Groupe d'Etats contre la corruption
Group of States against corruption

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Evaluation Report on Lithuania

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I. INTRODUCTION

1. Lithuania was the eighteenth GRECO member to be examined in the first Evaluation round. The GRECO evaluation team (hereafter the "GET") was composed of Mr Håkan ÖBERG, Director, Economic Crimes Bureau, Sweden (criminal justice expert), Mr Gunars KUTRIS, Deputy Secretary of State, Ministry of Justice, Latvia (policy expert) and Mr Juraj SMOLEK, Major, Teacher, Secondary Police School, Slovakia (police expert). This GET, accompanied by two members of the Secretariat, visited Vilnius from 1 to 5 October 2001. Prior to the visit the GET experts were provided with a comprehensive reply to the Evaluation questionnaire (document Greco Eval I (2001) 22E).

2. The Ministry of Justice was responsible for the organisation of the visit. The GET met with the Vice Minister of Justice and other representatives of that Ministry, the Chairman of the County Court in Vilnius, the Chairman and judges of the criminal cases division of the Court of Appeal, representatives of the Public Procurement Service, the Head of the tax administration of the Ministry of Finance, representatives of the State Tax Inspection, the Chairman of the Chief Official Commission of ethics, the Chairman of the Legal Affairs Committee of the Parliament (Seimas), representatives of the Law Department, the Chairmen of the Central Electoral Committee and the Commission of Economic Crime Investigation and the Ombudsman of the Seimas, the State Controller, the Director and representatives of the Special Investigative Service, the Head of the Police department, Ministry of the Interior, representatives of the Tax police and the Service of Interior Immunities, representative of the Prosecutor General's Office and the Director and representatives of the Customs Department. The members of the GET were well received by the Lithuanian authorities and appreciated the openness and professionalism shown.

3. Moreover, the GET met with representatives of the Lithuanian Development Service, Transparency International (LT), the Investors Forum and mass media.

4. It is recalled that GRECO agreed, at its 2nd Plenary meeting (December 1999) that the 1st Evaluation round would run from 1 January 2000 to 31 December 2001, and that, in accordance with Article 10.3 of its Statute, the evaluation procedure would be based on the following provisions:

   - Guiding Principle 3 (hereafter "GPC 3": authorities in charge of preventing, investigating, prosecuting and adjudicating corruption offences: legal status, powers, means for gathering evidence, independence and autonomy);
   - Guiding Principle 7 (hereafter "GPC 7": specialised persons or bodies dealing with corruption, means at their disposal);
   - Guiding Principle 6 (hereafter, "GPC 6": immunities from investigation, prosecution or adjudication of corruption).

5. Following the evaluation visit in Lithuania, the GET experts submitted to the Secretariat their individual observations and proposals for recommendations, on the basis of which this report has been prepared.

6. The principal objective of the report is to evaluate the measures adopted by the Lithuanian authorities, and wherever possible their effectiveness, in order to comply with the requirements deriving from GPCs 3, 6 and 7. The report will first describe the situation of corruption in Lithuania, the general anti-corruption policy, the institutions and authorities in charge of

combating it - their functioning, structures, powers, expertise, means and specialisation - and the system of immunities preventing the prosecution of certain persons for acts of corruption. The second part contains a critical analysis of the situation described previously, assessing, in particular, whether the system in place in Lithuania is fully compatible with the undertakings resulting from GPCs 3, 6 and 7. Finally, the report includes a list of recommendations to Lithuania in order for this country to improve its level of compliance with the GPCs under consideration.

II. GENERAL DESCRIPTION OF THE SITUATION

7. The Republic of Lithuania is the most southern country of the three neighbouring "Baltic states" (Estonia, Latvia and Lithuania) and the one that has the shortest Baltic Sea coastline. It borders Latvia, Byelorussia, Poland and the Russian Federation. Lithuania is the largest of the Baltic States with a population of almost 3.7 million, of whom 82 per cent ethnic Lithuanians, eight per cent Russians, seven per cent Polish and three per cent Ukrainians and Byelorussian's.

8. Lithuania regained its independence in 1990/91, after 46 years under the Soviet Union. A new Constitution, which was adopted in 1992 following a referendum, re-established all the traditional State institutions, i.e. the Parliament (Seimas), the Presidency, the Government and the judiciary. The Constitution also introduced some new institutions to support the democratic functioning of the State, including the Constitutional Court, the Ombudsman and the State Control Department. Lithuania is a unitary State and a Parliamentary Republic, based on the rule of law.

9. The *President* of Lithuania, appoints upon approval of the Seimas, the Prime Minister and approves the composition of the Government. The Seimas is a one chamber Parliament, comprising 141 Deputies elected for four years. The *Government* comprises the Prime Minister and ministers. The *Local self government* in Lithuania is based on 56 municipalities. The Municipal Councils are elected by the local population for three years.

10. Lithuania has since the early 1990's benefited from the co-operation and assistance programmes for the strengthening of democratic values (including anti-corruption) in public administration of the Council of Europe and became a member of the said organisation in 1993. Moreover, Lithuania has a developed co-operation with the Countries in the Baltic Sea region, including their Task Force on Organised Crime. Lithuania is also involved in anti corruption activities in co-operation with the OECD.

11. Lithuania has applied for membership of the European Union (EU) and has for this purpose established the National Programme for the Adoption of the *"Aquis"* (NPAA) of the EU, which covers *inter alia* reforms of public administration, drafting of new legislation and extensive economic/financial reforms. A large majority of the reforms envisaged has been implemented. According to the most recent progress report by the European Commission[1], Lithuania is continuously improving its public administration in general, including also anti corruption measures. Moreover, according to the European Commission, Lithuania has a "functioning market economy", it has preserved macro economic stability and the privatisation of various sectors, including land, is nearing completion. The economic situation is constantly improving; GDP per capita in terms of purchasing power had by November 2001 reached a level of 29,1 per cent of the EU average.

[1] European Commission, 2001 Regular Report on Lithuania's progress towards accession.

a. The phenomenon of corruption and its perception in Lithuania

12. Corruption in Lithuania is generally considered as a rather widespread phenomenon in society, and considered an urgent problem by the State. An official (state) survey on the spread of corruption, its forms, reasons etc was carried out in 1999. The Government is particularly concerned about the features of corruption disclosed in the activity of civil servants, law enforcement officers as well as in the private sector.

13. The Lithuanian Government adopted in May 2001 a Policy Plan on "the Main Directions of the Fight against Corruption". As a follow-up, the Government approved in September 2001 a comprehensive "National Anti-Corruption Strategy". The overall objective of the Strategy is to reduce the level of corruption in Lithuania and aspire it becoming a smaller obstacle for economic, democratic and welfare development. The Strategy is a long-term project (7-10 years) which specifies main directions and priorities in the fight against corruption, affecting most areas of public administration (e.g. tax, customs, health, public procurement) focusing on prevention, investigation and law enforcement of corruption as well as public awareness and education. Through this Strategy, Lithuania pays a great deal of attention to the law making, to an efficient corruption detection and to the awareness/involvement of the larger population in the fight against corruption.

14. Lithuania has signed the Council of Europe Criminal Law Convention on Corruption. The GET was informed that this instrument was likely to be ratified in 2002. The GET was also informed that Lithuania would sign the Council of Europe Civil Law Convention on Corruption in 2002 and that ratification would follow as soon as possible after the enactment of new legislation in order to comply with that instrument.

15. Lithuania is a contracting party to the European Convention on Mutual Legal Assistance in Criminal Matters and is bound by a large number of different bilateral agreements, in particular with the neighbouring countries, on international judicial and police co-operation and could accordingly provide mutual legal assistance on the basis of this. However, there is no data available concerning mutual assistance.

16. According to the National Anti-Corruption Strategy, there is no sufficient legal definition of corruption in Lithuania. It is therefore suggested in the Strategy document that a definition be brought into the anti corruption legislation (taking into account the Council of Europe Civil and Criminal law Conventions) according to the following: *"any conduct of a civil servant or an equivalent person, non-conforming with the authority entrusted or standards of conduct established, or promotion of such conduct for the benefit of oneself or third persons, to the detriment of the interests of other people and the state".*

17. A variety of laws with regard to anticorruption measures have been enacted in recent years; the Criminal Code (2000); the Law on Prevention of Money Laundering (1997); the Law on the Adjustment of Public and Private Interests in the Public Service (1997); the Law on Declaration of Property and Income of Residents (1996); the Law on the Accounting for the Lawful Acquisition of Personal Property and for the Origin of Income (1997); the Law on Public Procurement (1999); the Law on Lobbyist Activity (2000); the Law on the Control of the Financing of Political Campaigns (1997) and the Law on Public Service (1999). At the time of the visit by the GET, an anti-corruption act was under preparation.

18. Lithuania has in recent years established a wide range of state agencies/bodies, in particular at the level of law enforcement, for the prevention/detection of corruption, the most important, being the *Special Investigation Service (SIS)* as a specialised anti corruption body aimed at both detection and prevention measures ultimately accountable to the President of the Republic and to the Seimas. The *Public Prosecutors* office, which is an institution responsible to the Seimas, with specialised departments for organised crime and corruption, has a controlling function over the SIS during the pre-trial investigation. The law enforcement bodies are coordinated by a "Coordination Group" established in 2001. Other important bodies to mention in the context of anti corruption measures in Lithuania are the *Parliamentary Ombudsman, the Commission of Anti-Corruption (*Seimas*)*, *the Chief Official Ethics Commission, the Public Procurement Office, tax authorities* and *the State Controller.*

19. Lithuania recognises that there is connection between corruption and organised crime even if crime involving corruption is not always seen to be connected with organised crime. The creation of criminal associations as well as participation in activities of such associations is criminalised. Moreover, there is a programme (1999-2005) in place in Lithuania for the prevention of organised crime and corruption. It analyses the connection between these phenomena and sets forth measures to combat them.

20. The GET was informed that all active political parties in Lithuania analyse corruption problems of the country in their programs. The Seimas regularly hears reports of legal institutions and other institutions and passes legislation obliging the executive to implement respective anticorruption measures. The anticorruption measures occupy an exceptionally important place in the Government program. The President analyses the situation in respect of corruption in every of his annual addresses. All this is broadly covered by media.

21. In 2000, a Lithuanian Chapter of Transparency International was opened in Vilnius. Its representatives participate in TV and radio programs and organise sociological surveys the materials of which are published. According to the Transparency International Corruption Perception Index for 2001, Lithuania is ranked 38 (out of 91) with a score of 4.8 (out of 10). This places Lithuania close to the group of the least corrupt countries of central and eastern Europe. Compared to previous years, the position of Lithuania has improved: the perception index for 2000 was rank 43 (score 4.1) and in 1999 rank 50 (score 3.8).

22. Moreover, Transparency International, presented in October 2001 a survey, demonstrating an attitude of society on the phenomenon of corruption in Lithuania. "The Map of Corruption in Lithuania" indicates that a majority of the general public as well as entrepreneurs consider corruption in Lithuania as a widespread and increasing phenomenon. The perception of the most corrupt higher institutions were the Courts, the Government and the Seimas. Among the criminal justice bodies perceived as most corrupt were the Traffic Police, the Border Police, the Tax Police, the Courts and the penitentiary institutions. The same survey points at *inter alia* the Customs Office, the Privatisation Agency, the State Tax Inspectorate and the Public Procurement Office as among those institutions perceived as corrupt (the list is not complete). The survey also comprises a "price list" of the most common bribes.

23. The situation with regard to media is contradictory. On the one hand the GET was informed that media enjoyed broad freedoms and that it is not censored, that it carries out investigative journalism and exposes cases of corruption. On the other hand 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. Furthermore, the GET was told that threats from various groups against investigating journalists existed. At the same time the GET was informed that recent research shows that the public perception, including entrepreneurs place media as the main anti-corruption factor.

24. Representatives of the "Investors Forum" (foreign investors/enterprises) described the bureaucracy of the public bodies in Lithuania as generally slow and that bribes were commonly used by the private sector in order to speed up the procedures. The police, the customs, tax authorities and the public procurement procedures were mentioned as being particularly surrounded by corruption. Some representatives of the Forum claimed that they did carry out their business as a principle without using bribes and that the private sector had an important educational role to play vis-à-vis the authorities in this respect.

b. Criminal legislation on corruption, statistics

25. The criminal legislation in Lithuania provides for several crimes, which would amount to corruption offences within the meaning of Council of Europe instruments, in particular the Council of Europe Criminal Law Convention on Corruption.

26. The Criminal Code of Lithuania (presently in force) distinguishes corruption embracing corrupt behaviour both in private and public sectors. Crimes[2] with regard to the public service (concerning public officials[3] and/or public servants) are *taking a bribe* (passive), *subornation* and *office abuse*. The Code also provides for *exceeding official authority*, *failure to perform official duties* and *official forgery*.

27. The sanction for *taking a bribe* is deprivation of liberty for up to ten years and a prohibition to hold a certain position, perform a specific job or engage in specific activities for up to five years. The sanction for *office abuse* is a fine or deprivation of liberty up to five years, which may be combined with a prohibition to hold a certain position, perform specific activities etc for up to five years. *Subornation* may be punished by a fine or by deprivation of liberty up to five years. See Appendix I.

28. It is noteworthy that the Criminal Code in force provides for criminal liability for both active bribery (c*ommercial bribery)* and passive bribery (*acceptance of an unlawful payment)* in the private sector. However, it does not provide for criminal responsibility of legal persons. Activities of legal persons that committed criminal acts can be limited or discontinued, material sanctions can be applied (i.e. civil responsibility), whereas criminal responsibility is incurred by the guilty persons (owners or employees of enterprises or institutions).

29. The punishment imposed for the crimes enumerated is, *inter alia*, depending on the level of conspiracy and particularly on the amount unlawfully paid. If the offence has been committed by an association or an organised crime group, that may bee seen as an aggravating circumstance, however, that may also qualify the offence as an activity of a criminal association (article 227:1).

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[2] At the time of the visit, the Criminal Code in force only covered material advantage, however, as pointed out in paragraph 30, the new Criminal Code adopted, but not yet in force, incorporates the notion of bribe covering both material and intangible advantages. Moreover, as of January 2002, the Criminal Code in force also covers material and intangible advantages.

[3] These also include Members of Parliament.

30. A new Criminal Code was adopted by the Seimas in September 2000 (not in force)[4]. The new Code establishes, in addition, criminal liability for *trading in influence*, provides for criminal liability for legal persons with regard to the offences mentioned and extends the concept of civil servants also to those belonging to international public organisations and foreign states, see Appendix II.

31. It should also be mentioned that the Criminal Code provides for liability for violating public procurement procedures (Article 321:3). Violation of the procedures is punishable (fine or up to two years imprisonment).

32. Money laundering is a criminal offence in the Criminal Code (Article 326), separated from that of receiving of stolen goods (Article 281). The elements of money laundering are: the conducting of transactions with proceeds acquired in criminal ways or, the usage of proceeds acquired in criminal ways in commercial or economic activities, for the purposes of concealing or legitimising these proceeds (money laundering). The predicate offence may be any criminal offence provided for in the Criminal Code ("all offences approach").

33. According to the General Prosecutor's Office of the Republic of Lithuania, in 1995-1998, 319 persons were prosecuted for crimes involving corruption. Most of them were police officers, followed by customs officers and local government employees (see table). [5]

					Local government employees	
1995	2	-	52	1	2	8
1996	-	-	64	20	2	16
1997	1	2	45	11	3	19
1998	-	-	44	7	5	15
Total	**3**	**2**	**205**	**39**	**12**	**58**

34. The above persons were prosecuted mainly for accepting a bribe, giving a bribe, abuse of office and abuse of power (see table).

Year/Article of the Criminal Code of the Republic of Lithuania				
1995	36	22	-	2
1996	33	44	5	8
1997	18	33	7	5
1998	26	26	9	5
Total	**113**	**125**	**21**	**20**

35. According to official statistics (The Department of Statistics, 2000) available to the GET, there were in 1999 registered 142 crimes and in 2000 104 crimes concerning corruption offences (taking a bribe, subornation, office abuse, abuse of power, i.e. Art. 282, 284, 285, 287 of Criminal Code) and 101 (in 1999) and 99 (in 2000) of them were detected.

[4] The Criminal Code will enter into force as soon as the draft Code of Criminal Procedure, the draft Code of Execution of Punishment and the draft Code of Administrative offences are adopted by Parliament, possibly in 2003.
[5] These figures include all levels of public officials and one Member of Parliament.

c. Bodies and institutions in charge of the fight against corruption

36. Lithuania has in recent years established new state bodies in charge of the detection/prevention of corruption as well as charged existing bodies with specific such functions. As one of the most significant measures in this respect is the establishment of the Special Investigation Service (SIS), specially tasked for the fight against corruption. Furthermore, a special Department within the Prosecutor General's Office is focusing on organised crime and corruption. It should also be mentioned that internal investigation units within the ordinary Police, the State Border Guard and the Customs have been set up to implement anti-corruption standards in these institutions. The co-ordination of the activities of these bodies is provided in agreements between them, but also in the Code of Criminal Procedure and in the Law on Operational Activities.

c1. Police and Special Investigation bodies

i. The Special Investigation Service (SIS)

37. The Special Investigations Service (SIS) was initially established under the Ministry of the Interior in 1997 with the main function to collect and use intelligence about criminal associations and corrupt public officials as well as carry out corruption prevention.

38. With a view to increasing independence of the SIS and strengthening its effectiveness as well as to widening possibilities of combating corruption in the executive branch, it was decided to reorganise the SIS into an agency accountable only to the President of the Republic and the Parliament. The Law on Special Investigations Service (adopted on 2 May 2000), paved the way for strengthening anti-corruption efforts in Lithuania. The SIS in its present form became operational on 1 June 2000. Its Headquarters are in Vilnius. In addition, there are "territorial units" located in four other larger Lithuanian cities (Panevezys, Klaipeda, Siauliai and Kaunas).

39. Largely, the SIS has been designed as the main Lithuanian anti-corruption body to co-ordinate National Anti Corruption Programmes, to detect and prevent corruption offences and to ensure co-ordination of the anti-corruption measures between State bodies as well as externally with various professional groups, non governmental organisations, the media and society at large. The ultimate objectives of the SIS are to create a national system of corruption prevention, to improve the legal framework against corruption, to develop corruption data and analyses and to develop international relations to combat corruption.

40. In performing its duties the SIS officers have been granted extensive powers, such as to monitor mail, electronic communications and premises, undercover investigation, enter the premises of enterprises and organisations, to inspect facilities documents and transports at the border points etc. The SIS officers have the right to carry out all operational activities provided for by the Code of Criminal Procedure and the Law on Operational Activity. In certain cases, the activities need authorisation by a prosecutor or a judge. According to the above law, the activities of the SIS have to be in accordance with the principles of the rule of law, lawfulness, respect for human rights and freedoms, equality before the law, openness and confidentiality, etc.

41. SIS is headed by a Director nominated to the Seimas by the President of the Republic**.** The Director is appointed for a term of five years (renewable once). The First Deputy Director and the Deputy Director are appointed by the President of the Republic following advice of the Director. The staff of the Service shall be officers and other public servants. The number of staff in SIS is

approximately 200 and the average age 33. The staff is to a large extent legally educated[6] and with a law enforcement (police) background. SIS have established training programmes for its staff which are focusing on investigation, intelligence gathering and analyses and languages training (the latter with EU support).

42. At the time of the visit by the GET, SIS was focusing on investigation of corruption in the areas of public procurement, privatisation, local authorities, law enforcement and foreign investment.

43. The SIS, which does not have "monopoly" with regard to the fight against corruption, has extensive co-operation with other law enforcement bodies such as the police and, in particular, with the State Security Department. Following criticism concerning a lack of co-ordination of corruption cases, agreements between the SIS and other law enforcement agencies has been established under the supervision of the Prosecutor's Office. The transformation of these agreements into legislation is presently being discussed. It should be added that the Criminal Code of Procedure, and the law on Operational Activities provide some means for co-ordination of their activities.

44. In order to ensure independence of its investigations, the SIS has investigation divisions, operating in all its four field offices. This Division report directly to the Prosecutor General and cannot even be influenced by the Director of the SIS. Other divisions include the Department of Intelligence Activities, Analytical-Organisational Division, Division of Legal Affairs, Personnel and Internal Investigations and other. Some corruption cases are exclusively dealt with by the Prosecutor General and cases against SIS staff would be handled directly by the Prosecutor General.

45. The GET was informed that from having had a rather low level of "goodwill" in 1997, SIS is constantly developing its relations with the public, in particular through media and NGOs. SIS has for example established a "hot line" (telephone service) working 24h/24h, and an electronic mail system available to anyone who wishes to submit information to the Agency. Moreover, regular meetings are being organised with local authorities and NGOs. The GET was informed by the SIS that since 1997, it has disclosed 523 crimes related to corruption and detected 563 public officials suspected of having committed such crimes. In 2000, 98 persons were charged for corruption and by October 2001 there were 113 persons charged with corruption.

46. SIS is also carrying out a "vetting process" of officials before they are appointed to certain public functions. Some 40 persons had been rejected (by October 2001) before appointment and a few had had to resign following this vetting process.

47. SIS is a fairly new agency which faces some difficulties. The GET was informed that, in addition to organisational shortcomings in the starting-up phase, SIS was in need of developing means of measuring the phenomenon of corruption. In particular, the development of statistics was mentioned. The Analysis department of the SIS was rather focusing on the operational analyses during investigation than on the general analyses and academic research.

48. The development of research and empirical data on corruption in society is considered very important, in particular, as the SIS has not only the task of corruption detection but also that of developing national prevention programmes. The GET was informed that the SIS had relied to a large extent on surveys conducted by the University, the media and NGOs, such as

[6] The Law on Special Investigations Service requires that head of units, investigators and interrogators have a University level of legal education. In reality, the majority of the officers of this service have such education.

Transparency International. It should be added that SIS was the responsible agency for the development of the "Lithuanian Policy Plan on the Main Directions of the Fight against Corruption" and the "National Anti-Corruption Strategy".

ii. The Police Department

49. The Police Department of the Ministry of the Interior is the equivalent to the National Police. The Central Police Department is headed by a Commissioner General and by four Deputy Commissioners General. There are 10 territorial county divisions.

50. Besides the Police Department at the Ministry of the Interior, there are the Criminal Police and the Public Police Bureau headed by Deputy Police Commissioners General. The Criminal Police Bureau consists of the Organised Crime Investigation Service, Investigation Service, Operational Activity Service, International Relations Service, Witness and Victims Protection Service, Strategic Information Service and Forensic Science Centre. In addition, the Police Information Centre and the Police Quick Response Team (AEAS) are subordinate to the Lithuanian Criminal Police Bureau.

51. The Public Police Bureau includes the Prevention Service, Public Order Service and Traffic Control Service. The Police Protection Organisation Service and the Police Information Centre are subordinate to the Lithuanian Public Police Bureau. The third deputy Police Commissioner General is responsible for administrative services of the Police Department at the Ministry of the Interior. They are: the management, Personnel and the International Investigation, Budget and Financial Management, International Co-operation and European Integration Services; Audit, Legal, and Development and Investment Divisions, Experts' Group, Public Relation Sub-divisions. The fourth Deputy Commissioner is the Head of the Investigation Department at the Ministry of the Interior.

52. The total number of police officers is 13.400. The average age of the staff is 25-30 years. Basic grade staff has to attend a one-year police training. The legal status, rights, duties, requirements and ethics of police officers are primarily set by the Law on Police Activity of the Republic of Lithuania. Police officers are furthermore bound to observe the Statute of Service of Internal Affairs, including the Code of Honour.

53. The Lithuanian Police have a general obligation to initiate investigation concerning any crime they come across. Corruption relating cases are normally submitted to the SIS or to the Organised Crime and Corruption Investigation Department of the Prosecutor General's Office for investigation, according to an agreement between various law enforcement bodies and pursuant to the Code of Criminal Procedure (art 134, 143). The GET was informed that a difficulty arises when an investigation of organised crime involves corruption. In such cases the police liase closely with the Department of Organised Crime and Corruption within the Office of the Prosecutor General before a decision is taken on where to carry out the investigation. Upon submitting a case to the specialist agency, the police still has a obligation to continue the operational and searching activities following instructions by SIS or the prosecution. Investigation of corruption within the police service also falls under the responsibility of the SIS and the prosecution, however, internal preventive corruption measures remain a main concern of the police.

54. Representatives of the Police Department informed the GET that there was full awareness about the high level of corruption within the police force in general, the traffic police being particularly

affected. One explanation given was the relatively low salaries of the police staff in comparison with their extensive powers to impose high fines on the spot for traffic offences. The GET was informed that an ordinary traffic police earned approximately 700 litas (appr. 200 €) and was entitled to give a fine of up to 5000 Litas. In such a situation the public was often interested in paying a bribe in order to avoid being fined. Several measures had been established to combat and prevent the corruption within the police, for example the staff rotation and disciplinary sanctions (reprimand, strict reprimand, demotion, dismissal from service etc.). Moreover, the *Internal Investigation Service* had been established in 1998 within the Police Department, directly subordinated and accountable to one of the Deputy Commissioner General. The Internal Investigation Service is a special body for the control of how police officials carry out their duties. It performs a legal monitoring and imposes disciplinary sanctions when required. This Service has full access to relevant documents of the police office and may perform investigations against individual police officers, civil servants and other persons belonging to the police.

55. The GET was informed that in 2000 there were 405 disciplinary cases brought against police officers. In the same year, 20 police officers were convicted (by court), 58 police officers released from service, 28 demoted and 104 received an administrative fine.

iii. The Customs Department

56. The Director General of the Customs Department is in charge of a staff of 3.100, of which 260 belong to the Central Department. The Customs Service is divided into 10 regional offices. The GET was informed by officials that the Customs in Lithuania was for many reasons traditionally a service with a high degree of corruption among its staff: low salaries, close contacts with business people etc.

57. Several anti-corruption measures had been put in place in recent years. Above all, the Customs Department had been given its own means of controlling internal corruption through an "Anti-Corruption Group" with the main tasks of carrying out examination of candidates to become custom officials as well as to collect information against customs officers and to introduce investigations against them. Moreover, the Customs Department had close co-operation with SIS and cases against officials could either be investigated by the Department or by the SIS. Four corruption cases had led to conviction in 2000 and three in 2001 (by October 2001). These cases had been dealt with by the SIS.

58. Other measures taken were the establishment of a Code of ethics (1999), rotation of staff, new routines at the border crossing points, including close co-operation with the State Border Guards and training of staff. Moreover, the Customs Department had signed memoranda of understanding with private enterprises in order to avoid corruption.

iv. The State Border Guard Service

59. The State Border Guard Service (SBGS) is within the sphere of authority of the Ministry of the Interior. This paramilitary body established by the "Law on the State Border and Protection Thereof", is headed by the Commander of the Service, who is appointed by the Minister of the Interior, following consultations with the Prime Minister, for five years. The SBGS was re-organised in 2001 into seven districts, comprising 36 stations. There are 101 border crossing points (roads, railway, water, airports). The SBGS has its own training centre and an initial two-years staff training programme. SBGS recruits approximately 100 new staff every year. The number of applications is much higher, which allows for a good selection process.

60. The GET met with representatives of the SBGS and was informed that a variety of measures for the fight against corruption concerning SBGS officials were in place: There was a general check up of candidates applying for a job at the SBGS, comprising the criminal record of applicants as well as of their close relatives. The SBGS had managed to raise the salaries of SBGS employees in recent years by means of reducing the number of staff (basic grades from 600 to 900 litas). Furthermore they use the "four eyes method", i.e. the border guards work in pair. Rotation of staff is yet another measure that had been implemented in recent years.

61. An Operational Department is functioning within the SBGS with the main tasks of preventing and detecting corruption within the SBGS. This Department collect information on the activities of border guard officers. It also co-operate with other law enforcement institutions, such as the SIS and the Police Department.

62. The GET was informed that in 2000, 40 border guard officers were dismissed from their jobs, and in 2001 (by October), the figure was 28, as a result of their involvement in criminal activities (not all of these cases concerned corruption activities). Moreover, having introduced an internal investigation against staff, the SBGS usually carried out its own investigation, however, it could also transfer the investigation to the SIS or only ask for assistance from that Service.

v. State Security Department

63. *The State Security Department* headed by a Director General is also an important body for the fight against corruption. The GET was informed that various law enforcement bodies, such as the SIS received assistance from the State Security, mainly with regard to data and its processing.

c2. Public Prosecution Service

64. The legal status of the Prosecution Office is mainly determined by the Constitution, the Code of Criminal Procedure, the Law on the Prosecutor's Office and the Statute of the Service in the Prosecutor's Office. Article 118 of the Constitution states that the prosecutors maintain the public prosecution in criminal cases, execute the prosecution and control the actions of the investigation authorities. The order of the appointment of prosecutors and their status is determined by law.

65. The GET noted that the aims and functions of the prosecution is defined in the Law on the Prosecutor's Office (Article 2) according to the following:

- initiate and conduct criminal prosecution;
- control the activity of the agencies of preliminary inquiry;
- conduct preliminary investigation;
- pursue public charges;
- control the execution of sentences;
- co-ordinate the actions of the agencies of preliminary inquiry and preliminary investigation directed against crime; and
- defend, in the manner established by law, the lawful interests of the state and violated rights of the persons, prepare material for instituting civil proceedings in a court of law and participate during examination of the case in court.

66. There is a strict hierarchical structure of the prosecution system in Lithuania. The ultimate responsibility is given to the Prosecutor General's Office, which is headed by the Prosecutor

General, who is appointed and dismissed by the President of the Republic with the agreement of the Seimas. The Prosecutor General has two Deputies at his disposal to carry out the lead functions of the central office. In addition, there are five county prosecution offices in the country, each one led by a chief prosecutor and, under them, 51 district prosecutors offices, also these headed by chief prosecutors. This structure corresponds to that of the court system: district prosecution offices - district courts, county prosecution offices - county courts and the Office of Prosecutor General – the Supreme Court. However, as described below, the Prosecutor General has extensive powers to interfere at all levels.

67. By the end of 2000, there was a total of 882 prosecutors employed in the Prosecution service. The recruitment of prosecutors is regulated in detail by law: Applicants must be Lithuanian citizens, in command of the Lithuanian language and with particular educational qualifications[7] as well as moral and physical qualifications. The Prosecutor General appoints all staff. New recruits have a probationary period of one year under which they also undergo training. The law furthermore stipulates the qualifications in detail for appointment of chief prosecutors, including the Prosecutor General. Moreover, prosecutor's professional qualifications are evaluated every five years, by a special Commission established by the Prosecutor General. The training of all staff is carried out by the Office of the Prosecutor General through its Methodological unit for training.

68. The independence of prosecutors and the prosecution service is strongly emphasised in legislation. Article 1 of the Law on the Prosecutor's Office states that the Prosecution service is an independent part of the judiciary, which helps to dispense justice and which strives to assure legality. According to Article 2 of the same law the prosecutors, in carrying out their work, have to adhere to the Constitution, national laws, international conventions and agreements and the Statute of Service in the Prosecutor's Office. Moreover, the Prosecutors are guided by the principles of the presumption of innocence and equality before the law.

69. Furthermore, Article 4 of the Law on the Prosecutor's Office emphasises that prosecutors are independent in the execution of their authority, subject only to the law. Moreover, the same law states that state government institutions and their officers, political parties, public organisations, movements and media are forbidden to interfere in the work of Prosecutor's Office while investigating cases and executing other functions of Prosecutor's Office. The law also contains a principle that the prosecutors are not allowed to participate in organised activities of political parties and must pursue the principle of political neutrality.

70. The independence of the prosecutors is also provided for in the Law on the Judiciary (Article 65) and in the Code of Criminal Procedure which state that the prosecutor executes his authority in criminal proceedings with regard only to the law.

71. Moreover, Article 11 of the Law on the Prosecutor's Office states that the Prosecutor General manages the activities of all the Prosecutor's Offices and controls them. Orders and Directives of the Prosecutor General are binding upon all officers of Prosecutor's Office. The GET was furthermore informed that the Prosecutor General has the right to cancel all decisions and acts issued by prosecution officers. Article 8 of the same law states that a criminal case against an officer of prosecutor's service can be initiated only by the Prosecutor General.

[7] The Law on Prosecutor's Offices provides that only prosecutors of the General Prosecutor's Office and heads of units have to possess a university degree in law. In reality, almost all prosecutors have such education.

Special departments of organised crime and corruption

72. In 1993, the Prosecutor General's Office set up a special division on Organised Crime and Corruption Investigation and in 1995 similar divisions were established in the County Prosecutor's Offices in the cities of Vilnius, Kaunas, Panevežys, Klaipeda and Šiauliai.

73. On 1 March 2001, these divisions were restructured into "Departments of Organised Crime and Corruption Investigation". The Departments received new regulations in May 2001, according to which the following powers were entrusted to them: to commence and conduct prosecution against organised crime and corruption related crimes; to supervise the activities of interrogation and pre-trial investigation bodies of this specialisation; to conduct pre-trial investigation in criminal cases of this category; back the state accusation in court; investigate relevant criminal cases; co-ordinate actions of interrogation and pre-trial investigation in respect of organised crime and corruption related offences.

74. The Department of Organised Crime and Corruption Investigation is composed of staff units specialised in organised crime and corruption investigation. These units, which exist in the Prosecutor General's Office and the County Prosecutors' Offices, provide a unified and centralised prosecution system with regard to these kind of offences. Through this system the prosecution system is in a position to analyse activities, give priorities, co-ordinate and provide training as well as their own expertise in this type of cases. The Department of Organised Crime and Corruption in the Office of the Prosecutor General may assist the local prosecution offices as well as taking over cases from them. However, this does not exclude the need for external expertise from other institutions, such as the State Control (Audit office).

c3. The Courts

75. According to the Constitution, justice is administered exclusively by the Courts and, while administering justice, judges and courts are independent and only subject to the law. There are no courts specialised in cases concerning corruption offences. These cases are accordingly handled by the general courts.

76. The Lithuanian Court system consists of the Supreme Court, the Court of Appeal, five County Courts and 54 District Courts (courts of general jurisdiction). In 1999, special courts for the adjudication of administrative cases were established: five County Administrative Courts, the Higher Administrative Court and the Administrative Cases Division of the Court of Appeal of Lithuania. It should be added that the District Courts are the first instance also for administrative cases.

77. Ordinary judges are appointed by the President of the Republic, following proposals from the Council of Judges, which base its decision on an exam and other qualifications gathered by the Ministry of Justice. Higher judges are appointed with the involvement of the Parliament and the President of the Republic. There is a Code of Conduct for judges.

78. As of September 2001, the total number of judges in Lithuania was 644. They were distributed as follows: the District Courts - 398, County Courts – 138, the Court of Appeal of Lithuania - 23, the Supreme Court of Lithuania – 37 and in the Administrative Courts – 48. It should be mentioned that at the time of the visit by the GET, there were vacant posts in all courts (total capacity: 691). All judges in Lithuania are professionals; there are neither lay judges nor a jury system.

79. The *District Courts* are the first instance for civil cases, criminal cases, cases involving violations of the administrative law, cases relative to the enforcement of judgments, passing of decisions (rulings) relative to the application of coercive measures established by law, and in cases involving complaints against the actions of an investigator or a prosecutor.

80. The *County Courts are* the first instance for civil cases where the amount in controversy exceeds 100.000,00 LTL, with some exceptions. The County Courts also hear civil cases involving intellectual property rights, company bankruptcy and when a foreign state is a party, etc. Moreover, the County Courts are the first instance for criminal offences against the state, such as high treason, espionage, bribery of a large scale, aggravated office abuse and cases against members of Parliament or Government, judges and prosecutors. The County Court is the appellate instance for the decisions, judgments and rulings of the District Courts.

81. The *Court of Appeal*, which is located in Vilnius, is the appellate instance for cases dealt with by county courts in their capacity as courts of first instance. The Court of Appeal deals with some other cases particularly provided for by law.

82. The *Supreme Court*, also located in Vilnius, is the only cassation instance for effective court decisions, judgments and rulings. It deals with cases in chambers of three or seven judges or in plenary. The Supreme Court establishes the uniform practice on the application of laws, which is binding upon other courts and institutions.

83. The Administrative Courts hear cases concerning the legality of acts adopted by the executive branch (except for resolutions of the Government), municipal councils and their executive bodies, institutions, and their officers, as well as the legality and validity of actions performed (or refusal to act or delay) by such officials. In addition, the Administrative Courts adjudicate disputes relating to the indemnification of loss incurred by state and municipal institutions and their officers, as well as tax disputes and conflicts arising from official relations between public officers serving in state and municipal institutions.

84. The *Constitutional Court* was established in 1994. It is *not* a part of the Lithuanian judicial system. Its status and the procedure for the execution of its powers are defined in the Constitution and the Law on the Constitutional Court of the Republic of Lithuania (1993). Its main function is to scrutinise whether laws, resolutions of the Government and other legal acts are in conformity with the Constitution and the legislation.

c4. Criminal investigation and adjudication of corruption

85. The Lithuanian criminal justice system is based on the principle of mandatory prosecution and this applies to all offences, including those relating to corruption. Corruption offences are investigated in accordance with the ordinary procedures of pre-trial investigation (Article 130, Code of Criminal Procedure). Normally, a pre-trial investigation is initiated at the lowest level of the law enforcement chain, i.e. by the police, the customs, etc. With regard to corruption offences the main rule is that these should be dealt with by SIS. The distribution of cases between various bodies is at present regulated in (non-binding) agreements established between the prosecutors office and the law enforcement agencies. All pre-trial investigations are, however, under the supervision of the prosecutor, who performs the procedural management of the preliminary investigation and, accordingly, has the right to look into a particular case during preliminary investigation. In this way, the lawfulness requirements is ensured. Moreover, the prosecutor, who participates during the inquiry, may himself conduct the investigative acts or can execute the

inquiry of any crime by himself. This follows from Articles 141 and 160 of the Criminal Procedure Code. These Provisions form the legal basis to take over for further procedural investigation any criminal case from the inquiry or preliminary investigation institution (e.g. from the police or the SIS in corruption cases). The prosecutor may decide on investigative measures to be used and may also form investigative groups between various law enforcement agencies in complicated cases, etc.

86. The prosecution functions are normally conducted by the territorial prosecution office of the region where the offence was committed and, in cases of corruption, by the specialised department for organised crime and corruption. The most important, complicated and urgent cases, as well as those of high public interest, such as offences against the State, major organised crime offences, particular corruption offences or offences committed by or against high-level state officials, may be taken over by the Prosecutor General (Department of Organised Crime and Corruption). This Office may, alternatively, provide necessary assistance/expertise to the prosecution office in charge.

87. When a prosecutor decides to "take over" the procedural preliminary investigation from an investigation agency (e.g. the police), the operational activities remain within the competence of the entities of operational activities and the agencies of preliminary inquiry. Pursuant to the law, the prosecutor is not entitled to conduct certain operations, such as intelligence activities, which are tasks of the various police bodies, the SIS, the customs etc, according to the Law on Operational Activities.

88. The GET was informed that the use of internal "investigators" by the prosecution system had ceased to exist in 1995, when the prosecution office was re-organised. These were then transformed into prosecutors. In this context it should be noted that the draft Code of Criminal Procedure states that pre-trial investigation shall be conducted by pre-trial institutions, and that the prosecutor shall be commissioned to direct the pre-trial investigation. However, according to Article 159 of the draft Code of Criminal Procedure, the prosecution shall be allowed to take over a case or part of a case for its own investigation. Accordingly it remained unclear to the GET to what extent the prosecution could perform its own investigation.

89. The grounds for discontinuing a case are exhaustively defined in the Criminal Procedure Code (Articles 233 and 234). Such a decision may be appealed against to the prosecution or to the courts by suspects and victims.

90. Preliminary investigation shall normally be completed within two month whereas the time limit is six month with regard to offences committed by organised crime groups. These limits may be extended with three months by a district chief prosecutor and with six month by a county chief prosecutor. Further extension may only be granted by the Prosecutor General.

91. The Prosecutor brings the cases to court and represents the State in court. There is no special procedure for corruption related cases in court and the courts lack special expertise for cases of corruption. Such cases are dealt with by the general courts, see B4.

92. The GET was informed (by judges) that cases involving corruption were seldom "pure" corruption cases; more often these were linked to financial-economic crime. Furthermore, such cases were time consuming at the level of investigation because of their complexity and, often dealt with by the investigation agencies in an unqualified and unprofessional manner. The pre-trial investigations were lengthy; sometimes without excuse, sometimes because of a need of external

expertise. e.g. financial revision. Not seldom the pre-trial investigations in these cases were so inadequate that the courts had to send the case back for further investigation or order expert examinations. As a result the adjudication in these cases was often lengthy. Court representatives called for a specialisation in economic crime at police level and a better co-ordination of the agencies involved, preferably at prosecutor level.

93. Another problem raised by judicial representatives, linked to the one just described, was that the period of limitation for adjudication of offences was not interrupted before a judgment was reached. As a result, many of these complicated and lengthy cases (in particular the financial-economic cases) had to be discontinued for procedural reasons and could never be adjudicated.

94. It should be added that the GET was subsequently informed by the Government that there had been no corruption related cases discontinued due to the period of limitation, this period being ten years for bribery and five years for subornation and office abuse.

c5. Other institutions

95. The above enumeration of institutions contains the most important bodies of the criminal justice chain in Lithuania for the fight against corruption. However, corruption is a multifaceted phenomenon which has to be counteracted by various means and in different fora at various levels. This is also the case in Lithuania. The following institutions, visited by the GET, play a significant role, in particular, for the prevention of corruption in Lithuania.

i. Parliamentary Ombudsman

96. The Office of the Parliamentary Ombudsman of the Seimas was created in 1994, based on the "Swedish ombudsman model". Its main function is to examine complaints concerning mal-administration of public bodies. The Office of the Ombudsman consists of five ombudsmen, each of them in charge of the monitoring of a particular field of public functions, such as the military, the police, the prosecution, the penitentiary system and the municipalities. The monitoring of the administration of courts is not included in the mandate, nor the legality and validity of procedural decisions of the prosecution and investigative bodies.

97. The Ombudsman Office can give recommendations to the authorities monitored. It has also the power to submit cases to the prosecutor for criminal investigation. The Ombudsman Office receives complaints concerning most fields of public administration, including the courts.

98. The GET was informed that the Ombudsman office received 1386 complaints in 2000. Approximately 60 per cent of the complaints lead to recommendations. Representatives of the Ombudsman appreciated the creation of SIS as an important tool against corruption. The Ombudsman is in contact with that body. Furthermore, 15-20 cases had been submitted to the Prosecution service for criminal investigation. The GET was furthermore informed that the biggest workload concerns restitution of property. There are also several complaints concerning the courts and the judiciary, as well as against Parliamentarians.

ii. The Commission of Anti-Corruption of the Seimas

99. The Commission of Anti Corruption of the Seimas was established a couple of weeks before the visit of the GET as a replacement of the previous Commission on Economic Crime Investigation. The main tasks of this parliamentary body are to monitor the situation of corruption in Lithuania,

to analyse the activities and decisions of institutions and to prepare proposals for anti corruption measures.

100. The GET received the following information from representatives of the Commission: Legislation needs to be improved, in particular with regard to the definition of corruption, within the field of land issues as well as concerning competition law and financing of political parties. Corruption is spread to a large extent in the law enforcement bodies, in particular the customs service and the traffic police and strong measures are required there. There is a need for more co-ordination between the various law enforcement bodies. Public awareness of the harm of society as a result of corruption is needed. Media is often influenced by various groups and therefore the reporting is not objective enough. Moreover, there is not enough control of the management of the court system and the judges are too much protected with regard to their activities and status. It was mentioned in this respect that a judges' salaries compared to other public officials and MP's are extremely high. There were also concern raised about the lengthy court proceedings.

iii. The Chief Official Ethics Commission

101. The Chief Official Ethics Commission, which was established in 1997 (operational since 1999), is an independent body financed by the State budget, accountable to the Seimas. The Commission is regulated in the Law on the Adjustment of Public and Private Interests in the Public Service (APPIPS) and controls the way civil servants adhere to that law as well as to the Law on Lobbyist Activity, which has the aim of limiting the influence of lobbyists. The Commission consists of five persons, one appointed by the President of the Republic, one by the Speaker of the Seimas, one by the Prime Minister and two (lawyers) appointed by the Minister of Justice. The Chairman is appointed by the Seimas. This small institution has its own Secretariat, consisting of five persons.

102. The objective of the APPIPS (and the Commission) is to ensure that holders of public office should make decisions solely in terms of public interests, securing the impartiality of the decisions being taken and preventing the emergence and spread of corruption in the public sector.

103. In fulfilling its duties, the Commission keeps a record of property and income declarations of higher officials and their close relatives in central and local administrations, starting with the President of the Republic (some 2.500 officials in total); analyses the data submitted and provides recommendations for action. Recommendations may include termination of employment or fines. Such action must be carried out before a court, however, other recommendations may be directed to the institution of an employee to investigate certain conditions or to the police for their investigation, etc. The Commission is free to initiate investigations on the basis of any information, media, complaint etc. It also receives information from other bodies, such as the Ombudsman of the Seimas and the SIS and there is an exchange of information between these bodies. The GET was also informed that the Commission was working on a code of conduct for public officials.

104. The GET was informed that during the recent two years, four ministers had to resign and that some municipal officials had been fined as a result of the work of the Commission.

iv. The Public Procurement Office

105. The Public Procurement Office has been established to co-ordinate and monitor compliance of the performance of public procurement with the Law on Public Procurement (1996). The Office comprises the administration and four divisions, namely control and prevention division, the

training division, the methodological division and the division of accountability and analysis. The Law on Public Procurement sets forth five methods of procurement, four of which are competitive; According to data provided by the Public Procurement Office, 6898 cases of public procurement were registered in 1999 out of which 70.4 per cent where carried out through an *open procedure*, 7.5 per cent through a *restricted procedure*, 1.9 per cent through a *negotiated procedure*, 12.2 per cent through a *request for quotation* and 8 per cent through a procurement from a *single source of supply.*

106. Moreover, information on all public tenders is public and accessible, published in the Official Gazette. In the cases when public procurement is advertised on an international level information on participation in the procurement procedure must be published in a popular publication with international circulation or in a specialised publication. The Public Procurement Office also publishes information concerning intended procurements on the Internet. Procurement decisions are made public. Information on the awarded procurement contracts and subsequently the performance of the procurement contracts is also published in the Official Gazette.

107. There exists a procedure to request review of procurement decisions. A supplier/contractor has the right to lodge a complaint, firstly with the contracting authority and, secondly, to file a complaint with the Public Procurement Office. Such complaints are examined by the independent Commission for the Examination of Complaints, which is not a structural unit of the office. The Office keeps a list of names of persons, nominated by suppliers, procuring entities or the Government, who has passed a test to ensure the necessary qualifications. The Commission is individually formed for every complaint; the complaining supplier, the procuring entity and the Public Procurement Office appoint one member each from the list and the Public Procurement Office provides the Secretariat.

108. Out of the 6898 public procurement procedures that took place in 1999, the Public Procurement Office received 214 complaints. These resulted in 27 procedures cancelled and 76 procedures re-examined. In 87 cases, the Public Procurement Office found the complaints groundless and 27 cases dismissed without examination. Unfavourable decisions can be appealed against to court.

109. The GET was told that there are not a sufficient number of lawyers to be appointed as members of the Commission. Furthermore, it was mentioned that an unsuitable person cannot be removed from the list of persons to the commission.

110. Finally, to have a complaint examined a complainant has to pay a fee of 3 000 litas (approx 870 Euros). If the complaint is found ungrounded, the complainant has to pay the full cost of the examination. This cost does not normally exceed the original fee but there is no limit to the complainant's liability. However, the fee shall be repaid to the extent that it has not been used to cover costs. If the complaint is found grounded, the costs shall be borne by the procuring agency.

v. The State Control

111. The State Control, which is accountable to the Seimas, is the supreme body of economic and financial control in Lithuania, supervising the validity and effectiveness of possessing and using state property, supervising the implementation of the state budget and financial discipline of public institutions. The revisions comprise both state bodies and local authorities. The State Control is headed by an Auditor General, appointed for a period of five years (renewable) by the President of the Republic following approval of the Seimas. There is a total staff of 300 and 200 of them are involved in the auditing. 160 of these do on-sight visits. A rotation system of staff in

order to avoid closing relations between auditors and audited bodies is in place. The GET was informed that there was a need for increasing the number of staff and that a Strategic development plan had been established with support from other European states.

112. The State Control has been active in its present form since 1992. It is regulated in the Law on State Control (1995). The development of the State Control into a modern State Audit is given high priority. This is also an important obligation for the accession of Lithuania to the EU. Assistance from the EU as well as from the OECD is provided in this respect.

113. The Law on State Control states that the Government, ministries and other state institutions must within 5 working days present to the State Control the standard acts which regulate the accounting, distribution, use and control of financial and material resources which have been passed by these bodies but are not subject to publication in the Official Gazette. Furthermore, the State Control has an investigative function if any irregularities are found during revision, before such a case can be sent to the prosecution office. In 2000, there were 30 cases submitted to the prosecutor's office and in 2001 (by October) there were 12 such cases. As far as the GET was informed, the State Control was not the only body in charge of such investigations – the economic police, the tax police were also mentioned.

114. The GET was informed that the following legislation had been prepared (not adopted): Draft law on Financial Control Systems; draft law on Internal Auditing; and draft law on the State Audit, which would bring State Control into a modern Audit Office. For example, the Audit Office would be entitled to submit cases directly to the prosecutor without performing an investigation.

115. The GET was also informed that the fight against corruption was considered an important task of the State Control, in terms of detection in close co-operation with law enforcement bodies and in terms of prevention in accordance with the programmes of the Government.

vi. The Tax Administration and the State Tax Inspection (Ministry of Finance)

116. The GET was received by representatives of the Ministry of Finance: the Taxation Administration and the State Tax Inspection (STI). The following information was provided.

117. The Ministry is mainly concerned with the drafting of new legislation in the finance section. This work is co-ordinated with the STI. The procedures for taxation in Lithuania were changing from a very centralised approach into a system where authorities at the regional and local levels were the decision makers. From a corruption point of view, this called for several new measures, most of which of a preventive character.

118. The STI has a staff of 3.600. Approximately 5 per cent of them receive disciplinary sanctions for irregularities (including corruption) every year. There were no figures on criminal cases provided. The STI has introduced several corruption preventive measures in recent years. With regard to its staff, information and training was emphasised. Improvement of transparency and development of personal responsibility was also mentioned. A Code of Ethics was drafted in 1997. Staff is screened before admitted to the service and income declarations are obligatory. With regard to the public and the taxpayers, there are possibilities to lodge complaints (also anonymous) to the STI and "open days" are organised. Moreover, a "hotline" telephone is available (since 1998) for the public to provide information. Information concerning income tax is made public as a general

rule. There is co-operation between STI and law enforcement bodies, such as SIS and the Tax Police[8].

c. Immunities from investigation, prosecution and adjudication for corruption offences

119. According to the Lithuanian Constitution, the following categories of official persons benefit, from immunities in criminal proceedings:

- members of Parliament (Seimas);
- the President of the Republic;
- the Prime Minister and ministers;
- judges.

120. *Members of Parliament (MP)* may not be prosecuted for speeches and votes cast in Parliament (except insult or slander) (non-liability). This immunity is unlimited in time and cannot be lifted. Secondly, MP's enjoy immunity from criminal liability, arrest or any other restriction of personal freedom, except in case of *flagrante* delicto. This immunity may be lifted by Parliament (Art.62 of the Constitution and Art.22 of the Statute of the Seimas).

121. *The President of the Republic*, may neither be arrested nor charged with criminal or administrative proceedings, while in Office (inviolability immunity). This immunity may not be lifted. The President may, however, be prematurely removed from Office for gross violations of the Constitution and dismissed following impeachment proceedings (Article 86 of the Constitution).

122. *The Prime Minister and ministers* may not be prosecuted, arrested or have their freedoms restricted in any other way (inviolability immunity). This immunity may be lifted by Parliament, or if it is not in session, by the President of the Republic (Art.100 of the Constitution).

123. *Constitutional Court judges* enjoy the same inviolability immunity as MPs (Article 104 of the Constitution), which accordingly may be lifted by Parliament.

124. *Judges* may not have legal actions instituted against them, nor may they be arrested or restricted of personal freedom without the consent of Parliament, or in the period between sessions, of the President of the Republic (Art.114 of the Constitution).

125. It is the task of the Prosecutor General to notify the offence to the Seimas, which after the hearing of the Prosecutor General, shall form an investigation commission for the consent to institute criminal proceedings or shall initiate preliminary actions of impeachment proceedings. Legal action, in accordance with impeachment proceedings may be instituted against Members of Parliament, the President of the Republic, the Chairman and judges of the Constitutional Court, the Chairman and judges of the Supreme Court and the Chairman and judges of the Court of Appeal. Immunities may be lifted with the consent of more than half of all MP's. For impeachment there is a need of a 3/5 majority.

126. Moreover, the GET was told by representatives of Parliament that it might be necessary to lift the immunity several times during the same proceedings and that, occasionally, it was not possible to

[8] The Tax Police Department of the Ministry of the Interior was established in 1997 in order to ensure the protection of public finance.

reach the prescribed majority. The immunity had to be lifted to allow prosecution. In addition, the execution of coercive measures may require another decision to lift the immunity, etc.

127. The GET was informed that the Seimas has given its consent to all requests during the last ten years; the immunity was lifted for one Parliamentarian and three judges.

128. The GET was also informed that without the consent of the Central Electoral Committee (CEC), during campaigning as well as until the first meeting of a newly elected body, a candidate to the Seimas, the local government or the President may not be found criminally liable, arrested, neither may administrative penalties be imposed on him/her for the actions performed in the course of campaigning. The decision of the CEC may be appealed to the court.

129. Criminal cases against ordinary judges, prosecutors and SIS staff can be initiated only by the Prosecutor General.

130. According to the Vienna Convention, a Lithuanian diplomat may be prosecuted by the Lithuanian competent authorities, without taking the decision to lift the immunity. Lithuania as a sending state, however, may wave the immunity from jurisdiction of it's diplomatic agents and persons in case of corruption as in any other criminal offence. There had been no such cases.

III. ANALYSIS

a. Policy to prevent and combat corruption

131. Lithuania has during the last years taken extensive action against corruption. A lot of major progress has been achieved and Lithuania has shown a commendable willingness and ability to combat corruption also in the future; the "National Anti-Corruption Strategy" is a good example of that.

132. The spread of corruption in Lithuania was considered a serious problem by all the institutions met by the GET during the visit. Although there are some indications and estimations on the size of the problem, there is a general lack of research, including data and official statistics as a solid fundament for measures to be deployed in the future. It is true that non-governmental organisations, such as Transparency International, provide valuable information. However, the GET had the impression that a large number of state bodies and institutions have to rely on rather limited research and that the situation in Lithuania could be analysed in a more objective and precise manner. Moreover, in-depth assessments with regard to certain institutions where there are particular problems of corruption would be of great value. Therefore, the GET recommended Lithuania to promote research on corruption with a view to developing a precise picture of the corruption situation in the country and in particular institutions affected and to develop the collection of data and statistics on corruption. These measures will assist in a proper evaluation of the responses to corruption in national strategies and in certain institutions.

133. The GET was impressed by the strategies and policy plans employed for the fight against corruption, adopted by the Government as well as by Parliament. "The National Anti-Corruption Strategy" is comprehensive and has a long term perspective, which clearly shows that struggling against corruption is given priority by the Government in Lithuania and that there is broad political consensus behind it. At the same time, the GET wishes to re-iterate the importance of building such plans on a reliable assessment of the prevailing situation, as such plans require considerable investment in many respects over a long period of time.

134. The GET noted with satisfaction the on-going development of a normative framework to enhance the struggle against corruption at both administrative and criminal law levels. As for the future it should be mentioned that the recently adopted new Criminal Code (not yet in force) will provide for the criminalisation of more divergent facets of corruption activities than is the case with the current one. It is essential to facilitate its coming into effect as soon as possible. Moreover, the GET, noted with interest the on-going work (SIS) aimed at drafting a general Anti-Corruption Law - which would include/cover several of the existing laws in a more comprehensive and developed way – and considered that this work was as an important process for the future. Furthermore, the GET noted with satisfaction that Lithuania has signed the Council of Europe Criminal Law Convention on Corruption and that its ratification was foreseen in 2002. Moreover, the GET was informed that the signing and ratification of the Civil Law Convention on Corruption would be done as soon as there were corresponding national legislation in place.

135. Several state bodies and agencies have been established to deal with anti-corruption measures, in particular, in the field of law enforcement. The creation of the Special Investigation Service (SIS) is an important step. Moreover, the establishment of specialist departments on organised crime and corruption in the prosecutor's office is certainly valuable for a strong criminal investigation chain with regard to detection of corruption. The newly created Anti-Corruption Commission at the Seimas has more of a strategic and analysing function for the long term planning, legislation, etc. These bodies represent some of the most important anti-corruption institutions which operate within their respective areas of competence. The GET welcomed very much the specialisation strategy and thus the expertise of those bodies involved in the fight against corruption, which is in line with the requirements resulting from GPC 7. This is furthermore strengthened by the fact that the law enforcement bodies are coordinated by a "Coordination Group".

136. Without questioning the necessity and the success of the development of the SIS, a strong law enforcement mechanism and its co-ordination, the GET had the notion that the main emphasis in Lithuania is on the enforcement of repressive methods. As an illustration, there are several separate police institutions each of them dealing with fighting of corruption within its respective area of operation. It would be useful to devote additional attention to the preventive side in the broad sense; educational/awareness approach, etc. The GET therefore recommended the Lithuanian authorities to reconsider the overall responsibility for the co-ordination of anti-corruption policies, with the view to establishing a specific body or, alternatively, to entrust an existing body with this responsibility and to consider the possibilities of strengthening anti corruption preventive measures, in order to strike a good balance between preventive and repressive measures.

137. The GET was also concerned about the indications that it is generally difficult for the public and the media to have access to public documents, partly due to legal obstacles, partly due to a discretionary application of the regulations by public officials. In addition, information concerning inappropriately influenced journalists and media should be further scrutinised. The control of the authorities exerted by the public opinion, to a large extent thanks to media, is vital in a democratic society and plays a significant role by revealing hidden corrupt practices. However, for this control to be effective access to public documents must be ensured. Therefore, the GET recommended Lithuania to improve the transparency of public authorities vis-à-vis media and the wider public, in particular, with regard to access to public documents and information.

b. Bodies and institutions in charge of the fight against corruption

b1. Police and Special Investigation bodies

138. The GET noted with satisfaction that a specialised body for the fight against corruption had been established in Lithuania. The SIS appears to be a well organised service with an appropriate and motivated staff. Moreover, the SIS seems to have sufficient powers (and co-ordination) for an efficient law-enforcement. None of the SIS officers met by GET complained about insufficient or inadequate budgetary means or material facilities. SIS has been given the status of an independent body, only responsible to the President of the Republic and to the Seimas. At the same time the SIS, as any other police body, was closely monitored by the prosecutor, according to the Code of Criminal Procedure and there are agreements between the prosecutor and the SIS concerning the distribution of corruption cases.

139. The SIS has largely been designed as the main anti-corruption body in Lithuania and with the overall responsibility for detection of corruption as well as for anti-corruption policy both with regard to repressive and preventive measures. The GET, appreciated the advantages of having one strong agency for anti-corruption measures. There are, nevertheless, other actors also involved in anti-corruption. Moreover, the GET considered the SIS as mainly a law enforcement body, but less of an appropriate instrument for the development of corruption prevention in the broader sense. This opinion was supported by the fact that the research within the SIS was more focused on operational analyses than on policy questions. Therefore, the GET raised the issue of whether the SIS is the most appropriate body for the forming of corruption prevention policies. This remark should be seen in the light of the above discussion on complementing existing anti-corruption repressive policies with additional efforts to develop prevention.

140. Moreover, the GET noted a general awareness within the law enforcement bodies as to the existence of "internal corruption". Important measures are in place, for example, screening and rotation of staff, training, raise in salaries, codes of conduct, internal control mechanisms, etc. However, these authorities are not in a position to solve by themselves all the problems highlighted to the GET. With regard to the traffic police, for example, which was widely acknowledged as largely corrupt, the GET was of the opinion that the low salaries of its staff, compared to its wide (judicial) powers of giving heavy fines for minor traffic offences was an obvious incentive to corruption (passive as well as active). However, the limitation of legal powers of a police would require a change in the law. The GET observed that the discussion on measures relating to particular services should take place at the appropriate levels and requires input from various institutions as well as from the public.

141. There exist codes of conduct/codes of honour etc applicable to certain law enforcement agencies in Lithuania. Although these instruments have not been adopted as legislation, they are still products of a top-down state approach. The GET was of the opinion that codes 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. Development of such instruments could be part of the training of all law enforcement officers as well as being an important training tool. The GET recommended the Lithuanian authorities to develop codes of conduct/ethics for all public officials, preferably including anti corruption measures, such as reporting *indicia* of corruption etc, as a complement to legislation.

b2. Public Prosecution Service

142. The independence of the prosecution office is clearly indicated in the Constitution and in several acts. This Office has a wide mandate and the internal structure - from the territorial offices to the Prosecutor General - is extremely hierarchical. Legislation provide for independence also of individual prosecutors in making their decisions. Nevertheless, at the same time it provides for the Prosecutor General to give binding orders and to cancel all decisions of the prosecution officers. Moreover, only the Prosecutor General can initiate a criminal case against other prosecutors. The GET noted that the Prosecutor General has far-going powers with regard to the running of the prosecution service. It also noted that s/he can exert influence over prosecutors' decisions on the merits in individual cases. If this system prevails, it would for example mean that a prosecutor's decision to prosecute somebody could be overruled by the Prosecutor General. The independence of individual prosecutors would therefore appear ambiguous. For these reasons, the GET observed that situation needed to be clarified in Lithuania.

b3. The Courts

143. The GET did not see any particular problem with regard to the organisation of the Lithuanian Court system. The independence of the system and of the judges is provided for in the Constitution. There were however, some concern expressed about lengthy proceedings before the courts. This problem is discussed below, section b4. The GET furthermore noted that the courts had a considerable number of vacant posts for judges.

144. The GET was of the opinion that the Lithuanian system contains the necessary safeguards to ensure a merit-based appointment of persons with high integrity as judges. The GET noted with satisfaction the existence of a code of conduct for judges, which goes beyond the legislation on public employment.

145. However, the GET was concerned about information submitted concerning a general lack of a system of external control of the management of courts and judges (see for example, paragraphs 100 and 151). Therefore, it recommended the Lithuanian authorities to subject the management of the courts to the supervision of an independent and impartial body.

b4. Criminal investigation and adjudication of corruption

146. The procedure of criminal investigation, prosecution and adjudication in Lithuania is based on the same principles as most other traditional continental law systems. Apart from the use of a specialised police (SIS) and prosecution bodies when dealing with corruption offences, there is no special procedure provided for in such cases, and the adjudication is carried out by ordinary courts.

147. With regard to the mandate of SIS to carry out pre-trial investigations concerning corruption offences and other law enforcement bodies, which sometimes also perform such investigations, the GET noted that the distribution of cases between them was not always clear, the situation was even more difficult when corruption was linked to other offences, such as economic crime. There is legislation in place and there are agreements between all the law enforcement bodies on the distribution of cases and the GET was informed that these agreements would eventually be transformed into law. However, the GET had not access to the agreements. Representatives of the institutions met by GET gave the impression that a rather wide discretion existed. The GET recommended the Lithuanian authorities to establish a clear distribution of cases concerning

corruption between various law enforcement bodies and, if need be, between them and the prosecution service.

148. A criminal offence shall be investigated, prosecuted and adjudicated within reasonable time. This is important from the perspective of the suspected person as well as society. A suspected person has a right to obtain a final judgment within reasonable time. Furthermore, it is important from a general point of view that action against crime is taken without delay. During the visit in Lithuania representatives of the judges conveyed the opinion that too long time passed before economic crimes including corruption reached the courts. They indicated two main reasons for the delay - a lack of qualification of investigating officers and bureaucratic procedures for external expertise and revision. It was mentioned that many officers investigating economic crime lack sufficient education and experience. These shortcomings also result in a too low quality of the preliminary investigation.

149. The GET was concerned about these problems and recommended the Lithuanian authorities to arrange specialised education and training of investigating staff on how to detect and investigate financial-economic crime, including corruption. Furthermore, Lithuania should consider measures to improve the efficiency of expertise and audit in such cases.

150. The concern expressed above is strengthened by the fact that prosecution does not interrupt the period of limitation. A judgment has to be rendered before the limitation period expires. Even if the limitation period for corruption offences (five and ten years) is relatively generous, the prevailing regime on limitation hampers the possibility to adjudicate complicated corruption offences, in particular when these are connected to financial-economic crime, which is often the case. Therefore, the GET recommended Lithuania to provide for speedier criminal proceedings and adjudication of cases concerning corruption, when linked to financial-economic crime. It observed, in addition, that Lithuania, should investigate the possibilities of changing the prevailing regulation of statute of limitation, with a view to providing sufficient time for adjudication in corruption cases when these are linked to financial-economic crime. This can be achieved, for example, through prescribing that prosecution or arrest of the suspected, interrupts the period of limitation.

b5. Other institutions

151. The Parliamentary Ombudsman institution is likely to play an important role in the fight against corruption. Through the establishment of this institution an effective and transparent complaint mechanism has been created to serve the citizens. The GET considered that this commendable effort was worth being acknowledged. It considered the possibility of increasing the effectiveness and impact of this institution by bringing also the courts under the jurisdiction of the ombudsman. Indeed, the GET was repeatedly made aware of the need to improve the management of the courts and their supervision. However, the GET was informed by the Lithuanian authorities that such a system would raise constitutional problems and would be difficult to implement in Lithuania. Therefore, the GET instead decided to recommend what appears in paragraph 145.

152. Moreover, the actions of the Ombudsman to educate the public concerning its rights and how to exert them have to be highlighted. Public education and awareness are important tools to combat corruption. The only way to eradicate corruption is to bring around a change in mentality and to establish a non-tolerance against corrupt practises. The educational activities initiated by the Ombudsman are an important contribution to achieve this goal. The GET observed therefore that

sufficient resources should be allocated to the Ombudsman institution in order for these important activities to continue properly.

153. *Public procurement* is highly vulnerable to corruption as it often involves large sums of money. Therefore it is important to ensure that goods and services are procured in a transparent way with the necessary safeguards to prevent misuse of public resources. The GET was particularly concerned about the procedure for complaints, which is carried out by an independent Commission composed on the basis of a list of candidates held by the Public Procurement Office. The GET was informed that there were several shortcomings with regard to that procedure and noted a need for revision of the procedure for establishing the list, in particular to provide for the legal expertise needed, to improve the selection procedure of candidates and to establish a procedure for eliminating unsuitable nominees from the list. Moreover, the GET noted that the rules on liability for procedural costs could be a serious disincentive of complaints in public procurement proceedings. It observed therefore that the Lithuanian authorities should consider adopting more favourable rules in this area. Accordingly, the GET recommended the Lithuanian authorities to re-consider the complaints procedure within the field of public procurement, in order to make it more efficient and easier to access by the public.

154. As to the remaining bodies mentioned in the Report, the GET took note of their respective work with regard to anti-corruption measures. The GET was generally impressed by the number of institutions - outside the law enforcement and criminal justice systems – that were engaged in the struggle against corruption, stressing the multi facetted approach followed in Lithuania against corruption. The modernisation process of the State Control into an Audit Office was appreciated. The GET noted with satisfaction the establishment of the Commission of Anti-Corruption (Seimas) and the Chief Official Ethics Commission.

c. Immunities from investigation, prosecution and adjudication for corruption offences

155. The GET noted that the current system of procedural immunities applies to a reasonable number of categories of officials. The immunities prevent only prosecution (not investigation), which allows to gather preliminary evidence in a case of corruption.

156. The GET was concerned about the process of lifting the immunity several times during the same proceedings; the immunity has to be lifted to allow for prosecution and, subsequently, the execution of coercive measures may require another decision to lift the immunity, etc. These multiple decisions on lifting immunity hamper the effectiveness of the proceeding and create possibilities to exert political influence on the criminal process. It should be enough that the immunity is lifted once in each proceeding. Therefore, the GET recommended the Lithuanian authorities to re-consider the regulations concerning immunity, with a view to avoiding more than one decision concerning the lifting of the immunity in each case.

IV. CONCLUSIONS

157. Lithuania seems to be affected by corruption on a rather important scale. Still Lithuania is among the least affected transitional countries of central and eastern Europe, according to estimations by Transparency International. However, there is a general lack of research and official statistics and the situation is to a large extent assessed only on basis of the perception of corruption. At the same time there is wide awareness of the existence of corruption and its problems among officials. There is no doubt that Lithuania has come a long way in a short period of time in developing a normative framework as well as a multifaceted system of institutions for the fight

against corruption. The establishment of the Special Investigation Service is certainly an important step in trying to contribute to the fight against corruption. However, although the progress made is impressive, there is still room for improvement, in particular with regard to prevention of corruption and the overall co-ordination.

158. In view of the above, the GRECO addressed the following recommendations to Lithuania:

i. to promote research on corruption with a view to developing a precise picture of the corruption situation in the country and in particular institutions affected and to develop the collection of data and statistics on corruption;

ii. to reconsider the overall responsibility for the co-ordination of anti-corruption policies, with the view to establishing a specific body or, alternatively, to entrust an existing body with this responsibility and to consider the possibilities of strengthening anti corruption preventive measures, in order to strike a good balance between preventive and repressive measures;

iii. to improve the transparency of public authorities vis-à-vis media and the wider public, in particular, with regard to access to public documents and information;

iv. to develop codes of conduct/ethics for all public officials, preferably including anti corruption measures, such as reporting *indicia* of corruption etc, as a complement to legislation;

v. to subject the management of the courts to the supervision of an independent and impartial body;

vi. to establish a clear distribution of cases concerning corruption between various law enforcement bodies and , if need be, between them and the prosecution service;

vii. to arrange specialised education and training of investigating staff on how to detect and investigate financial-economic crime, including corruption. Furthermore, Lithuania should consider measures to improve the efficiency of expertise and audit in such cases;

viii. to provide for speedier criminal proceedings and adjudication of cases concerning corruption, when linked to financial-economic crime;

ix. to re-consider the complaints procedure within the field of public procurement, in order to make it more efficient and easier to access by the public;

x. to re-consider the regulations concerning immunity , with a view to avoiding more than one decision concerning the lifting of the immunity in each case.

159. Moreover the GRECO invites the authorities of Lithuania to take account of the observations made by the experts in the analytical part of this report.

160. Finally in conformity with article 30.2 of the Rules of Procedure, GRECO invites the authorities of Lithuania to present a report on the implementation of the above-mentioned recommendations before 31 December 2003.

APPENDIX I

Criminal Code, in force

Article 282- Taking a Bribe

Taking a bribe by a public official or a civil servant, promise to accept a bribe or demanding a bribe for his action or omission, making a decision, voting or expressing an opinion in the exercise of his functions as a public official or a civil servant in the interest of the person giving the bribe or of some other person or for a promise to act this way shall be punishable by deprivation of liberty for up to five years and a prohibition to hold a certain position, perform a specific job or engage in specific activities for up to five years or by a fine and a prohibition to hold a certain position, perform a specific job or engage in specific activities for up to three years.

Taking a bribe of high value shall be punishable by deprivation of liberty from three to ten years and a prohibition to hold a certain position, perform a specific job or engage in specific activities for up to five years.

The acts specified in paragraphs 1 and 2 of this Article by a public official or a civil servant shall be considered as bribe taking, promise to take a bribe or demanding a bribe, irrespective of the fact that according to his duties or powers exercised he had no right or could not carry out the acts, for which the bribe has been accepted, promised or demanded.

Article 284 – Subornation

Giving or agreement to give to a public official or a civil servant a bribe in the form of money, valuables or by affording conditions to get material benefit for his favourable action or omission, making a decision or expressing an opinion in the exercise of his duty as a public official or a civil servant in the interest of the person giving a bribe or of some other person shall be punishable by deprivation of liberty for up to three years or by correctional works for up to two years, or by a fine.

Giving of a bribe of high value shall be punishable by deprivation of liberty for up to five years or by a fine.

A person who has been compelled to give the bribe as well as a person who has reported the subornation to the law enforcement authority before criminal proceedings were initiated, shall be exempt from criminal liability in connection with subornation.

Article 285 – Office Abuse

Intentional abuse of position by a public official or a civil servant in the interests contrary of his position, if such activities were of personal gain or interest, or caused substantial damage to the state interests or other persons shall be punishable by deprivation of liberty for up to four years and a fine, or by a fine and a prohibition to hold a certain position, perform a specific or engage in specific activities for up to five years.

Intentional abuse of position by a public official or a civil servant in the interests contrary of his position, if such activities were of personal gain and caused substantial damage to the state interests or other persons shall be punishable by deprivation of liberty from three to five years and a prohibition to hold a certain position, perform a specific or engage in specific activities for up to five years.

APPENDIX II

New Criminal Code, not in force

Article 225. Bribery

1. A civil servant or a person of equivalent status who directly or indirectly in his own interest or in the interests of others accepted, promised or made an agreement to accept a bribe, required or provoked to give it in exchange of lawful act or omission in the discharge of his authority,

shall be punished by deprivation of the right to do a certain job or hold a certain position, or imprisonment for a term of up to 3 years.

2. A civil servant or a person of equivalent status who directly or indirectly in his own interest or in the interests of others accepted, promised or made an agreement to accept a bribe, required or provoked to give it in exchange of lawful act or omission in the discharge of his authority,

shall be punished by deprivation of the right to do a certain job or hold a certain position, or imprisonment for a term of up to 5 years.

3. A civil servant or a person of equivalent status who directly or indirectly in his own interest or in the interests of others accepted, promised or made an agreement to accept a bribe of a higher value than 250 MWU*, required or provoked to give it in exchange of lawful act or omission in the discharge of his authority,

shall be punished by imprisonment for a term of from 2 to 8 years.

4. A civil servant or a person of equivalent status who directly or indirectly in his own interest or in the interests of others accepted, promised or made an agreement to accept a bribe of a lower value than 1 MWU, required or provoked to give it in exchange of lawful act or omission in the discharge of his authority, committed a criminal misdemeanour and

shall be punished by deprivation of the right to do a certain job or hold a certain position

5. A legal person shall also be liable for the acts stipulated in this Article.

Article 226. Trading in Influence

1. Any person who, by using his social position, office, powers, family relations, acquaintances or any other kind of possible influence on a state or municipal institution or agency, international public organisation, or a person holding office therein or a person of equivalent status to exert for a bribe influence on a respective institution or agency, public servant or person of equivalent status in exchange of their lawful or unlawful acts or omissions

shall be punished by detention or imprisonment for a term of up to 3 years.

2. Any person who commits an act stipulated in paragraph 1 of this Article for a bribe of minor value commits a criminal misdemeanour and shall be punished by a fine or detention.

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*MWU – Minimum wage unit is 125 LT

Article 227. Suborning

1. Any person who either directly or indirectly offers or proposes or promises to give or has given a bribe to a civil servant or a person of equivalent status in exchange of wished lawful acts or omissions in the discharge of his authority, or to an intermediary with a view to obtaining the same results

shall be punished by restriction liberty or a fine, or by arrest, or by imprisonment for a term of up to 2 years.

2. Any person who committed the acts provided for in paragraph 1 of this Article by offering or promising to give a bribe of the amount higher than 250 MWU or committed these acts with a view to receiving in exchange unlawful activities from the suborned civil servant or the person with equivalent status in discharge of his authority

shall be punished by imprisonment for a term of up to 4 years.

3. Any person who committed the acts provided for in paragraph 1 of this Article by offering or promising to give a bribe of the amount lower than 1 MWU, has committed a criminal misdemeanour and

shall be punished by restriction of liberty or a fine, or an arrest.

4. A person shall be released from criminal liability for suborning, if he has been required or provokes to give it, and if he has offered, promised or given a bribe, law enforcement institutions being aware thereabout.

5. A legal person shall also be liable for the acts stipulated in paragraphs 1, 2 and 3 of this Article.

Article 228. Office Abuse

1. A public servant or a person of equivalent status who abuses his office or exceeds his authority, where this causes great damage to the State, international public organisation, legal or natural person,

shall be punished by deprivation of the right to do a certain job or hold a certain position or a fine, or imprisonment for a term of up to 4 years.

2. Any person who commits the act provided for in paragraph 1 of this Article seeking property or other personal benefit, provided that there were no elements of bribery,

shall be punished by deprivation of the right to do a certain job or hold a certain position, or imprisonment for a term of up to 6 years.