

# Corruption and Anti-corruption Policy in Lithuania

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# Corruption and Anti-corruption Policy in Lithuania

## EXECUTIVE SUMMARY

As other international organisations have noted, the relative absence of reliable information, statistics or research represents a significant obstacle to investigation of levels of corruption in Lithuania. Surveys indicate that administrative corruption is a relatively serious problem. Although World Bank surveys indicate that “State capture” and high-level political corruption are relatively minor problems compared to other candidate countries, the public maintains high perceptions of political corruption at the levels of Government and Parliament. According to surveys the public regards the customs administration and law enforcement bodies as the most corrupt institutions, and experiences corruption most in contacts with the traffic police and in the healthcare system. Perceptions of corruption in the tax inspectorate, customs and public procurement are also high.

Since the early 1990s, Lithuania has put in place most of the components of an anti-corruption legislative framework, including comprehensive bribery legislation, conflict of interest and asset declaration provisions. Since 1997-98 in particular, there has been intensive progress on the anti-corruption front, especially through the creation of the Special Investigation Service in 1997 (the only truly independent anti-corruption agency in candidate countries), and the approval of a comprehensive National Anti-corruption Strategy in January 2002.

The concerns of the European Commission about corruption in Lithuania have been very important in the development of Lithuanian anti-corruption policy. The Commission has provided extensive assistance for the development of anti-corruption policy, especially for the development of the National Anti-corruption Strategy. Most of the important international anti-corruption conventions have either been ratified or are scheduled for ratification in the near future.

Although Lithuanian bribery legislation is not yet fully in line with the requirements of international conventions, legislation has been passed that will fill the remaining gaps – criminalising trading in influence, extending liability for bribery to legal entities and extending bribery provisions to cover foreign officials – when a new Code of Criminal Procedure comes into effect.

Lithuania has advanced and comprehensive legislation in place on conflict of interest, and provisions on declaration of assets and income that are so comprehensive that they theoretically apply to the entire population. Conflict of interest legislation is based on a case-by-case approach mandating avoidance and declaration of conflict of interest situations, rather than incompatibility provisions. Enforcement and implementation of the provisions has improved steadily since they were passed in 1997, and have been instrumental in the resignation of several ministers. An act to regulate lobbying is also in place, although its effectiveness is questionable.

A system of State financial control is in the process of being implemented, reflecting EU requirements. The effectiveness of the system in practice, in particular whether Parliament will use the findings of the State Control effectively, is impossible to judge at such an early stage of implementation.

Lithuania is alone among EU candidate countries in possessing a truly independent anti-corruption agency, the Special Investigation Service. Created in 1997, the SIS was granted full independence through a new Act in May 2000, and has detained a relatively high number of public officials.. Its activities may be hampered by unclear division of responsibilities between prosecutors and police, and poor quality of police investigations, however. Lithuania also established parliamentary ombudsmen in 1994.

The Lithuanian executive and civil service has undergone fundamental reform, partly due to the requirements of EU accession. Since the passage of the 1999 Civil Service Act, the Civil Service has been largely depoliticised. Administrative law provides citizens with channels for appealing against both the legality and substance of official actions, although citizens remain generally unaware of their rights. Civil servants are subject to restrictions on ancillary activities. A Code of Ethics is expected to be approved by the end of 2002, although its effectiveness may be limited by lack of consultation during its preparation. There is limited protection for whistleblowers. According to surveys administrative corruption is a serious problem; although specific evidence is limited, the most serious indications concern corruption in local government.

A number of public funds are not subject to scrutiny by the Lithuanian Parliament (Seimas), and are largely non-transparent, while the ability of the Parliament to use the findings of the State Control under a new Act on State Control remains to be seen. MPs are subject to conflict of interest provisions, and enforcement of these provisions and duties to declare assets and income has improved steadily. Immunity provisions currently in force may hamper investigation of criminal activities by MPs. Although only one MP has ever been convicted, public trust in the Parliament is extremely low.

Although the Lithuanian judiciary is independent in law and in practice, it is regarded as one of the most corrupt institutions, although there are signs that criminal

proceedings against corrupt judges may be becoming more effective. An increasing backlog of cases increases the vulnerability of the system to corruption, while there is a lack of public control over both courts and prosecutors.

Lithuania has put in place a relatively advanced legal framework to regulate political party funding, including some State funding. However, State subsidies account for only a very small proportion of total party income, the formal nature of supervision of party finances allows parties to evade the legal provisions relatively easily, and party expenditures are believed to be significantly higher than officially declared. There is evidence of strong ties between parties and business groups, and the Special Investigation Service views corruption in party financing as a problem requiring further reform.

A relatively advanced system regulating public procurement exists in Lithuania. However, significant loopholes remain, provisions allowing for single source procurement are not sufficiently regulated, and there are no provisions to encourage ethics among procurement officials to blacklist corrupt companies. The system for appealing against procurement decisions is flawed, especially through the bearing of costs of appeals by the appealing parties. Corruption is regarded as a serious problem by the Special Investigation Service and the large majority of surveyed companies.

Corruption in several public services is a serious problem, particularly in the traffic police, customs department and the healthcare system. However, important steps have been taken to reduce corruption, particularly in the customs department. Business registration does not appear to be troubled seriously by corruption.

Lithuania enjoys one of the most liberal legal frameworks for the media in Europe, underpinned by deep cultural opposition to any interference in press freedom. Freedom of information legislation is in place, although its provisions have not yet been implemented adequately. While the media has been reasonably active in uncovering corruption, public broadcasting remains subject to strong political influence.

## 1. INTRODUCTION

Evidence on corruption in Lithuania suffers from a lack of clear criminal statistics and, at least until recently, research. Surveys indicate that administrative corruption is a relatively serious problem, but that “State capture” and high-level political corruption is a relatively minor problem compared to other candidate countries.

### 1.1 The data and perceptions

#### *Criminal statistics*

As GRECO notes in a recent evaluation of corruption and anti-corruption policy in Lithuania, “Although there are some indication[s] and estimations on the size of the [corruption] problem, there is a general lack of research, including data and official statistics...”<sup>1</sup> Table 1 shows prosecutions of corrupt acts and related criminal activities between 1997 and 2001. The only clear trend in the figures is a clear increase in prosecutions for passive bribery.

**Table 1: Prosecutions under anti-corruption legislation, 1997–2001**

| <i>Criminal Act</i>                          | <i>1997</i> | <i>1998</i> | <i>1999</i> | <i>2000</i> | <i>2001</i> |
|--|-------------|-------------|-------------|-------------|-------------|
| Acceptance of a bribe (Article 282)          | 10          | 27          | 40          | 36          | 73          |
| Bribing (Article 284)                        | 1           | 6           | 11          | 2           | 9           |
| Abuse of office (Article 285)                | 2           | 17          | 27          | 9           | 19          |
| Acceptance of an undue payment (Article 283) | 0           | 2           | 2           | 0           | 0           |
| Total  |             |             |             |             |             |

**Source:** Analytical-Methodological Division, Special Investigation Service.

According to statistics provided to GRECO by the General Prosecutor’s Office, two-thirds of the 319 people prosecuted for corruption offences between 1995 and 1998 were police officers, 58 were customs officers and 39 local government employees.<sup>2</sup>

#### *Surveys*

International surveys of corruption indicate that corruption is a significant problem in Lithuania, but that it ranks among the least affected of EU candidate countries.

<sup>1</sup> GRECO, *Evaluation Report on Lithuania*, adopted by GRECO at the 8<sup>th</sup> Plenary Meeting, Strasbourg, 4-8 March 2002, p. 22.

<sup>2</sup> GRECO, *Evaluation Report on Lithuania*, p. 7.

- Lithuania ranked 38<sup>th</sup> in the Transparency International CPI in 2001 with a score of 4.8 (0 meaning most corrupt and ten least corrupt), an improvement from 4.1 in 2000 (43<sup>rd</sup> place) and 3.8 in 1999 (50<sup>th</sup> place).
- According to the *1999 Business Environment and Enterprise Performance Survey* carried out by the World Bank and the EBRD,<sup>3</sup> Lithuania ranked in the middle of a sample of 20 Central Eastern European countries but worse than any country except Romania in terms of administrative corruption, with an average of 2.8 percent of annual revenues spent on unofficial payments to public officials. Sixteen percent of firms said they pay six to ten percent of annual revenue in unofficial payments to officials, while five percent pay 11-15 percent and four percent pay 16-20 percent. On the other hand, Lithuania ranked favourably in reference to “State capture” (actions to influence the formation of laws and rules) with a rank of 1.7 out of a maximum of seven. Fifteen percent of firms said that sales of parliamentary votes have a significant or very significant impact on their activity, while 13 percent said private contributions to political parties have a significant or very significant impact on them.

According to the first comprehensive survey of corruption in Lithuania, carried out for PHARE in 1999, at least one-third of ordinary citizens and more than one half of businessmen had experienced corruption or bribery. PHARE concluded on the basis of its survey and report that a corruption prevention strategy should be developed.

The most detailed information about corruption to date is the *Map of Corruption in Lithuania: 2001* survey by the Lithuanian Chapter of Transparency International.<sup>4</sup> According to the results of the survey,

- Fifty-two percent of entrepreneurs believed that corruption had increased in the past five years, while 15 percent thought it had decreased. The figures for the general public were 52 percent and six percent respectively.
- Thirty-one percent of respondents spontaneously labelled corruption as the most important obstacle to business development – a dramatic increase from the results of similar questions in previous surveys (12 percent in 1994 and nine percent in 1997<sup>5</sup>). Twenty-four percent of entrepreneurs said that corruption is creating lots of obstacles for their business at the moment, and seven percent said it is creating major obstacles.

<sup>3</sup> See World Bank, *Anti-corruption in Transition. A contribution to the Policy Debate*, World Bank, 2000, pp. xvi–xvii.

<sup>4</sup> A. Dobryninas, L. Zilinskiene and R. Alisauskiene, *Map of Corruption in Lithuania: 2001*, Transparency International, Lithuanian Chapter, Vilnius 2001.

<sup>5</sup> Baltic Surveys, *Lithuania Private Enterprise Survey*, November 1994 and July 1997.

- Thirty-seven percent of entrepreneurs said they had had to bribe in the past five years: eight percent once, 18 percent two or three times, five percent four to nine times and six percent ten times or more.
- Sixty-three percent of the general public said they had had to bribe in the past five years: 14 percent once, 17 percent two or three times, four percent four to nine times and two percent ten times or more.
- Fifty-seven percent of entrepreneurs said they had been demanded or expected to give a bribe in the past five years: 12 percent once, nine percent four to nine times, and 12 percent ten times or more.
- Thirty-five percent of the general public said they had been demanded or expected to give a bribe in the past five years: 12 percent once, 15 percent two or three times, four percent four to nine times and four percent ten times or more.
- Thirty-seven percent of entrepreneurs said they had demanded or expected to give a bribe in the last twelve months, while 26 percent said they had had to bribe in the past twelve months.

One worrying result found in surveys by the VILMORUS agency was an increase in the percentage of respondents saying they or their family/friends had bribed, which rose from 23 percent in 1999 to 34 percent in 2002.<sup>6</sup>

## 1.2 Main loci of corruption

According to surveys conducted in 1999 and 2000 and TI's corruption review, the public regards the customs administration and law enforcement bodies as the most corrupt institutions. These findings are consistent with the results of the 2001 survey, the results of which are summarised in Tables 2, 3 and 4. The survey also reveals high perceptions of political corruption at the levels of Government and Parliament, and also that experiences of corruption are prevalent in contacts with the traffic police and the healthcare system.

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<sup>6</sup> VILMORUS, *Corruption Phenomenon in Lithuania: Inhabitants' Views & Experience*, survey data provided by VILMORUS.

**Table 2: Which spheres of life in Lithuania are most affected by corruption?  
(percentage of respondents, spontaneous answers)**

| <i>Sphere</i>  | <i>General public</i> | <i>Entrepreneurs</i> |
|--|-----------------------|----------------------|
| Justice (law enforcement, courts, prosecutors)               | 39                    | 33                   |
| Governance and public administration                         | 27                    | 21                   |
| Healthcare   | 21                    | 13                   |
| Politics (Parliament, political parties, President's Office) | 16                    | 6                    |
| Customs  | 14                    | 18                   |
| Privatisation  | 6                     | 10                   |
| Education  | 5                     | 3                    |
| Oil, petroleum industries                                    | 4                     | 9                    |
| Real estate and land ownership                               | 3                     | 2                    |
| Tax administration   | 3                     | 3                    |

**Source:** Map of Corruption in Lithuania: 2001, Transparency International Lithuania.

**Table 3: Which institutions in Lithuania are most affected by corruption?  
(percentage of respondents, spontaneous answers)**

| <i>Institution</i>         | <i>General public</i> | <i>Entrepreneurs</i> |
|----------------------------|-----------------------|----------------------|
| Courts                     | 20                    | 19                   |
| Customs                    | 18                    | 24                   |
| Police                     | 13                    | 10                   |
| Government                 | 13                    | 9                    |
| Parliament                 | 12                    | 10                   |
| Healthcare institutions    | 12                    | 5                    |
| Municipalities             | 4                     | 7                    |
| Tax Inspectorate           | 3                     | 9                    |
| Traffic Police             | 3                     | 4                    |
| Universities, schools      | 3                     | 1                    |
| Privatisation institutions | 2                     | 5                    |
| Ministries                 | -                     | 4                    |

**Source:** Map of Corruption in Lithuania: 2001, Transparency International Lithuania.

**Table 4: Evaluations of selected institutions as “very corrupt”**

| <i>Institution</i>                        | <i>General public</i> | <i>Entrepreneurs</i> |
|---|-----------------------|----------------------|
| Courts                                    | 49                    | 52                   |
| Government                                | 40                    | 45                   |
| Parliament                                | 39                    | 44                   |
| Traffic Police                            | 42                    | 50                   |
| Border Police                             | 38                    | 42                   |
| Tax Police                                | 37                    | 42                   |
| Customs                                   | 58                    | 66                   |
| Privatisation Agency                      | 47                    | 57                   |
| State Tobacco and Alcohol Control Service | 30                    | 33                   |
| State Medicines Control Service           | 24                    | 39                   |
| Public Procurement Office                 | 21                    | 33                   |
| State Land Cadastre and Register          | 20                    | 26                   |

**Source:** Map of Corruption in Lithuania: 2001, Transparency International Lithuania.

According to the survey results, the general public had the most experience bribing traffic police (12 percent in the past five years), followed by local hospitals (12 percent), polyclinics (11 percent) and central hospitals (seven percent), with customs at five percent.

Entrepreneurs' responses to questions concerning their own experiences with bribery and knowledge of others' bribery indicated clearly that the worst affected institutions are the traffic police, customs and the tax inspectorate. Thirteen cent of entrepreneurs said their firm had bribed the traffic police in the last five years and 25 percent said their colleagues in other firms had done so. The figures for customs and the tax inspectorate were only slightly lower.

The results of a survey carried out by the VILMORUS survey agency in 2002 confirm these findings, but show a fall in the perception of “widespread corruption” in the health system since 1999 (from 64 percent to 53 percent), despite a large increase in the perception of such corruption among politicians (from 26 percent to 42 percent).<sup>7</sup>

<sup>7</sup> VILMORUS, *Corruption Phenomenon in Lithuania*.

GRECO cites representatives of the Investors' Forum, an organisation of foreign investors and companies, who describe the police, tax and customs authorities and public procurement procedures as "particularly surrounded by corruption."<sup>8</sup>

There are few other analyses of the loci of corruption in Lithuania. One exception is the *Annual Report* of the SIS. The European Commission's *2000 Regular Report* stated that corruption occurs mainly in the areas of public procurement and customs.<sup>9</sup> There is little evidence of corruption in privatisation in Lithuania, although charges were recently filed against several MPs who took part in the privatisation of the country's largest company, Mazeikiu Nafta, in 1998–1999.<sup>10</sup>

### 1.3 Government anti-corruption policy

Since the early 1990s, Lithuania has put in place most of the components of an anti-corruption legislative framework. Examples are the 1996 Act on Declaration of Property and Income of Residents, the 1997 Act on Adjustment of Public and Private Interests in the Public Service, the 1997 Act on Money Laundering, the 1999 Public Procurement Act, the 1997 Act on Control of the Financing of Political Campaigns and the 2000 Amendments to the Criminal Code (see individual sections of this report). Since 1997-98 in particular, there has been intensive progress on the anti-corruption front. The Special Investigation Service was created in 1997 and granted full independence in 2000 (see Section 2.5), while Parliament approved a National Anti-corruption Strategy in January 2002 (see below).

The National Anti-corruption Strategy is divided into three components: prevention, investigation of corruption-related offences, and education of the general public and mass media. The programme is long-term (seven to ten years) with the possibility of modification every two years. It suggests introducing a normative definition of corruption into the Criminal Code that would read,

... any conduct of a civil servant or an equivalent person, non-conforming with the authority entrusted or standards of conduct established, or

<sup>8</sup> GRECO, *Evaluation Report on Lithuania*, p. 6.

<sup>9</sup> Cited in: Commission of the European Union, 2001 Regular Report from the Commission on Lithuania's Progress towards Accession, October 2000, p. 20.

<sup>10</sup> R. Burstein, "Lithuanian Government Questioned on Privatisation Deal", *Transitions Online*, 3-9 September 2002, available at <[http://www.tol.cz/look/TOLnew/article.tpl?ldLanguage=1&ldPublication=4&NrIssue=37&NrSection=6&NrArticle=7068&ST\\_T1=wir&ST\\_PS1=8&ST\\_AS1=0&ST\\_LS1=0&ST\\_max=1](http://www.tol.cz/look/TOLnew/article.tpl?ldLanguage=1&ldPublication=4&NrIssue=37&NrSection=6&NrArticle=7068&ST_T1=wir&ST_PS1=8&ST_AS1=0&ST_LS1=0&ST_max=1)>, (last accessed 12 September 2002).

promotion of such conduct for the benefit of oneself or third parties, to the detriment of the interests of other people and the state.<sup>11</sup>

The most important measures contained in the Strategy, along with deadlines, are listed in Table 5.

The Strategy is very comprehensive, covering:

- 1 Prevention – political corruption and conflict of interest, administrative corruption, tax and customs authorities, public procurement and privatisation, healthcare, law enforcement and judicial bodies, international cooperation, and public involvement in corruption prevention.
- 2 Increasing the effectiveness of investigations, ranging from limiting immunity provisions to improving information flows between the various institutions involved in investigation and prosecution.
- 3 Education, including introducing anti-corruption components into secondary and higher education curricula.

The Strategy is one of the most comprehensive anti-corruption strategies formulated by any EU candidate country, and criticism is more likely to concern problems of implementation than the Strategy itself. GRECO has levelled only one basic concern over the Strategy, namely that the current institutional set-up, under which the Special Investigation Service plays a coordinating role for all three planks of the strategy, appears to have encouraged a repressive bias in anti-corruption efforts to date. GRECO recommends the establishment of a separate body to coordinate the strategy with greater emphasis on prevention.<sup>12</sup>

In addition, GRECO recommended in particular that greater effort be made to carry out detailed research on corruption in particular institutions, so that anti-corruption policy be built on “a reliable assessment of the prevailing situation.”<sup>13</sup> On 10 May 2001, the Parliament of the Republic of Lithuania adopted a resolution, “On Corruption Fighting,” which, among other tasks, commissioned the Government to arrange research on Lithuania’s annual corruption level on the basis of international expertise, and to publish its findings of this research.

<sup>11</sup> *Resolution no. IX-711 of the Seimas of the Republic of Lithuania Concerning the Approval of the National Anti-corruption Programme of the Republic of Lithuania*, 17 January 2002, p. 10.

<sup>12</sup> GRECO, *Evaluation Report on Lithuania*, p. 28.

<sup>13</sup> GRECO, *Evaluation Report on Lithuania*, p. 22.

**Table 5: The National Anti-corruption Strategy (selected measures)**

| <i>Measure</i>   | <i>Implementation period</i> | <i>Fulfilled?</i>    |
|--|------------------------------|----------------------|
| Draft laws on political party funding, e.g. to prohibit funding by legal entities, establish legal responsibility for indirect/covert sponsorship, personal accountability of party treasurer for party accounts | Q3 2002                      | under implementation |
| Draft laws limiting MPs from being local councillors, and councillors/governors from being managers of companies in same district  | Q3 2002                      | not yet              |
| Draft Code of Ethics for lobbying, improve lobbying legislation  | Q2 2002                      | under implementation |
| Reform to limit possibilities of corruption in legislative process and screen legislation from perspective of corruption   | Q2 2002                      | under implementation |
| Amending Parliament Resolution to encourage implementation of decisions of Chief Institutional Ethics Commission and ensure publicity of decisions   |                              | under implementation |
| Reduce number of political appointments (positions of trust) in civil service  | Q1 2002                      | fulfilled            |
| Establish motivation-driven system of career development in civil service  | Q1 2002                      | fulfilled            |
| Develop Civil Servants' Code of Conduct  | Q4 2002                      | under implementation |
| Develop anti-corruption training program for civil servants with legislation regulating attendance   | Q2 2003                      | not yet              |
| Development of sector anti-corruption programmes in all ministries and relevant State institutions   | Q4 2002                      | under implementation |
| Draft new law on public procurement, <i>inter alia</i> to prevent changes in contracts <i>post hoc</i> , blacklist corrupt companies   | Q1 2002                      | under implementation |
| Develop legislation to reduce impact of corruption on judicial and law enforcement bodies, increase openness and transparency.   | Q4 2002                      | not yet              |
| Draft law to ratify Council of Europe Civil Law Convention on Corruption   | Q4 2002                      | not yet              |
| Establish Advisory Council under the Special Investigation Service to represent wider strata of society in anti-corruption strategy  | Q3 2002                      | under implementation |
| Remove judges' immunity in relation to administrative accountability, develop judges' code of ethics   | Q1-3 2002                    | under implementation |

**Source:** *Resolution no. IX-711 of the Seimas of the Republic of Lithuania concerning the Approval of the National Anti-corruption Program of the Republic of Lithuania*, 17 January 2002, pp. 28–53; Transparency International Lithuania.

Despite the steps achieved in the area of anti-corruption policy, events in July 2002 illustrate some of the problems of achieving political consensus on anti-corruption policy. A cross-party accord on prevention of crime and corruption signed on 17 July by eight political parties was rejected by two of the main opposition parties. The opposition parties denounced the accord as a popularity exercise prior to the Presidential elections, while the ruling coalition parties labelled the rejection as a failure to recognise Lithuania's national interests in its efforts to join the EU and NATO.<sup>14</sup>

#### 1.4 The impact of the EU Accession Process

The concerns of the European Commission about corruption in Lithuania have been very important in the development of Lithuanian anti-corruption policy, and have been coupled with significant assistance. The response of the Government has been reflected in increasingly positive evaluations in the *Regular Reports*.

In its 1997 *Opinion on Lithuania's Application for Membership in the European Union*, the Commission called the fight against corruption an urgent matter. In the 1999 *Regular Report* the Commission mentioned the fight against corruption and continued reform of the judiciary as the only two caveats to Lithuania's fulfilment of the Copenhagen criteria.<sup>15</sup> The 2000 *Regular Report* identified corruption as a continuing "source of concern," and while applauding measures taken (especially the passage of the Act on the Special Investigation Service), it stressed the need to implement them effectively and approve the National Anti-corruption Strategy. The 2001 *Regular Report* was even more positive, stating that, "Although there are still problems, there is evidence that Lithuania has improved its capacity in this domain. Administrative corruption, however, remains a concern."<sup>16</sup>

Reinforcing the fight against corruption in customs, upgrading law enforcement bodies to fight corruption, ratifying relevant conventions, and adopting a national anti-corruption strategy were short-term priorities of the 1999 *Accession Partnership* (hereinafter *AP*), while streamlining the inter-agency structure for fighting corruption was a medium-term priority. The 2001 *AP* included as priorities adoption and implementation of the National anti-corruption strategy and of a new Act on Corruption Prevention, completion and implementation of the Code of Ethics for Civil Servants and ratification of the relevant international conventions.

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<sup>14</sup> "Social Democrats called for opposition parties to sign anti-corruption agreement," ELTA, July 22.

<sup>15</sup> Cited in: Commission, 2000 *Regular Report*, p. 15.

<sup>16</sup> Commission, 2001 *Regular Report*, p. 19.

At the same time, four PHARE projects were implemented or started in 2001. The most important of these was the twinning project “Support to the Lithuanian Government’s Anti-corruption Commission,” designed to assist the development of the National Anti-corruption Policy and implementation plan. This was considered successfully completed with Parliament’s approval of the National Strategy. In 2001, a twinning project for “Establishment of a Group for the Investigation and Analysis of Economic Crime” was implemented with UK experts, focusing on the State Security Department. In December 2001, a twelve-month follow-up project to review the Strategy and its implementation began. At the same time a project on “Building Integrity and Raising Anti-corruption Awareness” was launched, focusing on the public and civil society organisations.<sup>17</sup>

Other actions carried out in 2000-2001 with regard to EU requirements include amendments to the Criminal Code passed in October 2000 (not yet in effect), and Amendments to the Act on State Control passed in April 2000 and December 2001, which gave the State Control the authority to audit the use of EU funds and removed its remaining coercive judicial powers.

#### *Other international activities*

Lithuania has also cooperated with the Council of Europe, OECD, World Bank and other international organisations. In particular, in May 2001 Lithuania became a member of GRECO, which completed its first evaluation in early 2002. Lithuania has also taken part in the OCTOPUS programmes organised by the European Commission and the Council of Europe.

## **2. INSTITUTIONS AND LEGISLATION**

### **2.1 Anti-corruption legislation**

Although Lithuanian bribery legislation is not yet fully in line with the requirements of international conventions, legislation has been passed that will fill the remaining gaps – criminalisation of trading in influence, liability of legal entities and coverage of foreign officials – when a new Code of Criminal Procedure comes into effect.

The 1996 Act on Procedure for Drafting Laws and Other Legal Rules stipulates that drafts of regulations governing economic relations should be assessed in terms of their likely effect on corruption. In 2001, the Prime Minister issued an instruction that

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<sup>17</sup> Information provided by the EC Delegation to Lithuania.

every such draft should be discussed by the Government only after incorporating the comments and recommendations of the Advisor on Corruption and Customs Issues.<sup>18</sup>

In the area of corruption, the Lithuanian Criminal Code criminalises the following acts:

**Acceptance of a bribe:** applies to public officials or civil servants, punishable by imprisonment for up to five years or a fine and prohibition of certain activities for up to three years. If the bribe is of high value then the sentence can be up to ten years and prohibition of activities up to five years.

**Active bribery (“subornation”):** punishable by imprisonment of up to three years, correctional work for up to two years or a fine. If the bribe is of high value, the sentence may increase to five years’ imprisonment. A person who has been compelled or provoked to give a bribe and informed law enforcement authorities before criminal proceedings were initiated is exempt from liability for active bribery.

**Abuse of office:** Intentional abuse of office by a public official or civil servant in interests contrary to those of his position, or an act carried out for personal gain or interest or causing substantial damage to the interests of the State and/or other persons is punishable by imprisonment for up to four years and a fine, or a fine and prohibition of certain activities for up to five years. If the act satisfied both criteria (against interests of office and causing substantial damage), the sentence is three to five years’ imprisonment and a prohibition for up to five years.

The definition of an official in the Criminal Code is very broad, covering a person working in the civil service as defined by the Civil Service Act, plus any other person who, when working in State or municipal authorities or institutions, judicial law enforcement, State Control or supervisory institutions or institutions equivalent to them, performs functions representing the State or holds administrative powers. In addition, any person working in a State, non-governmental or private institution or engaging in professional activities with similar powers of public administration is considered equivalent to a civil servant or official (with the exception of persons performing menial or technical tasks).<sup>19</sup>

The Criminal Code also provides for active bribery (commercial bribery) and passive bribery (acceptance of an undue advantage) in the private sector. However, there have been a negligible number of prosecutions under these provisions (see Section 1.1).

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<sup>18</sup> For example, in 2001, an analysis by the Special Investigation Service of the draft Act on Gambling approved by the Parliament revealed corruption-prone elements of the law. The President vetoed the law and sent it back to the Parliament for improvement.

<sup>19</sup> Criminal Code, Article 290.

In October 2000 the Parliament passed a new Criminal Code that will come into force when a new Code of Criminal Procedure, Code of Execution of Punishment and Code of Administrative Offences are adopted, which is expected in 2003. To the existing provisions, the Code adds criminal liability for trading in influence, liability of legal entities for corruption offences and extends the concept of civil servant to include officials of international public organisations and foreign States.

## 2.2 Conflict of interest legislation and asset monitoring

Lithuania has advanced and comprehensive legislation on conflict of interest in place, and provisions on declaration of assets and income that are so comprehensive that they theoretically apply to the entire population. Enforcement and implementation of the provisions has improved steadily since they were passed in 1997, and have been instrumental in the resignation of several senior politicians.

### *The Act on Adjustment of Public and Private Interests*

Conflict of interest is regulated mainly by the 1997 Act on the Adjustment of Public and Private Interests in the Public Service.<sup>20</sup> The Act applies to politicians, public servants at all levels as defined by the Act on Public Servants, and other persons who perform the functions of a representative of public authority or have administrative powers vested in them when holding public offices in the institutions of central or local administration, or in judicial, law enforcement, State Control and supervision institutions, or in any comparable institution. These officials are duty-bound to avoid situations of conflict of interest, defined as a situation where an official, when discharging his duties or carrying out instructions, is obliged to make a decision or participate in decision-making or carry out instructions relating to his private interests. The Act regulates this issue in some detail, in particular:

- Officials may not participate or influence in any way decisions that could lead to a conflict of interest situation, and must notify their superiors of any such conflict of interest situation in advance and not participate. This provision is not applicable to the President of the Republic, MPs, judges, prosecutors, investigators, persons conducting an inquiry or other officials for whom the conflict of interest issue is dealt with in the specific laws regulating their post.
- Officials may not represent the State, municipality or institutions thereof if this causes a conflict of interest when dealing with natural or legal persons from

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<sup>20</sup> Act no. VIII-371 On the Adjustment of Public and Private Interests in the Public Service, July 1997.

whom they, close relatives, or other persons related to them receive any kind of income; or when dealing with any undertaking in which their close relatives or persons related to them own over ten percent of the authorised capital or shares.

- Officials may not use their duties, authority or names in order to influence another person to make a decision that would directly or indirectly result in the emergence of a conflict of interest situation; or use or allow information obtained in the course of official duties to be used in a manner and scope other than that specified.
- Persons in central or local public service may not directly or indirectly accept gifts or services the provision of which was directly or indirectly connected with the performance of official duties. Gifts with a value exceeding €29.3 or gifts from one source exceeding a value of €147 in one year must be declared within one month and attached to the official's Declaration of Private Interests (see below).
- After leaving public service, for a period of one year officials may not be employed by any company with which their offices came into direct contact in a supervisory or controlling capacity. Officials must notify their superior of any job offer that might lead to a conflict of interest situation, and notify immediately in writing the acceptance of any job offer.
- For a period of one year after leaving service officials, or an undertaking in which they, close relatives or family members hold a stake of over ten percent or are employed in the management or audit institutions, may not enter into contracts with the institution or seek individual privileges provided by the institution. This does not apply to contracts awarded by public tender whose value does not exceed €2,930 per year.
- For a period of one year officials may not represent any natural or legal person before the institution in which they were employed, except as attorneys.

The 1999 Civil Service Act also lays down a number of incompatibility and conflict of interest provisions for civil servants (see Section 3.3).

Officials violating conflict of interest provisions may be dismissed, reduced in rank or exposed to official penalties defined by the Civil Service Act. Ministers may be impeached by the Parliament.

### *Declarations*

The Act on Adjustment of Public and Private Interests also requires all officials covered by the law to submit annual Declarations of Private Interests and of Property and Income for the previous calendar year by 1 March each year and additional declarations in case their circumstances change. Candidates for public office must make declarations for the period from the beginning of the calendar year to the moment they take office.

These declarations must contain comprehensive information on all income and assets according to the individual's tax return, gifts over €29.3, interests and ownership conditions of the individual or relatives that could cause a conflict of interest situation and travel paid for by other persons.

The declarations of private interests are filed with the head of the institution, while declarations of income and assets are filed with the National Revenue Service (tax authority). The declaration of private interests also includes a copy of the declaration of income and assets. The requirements to present these declarations are reiterated also in the 1999 Act on Public Service and 1996 Act on Declaration of Property and Income of Residents. Under the National Anti-corruption Strategy, the Government plans to extend the latter Act to cover all residents of Lithuania.

The President of the Republic and the heads of central or local administration institutions specified by the Chief Official Ethics Commission must file declarations to the Commission. The declarations may be verified against tax returns, while the Chief Official Ethics Commission may verify the information submitted on external interests.

The declarations of assets and income of the President, ministers, other heads of central institutions and their deputies and a wide range of other senior officials (for example, country governors, senior officials of the State Control and of the Customs and Tax Inspectorate) are published in the *Official Gazette*. The private interest declarations of these officials are also public.

### *Monitoring*

The Chief Official Ethics Commission (COEC), the key institution for monitoring adherence to the conflict of interest provisions and the veracity of declarations of interests, is a legal entity responsible to the Parliament. The Commission is composed of five persons of whom one each is appointed by the President, Speaker of the Parliament, Prime Minister, Chairman of the Supreme Court and President of the Lithuanian Bar Association. The Commission may initiate investigations on the basis of any information and, after analysing data submitted, provides recommendations for action to a court (since conflict of interest is subject to administrative liability) or to the institution concerned. The Commission is not only a controlling body but is also responsible for providing consultation and instruction to MPs, although according to MPs it has not fulfilled this role.<sup>21</sup>

The Act seems to have been applied and enforced with increasing efficiency. In 2000 and 2001, two ministers had to resign partly as the result of the Commission's work,

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<sup>21</sup> OSI Roundtable Discussion, Vilnius, 8 March 2002. *Explanatory note: OSI held a roundtable meeting to invite critique of the present Report in draft form. Experts present included representatives of the Government, international organisations, and civil society organisations. References to this meeting should not be understood as an endorsement of any particular point of view by any one participant.*

and a number of municipal officials were fined. In late 2001, the Ethics Commission issued warnings to a number of MPs because of conflict of interest situations.

### *The Act on Lobbyist Activity*

The COEC also monitors adherence to the Act on Lobbyist Activity, which was adopted in June 2000 and has been in force since 1 January 2001. The Act describes lobbying activity, lobbyists, and their possible clients and forbids entities from lobbying unless they are officially registered as lobbyists. The Act also contains some conflict of interest provisions concerning those who are lobbied similar to the provisions in the Act on Adjustment of Public and Private Interests.

Under the Code of Administrative Violations, public officials who violate the provisions of the Act may be held administratively liable and fined 500-1,000 Litas (€144-289). Repeated violations are punishable by a fine of 1,000-2,000 Litas (€289-578) or removal from office.

As of May 2002, there were six registered lobbyists (five individuals and one company), and a National Association of Lobbyists. There is no evidence that the Act has been effective in preventing illicit lobbying.<sup>22</sup>

## **2.3 Control and audit**

Reflecting EU requirements, a three-tier system of financial control is being implemented in Lithuania: State Control (reorganised on a new basis in 1990 and most recently reformed in March 2002), municipal control (established in 1994), and internal audit structures of the State sector (established in 2000).

### *State Control*

The State Control (SC) is an independent audit institution under the Constitution and Act on State Control. The Auditor-General is appointed by the President of the Republic on the Parliament's recommendation for a period of five years. Persons who were members of the Government or elected leaders of the central organisation of a national political party within the past three years may not be nominated. The Parliament sets and approves the budget of the SC, which is not in line with best international practice.

The SC audits: State budget implementation; use of State funds; management, use and disposal of State property; the budget of the State Social Insurance Fund; the budget of

<sup>22</sup> Information provided by Aleksandras Dobryninas, Chairman of the Board, Transparency International Lithuania.

the Compulsory Health Insurance Fund; and use by recipients of EU funds. It may also audit municipal budgets and management and disposal of municipal property.

The SC reports its findings to the Parliament annually. Although the law does not mandate publication of the reports, most findings are published on the SC's website.

In 1999, the SC started conducting performance audits, and in 2000 began implementing methods of programme auditing. In 2000, SIGMA experts positively evaluated the contribution of the SC, although SIGMA experts continue to regard the concept of financial control (audit) applied in Lithuania as close to an outdated "culture of control." As a result, the new Act on State Control passed in December 2001 removed the SC's powers to fine officials, leaving it with standard powers for a supreme audit institution: the SC may recommend to audited institutions that individuals be held liable, that funds be returned to the budget, or may refer findings to law enforcement authorities. The Prosecutor's office received 30 cases in 2000 and 12 between January and October of 2001.<sup>23</sup>

Since these changes to the Act came into effect in March 2002, it is not yet clear how enforcement of SC recommendations will work once the Parliamentary Budget Committee takes over the SC's previous enforcement role.

In 2000, the Auditor-General approved a new Code of Professional Ethics of State Control Officers.

In 1999-2001, the President of the Republic filed some inquiries to the SC concerning certain privatisation transactions and improper use of budgetary funds. The SC found serious infringements in privatisation of the energy sector, which led to the revision of privatisation procedures by the Government. In particular, the SC objected repeatedly to a deal reached to resolve a €52m debt owed by Belarus to the Lithuanian national electricity company. In April 2001, the Government agreed to sell the debt to a Russian company, Vanguard, which agreed to pay back the debt over ten years. The SC objected partly on the grounds of conflicts of interest concerning individuals who played roles both in the companies that caused the debt problems and in Vanguard.<sup>24</sup>

### *Internal audit*

Following a February 2000 Government resolution, internal audit services have been formed in all ministries, and almost all other State institutions and local authorities.

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<sup>23</sup> GRECO, *Evaluation Report on Lithuania*, p. 20.

<sup>24</sup> The Government subsequently decided to sell part of the debt to two companies, Vanguard and the Lithuanian agricultural company Dzeirana. See Economist Intelligence Unit, *Lithuania Country Report*, October 2001, p. 22; interview with Romualdas Čepaitis, Senior Auditor, State Control, 7 March 2002.

The *2001 Regular Report* noted progress in this area: in September 2001, the Government aligned internal audit standards with international audit standards, and in October of the same year, a Central Harmonising Department at the Ministry of Finance was formed to develop harmonised control and audit methodology.

On the other hand, the EC noted that,

[T]he legal basis for the system of Public Internal financial Control has been improved but is far from fully operational. Substantial efforts will have to be made in order to introduce internal audit structures and to strengthen capacity in line with EC requirements...<sup>25</sup>

## 2.4 Anti-corruption agencies

### *The Special Investigation Service*

The most important specialised institution in the fight against corruption is the Special Investigation Service (hereinafter SIS), established by the Government in February 1997. In May 2000, the Act on the Special Investigation Service was adopted, which made the SIS independent of the executive. As the GRECO evaluation put it, this “paved the way for strengthening anti-corruption efforts in Lithuania.”<sup>26</sup> The SIS is the body responsible for coordinating the National Anti-corruption Strategy, detecting and preventing corruption offences and ensuring coordination of anti-corruption measures both among State institutions and between them and society.

The Director of the SIS is appointed for five years by the President upon the Parliament’s consent. The SIS is accountable to the President and Parliament, and is required by law to submit reports to the President and Chairperson of the Parliament on the results of its activities and recommendations for improving its activities. These reports are not public. State authorities and institutions, political parties, public organisations and movements are explicitly prohibited from interfering in SIS activities. Moreover, investigation departments of the SIS are responsible in specific investigations to the Prosecution Office, and not even the SIS Director can interfere in their activities.

Statistics on SIS’s activities display a lack of clarity that is also apparent in Lithuanian criminal statistics on corruption. Between 1997–2000, SIS detained 337 public officials. According to information submitted to GRECO evaluators, SIS had disclosed 523 corruption-related crimes up to October 2001.<sup>27</sup> It is not clear what relation these statistics have to the statistics presented in Section 1.1. More importantly, it is not clear

<sup>25</sup> Commission, *2001 Regular Report*, p. 84.

<sup>26</sup> GRECO, *Evaluation Report on Lithuania*, p. 8.

<sup>27</sup> GRECO, *Evaluation Report on Lithuania*, p. 9.

if information on final convictions is available at all. GRECO noted that SIS has suffered problems because of inadequate means of measuring corruption, shown by the lack of statistics in particular.<sup>28</sup>

The SIS has improved its relations with the public substantially since 1997. Its executive officers regularly hold public meetings in different locations, and individuals may contact the SIS via a 24-hour “hotline.” However, its central function is clearly investigative, and GRECO has questioned the wisdom of making SIS additionally responsible for wider aspects of anti-corruption policy, particularly prevention (see Section 1.3).

The EU has been cooperating with the SIS since its establishment, particularly on the development of the National Anti-corruption Strategy (see Section 1.4).

### *The Police and Prosecution Offices*

Corruption cases not submitted to SIS are dealt with by the Organised Crime and Corruption Investigation Department of the Prosecutor General’s Office. The Department was formed in 2001 through the reorganisation of the Organised Crime and Corruption Investigation (OCCI) Units at district prosecution offices. A PHARE programme to develop the Department’s capacities is described in Section 1.4.

Within the police, corruption cases fall under the responsibility of the Organised Crime Investigation Service of the Criminal Police. Courts complain about the poor quality of police investigations into corruption.<sup>29</sup> Moreover, GRECO noted a lack of clarity in the division of functions between police investigators and prosecutors during pre-trial investigations.<sup>30</sup>

### *Money laundering*

The 1997 Act on Prevention of Money Laundering established money laundering as a specific offence applying to both natural and legal entities. Under the Act, all financial institutions and notaries are obliged to inform the Financial Intelligence Unit of the Tax Police (FIU) of any transaction they suspect may be related to money laundering, within three working days of the transaction being documented. Financial institutions must also report any transaction exceeding Lts 50,000 or the equivalent in a foreign currency (approx. €14,667). All notifications must include the identity of the client.

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<sup>28</sup> GRECO, *Evaluation Report on Lithuania*, p. 9.

<sup>29</sup> GRECO, *Evaluation Report on Lithuania*, p. 17.

<sup>30</sup> GRECO, *Evaluation Report on Lithuania*, p. 16.

In the *2001 Regular Report*, the European Commission noted that implementation of the anti-money laundering measures should be improved and the independence of the FIU ensured.<sup>31</sup>

In addition to these investigation institutions, the State Security Department (the State intelligence agency) also plays an important role in fighting corruption, in particular by assisting other institutions through its provision of information and data processing capabilities.

In February 2001, all law enforcement agencies signed an Agreement on Cooperation of Subjects of Operational Activities and Coordination of Operational Activities. The Agreement established uniform procedures for cooperating in investigations and exchanging and transmitting information.

### *The Parliamentary Anti-corruption Commission*

The Commission was established in October 2001 as the successor to the previous Commis for the Investigation of Economic Crimes (established in 1993). The Commission analyses crimes involving corruption, hears report of various institutions on their measures against corruption and submits proposals to institutions, the Government and the Parliament.

## **2.5 Ombudsman**

Parliamentary ombudsmen and ombudswomen were first established in 1994; by early 2002 there were five. They are appointed for four-year terms and can be dismissed only by a majority vote of all members of Parliament.

Ombudsmen and ombudswomen review complaints of the public regarding alleged abuse of office and bureaucracy of officials in the executive, control and audit, municipal, military institutions and their equivalents. They may not investigate the activities of the President, MPs, the Government as a collective body, judges, criminal investigation and prosecution proceedings or court decisions.

Having reviewed a complaint, ombudsmen/ombudswomen may:

- refer the matter to investigatory bodies if criminal actions are suspected;
- bring an action before a court to remove officials or pursue compensation for persons who have suffered as a result of official actions;
- recommend that an institution or official change or overturn decisions;

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<sup>31</sup> Commission, *2001 Regular Report*, p. 46.

- impose disciplinary penalties to officials;
- reimburse moral or material loss incurred by a person due to infringements of officials;
- draw official attention to infringements and problems in official behaviour and recommend corrective measures;
- report to the Parliament or President on infringements of ministers or other officials accountable to them.

The ombudsmen and ombudswomen report annually to the Parliament, publish an annual activity report and quarterly information bulletins, provide information to the media on their activities and cases of abuse of office or mistreatment by officials.

According to a representative of the Lithuania Centre for Human Rights, the ombudsmen play a positive preventative role, but their impact is weakened by the fact that their recommendations are not always enforced.<sup>32</sup>

### 3. EXECUTIVE BRANCH AND CIVIL SERVICE

The Lithuanian civil service has undergone fundamental reform, partly as a result of the requirements of EU accession. Strengthening the capacity of the public administration has been an accession priority since the EU's *Opinion on Lithuania's Application for Membership in the European Union*, which referred to the insufficient administrative capability of Lithuania to fulfil tasks of governance and public administration.<sup>33</sup> The Commission has mentioned this same problem in every subsequent *Regular Report*.

Reform of the public administration has been strongly influenced by accession requirements, ranging from changes to the legal framework to increased training of civil servants.<sup>34</sup> The most important laws passed to this effect have been the Government Act,

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<sup>32</sup> Conversations with Elvyra Baltutyte, Lithuania Centre for Human Rights, 23 July 2002.

<sup>33</sup> Commission, *Opinion on Lithuania's Application for Membership in the European Union*, July 1997, p. 47.

<sup>34</sup> Lithuanian legislation now provides that at least three percent of public budgets assigned for civil servant salaries should be assigned to training. A strategy to train civil servants for EU membership was developed in 1998 with the Finnish Institute of Public Administration, and the Lithuanian Institute of Public Administration (LIPA) was established in 1999. The Institute currently runs five international projects, four of which are directly related to and/or financed by the EU. In the autumn of 2000, the Lithuanian Institute of Public Administration started a two-year "Civil Service Training and Twinning Project" with the Danish Institute of Public Administration and the Finnish Management Institute.

Civil Service Act and Act on Local Governments. Since the passage of the 1999 Civil Service Act, the civil service has been largely de-politicised. Under Lithuanian administrative law citizens may appeal to administrative courts against both the legality and substance of official actions, although citizens are generally not aware of their rights in this area. Civil servants are subject to restrictions on ancillary activities, and a Code of Ethics is under preparation by the Government. There is limited protection for whistleblowers.

### 3.1 Structure and legislative framework

The civil service is formally de-politicised. Under the 1999 Civil Service Act, which satisfies all EU requirements, almost all civil servants must be recruited by open public competition, and may be dismissed only for violations of law, failures to meet necessary professional qualifications, retirement, disease or temporary transfer to a different position. These provisions do not apply to “civil servants of political (personal confidence),” which in the State administration means ministers, deputy ministers and department directors, who are political appointments without security of tenure.

Under the Act, civil servants are protected from being forced to take any actions or decisions for political interests in excess of their powers.<sup>35</sup> Civil servants may be members of political parties or organisations, but may only engage in political activities when off duty. Public officials and civil servants must be recruited by means of competitive selection.

These provisions appear to function reasonably well in practice: for example, after the change of Government following the 2000 parliamentary elections, there were no widespread personnel changes in the civil service. Despite this, the National Anti-corruption Strategy contains a commitment to decrease the number of “positions of trust” (political appointments) in order to achieve a “reduction of reshuffles in the public service following changes in political power.”<sup>36</sup>

The Act is being implemented in phases and will come into full effect in 2005. As the *2001 Regular Report* noted, progress has been made in implementing the new framework, for example through the creation of a new ranking and remuneration system in 2000, although the Commission still regards remuneration rates as unattractive.<sup>37</sup>

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<sup>35</sup> For example, civil servants may refuse to take such actions and require a written order, and in such situations responsibility for such actions rests with the superior.

<sup>36</sup> Resolution of the Seimas on National Anti-corruption Strategy, p. 29.

<sup>37</sup> Commission, *2001 Regular Report*, p. 17.

### *Immunity*

The Prime Minister and members of the Government enjoy the same degree of immunity as MPs (see Section 4.4). Immunity from criminal prosecution may be lifted by the Parliament.

## **3.2 Administrative procedure and redress**

Under the Act on Administrative Proceedings, individuals may apply with a claim (petition) concerning the legality or reasonableness of an official act first to a higher-ranked officer of the same institution or another superior institution. Appeals may then be lodged with the Commission for Administrative Disputes, which must deal with them within 14 days, and thereafter to an administrative court. Administrative courts began functioning in July 1999, and may judge both the legality and validity of administrative decisions.<sup>38</sup>

However, neither the Commission nor the courts may judge acts by the President, Parliament, MPs, Prime Minister, the Government as a collective body, ombudsmen and ombudswomen, judges, prosecutors, interrogators and investigators related to law enforcement or case investigation.

According to the Head of the Commission for Administrative Disputes, although the legislative framework for resolving administrative disputes is in place, citizens are insufficiently aware of their rights of appeal.<sup>39</sup>

## **3.3 Conflict of interest and asset monitoring**

In addition to the conflict of interest and asset monitoring provisions described in Section 2.2, the Act on Public Service dictates that civil servants may not in particular:

- be members of or receive remuneration from management bodies of enterprises or non-profit organisations unless this is specifically provided for by law;
- enter into contracts on behalf of their institution or an agency with private enterprises of which they are owners or partners;
- represent the interests of their country or foreign enterprises, other institutions or agencies, or travel abroad at the expense of a private company;

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<sup>38</sup> Act on Jurisdiction of Administrative Cases; Act on the Commission of Administrative Disputes.

<sup>39</sup> Conversation with Adolfas Gilys, Head of Commission for Administrative Disputes, 23 July 2002.

- work in any capacity in a private institution or enterprise or receive a salary other than their official salary.

The Act on Public Service also reiterates the duty to submit declarations of private interests, property and income.

### 3.4 Internal control mechanisms

In October 2000, the Government adopted Rules of Imposing Disciplinary Sanctions upon Civil Servants, which establish a procedure for imposing disciplinary sanctions on civil servants for misconduct in office.

### 3.5 Interaction with the public

The Act on Public Service specifies that institutions of public administration should take advice from organisations and persons representing the public interest when making decisions related to the public's common legal interests and important to a significant portion of the population.

Freedom of information provisions are covered in Section 9.2. There appear to be problems with access to information for citizens, due to poor implementation of relevant legal provisions.

In 2000, the Government approved the Regulation for Servicing Visitors in State and Municipal Authorities based on the "one window" principle. According to the regulation, procedures should be designed so that individuals have their affairs handled in one visit to a State authority, and if this is impossible, the authority shall be in charge of the further handling of this issue and appoint staff members to take the necessary action.

As of March 2002, there was no comprehensive code of ethics for civil servants apart from a few partial codes that have not been effective due to lack of implementation. In March 2001, a multi-institutional working group set up by the Parliament drafted a set of principles of ethics for politicians and public officials as a basis for drafting a Code of Ethics of Public Servants. Under the National Anti-corruption Strategy, the Code should be approved by the end of 2002. The concerns of GRECO about the "top-down" approach to preparing codes of ethics in Lithuanian law enforcement agencies might also apply here. GRECO expressed its opinion that, "[C]odes of ethics, focusing on prevention of corruption, should be developed rather by the staff to increase the feeling of "ownership" among public officials over such codes."<sup>40</sup>

<sup>40</sup> GRECO, *Evaluation Report on Lithuania*, p. 24.

### *Complaints*

The public may report corrupt actions and infringements of law to the Chief Institutional Ethics Commission, SC, ombudsmen and ombudswomen of local governments and Parliament, and the Commission of Economic Crime Investigation of the Parliament.

There are no special rules to define procedures for encouraging or protecting whistleblowers. Under the Civil Service Act, civil servants are obliged without delay to notify their superiors of tasks or instructions that they deem illegal, and the provision protecting civil servants against illegal instructions by superiors (see above) is also relevant.

## 3.6 Corruption

Between 1997 and 2001, several ministers, vice-ministers and other senior executive officials were removed or forced to resign as a result of conflicts of interests. For example, in 2001, the former Minister of Economy resigned after travelling to Moscow at the expense of a private local company for a meeting with Gazprom. The local company was interested in buying part of the Lithuanian gas distribution network. After the media exposed the incident, the Chief Institutional Ethics Commission declared that the Minister had violated the Act on Adjustment of Public and Private Interests, leading to his resignation. The Minister of Transportation in the same Government also resigned after revelations concerning the allocation of contracts by the ministry to a company where his wife owned a majority.<sup>41</sup> In 2001, a candidate for the position of the Chairman of the State Social Insurance Fund was charged with abuse of office and forgery of documents.

From 1997 to October 2001, SIS detected 563 public officials suspected of crimes against the public service. In 2000, 98 persons were charged with corruption, and 113 between January and October 2001.<sup>42</sup>

Corruption at the local government level may be a more serious problem than in central government institutions. In November 2001, a major scandal broke in Vilnius surrounding negotiations between the City and the French company Dalkia to manage the Vilnius central heating system. The mayor of Vilnius accused MPs from the Lithuanian National Progress Party of threatening to shut the company out of negotiations with the municipality unless it “supported them financially.” Dalkia’s representative in Lithuania also said the company was subject to attempted extortion. The Mayor provided tapes of telephone conversations to the State Security Service. The Service subsequently handed

<sup>41</sup> Comments at OSI Roundtable Discussion, Vilnius, 8 March 2002; interview with Arturas Račas, Editor-in-Chief, Business Desk, Baltic News Service, 7 March 2002.

<sup>42</sup> GRECO, *Evaluation Report on Lithuania*, p. 9.

over the case to the SIS after claiming that the tapes did not provide sufficient evidence for charges to be brought. At the end of December 2001, the Prosecutor General issued a statement that the contract between Dalkia and the municipality violated the Public Procurement Act, Competition Act and Civil Code. The scandal did not appear to have been investigated any further as of July 2002, and the contract with Dalkia was signed.

**Table 6: Perceptions of the public and entrepreneurs of selected ministries as “very corrupt,” 2001 (percent of respondents)**

| <i>Ministry</i>            | <i>General public</i> | <i>Entrepreneurs</i> |
|----------------------------|-----------------------|----------------------|
| Justice                    | 30                    | 37                   |
| Health                     | 26                    | 33                   |
| Interior                   | 26                    | 36                   |
| Economy                    | 242                   | 34                   |
| Finance                    | 22                    | 25                   |
| Agriculture                | 17                    | 24                   |
| Social Security and Labour | 17                    | 18                   |
| Education and Science      | 16                    | 15                   |
| Transport                  | 15                    | 21                   |
| National Defence           | 13                    | 17                   |
| Foreign Affairs            | 12                    | 15                   |
| Environment                | 7                     | 13                   |
| Culture                    | 6                     | 7                    |

**Source:** *Map of Corruption in Lithuania: 2001*, Transparency International Lithuania.

## 4. LEGISLATURE

### 4.1 Elections

Elections in Lithuania are free and fair. Elections are organised and supervised by an independent Supreme Election Commission and local commissions of electoral districts. Voting is also supervised by observers appointed by individual political parties.<sup>43</sup> A few members of local commissions have been prosecuted for procedural

<sup>43</sup> In the 2000 parliamentary elections, for example, a very close result in one electoral district was reversed when a liberal candidate appealed a narrow victory by a social democratic candidate. The ballot-papers were recalculated and victory awarded to the appealing candidate. However, the decision of the electoral district was appealed to the Supreme Election Commission, which after recounting established that the social democrat won the election by one vote.

infringements during elections, although investigations concluded that these infringements did not affect the election results.

## 4.2 Budget and control mechanisms

The State budget is subject to approval by the Parliament. However, a number of State funds are not included in the budget, such as the Social Insurance Fund and the Mandatory Health Insurance Fund and Occupancy Fund, nor are receipts from privatisation. The activities of these funds are non-transparent and lack scrutiny, although the SC can audit the Social Insurance and Health funds.

Budget control mechanisms are discussed in Section 2.4. The main question surrounding State audit is whether the Parliament will effectively take over the SC's role of imposing sanctions for violations of budget rules or other illegal actions.

## 4.3 Conflict of interest and asset monitoring

In addition to the conflict of interest and asset monitoring provisions covered in Section 2.2, the Statute of the Parliament requires MPs to avoid conflicts of interest and defines rules of conduct for members in case of possible conflicts of interest. These rules prohibit MPs from participation in drafting a decision or consideration of an issue which might involve their private interests, and require that they inform the Parliament and Ethics Procedural Commission and Chairperson of the Parliament of such private interests and abstain from other lobbying activities.

The Ethics and Procedural Commission of the Parliament reviews applications and inquiries concerning MPs' compliance with the Act on Lobbying and the Act on the Adjustment of Public and Private Interests in the Public Service. The Chief Institutional Ethics Commission (CIEC) also monitors adherence of MPs to these laws and may require the Ethics and Procedural Commission to reconsider its decisions. The CIEC informs the Parliament about infringements and has warned a number of MPs about their possible infringement of these acts.

In 1999, an independent audit company inspected the property and income declarations of MPs (including ministers) for 1996, 1997 and 1998. The audit disclosed a number of minor infringements of the Act on Reporting Residents' Property. As a result, the State Tax Inspectorate instructed approximately one third of MPs to correct or supplement their declarations.

After the 2000 elections, nearly one-third of MPs entered politics directly from the business sector. This has resulted in a rapid increase in the activities of the Ethics and

Procedural Commission, which received more applications and complaints in the first three months of its activities than the previous Commission received in an entire year. The Code of Ethics being prepared for public officials will also apply to MPs.

#### **4.4 Immunity**

MPs enjoy immunity from criminal prosecution, which may be removed only by impeachment. Initiatives for lifting immunity are the responsibility of the Prosecutor General, after which the Parliament either begins preliminary actions for impeachment proceedings, or forms a commission to consider whether impeachment proceedings should take place. Immunity may be lifted by a vote supported by a simple majority of all MPs, while impeachment requires a three-fifths majority.

Although the immunity provisions are in line with Council of Europe recommendations, GRECO criticised the fact that one person's immunity might have to be lifted several times within a single criminal proceeding. For instance, immunity would have to be lifted not only in order to open criminal proceedings, but also to carry out subsequent coercive measures.<sup>44</sup> According to information provided to GRECO, immunity has been lifted only once since the beginning of the 1990s, for one MP who was convicted in 1998 for attempted fraud.

#### **4.5 Corruption**

Public trust in the Parliament is extremely low at around four percent – lower than in any other EU candidate country. However apart from the case mentioned above, there have been no public cases of corruption involving MPs. The only significant scandal involving the Parliament concerned the acquisition by MPs of land for apartments at low prices in a luxurious quarter of Vilnius.

### **5. JUDICIARY**

The Lithuanian judiciary is independent in law and in practice. However, it is ranked in surveys as one of the country's most corrupt institutions, although there are signs that criminal proceedings against corrupt judges may be becoming more effective. An increasing backlog of cases increases the vulnerability of the system to corruption, while

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<sup>44</sup> GRECO, *Evaluation Report on Lithuania*, p. 22.

there is a lack of public control over both courts and prosecutors and possible concerns stemming from the hierarchical nature of the prosecution system.

## 5.1 Legislative framework

Courts and judges in Lithuania are independent.<sup>45</sup> Judges enjoy the same immunity provisions as MPs and other functionaries covered by immunity provisions (see Section 4.4). There is significant concern among law enforcement officials and other experts that judges may be excessively shielded from scrutiny.<sup>46</sup>

Judges are subject to the provisions on declaration of assets, income and private interests described in Section 2.2. In addition, under the Act on Courts, judges may not be appointed to courts where their spouses or former spouses, children, parents, siblings or cousins hold office. Persons involved in court proceedings (judges, clerks, specialists, experts and interpreters/translators) may not participate in case hearings if they are or might directly or indirectly have an interest in the outcome of the proceedings, or if there are any other circumstances raising doubts about their impartiality. If a judge is a person appearing before or participating in a court process and the case is within the jurisdiction of the court where the judge or close relatives holds or held office, the case must be heard by a different court.

In 1998, the general meeting of judges approved a Judicial Code of Ethics. This Code specifies that a judge should not yield to influence by other authorities, Government institutions, officials, mass media, the public or individuals. Under the Code, a judge may not accept any gifts or other signs of benevolence or receive credits or other services, if they are provided with the aim of influencing a proceeding.

In its evaluation report, GRECO noted three important reservations about the Lithuanian judiciary. One concerned the serious backlog of cases. This backlog is also a concern of the European Commission, which noted that despite an increase in the number of judges, the number of criminal cases under consideration increased from 5,878 to 6,421 from the end of 1999 to the end of 2000.<sup>47</sup> Their second reservation concerned an apparent lack of public control over the judiciary, specifically the lack of

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<sup>45</sup> The legal framework for the judiciary is described in detail in an OSI report on judicial independence in Lithuania. EU Accession Monitoring Program, *Monitoring the EU Accession: Judicial Independence*, Open Society Institute, Budapest 2001, pp. 267–306.

<sup>46</sup> Comments at OSI Roundtable Discussion, Vilnius, 8 March 2002.

<sup>47</sup> Commission, *2001 Regular Report*, p. 19.

an institutional system of external control.<sup>48</sup> The third reservation regards not judges, but the Prosecutor General's Office. The Lithuanian prosecution system remains strictly hierarchical; the Prosecutor General retains sweeping powers to influence prosecutors' decisions in individual cases, and could overrule a decision to prosecute, casting doubts on the foundations of prosecutors' independence.<sup>49</sup>

## 5.2 Corruption

As Section 1.1 shows clearly, the Lithuanian judiciary is regarded as one of the most corrupt institutions in the country. In 1999, the Lithuanian Institute of Philosophy and Sociology surveyed public opinion on trust of courts in Lithuania. Thirty-one percent of respondents cited bribery and corruption as the primary reason for their mistrust in courts.

Between 1997 and 2000, two judges were accused of bribery and subjected to criminal proceedings. One of the cases proved to be a test case for the use of *agent provocateurs*, which was introduced by the Act on Operative Actions. The judge was lured by SIS agents, and the Vilnius District Court applied to the Constitutional Court to decide whether such actions infringed on the Constitution. The Court decided that such techniques do not infringe on the Constitution when they are used to investigate latent crimes or crimes dangerous to the public. The proceedings resulted in the judge's conviction and confiscation of his property.

## 6. POLITICAL PARTY FINANCE

Lithuania has put in place a relatively advanced legal framework to regulate political party funding, including some State funding. However, State subsidies account for only a very small proportion of total party income. Moreover, supervision of party finances appears to be largely formal, and parties can get around the legal provisions relatively easily. Party expenditures are believed to be significantly higher than officially declared, and there is evidence of strong ties between parties and business groups. The Special Investigation Service views corruption in party financing as a problem requiring further reform.

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<sup>48</sup> GRECO, *Evaluation Report on Lithuania*, p. 25. According to officials at the General Prosecutor's Office, Department of Organised Crime and Corruption Fighting and Special Investigation Service, Lithuanian courts and judges tend to block effective prosecution of judges or other law enforcement officers for corruption or similar offences.

<sup>49</sup> GRECO, *Evaluation Report on Lithuania*, p. 25.

## 6.1 Legislative framework

Political party finances are regulated by the Act on Political Parties and Political Organisations, the 1999 Act on the Funding of Political Parties and Political Organisations, and the 1997 Act on the Control of Political Campaign Funding. The latter two acts were drafted after consultation with experts from EU countries. The President of Lithuania submitted amendments to the funding law to the Parliament in 2001, based on documents and recommendations of the EU to reinforce transparency and control of party finance.

Parties are entitled to the following sources of finance:

**Party funds:** These include membership dues, other voluntary contributions from members, interest from bank deposits, income from publishing, income from property, income from political and cultural events and other non profit-seeking activities.

**Donations:** Donations are defined broadly as monetary contributions or other contributions to electoral campaign activities with monetary value.

- Parties may receive donations from Lithuanian legal entities where the State or municipality owns no more than 50 percent of capital, permanent residents of the Republic of Lithuania, citizens of the Republic of Lithuania residing in foreign countries and branches of Lithuanian political parties and organisations established in Lithuanian communities.
- Parties may not receive donations from charity or support funds, religious organisations, trade unions, companies owned by foreign capital registered in Lithuania, executive and municipal authorities of foreign countries or legal and natural persons of foreign countries.
- Parties may not establish special funds to support a party or organisation.
- Parties may not receive anonymous donations exceeding €29.3, nor receive funding through third parties; all donations and gifts over €29.3 must be recorded in party financial accounts.
- Funds or gifts donated by one individual or legal entity may not exceed 500 times the official minimal subsistence level in any one year.
- All donations exceeding €293 must be submitted to the party's bank account, not in cash.
- Donations to the party and donations to individual campaigns must be kept in separate accounts, and every donation and gift received during a political campaign must be recorded in donation sheets issued by the Supreme Election Commission.

- Contributions from illegal funding sources are to be returned to the donor or handed over to the State.

**Subsidies from the State budget.** Parties and organisations that received at least three percent of the vote in elections to the Parliament or local councils are entitled to a State subsidy. The subsidy allocated to each political party or organisation is determined by the Supreme Election Commission each year. Total subsidies may not exceed 0.1 percent of the official State budget. The total amount allocated to subsidies for 2002 is €141,680, distributed among the parties as shown in Table 7. Subsidies are allocated on a six-monthly basis. According to press reports, parties' total declared income was many times higher than the State subsidy. For example, the Homeland Union declared €176,880 in income, the Social Democrats €202,693 and the Union of Liberals €152,533; the Conservatives declared €72,453 in donations from individuals, while the Union of Liberals declared €102,667 donated by businesses.<sup>50</sup>

**Table 7: Distribution of State subsidies among Lithuanian parties, 2001**

| <i>Political party/organisation</i>       | <i>Total annual subsidy, 2001 (€)</i> |
|---|---------------------------------------|
| New Union (Social Liberals)               | 33,222                                |
| Lithuanian Union of Liberals              | 30,725                                |
| Democratic Labour Party of Lithuania      | 21,434                                |
| Lithuanian Social Democratic Party        | 17,861                                |
| Homeland Union (Lithuanian Conservatives) | 16,824                                |
| Lithuanian Peasants' Party                | 12,649                                |
| Lithuanian Union of the Centre            | 12,221                                |
| Lithuanian Christian Democratic Party     | 8,772                                 |
| <b>Total</b>                              | <b>153,708*</b>                       |

**Note:** Figures may not round because of summing of six-monthly subsidy.

**Source:** Supreme Election Committee.

Neither the Act on Political Parties and Political Organisations nor the Act on Funding of Political Parties and Organisations regulate maximum party expenditures.

<sup>50</sup> *Kauno diena*, 4 March 2002.

## 6.2 Control and supervision

Political parties and organisations must publish financial reports with information on income and sources of income as described above, and expenditures and purposes thereof. Initiators of and participants in a political campaign (parties, nominees, candidates to the nominees, non-registered nominees, initiators of referendums) should submit to the Supreme Election Commission two financial accounts on the donations and other funds and their use: a preliminary account ten days before voting and a final account 25 days after voting or the publishing of referendum results. The final accounts of political campaigns are published in the *Official Gazette*. Any person entitled to donate to political parties or any representative of the media has the right to see the reports at the Supreme Election Commission and to publish data from such accounts in the mass media.

If a party fails to submit financial reports, the Supreme Election Commission first issues a warning, and may then recommend to the Ministry of Finance the suspension of budget funding to the party unless it takes corrective measures within 60 days. Funding may be renewed only after all infringements have been resolved.

The SC monitors how political parties and organisations use funds from the State budget.

## 6.3 Party finance in practice

There is virtually no direct evidence of corrupt or suspicious funding of political parties, and there have been no major scandals. However, the largely formal nature of party funding regulations means that parties and sponsors can easily get around the law while limited State funding creates incentives to maximise donations. SIS officials believe that corruption in party funding is a significant problem, and are pushing for new legislation to prohibit funding by legal entities entirely.<sup>51</sup>

Political scientists and other experts believe that several parties spent significantly more in the 2000 parliamentary and local elections than they declared, although the State Tax Inspectorate failed to detect any significant infringements. During the 2000 elections, some parties also took out loans, although this is prohibited by the Act on Control of Political Campaign Funding. The Homeland Union and Union of Liberals still owed money as of March 2002. The Social Democrats allegedly borrowed substantial sums of money from a company owned by the local manager of LUKOIL, towards which the current Prime Minister (a Social Democrat) is thought to be favourably inclined.

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<sup>51</sup> Comments at OSI Roundtable Discussion, Vilnius, 8 March 2002.

A number of local financial groups have had strong ties to one or more parties. A company that supported the Homeland Union (Conservatives) in the 1996 elections subsequently became the subject of media speculation for winning a number of public contracts. The Lithuanian Confederation of Industry is thought to have close ties to the Social Democrats; a fertiliser company owned by the President of the Confederation won a tender in the mid-1990's to buy some port facilities from the State and was subsequently allowed to delay payment. The Western Lithuanian Industrial and Financial Corporation, which was implicated in the scandal that led to the resignation of the former Minister of Economy (see Section 3.6), supported the Union of Liberals when it was in power before the 2000 elections, and after the elections supported the New Union (Social Liberals), now part of the governing coalition.<sup>52</sup>

## 7. PUBLIC PROCUREMENT

### 7.1 Legislative framework

Although public procurement legislation is relatively advanced, loopholes and problems with review procedures exist, and corruption is considered a significant problem.

The Public Procurement Act provides for five methods of procurement: open tender; restricted tender; competitive negotiations; request for quotations; and single source procurement. The Act applies to all institutions, enterprises and organisations performing public procurement from the budget or equivalent funds, when the value of a contract for goods or services exceeds €22,000, or €88,000 in the case of public works contracts; and all enterprises controlled by the State or local government and affiliated companies included in a Government-approved list, should the value of goods or services procured annually equal €528,000 or more, (€293,333 in the case of works contracts). The Public Procurement Office exists to coordinate and monitor the compliance of public procurement procedures with the Act.

Single source procurement is allowed only in the following circumstances:

- goods, works or services can be supplied (rendered) only by one supplier;
- there is an urgent need for goods, services or works due to unforeseeable extraordinary events;

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<sup>52</sup> Interview with Arturas Račas, Editor-in-Chief, Business Desk, Baltic News Service, 7 March 2002.

- goods to be procured are manufactured only for the purpose of testing, experimental, scientific work or technical improvements;
- the procuring entity procured goods or services from a supplier (contractor) under a previous former contract and found that additional procurement is reasonable from the technical point of view of combination with the already procured goods or services; in this case additional procurement should not exceed 30 percent of the value of the original contract;
- due to unexpected circumstances additional work or services are needed that were not included in the original contract, but without such work or services might not be completed;
- an open tender, restricted tender or competitive negotiations failed, because only a single bid was received.

When the value of a procurement exceeds €44,000, single source procurement requires the approval of the Government. However, regulation of single source procurement is insufficiently clear, and the mandatory approvals of the Government often turn out to be merely formal. SIS officials believe the Public Procurement Office should assess the terms and conditions of important procurements in advance, rather than reviewing them only after the fact as is currently the case, and that the names of officials who approve the terms of reference for tenders should be published.<sup>53</sup>

Public procurement regulations *are* public. All terms and conditions for public procurement and individual tenders are public and available. Preliminary announcements of tenders planned in a given year and tender invitations are published in the *Official Gazette*. The Public Procurement Office places information on tenders on the Internet.

Under the Public Procurement Act, tenders must be carried out according to the Methodology for Calculating Procurement Value, established and issued by the Public Procurement Office. If bidders offer unreasonably high or low prices to the procuring entity, the Public Procurement Commission (see below) should disallow all bids and receive consent from the Public Procurement Office to proceed with further negotiations and actions.

Procurement decisions are made by a Public Procurement Committee selected by the procuring entity, consisting of at least three individuals. The Act does not set special criteria for selecting Committee members, but all Committee members must sign a declaration that they will act impartially with regard to different bidders. Committee members and bidders may not provide information on the tender to third parties.

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<sup>53</sup> OSI Roundtable Discussion, Vilnius, 8 March 2002.

Tender decisions are published in the *Official Gazette* and communicated to other bidders within three days of signing the contract. Notification must include the winning price and rate of discount indicated in the contract. The procuring entity must report on the procedures of every procurement within ten days of signing the contract or completing the procurement procedures.

There is no special code of ethics for public procurement officers nor any system for blacklisting companies who have acted corruptly in procurement.

The Programme of the Government for 2002 to 2004 includes amendments to procurement regulations to tighten procurement procedures, introduce mechanisms and procedures to discourage collusion and increase control of contract fulfilment. In addition, the Government plans to harmonise the Public Procurement Act with EU directives and requirements of the World Trade Organisation, and to establish a public procurement information system meeting EU standards and practice.

## 7.2 Review and audit

If a bidder believes that a procurement procedure infringed its rights, it may appeal to the procuring entity. If the reply does not satisfy the bidder it can lodge a complaint with the Public Procurement Office. Complaints there are reviewed by an *ad hoc* three-member Commission for the Examination of Complaints: one member is appointed by the bidder, one by the procuring entity and one appointed by the Office from a list of experts nominated by suppliers, procuring entities or the Government. Members of the Commission must sign an impartiality declaration and may not be in any relation with the supplier.

Finally, bidders can appeal to a court against the actions of the Public Procurement Office and decisions of the Independent Commission for Public Procurement Complaint Review. The Public Procurement Office may also appeal against suspicious transactions to the SC or law enforcement institutions for their investigation.

GRECO has criticised two aspects of the appeals system. Firstly, there is no mechanism by which the Office can remove unsuitable persons from the list of experts to sit on complaint commissions. Second, a bidder must pay a fee of €880 to appeal to the Office, and, if the complaint is found groundless, the full cost of the process as well.<sup>54</sup>

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<sup>54</sup> GRECO, *Evaluation Report on Lithuania*, p. 19.

## 7.3 Corruption

According to experts, the media and a number of participants involved in public procurement, corruption in this area is very widespread. For example, SIS officials estimate on the basis of information supplied to them by companies that around ten percent of contract value is required on average in bribes.<sup>55</sup> According to TI's *Map of Corruption in Lithuania: 2001 survey* (see Section 1.1), 74 percent of entrepreneurs were of the opinion that the Public Procurement Office is somewhat or very corrupt, although this score is lower than the courts, Government, Parliament and several other State institutions and ministries.

## 8. PUBLIC SERVICES

### 8.1 Police

As the surveys detailed in Section 1.1 show, the police are regarded as one of the most corrupted institutions in Lithuania, especially the traffic police, and a large proportion of persons prosecuted for corruption have been police officers.

Internal investigation units have existed within the police since 1998 to supervise officers and combat illegal activities including corruption, while police officers receive more severe sentences for corrupt acts than ordinary citizens. However, one of the key factors contributing to police corruption is the combination of low pay with wide discretionary powers: for example, traffic police officers earn approximately €205, yet are authorised to issue cash fines of up to €1,466.<sup>56</sup>

### 8.2 Customs

The Customs Department is also perceived by the public as one of the most corrupt institutions in Lithuania (see Section 1.1). Yet the Customs Department has been implementing a number of reforms to combat smuggling and related corruption. PHARE assistance has been provided to help install a modern information system and customs declaration processing system. Customs offices and terminals are being provided with special equipment and facilities allowing for more effective control of customs officers' work, along with more operative and better inspection of customs. In

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<sup>55</sup> Comments at OSI Roundtable Discussion, Vilnius, 8 March 2002.

<sup>56</sup> GRECO, *Evaluation Report on Lithuania*, p. 11.

2000, an Intelligence and Analysis Unit was established, and the Customs Department signed a cooperation agreement with the SIS to fight customs crime. A new structure of the Department came into effect in July 2001, including a Division for Investigations in Office to investigate the illegal activities of customs officials.

In 1999, the Director of the Customs Department at the Ministry of Finance approved a Code of Ethics of Customs Officers, which includes explicit instructions to avoid conduct likely to be regarded as a request for a bribe.

### **8.3 Health**

The Lithuanian healthcare system is regarded by the public as one of the most corrupt institutions, and on the basis of responses concerning actual experiences it is considered most corrupt, along with the traffic police (see Section 1). Staff members of healthcare institutions are not regarded as public officials and, thus, not subject to the provisions of the Act on the Adjustment of Public and Private Interests in the Public Service.

Low salaries underpin the persistence of bribery in the health system, along with a surviving tradition of “remuneration in advance” to medical staff, which is based on patients understanding that without a bribe, they will be treated worse or not at all.

One of the priorities under the PHARE 1995 programme was the development of the Primary Health Care Sector. A long-term PHARE Advisor was assigned to the Municipality Boards of Vilnius, Siauliai and Klaipeda regions for two years to assist with the preparation and implementation of a “Primary Health Care Plan” (PHC). The project was expanded under the 1997 PHARE programme.

### **8.4 Licensing and regulation**

Although international organisations like the World Bank regard business conditions in Lithuania as similar to those in other Central and Eastern European countries and organisations have positively registered the country’s efforts in the area of business liberalisation,<sup>57</sup> a PHARE-funded study carried out in 1999 to map the corruption

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<sup>57</sup> For example, the Heritage Foundation improved Lithuania’s ranking in its “Index of Economic Freedom” from 61 in 1999 to 44 in 2000 – the biggest change for any post communist country in that period. After several years of negotiations, on 1 June 2001, the Republic of Lithuania became an equal member of the WTO.

situation and outline an anti-corruption strategy stated that, “[The] basic obstacles (causes) impeding business development are identical to the reasons inducing corruption.”<sup>58</sup>

Corruption in business registration is not regarded as a problem. However, in certain sectors, barriers to entry may have been deliberately erected in laws regulating those sectors, for example pharmaceuticals,<sup>59</sup> private medical practices, and the legal profession.<sup>60</sup>

## 9. ROLE OF THE MEDIA

The legal framework for the media in Lithuania is regarded by lawyers and journalists as one of the most liberal in Europe. According to various opinion polls, the mass media is the most trusted institution in Lithuanian society,<sup>61</sup> and despite certain attempts by representatives of State institutions to inflict “soft sanctions” on critical publications<sup>62</sup> there is a deeply ingrained cultural bias against interference in freedom of the press. Access to information is guaranteed by law, although the implementation in practice of freedom of information provisions has not yet been adequate. While the press has been relatively active in uncovering corruption, public broadcasting remains subject to strong political influence, and the activities of the media are still restricted by poor access to information and perhaps in some cases by intimidation.

### 9.1 Press freedom

In Lithuania, the media’s freedom is guaranteed by the Constitution and the Act on Provision of Information to the Public. Under these laws, the professional work of journalists may be restricted only because of the need to defend the interests of the State and other individuals.

<sup>58</sup> PHARE, *Preliminary Assessment of Corruption in Lithuania and Preparation of Corruption Fighting Strategy Outline*, 1999, p. 41.

<sup>59</sup> See, for example, A. Semiene, “Milijardini vaistu versla lydi kysiai” [Bribery is part of a pharmaceutical business worth billions], *Respublika*, 7 March 2002.

<sup>60</sup> Interview with Arturas Račas, Editor-in-Chief, Business Desk, Baltic News Service, 7 March 2002.

<sup>61</sup> *Lietuvos rytas*, 19 May 2001, p. 7.

<sup>62</sup> For example, after anti-corruption articles were published by *Lietuvos Rytas* and *Respublika*, financial audits of the publications took place, along with withdrawal of official State advertisements.

There are few restrictions on journalistic freedom and none that address coverage of corruption cases specifically. In addition to standard provisions on libel and slander, the Act on Provision of Information to the Public allows damages against journalists who violate the honour or dignity of an individual. In 1999-2000, a proposal by some MPs to raise the limit on compensation for violations of honour or dignity was rejected. However, in the Civil Code which came into force on 1 July 2002, there is no limit on compensation for moral damages.

## 9.2 Access to information

Under the Act on the Right to Obtain Information from Governmental and Municipal Offices, Governmental and municipal offices are obliged to answer written requests for information within 14 days (or one month in certain cases). Information may be withheld only if this is essential to protect a democratic society and is more important than the individual right to obtain information. Official information is free of charge, although institutions may charge a fee to cover service expenses (costs of searching for information, copying).

In cases of refusal to provide information, citizens may appeal to the court. The effectiveness of these norms was shown in 1999 by a journalist's successful lawsuit against the Minister of Health. On the other hand, no systematic and standard procedures by which authorities provide information are yet in place, and GRECO found that,

There were indications that it is generally difficult for journalists and the public to have access to public documents, and that journalists needed informants to work effectively, due to limited access to public documents provided for in law and disloyal application of the law.<sup>63</sup>

## 9.3 Broadcasting regulation

Broadcasting activities are licensed and regulated by the Radio and Television Commission, except in the case of public television and radio (see below). Licensing procedures are clear. The Commission is accountable to the Parliament and consists of 12 members representing different public, cultural and scientific institutions. Members are nominated by the Parliament, President and professional journalist and cultural organisations. The composition of the Commission protects commercial radio and

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<sup>63</sup> GRECO, *Evaluation Report on Lithuania*, pp. 5–6.

television broadcasters from executive interference, and there have been no official complaints about its activities.

National Radio and Television of Lithuania (NRTL) is governed by a Council consisting of 12 members representing various non-governmental cultural, academic and civic institutions and nominated by the President of Lithuania, Parliament, and non-governmental organisations. The Council is under the responsibility of the Parliamentary Committee on Education, Science and Culture. The Council elects the Director General of NRTL, and appoints and approves assistants by means of public tender.

Although the intention of this Act is to make NRTL independent of political forces, in practice all NRTL Councils have been politicised and Governmental institutions have tried either directly (by changing the composition of the Council) or indirectly (through financing policy) to influence NRNL's work. For example, one respected journalist was hired but, after investigating the property deals of some MPs, was effectively dismissed.

## 9.4 Corruption in the media

There is little evidence of direct bribery of journalists. According to media experts, however, problems exist in general with media and journalist ethics, which result in a number of practices that sometimes constitute corruption. These include influence by companies of editorial content through advertising pressure, extortion of advertising by the media through threats concerning editorial content, as well as some political pressure, especially on public media.<sup>64</sup> But this appears to be a largely uninvestigated area.

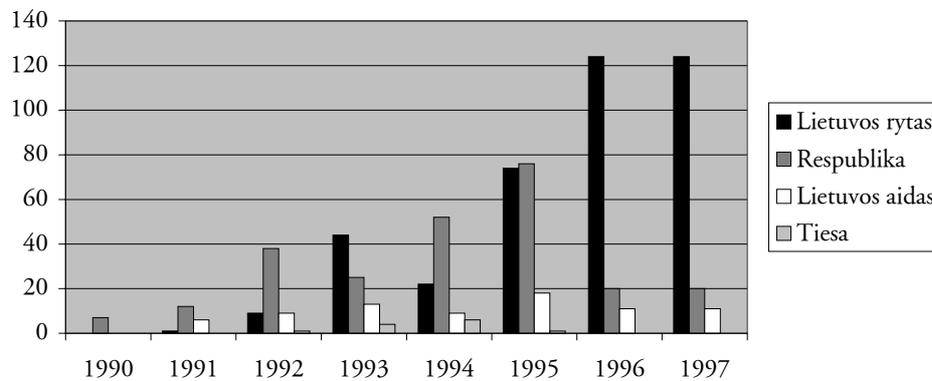
## 9.5 Media and corruption

Media coverage of corruption is dominated by the press, where coverage of corruption has steadily increased. Figure 1 below shows the number of articles on corruption in the main dailies between 1990 and 1997. Between January 1998 and November 2000, the biggest and most influential Lithuanian daily *Lietuvos Rytas* published around 13 articles per month on corruption.

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<sup>64</sup> Information provided by Aleksandras Dobryninas, Chairman of the Board, Transparency International Lithuania.

**Figure 1. Number of publications on crimes against civil service in Lithuania in main national newspapers during 1990–1997<sup>65</sup>**



**Source:** Transparency International, 2001

The media has had a significant impact not only on the public but also on the Government. For example, a media investigation into conflicts of interest at the Governmental level forced the resignation of three members of the present Government, and influenced the creation of the Principles of Governmental Ethics and Code of Conduct for Governmental offices. The SIS cooperates with the media as a systematic part of its anti-corruption strategy.

## 10. RECOMMENDATIONS

The following recommendations have been highlighted as particularly important to Lithuania. For additional recommendations applicable to candidate States generally, please see Part 5 of the Overview report.

- 1 Ensure that complete statistics are available on criminal proceedings and convictions for corruption-related acts.

<sup>65</sup> A. Dobryninas, "Corruption as a Public Matter: The Case of Mass Media," in: *Transparency International. The Anti-corruption Agenda in a New Decade: Defining Issues, Identifying Allies*, Transparency International, Berlin 2001, p. 73.