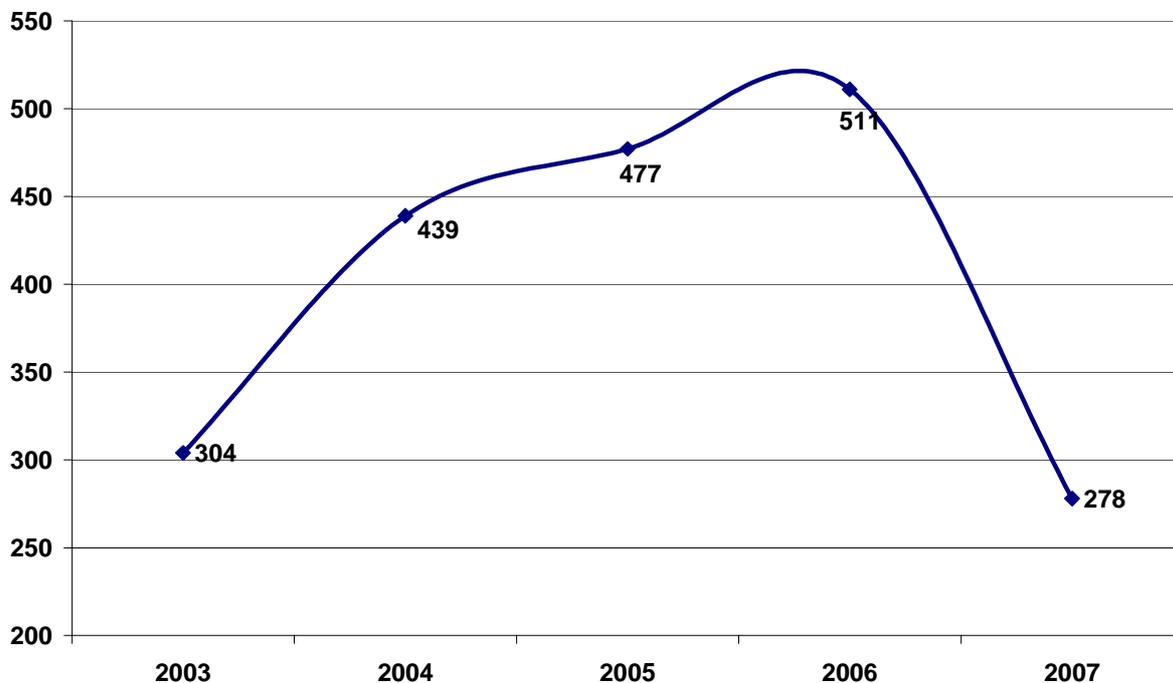


## Criminal statistics on official (corruption) crimes in 2007

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criminal official misconduct were changed in 2007 – an amendment of the Penal Code took effect on 15 March 2007 which repealed two types of offences: misuse of official position (§ 289) and negligence related to office (§ 290).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<sup>1</sup>), violation of procedural restrictions (§ 300<sup>1</sup>) and knowing performance by Notary Public of unlawful notarial act (§300<sup>2</sup>) were added as new offences related to office.<sup>1</sup>

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<sup>2</sup>. In addition, being an official now constitutes an aggravating circumstance of fraud (§ 209 (2) 1<sup>1</sup>). 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Penal Code, the necessary elements of fraud were specified as offences constituted by misuse of official position were repealed in the new draft.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<sup>2</sup>) 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.

<sup>1</sup> 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<sup>1</sup>), knowingly making an unlawful decision in misdemeanour proceedings (§ 311<sup>2</sup>), knowingly unlawful termination of misdemeanour proceedings (§ 311<sup>3</sup>), unlawful publication of information concerning pre-trial proceedings in criminal matters and surveillance proceedings (§ 316<sup>1</sup>) and knowingly unlawful seizure and sale of property by a bailiff (331<sup>3</sup>).

<sup>2</sup> Total recorded cases of embezzlement amounted to 967.

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<sup>3</sup>

Type of offence	Penal Code	2007
Embezzlement by official	§ 201 (2), 3	46
Fraud by official	§ 209 (2), 1 <sup>1</sup>	0
Misuse of official position	§ 289	15
Negligence related to office	§ 290	4
Abuse of authority	§ 291	67
Unlawful exercise of state supervision	§ 291 <sup>1</sup>	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 <sup>1</sup>	1
Counterfeiting or falsification of documents by official	§ 299	26
Violation of requirements for public procurement	§ 300	3
Violation of procedural restrictions	§ 300 <sup>1</sup>	4
Knowing performance by notary of unlawful notarial act	§ 300 <sup>2</sup>	1
Total		278

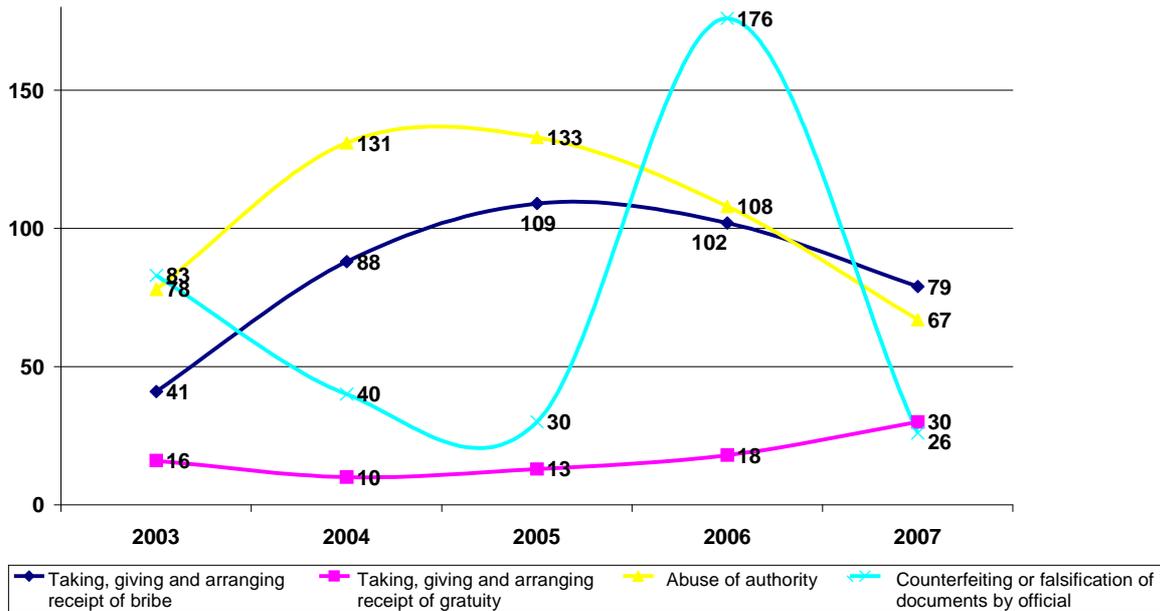
As offences consisting in misuse of official position and negligence related to office could be recorded until March only, the number of these types of offences (registered) dropped by more than two-thirds when compared to 2006. Also offences consisting in arranging the receipt of a bribe and counterfeiting 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<sup>4</sup>, 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).

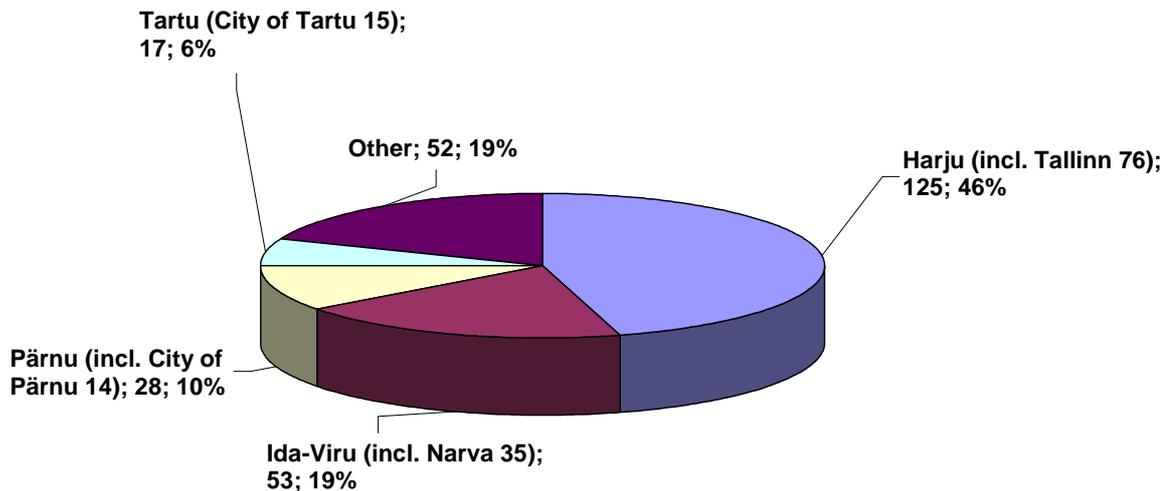
<sup>3</sup> Like in 2006, no offences related to political parties were recorded in 2007 (§ 402<sup>1</sup> and § 402<sup>2</sup>).

<sup>4</sup> 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.



**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 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<sup>5</sup>, 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<sup>6</sup>. 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 involved the prison hierarchy of prisoners as a result of which one prisoner lost his life<sup>7</sup>. 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<sup>8</sup>, 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.

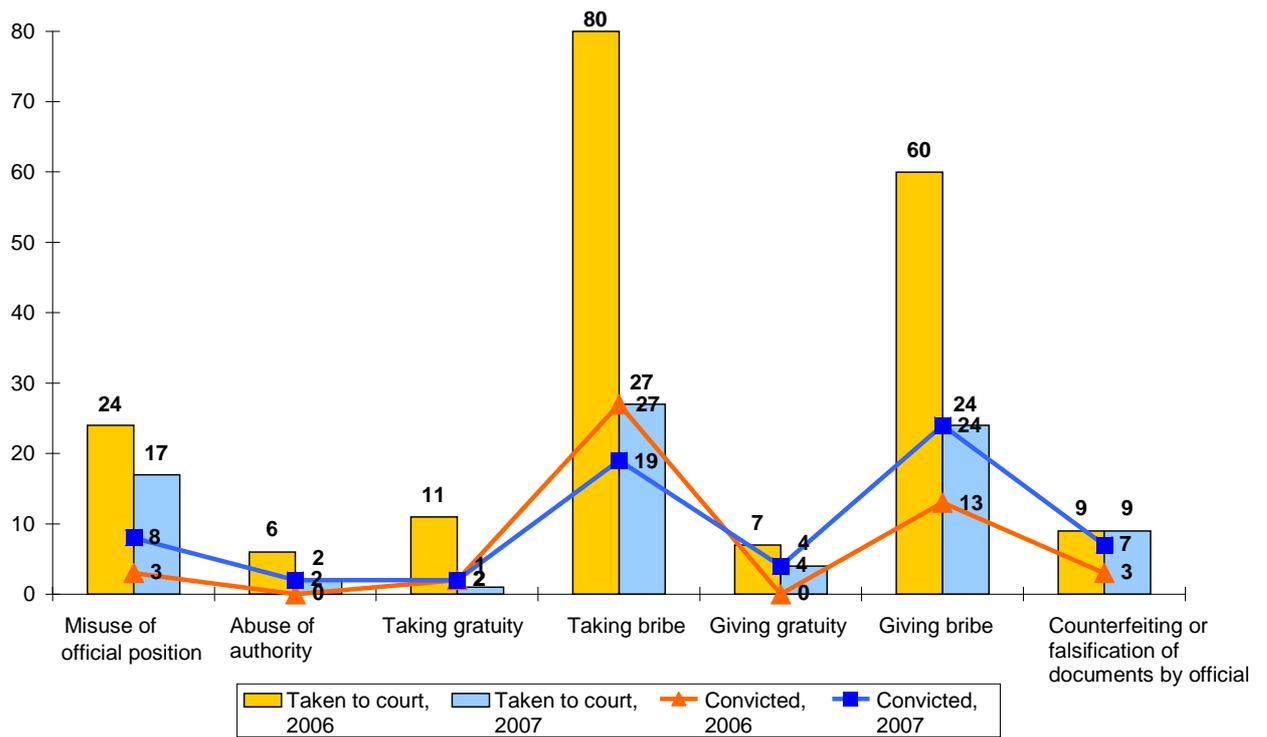
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<sup>5</sup> Liiv, M-L; Aas, K. 2007. Korruptsioon Eestis. Kolme sihtrühma uuring 2006. /Corruption in Estonia. A survey of three target groups, 2006/. The Ministry of Justice and the University of Tartu.

<sup>6</sup> 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.

<sup>7</sup> See, e.g. Pöld, 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>.

<sup>8</sup> The average number increased due to embezzlement cases being adjudicated in general procedure.



**Figure 4. Persons taken to court and convicted**