

Corruption prevention in Lithuania: moving forward from dark to bright side

Dr. Ph.D. Associate Professor **JOLANTA ZAJANČKAUSKIENĖ**
Mykolas Romeris University, Faculty of Law,
Director of the Institute of Criminal Law and Procedure

Dr. Ph.D. Professor **RAIMUNDAS JURKA**
Mykolas Romeris University, Faculty of Law,
Institute of Criminal Law and Procedure

Abstract:

This article focuses on the issues of corruption prevention overview, institutional framework, preventive measures and development of criminal justice in the light of corruption prevention. One can said, that the preventive measures, it seems to be, are under the nature of complexity, but one of the most effective ways to tackle corruption roots and preconditions is severe criminal policy. The authors do not want to emphasize, that the severity of laws is the cure from corruption as such. It has to be stated, that the severity should be considered as flexible and dynamic reaction to the social relations, which are sometimes poisoned of „the misuse of public office for private gain“.

Keywords: *corruption, Lithuania, measures for prevention, criminal laws, legal regulation, developing of national legislation.*

As one could found in the scientific literature, it is stated, that corruption is still a painfull problem in Lithuania, as in most other post-communist states. In Lithuania as well as in the other Central and Eastern European countries, discussion about the roots of corruption is very often concentrated on the problem of the heritage of previous communist system. According to popular opinion, the lack or responsibility, transparency and accountability in the public sector of Lithuania could be explained by the fact that corrupt practice is deeply ingrained in the so-called Soviet-type mentality that could not be automatically replaced during the last decades of political independence.¹ Corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of human life, and allows organized crime, terrorism and other threats to human security to flourish. This co-called „evil phenomenon“ is found in all countries – big and small, rich and poor – but it is in the developing world that its effects are most destructive. Corruption hurts the poor disproportionately by diverting funds intended for development, undermining a Government's ability to provide basic services, feeding inequality and injustice and discouraging foreign aid and investment. Corruption is a key element in economic underperformance and a major obstacle to poverty alleviation and development.²

¹ Dobryninas, A: *Lithuania's Anti-Corruption Policy: between the "West" and the "East"*. European Journal on Criminal Policy and Research. 2005, No. 11, p. 77.

² Thompson, K: *Does anti-corruption legislation work?* International Trade and Business Law Review, 2013, vol. XVI, p. 99-135.

Nowadays, it should be noted, the situation of prevention of corruption in Lithuania has definitely changed. But, in the eyes of the authors, this situation is not under satisfaction. The development is carried on step by step.

1. General overview of corruption prevention regulation in the Republic of Lithuania

Corruption means different things to different people and aggregate definitions are moulded by cultural factors. Thus there can be no universal definition of this phenomenon. Rather, both international organisations and national jurisdictions develop their own definitions of corruption. In the current academic and political discussions, „corruption“ is a broad term used to describe a wide spectrum of behaviours, ranging from criminal offences, the giving or receiving of a bribe, to concepts of good governance related to inefficiencies in public service delivery. Its most popular definition is „the misuse of public office for private gain“.³

Lithuania has ostensibly done much to fight corruption in the last 20 or so years. Lithuania has ratified⁴ the United Nations Convention against Corruption that provides for a sufficient range of anti-corruption measures. The implementation of the Convention against Corruption has been put under scrutiny based on the mechanism for the review of Implementation of the United Nations Convention against Corruption. It would also be useful to perform social studies on negative impact of corruption on human rights topics and present them to the society, which may considerably increase public awareness of this issue. An engaged civil society and media that value and demand accountability and transparency are vital in addressing corruption. Transparency and accountability are key principles of a human rights-based approach to development that are also integral to successful anti-corruption strategies. Some of the measures that can enhance transparency and accountability and contribute to sustainable anti-corruption measures are the adoption of laws ensuring the public's access to information on governmental processes, decisions and policies as well as institutional reforms which strengthen transparency and accountability.⁵

The Lithuanian Parliament, like most other countries in the region, has adopted laws on the financing of political parties and political organisations, public procurement, and the prevention of corruption. In January 2002, anti-corruption work was seemingly co-ordinated through the implementation of the National Anti-Corruption Programme which – again like many anti-corruption programmes in the Central and Eastern European (CEE) region, consisted of a strategy document and an action plan.⁶

³ Gounev, Ph., Dzhekov, R., Bezlov, T: *Study on anti-corruption measures in EU border control*. 2012. See: http://frontex.europa.eu/assets/Publications/Research/Study_on_anticorruption_measures_in_EU_border_control.pdf.

⁴ The Law for ratifying Convention against Corruption was adopted on the 5th of December, 2006.

⁵ Reply of Lithuania on the negative impact of corruption on the enjoyment of human rights. 22/11/2013. Also see: <http://www.ohchr.org/Documents/HRBodies/HRCouncil/AdvisoryCom/Corruption/Lithuania.docx>.

⁶ Jonauskis, M: *Anticorruption in Education and Training in Lithuania*. In *Anti-Corruption Training Programmes in Central and Eastern Europe*. Working Group on Preventing Corruption in Public Administration, The Council of Europe, Strasbourg, France, 2004. Also see: Bryane, M., Kennon, E., Hansen, J.K.: *The Future of Anti-corruption Measures in Lithuania*. Public Policy and Administration. Vilnius: 2006, No. 16, p. 7.

According to the Law on Prevention of Corruption, adopted in 28 May 2002⁷ (No. IX-904) (hereinafter – the Law) by the Parliament of the Republic of Lithuania, corruption prevention should be understood as detection and elimination of the causes and conditions of corruption through the development and implementation of a system of appropriate measures as well as deterrence of persons from the commission of crimes of corruption, which includes such criminal offences as acceptance of a bribe, subornation, other criminal offences committed in the public sector by giving a bribe or seeking personal gain, *i.e.*: abuse of office, unlawful involvement of an official in the commercial, economic or financial activities of an enterprise, abuse of discretion, misrepresentation, fraud, appropriation or embezzlement, disclosure of an official secret, disclosure of an industrial, commercial or bank secret, abuse of confidence in commercial, economic and financial activities, violation of the public procurement procedure, intentionally fraudulent income or profit statements, money laundering, interfering with a voter in the exercise of his voting rights in an election or a referendum, smuggling, intentional and criminal forgery of an account or entry giving false or inaccurate information or an unlawful failure to register a payment where commission of the above offences is aimed at seeking or soliciting a bribe or subornation or concealing or disguise acceptance or giving of a bribe.

So, traditionally, corruption is associated with the governmental sector; however, recently it has also been referred to when talking about the non-governmental sector (private companies, mass media, public bodies etc.). Corruption can be sorted by its range (grand and petty corruption); goal (political, state capture, and administrative corruption, the latter referring to the application of favourable laws and regulations); the mode of operation (bribery, nepotism, abuse of office etc.), the context of operation (monetary corruption in a market economy and favouritism in a traditional or planned economy), and the mode of conduct (active or passive corruption) etc. Corruption is often claimed to be an inevitable response to unsound management and defective public administration, a natural attempt to avoid decision-making routine, red-tape obstacles and incompetence of public officials.⁸

In general sense the national institutions, that are responsible for coping with corruption, shall to act under the following principles of prevention (Art. 4 of the Law): 1) *legality* – the measures for the prevention of corruption shall be implemented in compliance with the requirements of the Constitution of the Republic of Lithuania, laws and other legal acts, ensuring the protection of the fundamental human rights and freedoms; 2) *universal applicability* – any person may be an entity of corruption prevention; 3) *interaction* – effectiveness of the measures for the prevention of corruption may be achieved through co-ordinated efforts of all the entities of corruption prevention, exchange of relevant information and provision of any other assistance; 4) *continuity* – effectiveness of the measures for the prevention of corruption may be achieved through a continuing oversight and review of the results of implementation of the measures for the prevention of corruption, making proposals about enhancing the effectiveness of the relevant measures to a competent institution authorised to implement such proposals. These are the general principles, which have to be taken into account, while the key tasks of corruption prevention are implemented.

⁷ Law on Prevention of Corruption of the Republic of Lithuania. *Official Gazette*, 2002, No. 57-2297.

⁸ Lithuanian Map of Corruption 2001–2005. See: <http://transparency.lt/en/media/en/tilc-publications/>.

Systemically it should be noted, that the key tasks of this prevention should be as follows: 1) disclosing and elimination of the contributing factors and conditions of corruption; 2) deterrence of persons from the commission of crimes of corruption; 3) securing a workable and effective legal regulation of corruption prevention; 4) setting up of an adequate and effective mechanism of organisation, implementation, oversight and control of corruption prevention through legal, institutional, economic and social measures; 5) involvement of the public and public organisations in the prevention of corruption; and fine lone – 6) promotion of transparency and openness in the provision of public services.

General consideration of the measures for prevention of corruption within the state

Lithuania has done much to fight corruption in the last decades. It adopted various legal acts regarding corruption, made changes to its public administration and public procurement organizations, implemented several national anti-corruption programmes, established an independent anti-corruption agency, became a member of several international organizations and acceded to their legal instruments to fight corruption. The country joined the Council of Europe in 1993 and benefited early on from the organization's technical assistance. It ratified the Council's Criminal and Civil Law Conventions against Corruption in 2002 and 2003, respectively. Since 1999, Lithuania has been a member of the Council's Group of States against Corruption (GRECO), which monitors, through a process of peer review, the conformance of member countries' anti-corruption frameworks with the Conventions. Lithuania signed the United Nations Convention against Corruption in December 2003 and ratified in 2006.⁹

So, remembering Article 5 of the Law on Prevention of Corruption, it emphasises, that there are minimum 7 measures to prevent and combat corruption. Other measures for the prevention of corruption are provided for by other laws.

The first one is corruption risk analysis, which shall mean anti-corruption analysis of the activities of a state or a municipal institution following the procedure prescribed by the Government, and presentation of motivated conclusions about the development of an anti-corruption programme and proposals about the content of the programme; recommendations concerning other corruption prevention measures to state and municipal institutions which are responsible for the implementation of such measures.

The second one is drafting, adopting and development of anti-corruption programmes. Anti-corruption programmes may range from the National Anti-corruption Programme of the Republic of Lithuania to sectoral, institutional and other programmes. Programme shall be developed and its implementation shall be organised and controlled by the Government with the participation of the Special Investigation Service. The sectoral (embracing the areas of the activities of several state or municipal institutions), departmental and other anti-corruption programmes shall be developed by the state, municipal and non-governmental institutions which have been charged with the development of such programmes by the National Anti-corruption Programme and other regulatory acts. Institutional anti-corruption programmes may also be developed by state and municipal institutions where after corruption risk analysis suggestions were made to develop such a programme. The development those

⁹ Velykis, D: *A Diagnosis of Corruption in Lithuania*. European Research Centre for Anti-Corruption and State-Building Working Paper No. 10. See: <http://www.againstcorruption.eu/wp-content/uploads/2012/09/WP-10-Diagnosis-of-Corruption-in-Lithuania-new.pdf>.

programmes shall be governed by the Law, the National Anti-corruption Programme and other regulatory acts, having regard to the proposals made by the Special Investigation Service and other information available. Programme shall be approved by the *Seimas* (Parliament of the Republic of Lithuania) on the recommendation of the Government. Other anti-corruption programmes shall require approval by the head of a state or municipal or non-governmental institution which developed the programme concerned. The head of the institution shall bear personal responsibility for the implementation of the programme approved. Finally, the coordination and oversight of the implementation of the programmes shall be carried out by the heads of the agencies or the structural subdivisions thereof or persons therein who have been authorised by the head of the corresponding institution to conduct corruption prevention and control at the institution. The Special Investigation Service shall monitor the implementation of the proposals made by it.

The national anti-corruption programme for 2011-2014 sets out a comprehensive action plan and identifies institutions responsible for its implementation. Objectives include expanding e-services by the tax inspectorate, publishing land-planning projects online, and sponsoring anti-corruption advertisements in the media. Implementation of the programme is facing delays. While recent public discussions have focused on the punishment of corruption, its prevention also merits closer attention.¹⁰

The third one is anti-corruption assessment of legal acts or their drafts. A state or municipal institution drafting or passing a legal act regulating public relations particularly prone to corruption must carry out the anti-corruption assessment of the draft and examine the anti-corruption assessment of the same draft carried out by other state or municipal institutions. The assessment of the effective legal acts shall be carried out taking into account the practice of their application, and shall be submitted to the state or municipal institution which adopted them or on whose initiative they were adopted. This agency shall determine whether it would be expedient to amend the legal act in question. The Special Investigation Service shall carry out the anti-corruption assessment of the effective or draft legislation on its own initiative or on the proposal by the President of the Republic, the Chairman of the *Seimas*, the Prime Minister, a parliamentary committee, a commission, a parliamentary group or a minister.

The fourth one is provision of the information about a person seeking or holding office at a state or municipal agency. This measure shall mean furnishing, at the request of the head of a state or municipal institution or on the initiative of the law enforcement and control institutions, following the procedure laid down in legal acts, of objective and legally gathered information held by the law enforcement and control institutions about a person seeking or holding a position at a state or municipal institution, to the head of the institution who has appointed or is appointing the public servant in question, or to a state politician in order to ensure that only persons of high moral standing hold office at a state or municipal institution.

The fifth one is provision of the information to the registers of public servants and legal entities. The Register of Public Servants shall be provided the information about public servants who, by a final and effective court judgment, have been charged with the commission of corruption-related criminal acts, or against whom administrative or

¹⁰ EU Anti-Corruption Report. Lithuania. Brussels, 3.2.2014.COM(2014) 38 final. ANNEX 15. See: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_lithuania_chapter_en.pdf.

disciplinary proceedings have been initiated for serious misconduct in office, related to the violation of the provisions of the Law on the Adjustment of Public and Private Interests in the Public Service and committed in pursuit of illegal gain or privileges for themselves or other persons. The Register of Legal Entities shall be provided the information about legal entities who, by an effective court judgment, have been charged with the commission of corruption-related criminal acts, or whose employee or an authorized representative has, by an effective court judgment, been found guilty of corruption-related criminal acts while acting for the benefit or in the interests of the legal entity concerned.

The sixth one is education and awareness raising of the public. Anti-corruption education is an integral part of raising public awareness with a view to promoting personal integrity, civic responsibility, understanding of human rights and duties to society and the State of Lithuania, and ensuring the implementation of the aims of corruption prevention. This education of the public shall be carried out at the educational institutions of all types and levels in accordance with the appropriate educational programs, through media and by other means. The state and municipal institutions shall inform the public through the media or by other means about their activities in the fight against corruption.

Moreover, the final one – *the seventh* – public disclosure of detected corruption cases.

Concluding, one can say, that the measures, mentioned above, are the basic one, what means, that there may be other legal regulations for preventing corruption phenomenon. One of those – developing of criminal justice regulations, i.e. provisions of Criminal Code¹¹ of Lithuanian Republic. Before this article focuses on the overview of developing of criminal laws, the institutional framework should be observed first.

Institutional Framework

The following bodies (Art. 12 of the Law) shall implement corruption prevention: 1) The Government; 2) The Chief Institutional Ethics Commission; 3) The Special Investigation Service; 4) Other state and municipal and non-governmental institutions.

Government is ensuring that the corruption prevention measures are implemented by the ministries and institutions subordinate to the Government; allocating the funds necessary for an effective implementation of the corruption prevention measures; together with the Special Investigation Service developing the National Anticorruption Programme and submit it to the Seimas for approval, as well as make proposals as to the amendment of the said programme; making proposals to the Seimas as to the enactment and amendment of the laws and other legal acts necessary for the implementation corruption prevention.

Chief Institutional Ethics Commission is analyzing ethical problems confronting the public servants, and, seeking to eliminate the factors contributing to a conflict between public and private interests, shall make proposals concerning adoption and improvement of anti-corruption programmes and legal acts; making proposals to the Seimas, other state and municipal institutions related to the implementation of the provisions of this Law; summing up the application of legal provisions setting out the institutional ethics requirements in different areas, and shall participate in the drafting

¹¹ Criminal Code of the Republic of Lithuania (with amendments). *Official Gazette*, 2000, No. 89-2741.

and codifying such provisions; and implementing the corruption prevention measures assigned to it together with the other state and municipal institutions.

The Special Investigations Service is participating in the development of the National Anticorruption Programme by the Government, and shall make recommendations as to the amendments thereto; putting forward proposals to President, the Seimas and the Government as to the introduction and improvement of the new legislation necessary for the implementation of corruption prevention; also taking part in the functions of co-ordination and supervision of the activities of state and municipal institutions in the field of corruption prevention discharged by the Government; together with the other state and municipal institutions, implementing corruption prevention measures; and together with the other state and municipal institutions, implementing the National Anti-Corruption Programme.

So the Special Investigation Service is in charge of prosecuting and preventing corruption. The Immunity Service, reporting to the Commissioner General of the Police, is responsible for the prevention and investigation of corruption within the Police. The prosecution service contains a division on investigation of organised crime and corruption. The Judicial Ethics and Discipline Commission decides on disciplinary action against judges. The Chief Official Ethics Commission (COEC) is charged with supervising adherence to institutional ethics standards, regulating public and private interests in civil service, and controlling certain lobbying activities. UNCAC reviewers called for stronger inter-agency coordination and cooperation in enforcing anti-corruption laws.

It seems to be, that there are current number of institutions, which are responsible for the mechanism on prevention of corruption. However, as the scholars say “the judicial system, including policy, prosecuting magistracy, courts of justice, Special Investigation Service, Department of State Security and other acting judicial institutions are created to fight corruption. Unfortunately, all of them may also easily yield to corruption because it is impossible to avoid individual decision-making and other conditions creating a possibility to corrupt. That is why we should rely upon traditional fighting corruption methods: leavings of civil servants, strict rules and control. And we should not forget that the clearness of procedures, precise and simplicity might eminently decrease the possibility to corrupt”.¹²

2. Developing of criminal justice in the light of prevention of corruption

As generally recognized, corruption is often thought of as an economic or “white collar crime”. That ignores the greater implications of corruption, the abuse of power at the expense of the many, which perpetuates social injustice and the exploitation of the vulnerable: denial of healthcare, education, economic opportunity and justice, as well as preventing the holding to account of leaders for the theft of resources.

Such is the human cost of corruption – the denial of access to public services, to economic opportunity, to a voice and to justice – that it cannot be seen as anything but a criminal act of whom the victim is society at large: in short, a crime against society.¹³

¹² Markuckaite, V: *Political Corruption in Baltic States: Lithuanian Case*. See: <http://www.10iacc.org/content-ns.phtml?documents=300&art=40>.

¹³ Swardt, C: *Corruption: a crime against society*. See: <http://blog.transparency.org/2011/07/18/corruption-a-crime-against-society/>.

One of the real steps, making it chance to tackle corruption offences in Lithuania – is developing and improving criminal laws, regulating liability for crimes against state and public interests.

This part of the article will focus on Lithuanian efforts to make the best on developing regulation and application of criminal laws concerning prevention of corruption preconditions as such.

In the light of developing Lithuanian criminal laws, it is worth to emphasize, that Lithuanian legislative authorities are doing the best to tackle corruption with the help of proper regulation and application of criminal laws. As the social relations are dynamic, so the legal regulation always has to go in the same step line with these relations. That is why there are a lot of efforts to develop national legal acts. Especially, it is needed to go in line with the provisions of international documents concerning corruption prevention.

After the Third Round Evaluation Report was adopted at GRECO's 43rd Plenary Meeting (2 July 2009) and made public on 17 February 2010, following authorization by Lithuania (Greco Eval III Rep (2008) 10E and after the subsequent Compliance Report was adopted at GRECO's 51st Plenary Meeting (23-27 May 2011) and was made public on 27 May 2011, following authorization by Lithuania (Greco RC-III (2011) 7E), Lithuania has implemented most of recommendations, that were formulated by GRECO Evaluation Team¹⁴.

First, it should be noted, that GRECO recommended for Lithuania to extend the concept of bribe in the incriminations of bribery and trading in influence so as to cover clearly any form of benefit (whether material or immaterial and whether such benefits have an identifiable market value or not), in line with the concept of "any (undue) advantage" used in the Criminal Law Convention on Corruption.

The amendments to Article 230, Paragraph 4 of the Criminal Code (hereinafter – CC) of the Republic of Lithuania have been adopted and entered into force on 5 July 2011. Both the bribery provisions of Articles 225 and 227 CC and the trading in influence provisions of Article 226 CC refer to the concept of bribe as defined in the amended Article 230, Paragraph (4) CC. Article 230 CC in its amended form reads as follows:

"Article 230 CC: Interpretation of Concepts

1. For the purposes of this Chapter, public servants shall mean State politicians, State officials, judges, public servants specified in the Law on Public Service and other persons who, while working at State or, on other grounds provided for by law, holding positions at State or municipal institutions or agencies, perform the functions of a government representative or hold administrative powers, also official candidates for such office.

2. A person holding appropriate powers at a foreign State or European Union institution or organisation, an international public organisation or at an international or

¹⁴ Group of States against Corruption. Third Evaluation Round. Second Compliance Report on Lithuania. "Incriminations (ETS 173 and 191, GPC 2)" and "Transparency of Party Funding". Greco RC-III (2013) 6E. Adopted by GRECO at its 60th Plenary Meeting (Strasbourg, 17-21 June 2013). See also: Group of States against Corruption. Third Evaluation Round. Second Compliance Report on Lithuania. "Incriminations (ETS 173 and 191, GPC 2)" and "Transparency of Party Funding". Greco RC-III (2011) 7E. Adopted by GRECO at its 51st Plenary Meeting (Strasbourg, 23-27 May 2011).

European Union judicial institutions, also official candidates for such office shall be held equivalent to a public servant.

3. Moreover, a person who works or, on other grounds provided for by law, holds a position at any public or private legal entity or organisation, or engages in professional activities and holds appropriate administrative powers, or has the right to act on behalf of this legal entity or organisation, or provides public services, as well as an arbitrator or a juror shall also be held equivalent to a public servant.

4. For the purposes of this Chapter, a bribe shall mean any unlawful or undue advantage in the form of any property or other personal benefit (whether material or immaterial, of an identifiable market value or without such value) intended for a public servant or a person of equivalent status or a third person for a desired legal or illegal act or omission in the discharge of powers of a public servant or a person of equivalent status."

Second, GRECO recommended making it clear for everyone that instances in which the advantage is not intended for the bribe-taker him/herself but for a third party are covered by the provisions on active bribery under Article 227 of the Criminal Code.

Such amendments in the CC have been adopted and have entered into force. The amended Article 227 CC reads as follows:

"Article 227 CC: Graft

1. A person who, whether directly or indirectly, offers, promises or agreed to give, or gives a bribe to a public servant or a person equivalent thereto or to a third party for a desired lawful act or inaction of a public servant or a person equivalent thereto in exercising his/her powers or to an intermediary seeking to achieve the same results shall be punished by a fine or restriction of liberty or by detention or by imprisonment for a term of up to four years.

2. A person who commits the actions provided for in paragraph 1 of this article by seeking an unlawful act or inaction by a public servant to be bribed or a person equivalent thereto in exercising his powers shall be punished by a fine or detention or imprisonment for a term of up to five years.

3. A person who commits the actions provided for in paragraph 1 or 2 of this article by offering, promising, agreeing to give or giving a bribe in the amount more than 250 MSL³ shall be punished by imprisonment for a term of up to seven years.

4. A person who commits the actions provided for in paragraph 1 or 2 of this article by offering, promising, agreeing to give or giving a bribe in the amount less than 1 MSL shall be considered to have committed a misdemeanor and shall be punished by a fine or restriction of liberty, or by detention.

5. A person shall be released from criminal liability for grafting where s/he was demanded or provoked to give a bribe and s/he, upon offering, promising to give or giving the bribe as soon as possible, but in any case before being recognized as a suspect, notifies a law enforcement institution thereof or also in cases where s/he promises to give or gives the bribe with the law enforcement institution being aware thereof.

6. A legal entity shall also be held liable for the acts provided for in paragraphs 1, 2, 3 and 4 of this article."

Third, GRECO recommended to incriminate trading in influence in line with Article 12 of the Criminal Law Convention on Corruption. So, the amendments have been made as follows:

“Article 226 CC: Trading in Influence

1. Any person who, seeking that another person, by using his/her social position, office, powers, family relations, acquaintances or any other kind of possible influence on a State or municipal institution or agency, an international public organisation, their servant or a person of equivalent status, exerts influence on the appropriate institution, agency or organisation, the public servant or the person of equivalent status so that they act or refrain from acting legally or illegally in the exercise of their powers, offers, promises or agrees to give or gives a bribe to such person or a third person directly or indirectly, shall be punished by restriction of liberty or a fine, or detention, or imprisonment for a term of up to 4 years.

2. Any person who, by using his/her social position, office, powers, family relations, acquaintances or any other kind of possible influence on a State or municipal institution or agency, an international public organisation, their servant or a person of equivalent status, promises or agrees to take a bribe, demands or provokes to give, or takes a bribe, directly or indirectly for his/her own benefit or for the benefit of other persons, by promising to exert influence on the appropriate institution, agency or organisation, the public servant or the person of equivalent status so that they act or refrain from acting legally or illegally in the exercise of their powers, shall be punished by a fine or detention, or imprisonment for a term of up to 5 years.

3. Any person who commits the acts specified in paragraph 1 of this article by offering, promising or agreeing to give or giving a bribe in the amount exceeding 250 MSL, shall be punished by imprisonment for a term of up to 7 years.

4. Any person who commits the acts specified in paragraph 2 of this article by promising or agreeing to take, demanding or provoking to give or taking a bribe in the amount exceeding 250 MSL, shall be punished by deprivation of liberty from 2 to 8 years.

5. Any person who commits the acts specified in paragraphs 1 or 2 of this article by offering or agreeing to give or by giving, promising or agreeing to take, demanding or provoking to give or taking a bribe in the amount less than 1 MSL, commits a misdemeanor, and shall be punished by restriction of liberty or a fine, or detention.

6. A person may be released from criminal liability for the acts provided for in paragraphs 1, 3 or 5 of this article, if s/he is extorted or provoked to give a bribe and s/he, after offering, promising, agreeing or giving the bribe, voluntarily reports it to an appropriate law enforcement institution before s/he is recognized a suspect, or if a bribe is promised, agreed or given by him/her with the knowledge of an appropriate law enforcement institution.

7. A legal person shall also be held liable for the acts provided for in paragraphs 1, 2, 3, 4 and 5 of this article.”

Fourth, GRECO recommended (i) to ensure that Lithuania has jurisdiction in respect of bribery and trading in influence offences where the offence is committed in whole or in part in its territory, and in all situations where the offence involves one of its public officials or any other person referred to in Article 17 paragraph 1 subparagraph c of the Criminal Law Convention on Corruption; (ii) to abolish the dual criminality requirement for the prosecution of bribery and trading in influence offences committed abroad by its nationals, public officials or members of domestic public assemblies.

Lithuania has been adopted amendments to Article 7 CC, which have entered into force (see the new items 6, 7 and 8 under article 7 CC). The amended article 7 CC reads as follows:

“Article 7 CC: Criminal Liability for the Crimes Provided for in International Treaties

Persons shall be liable under this Code regardless of their citizenship and place of residence, also of the place of commission of a crime and whether the act committed is subject to punishment under laws of the place of commission of the crime where they commit the following crimes subject to liability under treaties:

- 1) crimes against humanity and war crimes (articles 99-1131);
- 2) trafficking in human beings (article 147);
- 3) purchase or sale of a child (article 157);
- 4) production, storage or handling of counterfeit currency or securities (article 213);
- 5) money or property laundering (article 216);
- 6) *bribery (article 225);*
- 7) *trading in influence (article 226);*
- 8) *graft (article 227);*
- 9) act of terrorism (article 250);
- 10) hijacking of an aircraft, ship or fixed platform on a continental shelf (article 251);
- 11) hostage taking (article 252);
- 12) unlawful handling of nuclear or radioactive materials or other sources of ionising radiation [articles 256, 256(1) and 257];
- 13) the crimes related to possession of narcotic or psychotropic, toxic or highly active substances (articles 259-269);
- 14) crimes against the environment (articles 270, 270(1), 271, 272, 274).

After all these amendments were made, the Group of States against Corruption (GRECO) has concluded, that Lithuania has shown remarkable progress since the adoption of the Evaluation Report. That was pleased that the comprehensive reform process, already welcomed in the Compliance Report, has been completed by Lithuania through the enactment of significant amendments to the Criminal Code. GRECO was pleased that all the recommendations issued in the Evaluation Report have been implemented. The most recent amendments to the criminal law include notably such important issues as clarification of the concepts of “bribe” and of “third party beneficiaries”, criminalisation of active trading in influence, coverage of jurors and arbitrators by bribery law, review of the system of sanctions and jurisdiction over bribery and trading in influence offences committed abroad. GRECO very much hopes that these amendments will prove their efficiency in practice.

Taking into account development of the criminal justice as mentioned above, it should be noticed, Lithuanian criminal laws are getting closer to effective prevention of corruption time to time. Even there are enough space to further development of criminal justice, one may say, that Lithuanian legislation and application of criminal laws are specifically getting in line with the requirements of international legal regulation.

3. Conclusions

1. In Lithuania the key tasks of corruption prevention should be disclosing and elimination of the contributing factors and conditions of corruption; deterrence of persons from the commission of crimes of corruption, securing a workable and effective legal regulation of corruption prevention; setting up of an adequate and effective

mechanism of organisation, implementation; oversight and control of corruption prevention through legal, institutional, economic and social measures, involvement of the public and public organisations in the prevention of corruption; and finally promotion of transparency and openness in the provision of public services.

2. The Government, the Chief Institutional Ethics Commission, the Special Investigation Service and other state and municipal and non-governmental institutions are responsible for implementing minimum 7 measures to prevent and combat corruption, as such as corruption risk analysis, drafting, adopting and development of anti-corruption programmes, anti-corruption assessment of legal acts or their drafts, provision of the information about a person seeking or holding office at a state or municipal agency, provision of the information to the registers of public servants and legal entities, education and awareness raising of the public, public disclosure of detected corruption cases and others.

3. While criminal justice in the light of prevention of corruption is developed, lots of amendments were made in the Criminal Code of the Republic of Lithuania. These are concerned with interpretation of concepts, related to corruption crimes, graft, trading in influence, criminal liability for the crimes provided for in international treaties and others.

References

Bryane, M., Kennon, E., Hansen, J.K.: *The Future of Anti-corruption Measures in Lithuania*. Public Policy and Administration. Vilnius: 2006, No. 16.

Criminal Code of the Republic of Lithuania (with amendments). *Official Gazette*, 2000, No. 89-2741.

Dobryninas, A: *Lithuania's Anti-Corruption Policy: between the "West" and the "East"*. European Journal on Criminal Policy and Research. 2005, No. 11.

EU Anti-Corruption Report. Lithuania. Brussels, 3.2.2014. COM(2014) 38 final. ANNEX 15. See: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/anti-corruption-report/docs/2014_acr_lithuania_chapter_en.pdf.

Gounev, Ph., Dzhekova, R., Bezlov, T: *Study on anti-corruption measures in EU border control*. 2012. See: http://frontex.europa.eu/assets/Publications/Research/Study_on_ant Corruption_measures_in_EU_border_control.pdf.

Group of States against Corruption. Third Evaluation Round. Second Compliance Report on Lithuania. "Incriminations (ETS 173 and 191, GPC 2)" and "Transparency of Party Funding". Greco RC-III (2013) 6E. Adopted by GRECO at its 60th Plenary Meeting (Strasbourg, 17-21 June 2013).

Group of States against Corruption. Third Evaluation Round. Second Compliance Report on Lithuania. "Incriminations (ETS 173 and 191, GPC 2)" and "Transparency of Party Funding". Greco RC-III (2011) 7E. Adopted by GRECO at its 51st Plenary Meeting (Strasbourg, 23-27 May 2011).

Jonauskis, M: *Anticorruption in Education and Training in Lithuania*. In *Anti-Corruption Training Programmes in Central and Eastern Europe*. Working Group on Preventing Corruption in Public Administration, The Council of Europe, Strasbourg, France, 2004.

Law on Prevention of Corruption of the Republic of Lithuania. *Official Gazette*, 2002, No. 57-2297.

Lithuanian Map of Corruption 2001–2005. See: <http://transparency.lt/en/mediaen/tilc-publications/>

Markuckaite, V: *Political Corruption in Baltic States: Lithuanian Case*. See: <http://www.10iacc.org/content-ns.phtml?documents=300&art=40>.

Reply of Lithuania on the negative impact of corruption on the enjoyment of human rights. 22/11/2013. See: <http://www.ohchr.org/Documents/HRBodies/HRCouncil/AdvisoryCom/Corruption/Lithuania.docx>.

Swardt, C: *Corruption: a crime against society*. See: <http://blog.transparency.org/2011/07/18/corruption-a-crime-against-society/>.

The Law for ratifying Convention against Corruption was adopted on the 5th of December, 2006.

Thompson, K: *Does anti-corruption legislation work?* International Trade and Business Law Review, 2013, vol. XVI.

Velykis, D: *A Diagnosis of Corruption in Lithuania*. European Research Centre for Anti-Corruption and State-Building. Working Paper No. 10. See: <http://www.againstcorruption.eu/wp-content/uploads/2012/09/WP-10-Diagnosis-of-Corruption-in-Lithuania-new.pdf>.