



**NATIONAL INTEGRITY
SYSTEM ASSESSMENT
LITHUANIA**



With financial support from the Prevention of and Fight against Crime Programme of the European Union
European Commission - Directorate-General Home Affairs

INTRODUCTION

Dr Algimantas Čepas

June 2012

The National Integrity System assessment approach provides a framework to analyse the robustness and effectiveness of a country's institutions in preventing and fighting corruption. The concept has been developed and promoted by Transparency International (TI) as part of its holistic approach to countering corruption. A well-functioning national integrity system provides effective safeguards against corruption as part of the larger struggle against abuse of power, malfeasance, and misappropriation.

The National Integrity System assessment of Lithuania examines the resistance to corruption of separate constituent parts of the Lithuanian state and society. Perhaps there is no need to argue that corruption is one of the most complicated issues in the country, given that it receives considerable attention in country programme documents as well as political rhetoric. It is also widely discussed in academic literature. However, corruption is usually seen from the point of control. This assessment takes a look at the problem of corruption from a different angle and focuses most attention on corruption prevention; it provides an evaluation of whether different parts of the state and the society are resistant to corruption, and establishes which parts of the system are weak and proposes means to strengthen them. One can say that in Lithuania the issue of corruption prevention has not been considered and analysed sufficiently, and this assessment should encourage the development of the discourse of corruption prevention.

Law versus practice

The assessment of the integrity of different society and state sectors, as presented in this report, shows that the general level of integrity in the country is at least average, and in some sectors it is considered generally sufficient. The pillars of the parliament ombudsmen, National Audit Office and anti-corruption agencies were assessed as strong or very strong. The legislative, the executive, judiciary, the public sector, law enforcement institutions, political parties, media, civil society and business were assessed as weaker.

It is fair to acknowledge that Lithuania already has legal regulation which could ensure an appropriate level of integrity within both state institutions and the non-state sector. It is true, however, that some components of the legal regulation are lacking. To date, no comprehensive system of whistleblower protection has been created, lobbying is almost unregulated and the legal regulation of the non-state sector is poorly developed as well. Some irregularities in the legal regulation have also been spotted. For instance, legal norms reflect the loose nature of the creation and activities of political parties, but also provide for excessive requirements with regards to the control of the private sector. And yet, it is possible to state that legal regulation is sufficient in order to ensure that basic requirements for integrity are met. The legal regulation was assessed as good or very good in almost all the pillars. Exceptions would be the legal regulation of the accountability of the legislative, independence of the public sector, business and political parties, and media integrity, which were all assessed as average.

However, one could say that too many problems in Lithuania are tackled by creating and amending legal acts; more attention should instead be focused on the daily activities and practice of the state and different public institutions. Different chapters of the report confirm such a hypothesis. Even if perfect regulation exists in certain institutions and sectors, it is necessary to admit that excellent rule of law does not always result in excellent practice. Requirements established by legal provisions remain only as declarations and are often

disregarded in practice. In some fields the gap between law and practice is particularly distinct. While the legal regulation of the resources, independence and transparency of the judiciary; accountability of the public sector; independence and integrity mechanisms of law enforcement institutions; transparency of the media; and resources of the civil society are assessed as good or very good, the practical implementation in the aforementioned fields is minimal.

Anti-corruption regulation perceived as a bureaucracy

In many fields there is lack of resources – especially human resources to ensure that anticorruption provisions work effectively. The judiciary, political parties, media and business enjoy only average resources. The resources of civil society are only minimal.

However, it is unlikely that the lack of resources is the most significant factor determining the limited efficiency of anti-corruption rules. A greater problem is the fact that both those who have to conform with anti-corruption rules and those controlling their enforcement in both state and non-state sectors have an excessively formal perception of anti-corruption as an activity. The meaning and necessity of such activity is not fully appreciated (for example, integrity mechanisms are mostly formed on the initiative of politicians, thus their operation in the fields of civil society, media and business is assessed only as average or minimal).

As a result, the requirements imposed by legal acts regulating anti-corruption are perceived just as additional bureaucracy and, in turn, such perception means that these requirements are applied in a bureaucratic manner as well (the operation of the integrity system of the legislative is assessed only as average, and in the field of law enforcement institutions, only as minimal). By mechanically applying legal provisions and using a little imagination, even detailed rules established by legal acts can be bypassed. At the same time, the strictness and detail of regulation and its formalised application in practice can be overly restrictive for uncorrupt persons.

Therefore it would be a reasonable solution for the state to pay more attention and make more investments in order to increase the motivation of individuals performing anti-corruption functions in both the state and non-state sector; to develop their skills to focus attention on cases deemed suspicious and worth investigation. At the same time it is possible to speculate that the majority of such cases remain undetected due to a lack of legal means to disclose them (the accountability of the legislative, law enforcement institutions, political parties and the media are assessed only as average and the accountability of the public sector is assessed only as minimal).

As mentioned above, Lithuania lacks strict regulation on whistleblower protection. For example, the transparency of public procurement cannot be ensured due to the fact that the right to complain about a decision is granted only to providers of public procurement; control of political party financing and political campaigns is implemented on the basis of reports submitted by the parties themselves and there is no mechanism allowing individual constituents to complain. In addition to whistleblower protection and complaint mechanisms, the report examines other areas where regulation is needed. However, it would be extremely beneficial if the state had a more consistent understanding that legal acts are not enough to guarantee resistance to corruption – more attention should focus on the real activity of people, giving meaning to it and encouraging it in a positive direction.

Lack of culture of cooperation

It has already been mentioned that in Lithuania corruption is usually viewed in terms of its control. Corruption is being “combated” and “reined in”; people seek to “break the spine of corruption”. Naturally, agents in a fight or a war are divided into those who are good and those who are bad. In turn, such division means distinguishing between the insiders and outsiders. In practice, the principle of loyalty, which is essential in civil service, is established as a departmental principle of loyalty demanding the protection of one’s own institution from the criticism of other institutions and the public, and the suppression of problems within the department, which includes corruption-related issues.

Drawing a line between the insiders and outsiders means that the majority of institutions view their activity in such a narrow framework. No questions are raised or problems are solved as to what the meaning, effect and efficiency of their activity are. State institutions perform their functions, i.e. they make decisions assigned to them but rarely pay any attention to whether their decisions are implemented or they just express formal concerns about it. Institutions provide a lot of information to the public about their activities but the information itself is presented with no regard of whether it will be understandable for those who are interested in becoming familiar with it – the information is not generalised or systemised, and is submitted in a language that is too complicated. The majority of the chapters of the National Integrity System assessment also highlight other problems arising from such dissociation and limitation.

It is a pity that such problems of concentrating on one’s own interests and withdrawing from raising common questions and solving them exists not only in the state, but also among non-state sectors such as business and the media. The initiative to develop anti-corruption activity is met very rarely. Again, this may be due to the fact that anti-corruption is considered only as an expression of control. With such a perception of this activity it is impossible that it could gain a high status and would be implemented on the basis of an initiative rather than meeting someone else’s requirements. Giving prominence to control – and thereby to departmental issues – means that it is very hard to develop the culture of cooperation in Lithuania. It is particularly evident in the case of the relations between state institutions and society. Although legal documents include provisions on the implementation of public consultation and put an emphasis on the importance of cooperation between the society and the state, so far the practice in this field has been developing with difficulty. This may be due to the fact that in a control-based culture, society is viewed merely as an object of control, while cooperation with the public – as a form of control.

Control inhibits initiative and a limitation to the departmental level impedes the development of anti-corruption as a system; therefore in practically all chapters of this report it is inevitable to hold sceptical views towards the role and influence of both state and non-state institutions at the national level (engagement of civil society in policy reform and support from business for civil society are assessed as minimal). Strengthening their influence in the system is often viewed as a new activity that requires additional resources and which can and, from the departmental point of view, should be avoided. And it is being avoided. In the time of financial crisis, the lack of resources is a very relevant motive to justify inactivity, and the validity of this argument is likely to be justified. And yet it is unlikely to be the only problem determining the passiveness of both the state and

public institutions. There have been examples in Lithuania where large, important projects have been implemented with highly limited resources. It would therefore be plausible to focus attention on the identification and development of such good practice.

Recommendations

Summarising both the ideas expressed in this introduction and the whole report, it is a pleasure to acknowledge that the system of resistance to corruption in Lithuania is functioning, and is sufficiently strong and reliable. However, it is at the same time essential to admit that there are drawbacks and areas of for improvement and that these are quite numerous. Yet the problems identified are solvable. Some are harder to solve and others easier to tackle, but all of them are solvable. It is essential to have more faith and confidence, to understand its significance and, most importantly, to have the willingness for Lithuania to be a country resistant to corruption.

To summarize the points presented above and further in the report, it is possible to suggest several recommendations, most worthy of attention:

- The legal environment for anti-corruption in Lithuania is fairly decent. Thus the focus in the field should be on the obedience of anti-corruption law in practice as opposed to the creation of new legal norms;
- More attention should be paid to the anti-corruption mechanisms in the public sector. It is necessary to avoid the bureaucratization of anti-corruption. It is also necessary to encourage the establishment of anti-corruption mechanisms in civil society, media and business;
- While encouraging the transparency of the state mechanism, ways have to be found how to present information, relevant to the society in more comprehensible forms. This should be increasingly done by systemizing and summarizing information;
- It is necessary to strengthen the pro-active anti-corruption activities of the state, especially by seeking more extensive cooperation with state and non-state subjects when implementing anti-corruption activities.
- It is necessary to strengthen the accountability of state and non-state institutions. Besides, a comprehensive system for whistleblower protection must be created. Measures have to be taken to eliminate the dominance of departmental loyalty. Possibilities to bear complaints against decisions in public procurement have to be expanded. Monitoring of party and political campaign financing should become more active.