implementation of measures and activities in their respective areas of government during the entire term of the Strategy. The Ministry of Justice will prepare a summary report which it will coordinate with the ministries and the State Chancellery and submit, no later than on 31 May 2013, to the Government of the Republic for approval.

Preparation of the Strategy

For the purpose of elaboration of the analysis and solutions contained in the Strategy, the Minister of Justice formed a working group with his Decree No. 163 of 24 August 2007. The working group included the following persons:

Martin Hirvoja	Ministry of Justice
Mari-Liis Sööt (Liiv)	Ministry of Justice
Mait Laaring	Ministry of Justice
Madis Timpson	Ministry of Justice
Brit Tammiste	Ministry of Justice
Jüri Raatma	Ministry of Economic Affairs and Communications
Kaur Siruli	Ministry of Finance
Aive Pevkur	State Chancellery
Veiko Kommusaar	Ministry of the Interior
Heidi Gil	Ministry of Social Affairs
Martin Perling	Security Police Board
Pille Hamer	Police Board
Norman Aas	Public Prosecutor's Office
Üllar Kaljumäe	Health Care Board
Reet Teder	Chamber for Commerce and Industry
Leno Saarniit	University of Tartu
Tarmu Tammerk	Transparency International – Estonia

The following persons were also engaged in the preparation of the Strategy:

Anneli Sihver	Ministry of Economic Affairs and Communications
Aare Pere[2]	University of Tartu
Timo Vijar	Estonian Motor Vehicle Registration Centre
Jarno Habicht[3]	Representative of the World Health Organization in Estonia
Liina Käiro	University of Tartu
Tarmo Porgand	Ministry of Finance
Juha Keränen	Police Board / Ministry of Justice of the Republic of Finland
Deevi Asbaum	Competition Authority
Agu Laius	Jaan Tõnisson Institute
Ain Kabal	Estonian Association of SMEs (EVEA)
Erika Luks	Select Committee of the *Riigikogu* on the Application of the Anti-Corruption Act

Mari-Liis Sööt (Liiv) (mari-liis.soot@just.ee, 6208223), Director of the Criminal Statistics and Analysis Division of the Criminal Policy Department of the Ministry of Justice, coordinated the preparation of the Strategy.

[2] Participated in the drafting of the section that discusses corruption in the health care sector.

[3] Presented his opinion in the coordination round.

1. ANALYSIS OF THE CURRENT SITUATION

The analysis of the current situation is based on sociological surveys and state criminal statistics. This section provides a more general overview of the situation, with analyses of particular spheres presented in separate chapters.

1.1. Analysis of the situation on the basis of the sociological survey "Corruption in 2006. A survey of three target groups "

Three target groups were questioned in the framework of the corruption survey : residents of Estonia (503), employees of the public sector (1321) and enterprise managers (500). The report of the survey is available on the website www.korruptsioon.ee and has also been published in the series of criminal policy surveys (No 6).

Corruption is considered a problem by almost three-fourths of the population of Estonia and one-fourth of entrepreneurs.

1. The number of people who find that corruption is a problem has grown to 67% of the people of Estonia.

2. Corruption is considered a serious problem by the people of Southern and Western Estonia, less educated people, older people and people with lower income.

3. Entrepreneurs do not consider corruption to be any significant obstacle to business (27%). The entrepreneurs who have come across corruption themselves consider it a serious obstacle to business.

4. Corruption is considered a serious problem by the executives of foreign-capital companies.

5. It is generally thought that Estonian officials are competent and do their work well (68%) and are polite and considerate (72%). The evaluation of officials has improved.

Employees of the public sector are less tolerant of corruption. Estonians are also less tolerant of corruption in comparison with other nationalities.

6. The attitudes towards corruption have become stricter over the last couple of years.

7. Employees of the public sector are stricter than the population and employees upon determining corruption – they consider the listed activities more often as corruption than other surveyed groups.

8. Employees of state agencies, inspectorates and employees of administrative authorities define corruption less strictly among the employees of the public sector.

9. Estonians, less educated people and the people of Tallinn are less tolerant of corruption.

10. The people of Tallinn stand out among others both in terms of defining as well as accepting corruption – they define corruption more strictly and also accept it less.

Corruption is considered to be more widespread in Tallinn.

11. The entrepreneurs of Tallinn as well as employees of the public sector whose workplace is located in Tallinn consider corruption to be more widespread.

12. Employees of law enforcement agencies and political officials consider corruption somewhat more widespread. According to them, bribery related to pecuniary penalties and favourable decisions is more widespread.

13. In comparison with others women, non-Estonians and Southern Estonians find that bribery is more widespread in finding a job.

14. Entrepreneurs believe that corruption is more widespread in relationships between the state and entrepreneurs than in relationships between the local authorities and entrepreneurs. This tendency applies to all areas except to the entrepreneurs of Tallinn where the estimates of the spread of corruption were high regardless of whether it was the local or state level. The entrepreneurs whose employees had behaved corruptly consider corruption to be more widespread in general.

3% of the people of Estonia and 12% of entrepreneurs have given a bribe. 15% of the entrepreneurs claim that they have been asked for a bribe.

15. Only 3% of people have personally given a bribe to officials and 5% have brought a present over the last year. 12% of people know someone who have given a bribe or made a present to an official.

16. A bribe has been asked[4] the most frequently upon applying for driver's licenses, registration of vehicles and roadworthiness tests (19%). The other most frequent events are bribes asked by doctors, the police and bribes asked in schools or nursery schools. In all these occasions a bribe has been expected from over 10% of the respondents.

17. A bribe has been asked more frequently from men, younger people, non-Estonians and residents of Southern Estonia and Ida-Viru and Lääne-Viru Counties. The people of Southern Estonia considered bribery more widespread and also considered it the biggest problem.

18. The people of Ida-Viru and Lääne-Viru Counties have a higher risk of being asked for a bribe upon getting a driver's license, registration of a vehicle or roadworthiness test (44%) and communicating with doctors (30%). The people of Tallinn stand out due to the fact that they have been asked for a bribe more frequently when communicating with the school, university or nursery school (20%). The people of Southern Estonia noted that they were asked for a bribe more often by the police (21%), upon crossing the state border (22%) and upon communication with the local authority (17%).[5]

19. 12% of entrepreneurs gave a bribe or made a present to officials over the last year. The share of the entrepreneurs who have given a bribe to a local authority is the only category that has increased – 8% of the entrepreneurs had done it in 2006, but in the survey of 2004 5% of the entrepreneurs had done it over the last year.

20. A bribe has been asked from 15% of entrepreneurs. Over the last year a bribe has been asked upon registration of a vehicle or roadworthiness test (6%). In terms of frequency it is followed by situations where a bribe is asked in connection with a pecuniary penalty and state supervision (5%).

21. Entrepreneurs in Tallinn (18%) and the primary sector (27%) are more likely to give a bribe.[6] The entrepreneurs of Tallinn considered corruption to be more widespread than others. Entrepreneurs operating in the field of social and personal service have given a bribe the least often (0%).[7]

10% of entrepreneurs have spent over EEK 5,000 on bribes.

22. 4% of people who have had experiences with bribery have spent over EEK 1,000 on bribes.

23. 10% of entrepreneurs who have had experiences with bribery have spent over EEK 5,000 on bribes.

14% of the population, 20% of entrepreneurs and 4% of public sector employees have experienced some form of corruption.[8]

24. 4% of the public sector employees have experienced corruption and 17% of public sector respondents know colleagues who have experienced corruption.

25. 14% of the people of Estonia have personally experienced various forms of corruption over the last year. People were given the opportunity to specify the areas in connection with which they have had corruptive experiences – the most frequent example quoted was that of giving an "envelope" to a doctor.

26. People of Western Estonia and Ida-Viru and Lääne-Viru Counties as well as younger people have experienced corruption more often.

27. 20% of entrepreneurs have had experienced some form or corruption. 11% of entrepreneurs have given an official a gift. 57% of the entrepreneurs considered it a bribe.

[4] "Asked" does not mean that this request would certainly have been granted. The results of the survey express the overall tendency that whether a bribe, present or favour has been asked and whether a company has given it lately are statistically considerably related.
[5] NB! Only a few people from Southern Estonia (35) responded to this question and therefore one must be cautious upon interpreting the results.
[6] It may also mean that they have been the most honest in their replies. It cannot be concluded that they are the most corrupt.
[7] None of the 29 entrepreneurs had given a bribe.
[8] This does not include bribery experiences discussed in the sections above.

28. Entrepreneurs of Southern Estonia and Tartu County (23%) and Ida-Viru and Lääne-Viru Counties (22%); entrepreneurs of the primary (27%) and trade/service sector (22%) have come across corruption the most, while entrepreneurs of social and personal service have come across corruption the least (3%).

In a corruptive situation the employees of the public sector would behave in the most honest manner, while the population would behave in the most dishonest manner.

29. 44% of the people of Estonia would offer an official money or a favour in order to escape a punishment (e.g. road traffic offence) or to speed up official proceedings. They include more men (50%), non-Estonians (57%) and respondents from Ida-Viru and Lääne-Viru Counties (53%) and Western Estonia (46%).

30. 12% of the public sector employees would decide in favour of a project for which they would receive a trip to a warm country. They include more people working among political officials (19% decided for the project) and people working in local authorities (15%) and less people working in law enforcement agencies (9%).

31. 34% of entrepreneurs would offer an official a favour in order to win a public tendering procedure. Entrepreneurs of the primary and trade/service sector (56% and 43%), men (36%) and non-Estonians (51%) would be more likely to do so. Younger entrepreneurs are also more prone to corruption.

People know very little of corruption, because they believe that it would be very difficult to prove and do not want to create further problems.

32. Only 1% of the population, 5% of the public sector employees and 1% of the entrepreneurs who have personally experienced corruption notified law enforcement agencies thereof.

33. The most frequent cause of not notifying of corruption is that it would be difficult to prove that it was corruption. They also do not want to cause any additional problems to others.

Perception of the spread of corruption and the reliability of state institutions are related phenomena.

34. The less people trust state institutions, the more widespread they consider corruption.

35. The connection also works vice versa: experiences of corruption reduce the reliability of the institutions.

36. The people who have come across corruption themselves also consider it more widespread.

1.2. Analysis of the situation on the basis of criminal statistics

In 2007, total 278 offences related to criminal official misconduct were registered in Estonia, representing a decrease by 50% when compared to 2006. While in 2006 criminal offences related to office represented just 1% of all the registered criminal offences, in 2007 the proportion of these offences was even smaller, i.e. 0.5%.

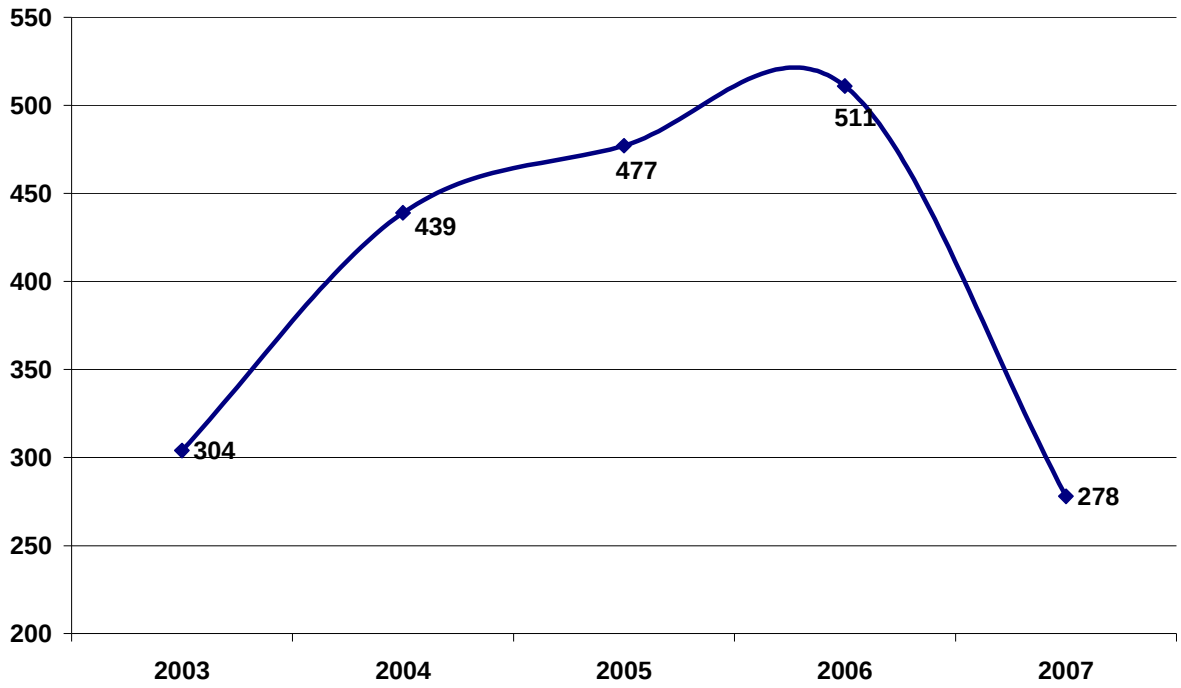


Figure 1. Registered offences related to criminal official misconduct in 2003-2007

Such a substantial decrease was mainly occasioned by amendments introduced to the Penal Code. Namely, the elements of criminal official misconduct were changed in 2007 – an amendment of the Penal Code took effect on 15 March 2007 which repealed two types of offences: misuse of official position (§ 289) and negligence related to office (§ 290). At the same time, unlawful exercise of state supervision (§ 291[1]), violation of procedural restrictions (§ 300[1]) and knowing performance by Notary Public of unlawful notarial act (§300[2]) were added as new offences related to office.[9]

Starting from March, being an official constitutes an aggravating circumstance of embezzlement (§ 201 (2) 3)). In 2007, 46 cases of embezzlement by an official were recorded[10]. In addition, being an official now constitutes an aggravating circumstance of fraud (§ 209 (2) 1[1])). While fraud as such is not included in the offences related to office in the structure of the Penal Code, the necessary elements of fraud were specified as offences constituted by misuse of official position were repealed in the new draft. However, no cases of fraud were recorded in 2007 on the basis of that particular provision. Offences consisting in abuse of trust (§ 217[2]) were introduced pursuant to the same principle. While these offences are essentially offences against property, they are included among offences related to office if committed by an official. For example, when an official enters into a transaction on behalf of a local government, causing significant material damage to the local government, this amounts to an offence consisting in abuse of trust. Although statistical data do not enable persons who have abused trust to be exactly distinguished, it can be said that 17 offences consisting in abuse of trust were recorded in 2007, with only some of the cases regarding which criminal proceedings were commenced being related to abuse of trust by a public servant.

The most common offence related to office was abuse of authority – these offences accounted for 29% of all offences related to office. Most of the cases involved security guards and policemen.

Table 2. Registered offences related to office[11]

Type of offence	Penal Code	2007
Embezzlement by official	§ 201 (2), 3	46

[9] In addition, the elements of offences consisting in the violation of requirements for maintenance of databases (§ 292) and the counterfeiting or falsification of documents by officials (§ 299) were specified. Furthermore, some of the new types of offences against administration of justice, which took effect on 15 March 2007, can be treated as corruption offences, such as knowingly making unlawful decision by an assistant judge (§ 311[1]), knowingly making an unlawful decision in misdemeanour proceedings (§ 311[2]), knowingly unlawful termination of misdemeanour proceedings (§ 311[3]), unlawful publication of information concerning pre-trial proceedings in criminal matters and surveillance proceedings (§ 316[1]) and knowingly unlawful seizure and sale of property by a bailiff (331[3]).

[10] Total recorded cases of embezzlement amounted to 967.

[11] Like in 2006, no offences related to political parties were recorded in 2007 (§ 402[1] and § 402[2]).

Fraud by official	§ 209 (2), 1[1]	0
Misuse of official position	*§ 289*	15
Negligence related to office	*§ 290*	4
Abuse of authority	§ 291	67
Unlawful exercise of state supervision	§ 291[1]	2
Violation of requirements for maintenance of databases	§ 292	0
Taking a gratuity	§ 293	23
Taking a bribe	§ 294	27
Arranging the receipt of a gratuity	§ 295	1
Arranging the receipt of a bribe	§ 296	2
Giving a gratuity	§ 297	6
Giving a bribe	§ 298	50
Influence peddling	§ 298[1]	1
Counterfeiting or falsification of documents by official	§ 299	26
Violation of requirements for public procurement	§ 300	3
Violation of procedural restrictions	§ 300[1]	4
Knowing performance by notary of unlawful notarial act	§ 300[2]	1
Total		278

As offences consisting in misuse of official position and negligence related to office could be recorded until March only, the number of these types of offences (registered) dropped by more than two-thirds when compared to 2006. Also offences consisting in arranging the receipt of a bribe and counterfeiting or falsification of documents by official decreased, from 13 to 2 and from 176 to 26, respectively.

The number of offences consisting in counterfeiting or falsification of documents by officials was 30 in 2005, increased significantly in 2006 and decreased again in 2007. In 2007 the number of these offences increased materially due to incidents occurring in Ida-Viru County where around 200 documents were falsified so as to cheat unemployment benefits from the state. Many of these incidents were recorded as distinct criminal offences[12], although they involved just a couple of persons.

In 2007 the number of offences consisting in taking a gratuity and giving a bribe increased the most (from 10 to 23 and from 42 to 50, respectively).

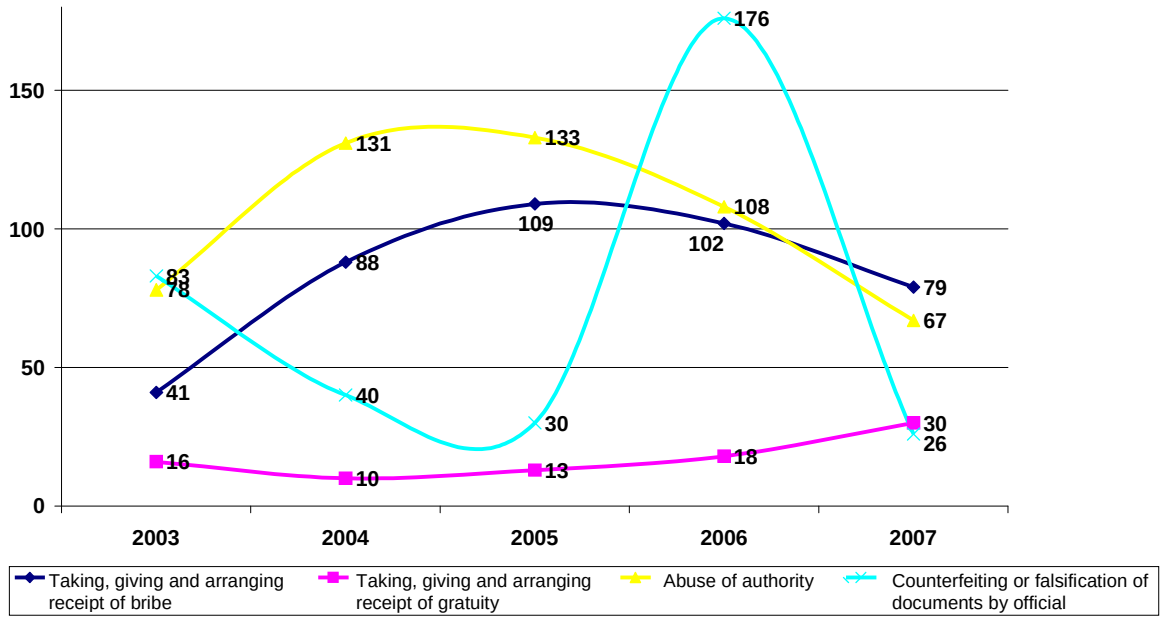


Figure 2. Types of offences related to office

In 2007, most of the offences related to office were recorded in Tallinn (35%) and Narva (12%). In other larger cities, offences related to office accounted for less than 10%, e.g. 6% in Tartu and 5% in Pärnu. When compared

[12] As the necessary elements of that offence do not provide for recurrence which would enable several offences to be recorded as a single offence, the incidents appear in the statistics as different offences.

to the previous year, the relative share of Tallinn has grown significantly, while the share of Narva in offences related to office has decreased. Then again, it is worth mentioning that no offences related to embezzlement by officials were recorded in the statistics of the previous year. However, a large proportion of offences related to bribery were committed in Ida-Viru County (32 out of 79) and most of them in Narva (11 offences of taking a bribe and 19 offences of offering a bribe). Most of the offences related to abuse of authority were registered in Tallinn (38 out of 42). While in 2006 a relatively large number of incidents involving giving a gratuity were recorded in Pärnu, 6 cases of taking a gratuity were recorded in 2007 (9 in total).

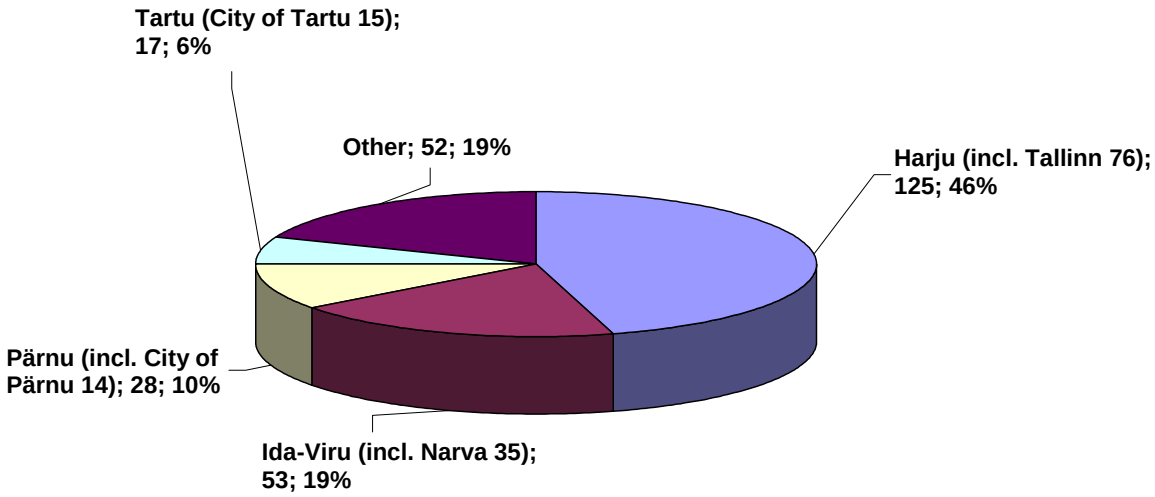


Figure 3. Recorded criminal offences by regions

Offences related to office differ from other criminal offences by the circumstance that often there is no particular victim. In the case of bribery, both the person giving and the person taking the bribe benefit from the offence. At the same time, the persons who must, e.g. wait longer due to the bribery are generally those who suffer from such an offence. According to a corruption survey[13], 7% of people in Estonia believe that they have suffered due to corruption. Most of those who suffered due to offences related to office recorded in 2007 were victims of abuse of authority (49); most of them lived in Tallinn (34) and 84% of them were men.
138 suspects of offences related to office were ascertained[14]. A typical person who committed (was suspected of committing) an offence related to office was a middle-aged man being a citizen of the Republic of Estonia, who committed the offence alone:

- 72% were men;
- 42% were aged 40-55 years;
- 88% were citizens of Estonia;
- 85% committed the offence alone.

On the average, there were more women (28%) among those suspected of an offence related to office than among suspects of criminal offences in general (10%). As much as 38% of those suspected of counterfeiting or falsification of documents and 32% of those giving a bribe were women. When looking at age groups it appears that both those suspected of giving and taking a bribe were somewhat younger than those suspected of an offence related to office in general: more than a half of them were younger than 39 years. While most of the persons suspected of offences related to office were Estonian citizens, those giving a bribe included more stateless persons and citizens of the Russian Federation (12% in each group).

In 2007, 51 persons involved in serious or organised corruption were taken to court (199 in 2006). The incidents in question also included criminal official misconduct in Murru Prison which was discussed in the media and which

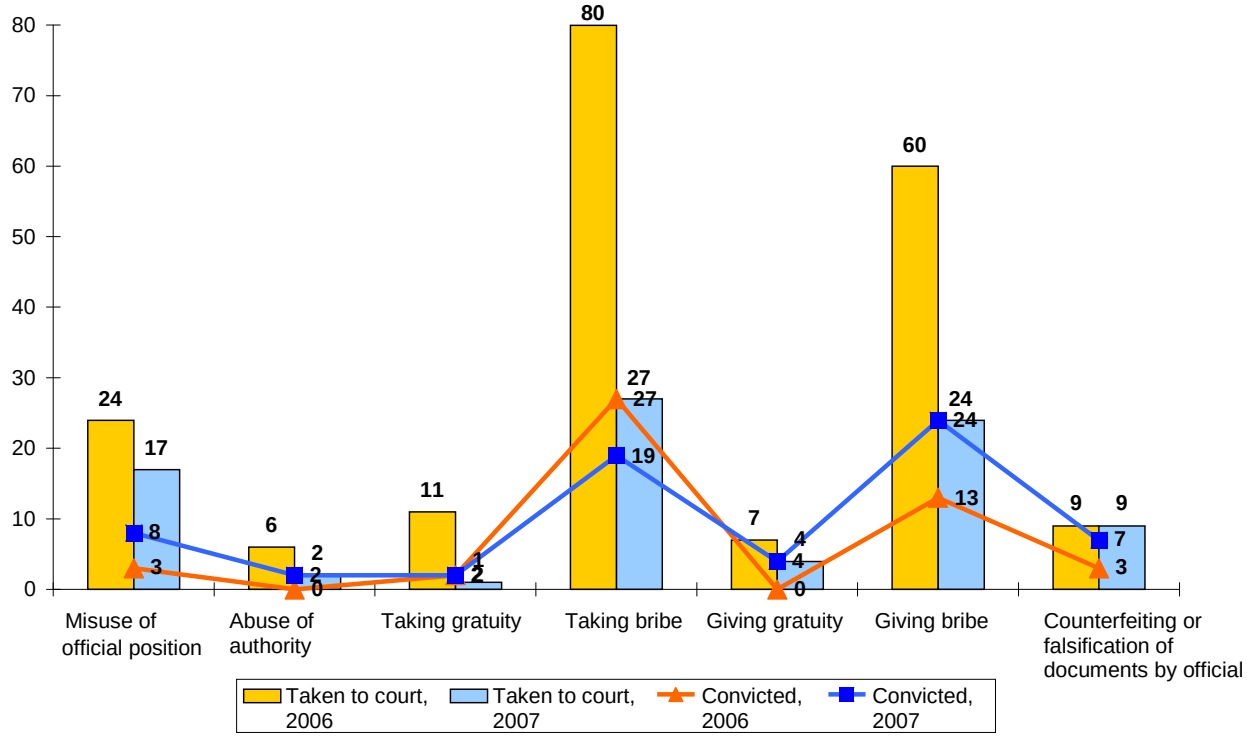
[13] Liiv, M-L; Aas, K. 2007. Korruptsioon Eestis. Kolme sihtrühma uuring 2006. /Corruption in Estonia. A survey of three target groups, 2006/. The Ministry of Justice and the University of Tartu.
[14] When calculating the socio-demographic characteristics, also those suspected of violating § 201 (2) 3) of the Penal Code (embezzlement by official) were taken into account in addition to those suspected of offences set out in the chapter of offences related to office in the Penal Code.

involved the prison hierarchy of prisoners as a result of which one prisoner lost his life[15]. Serious corruption offences also included the case of two chief specialists of the Estonian Vehicle Registration Centre who for six months in 2006 took bribes, via a middleman, for issuing driving licences. The cases taken to court also included those of the customs officials in Narva who deliberately omitted carrying out customs control of goods imported into Estonia for which they received bribes from smugglers in the form of goods, money and other benefits.

Most of the offences related to office were adjudicated in the procedure of agreement (133) or in general procedure (44). Cases of misuse of position and bribery were predominantly adjudicated in general procedure, while cases of counterfeiting or falsification of documents were mostly adjudicated in the procedure of agreement. On an average, the pre-trial proceedings of an offence related to office, with offences of embezzlement taken into account, took 16 months[16], and 13 months if offences of embezzlement are not taken into account: adjudication of offences related to office took 18 months (15 months if offences of embezzlement are not included) in general procedure and 12 months in simplified proceedings. The longest proceedings involved embezzlement-related offences (1.8 months) and the newly repealed offence types of misuse of position and negligence related to office (1.5 years).

In 2007, the procedural decision was made with regard to 220 offences related to office. The identification rate was thus 79% (46% in 2006). Of these, 202 offences and 109 persons were taken to court. Hence, some persons committed several criminal offences. Criminal proceedings regarding 18 persons and offences were terminated due to lack of public interest in proceedings (§ 202 of the Code of Criminal Procedure). Community service of 60 hours was imposed on one person accused of embezzlement with regard to which criminal proceedings had been terminated. Community service was not imposed on other persons who had committed offences related to office, but they were ordered to pay a certain amount of money to the state. On an average, the largest amounts were ordered to be paid in the case of arranging the receipt of a bribe (30,000 kroons) and taking a bribe (27,500 kroons). The smallest amounts were imposed in the cases of abuse of authority (2500 kroons).

When looking at the most common offences related to office which were taken to court, it appears that the number of persons accused of bribery-related offences has declined when compared to 2006. In 2006, 80 persons accused of taking a bribe and 60 persons accused of giving a bribe were taken to court; of these, 27 and 13 persons, respectively, were convicted. Also in 2007 the number of those accused of bribery-related offences was the largest: 27 persons accused of taking a bribe and 24 persons accused of giving a bribe; of these, 19 and 24, respectively, were convicted. However, most of the persons convicted of offences related to office are not subjected to actual imprisonment – either a punishment on probation is imposed on them or, alternatively, they are subjected to supervision of conduct. The imprisonment terms of those on whom actual imprisonment has been imposed range between one month and 3.5 years. Persons released from prisons in 2007 had been in the penal institution from one month to eight months.



[15] See, e.g. Põld, T. 2008. Murru vanglas oli võim autoriteetsete vangide käes /Power belonged to authoritative prisoners in Murru Prison/. *Postimees*, 18.01.2008. http://www.postimees.ee/180108/esileht/siseuudised/306889.php.

[16] The average number increased due to embezzlement cases being adjudicated in general procedure.

Figure 4. Persons taken to court and convicted

2. STRATEGIC OBJECTIVES, MEASURES AND ACTIVITIES

Objective I: Prevention of corruption in the private sector and the non-profit sector

Description of the situation

1.1. Corruption in the private sector and competition offences

According to the most widespread definition, 'corruption' is understood as the abuse one's official position in personal interests. On one hand, corruption may express itself in the relations between the public sector and the private sector, and on the other hand it may occur within the private sector. Corruption in the private sector implies a situation where entrepreneurs enter into a mutual agreement on unwarranted advantages and benefit from these either personally or in terms of their companies (e.g. violation of competition rules). As corruption takes multiple forms, it is difficult to find a single definition of corruption. An example of private sector corruption is that of a company that performs conflicting duties, being engaged in both auditing and consulting an entrepreneur undergoing a financial crisis; or the situation where two entrepreneurs agree upon prices and thereby restrict fair competition. Another example of private sector corruption is the situation where an employee responsible for the purchase of raw materials makes a deal with the supplier of the raw materials without informing the management or the owners of the company, and both that employee and the supplier make personal gains out of the deal. Also market intelligence involving ill practices constitutes a form of fraudulent operation. The collection of market information concerning consumers, competitors, customers, etc., cannot be deemed fraudulent operation. The case is different when the business secrets (such as the recipe of a product) of another entrepreneur are stolen or when personal data are processed illegitimately. These fraudulent practices do not *per se* amount to corruption. On the other hand, if an employee of a company sells the company's business secrets to an employee of another company, this can be treated as corruption.

In Estonia, 9% of entrepreneurs[17] believe that market agreements are common in their fields of activity. According to the common belief, market-sharing agreements are more widespread in the transport and communications sectors (1/4). However, no specific surveys have been conducted in Estonia for ascertaining the magnitude of the problem of private sector corruption, the particular corrupt deals made in the private sector, the damage caused by corruption to the enterprise sector, etc.

On the international level, cartels have been analysed the most[18]. Of the 260 international cartels identified from 1990 to 2005, 27% were global, i.e. the parties of the cartels were operating on at least two continents. The parties of such cartels were mainly entrepreneurs operating in Western Europe, North America and South-East Asia. Non-global cartels were operating on a single continent and mostly in Europe: 20% operated in several EU Member States, 23% in a single EU Member State and 2.3% in the Eastern Europe. The rest of the cartels operated in South-East Asia. The incidence of cartels by regions signifies anti-cartel measures rather than their actual concentration in a given region; other continents lack the resources and apparently also the will to deal with such criminal offences[19].

The field of activity of cartels has changed, when compared to the period between the two world wars: while at that time cartels operated mainly in the primary and secondary sectors (11% in the agricultural and mining sectors) and in production, the service sector prevails now. However, from 1990 to 2005 cartels were mostly formed by manufacturing establishments. The largest number of these cartels occurred in the chemical industry (involving, first of all, manufacturers of organic chemicals and vitamins); these cartels accounted for 30% all cartels. Cartels of tobacco producers (8%), producers of non-metal minerals (8%), paper producers (5%) and rubber and plastics producers (5%) were rather widespread, as well. Some 20% of the cartels were formed of manufacturers of end-user products.

The last decade has been characterised by increasing proceedings concerning cartel-related criminal offences. Then again, cartels are being formed on a growing basis due to the global nature of economy. Of the 260 cartels

[17] The results of a survey of entrepreneurs conducted by the Ministry of Justice and the Faculty of Social Sciences of the University of Tartu in 2007 (the results of the survey have not been published yet). In the survey a representative sample of Estonian companies was used, the results of the survey contain statistically important relations and enable conclusions to be drawn with regard to the entrepreneurs of entire Estonia.

[18] E.g. Connor, J. M. 2006. Effectiveness of Antitrust Sanctions on Modern International Cartels. Journal of Industry, Competition and Trade, 6: 195–223.

[19] Connor points to "leniency programs" as a factor of successful investigation and states, being based on earlier surveys, that these programs substantially increase the frequency of notification about cartels on the part of entrepreneurs. He refers to the "Amnesty Plus" program that rewards indicted companies if they inform investigative bodies about collusive activity in the market not yet being investigated.

referred to above, proceedings were terminated in 21 cases due to the absence of the necessary elements of a criminal offence. Hence, 90-95% of the cases could be resolved.

Legal basis

Estonia is one of the countries where serious violations of competition rules are treated as criminal offences. Practices like abuse of a dominant position in a market (§ 399 of the Penal Code), agreements, decisions and concerted practices prejudicing free competition (§ 400 of the Penal Code), concentration which damages competition (§ 401 of the Penal Code) and violation of obligations of companies with special or exclusive rights or in control of essential facilities (§ 402 of the Penal Code) were criminalised by the establishment of the Penal Code on 1 September 2002. The Penal Code also provided for the possibilities of punishing legal persons under criminal procedure. For competition-related offences, the maximum punishment that may be imposed on natural persons is up to three years' imprisonment. In the case of a legal person, the court may impose a pecuniary punishment of up to 250 million kroons. In addition, the Competition Act prescribes misdemeanour punishments for lesser offences (§§ 73^1, 73^5, 73^6, 73^7). For competition-related misdemeanours, natural persons may be punished by detention. On legal persons a pecuniary punishment of up to 500,000 kroons may be imposed.

Estonian competition law does not explicitly provide for the possibility of implementing the internationally recognised leniency programs[20]. However, the general provisions of the Code of Criminal Procedure enable prosecutors to terminate criminal proceedings in certain cases even if the persons who committed the competition-related offence have been identified (first of all under §§ 202 and 205 of the Code of Criminal Procedure).

So far the termination of criminal proceedings in the case of competition-related offences has explicitly been discussed only in the instruction given by the Chief Public Prosecutor under § 213 (5) of the Code of Criminal Procedure on 20 December 2005[21] (valid in a new wording from 12 April 2007) according to which a prosecutor may terminate proceedings under § 202 of the Code of Criminal Procedure in the case of an act specified in § 400 of the Penal Code (agreement, decision or concerted practices prejudicing free competition), provided that all of the following conditions are met:

(a) the person in question is the first among the participants in the cartel to notify the body conducting the proceedings;
(b) at the time of the notification, the body conducting the proceedings did not have information about the cartel from other sources;
(c) the person ceases to be a participant in the cartel forthwith upon the notification, except in extraordinary cases where staying in the cartel serves the interests of the proceedings and is authorised by the body conducting the proceedings;
(d) the person provides all of the information and/or evidence at his or her disposal and continues to cooperate until the end of the proceedings;
(e) the person is not the instigator or leader of the cartel and has not forced any other person to participate in the cartel.

These criteria have not been widely introduced to entrepreneurs. However, making the criteria known to entrepreneurs is vital to the introduction of the leniency program. That is the reason why that provision has not been applied in practice yet.

Proceedings of competition-related offences

1) Competition Authority

The Competition Authority conducts the proceedings of competition-related misdemeanours and criminal offences. The Competition Authority also exercises general state supervision over the implementation of the Competition Act (§ 54 of the Competition Act). Due to the small number of criminal matters, only two officials of the Competition Authority were engaged in criminal proceedings in 2006. Resources used for the proceedings amounted to approximately 61,000 kroons (0.6% of the overall budget of the Competition Authority). At present, 23 employees work in the Competition Division (the aggregate number of employees in the Competition Authority is 81)[22].

[20] A leniency program implies either full immunity from punishment or lenience in imposing a punishment if a person is the first to notify a law enforcement agency about participation in a cartel or submit conclusive evidence or otherwise materially contribute to the exposure of the cartel in which the person is a participant.

[21] An instruction of the Chief Public Prosecutor (§ 213 (5) of the Code of Criminal Procedure) is first and foremost a document meant for internal use of Prosecutors' Offices and investigative bodies and its principal objective is to ensure uniform application of legislation and rational use of the resources of criminal proceedings.

[22] As a result of the merger effected on 1 January 2008, similar activities and functions of the former Communications Board, the Competition Board, the Railway Inspectorate and the Energy Market Inspectorate in the spheres of supervision over competition, regulation of prices and analysis of markets were concentrated under the authority of a single administrative agency – the Competition Authority.

2) Prosecutor's Offices

Owing to the small number of criminal proceedings concerning competition-related offences, no prosecutor has specialised in that particular field only. Under the work division plans of Prosecutor's Offices, this sphere is usually entrusted with prosecutors specialising in the proceedings of economic offences and corruption offences. For example, in the Northern District Prosecutor's Office the authority to investigate competition-related offences has been conferred on a district prosecutor working in the Economic and Corruption Offences Department; in the Southern District Prosecutor's Office these offences are investigated by Tartu Department II; in the Western District Prosecutor's Office by a district prosecutor and an assistant prosecutor; and in the Viru District Prosecutor's Office by three district prosecutors (one from each department). In the Public Prosecutor's Office the authority to investigate competition-related offences has not been conferred separately to any public prosecutor under the work division plan, but the public prosecutors are ready to conduct these proceedings as the need arises, e.g. in the case of international competition-related offences.

No training courses specifically dedicated to competition-related offences have been carried out in Prosecutor's Offices in recent years. However, this subject has been discussed as a part of general penal law pertaining to economic offences, e.g. during the training concerning economic offences in 2007 (8 hours). In addition, prosecutors have participated in relevant training trips abroad.

Table 3. Misdemeanour and criminal proceedings[23]

Year	Commenced		Terminated		Proceedings under way		Ended with a punishment	
	Mis-demeanours	Criminal offences	Mis-demeanours	Criminal offences	Mis-demeanours	Criminal offences	Mis-demeanours	Criminal offences
2005	7	3	3	2	2	1[24]	2[25]	0
2006	1	0	0	0	1	0	0	0
2007	1	0	0	0	0	0	1[26]	0
TOTAL	**9**	**3**	**3**	**2**	**3**	**1**	**3**	**0**

In 2006 and 2007 no proceedings were commenced, *inter alia* because the Prosecutor's Office did not see the necessary prospects of the proceedings based on the information submitted by the Competition Authority. This was also partly due to the circumstance that before the amendments to the Penal Code took effect on 15 March 2007, a competition-related criminal offence had to be committed by a member of the management board or supervisory board of the company, i.e. corrupt practices by lower-level officers did not qualify as a criminal offence.

Proceedings of competition-related criminal offences are quite rare in Estonia. As in practice competition rules are violated probably more often than revealed in crime statistics, the reason for the small number of proceedings perhaps lies in the nature of that particular type of offence and the inadequate capacity of bodies conducting the proceedings.

To sum it up, insufficient investigative capacity is the main challenge in ascertaining and combating competition-related criminal offences. No leniency program has been introduced in Estonia with regard to competition-related criminal offences. Nor are entrepreneurs (and society in general) aware of the nature of the problem, the essence of an agreement prejudicing competition or of the fact that certain agreements may amount to a criminal offence.

Leniency program

The establishment of the immunity and leniency program is prescribed in the Programme of the Coalition of the Estonian Reform Party, Union of Pro Patria and Res Publica and Estonian Social Democratic Party for 2007-2011. According to clause 15.12 of the Action Plan of the Government of the Republic for 2007-2001, a draft of the program must be submitted to the Government in the fourth quarter of 2008.

The leniency program must correspond to the following requirements:

1) The basis of establishment of the leniency program and its principal conditions must be stipulated on the basis of law. A more detailed leniency program may also be established by lower-level legislation.

At first sight, §§ 205 (termination of criminal proceedings in connection with assistance received from person upon ascertaining facts relating to subject of proof) and 202 (termination of criminal proceedings in event of lack of public interest in proceedings and in case of negligible guilt) of the Code of Criminal Procedure and the

[23] The data originate from the State Register of Criminal Matters.

[24] The criminal proceedings were conducted by the Security Police Board.

[25] In one case a penalty of EEK 100,000 was imposed under § 73^5 (2) of the Competition Act and in the other case a penalty of EEK 250,000 was imposed under § 73^5 of the Competition Act.

[26] A penalty of EEK 20,000 under § 73^6 of the Competition Act.

application of simplified proceedings, in particular the procedure of agreement, seem to provide a sufficient framework for the implementation of the leniency program. Then again, the main problem with the current legislation consists in that the application of the aforementioned options depends on the decision of the prosecutor, for which reason a person notifying about a cartel offence or contributing to the investigation of such an offence cannot be certain about measures to be applied to him or her. It must also be borne in mind that the leniency program is a novel and innovative institute in Estonia on which entrepreneurs look with a certain degree of scepticism. Therefore, and as appropriate for a parliamentary state, the leniency program will be established after discussions in the *Riigikogu.*

2) The leniency program must provide for sufficient guarantees for entrepreneurs that have come forward and decided to cooperate with the state.

Experience from both United States of America and Europe implies that the secret, collective and often conspiratorial nature of cartels requires that precise conditions of immunity be elaborated, if leniency programs are to be operational. One of the main reasons for reforming the US leniency program in 1993 was that the former program was too vague and failed to provide entrepreneurs with sufficient guarantees or clarity as to what would happen to them if they decided to be the first to notify about a cartel. Following the revision of the program, notification about cartels increased by 20 times. In its analysis of international leniency programs the OECD also emphasises that clarity and certainty concerning immunity and lenience are of critical importance if these programs are to be successful. While the clarity and certainty need not imply complete automatic immunity like in the United States, there must be clear criteria in place and the public at large or at least the associations of entrepreneurs must be notified about these criteria. It is also important to sign a conditional letter of guarantee or agreement, at the outset of the process, determining the exact scope of the cartel offence and the conditions of obtaining immunity.

As another important amendment, which also constitutes a feature of the EU program, the US program now includes the possibility of obtaining immunity after the commencement of investigation as well, provided that the first cartel participant to confess participation also submits the so-called “smoking gun” evidence[27].

3) The leniency program must preclude abuse, e.g. notification about cartel offences with the aim of obtaining a competitive advantage.

To fulfil that condition, precise terms and conditions of the leniency program must be established which would preclude the employment of the program for personal interests. It is especially important in Estonia where in some branches of economy competition is so small that the squeeze-out of even one competitor from the market would provide an advantage to other market participants.

4) A prerequisite for implementation of the leniency program is awareness of the program among entrepreneurs.

In addition to the clarity, certainty and predictability of criteria, also the awareness of the public at large and, in particular, entrepreneurs of the existence of the program is vital to the operation of the leniency program. For example, in the United Kingdom the leniency program and the intention of its implementation were disclosed long before new, harsher sanctions entered into force. In the principles of leniency programs, which were drawn up by European competition authorities, it is seen as an inseparable part of good administrative practice that the authority responsible for the implementation of the program informs the public at large of the conditions of the leniency program. Hence, to implement the leniency program, it is imperative to disclose the full text of the program in the mass media and introduce it to entrepreneurs. In addition, the fundamentals of competition law must be introduced to entrepreneurs by analogy tax and business law.

1.2. Awareness of corruption and ethics in the enterprise sector

According to the corruption survey[28], public sector personnel are more aware of corruption than business executives or “ordinary citizens.” The survey revealed that entrepreneurs deemed the lack of qualified labour (74%) and overly bureaucratic proceedings (52%) as the main hindrances to enterprise.

When these three target groups were asked to specify, on the basis of a predefined list, what they regarded corruption and which practices they condemned, the employees of the public sector were the strictest (i.e. they treated more practices as acts of corruption); they condemned corruption the most, too. With entrepreneurs, acceptability depended more on the particular practice. For instance, the situation where an entrepreneur calls an official known to the entrepreneur so as to speed up the proceedings of some documents is regarded as corruption by 45% of entrepreneurs and 67% of employees of the public sector. These responses probably refer to the lower awareness of entrepreneurs when compared to public sector personnel. That conclusion is confirmed by somewhat better awareness of public sector personnel about the existence of the website dedicated to

[27] “Smoking gun evidence” refers to decisive evidence, as is a person with a smoking gun standing beside a shooting victim.

[28] The Ministry of Justice and the University of Tartu. 2007. Corruption in Estonia: A survey of three target groups, 2006.

corruption: 14% of entrepreneurs knew about www.korruptsioon.ee and 6% had familiarised themselves with the website's content. The same estimates were 26% and 7%, respectively, among public sector personnel.

34% of Estonian entrepreneurs would offer an official a bribe in order to win a public tendering procedure. 26% of them would do so because it would beneficial for the company, 24% explained that this was the general practice among entrepreneurs, and 23% stated that they would do so as it would not harm anyone.

The entrepreneurs of Tallinn and executives of larger enterprises (with larger number of employees) consider corruption to be more widespread. The entrepreneurs whose employees had behaved corruptly considered corruption to be more widespread than others (corrupt practices by employees have occurred in 9% of enterprises). 12% of entrepreneurs have personally given a bribe or offered a favour to an official and 20% of entrepreneurs have found themselves in another corrupt situation, e.g. received information or services from the public sector or accelerated proceedings (27%) thanks to acquaintance with an official. Gratuities or presents were given by entrepreneurs the most frequently to local government officials (8%), but also to Notaries Public and to bailiffs (4%). Half of the entrepreneurs who had given a bribe admitted that they had done so on their own initiative, while 22% of them alleged that they had been requested to do so by the official.

Entrepreneurs stated that the most frequently they had been requested money, a return service or a present upon registration (6%) and roadworthiness test of a vehicle, as well as in connection with state supervision and pecuniary penalties (5%). Bribes were expected more from entrepreneurs in Tallinn.

Entrepreneurs have personally participated in the following practices:

- 11% of entrepreneurs have given an official a present;
- 7% of entrepreneurs have relied on the acquaintance with an official to receive a service from the public sector;
- 5% of entrepreneurs have received a service from the public sector in return for a counter-service;
- 4% of entrepreneurs have agreed with an official on public procurement;
- 4% of entrepreneurs have offered a gratuity to an official and been relieved of a pecuniary penalty as a result;
- 1% of entrepreneurs have used falsified invoices or other documents in accounting.

Entrepreneurs of the primary sector and the trade/service sector were clearly distinguishable in the findings of the survey. The primary sector includes companies engaged in agriculture, hunting, fisheries and forestry. Entrepreneurs of the primary sector had a more lenient attitude towards corruption, as had non-Estonians and entrepreneurs in Northern and Western Estonia. Also female executives are more lenient towards corruption. Entrepreneurs of the primary sector and the trade/service sector have come across corruption more than others: e.g. 27% of the executives of primary sector enterprises admitted having given a bribe, while only 4% of entrepreneurs of the secondary sector (construction, mining and processing industries) admitted to bribery. In addition, 19% of entrepreneurs of the primary sector stated that they had been asked for a bribe, as opposed to 15% among entrepreneurs of the secondary sector. 27% of entrepreneurs of the primary sector, 22% of entrepreneurs of the trade/service sector and just 3% of entrepreneurs of social and personal service have come across corruption in one or another form. Then again, there are fewer entrepreneurs in the primary sector than entrepreneurs of, e.g. transport, communications and financial intermediation sectors in Estonia and in absolute figures there were more of the latter who admitted having given a bribe.

About 1% of the entrepreneurs who had experienced corruption notified law enforcement agencies thereof; most entrepreneurs (47%) had told about corrupt situations to their friends, relatives or colleagues. The main causes of not notifying law enforcement agencies were, as stated in the survey, the difficulty of proving corruption (40%) and the reluctance to cause any additional problems (36%).

Entrepreneurs were also asked about the amounts that they had spent as bribes or presents. A notable number of entrepreneurs (35%) referred to a "symbolic present" and 25% mentioned having spent up to 5000 kroons. 10% of entrepreneurs who have experienced corruption had paid more than 5000 kroons.

Preventive measures in the private sector

Estonia ratified the OECD[29] Convention on Combating Bribery of Foreign Public Officials in International Business Transactions on 23 November 2004[30]. OECD stresses the importance of notification in both the public and private sector. For example, in the recommendations given to Slovenia the insufficient efforts of Slovenia in notifying the public and private sectors were highlighted[31].

There is usually more than one party involved in corruption, for example the person offering and the person accepting a bribe or – in the case of public procurement – an entrepreneur desiring to win the tendering

[29] Organisation of Economic Cooperation and Development: www.oecd.org.

[30] http://www.korruptsioon.ee/6448.

[31] http://www.oecd.org/dataoecd/14/59/38883195.pdf.

procedure and the person responsible for procurements. Thus, it is unthinkable that corruption and fraud can be prevented through one party only. Until now, dissemination of information and training courses have been directed more to public servants, while less attention has been paid to the private sector. Many smaller infringements in the private sector probably result from the unawareness of those involved – insufficient knowledge of the legal system and the rules of the play. A survey commissioned by the Ministry of Justice reveals that the legal awareness of people is rather low[32].

To better inform entrepreneurs, the Ministry of Justice is planning a series of seminars in conjunction with the Estonian Chamber of Commerce and Industry and the Estonian Association of Small and Medium Enterprises (SMEs). The aim of the seminars is to inform entrepreneurs of amendments to legislation and of relevant surveys and to jointly plan measures to prevent fraud and corruption in the private sector. The seminars will not be limited to corruption-related issues but are meant to also provide an overview of other related subjects (such as business law, competition law, etc.). The findings of pertinent surveys, e.g. those expressing regional and sector-specific issues, will be taken into account when organising the seminars.

The principles of the series of seminars:

- The seminars should be held once or twice a year and be free of charge for the participants.
- One seminar would last three hours.
- The Public Relations Division of the Ministry of Justice will be responsible for the organisation of seminars (premises, format, registration, etc.).
- The Ministry of Justice, in conjunction with the Estonian Chamber of Commerce and Industry and the Estonian Association of SMEs, will be responsible for the contents and lecturers of the seminars (proposing topics and finding the lecturers).
- The Estonian Chamber of Commerce and Industry and the Estonian Association of SMEs, in cooperation with the Ministry of Justice, will be responsible for finding potential participants (finding the participants, negotiations).
- The goal and outcome of each seminar should consist in a question or issue that needs to be resolved or a topic to be discussed at the next seminar. Both the goal and the outcome should be formalised in writing.
- The topics of the first seminar could be related to the regulation of economic offences; an overview of offences committed against and by entrepreneurs should be provided.
- Up to 30,000 kroons should be planned for the organisation of each seminar.

1.3. Corruption in the non-profit sector

In the non-profit sector the risk of corruption derives, first of all from relationships between non-profit organisations and public authorities. That risk arises when the procedure related to public tasks assigned to non-profit organisations is not transparent. The risk of corruption is also increased by the procedure of financing non-profit organisations, if it is not clear and consistent. For example, there is not enough information about relationships between local governments and non-profit organisations. Which non-profit organisations and on which conditions are financed by local governments is unknown. For the purpose of developing a uniform system of financing non-profit organisations, the action plan of the government programme prescribes the elaboration of the relevant concept by the 3rd quarter of 2008.

In addition, the risk of corruption increases due to the circumstance that unlike companies and foundations, non-profit organisations are not required to publicise their annual reports through the Commercial Register, which renders the non-profit sector less transparent[33]. The international anti-money laundering and terrorism standard – Special Recommendation VIII of the FATF – obliges countries to take measures to ensure that they have sufficient information about the activities and size of non-profit organisations, as well as data indicating that the organisations use financial resources for the designated purpose[34].

The Code of Ethics of Non-profit Organisations was adopted in 2002. The Code helps the public at large and the media to assess the activities of non-profit organisations from the aspect of ethics. Non-profit organisations are currently not cooperating with the aim of acknowledging corruption problems or conflicts of interest or exchanging information. A non-profit organisation pointing to problems would find itself in a disadvantageous position when compared to the organisations that use personal relations for improving their financial status. Very few non-profit organisations in Estonia focus on anti-corruption activities. The only non-profit organisation committed to

[32] Ministry of Justice. 2007. Eesti elanike õigusteadlikkuse uuring (A survey of legal awareness of Estonian population). Legislative Policy Department. Legislative Drafting and Legal Language Division. http://www.just.ee/orb.aw/class=file/action=preview/id=30815/Eesti+elanike+%F5igusteadlikkuse+uuring.pdf.

[33] On 14 February 2008 the Government approved the draft Act to Amend the Commercial Code, the Non-profit Associations Act and other Acts related thereto, which was prepared by the Ministry of Justice and by which the annual reports of non-profit organisations will be rendered public. As a result of the new Act, the task of collecting the annual reports of non-profit organisations will be transferred from the regional structural units of the Tax and Customs Board to courts maintaining registers.

[34] http://www.fin.ee/index.php?id=75135.

combating corruption is the Estonian division of the international anti-corruption organisation Transparency International. Also the Network of Estonian Non-profit Organisations should be mentioned as a positive example. The aim of the network is to communicate information about the EU structural funds to organisations, prevent conflicts of interest and minimise the risk of corruption arising from the financial resources received from the EU structural funds by public information and establishment of clear and consistent rules for applicants.

The free and independent media is an important tool in anti-corruption activities. The media has played an active role in disclosing corrupt practices. The experiment of the daily *Äripäev* in revealing bribery in the Commercial Register in 1999 could be mentioned in this context. What we still need is autonomous investigative journalism which is independent from law enforcement bodies and which is currently lacking mainly due to the shortage of skills. In smaller publications also the lack of finances is a hindrance to such journalistic work.

In the Estonian media the insufficient awareness of journalists of legal and ethical issues inhibits the coverage of corruption-related topics. Sometimes mistakes are made due to unawareness, which lead to the dissemination of misleading information. There are no systematic refresher courses for journalists in Estonia; just some one-day seminars are carried out from time to time. The role of county-level media is the most problematic; corruption is only rarely covered in county newspapers. County newspapers do not possess the economic independence as the country-wide newspapers do, as the advertising market has not developed to the same extent in counties. The economic weakness of newspapers, in turn, precludes political independence. Corrupt relations between local authorities and local entrepreneurs often remain uncovered in county newspapers. The dearth of information sources has a role, too.

Measures and activities necessary for attaining the objective

Objective I: Prevention of corruption in the private sector and the non-profit sector

Impact of Objective I: The proceedings of competition offences will become more professional, the rate of identification of such offences will increase and the offences will be prevented. Publicly available annual reports will ensure that the activities of non-profit organisations are transparent and prevent any possible risk of corruption. Codes of Ethics will help non-profit organisations to focus on corruption issues and thus increase their awareness of corrupt practices. The Network of Estonian Non-profit Organisations will participate in the development of the structural funds' fundamental documents, work in monitoring committees and ensure the transparency of the implementation and operation of the structural funds. Through increased awareness of the private sector, corrupt practices will be anticipated and the number of offences committed due to ignorance will decrease. Better media coverage will help to increase the public's awareness of corruption and draw the attention of law enforcement bodies to potential corruption cases.

Measure 1	**Prevention of corruption offences and improvement of the capacity as regards criminal proceedings of competition offences**
Activities	
1.1. Development of the leniency program	
1.2. Agreeing on the principles of commencing the proceedings of competition offences	
1.3. Organising the training of public prosecutors and officials of the Competition Authority with the right to carry out proceedings	
Measure 2	**Reduction of the risk of corruption in the non-profit sector**
Activities	
2.1. Arrangement of the system of financing non-profit organisations and creation of a system of publication	
2.2. For a non-profit organisation to receive funding from the state budget and the local government's budget, the existence of the organisation's Code of Ethics (e.g. a published decision of the non-profit organisation concerning its accession to the Code of Ethics of Non-profit Organisations[35]) and compliance with the Code of Ethics serve as eligibility criteria. Notification of non-profit organisations, state agencies and local governments about these criteria.[36]	
2.3. Publication of non-profit organisations' annual reports in the Non-profit Associations and Foundations Register	
Measure 3	**Engagement of non-profit organisations in supervision of the use of resources received from the EU structural funds[37]**

[35] The Code of Ethics of Non-profit Organisations was adopted at the general assembly of the Estonian non-profit organisations in 2002: http://www.ngo.ee/eetikakoodeks.

[36] In 2008 the Ministry of the Interior will develop the principles of financing non-profit organisations from the state budget which must also prescribe the requirement concerning the existence of a Code of Ethics. The specific procedure for supervision of compliance with that requirement (e.g. whether the requirement would be imposed also in the case of funds applied for in a competition) will also be established.

[37] The bases of engaging NGOs in monitoring activities derive from the Government of the Republic Regulation No. 276 of 22 June 2006 titled "Procedure for Monitoring and Evaluation of Structural Assistance Between 2007 and 2013 and Formation of a Monitoring Committee." The following conditions underlie the selection of NGOs:
1. Objectives and activities of the operational programme coincide with the area of activity of civil society.

Activities	
3.1. Non-governmental organisations representing civil society are engaged in the monitoring of the use of structural assistance, their members participate in monitoring committees and, if necessary, other committees and working groups related to the monitoring of structural assistance.	
Measure 4	**Increasing the awareness of corruption and ethics in the enterprise sector**
Activities	
4.1. Development and organisation of a series of seminars for entrepreneurs, incl. notification of entrepreneurs of the principles of the OECD anti-bribery convention[38]	
4.2. Notification of entrepreneurs of the leniency program, incl. organisation of an international conference for entrepreneurs	
4.3. Training of journalists (incl. those working in counties) with the aim of promoting investigative journalism	
4.4. Analysis of the problem of corruption in the media	
4.5. Mapping of the spread of corruption and fraud in the private sector	

2. Umbrella organisations of civil society are engaged with a view to ensuring broad representation in the monitoring process.

[38] Convention on Combating Bribery of Foreign Public Officials in International Business Transactions: http://www.korruptsioon.ee/6448.

Objective II: prevention of conflicts of interest, and reinforcing the anti-corruption attitude and ethical behaviour of public sector personnel

Description of the situation

2.1. Prevention of conflicts of interests

1) Prevention of conflicts of interests by means of restrictions

A conflict of interests arises when an official needs to make work-related decisions which may be related to the interests of the official or persons close to the official[39]. A conflict of interests comprises an ethical dilemma where the private interests of an official may influence unbiased and objective compliance with the official's duties[40]. In the private and non-profit sectors a conflict of interests exists when, upon decision-making, a board member or an employee has a personal interest which is in conflict with the interests of the organisation[41]. A conflict of interests may be apparent or actual: an apparent conflict of interests exists when private interests seem to influence compliance with official duties while they actually do not (ethical dilemma). Where the private interests of an official actually cause inappropriate compliance with the official's duties, corruption and irregularity is deemed to exist[42]. A conflict of interests need not derive from the economic interests of an official – it may stem from interests arising from membership of the official in an organisation. It is often quite difficult to avoid conflicts of interests in a small country, especially on the level of local governments, as there are a few people and the same people simultaneously fulfil different roles. Therefore, we need well-weighed and clear rules for avoiding conflicts of interests – the current regulation of combating conflicts of interests in Estonia (the Anti-Corruption Act) can be considered ambiguous and it raises several questions.

There is no direct connection between the low level of corruption in a country and abundant prohibitions, which means that numerous prohibitions and rules need not necessarily reduce corruption. The authors of a survey initiated by the European Commission pointed to the circumstance that it is not the regulation of conflicts of interests, but the accompanying ethical infrastructure (governance of organisations, ethical norms, etc.) that influences corruption [43]. As a result of the survey, it was also concluded that countries are divided into countries of high and low trust levels and the regulation of conflicts of interests should differ accordingly. There is not and should not be a single system for preventing conflicts of interests in the European Union or elsewhere in the world. For example, the prohibitions applied in the United States of America are considerably stricter than those imposed in the EU Members States. However, a balance must be sought in the case of Estonia and the most important spheres that need stricter regulation must be identified, considering the smallness of Estonia. Publicity (publicity of transactions and public justification of decisions) must operate as the central principle of preventing conflicts of interests. The core principles specified by the OECD as those vital to the prevention of conflicts of interests are, besides the principles set out above, impartiality in making decisions; giving up the duties of the private sector if they conflict with the performance of public duties; personal example, engendering an organisational culture which is based on openness, etc.[44]

The Supreme Court declared § 19 (2) 6) of the Anti-Corruption Act as unconstitutional and repealed it to the extent that the provision prohibits an official specified in § 4 (1) of the Act, within three years after resignation from public service, from being a member of the directing or supervisory body of a company with state or local government holding in which the official did not have the authority to supervise the company's activities or make decisions that directly influenced the company's activities by virtue of his or her former position. In its judgment the Supreme Court pointed out that the legislature has prescribed an absolute restriction of a formal nature which makes it impossible to consider whether or not the appointment of a former official as a member of the directing or supervisory body of a company with state or local government holding would actually result in the risk of corruption. As regards the aforementioned prohibition, the Court referred to the infringement with the right of a person to freely choose his or her area of activity, profession and place of work, as established in § 29 (1) of the Constitution.[45]

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[39] OECD Guidelines for managing conflict of interest in the public service. 2005. http://www.avalikteenistus.ee/public/OECD_HK_Poliitika_20070621030646.doc

[40] Pruks, P. Korruptsiooni piiramisest Eestis. Õiguslikke küsimusi (Restricting Corruption in Estonia. Legal Issues). Tartu 2002, page 24.

[41] Kurtz, D; Paul, S. 2006. Managing Conflicts of Interest: A Primer for Nonprofit Boards (Second Edition). http://www.boardsource.org/UserFiles/File/Intros/325_Intro.pdf

[42] OECD. 2005. (State Chancellery. 2007.) Huvide konflikti käsitlemine avalikus sektoris. Käsiraamat /Management of conflicts of interests in the public sector. A Handbook/. Pp. 97-98.

[43] Demmke, C; Bovens, M; Henökl, T. 2007. Regulating Conflicts of Interest for Holders of Public Office in the European Union. European Commission; European Institute of Public Administration, p. 139.

[44] Draft OECD Guidelines for Managing Conflicts of Interest in the Public Service. GOV/PUMA (2003) 10.

[45] Judgment No. 3-1-1-92-06 of the Supreme Court *en banc.*

In September 2005 an analysis of restrictions on employment and activities and procedural restrictions applicable to officials was carried out at the Ministry of Justice. The analysis was based on a questionnaire whose aim was to obtain an overview of problems resulting from the restrictions on employment and activities and procedural restrictions established in the Anti-Corruption Act. Approximately one-third of the respondents stated that the restrictions prescribed in the Anti-Corruption Act had been infringed in their agencies. The following practices were specified as infringements: officials belonging in the directing bodies of companies, failure to report corruptive practices, deciding upon the grant of allowance to a close relative, etc. As the reasons for violating the restrictions it was predominantly stated that the restrictions did not conform to the demands of real life and that it was difficult to ascertain the person to whom the restriction applied. Many restrictions are outdated; the Act contains obsolete terms (e.g. holding a second job). The term 'position' has been interpreted most differently in practice. Therefore, also the persons to whom the restrictions and obligations arising from the Anti-Corruption Act should be applied have been defined differently. The term 'act' to which procedural restrictions apply is vague and may even refer to the arrangement of correspondence – restrictions of such acts are not reasonable. Thus, the criteria of treating a person as an official should be particularised by specifying the definition of 'position.' The goal is to treat as officials only the persons in whose case the risk of corruption is greater.

The new regulation of conflicts of interests must build upon the principles of transparency and removal: an official discloses the potential sources of conflicts of interests and removes him or her from the adoption of any decisions that might influence his or her personal interests. The current system of prohibitions in the Anti-Corruption Act should be replaced by a system of notification. This means that an official should generally be allowed to be an entrepreneur and work for another employer, unless supervision is exercised over the other employer or the entrepreneur. Such a reversed system would constitute a significantly milder interference with persons' fundamental rights and be compatible with the general logic of restricting fundamental rights: the existence of a fundamental right is the rule and the state can restrict it on certain conditions. Restrictions on employment and activities must be divided into two categories on the basis of the extent of possible risk of corruption arising from an activity: the activities which an official may carry out but which are prohibited in certain cases (officials should be allowed to work for another employer) and the activities which are absolutely forbidden (e.g. official working in a position where the direct supervisor is the official's close relative or close relative by marriage). Where an official intends to work for another employer or act as an entrepreneur, he or she must, for the sake of clarity, notify his or her direct supervisor or the person who appointed him or her to the position, in writing.

Instead of itemisation of procedural restrictions, as in the current Act, the sphere should be addressed more broadly and prevention of conflicts of interests with the help of certain restrictions should be the goal. To prevent any conflict of interests, an official must remove him or her from decision-making in certain cases. In the case of a member of a collegiate body, the person who appointed the official to the position or his or her immediate supervisor can designate another person to participate in decision-making. In the case of an official who adopts decisions at his or her sole discretion, the person who appointed the official to the position or his or her immediate supervisor must designate a substitute.

2) Notification about infringements

Whistleblowers are taken to mean those employees or former employees of an organisation who report unlawful or unethical practices relating to the organisation (incl. corruption) to the persons or bodies that may be able to effect action[46]. In the context of corruption, whistleblowers are protected so as to encourage employees to report corrupt practices and suspected corruption and to ensure their protection, e.g. in situations where the whistleblowers are persecuted by co-workers. The protection of whistleblowers may consist, without limitation, in ensuring the confidentiality of the person who reported corruption[47], reinstatement of the situation and compensation for damage caused by persecution, and rewarding the whistleblower[48].

According to the corruption survey, 12%[49] of the public sector employees who had come across corruption notified law enforcement agencies thereof and 18% did not tell anybody. On the other hand, there is no information about an official having been punished for failure to report corruption[50]. As the main reasons for failure to report corruption, public sector personnel mentioned the problematic provability of corruption (51%), the desire

[46] Miceli, Marcia and Janet Near. 1996. Whistle-Blowing: Myth and Reality. Journal of Management, vol. 22, no. 3: 507-526.
[47] The term "anonymity" used in § 23 of the Anti-Corruption Act is hereinafter replaced with "confidentiality" as this word expresses better the nature of notification prescribed in the Act. Namely, it derives from § 23 that the name of a whistleblower is not made public, but at the same time it is presumed that the identity of the whistleblower is known to the executive of the organisation, the Police, the Security Police or the Prosecutor's Office. Thus, § 23 of the Anti-Corruption Act does not aim at promoting anonymous "snitching," but ensuring the confidentiality of a whistleblower in the case of responsible reporting of corruption in good faith.
[48] Jos, Philip H., Mark E. Tompins and Steven W. Hays. 1989. In Praise of Difficult People: A Portrait of the Committed Whistleblower. Public Administration Review, vol. 49, issue 6: 552-561.
[49] In the given case, two response categories under the survey "Corruption in Estonia: A survey of three target groups" (2006) – "Yes, I notified law enforcement agencies" (5%) and "Yes, I told friends and also notified enforcement agencies" (7%) – have been combined.
[50] Klopets, Urvo. 2006. "Vilepuhuja (*whistle-blower*) kaitse Eesti avalikus sektoris"/Protection of whistleblowers in the public sector of Estonia/. University of Tartu, Faculty of Social Sciences, Department of Public Administration.

to avoid causing problems to the whistleblower and others (24%) and the belief that the wrongdoers would not be impeached anyway (23%).

The current Anti-Corruption Act needs to be analysed[51]. Under § 23 of the Anti-Corruption Act, officials are required to report corrupt practices to the head of the agency, the Security Police, the Prosecutor's Office or the Police. Notification about suspected or known corruption is obligatory and failure to do so may serve as a basis for the release of an official or public servant from service or office or for imposing a fine (§§ 23 and 26 of the Anti-Corruption Act). Investigative bodies are required to ensure the anonymity of a person who reported corruption in good faith (§ 23).

GRECO does not deem § 23 of the Anti-Corruption Act sufficient in terms of protection of persons reporting corruption from victimisation and other adverse consequences[52]. As regards Estonia, GRECO has deemed it particularly important to develop institutionalised protection, which basically means the development of special measures for protection of persons reporting corruption, and institutionalised implementation of these measures along with legal regulation.

The rules of procedure or other documents of ministries generally do not provide for measures encouraging notification about corruption. At the same time, officials actually feel the need for guidelines, good practices and more comprehensive discussion of ethical issues within their agencies. Although ministries deem the principles of whistleblower protection as generally acceptable, they question the applicability of these principles in practice. Until now, more thorough studies have focused on ministries, but there are more different types of administrative agencies in Estonia. Therefore, organisations of the public and private sectors should be mapped to ascertain which agencies and business sectors need guidelines and where the development of guidelines for reporting corruption (and/or internal Codes of Ethics) should be rendered mandatory.

3) Declaration of economic interests

A new procedure for declaration of economic interests must be established. The draft procedure has been prepared at the Ministry of Justice and it was approved by other ministries in 2006[53].

The procedure to be adopted must build upon the following principles:

1. Reduction of the number of officials who are obliged to submit declarations of economic interests (hereinafter referred to as 'declaration') under law (officials in higher and responsible positions) and whose declarations are public.
2. Secretaries-General of ministries and heads of other administrative agencies are given the right to impose the obligation to submit declarations on the officials whose duties relate to the application of enforcement powers or financial resources of the state.
3. Refusal to submit the declaration will constitute a basis for termination of the employment or service relationship[54]. Local governments are given the opportunity to establish the obligation to submit declarations.
4. The scope of the data to be declared will be specified. In addition to data contained in registers, also the assets used by an official will have to be declared (immovable property placed in the possession of the official, incl. vehicles entered in the state register if the official uses that vehicle for at least four months during a calendar year).
5. The procedure for submission of declarations will be specified: a declaration must be submitted upon commencement and end of employment or service relationship.

[51] Whistle-blowing issues have not been explored much in Estonia. The system for protecting whistleblowers has briefly been discussed in the collection of articles written within the framework of the project titled "Restricting corruption in a transitional society. A legal aspect." It has been stated that whistle-blowing may be considered disreputable in a post-communist society, as this is associated with "snitching." On the other hand, it was recommended that additional guarantees be created for officials to encourage notification about corruption. In 2006 Urvo Klopets defended, in the Department of Public Administration of the University of Tartu, the bachelor's thesis titled "Vilepuhuja /*whistle-blower*/ kaitse Eesti avalikus sektoris" /Protection of whistleblowers in the public sector of Estonia/, in which he discussed the existence of whistleblowers protection in effective legislation. One of the conclusions of the thesis was that the notification obligation established in § 23 of the Anti-Corruption Act is not complied with in reality and that the awareness of officials and public servants of the notification obligation should be increased. Thirdly, the extent of notification about corruption among the population, entrepreneurs and public sector personnel has been examined in the corruption studies commissioned by the Ministry of Justice. Until now, the most comprehensive study is Anneli Sihver's master's thesis titled "Teavitaja kaitse („vilepuhuja kaitse") süsteemi rakendatavus Eesti avalikus teenistuses" /Applicability of the whistle-blowing protection system in the public service of Estonia/ in which the author analyses, using the examples of ministries, the principles under which such a system could be created in Estonia and whether this would be reasonable, considering the situation in Estonia.

[52] 1) GRECO. 2004. Evaluation Report on Estonia. Second Evaluation Round. 2) GRECO. 2007. Draft of Seventh Activity Report of GRECO, 2006.

[53] http://eoigus.just.ee/?act=6&subact=1&OTSIDOC_W=139636.

[54] See the programme of the Government of the Republic for 2007-2011, clause 15.3 http://www.valitsus.ee/failid/2007_12_20_VV_tegevusprogramm_LOPLIK.pdf.

6. The current system of submitting paper declarations will be replaced by electronic submission, and an electronic database of declarations will be created.
7. With a view to the administration of other officials' declarations, an electronic database can be created in each administrative agency, if the head of that agency decides to establish the obligation of submission of declarations.
8. Public control will be improved: everyone will be able to access the data contained in the database of declarations (with the exception of the information which is not subject to publication, such as sensitive personal data) as regards higher-ranking officials so as to increase control by the public at large, improve transparency and thus enhance the anti-corruption effect of declarations.

The Centre of Registers and Information Systems in the administrative area of the Ministry of Justice could be the agency creating the database of declarations and would be able to carry out the project in 9-10 weeks. Further development of the electronic Tax Board should also be considered instead of creating a new database.

The regulation of conflicts of interests and the renovation of the system of declaring economic interests had been prescribed in the anti-corruption strategy "Honest State" already. However, the two drafts (declaration of economic interests and regulation of conflicts of interests) should not be fragmented by amending the existing Act. Instead, a new integral Act should be drafted which would provide for restrictions on activities imposed with the aim of preventing conflicts of interests, reporting violations, and declaration of economic interests.

2.2. Ethics training and study materials

Ethics in public service has been one of the training priorities in the public sector, as approved by the Government of the Republic, during the last four years (2004-2007). New officials' acclimatisation courses, training courses for ethics training providers, open ethics training courses for public servants and intra-agency public ethics training courses have been conducted.

During the last three years, training courses in the field of ethics have been funded in the aggregate amount of 923,787 kroons (as of 31 December 2006). Of that amount approximately 600,000 kroons were received from the EU structural funds. In addition to the centrally organised training courses, many agencies have started to compile their internal Codes of Ethics and focus on the implementation thereof, carrying out intra-agency training courses.

While attention has been paid to the ethics training of public servants, other groups employed in the public sector have received no attention. In the Compliance Report of the Second Evaluation Round GRECO recommended that Estonia should increase focus on the information and training of all the public sector employees[55] which means that ethics training should be expanded to other groups employed in the public sector besides public servants.

An ethics study material has been published on CD-ROM[56]. As an annex to the study material, the OECD handbook titled "Managing Conflict of Interest in the Public Sector," (OECD 2005) has been issued, which discusses the essence of the conflict of interests and suggests tools for managing and preventing conflicts of interests. The handbook contains illustrative cases and their solutions. On the other hand, as the handbook is of a general nature and does not suggest ways to manage conflicts of interests on the basis of the Estonian legislation, the publication of a similar handbook tailored to the situation in Estonia should be considered after the adoption of the new Anti-Corruption Act.

2.3. Public Service Ethics Council

By a directive of 26 September 2006, the State Secretary formed a working group for developing the work principles of the Public Service Ethics Council and appointed the following persons members of the working group: Mihkel Oviir, the Auditor General; Jüri Pihl, Secretary-General of the Ministry of Justice; Veiko Tali, Deputy Secretary-General for Financial Policy of the Ministry of Finance; Jüri Mölder, City Secretary of Tartu City Government; Ivar Tallo, Director of the e-Governance Academy; and Triin Vihalemm, Associate Professor of media and communication and holder of the Chair of Social Communication in the University of Tartu. Heiki Loot, the State Secretary, directed the work of the working group. The working group met once in September 2006. Owing to the vagueness of the development directions of the public service, the activities of the working group subsided. As a result of the discussion held in the working group it was concluded that the objective of the Public Service Ethics Council would consist in the reinforcement of the main values and ethos of the public service and the contribution to the development of fellowship and identity in the public service.

[55] GRECO Compliance Report
http://www.korruptsioon.ee/orb.aw/class=file/action=preview/id=25882/GRECO+II+ringi+vastavusaruanne.pdf
[56] The textual part of the study material is available at http://www.riigikantselei.ee/?id=7252.

2.4. Surveys carried out in the sphere

Three major surveys have been carried out in the spheres of corruption and ethics in recent years[57]: the corruption survey of three target groups, which has been carried out twice (2003/2004 and 2006/2007) and the findings of which were published in the series of publications dedicated to criminal policy studies, and a survey in which the roles and attitudes of the public service were mapped (2005/2006). Corruption surveys are referred to in several parts of this Strategy. In this section the findings of the survey that aimed at mapping the roles and attitudes of the public service are discussed. It must be admitted that there is no survey of the attitudes of non-profit organisations and thus it is not known how such organisations would feel, e.g. about an official participating in the activities of the organisation that he or she curates by virtue of his or her position. Therefore, the sample of corruption surveys should be expanded and some questions should be specified. Also, repeated surveys should be carried out at a pre-determined frequency to describe the ethics-related situation of the public service.

Formation of trustworthy civil service is one of the keys to prevention of corruption. A comparison of the findings of two years' surveys indicates that the population's trust in officials has declined. According to the findings of the survey carried out at the end of 2006, 47% of the population found officials to be trustworthy and acting honestly, impartially and transparently. A year ago 60% of the population deemed officials trustworthy.[58] The assessments of trustworthiness were probably influenced by the media, as according to the survey the last direct contact with an official happened more than a month ago in the case of 40% of the respondents.

The survey titled "Roles and attitudes in the public service" allows for the conclusion that officials are generally aware of ethics-related requirements, but they tend to resolve ethically challenging situations intuitively rather than on the basis of a Code of Ethics or a consistent analysis. The survey also indicated that officials understand that they operate at the intersection of numerous – often conflicting – expectations and loyalty requirements. It also appeared that it is very difficult for officials to manage ethical role conflicts and that they are not aware of or able to use a Code of Ethics. As regards the development of ethos in the public service, officials place their hopes mostly on the development of organisational cultures in agencies, personal example of leaders, and stability and neutrality of the civil service. In addition, officials feel a need for practical ethics training.

The attitudes of public servants towards corruptive practices were ascertained in the course of the survey. Leaking intra-agency information into the media or to a stakeholder was deemed the most condemnable misconduct (73% of all respondents). The acceptance of financial gratuity for provision of a public service was considered a most serious infringement, as well (68%). The respondents were relatively tolerant towards the acceptance of presents – only 41% of the respondents regarded such practice as most serious misconduct. The respondents were also relatively lenient towards the speeding up of proceedings relating to the companies or persons which they knew (a most serious infringement – 18%; quite a serious infringement – 46%); the delivery of work-related lectures for a charge (16% and 29%); and the use of resources envisaged for performance of official duties for personal purposes (11% and 43%).

Measures and activities necessary for attaining the objective

Objective II: prevention of conflicts of interest, and reinforcing the anti-corruption attitude and ethical behaviour of public sector personnel

Impact of Objective II: Legal clarity and prevention of conflicts of interests. As a result of increased awareness, the susceptibility of public sector personnel to corruption will diminish. Surveys will enable the impact of anti-corruption actions, ethics training courses and policy to be assessed, changes to be observed and guidelines to be given for the future.

Measure 5	**Arrangement of the legal regulation for prevention of corruption and conflicts of interests**
Activities	
5.1. Elaboration of the new Anti-Corruption Act comprising both the amended regulation of prevention of conflicts of interests and the new arrangement of declaring economic interests	
5.2. Creation of the database of declarations of economic interests	
Measure 6	**Increasing the awareness of public sector personnel of corruption and ethics**
Activities	
6.1. Updating the study materials of ethics: adding new video materials, preparing case studies based on the situation in Estonia, adding cases involving conflicts of interests	
6.2. Compiling, presentation and dissemination (incl. at the websites korruptsioon.ee; avalikteenistus.ee; aktiva.ee) of a handbook concerning conflicts of interests specific to Estonia	
6.3. Organising ethics training to different groups of public sector personnel (incl. public servants)	
6.4. Start-up of regular activities of the Ethics Council	

[57] Earlier studies can be examined at www.korruptsioon.ee.
[58] Questionnaire "Proficiency and trustworthiness of officials." AS Emor 2005, 2006 (http://www.avalikteenistus.ee/?id=10735).

Measure 7	Conducting corruption and ethics surveys
Activities	
7.1. Conducting a repeated survey of the corruption level in Estonia	
7.2. Conducting a repeated survey mapping the roles and attitudes of officials	
7.3. Analysis of the need for and suitability of the whistleblower protection system: mapping the public and private sector organisations	

Objective III: prevention of corruption in local governments

Description of the situation

According to the results of the corruption survey (2007), 8% of Estonian entrepreneurs have given a bribe in the form of cash, a present or a return service to local government agencies, and from 7% of the Estonian population a bribe has been asked upon communication with the city or rural municipality government.

Entrepreneurs were asked about their opinion of the scope of corruption in the relations between the state and entrepreneurs and between local governments and entrepreneurs. Playing the state assets in the hands of certain persons was considered the most widespread form of corruption both on the state level and the level of local governments. 53% of entrepreneurs believed that local assets were played in the hands of certain persons, and 60% believed that state assets were played in the hands of certain persons. 50% of entrepreneurs were of the opinion that public procurements were fraudulent on the level of local governments (57% believed the same with regard to the state level); 36% believed that entrepreneurs were buying preferential treatment from local governments (40% were of the opinion that the same phenomenon existed on the state level); and 37% believed that bribes were given on the level of local governments (38% believed the same with regard to the state level). Hence, entrepreneurs believe that corruption is more widespread in the relations between the state and entrepreneurs than between local governments and entrepreneurs.

The corruption problem varies from region to region. The shortage of childcare places in Tallinn could be highlighted as an example. According to the corruption survey, inhabitants of Tallinn have experienced the problem of bribery in their relations with kindergartens and schools more than people in other regions (20% in Tallinn and 12% in Tartu and Jõgeva Counties).

Of the corruption cases investigated by the police, 30-50% relate to corrupt practices in local governments. More corrupt practices have been ascertained and proceedings have been commenced in relation to trafficking in immovable properties, altering the intended purpose of land, privatisation, development activities and public procurements. It is difficult for the police to obtain information about corruption in local governments. It appeared on several occasions that corruption had been suspected due to a conflict between the parties: one of the parties had misinterpreted an event and no act of corruption had been committed for the purpose of law. For example, the police received a complaint when a local government could not allocate funds and the other party interpreted the refusal to allocate funds as a request of a bribe.

The anti-corruption strategy “Honest state” prescribed two measures to control corruption on the local level. As one of the measures, a twinning project for development of the financial control system of local governments was carried out on the initiative of the Ministry of Finance in cooperation with German experts in 2004 and 2005. The aim of the project was to increase the awareness of local authorities of the essence and necessity of financial control, teach the principles of auditing to members of audit committees and instruct the internal auditors of county governments in acting as the mentors of the internal auditors of local governments. In the course of the project, questionnaires were developed for ascertaining the problems of local governments, but feedback was insufficient, as larger local governments did not respond. Training events were planned for 720 employees of local governments within the scope of the project. However, only 30 people attended the seminars in Tallinn and Tartu.

As the other measure, better auditing of local governments was prescribed. To that end, a provision vesting the National Audit Office with the authority to audit local governments was added to the Local Government Organisation Act and the National Audit Office Act. The National Audit Office has referred to insufficient internal auditing and supervisory control of local governments, as well as to the inadequacy of information on the parties to transactions. For example, no information about transactions concluded by companies related to members of local governments or councils has been disclosed.

The Police Prefecture started the mapping of corruption in 2004. Audit committees of local governments were involved in the collection of information with the aim of improving cooperation between audit committees and the police in ascertaining misconduct. The project abated allegedly due to the lack of interest on the part of audit committees.

The main problems of local governments arise from their infotechnological backwardness. It is impossible to obtain information about decisions and procurements concerning local governments in an electronic format; only some larger local governments have that opportunity. A common structure and environment should be created for publication of decisions and regulations of local governments. Legislation is currently published most unevenly, depending on the infotechnological level of local governments, and cannot be easily found. The Ministry of the Interior intends to create a universal system for administration of local governments’ websites in 2008[59]; however, the systematic publication of information on local governments’ websites must also be ensured.

[59] Measure 3.5.2 titled “Local Government Organisation” in the draft Activity Plan 2008 of the Local Government and Regional Administration Department of the Ministry of the Interior.

Local governments lack an electronic database for detailed tracking of the application of funds received. As a result, reports cannot be easily verified and they do not provide information as to with whom, for which amounts or for which purposes transactions have been made. More attention should be paid to contractual assignment of tasks in local governments. Local governments do not seem to be too capable of entering into and controlling such contracts and paying attention to various important aspects (use of funds, applicable rules, etc.).

Aid project for prevention of corruption in local governments

To prevent corruption in local governments, a twinning project was launched in 2007. The project will last for a year and aims at studying corruption-prone situations in local governments and mitigation of the risk of corruption. The largest local governments (Tallinn, Tartu, Pärnu and Narva) and the Association of Cities of Estonia participate in the project. The project consists of three main components:

1. Mapping the capacity of the officials who investigate corruption offences, ascertaining their training needs and conducting the relevant training courses.
2. Increasing the corruption awareness of local governments. To that end, joint seminars of larger local governments are organised. It is also intended to develop the Estonian Corruption Perception Index in conjunction with the Transparency International. A new method will be developed and tested in four larger local governments.
3. Principles of communication and cooperation between the police, Prosecutor's Offices and the media will be developed.

After the introduction of the Corruption Index in the second half of 2008, its sustainability must be evaluated and, if necessary, measures must be provided for in the Anti-Corruption Strategy.

Measures and activities necessary for attaining the objective

Objective III: prevention of corruption in local governments

Impact of Objective III: Availability of information to the public at large and auditing institutions will contribute to the prevention of corruption in local governments. Decisions and legislation adopted by local governments and monetary transactions (public procurements, etc.) effected by local governments are transparent and legitimate.

Measure 8	**Improvement of the availability of information concerning local governments**
Activities	
8.1. Analysis of the susceptibility of contractual assignment of duties to corruption	
8.2. Establishment of a common reporting format for disclosure of local governments' expenditure	
8.3. Creation of a common electronic application for publication of local governments' documents and supervision over compliance with the requirement	
Measure 9	**Improvement of local governments' control system**
Activities	
9.1. Development of the draft Local Government Financial Management Act	
9.2. Rendering internal auditing mandatory in local governments	
9.3. Development of common internal auditing rules for local governments and establishment of the rules by legislation	

Objective IV: prevention of corruption in the health care sector

Description of the situation

The two basic problems highlighted in academic studies concerning corruption in the health care sector are the relations between health care providers and pharmaceutical companies, and the unofficial payments of patients to doctors for the services that should be free of charge or for illegitimate benefits, such as for moving up in a medical treatment waiting list.

The principal reasons for corruption in the health care sector are the unequal position of the providers and recipients of health care services, the values applicable in society and the professional circles, and the insufficient availability of health care services.

The main reasons for unofficial payments are the following[60]:

- socio-cultural: payments arising from the sense of gratitude; too small changes in people's thinking during the post-socialist period;
- legal and ethical: inadequate ethical standards of health care providers, non-existent control and accountability;
- economic: small wages of health care providers, insufficient appreciation of the health care sector by the state, rapidly increasing demand for health care services.

A survey carried out by the Estonian Institute of Economic Research in 2004 revealed that money has been requested in the health care system from 3.4% of the population[61]. The corruption survey commissioned by the Ministry of Justice in 2007 revealed that a bribe or a return service was requested from 14% of respondents in the health care sector. Then again, there are no systematic surveys of the health care sphere as a whole (the survey of the Ministry of Justice covered health care among other spheres) or a more precise study of the individual spheres of the health care sector.

Health care and fraud in Estonia

In autumn 2007 the Health Care Board collected the opinions of health care providers, county doctors and professional associations about problems relating to the health care sector and corruption.

Principal problems relating to corruption in the health care sector

1. Health care professionals' excessive discretion in issuing certificates of incapacity for work and other certificates[62]. For example, investigative bodies have received certificates of illness of the person summoned to participate in a procedural act or of unexpected serious illness of a person close to him or her, while there exist no clear, unambiguous and reliably identifiable criteria for issuing such certificates. This problem partly relates to the lenience and cautiousness of courts (especially the cases where a person submits an inappropriate certificate and has not even informed the doctor issuing the certificate of the addressee or purpose of the certificate). Another example is the insufficient verification of the circumstances of issuing certificates of incapacity for work, the groundless extension of these certificates, the ungrounded alteration of diagnoses upon extension, illnesses being diagnosed by doctors of other specialities, etc. Certificates of incapacity for work which have been issued groundlessly burden the social security system (unjustly received benefits). The Health Care Board that exercises supervision over certificates has, following the analysis of the results of supervision and having discussed the matter with judges and doctors, concluded that the regulation should specify with maximum precision possible the conditions in the case of which absence from a procedural act can be deemed acceptable.
2. Personal contacts of doctors with companies selling pharmaceuticals and medical devices. The close contacts of doctors with the representatives of pharmaceutical companies result in that doctors tend to issue medical prescriptions for the products of the pharmaceutical companies that are more active in introducing their products to doctors. The negative findings of surveys also include doctors' decreasing sense of criticism towards new pharmaceuticals, faith in the representatives of pharmaceutical companies, preference of expensive new pharmaceuticals over generic ones without an apparent advantage, etc.[63]. Pharmaceutical companies offer doctors financial support for travelling to

[60] Gaal, P. and M. McKee (2005) „Fee-for-service or donation? Hungarian perspectives on informal payment for health care." Social Science and Medicine, vol. 60.
[61] Habicht, J., K. Xu, A. Couffinhal and J. Kutzin (2006). "Detecting changes in financial protection: creating evidence for policy in Estonia," Health Policy and Planning, vol. 21; no. 6, pp. 421-431; data from the survey conducted by the Institute of Economic Research in 2004.
[62] See also § 170 (4) of the Code of Criminal Procedure and Regulation No. 85 of the Minister of Social Affairs dated 22 June 2004 "Format and procedure for issue of the certificate of illness of the person summoned to participate in a procedural act or of unexpected serious illness of a person close to him or her."
[63] Wazana, A. (2000). Physicians and the pharmaceutical industry. Is a gift ever just a gift? *JAMA, vol.* 283, no. 3. pp. 373-380.

presentations of pharmaceuticals or conferences. The doctors who have used the travelling support offered by pharmaceutical companies will 4.5-10 times more probably issue prescriptions for the pharmaceuticals of these companies when compared to the doctors who have not used such a support[64]. Also companies supplying medical devices try to offer some sort of support (e.g. for participation in scientific events or visits to plants manufacturing certain devices, etc.).

3. Documentation of the provision of health care services. The insufficiency of documentation renders it impossible to subsequently reliably identify the circumstances, appropriateness and quality of health care services provided. Problems in the documentation of health care provision were also highlighted in the analysis prepared on the basis of the work carried out by the Expert Committee on the Quality of Health Care[65]. In addition, there have been cases where documentation has most probably been subsequently altered. Patients usually lack the opportunity to reliably prove that their allegations are founded (in most cases they only receive a summary of health care services provided), which leads to the situation where the statements of the health care provider and the patient are mutually contradictory. As the documentation is in the possession of the health care specialist, he or she can always produce a document to prove his or her allegations, and even in the case of a doubt confirm that no alterations have been made in the document. At the end of 2007 the Riigikogu adopted the Act to Amend the Health Services Organisation Act and Related Acts (entered into force on 1 January 2008) which provides preconditions for digital proceedings (digital medical records, digital pictures, digital registration in medical treatment waiting lists, digital prescriptions). Further steps must still be taken to develop the health information system, which would *inter alia* contribute to the transparency of health care provision.
4. Referral of patients to private doctors. The situation has improved significantly when compared to the first years of private medicine in Estonia. Earlier it often happened that doctors pursued private practice in their everyday places of work. However, according to the Estonian Patient Advocacy Association, even now patients are advised to refer to the paid-for consultation of the same health care professional to speed up treatment. In addition to the possibility that health care specialists may advocate private consultation because of economic considerations, the problem also relates to treatment waiting lists. Due to the long waiting lists, private consultation is often the only way of quickly obtaining a health care service. According to a survey commissioned by the Ministry of Social Affairs and the Estonian Health Insurance Fund[66], 71% of the respondents were able to agree on an appointment with a specialised doctor within one month the last time that they registered. 25% of the respondents had to wait for more than a month. During the last 12 months, 10% of people have experienced that it is impossible to make an appointment with a doctor at the time suitable for the patient. That problem occurred the most frequently when making an appointment with a specialised doctor (8%). Long waiting lists are the main cause in the case of both specialised doctors and family physicians. The main cause for the waiting lists is the shortage of resources (in the recent years predominantly of human resources). The waiting lists are prolonged also due to the patients who recklessly fail to appear to the consultation when agreed. On the other hand, the waiting list systems of health care institutions are not perfect either (for example, to give up an appointment a patient needs to call at the same telephone number through which appointments are made, and telephone lines are busy). According to the same survey, people are generally willing to pay up to 1000 kroons for a health care service so as to not wait (or have a family member wait) in the waiting list. 37% of the respondents were prepared to pay for health care services. 16% were willing to pay more than 1000 kroons. However, moving up in the waiting list by paying, or going to paid-for consultation do not solve the problem or cause the substantive causes of the problem to be addressed.

Measures and activities necessary for attaining the objective

Objective IV: prevention of corruption in the health care sector

Impact of Objective IV: An overview exists of the scope of corruption in the health care sector which helps to plan further steps to prevent corruption. As the awareness of health care providers and recipients increases, the number of corruption cases declines. Greater transparency reduces the risk of corruption.

Measure 10	**Obtaining information about the scope of corruption in the health care sector**
Activities	
10.1. Thorough mapping of the corruption problem in the health care sector and updating of the Anti-Corruption Strategy (drafting a separate action plan, if necessary), considering also the experiences of the international network combating fraud in the health care sector (NHS[67])	
Measure 11	**Increasing the awareness of corruption and ethics in the health care sector**
Activities	

[64] Chren M.M, Landefeld S.(1994) Physicians' behaviour and their interactions with drug companies. JAMA ; 271: 684-689.
[65] Salupere, V (2003). Vastuoluline meditsiin: arstimisega seotud konfliktsituatsioonid. /Controversial medicine: conflict situations relating to treatment/. University of Tartu Press.
[66] See http://www.sm.ee/est/pages
[67] http://www.cfsms.nhs.uk

11.1. Conducting ethics training courses for health care providers	
11.2. Development of guidelines for prevention of conflicts of interests specific to the health care sector and organisation of information dissemination in the health care sector	
11.3. Training supervisory officials in the sphere of ascertaining corrupt practices	
11.4. Development of the system of reporting corruption cases in the health care sector	
Measure 12	**Increasing transparency in the provision of services**
Activities	
12.1. Amendment of Regulation No. 85 of the Ministry of Social Affairs dated 22 June 2004 so as to prevent fraud in the issue of certificates	
12.2. Introduction of digital medical records and development of solutions for health care information system (SMS messages, digital reminders of appointments)	
12.3. Creation of the electronic waiting list system	

Objective V: prevention of corruption in foundations established by the state and local governments

Description of the situation

In 2006, the state exercised its rights as a founder in 64 foundations (established by the state alone or with other founders)[68] (64 in 2005, as well) and was the sole founder of 38 foundations[69]. There are 723 foundations in Estonia.[70] The Ministry of Finance does not keep accounts of local governments or other legal persons in public law, but foundations controlled by the public sector can partially be ascertained through financial statements.[71]

In 2005 the assets of foundations established by the state amounted to 5.7 billion kroons, and 1.5 billion kroons were allocated to the foundations from the state budget in the form of direct aid. In 2006, the assets of foundations amounted to 6.78 billion kroons (an increase by 18.4%), incl. liquid assets in the amount of 2.19 billion kroons. Total revenues amounted to 6.2 billion kroons in 2006, incl. state aid from the state budget in the amount of 2.72 billion kroons, plus the financing of hospitals by the Health Insurance Fund. Benefits paid by foundations in 2006 amounted to 2.73 billion kroons, which represents an increase by 80% when compared to 2005.

Most of the foundations established by the state are essentially administrating foundations (81% or 69 foundations) and less than one-fifth are foundations distributing benefits (19% or 16 foundations).[72] The bulk of Estonian foundation applies for assistance rather than allocates it.[73] The Ministry of Finance currently lacks detailed information about assistance distributed by foundations. Then again, information about state aid received is collected for submission to the European Commission, but this information does not cover all the assistance distributed by foundations.

Main problems relating to foundations

I. Insufficient auditing and supervision of foundations' activities

- Local governments often have extremely weak internal audit systems and small experiences in auditing and risk analysis.

- Foundations established by the state are not audited frequently enough, and audits are not used in everyday work.

  1) The insufficient auditing of foundations established by the state may partly be due to insufficient regulation. Disregard of the existing regulation is the main cause of the problem, though. The National Audit Office has ascertained[74] that the control measures prescribed by law (the existence of an internal control system, internal audits, audit committees) fail to provide the desired results as the supervisory boards of foundations often fail to take the implementation of these measures seriously enough. It appears from the report of the National Audit Office that just a few audits are carried out in the foundations established by the state and that the audit work plan is not based on the assessment of risks. This may lead to a situation where there is no adequate overview of whether the activities of foundations are lawful and whether risks (incl. the risk of corruption) have been hedged. Direct tenders in to public procurements, biased decisions in granting project applications, negligence, bad faith and transactions with related parties are the aspects that cause the risk of corruption. There is a need for more comprehensive auditing in addition to audits of annual reports and analyses of the application of particular allotments of funds.

  2) The activities of Ministers in directing the operations of foundations are not transparent: Ministers' guidelines to supervisory board members for directing the activities of companies or foundations and for exercising supervision over the management board are predominantly given orally. As a rule, ministries communicate the opinions of the owner and founder directly to the management board, not to the supervisory board via the Minister. At the same time, one of the most important instruments for a Minister to exercise supervision over foundations is the possibility to appoint members of the supervisory board, give guidelines to them and require them to account for their activities in the supervisory board.

[68] Põldmaa, P. 2007. Master's Thesis.
[69] National Audit Office. Audit Report No. OSIV-2-1-4/07/4.
[70] Centre of Registers and Information Systems. 2007.
[71] See http://saldo.fin.ee/reporting/institutionSearchListView.do
[72] Põldmaa, P. 2007: Riigisektori asutatus sihtasutuste rahastamine Eesti näitel /Funding of the Foundations Established by the State Sector: The Case of Estonia/. University of Tartu. Master's Thesis, p. 24.
[73] Lagerspetz, M. *et al*. 2003. Eesti sihtasutuste rollid ja tulevikunägemused /Roles and Visions of Foundations in Estonia/. *Exploratory Report.* The Estonian Institute of Humanities, p. 5.
[74] National Audit Office. Audit Report No. OSIV-2-1-4/07/4.

3) There are generally a lot of members in the supervisory boards of foundations who represent several stakeholders. This circumstance involves the risk that in directing and controlling the activities of the foundation, the supervisory board guides itself by the wishes of the stakeholders rather than these of the state as the founder.

II. There is no information or an adequate overview of the legality of foundations 'activities.

- Information about the foundations of local governments is insufficient.

1) There is no adequate overview of the number of foundations established by local governments, of the activities carried out by, and of the financial status of, these foundations. The foundations that are required to submit their financial reports do not include foundations established, but not controlled by the state or a local government. It is the duty of local governments to determine control, i.e. the Ministry of Finance does not keep accounts of foundations established by local governments and legal persons in public law, but takes data submitted by them as the basis.

- Information about the state's foundations is insufficient.

1) Also the multitude of foundations and difficulties in counting them pose problems. While all foundations must be registered, there is no complete list of foundations established by the state sector.

2) There is no common understanding as to why the state establishes foundations and which particular objectives the foundations are supposed to attain. Thus, there is the risk that foundations need not guide themselves by the interests of the state as the owner and founder in their activities. Even though foundations are generally established for political reasons and their objectives are of a political nature, it is important that foundations attain their objectives efficiently and lawfully.

3) At present the administrations of ministries need not be aware of problems and risks related to foundations or of the ways of hedging or resolving operation risks. Audit committees, which often are weak, fail to forward all the information to the supervisory board, and members of the supervisory board fail to communicate the (relevant) information to the ministry.

Control of foundations established by both the state and local governments must be strengthened to prevent problems. Auditing of also local governments' foundations by the National Audit Office could be a solution (which also means that the need for additional training in the spheres of auditing and risk assessment must be ascertained).

Measures and activities necessary for attaining the objective

Objective V: *prevention of corruption in foundations established by the state and local governments*

Impact of Objective V: Better overview of foundations established by the state and local governments, and of the purposefulness and lawfulness of their activities, resulting in better transparency of the foundations.

Measure 13	**Collection of more detailed information about foundations established by the state and local governments**
Activities	
13.1. Arranging for the receipt of a consistent overview of foundations established by the state and local governments	
Measure 14	**Reinforcement of control over foundations established by the state**
Activities	
14.1. Vesting ministries with the explicit right to audit foundations (incl. management of foundations) by the new State Assets Act	
14.2. Specification (in the State Assets Act) of the obligations of Ministers in the exercise of founder's rights in foundations where the state is a shareholder	

Objective VI: prevention of corruption in the grant of the right to drive and in roadworthiness testing and registration of vehicles

Description of the situation

To ensure that vehicles used in traffic are technically operational and that the right to drive is granted pursuant to the procedure established by law, the Estonian Motor Vehicle Registration Centre (ARK) prioritises anti-corruption measures in its strategic plan for years 2008-2001. The first priority in combating corruption is to ensure that the right to drive is granted to persons only pursuant to the procedure established by law. The second priority is to ensure that vehicles used in traffic are technically operational and that all these vehicles are registered.

Private capital-based entrepreneurs provide driver's training and carry out roadworthiness tests. ARK exercises supervision over these entrepreneurs. Supervision over driving schools and roadworthiness testing centres is exercised by quality committees and local offices of ARK. In addition to ARK, also the Ministry of Education and Research has the duty to supervise driving schools.

According to the control structure of ARK, the local offices of ARK supervise driving schools and roadworthiness testing centres in their areas of operation. In addition, quality committees have been formed within ARK. Members of the quality committees (employees of the Examination, Technical, Internal Audit and Supervision Departments as well as local offices with the relevant qualification) also control the work of driving schools and roadworthiness testing centres.

Supervision over the activities of ARK is exercised by the Internal Audit and Supervision Department of ARK.

I. Driver's training: driving schools

To increase traffic safety, ARK aims at enhancing supervision over the training of motor vehicle drivers. Risks relating to the training of motor vehicle drivers arise primarily from fictitious training, which means that certificates are issued to persons who actually did not undergo the training courses and who thus do not meet the qualification requirements of drivers. Final stage training, which is undergone fictitiously, is particularly risk-prone, as the persons are not tested by the state later. It is difficult to exercise supervision over the substantive training, as training mostly takes place after working hours and on weekends.

Measures taken:

- Coordination and exercise of supervision by quality committees
- Training the inspectors of ARK
- Cooperation with the Police Board in supervisory activities
- Increasing the share of substantive supervision (visiting classes, verifying the qualifications of personnel)

II. Granting the right to drive: state test

As regards application for the right to drive, risks of corruption may arise in testing the applicants and issuance of driving licences.

Examples of corrupt practices in testing include, for example, testing without the identity of the person taking the test being verified, biased evaluation of examinees, the connection of the examiner with a particular driving school or with the person applying for the driving licence, and the significantly stricter evaluation of those who have attended an "antipathetic" driving school with the aim of inducing the offer of a benefit.

In the grant of driving licences, corrupt practices may include, for example, preparation of the driving licence without the person to whom it is issued being present, without the identity of that person being verified or knowingly on the basis of false data; issue of a duplicate with the rate of the state fee being reduced without a legal basis (on the basis of a police certificate which is fictitious or "purchased" or obtained by submitting false data), etc.

Measures taken:

- Theory tests are programmed so as to ensure that persons applying for the driving licence receive questions in a random way, which means that no examiner can interfere with the compilation of question cards (implemented since 2005).
- Video cameras were installed in the examination rooms so as to preclude any outside assistance and identify persons upon exercise of supervision (implemented since 2006).
- Examination vehicles used for driving tests for application for a category B driving licence are also equipped with video cameras (implemented since 2007).

The risks of corruption that may arise in connection with state tests have been reduced in ARK in recent years. For example, the programs of ARK enable information to be retrieved on where, why and by whom one or another act was performed. Latest innovations include video recording of theory tests; recording of driving tests in a video format that supports sound; and installation of video cameras in larger offices.

By comparing video recordings of theory tests with digital photos in the database, the internal control unit of the Estonian Motor Vehicle Registration Centre has identified persons who have repeatedly taken the theory test on behalf of other persons. Media coverage of fraud detected with the help of video recordings has triggered extensive reaction and its impact may be deemed positive as regards the prevention of future fraud, as the public receives a clear signal that cheating would not work.

III. Roadworthiness tests

Risks relating to roadworthiness tests arise primarily from the circumstance that it has been impossible for ARK to fully control earlier events. Control can be exercised with the help of documentation and control devices which, however, do not give a full overview of the correctness of roadworthiness tests. It is intended to minimise the risks with the help of electronic surveillance devices.

Examples of corrupt practices in roadworthiness testing include, for example, conduct of tests without actually inspecting the vehicle or inspecting the vehicle only partly, deliberate omission of recording the defects of the vehicle, and manipulating the results of control devices.

Measures taken:

- Coordination of supervision by quality committees
- Training the inspectors of ARK
- Cooperation with the Police Board in supervisory activities
- Inspection of roadworthiness testing in traffic in cooperation with traffic police
- Control and analysis of the established methodology
- Control and (statistical) analysis of data recorded during roadworthiness tests
- Discussion of the misconduct of inspectors in the quality committees and imposition of punishments on fraudulent inspectors
- Preparation of periodic supervision schedules, and control and monitoring of the work of roadworthiness testing centres

IV. Pre-registration inspection and registration of vehicles

In connection with the registration of vehicles the risk of corruption may arise in the pre-registration inspection of vehicles and execution of records concerning vehicles. Examples of acts of corruption include the execution of records concerning a vehicle without the relevant person being present or without his or her identity being ascertained; execution of records against the will of the owner on the basis of a registration certificate which was lost or stolen; and registration on the basis of falsified or fictitious documents.

In the case of pre-registration inspection, corrupt practices may include the execution of the statement of inspection without the vehicle being actually inspected; the execution of statements of inspection for vehicles with non-conforming or falsified VINs and documents; the conduct of pre-registration inspections outside the waiting list or merely on the basis of documents, i.e. without seeing the vehicle. Stolen vehicles and documents also pose risks similarly to the registration of vehicles.

Measures taken:

- Double control (a vehicle is checked both at the pre-registration inspection and at the registration, and these acts are performed by different persons)
- Identification of stolen and problematic vehicles with the help of the databases of the countries that have joined EUCARIS[75]
- Joining the Schengen information systems in order to ascertain stolen vehicles and documents within the countries that have joined the information systems
- Installation of video surveillance devices on the vehicle pre-registration inspection premises of larger local offices
- Control of pre-registration inspection records and comparison of vehicle data with the type approval database and video recordings
- Entry of the data of vehicle types conforming to new requirements in the centre by type approval experts

[75] European car and driving license information system

Measures and activities necessary for attaining the objective

Objective VI: *prevention of corruption in the grant of the right to drive and in roadworthiness testing and registration of vehicles*

Impact of Objective VI: Increased supervision over driver training, application for the right to drive, roadworthiness tests and registration of vehicles will help to reduce the risk of corruption. The automated identification system will considerably facilitate the work of examiners and preclude possible human errors in ascertaining the identities of persons.

Measure 15	**Increasing supervision over driver training and application for the right to drive**
Activities	
15.1. Engaging the police in supervisory activities: entry into a cooperation agreement between ARK and the Police Board	
15.2. Introduction of biometric identification devices	
Measure 16	**Increasing supervision over roadworthiness testing and registration of vehicles**
Activities	
16.1. Introduction of electronic surveillance devices in roadworthiness testing centres	
16.2. Installation of video cameras in smaller local offices[76], in the areas where pre-registration inspection is carried out	
16.3. Registration of departures in the ARIS traffic register information system	
Measure 17	**Increasing the awareness of the inspectors of driving schools and roadworthiness testing centres**
Activities	
17.1. Conducting the training of inspectors of driving schools and roadworthiness testing centres	

[76] ARK has 19 offices and cameras have already been installed in 10 of them.

Objective VII: prevention of corruption in the financing of political parties

Description of the situation

In Estonian law the rules of financing political parties and the general procedure for supervision over financing are established in Chapter 2^1 of the Political Parties Act. These provisions are supplemented by Chapter 11 of the Riigikogu Election Act, Chapter 10 of the European Parliament Election Act and Chapter 10 of the Local Government Council Election Act, which prescribe control over revenues received and expenses incurred by political parties in connection with elections.

The Ministry of Justice is responsible for legislative drafting in the area of constitutional law which also comprises legislation concerning the activities of political parties. Supervision over the financing of political parties is exercised by the Riigikogu's Select Committee on the Application of Anti-Corruption Act and partly also by private auditors and the Tax and Customs Board. The police and Prosecutor's Offices carry out proceedings concerning infringements of the rules of financing political parties. According to § 48 of the Constitution, only a court may fine a political party for a violation of law. The public at large and the media as its part have a significant role in controlling the financing of political forces.

The principles of financing political parties were last amended by the Act Amending the Political Parties Act that took effect on 1 January 2004. In the context of combating corruption, the most important amendments included the prohibition of donations from legal persons to political parties; assignment of the task of exercising supervision over the financing of political parties to Riigikogu's Select Committee on the Application of Anti-Corruption Act; allowing political parties to raise loans from credit institutions only; and alteration of the procedure for disclosure of reports on political parties' assets. As a result of the prohibition of donations of legal persons, allocations from the state budget to political parties tripled.

Under Estonian law, political parties can only be financed from the sources exhaustively listed in the Political Parties Act: membership fees, allocations from the state budget, donations of private persons, income earned on the assets of the political party, and loans or credit, provided that the lender or creditor is a credit institution and the agreement is secured by the assets of the political party or by the surety of its member.

Each political party is required to maintain a register of donations received and publish the register on its website. Political parties are not allowed to accept anonymous or concealed donations. The assignment of any goods, services, proprietary or non-proprietary rights to a political party under the conditions which are not available to other persons is deemed to be a concealed donation. If possible, political parties must return anonymous donations or donations from legal persons to the donor. In the absence of the possibility, political parties are required to transfer the donations into the state budget where they are added to the funds to be allocated to political parties from the state budget in the following budgetary year. The restrictions applicable to political parties upon acceptance of donations and the requirements for the disclosure of donations also apply to non-profit associations in which the political party is a member.

Each political party is under the obligation to prepare an annual report on its economic activities each year and publish the report on its website. The annual reports of political parties are also published in the Appendix to the State Gazette. In order to prepare an annual report, political parties which receive allocations from the state budget are required to conduct an audit.

Each political party that has participated in elections is required to submit, within one month after election day, a report to Riigikogu's Select Committee on the Application of Anti-Corruption Act concerning expenses incurred and sources of funds used for the conduct of the election campaign. The Select Committee publishes the reports.

A political party which participates in Riigikogu elections and receives at least one percent of the votes is entitled to an allocation from the state budget in the amount established in the Political Parties Act. In the case of the political parties that were elected to the Riigikogu, the amounts of allocations depend on the number of mandates, with the aggregate amount of allocations being determined by the State Budget Act each year. In 2008, 90 million kroons will be allocated to political parties from the state budget – 50% more than the amount prescribed in the state budget for 2007[77].

Problems associated with the system of financing political parties can conditionally be divided into two – legal and operational.

1) Control of financing political parties

[77] 60 million kroons were envisaged for political parties in the state budget for 2007.

The authority of Riigikogu's Select Committee on the Application of Anti-Corruption Act, as specified in the Political Parties Act and election acts, is most limited. The authority basically comprises only the collection of reports on donations received and expenses incurred in connection with elections, and assessment of the formal conformity of the reports to law. The Committee is not authorised to inspect the financing of political parties outside election campaigns or the reports on donations. In addition, the Committee lacks authority to exercise efficient supervision. For example, the Committee lacks coercive measures under administrative law for enforcement of its orders.

The inadequacy of supervision over financing is manifested in the incidents which become obvious from time to time and which arouse suspicions about the existence of corrupt relations, but which have not investigated at all or the investigation of which got jammed due to the absence of efficient supervision mechanisms.[78]

2) Internal control system of political parties

The Political Parties Act does not provide for the requirements of internal control of political parties, imposing just the obligation of annual audits on the political parties that are financed from the state budget. Nor does the Non-Profit Associations Act as the general legislation applicable to political parties impose any requirements concerning the internal control of non-profit organisations. Subsection 34 (1) of the Non-Profit Associations Act only establishes that the general meeting of a non-profit organisation supervises the activities of other bodies of the non-profit organisation and may, to that end, call for a review or audit. Considering the specific role of political parties among other non-profit organisations, the imposition of mandatory requirements concerning various forms of internal control of political parties should be considered.

As regards auditing, the independence of auditors could pose a problem. It has been alleged that in reality each political party has its own trusted auditor for which reason it would be impossible to attain the objective of ensuring objective information about the income and expenditure of political parties through auditing.[79]

3) Financing of, and donations to, political parties

The effective legislation does not provide a clear and unambiguous definition of a donation. Even though the term 'concealed donation' is defined in § 12^1 of the Political Parties Act, the absence of a definition of 'donation' as a general term makes it difficult to draw a line between forbidden and permitted donations.

Rules concerning legal persons and civil law partnerships (the so-called associated bodies) are insufficient in the effective legislation. Section 12^6 of the Political Parties Act stipulates only that the restrictions established with regard to financing political parties also apply to non-profit associations in which the political party is a member. That provision fails to ensure that political parties cannot use other legal persons (associated bodies), with which they are not formally related through membership, for concealed financing of their activities.

In Estonia the financing of political parties has been restricted with the limitations imposed on election advertising. It is prohibited to display political outdoor advertisements for 45 days before election day in the case of elections of the Riigikogu, the European Parliament and local government councils. The reasonableness and efficiency of that prohibition as a measure to restrict political parties' need for financing is questionable[80]. Advertising has been limited with regard to one narrow type of advertisements only. Such a solution does not have a decisive impact on the overall election campaign-related expenditure of political parties, but merely cause them to choose other channels or earlier periods for advertising.

The Money Laundering and Terrorist Financing Prevention Act does not regulate the activities of political parties or other non-profit organisations. Therefore, when a person decides to support a political party with cash, the political party is not under the obligation to identify the person even if the person pays more than 100,000 kroons in cash[81] or inform the Financial Intelligence Unit of a suspicious transaction involving cash (except the obligation to disclose the name of the donor under § 12^3 of the Political Parties Act).

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78 For example, natural persons have often made substantial contributions to political parties, while their financial status would clearly make it impossible to do so. See, e.g. the *Päevaleht* daily of 25 August 2005, "Lihttöölised annetasid Keskerakonnale 200 000 krooni„ /Workers donated 200,000 kroons to the Centre Party/. Also the so-called "K-kohuke" incident attracted a lot of attention, where, despite the general prohibition on election advertising, advertisements resembling the symbols of the Estonian Centre Party and the People's Union of Estonia were displayed prior to the local elections of 2005 which could be interpreted as a concealed donation to these political parties.

79 M. Ernits, Erakond Eesti põhiseaduses ja erakonnaseaduses /Political Party in the Estonian Constitution and in the Political Parties Act/. Special edition of Juridica, 2003, pp. 5-18.

80 Also the Chancellor of Justice has expressed doubts about the constitutionality of that restriction; see the report of the Chancellor of Justice to the Riigikogu of 6 September 2005, available at http://www.oiguskantsler.ee/index.php?pageID=107.

81 See § 6 (5) of the Money Laundering and Terrorist Financing Prevention Act.

4) Problems in the practice of financing political parties

Considering the authority and practice of Riigikogu's Select Committee on the Application of Anti-Corruption Act, the work of the Select Committee should be restructured and its work methods should be altered. The authority of the Select Committee should be extended and its resources should be increased (e.g. advisers and consultants) to render the control of financing political parties more substantive.

Measures and activities necessary for attaining the objective

Objective VII: prevention of corruption in the financing of political parties

Impact of Objective VII: Clearer rules and enhanced control of financing political parties will help to prevent violations of financing rules and problems relating to the timely disclosure of donations and annual reports.

Measures and activities related to the financing of political parties presuppose analyses and amendments to the Political Parties Act the preparation of which is the responsibility of the Ministry of Justice within the scope of its operating expenses (wages of advisers). The Riigikogu has the authority to form a control body of political parties and to agree upon the capacity of that body. Budgetary resources must be planned in accordance with the decisions of the Riigikogu. In the application of measures the recommendations contained in the third evaluation report of the GRECO Anti-Corruption Working Group of the Council of Europe[82] must be taken into account as binding on Estonia.	
Measure 18	**Establishment of clearer restrictions concerning election advertising of political parties**
Activities	
18.1. Establishment of restrictions concerning election advertising of political parties, which are clearer and carefully thought out	
Measure 19	**Improvement of control over the financing of political parties**
Activities	
19.1. Vesting the body exercising control over the financing of political parties with the right to commission follow-up audits	
19.2. Augmenting the authority of the body exercising control over the financing of political parties	
19.3. Making the annual reports, reports on election-related expenses and the register of donations of political parties public in a timely and accurate manner	
19.4. Analysis of the sufficiency of penal law measures relating to violations of the rules of financing political parties	
19.5. Analysis of the Money Laundering and Terrorist Financing Prevention Act and possible extension of the Act to non-profit organisations (political parties)	
19.6. Establishment of clear financing rules regarding organisations associated with political parties	

[82] The third evaluation round of GRECO comprises the system of control over political funding and the application of the Criminal Law Convention on Corruption. The visit of GRECO to Estonia took place from 19 to 23 November 2007 and involved meetings with the representatives of several institutions. The report of Estonia will be defended from 31 March to 4 April 2008 at the plenary meeting of GRECO in Strasbourg, after which the report will be made public. See also http://www.coe.int/t/dg1/Greco/Default_en.asp.

Objective VIII: improvement of the efficiency of investigating corruption offences

Description of the situation

Many amendments have been introduced to the Penal Code in recent years in connection with corruption offences. The necessary elements of offences related to office and economic offences were amended significantly by the Penal Code that took effect on 15 March 2007. While misuse of official position (§ 289 of the Penal Code) and negligence related to office (§ 290 of the Penal Code) were repealed, more particularised types of offences were added in the chapters dedicated to offences against property, offences related to office, offences against administration of justice and economic offences. Examples of new and amended provisions include § 291^1 (unlawful exercise of state supervision), § 292 (violation of requirements for maintenance of databases) and § 300^1 (violation of procedural restrictions).

In 2004 an amendment was introduced to the Code of Criminal Procedure which enables criminal proceedings to be terminated with regard to a person if he or she has significantly facilitated the investigation of a criminal offence which is important from the point of view of public interest in the proceedings (§ 205 of the Code of Criminal Procedure).

The imprecise regulation in § 300 of the Penal Code (violation of requirements for public procurement) poses problems. Under § 300 of the Penal Code, the creation of unjustified preferential conditions or advantages for a participant in an invitation to tender or violation of the requirements for public procurement in any other manner, which results in significant proprietary damage, is regarded as an offence. On the other hand, if a contracting authority fails to organise the procurement procedure as prescribed by law, the person can only be held liable for committing a misdemeanour (§ 111 (1) of the Public Procurement Act).

In addition, covert collection of personal data from public databases, both those maintained by state agencies and those of legal persons in public law, poses problems as the effective regulation of surveillance activities (§ 12 of the Surveillance Act) allows for several interpretations of covert collection of information. As detection of corruption offences is based also on publicly available information and on analyses of such information, investigative bodies should have the right to collect, before commencing criminal proceedings, information from the databases that the state already maintains.

Personnel of investigative bodies and Prosecutor's Offices

In the police, activities related to the investigation of corruption can be divided into two categories:

- outward activities where employees of the Economic Offences Department or special working groups or officials (the Central Criminal Police and prefectures) handle acts of corruption;
- ascertainment and investigation of corruption within law enforcement structures within the framework of internal control (the Police Board and special police control units of prefectures).

Separate structural units for handling corruption offences have not been formed in all police authorities. In the Central Criminal Police, specialised officials (the corruption offences investigation group) handle corruption offences. On 1 January 2008 the Corruption Offences Department started work in the Northern Police Prefecture with 5 officials, while in all other police authorities the officials of the Economic Offences Department handle corruption cases in line with the division of workload. In the Eastern Police Prefecture, corruption offences are investigated by three police officers. There are officers with investigative and surveillance rights in all prefectures, who handle corruption cases. The Central Criminal Police has an analyst, as well. In the Western Police Prefecture, the Economic Offences Department devotes 90% of the working time to the investigation of corruption offences.

In the Security Police Board a separate structure has been established (within the Central Department) for investigation of corruption offences. Officers with investigative and surveillance rights work in regional departments (there are no analysts in regional departments). Combating the corrupt practices of high-level public servants and heads of large local governments is one of the basic duties of the Security Police Board (Regulation No. 193 of the Government of the Republic dated 19 July 2007).

In Prosecutor's Offices specialisation is based on the need and workload. The Southern and Western District Prosecutor's Offices do not specialise separately in the proceedings concerning corruption offences due to the small number of corruption cases, but there are prosecutors who handle corruption offences among other cases.

Remuneration for work

In police authorities the system of remuneration of the officers who conduct proceedings of corruption offences does not differ from the remuneration of other criminal police officers – there is additional pay for excellent performance. However, as the investigation of corruption offences is more complicated and time-consuming than proceedings

concerning other economic offences, this system cannot be considered as motivating (it takes less time to investigate simpler offences and thus it is easier to receive the additional pay). Exceptionally, the Northern Police Prefecture found it possible to pay the additional pay also in the cases where the materials of criminal matters are eventually not taken to the court, but work has been done with criminal matters. As the Northern Police Prefecture has specialists of corruption offences, it is somewhat simpler to implement the incentive system. The Central Criminal Police, which also has such specialists, has not implemented an incentive system of that kind.

The Security Police Board remunerates all employees on equal bases (which means that those investigating corruption offences are equal to other employees), but bonuses are paid for excellent performance.

Prosecutor's Offices take into account the complexity of work when rewarding employees in the form of additional pays. Thus, the wages of prosecutors who handle corruption offences are equal to the wages of prosecutors dealing with other priority matters and higher than the pay of prosecutors conducting the proceedings of mass offences.

Training

For prosecutors who handle corruption offences, roundtables are organised two or three times a year for exchange of experiences. (Joint) Training of police officers, prosecutors and judges in the same sphere, which would help to harmonise the treatment of problems arising in the investigation of corruption offences, has been insufficient.

Measures and activities necessary for attaining the objective

Objective VIII: improvement of the efficiency of investigating corruption offences

Impact of Objective VIII: The level of proficiency in handling corruption offences will increase. Proceedings concerning corruption offences are based on actual risk assessments and offences can be prevented.

Measure 20	**Specialisation in corruption offences in bodies conducting proceedings**
Activities	
20.1. Appointment, in each prefecture, of a group of investigators specialised in corruption offences and offences related to office, and formation of separate units for investigation of these offences, if necessary	
20.2. Development of an incentive system for officials conducting the proceedings of serious criminal offences	
20.3. Training preliminary investigators and prosecutors in the spheres of corruption of legal persons in public law and corruption in the private sector, as well as surveillance activities in the investigation of corruption offences[83]. Exchange of best practices between investigative authorities (incl. the Security Police)	
Measure 21	**Strengthening of the capacity to carry out proceedings concerning corruption offences**
Activities	
21.1. Carrying out risk and hazard analyses and agreeing upon joint lines of action between Prosecutor's Offices and investigative authorities at the beginning of each year on the basis of these analyses	
21.2. Clearer regulation of liability for violation of the rules of public procurements (amendment of § 300 of the Penal Code)	
21.3. Arrangement of the regulation of covert collection of personal data	

[83] Training is needed in the spheres of accounting, public procurements, the Law of Obligations Act, the Law of Property Act, planning and supervision of construction activities, surveillance (recruitment of persons, covert collection of information), etc. Regular case studies and analyses of the experiences of other countries should be carried out.