

5.1. Corruption offences

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In 2010, 223 corruption offences¹ were registered, which is 10% more than in 2009 but less by 32% in comparison with 2008.

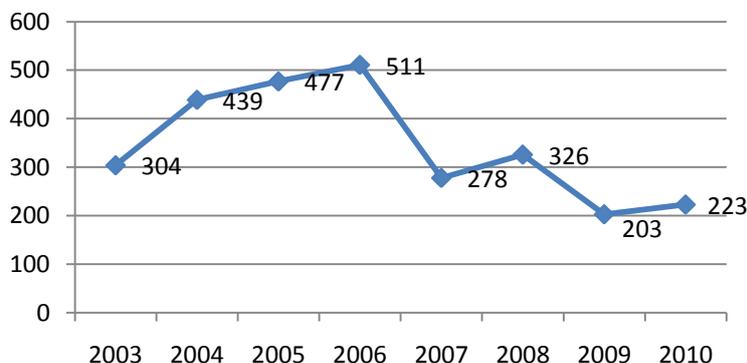


Figure 1. Number of registered corruption offences

Giving bribe (41%) and accepting bribe (14%) form the biggest part of corruption offences. There have also been many incidents of excessive use of authority (18%) but, as already explained in the previous yearbook, these are not regarded as classical corruption offences.

In comparison with 2009, no significant changes occurred in the registration of corruption offences; the incidents related to arranging bribe (+ 9 offences), giving bribe (+22) and violation of requirements for public procurement (+5) were registered somewhat more frequently. Also more cases of influence peddling (4 in total) and violation of procedural restrictions (10 in total) were registered, whereas the first offence entered into force in 2006 and the second in 2007. A smaller number of giving gratuities (-7) was registered. As several these criminal offences are related to the same people and events (e.g. repeated arranging of bribe by the same person), no conclusions can be made on the level of corruption based on these numbers. The Corruption Survey (Sööt and Vajakas, 2010a) and the Crime Victim Survey (Sööt and Vajakas, 2010b), the results of which the Ministry of Justice disclosed in 2010, provide a better possibility for that. Both surveys show that there is less corruption than before – at least the number of these persons who have personally come into contact with corruption is smaller. It may seem surprising, as the press is still covering quite many corruption cases.²

It became evident based on the corruption surveys that 4% of Estonian inhabitants and 3% of undertakings have paid bribe during the last year. In 2006, these indicators were 8% and 12% (Sööt and Vajakas, 2010a: 37–50). Often people come into contact with considerably softer forms of corruption, for example contacts are used in order to expedite the transaction of affairs, gifts are made, some return services are rendered (“I’ll scratch your back, you’ll scratch mine”), inside information is received, etc. In 2010, 11% of inhabitants and 19% of undertakings had come into contact with different types of such, so to speak, softer forms of corruption. In 2006, the relevant indicators were 14% and 20% (*Ibid.*). However, as a rule such incidents are not included in the crime statistics.

¹ Sections 201 (2), 3) – embezzlement by an official; 209 (2), 1¹) – fraud by an official; 289–300² – offences related to gratuities and bribe, influence peddling, violation of requirements for public procurement, violation of procedural restrictions, etc.

² Unfortunately, the author is not aware of any research works which would provide an answer concerning the frequency of reflecting corruption in the media by years, and the allegation is based only on the author’s assumptions. NPO Transparency International Estonia has gathered corresponding news at: <http://www.transparency.ee/cm/taxonomy/term/8> (15 February 2011).

About punishment

A total of 140 persons were prosecuted for corruption offences, 44 of whom were prosecuted pursuant to several sections of corruption offences. The highest number of persons brought to justice were accused of giving bribe (§ 298) – a total of 71 persons. 60 natural persons, some of them also in several offences, and 4 legal persons were convicted of corruption offences, 4 natural persons and 2 legal persons were acquitted. The highest number of persons was convicted of giving bribe (25) but also accepting bribe (15) and arranging bribe (12). In case of other offences the number remained below 10. Pecuniary punishment was imposed on 13 persons and imprisonment on 51 persons.

5.1.1. Corruption offences by sectors

The highest number of corruption offences was registered in connection with local governments (36), legal persons governed by private law (34) and the police (29). As these numbers also include the abuse of trust (§ 217²) and the abuse of authority (§ 291), the latter increases the number of incidents related to the police. In 2009, the highest number of corruption incidents was registered in connection with the police, local governments and technical inspections (Sööt, 2010: 56–57). At the same time, figure 2 also reflects these criminal offences which were not committed by the representatives of relevant institutions; for example, 8 criminal offences are related to the Estonian Road Administration (former Estonian Motor Vehicle Registration Centre - ARK), yet 5 of these offences are related to private persons, not the Estonian Road Administration employees.

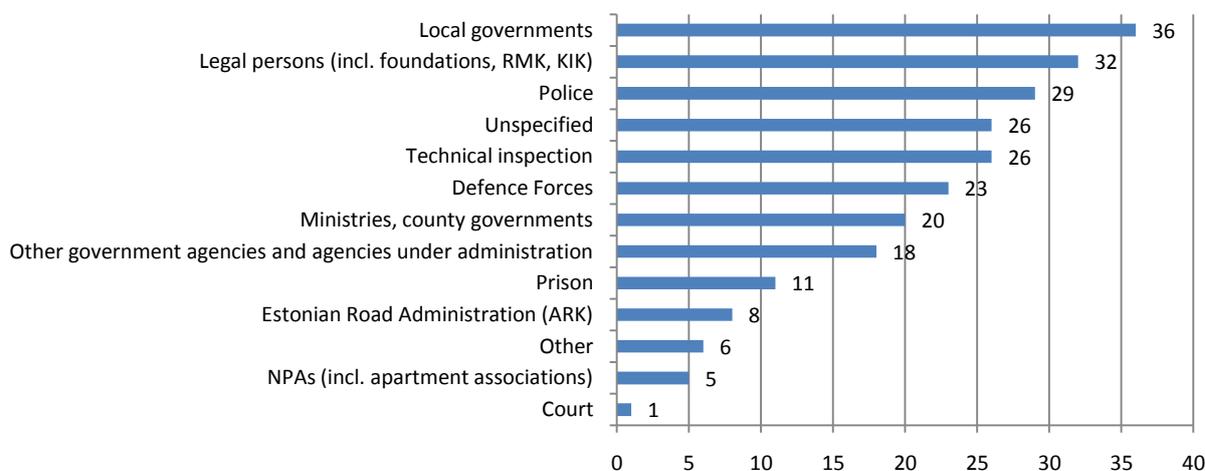


Figure 2. Corruption offences by sectors in 2010 (number of registered criminal offences)³

About the corruption involving judges

In 2010, one corruption offence involving a judge was registered: Mihhail Komtšatnikov who had accepted a bribe of 6391 euros (100 000 kroons) was convicted in 2010. The 2009 summary pointed out the corruption offences involving Estonian judges since 2003 (Sööt, 2010: 61) but Judge Vambola Olli of the Tartu County Court Võru Courthouse had not yet been convicted by the time of publication of this summary. Judge Olli was convicted in 2010, as he assisted his acquaintances in two misdemeanour proceedings and rendered judicial decisions for their benefit receiving also bribe for it from one of his acquaintance. He was imposed actual imprisonment as punishment (Security Police Board, 2010). All in all, five judges have been convicted of corruption offences in Estonia.

³The figure also includes the offences related to the abuse of trust (§ 217²) and the abuse of authority (§ 291).

The sectors which have been exposed to corruption the most are briefly discussed below. First, the corruption in the private sector has been analysed, followed by the corruption in the public sector according to the frequency of occurrence.

Legal persons

In 2010, 32 corruption offences related to legal persons governed by private law and in addition 5 corruption offences related non-profit associations (NPA), from which 2 were related to apartment associations (AA), were registered.

The NPA incidents involve either the abuse of trust (3) or embezzlement (2). Although a NPA manager is not an official in the meaning of the Penal Code, these incidents are still included in this summary in order to analyse the corruption related to NPAs. By using trust the members of management board have taken loans either without the consent of the management board or concluded other contracts under disadvantageous terms. In the apartment association incident the property manager embezzled 4996 euros (78 172 kroons) of the association's funds. In 2010, a court rendered a judgement of conviction also concerning another embezzlement incident which was covered by the media.

Misuse of NPA funds

In 2008-2010, the NPA manager used the NPA funds for buying fuel and paying for personal goods and services. He also instructed to pay the apartment invoices where his daughter was living, although the apartment had been officially registered as a shelter. In this way he caused NPA damages amounting to more than 25 000 euros (396 140 kroons). In addition, he had embezzled tools belonging to another person: abrasive machines and drills. A conditional sentence was imposed on the NPA manager.⁴

Eight criminal offences were related to companies acting so to speak in public interests (e.g. municipal enterprises), foundations; three offences were related to giving and accepting bribe. Three offences were registered in environmental authorities – in the Environmental Investment Centre (KIK) and the State Forest Management Centre (RMK). In case of KIK, certain companies were preferred in the procurement of computers and RMK assisted the companies in dividing the public procurements in ordering the timber transport services.

Discarding the NPAs and the above-mentioned environmental authorities (RMK and KIK), the corruption cases of companies involved either embezzlement (7) or abuse of trust (8). Five offences were cases of abuse of authority.

Alluring the customers

In one incident involving abuse of trust the member of company's management board filed a bankruptcy petition for the commencement of bankruptcy proceedings with respect to the private limited company. At the same time, this person was sending letters to customers in which he informed them of the poor economic condition of the private limited company and proposed them to replace the service provider, i.e. to become a customer of an old cooperation partner of the private limited company, as a result of which the private limited company lost nearly 50 long-term customers.

While it became evident from the Corruption Survey that the entrepreneurs of the trade and service sector have been exposed to bribes most frequently and the entrepreneurs of the social and personal service sector to other corruption, the crime statistics also indicate that from 24 legal persons suspected of some corruption offence,⁵ 10 were from the trade and service sector, followed by the secondary sector – construction, processing industry, etc. (5 cases).

⁴ Court case No. 1-10-9712

⁵ The cases of abuse of authority have been excluded (5), RMK (1) and KIK (2); thus the sample consisted of 24 legal persons governed by private law.

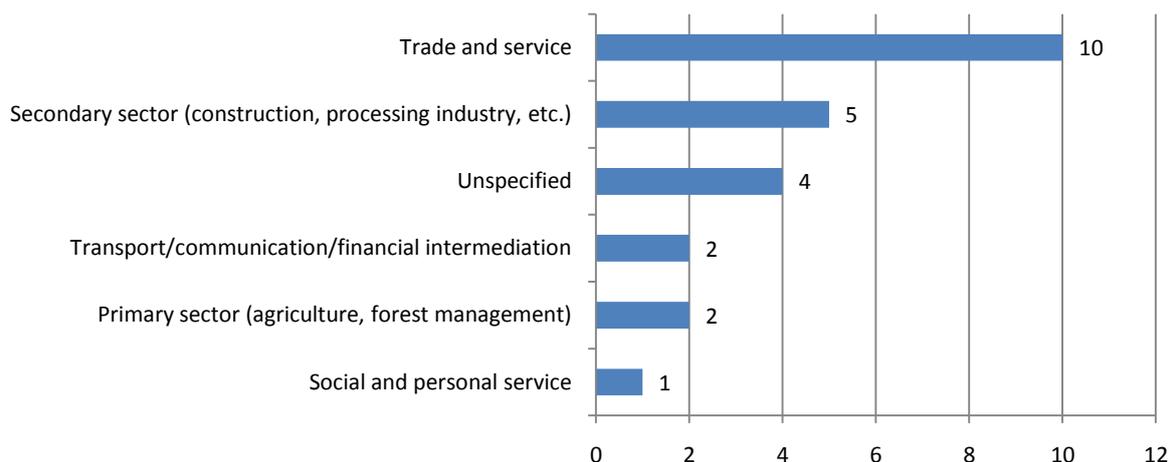


Figure 3. Registration of corruption offences in business sectors (number of registered offences)⁶

Local governments

According to the Corruption Survey, a rather small proportion of Estonian inhabitants and entrepreneurs have encountered asking for bribe or giving bribe in local governments. 3% of Estonian people admitted in 2010 that while communicating with local governments they have been asked for bribe in the form of money, gifts or return services (in 2006, this indicator was 7%). 3% of entrepreneurs claimed that their company was forced to give bribe, gifts or render a return service. Among the population this rate is rather low in comparison with e.g. technical inspection in case of which 11% of people admitted that bribe was asked from them. However, among entrepreneurs the local governments were the main places where bribe was paid, although Estonian entrepreneurs think in general that corruption is more common between the State and companies than between local governments and companies. (Sööt and Vajakas, 2010: 32; 41–45)

In 2010, 36 local government corruption offences were registered, in 14 cases the suspect was a local government official, for example, a social adviser or a construction adviser. From the 14 offences committed by officials 5 were frauds committed by the Palupera Rural Municipality social adviser which happened already in 2008. The social adviser had borrowed money from her wards and taken SMS loans in their name. In 2010, the judgement of convictions entered in force⁷ with which she was imposed a conditional sentence of 2 years and 8 months of imprisonment together with the obligation to pay back the defrauded amounts of money.

In 10 corruption offences the suspect was a head of local government, in 5 cases a council member. 4 incidents did not involve any local government officials but, for example, a person offering bribe, i.e. a private person; there were three other cases (e.g. a suspect was a principal) (Figure 4). The offences in 11 local governments were related to bribe and gratuities; 6 were cases of violation of procedural restrictions, from which 5 were related to a city mayor of one local government who ordered various services and works from one private limited company in which he had a holding. The remaining local government corruption offences were cases of embezzlement (4), fraud (5), abuse of trust (3); other offences occurred less frequently (2 or less). The highest number of corruption offences was registered in Narva (6), Tallinn, Rakvere and Palupera (5 in each).

⁶ The areas of activity are based on the Estonian Classification of Economic Activities (EMTAK), data have been obtained from the Commercial Register.

⁷ Court case No. 1-10-12815

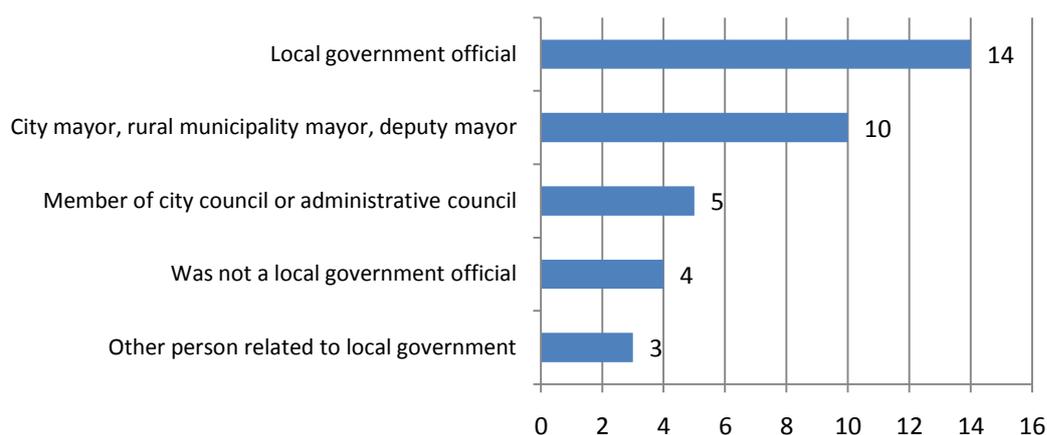


Figure 4. Number of corruption offences registered in local governments in 2010

Police

29 corruption offences connected to the police were registered, the majority of which were cases of abuse of authority. The abuse of authority (a total of 40 offences) usually involves the use of violence by police officers or security guards; in 2010, 20 such offences were registered in which the person abusing authority was a police officer, other persons abusing authority were 1 assistant police officer and 2 municipal police officers. In 5 cases the person abusing authority was a security guard, in 3 cases a prison officer, in 2 cases an official of the Tax and Customs Board and in the remaining cases it did not appear from the statistics who was considered to be the person abusing authority. As is already known, the majority of these cases are terminated upon occurrence of circumstances precluding criminal proceedings (Sööt, 2010); proceedings were terminated in 41 criminal offences from 63 offences sent to court in 2010 upon occurrence of circumstances precluding criminal proceedings. In 2010, 3 persons accused of abuse of authority were convicted in county courts.

The remaining corruption offences connected to the police involved bribe and gratuities (8), 1 case of embezzlement was also registered.

Technical inspection of vehicles

According to the Corruption Survey, people are most frequently exposed to bribe and gratuities upon technical inspection of vehicles: money, gifts or return services have been asked from 11% of people and 5% of entrepreneurs (Sööt and Vajakas, 2010). When the 2009 statistics was characterized by 117 cases of gratuities and bribe, in 2010 there were 26 cases. The cases were mainly related to one technical inspection site operating in Kohtla-Järve (23) and Jõhvi (2) where the persons accepting and arranging forbidden benefits were often the same. During two earlier years, the cases were connected to the same technical inspection facilities in Tartu and Tallinn. The price of fictitious inspection varied from 22.4 euros to 76.7 euros (350–1200 kroons).

Defence Forces

23 corruption offences were registered in the Defence Forces, from which 22 offences involved giving and accepting bribe and gratuities in the Navy. The offences were committed by the commander of ship repair unit and the commander of armament unit of the Naval Base Repair and Maintenance Service. They received bribe in a total amount of 33 234 euros (520 000 kroons) from the representatives of ship repair companies; the first person acted as a go-between creating competitive advantages for the companies in course of public procurements related to repair and maintenance works of naval ships (Security Police Board, 2010). They were convicted of the offences in 2010, as were the persons who had paid them bribe and gratuities.

The commander of ship repair unit, i.e. the person arranging bribe, was also imposed an actual imprisonment of 2 months and 10 days, probation was applied concerning the remaining sentence; the commander of armament unit was conditionally sentenced.⁸

Corruption offences in the Defence Forces (to be exact, only 1 offence was registered in 2010) involved an officer of the Defence Forces Headquarters who was responsible for medical supplies and who accepted bribe and gratuities. The officer accepted 10 226 euros bribe and gratuities (160 000 kroons) from the representative of company engaged in selling medical equipment, so as to declare their tender successful in the procurement of buying medical supplies and devices for the Defence Forces (Security Police Board, 2010). The officer was convicted of the offences and he was imposed as actual punishment 2 months of shock punishment, probation was applied concerning the remaining sentence; the person giving bribe/gratuities was also convicted regarding whom conditional imprisonment was applied, still having been arrested before.⁹

Ministries, county governments and other government agencies

20 corruption offences were registered in connection with ministries and county governments, 13 of which were offences related to bribe and gratuities. 10 cases involved the IT procurements of the Ministry of Education and Research. 3 cases were related to the Ministry of Environment where an official took bribe from companies and in return helped to arrange the coordination of their contracts. The remaining incidents concerned the Ministry of Defence (1), the Ministry of Social Affairs (1), the Ministry of Economic Affairs and Communication (4) and one county government (1). The last incidents involved forgery.

Also 11 corruption offences related to prisons were registered, among these were the offences involving bribe (7), embezzlement (1) and abuse of authority (3).

8 corruption offences involving the Estonian Road Administration (ARK) were registered, 1 of which concerned the registration of a vehicle, 3 concerned the pre-registration inspection and 4 the driving licences. Three cases involved the ARK employees, the remaining cases were related to arranging or giving bribe to the ARK employee. The offences involving the ARK employees were committed before 2010; for example, the ARK Maardu Office Head who took bribes repeatedly in 2008, as a result of which several stolen vehicles were registered in Estonia. In another case the Narva ARK employee registered a car on the basis of false documents and in the third case the Jõhvi ARK employee acted as the issuing person of fictitious driving licences together with several other persons.

In other government agencies the corruption cases concerned mainly the state supervision (6) and public procurements (5).

5.1.2. Regional comparison

The comparison of statistics of four law enforcement regions since 2007 shows that the highest number of corruption offences is registered in the Northern District (313 offences within 4 years), followed by nearly a twofold difference by the Southern District and the Viru District. The lowest number of corruption offences is registered in the Western District; a total of 84 offences during 4 years which is slightly more than, for example, in the Northern District in 2010. (Figure 5). At the same time, it has to be borne in mind while comparing the districts that, as the numbers of corruption offences are very small, the registration frequency of individual criminal offences influences statistics considerably. For example, in 2010 the Viru District statics are influenced by offences related to bribe and gratuities in one technical inspection site, the same can be said about the Southern District in 2009. Thus, higher registration frequency of corruption cases in the Northern District may be caused by different proceeding but also by the fact that more business activities and public institutions are concentrated in Tallinn and its surroundings. According to the Corruption Survey, people in Tallinn and entrepreneurs in

⁸ Court case No. 1-10-176

⁹ Court case No.1-11-249

Northern and Western Estonia had been exposed to corruption most frequently in 2009 (Sööt and Vajakas, 2010: 44–49).

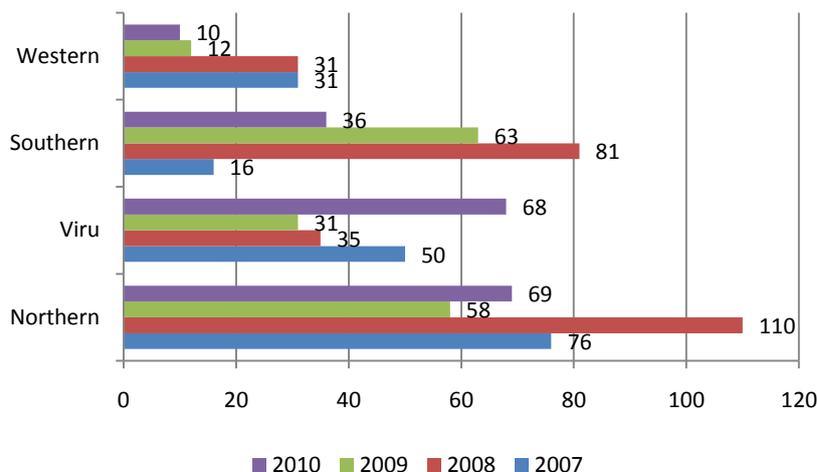


Figure 5. Registration of corruption offences in regions (figure does not include the abuse of authority (§291))¹⁰

5.1.3. Violation of Anti-corruption Act

A violation of Anti-corruption Act (ACA) is a misdemeanour; it is possible to violate the restrictions on employment or activities or of procedural restrictions, the rules for submission of declarations of economic interests (DEI), as well as other rules. In 2010, 141 cases of violation of ACA were registered from which the majority (51%) were cases of violation of restrictions on employment or activities or of procedural restrictions and failure to submit duly DEIs and presentation of false information (47%) (Figure 6).

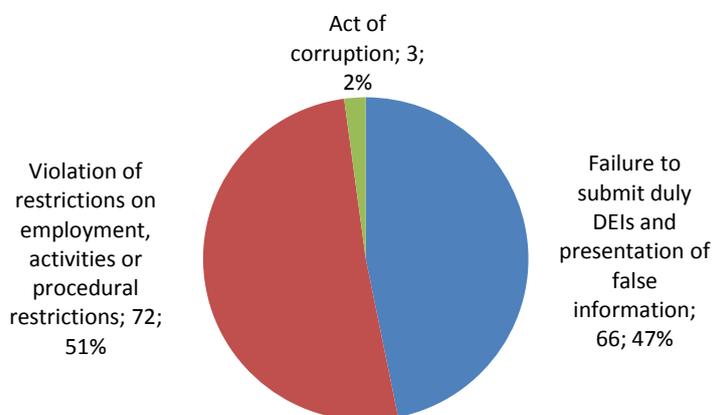


Figure 6. Violation of Anti-corruption Act, 2010 (number of misdemeanour cases)

The cases of violation of restrictions on employment or activities or of procedural restrictions may be divided into passive and active misdemeanour cases from which the latter forms the main part: 54% of the misdemeanour cases involving a conflict of interest (41 cases).¹¹ These are misdemeanour cases in which the prohibition to be a member of the directing body of a company is violated (ACA § 19 (2), 2)), often persons are members of management board of one or more companies. The majority of active misdemeanour cases (30%; 23 cases) are cases involving a conflict of interest (ACA § 25 (1)) where an official participates in the making of

¹⁰ There is also a certain number of criminal offences which region has not been specified.

¹¹ Violation of restrictions and acts of corruption have been accounted 100% (= 75 incidents).

decisions which significantly influence the economic interests of the official or his or her close relatives (e.g. allocating for oneself business travel money, participation of city council member in making a decision with which a decision is made concerning a company or a NPA related to him/her), or they order services from companies which are related to them. There were also a few cases of self-dealing (ACA § 24 (1)). As well as a few cases when one and same person was a supervisor and a person subject to supervision (ACA § 19 (2), 5)).

In 36 cases an oral warning and 65 cases a fine was imposed as punishment. In 2010, the total amount of fines imposed for the violation of ACA was 6093.34 euros (95 339.98 kroons).

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