



**CORRUPTION PREVENTION IN PUBLIC ADMINISTRATION
IN THE COUNTRIES OF THE BALTIC SEA REGION**

**CBSS Working Group on Democratic Institutions
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Foreword by the Chair of the Working Group on Democratic Institutions

The lead topic during the period when the WGDI was chaired by Latvia was strengthening the rule of law through good governance: corruption prevention in public administration. Latvia continued the work initiated by Poland in 2006-2007. However, this year the intention was to focus on the potential threat posed by corruption to public institutions and their integrity, impartiality and legitimacy. The result of the WGDI work in 2007-2008 is comparative analysis of the practice of corruption prevention in public administration in the Baltic Sea Region. This analysis focuses on *internal* mechanisms of corruption prevention and promotion of integrity in public administration. It provides a concise overview of countries' strategic approaches to anti-corruption at large and, in particular, measures available to public agencies to prevent possible corruption internally. The value of the study, being done within the CBSS framework, is that the problem is looked at from the regional perspective.

It is our pleasure to present this booklet in which we present the selection of measures, which are used by public agencies in various CBSS Member States and good practice examples. Further process of mutual sharing and learning would help strengthening good, effective and democratic governance in the whole of the Baltic Sea Region.

As a WGDI Chair, I would like to thank the authors of the study, Ms Linda Austere and Mr Valts Kalnins from the Centre for Public Policy *PROVIDUS* for their commitment, as well as Ms Anitra Jankevica from the CBSS Secretariat in Stockholm and Ms Diana Kurpniece from the Corruption Prevention and Combating Bureau of Latvia for their involvement and all WGDI members for their contribution.

Ms Sandra Martinsone,
Ministry of Foreign Affairs of Latvia
May 2008

Corruption Prevention in Public Administration in the Baltic Sea Region Countries

Executive summary

In every country public administration faces a risk that some public officials may choose to abuse their official position in order to gain personal advantage, in other words, involve in corruption. No country may claim to have found a single best set of measures to minimize this risk. Countries that are members of the Council of the Baltic Sea States (CBSS) represent a wide variety of public administration traditions, perceived levels of corruption, and approaches to managing corruption risks. Meantime all of the countries experience continuous development of approaches and concrete measures to prevent corruption.

This report aims to provide a concise overview of countries' strategic approaches to anti-corruption at large and, in particular, measures available to public agencies to prevent possible corruption internally. The regional diversity is partly accounted for by the fact that CBSS members include both democracies with long historical tradition (Denmark, Finland, Germany, Iceland, Norway, Sweden) and countries that experienced undemocratic regimes until the end of the 1980's / beginning of the 1990s (Estonia, Latvia, Lithuania, Poland, the Russian Federation). Overall the former tend to rely on general constitutional and administrative principles that have implicit anti-corruption effects. The latter tend to focus more on explicit anti-corruption strategies and specifically designed policies to tackle the problem. Meantime the division line is not sharp and differences decrease gradually as older democracies adopt explicit anti-corruption guidelines and newer ones strengthen their general administrative procedures and organization of the civil service.

Overall Denmark, Finland, Iceland, Norway, Sweden adhere to the mainstreaming policy of anti-corruption in the general administrative legal framework while Latvia, Lithuania and Poland hold anti-corruption as a policy branch *per se* with Estonia and Germany representing in-between cases. The legal framework of the Russian Federation is relatively closer to the mainstreaming approach although the adoption of an anti-corruption law is being considered and anti-corruption programs are being developed.

In terms of procedures that allow particular agencies to minimize corruption internally this study focuses on how corruption and conflicts of interest are to be reported, some aspects of how the liability of public officials is organized and what are policies to address specifically the risks and suspicion of corruption. The study does not hold the ambition to provide completely comprehensive information about all of the states. The coverage of national peculiarities was influenced by the amount and detail of information provided by particular countries themselves.¹ Nevertheless independent sources were used for every country to gather data in addition to responses solicited from governmental representatives.

¹ Information provided by 16 May 2008 was taken into account. Some information on Kaliningrad Oblast and St. Petersburg was added later.

Country data selected for this study aim to demonstrate peculiarities of anti-corruption procedures so as to support the exchange of country experiences and mutual learning. Notable examples include but are certainly not limited to specific anti-corruption measures in the agencies of international assistance (for example, in Denmark and Sweden), elaborate warning signs to help public agency managers in Germany to identify possible corruption, methods and practice of corruption risk assessment in Latvia and Lithuania, methodology to identify and verify signs or the so-called red flags of suspected misconduct in Norway, a detailed manual for telling permissible from impermissible advantages for Swedish tax officials, etc. A number of countries also have general guidelines and codes to assist public officials to choose the right course of action when facing ethical dilemmas. These and other tools and practices constitute a rich pool of resources, which can be used to promote clean, effective and democratic governance in the whole of the Baltic Sea region.

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1. Introduction

The Centre for Public Policy PROVIDUS was contracted to carry out a comparative study “Corruption Prevention in Public Administration in the Baltic Sea Region Countries”. The study was carried out by Valts Kalnins and Linda Austere who are PROVIDUS’ policy experts. This report covers countries that are members of the Council of the Baltic Sea States – Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland, Russia, and Sweden. Seven of these countries (Denmark, Estonia, Finland, Latvia, Lithuania, Poland, Sweden) submitted answers to the questionnaire, which was prepared and distributed as the first step of this research. Moreover in the case of federal countries (Germany and Russia), sub-national policies of federal units on the Baltic Sea coast are also considered (the City of Hamburg, Mecklenburg-Vorpommern, and Schleswig-Holstein in Germany, Kaliningrad Oblast and St. Petersburg in Russia).

The questionnaire covered eight topics (regulatory framework, restrictions for public officials, internal procedures, awareness-raising of public officials, implementation and review mechanisms/ procedures of corruption detection, corruption prevention in recruitment and human resource management, declaration of assets of public officials, the best practice). For countries that did not submit answers, experts gathered data independently.

At the meeting of the Working Group on Democratic Institutions (WGDI) in March, it was decided to place a special focus on anti-corruption procedures that empower public agencies to prevent corruption internally. Therefore the experts sought additional sources about all of the countries concerning such internal procedures – both those stipulated in legislation and those developed by particular agencies. Chapters 2-5 briefly review several of the topics covered in the questionnaires. These chapters largely draw upon the questionnaires submitted by countries. Chapters 6 and 7 review internally used anti-corruption procedures, which is the main emphasis of this report, and draw considerably on document research done by the experts.

2. National corruption prevention policy documents and regulations

Countries vary in their approaches to the prevention of corruption. The broader distinction is between countries that have integrated corruption control principles mostly in the mainstream legal framework of the public administration and countries that, in addition, have adopted explicit corruption prevention policies.

All of the countries have a set of constitutional principles, which represent grounds for maintaining integrity in the public service. These principles include, for example, the rule of law, freedom of expression, access to information. The countries also have a similar set of mainstream regulations, which stipulate, amongst others, general administrative procedure, functioning of the civil service, public procurement rules, audit principles and procedures. Moreover all of the countries have criminalized corrupt behavior in their penal codes. Being parties to the Council of Europe Criminal Law Convention on Corruption, the countries by and large adhere to similar principles in criminalizing corruption. To be sure, the similarity applies to the very existence of regulation in the aforementioned areas while their substance varies from country to country.

Denmark, Finland, Iceland, Norway, Sweden and to some extent also the Russian Federation place primary emphasis on the general administrative principles and legal acts covering aspects of substantial functioning of the state apparatus rather than on corruption *per se*. The acts cover constitutional principles, administrative procedure, civil service, public procurement, audit, freedom of information, budget (annual budget as well as procedures for drafting and dispensing budgetary funds), local government, violations that carry disciplinary, administrative and criminal liability. In these countries, regulatory enactments to address exclusively public sector ethics and corruption control are relatively narrow in scope and application. They may be accompanied by pieces of secondary/soft regulation such as Ethics Guidelines for the State Service in Norway. A somewhat different approach is characterized by the use of narrative guidance / booklets such as *Good Conduct in the Public Sector* in Denmark, *On Bribery and Conflicts of Interest* for public sector employees in Sweden, and *Values in the Daily Job – Civil Servant’s Ethics* in Finland.

Estonia, Latvia, Lithuania and Poland have introduced additional special legal acts to address corruption/ conflicts of interest. These are the Anti-corruption Law in Estonia, the Law “On Prevention of Conflict of Interest in the Activities of Public Officials” in Latvia, the Law “On Coordination of Public and Private Interests” in Lithuania, and the Law on the Limitation of Economic Activity by Persons Exercising Public Functions in Poland. The choice to create a special regulatory framework for the conflict of interest appears to signify both the priority attributed to this issue as well as the urgency of the problem. The priority and alleged urgency are reflected in that all of these four countries also have anti-corruption policy documents (strategies / programs), which address the issue of corruption in a more or less comprehensive manner. In a way Germany represents a middle case as there is the elaborate Federal Government Directive Concerning the Prevention of Corruption in the Federal Administration, which is reviewed in greater detail in chapters 6 and 7.

Moreover Latvia, Lithuania and Poland have specialized anti-corruption agencies. Lobbying laws exist in Lithuania and Poland. It appears that Lithuania has gone furthest in the development of exclusive regulation for anti-corruption. In difference from all of the other countries, Lithuania has set out its anti-corruption policy approach in a particular piece of legislation – Prevention of Corruption Law.

Overall Denmark, Finland, Iceland, Norway, Sweden adhere to the mainstreaming policy of anti-corruption; Latvia, Lithuania and Poland hold anti-corruption as a policy branch *per se* with Estonia and Germany representing in-between cases. The legal framework of the Russian Federation is relatively closer to the mainstreaming approach although the adoption of an anti-corruption law is seriously considered² and anti-corruption programs are being developed.

3. External implementation and review mechanisms or procedures

3.1. External mechanisms

² Когда будет принят Закон «О противодействии коррупции»? (When will the Law „On Anti-corruption” be Adopted?). Известия, 3 April 2008. <http://izvestia.ru/media-center/conference1007/index.html>

Typical external implementation and review mechanisms or procedures include external audits (often carried out by a specific audit body placed independently in the state system), ombudsman activities, centralized civil service management agencies, and other inter-institutional arrangements. In the questionnaires the countries identified the following mechanisms of external review:

- The right of public officials to disclose non-confidential information about illegal administration or other things open to criticism (Denmark);
- External audit by the State Audit Office and financial control of the Ministry of Finance (Estonia);
- Legality supervision by the Parliamentary Ombudsman and the Chancellor of Justice (Finland);
- The right of the State Civil Service Administration to initiate and investigate disciplinary matters and impose disciplinary sanctions (Latvia);
- Monitoring the execution of legally determined assignments in local governments by the Ministry of Regional Development and Local Government (Latvia).

Although above mechanisms are not designed specifically for anti-corruption purposes, their operation is likely to have a preventive anti-corruption effect.

3.2. “Soft” anti-corruption institutions

Finland has set up the Anti-Corruption Network with tasks related to Finland’s international commitments in the field of anti-corruption as well as coordinating and developing an anti-corruption policy, promoting the detection, investigation and prosecution of corruption-related offences. Documents submitted by Finland mention that, in order to increase the effectiveness of anti-corruption activity, the Ministry of Justice has decided to establish an Anti-Corruption Co-ordination Group.³

Similarly Sweden has a National Network against Corruption for officials who are responsible for corruption issues in state authorities. The purpose of the network is to improve awareness about corruption issues and trigger the development of risk analysis in this area. Another goal is to launch a process within authorities to undertake and develop policies and action plans based on risk analysis.⁴

3.3. Full-scale anti-corruption agencies

Three of the countries, namely, Latvia, Lithuania and Poland have established specialized anti-corruption agencies. In Latvia there is the Corruption Prevention and Combating Bureau, which is supervised by the Prime Minister. In Lithuania the Special Investigation Service is accountable to the parliament and the President of Lithuania.

Both Latvia’s and Lithuania’s offices carry out investigations, including operative investigations, as well as engage in the development of preventive measures. The Latvian bureau also draws up administrative charges and imposes administrative punishments in cases of respective violations, carries out educational activities for

³ Helinä Lehtinen. Criminal Policy Department, Ministry of Justice. Finland. Written material provided by Finland.

⁴ *Nationellt nätverk mot korruption* (National Network against Corruption). <http://verva.se/verksamhetsstod/erfarenhetsutbyte/natverk/mot-korruption/>

public officials and the broader public. In the Lithuanian questionnaire, a special mention is made of the Special Investigation Service's right to undertake corruption risk analysis, which eventually leads to recommendations to implement preventive measures (e.g. the adoption of codes of conduct, anti-corruption strategies within the institution, implementation or new techniques etc.). These agencies were developed under certain influence from the example of the Independent Commission against Corruption in Hong Kong. The newest specialized anti-corruption agency is in Poland where the Central Anti-corruption Bureau was established in 2006.

4. Restrictions for public officials

4.1. Disqualification in the administrative procedure

A general disqualification clause is provided in the administrative procedure laws of most countries. The disqualification clauses may include several specific rules, for example, disqualification if the matter under review concerns the civil servant him/herself or his/her relatives/ persons who are otherwise closely related to the civil servant. Specific rules (where such exist) are often followed by catch-all provisions, which render a civil servant disqualified if any other circumstance exists that is likely to undermine confidence in his/her impartiality. Such disqualification principles apply to civil servants only. For example, political officials or judges normally would not operate within administrative procedure. However, the circle of employees covered by the term civil servant may vary from country to country. In the Russian Federation the Federal Law "On the State Civil Service of the Russian Federation" contains rules on activities, which are incompatible with a civil service position, and rules on conflict on interest.

4.2. Conflict of interest / anti-corruption laws

Estonia, Latvia, Lithuania, and Poland have adopted special laws that regulate various aspects of conflict of interest at a high level of detail.⁵ In the meantime conflict of interest rules are found also in other laws, for example, the Administrative Procedure Law in Latvia, the Public Service Law in Estonia, and special laws regulating the work of particular institutions / execution of particular function.

In these countries a general prohibition to carry out public functions in a conflict of interest situation applies to most categories of public officials both civil servants and political officials who are not part of the civil service. This general principle is complemented with a larger number of additional restrictions and prohibitions that vary from country to country and from one category of public officials to another. For example, one of the rules in Estonia states an official shall not exercise supervision over the activities of him/herself as an undertaking, or over a general partnership of which he/she is a partner or a limited partnership of which he/she is a general partner in performing his/her duties of employment or service. In Latvia there are restrictions on issuing administrative acts, performance of supervision, control, inquiry or punitive functions and entering into contracts, restrictions on commercial activities, including restrictions and control of post-employment business, and other rules.

⁵ Anti-corruption Law in Estonia, Law "On the Prevention of Conflict of Interest in the Activities of Public Officials" in Latvia, Law "On Coordination of Public and Private Interests" in Lithuania, Law on the Limitation of Economic Activity by Persons Exercising Public Functions in Poland.

4.3. Additional employment

In Denmark, Finland, Germany (on the federal level), Norway, and Sweden additional employment is generally allowed unless the additional work hinders the execution of the civil service function in terms of time, causes conflict of interest or otherwise impedes proper behavior.⁶ However, additional employment is often subject to permission of superiors while particular requirements and procedures vary from country to country.

Basic principles for additional employment are similar in Estonia, Latvia and Lithuania. Countries differ in terms of applicable criteria when a possibility to combine employment is to be reviewed in a particular case. In Estonia the Anti-corruption Law sets a general rule that officials shall not hold a second job with a work load higher and at a time different than permitted by the immediate superior if such employment damages the reputation of the position or office, or if performance of the duties of employment also means supervision over the other employer (there is, however, a number of categories of public officials to whom other rules of different laws apply). In Lithuania, the relevant criteria are a conflict of interest, risk of the use of public service for personal interests, official duties that involve control or supervision over the other employer. In Latvia, where a permission to combine employment is needed, one must assess whether a conflict of interest might occur, side employment would not contradict ethics norms of the public office or otherwise impede the execution of official duties.

In the Scandinavian countries, the mentioned principles apply mostly to civil servants. In Estonia and Latvia laws regulate additional employment of various categories of public officials including politicians. However, different categories of public officials are subject to a somewhat different regime in this matter. Estonia and Latvia appear to have rather sophisticated systems where additional employment is allowed but subject to complex sets of incompatibilities. All public officials are grouped in categories. Different sets of employment incompatibilities apply to different categories (in Latvia these are mainly provided for in the Law “On Prevention of Conflict of Interest in the Activities of Public Officials” while in Estonia these are covered in the Anti-corruption Law and in legal acts governing the activities of particular categories of public officials).

5. Declaration of assets of public officials

5.1. Special systems for public officials

Estonia, Latvia and Lithuania have special systems of declaration for public officials.⁷ In all of the three countries a single system applies to public officials of various categories – both civil servants and political officials. These declarations require

⁶ The relevant sources are the Civil Servants Law (*Tjenestemandsloven*, Denmark), Civil Servants Law (*Valtion virkamieslaki*, Finland), Federal Public Officials Law (*Bundesbeamtengesetz*, Germany), Administrative directives 10.13 additional employment, etc. (*Administrative bestämmelser 10.13 Ekstraerverv mv.*, Norway), Public Employment Law (*Lag om offentlig anställning*, Sweden).

⁷ Declaration of economic interests in Estonia, declaration of public official in Latvia, declaration of private interests in Lithuania.

public officials to declare assets (e.g. real estate, vehicles, and shares), debts, and income (e.g. salary, profit from commercial activities). In the case of Latvia public officials are also required to disclose any employment / office (remunerated or not) they hold in addition to their public office/s as well as transactions above a certain threshold. In Lithuania officials are explicitly required to declare gifts, services provided in value above a certain threshold, relations to any companies and organizations. In all three countries public officials are required to provide some information about their relatives (in Lithuania also other persons in relation to whom a conflict of interest may occur).

According to the submitted questionnaire also in Poland public officials of various categories (national and local civil servants and elected officials) are required to declare their assets such as shares and other securities, movable property components above a certain threshold, and debts. Both in Latvia and Lithuania suspicions have been raised in cases when declarations allegedly presented larger than real amounts of assets thus preparing explanations for supposed future bribes or other illicit income.

According to the Federal Law “On the State Civil Service of the Russian Federation” the Russian Federation has a somewhat simpler system where civil servants must submit information about their income, property and pecuniary obligations to the employer’s representative upon commencing the service and then annually.

5.2. No special declaration for public officials

Denmark, Germany, Iceland, Norway and Sweden do not have any special system of declarations for public officials. Apparently the review of their income and assets is done within the system of tax administration applying to residents at large.

5.3. Declarations for higher officials

Finland represents a special case between the Baltic countries and Poland on the one hand and Denmark, Germany, Iceland, Norway and Sweden on the other hand in that it has special mandatory declarations for higher public officials. The declarations in Finland cover information on commercial activities, additional employment and assets (significant company ownerships and shareholdings, real estate and other significant assets and financial responsibilities, but not regular housing property and mortgages). Statements are public except for the part concerning the financial situation of the official.⁸

5.4. Disclosure of information in declarations

Declarations of certain categories of higher public officials (the President of Republic, members of the parliament and government, judges, heads of local governments, etc.) in Estonia and Lithuania and almost all officials in Latvia are in part accessible to the public. For the rest of Estonian officials, disclosure is optional according to the will of the official in question. In Lithuania the declarations of other officials may be disclosed upon a substantiated decision by the Chief Committee of Service Ethics.

⁸ Helinä Lehtinen. Criminal Policy Department, Ministry of Justice. Finland. Written material provided by Finland.

The Lithuanian reply in the questionnaire states declarations “might be disclosed without declarer’s consent”. In the Russian Federation, except for civil servants appointed and dismissed by the President of the Russian Federation or the Government of the Russian Federation, information submitted by civil servants is confidential (it may even constitute the state secret in cases stipulated by law).⁹

6. Internal anti-corruption procedures – comparative review

This chapter focuses on rules and practices that provide opportunities to public agencies and even individual public officials to take steps to prevent or detect corruption internally. Some of these rules and practices are established in the national or regional legislation, some stem from nationally or regionally approved guidelines, yet others are set up upon the initiative of particular public agencies.

Executive agencies in most of the reviewed countries have some type of disciplinary procedure, rules for conduct when an illegal order has been issued, internal control, etc. Below is a review of a few specific procedures or aspects, which are not universally accepted or vary considerably in their design. The data underlying the comparative review are found in chapter eight (Internal anti-corruption procedures – country data).

The review is organized along nine topics:

- Reporting of suspected misconduct,
- Internal reporting and control over conflicts of interest,
- Whistleblowing,
- Treatment of illegal / unethical orders,
- Centralized v. decentralized systems of disciplinary liability,
- Units / officials responsible for anti-corruption policies within institutions internally,
- Internal policies,
- Practice of corruption risk assessment,
- Use of defined warning signs (red flags) of corruption.

6.1. Reporting of suspected misconduct

In most countries, public officials are required to report suspected corruption. Differences exist as to whether such requirement is explicitly included in a law (Estonia) or stem from general principles or guidelines (Denmark, Finland, Germany, Iceland, Norway, Sweden). The requirement to report suspected corruption is somewhat vague in Latvia, Lithuania, Poland and the Russian Federation.

In some of the countries the reporting procedure/addressees are specified in detail. Reporting must be made to the immediate superior or head of the agency, or the security police, the prosecutor and/or the police in Estonia. In the City of Hamburg employees may choose between reporting to a central unit in the authority or to their superiors although the latter are required to forward such information to the central units anyway.

⁹ The Federal Law “On the State Civil Service of the Russian Federation” (*Федеральный закон о государственной гражданской службе российской федерации*). Section 20.

6.2. Internal reporting and control over conflicts of interest

Another more generally accepted procedure is a requirement to inform superiors about conflicts of interest and additional employment. In most of the countries the immediate superiors of public officials have a significant role in managing conflicts of interest. Conflicts of interest are to be reported to one's superiors in Denmark, Estonia, Germany, Latvia, Lithuania, Norway, and the Russian Federation. Such reporting duty is not explicitly defined in Finland and Sweden although informing one's superior is implied. In Latvia there is a mutual duty between public officials and heads of agencies. While the former must report conflicts of interest to superior officials, the latter have a duty, in conformity with their competence, not to allow public officials working in this authority to perform their functions in a conflict of interest situation. Also in the Russian Federation superiors are to take measures to prevent or manage conflicts of interest.

Apart from the above procedures, specific countries have their special peculiarities. Thus in Denmark, high-ranking civil servants must report to the employing authority if they consider becoming members of boards of companies. In Lithuania state service employees are required to report all proposals received about shifting to a different job if such proposals may cause a conflict of interest. Also accepted proposals must be reported.

The dominant model found in most countries is that the duty of managing conflicts of interest falls first and foremost on the very public official concerned and on the immediate superior.

6.3. Whistleblowing

None of the countries has explicit legal norms about the protection of whistleblowers who report corruption in the public sector. While the term whistleblowing itself does not have a uniformly settled meaning, in this study it is generally understood as reporting about corruption or other adverse circumstances by using channels outside the regular chain of subordination and outside other procedure explicitly foreseen in the law. Therefore reporting about corruption, for example, to one's superiors does not constitute an act of whistleblowing.

Some countries, for example, Denmark emphasize that whistleblowing is protected as part of the general freedom of expression. Therefore no sanctions may be applied unless the official in question has violated any norms applicable to his/her office.

A number of other countries such as, for example, Estonia, Finland, Germany (on the federal level), Iceland, and the Russian Federation apparently do not address the issue of a public official reporting corruption directly to, say, the media or NGOs. In some countries, for example, Latvia, Lithuania and Norway labor legislation protects employees who have reported information about adverse conditions at the workplace from retaliation. Norway represents a case where ethics guidelines present detailed considerations to be taken into account before blowing the whistle – these include thinking twice about one's own motivation and actual seriousness of the situation, serious consideration of possibilities to report internally.

In the countries under review, whistleblowing is not commonly treated explicitly in either legislation or policy documents. Whistleblowing appears not to be particularly encouraged and available protections tend to be implicit rather than explicit. Norway is the only country that has defined the principles and considerations applicable to whistleblowing in somewhat greater detail.

6.4. Treatment of illegal / unethical orders

A prohibition to implement illegal orders is a significant procedure to prevent corruption. Public officials / civil servants (depending on national definitions and spheres of application) are prohibited to implement illegal orders in Denmark, Norway, the Russian Federation and most other countries under review.

Certain peculiarities apply, though. Thus, if the legality of the order is doubted only, for example, due to differing interpretations of the law, it must be implemented in Denmark. Some countries provide a procedure to override the objections of a civil servant. Thus in Estonia, when in doubt as to the legality of an order, a civil servant is required to immediately notify the issuer of the order and the issuer's superior of the public servant's doubts. If the order is repeated in writing, the order shall be executed (some exceptions apply though). In Germany (on the federal level), doubts must be reported to the immediate superior. If the order is sustained than doubts are to be reported to the next higher superior. If the order is still maintained, it has to be implemented.

Latvia and Lithuania stand out as countries where public officials do not have explicit legal prohibition to implement illegal orders. Even though one cannot necessarily conclude that Latvian and Lithuanian public officials must implement illegal orders, it is unclear what their proper course of action should be in such cases. In Latvia only police officers have an explicit duty to observe the requirements of the law in cases when an illegal order has been received.

6.5. Centralized v. decentralized systems of disciplinary liability

No *a priori* assumptions can be made as to whether a decentralized or centralized system of disciplinary liability is more favorable to the prevention of corruption. A decentralized system emphasizes the responsibility of particular agencies while a centralized system might be more prone to political steering.

Most countries have a decentralized system in the sense that either the agency where a public official works or an institution, which has appointed him/her, is entitled to apply disciplinary sanctions.

Poland and Latvia have multi-level systems where decisions to initiate disciplinary proceedings and impose penalties can be made on more than one level – by the particular agency or by a special body. Latvia stands out as a case where unusually direct political influence is institutionally possible. With regard to civil servants (not all public officials are civil servants), not only both the employing agency and the State Civil Service Administration may initiate disciplinary proceedings, but also Cabinet ministers (about civil servants in agencies subordinate to the minister) and the

Prime Minister have such power. Moreover the Prime Minister may take over any disciplinary matter against a civil servant for his/her own review and impose penalty.

6.6. Units / officials responsible for anti-corruption policies within institutions internally

Internal units/officials are means that may help particular agencies concentrate their competence on corruption issues. If set as a general policy, they may also strengthen the responsibility of particular agencies in the task to prevent corruption. Nevertheless this is not a widespread policy in the countries under review. Rather experts received an impression that countries, which are stereotypically clean of corruption, have not realized the need to concentrate so much on corruption prevention internally. Meantime countries, which have recognized corruption as a major problem, have not developed internal units broadly because they tend to rely on more centralized instruments.

Experts did not find any evidence of a general practice to appoint units / officials responsible for anti-corruption policies within institutions internally in any countries except Germany, Lithuania and the Russian Federation. In these three countries approaches appear to be rather different, though.

The German approach on the federal level somewhat emphasizes the contact persons for corruption prevention as centers of counsel in that their functions are primarily communication, advising as well as assessing indications of corruption. In the Lithuanian case the role is less clear because the translation of the applicable government regulation, which determines the status of such divisions and officials, was not available. According to information presented by a Lithuanian expert their role appears somewhat less of communication and advice rather more of system analysis (establishing spheres prone to corruption, review of internal legal acts or draft acts with regard to corruption risk). However, this is a tentative conclusion only. In the case of Russia, the creation of specialized subdivisions is recommended in model programs against corruption and internal security units function in a number of agencies.

The above information does not imply that no agency in any of the countries other than Germany, Lithuania, and Russian Federation have an internally appointed official or unit to deal with corruption issues. Rather such institutional approach is just not part of a general policy.

6.7. Internal policies

Internal policies of particular agencies include adoption and implementation of internal codes of conduct, setting precise standards and guidelines as to what types of gifts and favors are / are not permissible for public officials, holding staff discussions on controversial aspects of ethical conduct, maintaining the so-called four-eye principle, rotation of staff, setting specific internal reporting requirements and monitoring routines as instruments of internal steering and control, application of technical means of control, etc. Internal policies may also include corruption risk assessments and monitoring of corruption warning signs that are dealt with below.

Intra-agency codes of ethics/conduct and/or explanatory guidelines are among most common tools. This report mentions such practices in Denmark, Iceland, Latvia, Lithuania, Norway, Sweden but it is likely that intra-agency codes are at least occasionally found in all of the covered countries.

The rotation of staff is a method, which while commonly recommended is rarely used. Various sources indicate that the rotation of staff has been considered but not widely applied in, for example, Denmark, Latvia, Lithuania, Norway.

Otherwise policies adopted or required to be pursued within agencies represent a wide variety. Among interesting tools are centrally supported (in terms of methodology) and internally conducted discussions about offers of gifts or favors, conflict of interest, outside employment, etc. Discussions represent probably one of the most efficient methods to turn abstractly worded norms of conduct into internalized and practically applicable guidance for public employees.

The German case stands out in that federal agencies are requested to take special care in the selection of staff for areas of activity especially vulnerable to corruption (such areas are determined in accordance with specific criteria). Particularly the length of assignments in such positions should not exceed five years. If the term is extended beyond this period, the reasons shall be recorded.

In the Latvian case, the Naturalization Board represents an approach where the internal steering and control system is strongly shaped by considerations to prevent corruption or other professional misconduct. In the process of naturalization individual cases are distributed in varying proportions for repeated review by various officials at various stages.

The list of various examples could be continued but rather clearly the general conclusion must be that means used within various agencies in various countries vary reflecting differences in among other things administrative culture and perceived level of corruption. Apart from specific anti-corruption measures, several countries emphasize the importance of general administrative principles of organizing work within public agencies. Notably Finland stresses the importance of its referendary system where all administrative decisions are made upon presentation (proposal) of a public official of lower rank than the decision-maker. The referendary (*rapporteur*) is legally responsible for a decision with the decision-maker unless he/she files an objection to the decision.

6.8. Practice of corruption risk assessment

Corruption risk assessment could in principle be described as an analytical process whereby the likelihood of corruption is assessed and measures are sought to reduce this likelihood.

Germany, Latvia, and Lithuania are countries with general policies making public agencies carry out corruption risk analysis (in Germany and Lithuania its necessity is to be considered while it is generally compulsory in Latvia). In Latvia this duty and a requirement to develop internal control systems for the prevention of corruption applies to each particular agency. In Lithuania corruption risk analysis is to be carried

by the Special Investigation Service. Thus the countries represent somewhat differing approaches. While Latvia attempts to exert pressure on particular agencies to assess their own risks, Lithuania seems to emphasize the use of special know-how accumulated in the Special Investigation Service.

The data gathered for this report does not allow for the evaluation of the net effectiveness of the exercise of corruption risk assessment. It appears that special corruption-focused risk assessment is not a general policy in the majority of countries. Perhaps this is partially explained by the fact that in-depth corruption risk assessment demands significant resources as was noted by Estonia where it has been carried out in a few agencies.

6.9. Use of defined warning signs (red flags) of corruption

Since corruption is almost always a hidden type of crime and usually all of the involved parties have an incentive to keep it hidden, heads of agencies may run into difficulties where corruption is going on but little means are available to detect it. A hardly proven sense of something going wrong may be about the only sign of corruption. In order to have a chance to better monitor and control corruption-related developments in an agency, some countries on the national level or in other countries just particular agencies have developed lists of warning signs or *red flags*. These are patterns of behavior or peculiarities in the style of work that have shown to be associated with corrupt conduct. While none of such warning signs constitute any proof of illegal activity, their recurrence or systematic manifestation of several signs simultaneously may indicate a manager where to pay more attention or where to direct preventive actions.

Germany and Norway are countries where experts identified the most thorough catalogues of warning signs or *red flags*. In Germany these are developed primarily as tools for heads of agencies while in Norway they are elaborated as methodology for auditors of the State Audit office. It appears that the approach, which is based on warning signs, is not generally adopted in the countries of the region but it could be a strong tool for managers for the control of corruption. The experts also obtained evidence that a similar approach is used in the Tax and Customs Board of Estonia and in the Customs in Latvia.

7. Internal anti-corruption procedures – country data

This part of the report represents the main elements of internally used anti-corruption procedures on a country by country basis. Information is primarily drawn from laws and other legal regulations, guidelines and official explanatory material of various statutes, international (for example, GRECO) assessments, questionnaires submitted by countries and answers provided by country representatives upon request.

Information somewhat varies in its comprehensiveness and level of detail from country to country, this is explained by varying amount of information provided by the country, whether or not the experts could use documents in the national language of the country, how many of relevant documents is posted on the internet. Where only one source is available, a quote with no additional comments is usually shown especially if the quoted information is already an assessment of the situation.

7.1. Denmark

- **Reporting of suspected misconduct.** “According to a general principle of administrative law, civil servants are obliged to inform their superior of suspicions of corruption or of any other criminal offence they may come across when exercising their functions. A civil servant may also report suspicions of corruption they may come across when exercising their duties directly to the law enforcement agencies or relevant control or supervisory authorities. A civil servant may not be subject to disciplinary or any other sanctions for having reported suspected acts of corruption in good faith.”¹⁰
- **Internal reporting and control over conflicts of interest.** “There are no specific disclosure requirements for public servants. The Danish authorities stated that “according to principles of employment law in the public sector, an employee must inform, to a certain extent, the employer of potential conflicts of interest before and during his/her employment”.”¹¹ Thus there is no uniformly strict rule on routine-based disclosure of factors, which may lead to conflicts of interest.

In addition to the legal framework, guidance *Good Conduct in the Public Sector* was adopted and published in 2007. This document applies to employees in all authorities in all parts of the public sector (state, regional, local). According to the guidance an employee has an obligation to inform a superior when he/she finds him/herself in a conflict of interest vis-à-vis a concrete case. A superior is also to be informed when an employee is in doubt about his/her being in a conflict of interest so that the issue can be resolved.¹²

- **Whistleblowing.** Public employees have a right to disclose information to external parties in case of illegal administration or other reprehensible circumstances in the public sector. Public employees shall not be subject to disciplinary or any other sanctions for having reported in good faith corruption or suspicion hereof.¹³
- **Treatment of illegal / unethical orders.** Public sector employees have both a right and duty to refuse implementing an illegal order. If such order is implemented, the employee him/herself will along with the superior carry liability. If a superior insists on the execution of an illegal order although have been informed about the illegal character of the order, the employee should inform the next superior thereof and meantime let the immediate superior know that the issue has been brought forward.¹⁴

If doubts exist about the legality of an order, for example, because of differing interpretations of legal requirements, the employee would not be held liable for implementing such order. A refusal to implement such an order would constitute a

¹⁰ GRECO. Second Evaluation Round. Evaluation Report on Denmark. Adopted by GRECO at its 22nd Plenary Meeting (Strasbourg, 14-18 March 2005). P.10.

¹¹ Ibid. P.9.

¹² *God adfærd in det offentlige* (Good Conduct in the Public Sector). P.24.
http://cms.ku.dk/upload/application/pdf/355e7e20/God_adfaerd.pdf

¹³ Ibid. Pp. 37, 38.

¹⁴ Ibid. Pp.10-11.

service offence even if it is later decided that the order be regarded as illegal. However, in such case, all suppositions must be against the employee to constitute sufficient grounds for actually making him/her liable.¹⁵

- **Centralized v. decentralized systems of disciplinary liability.** The system of disciplinary liability is decentralized in Denmark. According to an assessment by GRECO: “Every single agency and department is competent to examine disciplinary cases and to make its own internal investigations. Legality, impartiality, honesty and efficiency are some of the core values that must be applied during such an investigation. The disciplinary decisions/sanctions may be challenged before the courts.”¹⁶
- **Units / officials responsible for anti-corruption policies within institutions internally.** No information was reported by Denmark or otherwise found about the existence and operation of especially designated officials / units responsible for the anti-corruption policies within institutions.
- **Internal policies.** Corruption is regarded as rare in the Danish public administration. Therefore internal anti-corruption policies are not common. This is noted, for example, in an evaluation report by GRECO, speaking about the rotation of staff: “As corruption is considered to be rare in the public sector, no specific provisions of rotation of staff have been implemented. Nevertheless, mobility and other measures aimed at developing competence are generally promoted to increase efficiency in the public sector.”¹⁷

In a way, an exception is represented by the Danish International Development Assistance (*Danida*) agency, which has adopted an action plan with an aim to reduce corruption as part and parcel of efforts to reduce poverty in the countries in which Danish aid funds are being used. The action plan contains three components: preventing corruption within the Danish aid delivery system, preventing corruption in the use of development aid provided by Denmark, helping to combat corruption in the countries receiving Danish development aid.¹⁸

Measures for the Danish aid delivery system¹⁹ include the adoption of a code of professional ethics (*Danida* Anti-corruption Code of Conduct), mandatory training of all staff who work with or in places where development assistance is administered, appointment of anti-corruption focal points in all entities administering Danish development in Copenhagen or abroad, ensuring a financial threshold for acceptance of gifts and other hospitality in each entity, ensuring ethical norms are introduced in contracts and development cooperation agreements, review of other procedures from

¹⁵ Ibid. Pp.11-12.

¹⁶ GRECO Second Evaluation Round. Evaluation Report on Denmark. Adopted by GRECO at its 22nd Plenary Meeting (Strasbourg, 14-18 March 2005). P.10.

¹⁷ Ibid.

¹⁸ *Danida* Action Plan to Fight Corruption 2003 – 2008. Revised version December 2003.

http://www.amg.um.dk/NR/rdonlyres/176B4D78-09FE-4B54-88A7-BA7AE3197E9F/0/corruption_action_plan.pdf

¹⁹ The Danish aid delivery system includes the Ministry of Foreign Affairs staff, *Danida* technical advisers, staff directly employed by projects and programmes funded by Denmark through parallel financial management systems, individual consultants as well as consulting companies contracted by *Danida*, and companies on *Danida* contracts for the purpose of project implementation.

an anti-corruption point of view, preparation, approval, introduction and communication of an enforcement system.²⁰

Moreover Denmark added information about the Trade Council of Denmark, which is also part of the Ministry for Foreign Affairs and responsible for export and investment promotion. The Trade Council has recently launched a detailed anti-corruption policy. The policy contains an internal as well as external dimension. Internally, the policy codifies and makes explicit the organisations own values, rules and procedures. It comprises clear rules for all staff acting on behalf of the organization, including locally employed staff abroad, on how they should relate to corruption and bribery both as a public authority and as a service provider. The zero-tolerance policy does not accept any forms of bribery or corruption within the Trade Council, collaboration partners or customers. The internal policy is summarized in 7 principles applying to the work of all staff: “How we work”. Externally, the anti-corruption policy comprises a number of services offered to Danish companies helping them to avoid corruption and to lower the risks associated with doing business in countries where corruption is widespread.²¹

- **Practice of corruption risk assessment.** No information about the practice of corruption risk assessment was reported by Denmark or otherwise found during the study.
- **Use of defined warning signs (red flags) of corruption.** The experts did not find any sources mentioning the use of a system of indications (*red flags*) for the identification of possible misconduct in Denmark.

²⁰ Danida Action Plan to Fight Corruption 2003 – 2008. Revised version December 2003.

Information provided through Ms. Karsten Petersen, CBSS Senior Official for Denmark. 08.05.2008.

²¹ Information provided through Ms. Karsten Petersen, CBSS Senior Official for Denmark. 08.05.2008.

7.2. Estonia

- **Reporting of suspected misconduct.** An official is required to notify the immediate superior or head of the agency, or the security police, the prosecutor and/or the police in writing of a corrupt act which becomes known to him/her.²² If an official fails to report corruption, he/she is subject to a fine and may be released from office.
- **Internal reporting and control over conflicts of interest.** The Anti-corruption Law provides two types of procedures – one applies when an official has a duty to participate in making collective decisions and has a conflict of interest in relation to this decision, the other applies when decisions are to be made individually.

In the former case an official is required to notify promptly a body concerned and his/her immediate superior or a person or body with the employment or appointment authority thereof and forego the making of the decision. The person or body who has designated an official as a member of a body making collective decisions, may designate another person for the one-time substitution of the official.

In the latter case an official is required to remove him/herself from making the decision and notify his/her immediate superior of a conflict of interest. The immediate superior shall designate another official to make the decision.²³ The Anti-corruption Law does not impose any specific duties on superiors to verify the occurrence of conflicts of interest among subordinates other than by reacting to notifications submitted by the subordinates concerned.

- **Whistleblowing.** The experts did not identify any specific rules or guidelines to handle the issue of reporting irregularities to parties outside the state apparatus (e.g. the media or NGOs). Analysis of the need for and suitability of the whistleblower protection system is foreseen in the Implementation Plan for the Anti-Corruption Strategy 2008-2012.²⁴
- **Treatment of illegal / unethical orders.** The Public Service Law defines prohibited orders, namely, those that are in conflict with law, exceed the authority of the issuer of the order, require acts which the recipient of the order has no right to perform. When in doubt as to the legality of an order, a public servant is required to immediately notify the issuer of the order and the issuer's superior of the public servant's doubts. If the order is repeated in writing, the order shall be executed (some exceptions apply though).²⁵ The law does not explicitly address conduct in cases when unethical orders have been given.
- **Centralized v. decentralized systems of disciplinary liability.** In the public service, Estonia has a decentralized system of disciplinary liability, namely, a

²² CBSS WGDI questionnaire, Estonia. Anti-corruption Law (*Korruptsioonivastane seadus*), Section 23.

²³ Anti-corruption Law (*Korruptsioonivastane seadus*), Section 25.

²⁴ The Implementation Plan for the Anti-Corruption Strategy 2008-2012. Activity 7.3. <http://www.korruptsioon.ee/orb.aw/class=file/action=preview/id=35714/Implementation+Plan+for+the+Anti-Corruption+Strategy+2008-2012.pdf>

²⁵ The Public Service Law (*Avaliku teenistuse seadus*), Section 62.

person or administrative agency authorized to appoint the given official to office has the right to impose a disciplinary punishment.²⁶

- **Units / officials responsible for anti-corruption policies within institutions internally.** No information was reported by Estonia or otherwise found about the existence and operation of especially designated officials / units responsible for the anti-corruption policies within institutions.
- **Internal policies.** The experts did not identify any sources about internal policies having facilitated the implementation of the general legislation in particular institutions. The Anti-Corruption Strategy 2008-2012 foresees measures for the prevention of corruption within some specific areas of administration, e.g. in the grant of the right to drive and in roadworthiness testing and registration of vehicles.²⁷
- **Practice of corruption risk assessment.** The strategy document *An Honest State* (adopted in 2003) foresaw a number of measures aimed at diagnosing corruption risks and preventing corruption within public agencies.²⁸ Regarding activities aimed at particular agencies, a few tasks are of particular relevance.

One of such tasks is conducting of self-diagnosis in authorities operating in fields at risk of corruption to obtain an overview of the risk of corruption in each authority (the level of resistance of the authority and measures that have been necessary to use at the authority level).²⁹ The risk analysis has been carried out according to the same methodology in the Security Police and – as a pilot project – in the Ministry of Justice. The analysis included the examination of rules in the agency, interviews with officials on the possible risks and giving of recommendations.³⁰ Dutch methodology was used, which is introduced in a document *Guidelines for Integrity Projects. Guide to a Preventive Self-examination of Vulnerabilities within the Public Sector*.³¹

- **Use of defined warning signs (red flags) of corruption.** The Internal Control Department of the Tax and Customs Board of Estonia uses methodology worked out by the Ministry of Finance of Estonia for the identification of indications of possible corruption/misconduct and verifying possible suspicions.³²

²⁶ Ibid. Section 86.

²⁷ The Anti-Corruption Strategy 2008-2012. Pp.36-38.

<http://www.korruptsioon.ee/orb.aw/class=file/action=preview/id=35712/ANTI+CORRUPTION+STRATEGY+2008-2012.pdf>

²⁸ An Honest State. The Government of the Republic Anti-corruption Strategy.

<http://www.korruptsioon.ee/orb.aw/class=file/action=preview/id=13373/AN+HONESTSTATE.pdf>

²⁹ Ibid. P.5.

³⁰ Information provided by Ms. Mari-Liis Sööt, Ministry of Justice of Estonia. 07.04.2008.

³¹ *Guidelines for Integrity Projects. Guide to a Preventive Self-examination of Vulnerabilities within the Public Sector. Part I.* Ministry of the Interior and Kingdom Relations. 2003. <http://www.psagency-agencefp.gc.ca/veo-bve/documents/GuidelinesforIntegrityProjectspart1.pdf>

³² Information provided by Mr. Veljo Naarits, the Tax and Customs Board of Estonia, 22.04.2008.

7.3. Finland

- **Reporting of suspected misconduct.** In Finland, administrative authorities are under obligation to report to the police corruption cases detected in the activities of the authority. Superiors have to report suspicions on their subordinates at the risk of becoming otherwise guilty of violation of official duty or negligent violation of official duty (Penal Code, Chapter 40 Sections 9 and 10).³³ In 2005 the Ministry of Finance published a handbook *Values in the Daily Job – Civil Servant’s Ethics*, which requires: “Any suspected corruption within operational units must be reported to the authority.”³⁴
- **Internal reporting and control over conflicts of interest.** In general terms, the Administrative Procedure Law, which sets rules for disqualification, does not address reporting of conflicts of interest or control of subordinates’ conflicts of interest by superiors. It is required that an official shall him/herself decide as to his/her disqualification. A different procedure applies to deciding on the disqualification of a member or the referendary of a multimember body. In such case, a decision on the disqualification shall be made by the body.³⁵ Possible conflicts of interest of civil servants that could occur due to additional employment are dealt with through the requirement of permission.³⁶
- **Whistleblowing.** No explicit rules for the protection of whistleblowers in the civil service have been mentioned by Finland.
- **Treatment of illegal / unethical orders.** According to the Constitution “the exercise of public powers shall be based on an Act. In all public activity, the law shall be strictly observed.” (Section 2) This principle of legality (and rule of law) – which is traditionally very strong in Finland – guides civil servants in their activities. Civil servants may refuse to implement unlawful administrative orders.³⁷
- **Centralized v. decentralized systems of disciplinary liability.** The liability system for civil servants is decentralized in the sense that an employing authority may take measures against a civil servant who does not perform his/her duties properly.³⁸ The Ministry of Justice of Finland emphasized under this point also the Parliamentary Ombudsman and the Chancellor of Justice as the highest supervisors of legality and the State Audit Office as a supervisor of state finance, all of which form an essential part of the liability system. The rights of individuals are also guaranteed by Section 118 of the Constitution which prescribes that everyone who has suffered a violation of his/her rights or sustained loss through

³³ Information provided by the Ministry of Justice of Finland, 09.05.2008.

³⁴ *Values in the Daily Job – Civil Servant’s Ethics. A handbook for the state administration.* Ministry of Finance. P.22.

http://www.vm.fi/vm/en/04_publications_and_documents/01_publications/06_state_employers_office/20050114Values/Values_in_the_daily_job.pdf

³⁵ Administrative Procedure Law (*Yleiset säännökset*), 434/2003. Section 29, Part 2.

³⁶ State Servants Law (*Valtion virkamieslaki*), 750/1994. Section 18.

³⁷ Information provided by the Ministry of Justice of Finland, 09.05.2008.

³⁸ GRECO Second Evaluation Round. Evaluation Report on Finland. Adopted by GRECO at its 19th Plenary Meeting (Strasbourg, 28 June – 2 July 2004). P.13.

an unlawful act or omission by a civil servant shall have the right to raise criminal charges against the civil servant and claim damages from the authority or the civil servant.³⁹

- **Units / officials responsible for anti-corruption policies within institutions internally.** To this question Finland indicates that state authorities and agencies have to organize internal supervision of finances according to the Law on State Budget (Section 24 b §).⁴⁰
- **Internal policies.** Finland makes a special note of the referendary system where all administrative decisions are made upon presentation (proposal) of a public official of lower rank than the decision-maker. The referendary (*rappporteur*) is legally responsible for a decision with the decision-maker unless he files an objection to the decision.⁴¹

Other than the referendary system, internal mechanisms mentioned by Finland are:

- Principles of good governance (including the right to be heard, right to receive a reasoned decision, right of appeal);
 - Low hierarchical structures and autonomy with self-responsibility in administration;
 - In the state administration, devolution of powers to subsidiary institutions;
 - Efficient correctional system (suspension from office, termination of office);
 - Decentralized staff-management in state administration.⁴²
- **Practice of corruption risk assessment.** No information about the practice of corruption risk assessment was reported by Finland or otherwise found during the study.
 - **Use of defined warning signs (red flags) of corruption.** The experts did not find any sources mentioning the use of a system of indications (*red flags*) for the identification of possible misconduct in Finland.

³⁹ Information provided by the Ministry of Justice of Finland, 09.05.2008.

⁴⁰ Ibid.

⁴¹ CBSS WGDI questionnaire, Finland.

⁴² Ibid.

7.4. Germany

Prevention of corruption in the Federal Administration of Germany is largely based on the Federal Government Directive Concerning the Prevention of Corruption in the Federal Administration (*Richtlinie der Bundesregierung zur Korruptionsprävention in der Bundesverwaltung*).⁴³ The directive applies to all federal agencies as well as entities which are wholly owned by the Federal Republic of Germany.

The directive has a number of annexes and recommendations attached: particularly anti-corruption code of conduct (*Verhaltenskodex gegen Korruption*), guidelines for supervisors and heads of public authorities/agencies (*Leitfaden für Vorgesetzte und Behördenleitungen*), recommendation on the identifying and analyzing areas of activity especially vulnerable to corruption (*Empfehlung zu Nr. 2 der RL: Feststellen und Analysieren besonders korruptionsgefährdeter Arbeitsgebiete*), recommendation on personnel hiring for positions especially vulnerable to corruption (*Empfehlung zu Nr. 4 der RL: Personal*), etc.

- **Reporting of suspected misconduct.** Anti-corruption code of conduct (Annex 1 to the directive) requires staff to inform one's supervisor and the contact person for corruption prevention in case of specific indications of corrupt behavior.

The directive envisages specific reporting requirements. In case of suspected corruption offence, the head of the agency is to inform the public prosecutor's office and the highest service authority. Moreover the supreme federal authorities shall report annually to the Ministry of Interior on the cases of suspected corruption on which proceedings have been concluded during the reported year.⁴⁴

- **Internal reporting and control over conflicts of interest.** According to the Administrative Procedure Law, if grounds exist to substantiate mistrust against the impartiality of a representative of the authority or such grounds are claimed by one of the parties, the representative of the authority should inform his/her superior and abstain from participation in the matter.⁴⁵
- **Whistleblowing.** No explicit rules for the protection of whistleblowers in the civil service are present in Germany on the federal level.
- **Treatment of illegal / unethical orders.** If a federal public official has concerns about the legality of an order, he/she must voice the concern immediately to the direct superior. If the order is maintained but the concern of the public official persists, he/she must turn to the next higher superior. If the latter maintains the order, the public official must implement it unless the relevant conduct is

⁴³ Federal Government Directive Concerning the Prevention of Corruption in the Federal Administration (*Richtlinie der Bundesregierung zur Korruptionsprävention in der Bundesverwaltung*). The Federal Ministry of Interior. 30.07.2004.
http://www.bmi.bund.de/nr_1205064/Internet/Content/Common/Anlagen/Themen/KorruptionSponsoring/RL_englisch_templateId=raw.property=publicationFile.pdf/RL_englisch.pdf

⁴⁴ Ibid., Section 10.

⁴⁵ Administrative Procedure Law (*Verwaltungsverfahrensgesetz*). Section 21.

punishable or against regulations and this is recognizable to him/her or such conduct would hurt human dignity.⁴⁶

- **Centralized v. decentralized systems of disciplinary liability.** On the federal level, there is no centralized system of disciplinary liability. As mentioned in the assessment by GRECO: “The higher hierarchical superior should commence all relevant investigations in line with the standard procedure established in the Federal Act on Disciplinary Proceedings.”⁴⁷
- **Units / officials responsible for anti-corruption policies within institutions internally.** The directive foresees contact persons for corruption prevention (their tasks involve communication with agency staff, advising managers, monitoring and assessing indications of corruption, public information about penalties under public service law and criminal law) and special temporary or permanent organizational units to oversee corruption prevention measures if circumstances warrant. Staff awareness, education and training are also envisaged by the directive.⁴⁸
- **Internal policies.** Most internal policies, which stem from the directive, have been addressed under the other points.
- **Practice of corruption risk assessment.** The directive envisages a risk-based approach whereby areas of activity especially vulnerable to corruption are to be identified in all federal agencies. For areas of especially vulnerable to corruption, the principle of greater scrutiny is to be particularly observed. Moreover, in such areas, staff members are to be selected with particular care and the length of staff assignments is in principle to be limited (should not exceed five years).⁴⁹
- **Use of defined warning signs (red flags) of corruption.** Annex 2 of the directive “Guidelines for supervisors and heads of public authorities/agencies” contains a list of *neutral signs* and *warning signs* of corruption. Defining such signs is based on an assumption that corrupt activity is often associated with certain typical behaviors. The neutral signs comprise such typical behavior that may, however, turn out to be regarded as neutral or even positive. These include, for example, conspicuous and unexplainably high standard of living, unexplainable resistance to a change of tasks or transfer, decreasing identification with the workplace or tasks, etc. The warning signs are viewed more directly as characteristic of administrative corruption, for example, circumventing or ‘overlooking’ regulations, a growing number of ‘minor irregularities’, unusual decisions without a comprehensible rationale, conspicuously brief processing times for certain approvals, etc. Supervisors and heads of public authorities are expected “to check to see whether this indicator, together with the surrounding circumstances, points to a danger of corruption”.⁵⁰ The below table presents the full list of neutral and

⁴⁶ Federal Public Officials Law (*Bundesbeamtengesetz*), Section 56.

⁴⁷ GRECO Second Evaluation Round. Evaluation Report on Germany. Adopted by GRECO at its 24th Plenary Meeting (Strasbourg, 27 June - 1 July 2005). P.13.

⁴⁸ *Richtlinie*. Sections 5 and 6.

⁴⁹ *Ibid.* Sections 2, 3, 4.

⁵⁰ *Ibid.* Annex 2, part II.

warning signs. The latter are sorted into indications in the workplace and indicators related to outside contacts.

Neutral signs	Warning signs in the workplace	Warning signs related to outside contacts
Conspicuous and unexplainably high standard of living; lavish lifestyle, display of status symbols	Circumventing or 'overlooking' regulations; a growing number of 'minor irregularities'; discrepancies between actual transactions and operations and their subsequent documentation	Conspicuously deferential treatment of applicants or bidders
Conspicuous private contacts between the employee and third parties (e.g. invitations, secondary activities, consulting contracts; capital investments)	Lack of identification with the workplace or tasks	Preference for limited tender procedures or invitations for tenders with discretionary award of contract; also splitting contracts so as to enable discretionary awards of contract; avoiding asking for additional bids for purposes of comparison
Unexplainable resistance to a change of tasks or transfer, especially if connected with an actual or prospective promotion or salary increase	Unusual decisions without a comprehensible rationale	Substantial or repeated exceeding of contract amounts
Secondary activities without the necessary authorization or notice	Different assessments and decisions on transactions and operations with similar content but different applicants; abuse of discretionary powers	Procurement not at usual market prices; unreasonable acquisitions; conclusion of long-term contracts without transparent competition on conditions unfavourable for the agency
Unusual, unexplainable behaviour (e.g. due to blackmail or a bad conscience); increasing reticence; sudden changes in behaviour towards co-workers and supervisors	Granting of authorizations (e.g. with exemption from stipulations) while circumventing other responsible agencies	Conspicuously frequent 'miscalculations'; subsequent corrections to specifications of goods or services
Decreasing identification with the workplace or tasks	Intentionally circumventing controls; isolating areas responsible for certain tasks	Incoming mail in award matters without official entry stamp (received via 'personal channels')
Social problems (alcohol or drug addiction or compulsive gambling, etc.)	Carrying out operations in secret	Costly additional work
Craving for recognition, boasting about private or work-related contacts	Conspicuously brief processing times for certain approvals	Secondary activities of employees or activities of their family members for companies which are also contractors or applicants of the public administration
Acceptance of advantages from third parties (special conditions for purchases, free restaurant meals, invitations to private or business events of 'clients')	Preference for certain applicants or bidders	Overly familiar manner or conspicuous deference when negotiating with companies;
Great generosity on the part of businesses (e.g. sponsoring).	Trivializing the principle of thrift	Companies exploiting (supposed) positions of power;

	Attempts to influence decisions in areas beyond one's own responsibility and for which the interests of third parties are important	Frequent 'business trips' to certain firms (particularly conspicuous if involving unnecessary overnight stays)
	Tacit acceptance of misconduct, in particular unlawful behaviour	Companies establishing a 'permanent presence' in the workplace (with specific decision-makers or desk officers); certain company representatives visiting only when 'their' staff members are present
	Inadequate or nonexistent control of operations where particularly needed; weak administrative and task-related supervision	Absence of the usual conflicts with companies and applicants
	Lack of response to suspicious circumstances or events	
	Too many tasks concentrated on one person	

The scope of the study includes also policies in the city of Hamburg and the federal lands of Mecklenburg-Vorpommern and Schleswig-Holstein. The study shows that anti-corruption guidelines are found also on the land level in Germany.

7.4.1. The City of Hamburg

The General Administration Directive on Measures for Combating Corruption (Especially Prevention) forms specific legal framework for preventive measures.⁵¹ Apart from general considerations, such as the definition of corruption, the directive provides a catalogue of anti-corruption measures. These include commonly known measures such as corruption risk analysis, rotation of personnel, the so-called four-eye principle, education, verification of compatibility of the public service and additional employment.

The directive emphasizes particularly the reporting duty. Employers have a duty to report when they receive information and conclude that an offence of corruption or corruption-related character could take place. They may choose to report to either their superior or to a central unit set up by the authority. The superiors are always obliged to forward such reports to the central authorized units. The latter are to report to the public prosecution and the Department of Internal Investigation if the verification of a report grounds suspicions about legally punishable corruption.

7.4.2. Mecklenburg-Vorpommern

⁵¹ The General Administration Directive on Measures for Combating Corruption (Especially Prevention) (*Allgemeine Verwaltungsvorschrift über Maßnahmen zur Korruptionsbekämpfung (insbesondere Korruptionsprävention)*). 30.08.2001.
http://fhh.hamburg.de/stadt/Aktuell/behoerden/inneres/dezernat-interne-ermittlungen/aktuelles/0301_vv_kor-bek_2002_136kb_pdf.property=source.pdf

The government of Mecklenburg-Vorpommern has issued the Anti-corruption Code of Conduct for the Employees of the Administration (*Antikorruptions-Verhaltenskodex für die Mitarbeiter in der Landesverwaltung Mecklenburg-Vorpommern*). In 2005 the Directive for the Combating of Corruption in the Administration of the Land (*Bekämpfung von Korruption in der Landesverwaltung Mecklenburg-Vorpommern*) entered into force.⁵²

According to the directive all entities of the land of Mecklenburg-Vorpommern (both public law and private law where the land holds majority) shall carry out corruption risk analysis for each workplace with particular danger of corruption.⁵³ Annex 1 to the directive specifies a number of questions that are of primary importance in corruption risk analysis:

- Does the official through his/her decisions cause immediate legal effects, which are not screened?
- Is the course of activity for officials specifically regulated?
- Do tasks involve activity or decision making of particular discretion or particularly frequent outside contacts?
- Are public procurements or subsidies awarded on a particularly large scale?
- Are permissions of business importance issued?
- How wide then is the range of interests in the given case?
- Are decisions documented in a verifiable manner?
- What possibilities of the manipulation of documented decisions exist for the official?
- What protection in the form of internal control authorities exist?
- Is the service-related and professional supervision sufficient?
- Is there an obligation to record decision making so transparently as to allow an audit authority to trace it?

In all areas where corruption danger exists, the head of the relevant unit is to appoint a spokesperson for corruption issues. He/she is the direct communication partner for employees, managers and outside parties. Their duties involve the awareness-raising of employees; assistance and advice to employees and outside parties in cases of suspected corruption; reporting and advising managers about suspected or hinted (incl. anonymously) corruption, recommending internal investigations, measures against concealment and reporting to the public prosecutor; advising on publicity activities. Importantly the spokesperson has the right of direct access to the leadership of the institution as well as the comprehensive right of access to records.⁵⁴

Other measures recommended for areas where particular corruption danger exists include limiting tenure for personnel in such areas, the rotation of personnel and the four-eye principle (*Mehr-Augen-Prinzip*) whereby several employees/units participate

⁵² *Ressourcen der Korruptionsbekämpfung in Deutschland* (Resources of Combating Corruption in Germany). Transparency International Deutschland e.V. 2006. P.8.
http://www.transparency.de/uploads/media/Ressourcen_der_Korruptionsbekaempfung_2006_070117.pdf

⁵³ Combating of Corruption in the Administration of the Land of Mecklenburg-Vorpommern. (*Bekämpfung von Korruption in der Landesverwaltung Mecklenburg-Vorpommern*) Directive of the Government of the Land, 23.08.2005. Section 3.1.

⁵⁴ *Ibid.*, Section 3.3.

and verify an issue. Internal audit may be temporarily or permanently assigned as a task to a specific unit with an aim to verify existing points of suspicion. Specific principles and requirements are applicable to contract-related activities.⁵⁵

Annex 2 to the directive contains indicators of possible corruption, which are somewhat less elaborate than those for the federal agencies though. All employees of the administration are to inform their superiors and spokespersons for corruption issues about concrete indications of corrupt behavior. If indications of a corruption-related offence exist, law enforcement institutions are to be informed immediately through the management of the agency.⁵⁶ The Code of Conduct, however, warns employees to express suspicions only when traceable details exist.⁵⁷

7.4.3. Schleswig-Holstein

Guidelines “Prevention of Corruption and Combating of Corruption in the Land Administration of Schleswig-Holstein” (*Richtlinie “Korruptionsprävention und Korruptionsbekämpfung in der Landesverwaltung Schleswig-Holstein”*) generally follow the issues covered in the federal guidelines.

The Schleswig-Holstein guidelines provide a general explanation of corruption and applicable legal framework, characterization of corruption-risk areas and indications of corruption. Measures to be taken within agencies are divided in categories: providing relevant information to the staff, staff selection and rotation within corruption risk areas, awareness raising of the staff about the subject of corruption, code of conduct, education, leadership responsibility, prohibition to accept gifts, rules on additional employment, control mechanisms. Separate chapters are devoted to the issues of contracting, conduct in cases of suspected corruption, and sponsoring.⁵⁸

The guidelines list examples of corruption warning signs, which are divided in two categories – person-related and tasks/system-related.⁵⁹ It is the responsibility of the leadership to pay attention to such indicators of corruption and factors that facilitate corruption. Discussions with the personnel, agreements on goals, concretely defined documentation duties, and control function are mentioned among tools at the disposal of the leadership.⁶⁰

⁵⁵ Ibid., Sections 3.4, 3.5, 4.

⁵⁶ Ibid., Sections 5.1., 5.2.

⁵⁷ The Anti-corruption Code of Conduct for the Employees of the Administration of the Land of Mecklenburg-Vorpommern (*Antikorruptions-Verhaltenskodex für die Mitarbeiter in der Landesverwaltung Mecklenburg-Vorpommern*). Section 6.

⁵⁸ Guidelines “Prevention of Corruption and Combating of Corruption in the Land Administration of Schleswig-Holstein” (*Richtlinie “Korruptionsprävention und Korruptionsbekämpfung in der Landesverwaltung Schleswig-Holstein”*). 07.11.2003. <http://shvv.juris.de/shvv/vvsh-4532.1-0001.htm>

⁵⁹ Ibid. Section 2.4.

⁶⁰ Ibid. Section 3.1.6.

7.5. Iceland

Iceland did not submit the questionnaire, which was used for data gathering for this study. Moreover the experts found that sources about anti-corruption measures in Iceland are scarce. Therefore the below characterization is based solely on the assessment made by GRECO. The aim here is not to repeat GRECO assessment for the sake of repeating but rather to fill in information about Iceland to present comprehensive information about CBSS countries. One should be alert to the fact that the GRECO evaluation report was adopted in 2004 and the following compliance report in 2006. Therefore some more recent developments may not be taken up in this study.

- **Reporting of suspected misconduct.** “There is no express obligation for public officials to report crimes that they become aware of in the conduct of their functions. A failure to report possibly could constitute a breach of duty pursuant to the Penal Code, Section 141, which provides that “A public servant guilty of gross or repeated negligence or dereliction in the performance of his functions shall be fined or imprisoned for up to one year.” The [GRECO evaluation team] was informed during discussions that there is a general principle to report problems to the superior.”⁶¹
- **Internal reporting and control over conflicts of interest.** The issue of how conflicts of interest are to be controlled and reported has not been covered in the GRECO report and no other sources were found.
- **Whistleblowing.** “There is no special protection for public officials who make reports about corruption (“whistle blowers”), except the general provisions contained in the Government Employees Act.”⁶²

“The Ministry of Finance has issued a Circular (15 February 2006) on the general considerations and values that public officials are expected to observe in the execution of their work. This Circular is based on written and unwritten legal principles regarding the work of public officials and clarifies the obligations of public officials in their work, concerning situations of conflicting interests such as gift givings.”⁶³

“The authorities of Iceland report that the Circular [...] includes an obligation for a public official to report any misconduct (including acts of corruption) s/he comes across in his/her work to appropriate authorities. Appropriate authorities would include the head of an institution, the ministry concerned or, where applicable, the national Audit Office or the Police. The authorities further report, that in order to protect those who report misconduct, the Circular also states that public officials who give information in good faith on corruption offences, or other unlawful or improper activities, will not suffer in any way for doing so.”⁶⁴

⁶¹ GRECO Second Evaluation Round. Evaluation Report on Iceland. Adopted by GRECO at its 19th Plenary Meeting (Strasbourg, 28 June - 2 July 2004). P.10.

⁶² Ibid.

⁶³ GRECO Second Evaluation Round. Compliance Report on Iceland. Adopted by GRECO at its 30th Plenary Meeting (Strasbourg, 9 - 13 October 2006). P.3.

⁶⁴ Ibid. P.4.

- **Treatment of illegal / unethical orders.** Obligation to obey lawful orders is one of the principles included in the Government Employees Act.⁶⁵
- **Centralized v. decentralized systems of disciplinary liability.** No centralized mechanism/body in charge of disciplinary liability is mentioned in the GRECO evaluation.⁶⁶
- **Units / officials responsible for anti-corruption policies within institutions internally.** The experts did not identify any information on this question.
- **Internal policies.** “There is no general code of ethics or conduct for public officials at central or municipal level. The National Audit Office informed the [GRECO evaluation team] that it had (in 2003) carried out a study on codes of conduct in public administration. The survey shows that 15 per cent of Icelandic public bodies have a code of ethics (for example the Police) and that 40 per cent were considering to establish such a code.”⁶⁷
- **Practice of corruption risk assessment.** The experts did not identify any information on this question.
- **Use of defined warning signs (red flags) of corruption.** No information has been identified on whether the indications of possible corruption are defined and used in any of the authorities.

⁶⁵ GRECO Second Evaluation Round. Evaluation Report on Iceland. Adopted by GRECO at its 19th Plenary Meeting (Strasbourg, 28 June - 2 July 2004). P.10.

⁶⁶ Ibid.

⁶⁷ Ibid.

7.6. Latvia

- **Reporting of suspected misconduct.** Public officials are not required to report suspected misconduct, including suspected corruption. However, the internal regulations of some agencies, for example, the Naturalization Board require officials to report suspected corruption.⁶⁸
- **Internal reporting and control over conflicts of interest.** The head of a state or local government authority has a duty, in conformity with his/her competence, not to allow the public officials working in this authority to be in a conflict of interest situation and in such situation implement the powers of office of the public official.⁶⁹

Public officials shall provide information in writing to a superior regarding their financial or other personal interest, as well as financial or other personal interest of their relatives or counter-parties regarding the performance of any action included in the duties of their office. They shall likewise report about commercial companies, to which the public official or his/her relatives are related, or the fact that the public official him/herself or his/her relative is an individual merchant who receives orders from the relevant state or local government, state or local government financial resources, credits guaranteed by the state or local governments or state or local government privatization fund resources, except cases where these are allocated as a result of an open competition. A superior official or collegial authority after the receipt of such information shall assign the performance of the functions of the relevant public official to another public official.⁷⁰

- **Whistleblowing.** Latvia does not have any explicit legal protection for whistleblowers in the public service. Public employees are covered by protection provided for in the Labor Law. The law prohibits punishing an employee or the direct or indirect causing of adverse consequences when the employee has made use of his/her rights admissible within legal labor relations or has informed competent authorities about suspected crime or administrative violation at the workplace. In case of a dispute, the burden of proof lies on the employer to prove the employee has not been punished or subjected to adverse consequences for the making use of his/her rights admissible within legal labor relations.⁷¹
- **Treatment of illegal / unethical orders.** If a police officer has received an illegal order or instruction, he/she shall observe the requirements of the law.⁷² For public officials at large, no rules or guidance exists for situations when an illegal order is received.

⁶⁸ *Naturalizācijas parvaldes korupcijas noversšanas programma 2008. gadam* (The Program for the Prevention of Corruption of the Naturalization Board for 2008). Approved on 27.12.2007. http://www.np.gov.lv/lv/faili_lv/Korupcijas_programma_2008.pdf

⁶⁹ CBSS WGI questionnaire, Corruption Prevention and Combating Bureau, Latvia. Law „On the Prevention of Conflict of Interest in the Activities of Public Officials” (*Likums “Par interesu konflikta noversšanu valsts amatpersonu darbībā”*), Section 20, Clause 1.

⁷⁰ Law „On the Prevention of Conflict of Interest in the Activities of Public Officials” (*Likums “Par interesu konflikta noversšanu valsts amatpersonu darbībā”*), Section 21.

⁷¹ The Labor Law (*Darba likums*), Section 9.

⁷² Law “On the Police” (*Likums “Par policiju”*), Section 23.

- **Centralized v. decentralized systems of disciplinary liability.** A public official may initiate a disciplinary matter about an official who is subordinate in relation to him/her. The matter is then to be forwarded to the head of an authority unless a different procedure applies.⁷³

As for civil servants (not all public officials are civil servants) Latvia has a system of disciplinary liability where disciplinary matters may be initiated at any level – from the authority where a civil servant works up to a Cabinet minister (about civil servants in agencies subordinate to the minister) and the Prime Minister. A special body – the State Civil Service Administration (supervised by a minister authorized by the Cabinet) possesses competence to initiate and investigate disciplinary matters in the cases and in accordance with the procedures prescribed by law and imposes disciplinary sanctions in the cases and in accordance with the procedures prescribed by law. Moreover the Prime minister has the right to initiate, take over and review any disciplinary matter and him/herself impose a disciplinary sanction.⁷⁴

- **Units / officials responsible for anti-corruption policies within institutions internally.** Heads of state and municipal institutions are to prevent the conflicts of interest of public officials in their institutions. They are required to inform the Corruption Prevention and Combating Bureau (in specific cases – the director of the Bureau for the Protection of Constitution) about detected violations of the law “On Prevention of Conflict of Interest in the Activities of Public Officials” within their institutions.⁷⁵ Other than that, institutions are not required to set up/appoint specialized units/officials to deal with corruption issues.
- **Internal policies.** Although all public authorities have been obliged to develop their anti-corruption plans, not all of them actually implement specific anti-corruption measures. Below are a few examples where such measures do exist.

The State Revenue Service has adopted procedure for the conduct of employees in situations where bribes are offered. The steps to be made in such situation include (in abbreviated form):

- identify the bribe giver’s identity and purpose of bribery;
- keep in mind his/her appearance;
- refuse to accept the bribe without entering unnecessary arguments;
- immediately report to the direct superior, if possible, or to any of colleagues;
- if possible, find witnesses;
- in case a bribe is just left in your surroundings and it is impossible to give it back, do not touch it;
- draft a statement to be signed by the relevant employee and witnesses, within no more than 12 hours submit a written report to a superior and the Finance police of

⁷³ The Administration Structure Law (*Valsts parvaldes iekartas likums*), Section 36 Clause 1.

⁷⁴ The State Civil Service Law (*Valsts civildienesta likums*), Section 40.

⁷⁵ Law “On Prevention of Conflict of Interest in the Activities of Public Officials” (*Likums “Par interesu konflikta noversanu valsts amatpersonu darbiba”*), Section 20.

the State Revenue Service (such report is to be submitted also when, in the presence of other employees, a client claims having given a bribe).⁷⁶

Particular agencies such as, for example, the Naturalization Board (this is an agency whose tasks include granting citizenship through the process of naturalization and voiding citizenship in cases prescribed by law) develop elaborate internal control procedures where one of the most important considerations is to minimize the probability of corruption or other misconduct. Among the anti-corruption measures of the Naturalization Board is the multi-level verification of decision making. There are five level controls in matters of granting citizenship and three level controls in matters of voiding citizenship. This is to exclude situations where administrative decisions are made on a single level by a single official in the presence of the clients. The control is carried out by allocating specified proportions of all cases to be reviewed by various officials on various levels.⁷⁷

Moreover examinations of candidates for citizenship are audio (during all examinations) and video (at permanent examination sites) recorded. Examination commissions are subject to partial rotation and the Centre of Methodology and Examination of the Naturalization Board guarantees the centralized preparation, storage, distribution and security of examination material. Both internal and international audits also form a part of the agency's anti-corruption policy.⁷⁸

- **Practice of corruption risk assessment.** The state program for the prevention and combating of corruption 2004-2008 foresaw a task to identify main corruption risks in state and local government authorities. Moreover according to the program each public authority state and municipal is to draft and adopt an anti-corruption plan.⁷⁹ The Corruption Prevention and Combating Bureau developed methodology for the elaboration of anti-corruption plans in public authorities.⁸⁰ According to the methodology the elaboration of an anti-corruption plan consists of four stages: identification of corruption risks, assessment of corruption risks, management of corruption risks (identification and selection of anti-corruption measures), supervision of corruption risks (planning of concrete activities to

⁷⁶ Procedure to Guide the Actions of the State Revenue Service Civil Servants and Employees when a Bribe is Offered (*Kartiba, kas nosaka Valsts ienemumu dienesta ierednu un darbinieku ricību, ja tiek piedavats kukulis*). The State Revenue Service, 31.10.2002.

⁷⁷ *Naturalizācijas procesa kontroles shēma* (The chart of control over the naturalization process). Printed document at the disposal of the experts.

Naturalizācijas parvaldes informatīvs ziņojums par pasākumu planu par organizatoriskajiem un citiem pasākumiem korupcijas novēršanai iestādē (Informative Report of the Naturalization Board on the Action Plan of Organizational and Other Measures to Prevent Corruption within the Agency). Vība, S., Deputy Head for Citizenship Matters. Electronic document at the disposal of the experts.

⁷⁸ *Naturalizācijas parvaldes informatīvs ziņojums par pasākumu planu par organizatoriskajiem un citiem pasākumiem korupcijas novēršanai iestādē* (Informative Report of the Naturalization Board on the Action Plan of Organizational and Other Measures to Prevent Corruption within the Agency). Vība, S., Deputy Head for Citizenship Matters. Electronic document at the disposal of the experts.

⁷⁹ *Korupcijas novēršanas un apkarošanas valsts programma 2004.–2008.gadam (Informatīva daļa)* (The state program for the prevention and combating of corruption 2004-2008, Informative part). http://www.knab.lv/uploads/free/1138_knabprog_100506.pdf

⁸⁰ *Vadlīnijas iestādes pretkorupcijas pasākumu plāna izstrādei* (Guidelines for the elaboration of plan of anti-corruption measures). http://www.knab.gov.lv/lv/education/internal_control/

implement anti-corruption measures). As of 31 October 2007, 217 state agencies had developed their anti-corruption plans.⁸¹

- **Use of defined warning signs (red flags) of corruption.** The definition and use of indicators of possible corruption are not envisaged in the national anti-corruption policy. However, individual agencies may define internally the indicators of possible corrupt activity or other misconduct.

⁸¹ *Korupcijas noversanas un apkarošanas valsts programmas 2004. – 2008. gadam īstenošanas pārskats. Pielikums informatīvajam ziņojumam „Korupcijas noversanas un apkarošanas valsts programmas 2004.–2008.gadam īstenošana”* (Report on the implementation of the state program for the prevention and combating of corruption 2004-2008. Annex to the informative report.) http://www.knab.gov.lv/uploads/free/valsts_programma/vp_lidz2007.pdf

7.7. Lithuania

- **Reporting of suspected misconduct.** There is no general provision on the obligation of a public official to report suspicions of corruption, except internal codes of conduct for law enforcement bodies that include such an obligation.⁸²
- **Internal reporting and control over conflicts of interest.** A person who is employed in the state service is required to inform the immediate superior or a person authorized by the head of a state organ as well as persons who collectively participate in the elaboration, deliberation or adoption of a decision, which invokes a conflict of interest, before or during respective procedures and suspend him/herself from participation in further procedures. The head of a state organ or person authorized by him/her may refuse accepting such self-announced suspension and order the person to participate in the further procedure.⁸³

State service employees are also required to report to the head of a state organ or person authorized by him/her about all proposals received about shifting to a different job if such proposals may cause a conflict of interest. Also accepted proposals must be reported.⁸⁴

- **Whistleblowing.** The protection of whistleblowers appears not to be subject to specific legislation in Lithuania. There are general provisions in labor legislation to this end.⁸⁵
- **Treatment of illegal / unethical orders.** No rules or explicit guidance were identified for situations when a public official received an illegal order.⁸⁶
- **Centralized v. decentralized systems of disciplinary liability.** The system of disciplinary liability is decentralized in Lithuania. Administration managers or special ethics commissions investigate possible malfeasances committed by career civil servants. Structural divisions specifically designated to investigate official breaches by officers carry out investigations with regard to statutory civil servants (civil servants whose service is regulated by a statute approved by the law or by the Law on the Diplomatic Service providing for special conditions of recruitment, performance, responsibility as well as other conditions).⁸⁷

⁸² Ratification of the United Nations Convention against Corruption in Lithuania. A Review of the Compliance of the Lithuanian Legal and Institutional Framework Against Corruption. UNDP, Lithuanian Office. Prepared by Goran Klemencic. 21.08.2006. P.19.

http://www.transparency.lt/new/images/ti_lithuania_uncac.pdf

⁸³ Prevention of Corruption Law (*Korupcijos prevencijos įstatymas*). Section 11, Clause 2.

⁸⁴ Ibid. Sections 16 and 17.

⁸⁵ Ratification of the United Nations Convention against Corruption in Lithuania. A Review of the Compliance of the Lithuanian Legal and Institutional Framework Against Corruption. UNDP, Lithuanian Office. Prepared by Goran Klemencic. 21.08.2006. P.26.

http://www.transparency.lt/new/images/ti_lithuania_uncac.pdf

As far as the status of whistleblowing is concerned, the Rules of Conduct of State Officials may contain further rules concerning whistleblowing but their translated copy was not obtained during the study.

⁸⁶ The Rules of Conduct of State Officials may contain rules concerning illegal orders but their translated copy was not obtained during the study.

⁸⁷ GRECO Second Evaluation Round. Evaluation Report on Lithuania. Adopted by GRECO at its 23rd Plenary Meeting (Strasbourg, 17 - 20 May 2005). P.14.

- **Units / officials responsible for anti-corruption policies within institutions internally.** Some institutions have officials or divisions responsible for corruption prevention and control. The status of these officials / divisions is determined in the Resolution of the Government on Divisions and Persons in State and Municipal Institutions in Charge of Corruption Prevention and Control.⁸⁸ Specialized institutions exist in larger public bodies (such as the Police, Customs, State Tax Inspectorate, Ministries). They usually establish the spheres prone to corruption, review internal legal acts or draft acts with regards to corruption, help to maintain anti-corruption strategies.⁸⁹
- **Internal policies.** Apart from the legal framework, ethics in the public administration are covered by the Rules of Conduct of State Officials. Various institutions have own internal mechanisms. For example, different line ministries and services have developed internal codes of ethics and have structures overseeing compliance with these codes.⁹⁰

Compliance report by GRECO also notes that regular rotation of staff has been and at the time of assessment continued to be considered for various sectors of public administration. For example, GRECO noted that this measure was applied in the State Border Guard Service.⁹¹

- **Practice of corruption risk assessment.** The Prevention of Corruption Law establishes situations when corruption risk analysis is to be carried out.⁹² In addition to the law, the Resolution of the Government “On the Establishment of the Order of Corruption Risk Analysis” (8 October 2002) exists. The resolution partially repeats the provisions of the law and provides criteria for the Special Investigation Service to determine whether a need for corruption risk analysis exists. Such criteria are as follows:
 - instances of negative impact on public officials of state or municipal agency,
 - crimes of corruption detected in other agencies whose functions are alike to the institution in question,
 - system of control of the agency in need of improvements,
 - decisions of the agency that lead to material advantages for interested persons,
 - registered violations (not criminal deeds) of the existing order within the agency in question,
 - the agency is independent in governing the assets of the budget,
 - the State Control or the Ombudsman of the Seimas established violations in the execution of function of the agency in question,

⁸⁸ CBSS WGDI questionnaire, Special Investigation Service, Lithuania.

⁸⁹ Information provided by Mr. Laurynas Pakstaitis, Special Investigation Service, Lithuania. 17.04.2008.

⁹⁰ Lithuania: Case Study on Anti-corruption 2006. Vera Devine. United Nations Development Programme. P.8.

<http://www.transparency.lt/new/images/lithuania%20case%20study%20final%20vera%20devine.pdf>

⁹¹ GRECO Second Evaluation Round. Compliance Report on Lithuania. Adopted by GRECO at its 33rd Plenary Meeting (Strasbourg, 29 May – 1 June 2007). Pp. 5-6.

⁹² Prevention of Corruption Law (*Korupcijos prevencijos įstatymas*). Section 6.

- information (investigative information, complaints by citizens, etc.) obtained about possible corruption within the agency.⁹³

In addition to above-mentioned acts, there is methodology on identifying spheres prone to corruption adopted by the director of the Special Investigations Service. After the Special Investigations Service has completed risk analyses, it drafts detailed recommendations to respective institutions. Typical suggestions usually are to implement institutional strategy on fight on corruption, improve supervision, improve rules regarding licensing, improve internal control, foresee more detailed and/or unified procedures, improve transparency, foresee a possibility to report corruption by employees, etc.⁹⁴

- **Use of defined warning signs (red flags) of corruption.** The experts did not identify any legal documents providing the definition and application of indicators of possible corruption in Lithuania apart from the criteria used for the determining of the need to carry out corruption risk analysis.

⁹³ Information provided by Mr. Laurynas Pakstaitis, Special Investigation Service, Lithuania. 17.04.2008.

⁹⁴ Ibid.

7.8. Norway

Several topics, which are important for the prevention of corruption internally, are covered in the Ethics Guidelines for the State Service (*Etiske retningslinjer for statstjenesten*).⁹⁵

- **Reporting of suspected misconduct.** In terms of relations between public employees and their superiors, two aspects of what is called loyalty are important, namely, the duty of obedience (*lydighetsplikt*) and duty to report (*rapporтерingsplikt*).⁹⁶

Public employees are obliged to report to the employer about circumstances that may cause the employer, employees or others loss or damage. Comments to this rule discuss relevant considerations when corruption or other misconduct are concerned. When corruption is concerned, it is emphasized as particularly important to give as precise and comprehensive information as possible about both giver and taker of a bribe. As an alternative to internal reporting, applying to the police or to control/supervisory agency is suggested.

When other misconduct is concerned, the commentary to the guidelines leaves rather broad discretion for particular agencies to clarify these issues in internal dialogue and possibly also internal guidelines. Normally reporting shall be directed to the nearest leader who can resolve the issue. If an employee finds it difficult to turn to the nearest leader, he/she is to report to the next superior.

- **Internal reporting and control over conflicts of interest.** According to the Administrative Procedure Law a civil servant him/herself decides on whether he/she is disqualified. If a party so requires and this can be done without substantial loss of time or if the civil servant him/herself finds such grounds, he/she shall place the issue to his/her closest superior for resolution.⁹⁷

A special case of informing superiors concerns additional employment. The rule of the guidelines requires openness about public employees' additional employment when it can be of relevance for the execution of service. The employer may not generally require all employees to give information about additional employment. However, there are cases where employees must give information about additional employment without request. These are cases where doubts exist whether the additional employment is compatible with the legitimate interests of the employer. An individual labor contract may envisage an obligation for an employee to give information about additional employment.⁹⁸

- **Whistleblowing.** Whistleblowing, implicitly understood as giving a warning to the society through other than institutionalized reporting routes (e.g. to the

⁹⁵ Ethics Guidelines for the State Service (*Etiske retningslinjer for statstjenesten*).

<http://www.sph.dep.no/templates/PersonalMelding.aspx?id=989>

⁹⁶ Ibid. Part 2.

⁹⁷ The Administrative Procedure Law (*Lov om behandlingsmåten i forvaltningssaker (forvaltningsloven)*). Section 8.

⁹⁸ Ethics Guidelines for the State Service (*Etiske retningslinjer for statstjenesten*). Part 4.2.
<http://www.sph.dep.no/templates/PersonalMelding.aspx?id=989>

superiors or the police), is treated as a separate topic in the guidelines. The right to warn about adverse circumstances in the administration (or in any entity for that matter) is guaranteed in the Labor Law. The same law protects employees who have given warnings. If such employee presents information to ground belief that revenge against him/her has taken place, it is presumed that such revenge has taken place unless the employer proves the opposite.⁹⁹ However, before giving a warning, the situation should be attempted to take up internally. Resort to a public control or supervisory agency is mentioned as an alternative, which would not normally be viewed as a breach of the loyalty duty.¹⁰⁰

- **Treatment of illegal / unethical orders.** Public employees are obliged to implement the orders of superiors. However, the duty of obedience does not entail any obligation to implement orders to do something illegal or unethical. The duty of obedience also does not oblige public employees to carry out tasks outside the competence area of the minister, e.g. to prepare materials for electoral campaigns or otherwise contribute directly to party political activity.¹⁰¹
- **Centralized v. decentralized systems of disciplinary liability.** The system of disciplinary liability is decentralized. Decisions on disciplinary sanctions are normally taken by the employing organ or an employment council.¹⁰²
- **Units / officials responsible for anti-corruption policies within institutions internally.** No information was reported by Norway or otherwise found about the existence and operation of especially designated officials / units responsible for the anti-corruption policies within institutions.
- **Internal policies.** Ethical guidelines exist in individual administrative bodies, e.g. Ministry of Defense, City of Oslo, ØKOKRIM (The National Authority for Investigation and Prosecution of Economic and Environmental Crime).¹⁰³

Norwegian authorities have considered the introduction of rotation of staff, nevertheless it has not been deemed appropriate in Norway.¹⁰⁴

- **Practice of corruption risk assessment.** No information about the practice of corruption risk assessment was reported by Norway or otherwise found during the study.
- **Use of defined warning signs (red flags) of corruption.** In the Norwegian case, an elaborate example of methodology to identify indications of corruption is found in Supplementary Guidelines on the Prevention and Detection of

⁹⁹ Labor Environment Law (*Lov om arbeidsmiljø, arbeidstid og stillingsvern mv. (arbeidsmiljøloven)*). Sections 2-4 and 2-5.

¹⁰⁰ Ethics Guidelines for the State Service (*Etiske retningslinjer for statstjenesten*). Part 3.4. <http://www.sph.dep.no/templates/PersonalMelding.aspx?id=989>

¹⁰¹ Ibid. Part 2.1.

¹⁰² State Servants Law (*Lov om statens tjenestemenn m.m.*). Section 17.

¹⁰³ GRECO Second Evaluation Round. Evaluation Report on Norway. Adopted by GRECO at its 20th Plenary Meeting (Strasbourg, 27 - 30 September 2004). P.11.

¹⁰⁴ GRECO Second Evaluation Round. Compliance Report on Norway. Adopted by GRECO at its 30th Plenary Meeting (Strasbourg, 9 - 13 October 2006). P.4.

Misconduct.¹⁰⁵ These guidelines have been adopted by the State Audit Office and thus, strictly speaking, do not represent an internal tool of an administrative body but the approach of identifying red flags in principle could be adapted and used also by administrative bodies.

The State Audit Office uses this methodology to identify possible misconduct (*mislighet*), which is defined as a common designation for conduct, which involves dishonesty to achieve an inappropriate advantage for oneself, the agency or others. Misconduct differs from mistakes in that the action is based on intent.

The whole methodology contains four steps: identification of possible risk areas; looking after signals of misconduct; looking after evidence and documentation of findings; assessing findings, making conclusions and reporting. The signals of possible misconduct are called in other words *red flags*, which are divided in four groups: those related to persons and operations, systems, transactions, procurement. Below is a table representing the *red flags* defined by the State Audit Office.

Red flags related to			
Persons and agencies	Systems	Transactions	Procurement
Employees/consultants who exert favor to suppliers	Missing IT and comm. technology security	Extended use of hand-chests with cash	Clear violations of procurement regulatory framework
Employees/consultants or related persons who do business vis-à-vis the agency		Invoices that deviate from the normal	
Use of intermediaries, consultants, organizers and hired experts who receive large fees	Deviant use of IT and comm. technologies	Payments that deviate from the normal	Other irregularities in connection with procurement procedures
Persons who carry out tasks that normally do not belong to their area of work /establishment of new routines to hinder the division of functions / control		Certificates and orders that deviate from the normal	
Strong protection of own work tasks		Costs that are not registered in the account-current book	Unclear and/or deficient contracts
Unclear structure of powers and/or much concentrated power around one or few persons		Costs registered in "abnormal" accounts in the bookkeeping	Purchase of goods and services that require special equipment
Abnormal or unexplainably vast use of consultants in the agency		Double invoicing and double payment, transfers and corrections	
Unusual activities in the agency, for example, acquisitions outside of the usual or unusually high surpluses/ deficits in the agency		Registered invoices from suppliers who are not found	Purchase of goods and services that are suitable for private use or are easy to re-sell (easily sellable goods)
Receipt/ offer of gifts and other advantages		Missing registration of credit notes, etc.	
Breach of good governance		Tax havens	Large storage amounts of certain goods
Sale of property at reduced price			

¹⁰⁵ *Supplerende retningslinjer om forebygging og avdekking av misligheter* (Supplementary Guidelines on the Prevention and Detection of Misconduct). Vedtatt av Riksrevisjonens leder 21.06.2007. http://www.riksrevisjonen.no/NR/rdonlyres/CBCBF8A3-8238-442B-9650-B305DC27AB70/0/Misligheter_supplerende_retningslinjer_pr_210607.pdf

Missing written documentation, for example, in purchasing and sales processes.			Abnormally large loss and unmarketable goods in storage
Agency has been exposed to misconduct in the past			
Missing openness			
Weak internal control			

The occurrence of one or more of the red flags *per se* is not a proof of misconduct. Actually it may be a result from normal operation of an agency. However, it is the task of an auditor to review circumstances and inspect the situation in order to confirm or cancel suspicions. However, according to the guidelines the more *red flags* an auditor finds, the larger is the risk of actual misconduct.¹⁰⁶ The guidelines also provide a wide catalogue of investigatory steps to verify circumstances related to particular types of *red flags*.

¹⁰⁶ Ibid. P.21.

7.9. Poland

Information provided on Poland is limited largely because of difficulty to obtain translated texts of laws. Therefore, in the case of Poland, GRECO assessments constitute an important source of information. One should be alert to the fact that the GRECO evaluation report was adopted in 2004. Therefore some more recent developments may not be taken up in this study.

- **Reporting of suspected misconduct.** According to GRECO “The Act on Civil Service does not provide for an express obligation to report instances of professional misconduct, suspected corruption, breaches of professional duties or of codes of ethics. However, [the Code of Criminal Procedure] states that the heads of “State and local government institutions” are obliged “to immediately inform the state prosecutor or the police” of any “offence prosecuted *ex officio*”, including corruption offences.”¹⁰⁷
- **Internal reporting and control over conflicts of interest.** The experts did not identify any information on this question.
- **Whistleblowing.** The experts did not identify any information on this question.
- **Treatment of illegal / unethical orders.** The experts did not identify any information on this question.
- **Centralized v. decentralized systems of disciplinary liability.** According to the GRECO evaluation report of 2004 Poland has a mixed system of disciplinarily liability for civil servants in the sense that it has both a decentralized and centralized element. “The system of disciplinary proceedings involves two instances: the disciplinary committees of the office (1st instance) and the Higher Disciplinary Committee of the Civil Service (2nd instance). Disciplinary committees of the office are appointed by the Director-General of a given office from amongst the members of the civil service corps employed in the office, for a period of three years. The members of the Higher Disciplinary Committee of the Civil Service are appointed by the Prime Minister upon the motion of the Head of the Civil Service, for a period of six years.”¹⁰⁸ However, since a new Law on the Civil Service has been adopted on 24 August 2006,¹⁰⁹ the above information may have become obsolete.
- **Units / officials responsible for anti-corruption policies within institutions internally.** The experts did not identify any information on this question.
- **Internal policies.** The experts did not identify any information on this question.

¹⁰⁷ GRECO Second Evaluation Round. Evaluation Report on Poland. Adopted by GRECO at its 18th Plenary Meeting (Strasbourg, 10 - 14 May 2004). P.12.

¹⁰⁸ Ibid. P.13.

¹⁰⁹ CBSS WGDI questionnaire, Ministry of Interior and Administration, Public Administration Department, Poland.

- **Practice of corruption risk assessment.** The experts did not identify any information on this question.
- **Use of defined warning signs (red flags) of corruption.** The experts did not identify any information on this question.

7.10. The Russian Federation

- **Reporting of suspected misconduct.** Public officials are not legally required to inform their superiors of cases of improper conduct (suspicions of corruption) that they encounter while performing their functions.¹¹⁰

However, work is reported to be currently under way to address the legislative aspect of this issue in respect of particular categories of public officials, both on federal and intradepartmental levels. Thus, the interdepartmental working group, established under the presidential decree of 3 February 2007, drafted a bill “On Amending Some Legislative Acts of the Russian Federation to Improve the Independence of Judges, and to Prevent the Unlawful Interference with the Activity of Judges and Law Enforcement Officers”, which amends the laws of the Russian Federation “On Militia”, “On Public Prosecution of the Russian Federation”, “On Penal Institutions and Bodies”, “On Service in the Bodies of Customs Authorities of the Russian Federation”, and “On Bailiffs in the Russian Federation”, introducing the obligation of officials of the above-mentioned bodies to report to their superiors any case when they are contacted or otherwise affected with the purpose of inducing them to commit illegal actions concerning their official duties.

After the adoption of relevant amendments according to the said draft law the responsibility to report to law-enforcement or judicial authorities about the established facts of corruption will also be vested in senior officials of the relevant branches of the prosecution authorities, customs service, court bailiffs’ service and the penitentiary system.

Moreover the departmental decree by the Minister of Internal Affairs of the Russian Federation “On additional measures to improve internal security” establishes a special procedure for senior officials of all levels for provision of information about cases of corruption among or infractions by the personnel of the law enforcement agencies to the internal security units.

- **Internal reporting and control over conflicts of interest.** The Federal Law “On the State Civil Service of the Russian Federation” requires civil servants to inform in written a representative of the employer about the occurrence of personal interest, which leads or may lead to a conflict of interest.¹¹¹ The representative of the employer who learned about a civil servant's personal interest which leads or can lead to a conflict of interests is required to take measures to prevent or settle the conflict of interests, including dismissal of the civil servant implicated in the conflict of interests from office as mandated under the law.¹¹²

To meet the requirements of professional conduct and to settle conflicts of interests in a state body, a federal state body for state service management and a state body for state service management of a constituent element of the Russian Federation,

¹¹⁰ Here and further information about reporting of suspected misconduct is drawn from “Answers to the Questionnaire” provided by the Russian Federation on 15.05.2008.

¹¹¹ The Federal Law “On the State Civil Service of the Russian Federation” (*Федеральный закон о государственной гражданской службе российской федерации*). Section 19 Clause 3, Section 15 Clause 1 Point 12.

¹¹² *Ibid.* Section 19 Clause 4.

commissions for the observance of requirements of professional conduct and conflicts of interest settlement are created.¹¹³ Regulations on the said commissions were established by the presidential decree No. 269 of 3 March 2007.

A commission for conflicts of interest settlement is established by state body's legal act. The commission is composed of a representative of the employer and (or) civil servants authorized by him/her (including those from the state service and personnel unit, law (legal) unit and unit in which the civil servant involved in the conflict performs his official duties), a representative of an appropriate body for state service management as well as representatives of scientific and educational institutions, other organizations invited by the body for state service management at the request of the employer representative in the capacity of independent experts – civil service specialists, without disclosing experts' personal information. The number of independent experts shall be no less than one-quarter of the total number of members of the commission.¹¹⁴

- **Whistleblowing.** The Russian Federation provides protection to participants in criminal proceedings. Such protection covers officials in the system of law enforcement agencies as well as other participants in criminal proceedings such as witnesses, victims, spectators, etc. The experts did not identify any specific rules or guidelines to handle the issue of reporting irregularities to parties outside the state apparatus (e.g. the media or NGOs).
- **Treatment of illegal / unethical orders.** According to the Federal Law “On the State Civil Service of the Russian Federation” the basic duties of a civil servant include the implementation of orders from respective superiors issued within the framework of their authority as determined in the legislation of the Russian Federation.¹¹⁵ A civil servant has no right to implement an illegal order. In such cases the civil servant shall submit written reasons as to the illegal character of the order.¹¹⁶ Both the civil servant and his/her superior carry liability for the issuance and implementation of such order.¹¹⁷
- **Centralized v. decentralized systems of disciplinary liability.** The Russian Federation has a decentralized system of disciplinary liability where disciplinary penalties are applied by a representative of the respective employer.¹¹⁸
- **Units / officials responsible for anti-corruption policies within institutions internally.** The model program against corruption in 2007-2008 for the federal organs of the executive authority¹¹⁹ and the model program against corruption in

¹¹³ Ibid. Section 19 Clause 5.

“Answers to the Questionnaire” provided by the Russian Federation on 15.05.2008.

¹¹⁴ Ibid. Section 19 Clause 6.

“Answers to the Questionnaire” provided by the Russian Federation on 15.05.2008.

¹¹⁵ The Federal Law “On the State Civil Service of the Russian Federation” (*Федеральный закон о государственной гражданской службе российской федерации*). Section 15 Clause 1 Point 1.

¹¹⁶ Ibid. Section 15 Clause 2.

¹¹⁷ Ibid. Section 15 Clause 3.

¹¹⁸ Ibid. Section 57 Clause 1.

¹¹⁹ *Типовая программа противодействия коррупции на 2007-2008 годы для федеральных органов исполнительной власти* (The Model Program Against Corruption in 2007-2008 for the Federal

2007-2008 for the supreme organs of the executive authority of the constitutive elements of the Russian Federation¹²⁰, which are published on the internet site of the Federal Ministry for Economic Development and Trade, suggest the creation of specialized subdivisions to counter corruption within the executive organs of the federal level as well as the level of constituent elements of the Russian Federation.

Moreover in the Russian Federation internal security units are established in various agencies.¹²¹ Thus the presidential decree No. 927 of 19 July 2004 “On the Ministry of Internal Affairs of Russia” provides for establishing within the Ministry of Internal Affairs of Russia (MIA) and Russia's Federal Migration Service (FMS) an internal security unit – the Internal Security Department of the Ministry of Internal Affairs with major functions as follows:

- developing and implementing measures of internal security within the Russian law-enforcement bodies and FMS against infiltration of individuals pursuing illicit purposes;
- participating in the public protection of the law-enforcement bodies' personnel and their families;
- preventing, detecting and suppressing crimes and corruption relations involving the personnel, federal officials and staff-members of the Russian law-enforcement bodies and FMS;
- improving legal regulations in the established area of activity;
- organizational and methodological supervising internal security units of law-enforcement bodies.

The functions assigned to the Internal Security Department of MIA are further stipulated in the internal instruction of 23 November 2004. The establishment in 2004 of the above-mentioned unit within the MIA was not an innovation. An internal security unit was initially established under a presidential decree in September 1995. Independent internal security units were also created within the Federal Security Service (FSS) of the Russian Federation in 1992.

The State Customs Committee of the Russian Federation elaborated order No. 287 of 26 April 1995 “On Progress in Fighting Against Corruption, Misconduct and Internal Security of Customs Authorities of the Russian Federation” that provides for obligation of the heads of customs authorities at all levels to conduct thorough examination and investigation of every illegal act committed by staff of customs authorities, implement prompt appropriate measures and submit information on the results of official investigations within 10 days to the Office for Internal Security of the State Customs Committee.

Organs of the Executive Authority).

http://ar.economy.gov.ru/common/img/uploaded/anticorrupt/Anticorr_FOIV.pdf

¹²⁰ *Типовая программа противодействия коррупции на 2007-2008 годы для высших органов исполнительной власти субъектов Российской Федерации (The Model Program Against Corruption in 2007-2008 for the Supreme Organs of the Executive Authority of the Constitutive Elements of the Russian Federation).*

http://ar.economy.gov.ru/common/img/uploaded/anticorrupt/Anticorr_refion.pdf

¹²¹ Here and further information about units responsible for anti-corruption policies within institutions internally is drawn from “Answers to the Questionnaire” provided by the Russian Federation on 15.05.2008.

A Supervisory Division authorized to supervise compliance by the staff with official conduct rules has been performing its functions within the Federal Antimonopoly Service (FAS) since 2004. In particular, the Division's personnel considers applications and complaints against acts (or omissions) of the FAS officials, take part in official examinations, coordinate activities of the FAS structural units and its territorial bodies to organize interaction with law-enforcement agencies.

Similar internal security units authorized to fight against corruption at an intra-departmental level are established today within the Federal Penitentiary Service, Federal Customs Service and Federal Drug Control Service of the Russian Federation. The Office of Personnel of the General Prosecutor's Office has a division of special examinations performing the same functions.

- **Internal policies.** The model program against corruption in 2007-2008 in the federal organs of the executive authority and the model program against corruption in 2007-2008 in the supreme organs of the executive authority of the constitutive elements of the Russian Federation suggest:
 - improvement in the organization of the allocation of public procurement orders;
 - setting up the exercise of anti-corruption expertise, analysis of how corruption conducive are departmental normative acts and their drafts as well as draft normative acts to be submitted to the government of the Russian Federation;
 - the introduction of internal control;
 - the establishment of feedback connection with the consumers of state services;
 - the formation of intolerant attitude toward the manifestations of corruption;
 - the application of technical means of control over the behavior of public officials who occupy positions with corruption risk;
 - (for constitutive elements of the Russian Federation) the implementation of anti-corruption mechanisms in the framework of personnel policy;
 - (for constitutive elements of the Russian Federation) the elaboration and implementation of departmental programs for countering corruption and/or programs for countering corruption in the sectors of regulation with particular corruption risk;
 - (for constitutive elements of the Russian Federation) ensuring access to information about the activity of executive organs.

In order to prevent individuals who are involved in criminal activities from penetrating into anti-corruption agencies, the Federal Law “On Criminal Investigation” stipulates that persons involved in criminal investigations or having access to materials resulting from criminal investigations, may be subject to investigation, which does not affect the constitutional rights. In order to assure security of the criminal investigation agencies (including the internal security), such persons may be subject to the activities affecting constitutional rights (phone-tapping, inspection of rooms, buildings, installations, land plots and means of transportation, monitoring of mail, telegraph and other messages, interception of information through technical communications channels), without a court ruling if there is a written consent of such a citizen. A number of departmental regulations provide for the voluntary polygraph tests for persons assuming executive positions.¹²²

¹²² “Answers to the Questionnaire” provided by the Russian Federation on 15.05.2008.

- **Practice of corruption risk assessment.** The experts did not identify any information on this question.
- **Use of defined warning signs (red flags) of corruption.** The experts did not identify any information on this question.

7.10.1. Kaliningrad Oblast

Kaliningrad Oblast has planned and implemented a number of anti-corruption initiatives within the framework of the administration reform. According to the Plan of Measures to Carry out the Administrative Reform in Kaliningrad Oblast in 2006 – 2008 the elaboration and implementation of anti-corruption programs were foreseen. Another task was the elaboration of methodology for the assessment of legal regulatory acts and drafts thereof to determine their conduciveness to corruption.¹²³

The Report of the Kaliningrad Oblast Government on the Implementation of Administrative Reform Measures in 2007 presents measures, which include an analytical paper about the areas of activity of the oblast executive authorities with heightened corruption risk and about establishing anti-corruption mechanisms. According to the report departmental anti-corruption programs for the years 2008-2010 have been adopted in the Ministry of Education of Kaliningrad Oblast (on countering corruption in the area of education, approved 29.01.2008), the Agency of Property of Kaliningrad Oblast (approved 29.12.2007), and the Ministry of Finances of Kaliningrad Oblast (approved 29.12.2007).¹²⁴ The anti-corruption programs cover issue areas such as budget planning and implementation of budgetary relationships, implementation of administrative regulations in the execution of particular functions, control measures (e.g. so-called complex inspections), personnel management, dissemination of information, anti-corruption education, etc.

According to information submitted by Kaliningrad Oblast all organs of executive authority have responsible officials whose duties contain a function to prevent corruption-related violations. Moreover, in organs where anti-corruption programs have been adopted, anti-corruption commissions exist to coordinate and control the implementation of measures included in the programs. Among other policies to prevent corruption, following are mentioned:

- approval of anti-corruption standards in public procurement;
- elaboration of administrative regulations for the implementation of public functions and provision of services by the organs of executive authority;
- video broadcasting of Kaliningrad Oblast Government meetings;
- modernization of the official website of the oblast government and expansion of the websites of municipal units;

¹²³ *План мероприятий по проведению административной реформы в Калининградской области на 2006 - 2008 годы* (The Plan of Measures to Carry out the Administrative Reform in Kaliningrad Oblast in 2006 – 2008). Annex No 1 to the Decree of the Governor of Kaliningrad Oblast. 8 May 2006, n 151-p. Chapter 3.

¹²⁴ *Доклад Правительства Калининградской области о реализации мероприятий административной реформы в 2007 году* (The Report of the Kaliningrad Oblast Government on the Implementation of Administrative Reform Measures in 2007). Kaliningrad 2008. <http://www.gov.kaliningrad.ru/index.php?idpage=1592>

- improvement of the quality of state and municipal services based on multifunctional centers;
- implementation of modern methods of office-work;
- complex targeted inspections and rotation of personnel in organizations with heightened corruption risk.¹²⁵

The Report of the Kaliningrad Oblast Government on the Implementation of Administrative Reform Measures in 2007 also contains information that, on the oblast level, a draft government decree with a program and plan to counter corruption has been elaborated. Moreover a draft government decree has been mentioned “On the Administrative Regulatory Framework of Internal Control in the Authorities of Local Government and Internal Diagnostics of Corruption Risks on the Municipal Level”.

On 29 December 2007 the Government of Kaliningrad Oblast approved regulations and methodology for the assessment of legal regulatory acts and drafts thereof to determine their conduciveness to corruption. Following officials may decide on forwarding a legal regulatory act for anti-corruption assessment:

- the Governor of Kaliningrad Oblast or, upon his/her instruction, Vice Prime Minister of Kaliningrad Oblast with regard to any legal regulatory acts of Kaliningrad Oblast and drafts thereof;
- the head of an executive organ of state authority of Kaliningrad Oblast that has elaborated or approved the legal act;
- the head of an administrative department of the Government of Kaliningrad Oblast with regard to legal acts of executive organs of state authority of Kaliningrad Oblast in accord with the heads of such organs.¹²⁶

According to the methodology anti-corruption expertise involves the identification and assessment of following factors conducive to corruption:

- in legal acts, improper assignment of discretionary powers to organs of state authority and their officials;
- heightened requirements that legal acts impose upon citizens and (or) organizations when they execute their rights and legal duties in relations with the organs of state authority;
- absence of or flaws in administrative procedures;
- absence of or flaws in competition (auction) procedures;
- improper determination of functions, duties, rights and liability of state civil servants.

The list of factors conducive to corruption is not exhaustive and other such factors may be identified during assessment.¹²⁷

If it is found that a law of Kaliningrad region or a draft law under review in Kaliningrad Oblast Duma is conducive to corruption, the conclusion of the expertise

¹²⁵ Information provided by Kaliningrad Oblast. 02.06.2008.

¹²⁶ *Положение об экспертизе нормативных правовых актов органов государственной власти Калининградской области и их проектов на коррупциогенность* (Regulation for the Assessment of Legal Regulatory Acts of Organs of State Authority and Drafts Thereof to Determine Their Conduciveness to Corruption). Article 13.

¹²⁷ *Методика экспертизы нормативных правовых актов органов государственной власти Калининградской области и их проектов на коррупциогенность* (Methodology for the Assessment of Legal Regulatory Acts of Organs of State Authority and Drafts Thereof to Determine Their Conduciveness to Corruption). Articles 11, 12.

is forwarded to the Administrative Department of the Government of Kaliningrad Oblast to decide on the preparation and submission of draft amendments to the law or amendments to the draft law by the Governor of Kaliningrad Oblast.¹²⁸

If it is found that a regulatory legal act of the Governor or Government of Kaliningrad Oblast is conducive to corruption, the conclusion of the expertise is forwarded to the Governor of Kaliningrad Oblast to decide the issue of the preparation of relevant amendments.¹²⁹

Within 30 days from the receipt of conclusion that a legal act approved by an executive organ of state authority of Kaliningrad Oblast is conducive to corruption, the head of the organ must submit to the Government of Kaliningrad Oblast information about measures made to eliminate factors conducive to corruption.¹³⁰

7.10.2. St. Petersburg¹³¹

The activities of state civil servants in the executive organs of St. Petersburg are regulated in the Federal Law „On the State Civil Service of the Russian Federation”, the Law of St. Petersburg „On the State Civil Service of St. Petersburg” (01.07.2005) and other official regulations.

State service office holders are prohibited to directly or indirectly intervene in the activities of commercial and non-commercial organizations or participate in their management. There is also a prohibition for state service office holders to occupy, within a set period of time, positions in commercial and non-commercial organizations whose earlier activities were directly or indirectly connected with the execution of official powers by the respective state service office holder. State civil servants are to submit information about their income, property and pecuniary liabilities to tax authorities.

The Legal Committee within the Administration of the Governor of St. Petersburg analyses draft laws of St. Petersburg, draft legal regulatory acts of the Governor, Government and other organs of executive authority of St. Petersburg. The Committee also analyses current legislation of St. Petersburg as well as legal acts of the territorial branches of federal executive organs to determine their conduciveness to corruption.

¹²⁸ *Положение об экспертизе нормативных правовых актов органов государственной власти Калининградской области и их проектов на коррупциогенность* (Regulation for the Assessment of Legal Regulatory Acts of Organs of State Authority and Drafts Thereof to Determine Their Conduciveness to Corruption). Article 29.

¹²⁹ *Ibid.* Article 31.

¹³⁰ *Ibid.* Article 33.

¹³¹ Below information is presented in an abridged format from a letter by Mr. Petruk, A.M., First Deputy Chair of the Committee for International Relations of St. Petersburg. 03.06.2008.

7.11. Sweden

- **Reporting of suspected misconduct.** Guidelines for public sector employees require employees to inform their manager or other relevant superior immediately if in the course of work employees feel they are the target of improper influence. The guidelines also require: „You should react if you discover that one or some of your colleagues are allowing themselves to be improperly influenced or are taking improper considerations in performing their duties. For example, you could inform a relevant superior. Other options include contacting the agency’s management, internal auditors or the police and prosecutors.”¹³²

The findings of GRECO include a following interpretation of the Swedish legislation on the point of reporting suspicions of corruption: “The Public Employment Act (Section 22) prescribes that a state employee who is reasonably suspected of, *inter alia*, passive bribery, shall be reported for prosecution. This legislation does not cover staff of local authorities. The [GRECO evaluation team] understood that Section 22 rather obliges the employer (the authority concerned) to report the employee.”¹³³

- **Internal reporting and control over conflicts of interest.** According to the Administrative Procedure Law it is first of all the responsibility of the concerned civil servant to recognize and disclose that he/she has a conflict of interest. Such disclosure would normally be directed to one’s superior. In such situation, the official shall not tackle the matter, in relation to which the conflict of interest occurred. The agency shall review the conflict of interest situation if a question about a conflict of interest has been raised and no other official has taken up the matter instead of the one who has the conflict of interest.¹³⁴
- **Whistleblowing.** According to GRECO findings “According to the Constitution an informant has the right to stay anonymous if s/he provides information to the media, and public bodies are prohibited from inquiring about the identity of a whistleblower. Moreover, anyone who reports irregularities to the police can have his/her identity protected up to the point of prosecution. General witness protection measures also apply with regard to public officials. Swedish labor law provides protection to employees, in that dismissal of an employee can only be justified on objective grounds and not as a result of “whistleblowing”.”¹³⁵
- **Treatment of illegal / unethical orders.** No guidelines for conduct in case of an illegal or unethical order have been identified by the experts.
- **Centralized v. decentralized systems of disciplinary liability.** Section 14 A of the Public Employment Law prescribes a disciplinary sanction for neglect of duty, which may be imposed on an employee who intentionally or by carelessness

¹³² On Bribery and Conflicts of Interest – guidelines for public sector employees. Regeringskansliet, Ministry of Finance, Swedish Association of Local Authorities and Regions, 2006.
<http://www.sweden.gov.se/sb/d/574/a/67167>

¹³³ GRECO Second Evaluation Round. Evaluation Report on Sweden. Adopted by GRECO at its 22nd Plenary Meeting (Strasbourg, 14 - 18 March 2005). P.12.

¹³⁴ The Administrative Procedure Law (*Förvaltningslag*), Section 11 Clause 12.

¹³⁵ GRECO Second Evaluation Round. Evaluation Report on Sweden. Adopted by GRECO at its 22nd Plenary Meeting (Strasbourg, 14 - 18 March 2005). P.12.

neglects the duties associated with their position. However, if the fault, having regard to all circumstances, is minor, no sanction may be imposed. Section 15 of the same law specifies disciplinary sanctions – warning and docking of pay. No more than one disciplinary sanction may be imposed on an employee simultaneously. The pay may be docked for a period of no more than thirty days. The amount docked per day may amount to no more than 25 per cent of the daily pay.¹³⁶

Section 34 provides that the Government Disciplinary Board for Higher Officials decides on matters concerning disciplinary liability, reports for prosecution and summary dismissal, as regards employees who are employed by government decision and employees who, though not employed by government decision, hold senior management or comparable positions. The Government may order that the Board shall also decide on such matters where other employees are concerned.¹³⁷ Normally though disciplinary proceeding of other employees are dealt with within the respective agencies.¹³⁸

- **Units / officials responsible for anti-corruption policies within institutions internally.** No information was reported by Sweden or otherwise found about the existence and operation of especially designated officials / units responsible for the anti-corruption policies within institutions.
- **Internal policies.** Some agencies develop specific guidelines / supporting information for their employees. An example of such material is *Tutorial against Bribes* adopted in the Tax Administration.¹³⁹ The tutorial reviews in an accessible format a number of practical issues such as: what is corruption and bribe, what favors are acceptable and what favors are not, what if a superior permits or knows of the acceptance of a favor, what are various forms of favors, what legal liability applies to persons who violate norms. Another two examples of institutions' own policies are the Action Plan against Corruption by the Ministry for Foreign Affairs¹⁴⁰ and a set of anti-corruption measures undertaken at the Swedish International Development Cooperation Agency.¹⁴¹

The State Chancellery has developed supporting material for employees who have a task to lead discussions with their co-workers about such topics as offers of gifts or favors, conflict of interest situations, additional occupation, etc.¹⁴² The proposal of the

¹³⁶ CBSS WGDI questionnaire, Sweden.

¹³⁷ Ibid.

¹³⁸ GRECO Second Evaluation Round. Evaluation Report on Sweden. Adopted by GRECO at its 22nd Plenary Meeting (Strasbourg, 14 - 18 March 2005). P.12.

¹³⁹ *Handledning mot mutor* (Tutorial against Bribes). Skatteverket (Tax Administration). 12.09.2006.

<http://www.verva.se/upload/verksamhetsstod/erfarenhetsutbyte/Mot-korruption/Mote%2030%20augusti%202007/Handledning-mot-mutor-Skatteverket-2006-09-12.pdf>

¹⁴⁰ *Handlingsplan mot korruption* (Action Plan against Corruption). Ministry for Foreign Affairs. 03.06.2005 (revised 28.05.2007). <http://www.verva.se/upload/verksamhetsstod/erfarenhetsutbyte/Mot-korruption/Mote%2030%20augusti%202007/Handlingsplan-mot-korruption-UD-2007-05-28.pdf>

¹⁴¹ *Sidas pågående arbete mot korruption* (Sida's Current Work against Corruption). Swedish International Development Cooperation Agency (Sida). 16.10.2007.

<http://www.sida.se/sida/jsp/sida.jsp?d=519&a=33873>

¹⁴² *Underlag för arbetsplatsdiskussioner om mutor, jäv och bisysslor* (Basis for Workplace Discussions about Bribes, Conflict of Interest and Additional Employment). Regeringskansliet. 06.02.2007. <http://www.verva.se/upload/verksamhetsstod/erfarenhetsutbyte/Mot->

State Chancellery includes suggested preparatory activities before a discussion, tips for the agenda and actual running of a discussion. In terms of substantial matters, the document provides a selection of viewpoints about the issues under consideration as well as a selection of hypothetical borderline cases to be discussed.

It is also recognized that the risk of bribes, corruption and fraud is among the risks that may necessitate the establishment of internal revision (audit).¹⁴³ The Regulation on Internal Steering and Control provides the legal base for risk analysis in order to identify circumstances that cause risks not to fulfill relevant requirements.¹⁴⁴ These risks may include but are certainly not limited to official misconduct and corruption

- **Practice of corruption risk assessment.** The experts did not find evidence of any uniform policy for corruption risk analysis in Sweden. However, for example, the Tax Administration allegedly analyses corruption risk areas and risk groups.¹⁴⁵
- **Use of defined warning signs (red flags) of corruption.** The experts did not find evidence of any uniform policy for the identification of corruption indications.

[korruption/Mote%2030%20augusti%202007/Underlag-arbetsplatsdiskussion-mutor-jav-bisysslor-Regeringskansliet-2007-02-06.pdf](http://www.verva.se/upload/verksamhetsstod/erfarenhetsutbyte/Mot-korruption/3-april-2008/Intern-styrning-kontroll-internrevision-i-staten-Finansdepartementet.pdf)

¹⁴³ *Intern styrning & kontroll samt internrevision i staten* (Internal Steering, Control and Internal Revision (Audit) in the State). Thomas Küchen, Per Johansson. Finansdepartementet, Regeringskansliet. 03.04.2008. <http://www.verva.se/upload/verksamhetsstod/erfarenhetsutbyte/Mot-korruption/3-april-2008/Intern-styrning-kontroll-internrevision-i-staten-Finansdepartementet.pdf>

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8. Concluding remarks

The review of the CBSS countries demonstrates a trend to emphasize the prevention of corruption in most countries, including those having traditionally high levels of trust and integrity in the public administration. National policy documents and guiding materials are being developed. However, the daily responsibility to tackle the risks of corruption remains with the management of particular agencies.

To further increase the capacity of individual public agencies in corruption risk management, it is recommended to increasingly share the best experience accumulated within particular institutions both within countries and internationally. The study identified a set of measures, which are used by public agencies in various CBSS member countries. These measures take various forms and are not necessarily found in all of the countries but some examples are as follows:

- The identification of high-corruption-risk areas / employment positions within agencies and assessment of particular corruption risks,
- Defining of warning signs that signal suspected misconduct while balancing the need to report suspicions on the one hand and to avoid untraceable allegations on the other hand,
- Clear guidance as to how public officials and particularly the leadership of agencies should react when they suspect improper behavior or when they face illegal or unethical orders from their superiors,
- The strengthening of internal control systems to make them more sensitive towards corruption risks (e.g. identify decision making points where the four-eye principle is of most importance or where random checks are most appropriate),
- Prompting superiors of public agencies to manage conflicts of interests within their area of responsibility to make sure no harm to the trust and effectiveness of the public service is done,
- Support to the ethics environment by providing methodological guidance for discussing practical difficulties and ethical dilemmas at workplaces in various public bodies; the development of agency-specific rules of conduct and solutions for typical ethical dilemmas faced by certain categories of public officials,
- The creation and development of focal points (responsible officials, units) within agencies or within sectors of administration with special qualification to assist officials in cases of doubt, maintain adequate level of awareness among staff and review existing routines of work from the point of view of corruption prevention.

Data compiled from the CBSS member countries contain good practice examples under all of the mentioned as well as other points. Further process of mutual sharing and learning would help strengthening clean, effective and democratic governance in the whole of the Baltic sea region. Moreover, since the internal anti-corruption measures of particular agencies are seldom widely publicized, the strengthened exchange of good practices is recommended not only on the international level but also within particular countries.

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