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Preventing Corruption in the Lithuanian Public Service

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Introduction

The problem of corruption is one of the core problems in the Lithuanian public life. Needless to say, the situation of corruption in Lithuania is very similar to that of any Central and Eastern European country moving away from a totalitarian past.

Corruption presents a major distraction from market economy, sustainable growth and social initiative. The relevance of the problem is obvious and approaches to solve it are eagerly welcomed. Political parties raise the flag of the fight against corruption at every election. The President, the Government, as well as municipal institutions declare the fight against corruption a high priority issue in their programs.

The system of public administration in Lithuania is new. The foundation for which was laid after the restoration of independence in 1990. The system of public administration is to be based on the principles of a modern democratic society and should be the core of a modern bureaucracy. Such principles were not natural for the soviet system. The old totalitarian system with its numerous shortcomings gave birth to many negative aspects such as connections, petty rewards for public officials, patronage etc. While all these things contradict the modern system of public administration still the past makes a tangible impact on the execution of office in everyday life. It should be added that shortages with support during the early years of independence, lack of modern supervisory techniques, changes in social climate (e.g. privatization, partition of state ownership, increasing in monetary funds and cash flows) as well as tenuous ethics in office influenced the current state of corruption.

Nowadays, corruption as a social phenomenon evolves in any sector or sub-sector of public administration, state and municipal regulations. As our experience shows, corruption is directly dependent on current regulations, social factors and circumstances, the state of social development (e.g. corruption in the construction sector was not an issue until the construction boom began; at the same time corruption in the tax system is believed to be decreasing due to new regulations and the greater transparency of tax offices).

As a consequence, the prevention system should span the whole of Lithuanian society and should cover areas prone to corruption and be able to cover newly emerged problems. Worldwide experience in organizing the fight against corruption shows that the system cannot be enacted without political will, strategy and legal basis. The supervision and control of the measures prescribed as well as other steps ensuring a sustained impact (such as education and enlightenment of the society, information campaigns) are needed.

As our experience shows, the crucial element in preventing corruption in the public service is the human factor. People working in the system of public administration determine the functioning of the system. Other social agents, not directly related to the state institutions, are relevant in creating the system of prevention of corruption. Thus the media, the non-governmental organizations, and the church are also important.

This presentation is aimed at the prevention of administrative corruption.

The System of Prevention of Corruption in Lithuania. Measures of Prevention of Corruption. Problem of Effectiveness

While the creation of the new system of public administration began as early as 1990, the earlier period (1990-1996) showed no particular steps in the direction of prevention of corruption. There were a few legal acts (program on fighting corruption and organized crime) which had a rather declarative character. At the early stage, the problem of corruption was identified only on the political level. Everyday life and low key public administration had no policies on fighting and prevention. The widely understood need to create a permanent system capable of fighting corruption led to important solutions. The political will moved forward and emerged in particular decisions of the legislator. Measures were taken to adapt a holistic approach in defining the system of the fight against and prevention of corruption. The Special Investigations Service was founded in 1997. The service had to become the central institution in the fight against and prevention of corruption. The service was initially a part of the Ministry of the Interior, but later on it became an independent institution reporting to the President of the Republic and to Parliament.

An important move was the adoption of specific legal acts. During the period 1997 to 2004 about ten legal acts were passed by the Parliament and the Government which directly or indirectly made an effect on the prevention of corruption.

It should be noted that even the best legal system cannot achieve the results without the proper commitment of public servants. The system itself remains nonfunctional without proper will. If an anti-corruption system is to be created emphasis should be laid not only on measures but also on bodies and control mechanisms.

The adoption of the National Program on Fight on Corruption (2002) became one of the most important legislative steps in the context of the fight against corruption. The program consolidated the strategy and purposeful approach towards the phenomenon of corruption. According to the program, three strategic directions were drawn to be implemented: (a) criminal investigation of cases of corruption, (b) prevention of corruption and (c) the anti-corruption education of society. In addition, the program supplied the plan of the implementation of the measures. The plan enlisted particular measures and institutions and also introduced a timetable for the implementation of the envisaged measures. While the program was introduced bureaucratically, it might nonetheless be considered successful. Although the program was designed to cover a limited period of time (2002-2008), many important steps such as amendments to legislation and the development of sub-programs have already taken effect, some of the key points will remain relevant up until the end of the implementation period.

The program in particular states that “one of the most important operational and legal ways to decrease corruption in the public administration is to determine the behavior that stimulates corruption. A proper regulation in this field should be executed, estimating the rules of ethics of public officials. Due to lower chances for corruption it is necessary....” The program presents the list of the measures for the restriction of administrative corruption which appear as follows, but is not limited to:

- Implementation of the principle of rule of law;
- Implementation of a system of anticorruption assessment of legal acts and draft legal acts;
- Implementation of important anti-corruption provisions and means of legal responsibility in the code of ethics of public officials and employees through the Chief Institutional Ethics Commission to heighten the priorities of public office;
- Identification of the areas where rotation should be implemented;
- Establishment of clear criteria for commercial secrecy
- Ensuring that the burden of taxes should not obstruct the starting-up of businesses or commercial activities;
- Ensuring a common policy for the investment in public infrastructure;
- Simplifying as much as possible the rendering of public services;
- Implementing systemic revisions of legal acts;
- Limiting the right of individuals who have been convicted for committing criminal deeds against public services and the public administration and who have committed financial crimes and other crimes against property from taking public office;
- Banning the taking executive positions for individuals listed above;
- Creating a transparent system of public procurement;
- Introducing a system of personnel management;
- Implementing a motivational career system for public officials;
- Formulation and implementation of programs for the education of public officials;
- Expansion of independent auditing systems;
- Creation of a system whereby a person who reports misconduct or corruption in the office would be safeguarded from illegal effects or by administrative means in the office (i.e. protection of whistleblowers);
- Taking measures of an exceptional nature in cases of systematic corruption when the entire institution has been penetrated by bribery, such as the reorganization of the institution, the discharging of executives or transferring the officials to another institution using simplified procedures;
- Simplification of the tax system;
- Implementation of a centralized system of customs with the simplification of customs procedures;
- Improving the supervision of the public procurements;

- Decreasing the discretion of public officials;
- Involvement of members of society as much as possible in the fight against corruption.

Other significant legal acts also foresee measures that provide the basis for prevention of corruption in public service. The Law on Prevention of Corruption (2002) was directly concerned with the issues of prevention. While it had an effect as a clear declaration of political will, it also introduced the system of measures of prevention. The legal definition of the prevention of corruption is: “*Corruption prevention – detection and elimination of the causes and conditions of corruption through the development and implementation of a system of appropriate measures as well as deterrence of persons from the commission of crimes of corruption*”. Particular measures of prevention to take effect were listed as: “Measures for the prevention of corruption shall be as follows:

- 1) corruption risk analysis;
- 2) anti-corruption programs;
- 3) anti-corruption assessment of legal acts or their drafts;
- 4) provision of the information about a person seeking or holding office at a state or municipal agency;
- 5) provision of the information to the registers of public servants and legal entities;
- 6) education and awareness raising of the public;
- 7) public disclosure of detected corruption cases;
- 8) other measures for the prevention of corruption provided for by law.“

The majority of the measures listed in the law are implemented by the Special Investigation Service. Corruption risk analysis is a special procedure whereby any state or municipal institution should be able to establish whether or not a risk of the occurrence of corruption is high.. The state or municipal institution is then obliged by the law to inform the Special Investigation Service, which decides to perform a corruption risk analysis (or not). The outcome is finalized by suggestions as to how the institution could improve the fight against corruption or whether it needs to take particular action.

Anti-corruption programs present three levels of programs: national, sectoral, institutional, others.

Anti-corruption assessment of legal acts or their drafts is performed by the Special Investigation Agency at its own discretion, on request of the President, Parliamentary committees, commissions, Prime Minister, ministers.

Provision of the information about a person seeking or holding office at a state or municipal agency is performed by the Special Investigations Service and presents gathering of the information about an executive candidate

In addition to the measures, the law lists the bodies responsible for prevention:

“Corruption prevention as provided for herein shall be implemented by the following bodies:

- 1) *The Government;*
- 2) *The Chief Institutional Ethics Commission;*
- 3) *The Special Investigation Service;*
- 4) *Other state and municipal and non-governmental institutions.”*

The bodies listed in the law have the greatest impact on the institutional fight against corruption. The Government makes moves through its’ regulatory powers; The Chief Institutional Ethics Commission analyzes the complaints and misbehavior in office, followed by the verdicts of compliance/non compliance of public and private interests; the Special Investigations Service provides anti corruption assessment and corruption risk analysis; while the other institutions either take care in their internal duties or employ their powers to supervise the social spheres they control. The Anti corruption Commission of the Parliament plays an important role.

We think the most effective system of prevention of corruption should involve all levels of executive power, plus a special independent bodies responsible for prevention.

The law on Public Service (1999) was the complex act which introduced the principles of public service, the status of the public employee and public official, the responsibility of public employees and officials, the categories of public employees, and social guarantees for public employees. While this law has no direct impact on the prevention of corruption, it foresees strict responsibilities for public employees, and general principles of public service, as well as general principles of employee ethics. With this law a fair foundation for the career-based public service was laid; a service based on political confidence and a service based on career opportunities were designed and legally established.

The Law on State and Service Secrets (1999) presents the definition of secrets, classified information the procedures of acquiring the right to have an access to classified information. The Law on Public Administration (1999) determines the principles of public administration, the system of public administration, the procedure for public administration, and presents the definitions of public services etc.

An important step in creating the system for the prevention of corruption was the Law on Coordinating Public and Private Interests in State Service (1997). The law provided the definitions of personal interests, public interests, and stated the guidelines of what was widely understood but failed to work in real life. Under this law the *Chief Institutional Ethics Commission*, responsible for supervising the coordination of public and private interests of individuals executing their powers in public service was established. It is an independent collegial institution of supervision and control of public administration made up of five representatives of chief state officials and is organized by the Parliament.

The Law on Lobbyism (2000). The idea of the law was to present a legally regulated system of lobbying practices thus taking over control from illegal lobbyists. An unregulated lobbying process often borders on corrupt practices or unlawful influences. However lobbying practices are not easy to track and this law fails to work fully. The *Chief Institutional Ethics Commission* is responsible for supervision of lobbying activities. Other laws in the framework of fight against corruption and prevention include Law On Financing of Political Parties and Political Organizations and Control of Such Financing, (2004), Law on Prevention of Organized Crime (1997), Law on Special Investigations Service (2000), Law on Statute of Special Investigation Service (2003), Criminal Code (Chapter XXXIII Crimes and Criminal Offences Against State Service and Execution of Public Interests).

There are other legal acts important for the prevention of corruption. In particular, three acts are directly related to prevention: the Resolution of Government on Decisions Impact Evaluation Methodology (2003, amended in 2007); Resolution of the Government on Corruption Risk Analysis (2002); Resolution of the Government on The Estimation of the Rules of Persons and Institutions organizing Prevention and Control of Corruption (2004).

It should also be noted that a system of public administration regardless of anti corruption measures should be “healthy” and should be self-regulating. The measures from the outside, form above will make only a short-lived effect. A good permanent regulation on fair management is needed.

Conclusions. Creating effective strategies. Possible Measures to be taken. Good practices

Creation of an anti-corruption system is the result of long processes and what is more important the results of such processes are not always obvious in the short term. The anti-corruption system should be made up of different components, such as prevention, education and prosecution. The measures should be embedded in the national governance system. While legal acts have an effect on the social sector and public administration it is hard to determine the efficiency of such acts alone.

The anti corruption system gives us the right to consider some measures successful. In public service good results could be achieved through combining measures of an operational and long lasting nature; constant analysis of the situation, elaboration of the most suitable ways and strategies, education of young people and preparing personnel for public administration which could lead to the improvement of the situation.

First, a concentrated and unambiguous political will is required; without it any reforms would fail, any implementation of strategies will end without result. Second, a consistent legal basis is needed. Third, there are some measures that are efficient when implemented in a systematic way The following should be considered as some of the most successful components for a sound prevention system: heightening social consciousness through information campaigns, the media; a constant improvement of the system; staff and

personnel training and education; improving the administrative system; improving and simplifying the decision-making and investigation procedures. As a way of highlighting areas prone to corruption, risk analysis should be implemented. Anti corruption assessment of legal acts and regulatory impact analysis could also help to reduce the risk of the occurrence of corruption. Creation and implementation of anti corruption programs in various social sectors or institutions could make a good basis for improvement. The said programs should foresee particular actions, a timetable and a person responsible for implementing the measure, as well as the responsibility for inaction.

Implementation of a principle of the so-called “single window”, whereby everyone concerned could address their requests, proposals, complaints and suggestions to a single official without needing to waste time in searching for the appropriate official. Bureaucratically simplifying barriers as much as possible, implementing procedures with clear and fair requirements, improving of work ethics of public employees could also be favourable for the prevention of corruption. Thus, an important suggestion from our point of view would be the implementation of codes of ethics with responsibility for the breach of the provisions prescribed by them.

An important point is foreseeing personal responsibility for every public official insofar as is possible. Lack of it leads to situations whereby public servants who are part of Boards and Commissions can escape sanctions.

As Lithuanian experience shows, other specific instruments can also reduce the risks of corrupt practices. These should include: the declaration of assets; declarations of private interests; the banishing of living not according to income (currently under consideration); the obligation to substantiate property, the banishing of being able to keep a particular sum of cash money (obligations for special kinds of public servants, performing control duties).

Cooperation with media, disclosing of negative aspects of office, improving work conditions of public employees (on constant basis), and implementing good traditions could also relieve occurrences of corruption.