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CORRUPTION PREVENTION IN LITHUANIA'S POLICE AND IN THE STATE BORDER GUARD SERVICE

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ABSTRACT

Corruption exists where the government is. The manifestations of corruption are everywhere the government and its institutions which make decisions exist. Scientists started showing interest in the problem of corruption only on the second part of decade when Lithuania became independent.

The criminal acts of corrupt character in the act of corruption prevention of the Republic of Lithuania are described as bribery, influence marketing, a bribe and other criminal acts if they are rendered in the public administrative sector or extending public service aiming for profit for themselves or other parties such as corrupt practices or going beyond their commission, misuse of official authority, falsification of papers or measures, fraud, wealth appropriation or dissipation, revelation of a service secret, disclosure of a commercial secret, introduction of false information about income, profit or wealth, capital or money legalisation which are obtained in criminal manner, interference in the proceedings of a public official or a person who fulfils public administrative functions or the rest criminal acts which result in taking or trying for a bribe, bribery or covering up for bribery.

The national development of law pays most attention to the administrative corruption and the prevention of officers' misuse at work. As a result, further to this article the authoresses are going to pay most attention

to manifestations of corruption in Lithuania's police and the State Border Guard Service.

KEY WORDS:

police, State Border Guard Service, officer, corruption, immunity

INTRODUCTION

According to the index of corruption's conception Lithuania compared with other 176 countries in the world if we evaluate a country from 0 (highly corrupted) to 100 points (very clear) was valued at 54 points in 2012 and took the forty-eighth place.¹ Viewing this index it is evident that corruption is the real danger to humanity and has to be one of the underlying aspects in Lithuania's public sector. With reference to the corruption map² of Lithuania (in the year 2011), which evaluated the spread of corruption in various institutions, all the groups of examinees assigned the police³ to one of the most corrupt institutions. Therefore the authoresses of this article generally want to analyse the concept of corruption and its evidence in Lithuania's police and the State Border Guard Service. Although the manifestations of corruption can be found in other national institutions, however, according to the authoresses it is very important to discuss the main problems related to the manifestations of corruption in these statutory institutions. Our state has entrusted specific functions to Lithuania's Police and the State Border Guard Service which are not only to maintain order within the state, secure people and society, prevent from criminal actions, detect and investigate them but also to safeguard the outer state border and its crossing control and protect the state by armed forces in the event of war. As a result, manifestations of corruption in these institutions have degraded their work in regard to the society and have negatively affected society's trust in the police and the State Border Guard Service.

THE CONCEPTION OF CORRUPTION

The manifestations of corruption are everywhere the government and its institutions which make decisions exist. Corruption exists where the government is. Therefore we can find articles even in the Statute of the Great Duchy of Lithuania in 1529 which defined punishments for documents falsification and for the judges who practised on given power. It is determined by the fifth article of the first chapter of the Statute⁴ as "If

someone falsified our papers or stamps or consciously had the use of them, every falsification would be punished by fire“. The 21st article “Nobody can take more judicial money than it is determined“ of the sixth chapter “About judges“ says “if any voivode, elder, holder or judge took more judicial money in contrast to those our regulations, that person would be supposed to repay the party in reward and pay a fine of twelve rouble pennies to the king“. As a result, it can be maintained that corruption is deep-seated and prevents from appropriate and professional work since corruption takes its root where people are indifferent to their work. Scientists started showing interest in the problem of corruption only on the second part of decade when Lithuania became independent. With reference to international experience in 1997 two jurists as Pivoriūnas A. ⁵ and Jočienė D. ⁶ tried to define the conception of corruption, its varieties, legal persecution practice of corruption which was underway by states. In 2001 those questions were examined in terms of criminology studies by Justickis V. and Raudonienė A. ⁷.

Corruption is defined as illegal profit under favour of a position and the bribe of an officer or player in the modern Lithuanian dictionary⁸.

Corruption in the national programme⁹ of the year 2011 – 2014 of a fight against corruption of the Republic of Lithuania is defined as any behaviour of the people who work in civil service (such as a politician, judge, officer, civil servant and other equal characters) which does not correspond to their authority or morals defined in juristic bills or encouragement of such behaviour on purpose to gain some profit for themselves or other people and thus to the detriment of the interests of state and citizenry.

Corruption is a complex problem which requires the systematic and integrated attitude; the phenomenon of corruption can be understood not only as a juridical question or criminal offence but also as the problem of culture, particular turn of mind of society, mentality and accredited social standards. Unless and until the society realizes that corruption is not only a criminal act but also a considerable ethical problem, the methods of fighting against corruption can give tangible results.

Lithuanian people place corruption as the third one among the leading problems, it takes the first place according to state and council workers but entrepreneurs give the fourth place to corruption. By all accounts of participants of the research currently much more important problems are such as economic conditions, unemployment and great dues.¹⁰

Corruption is one of the most dangerous social phenomena which increases danger to the rights of man, democracy and juridical state, distorts social justice, competition and trade conditions, reduces the growth of economy, puts a strain on the government, stability of institutions of state and local government and public morals. First of all, corruption is related to an undue extent of bureaucracy and regulation, non-existence of decisions discretion and accountability balance.¹¹

The criminal acts of corrupt character in the act¹² of corruption prevention of the Republic of Lithuania are described as bribery, influence marketing, a bribe and other criminal acts if they are rendered in the public administrative sector or extending public service aiming for profit for themselves or other parties such as corrupt practices or going beyond their commission, misuse of official authority, falsification of papers or measures, fraud, wealth appropriation or dissipation, revelation of a service secret, disclosure of a commercial secret, introduction of false information about income, profit or wealth, capital or money legalisation which are obtained in criminal manner, interference in the proceedings of a public official¹³ or a person who fulfils public administrative functions or the rest criminal acts which result in taking or trying for a bribe¹⁴, bribery or covering up for bribery. The XXXIII chapter of the Criminal Code of the Republic of Lithuania (abr. CC RL) is up for crimes and misdemeanours for civil service and public interests and provides for criminal responsibility for bribery to chapter 225 in CC RL, influence marketing to chapter 226 in CC RL, a bribe to chapter 227 in CC RL, misuse to chapter 228 in CC RL, illegal register of right to an object to chapter 228¹ in CC RL and failure to perform the office at work to chapter 229 in CC RL. In the named cases when a criminal act is done or is being done which can be named as corruption two basic components have to be distinguished such as people who take part in this crime, their motives, interests and the vulnerable rules of law (traditionally crime elements are examined by jurists, which are a subject, object, objective aspect, subjective aspect) between orderliness (or mostly indiscipline) which allows to pay money to one side and to take money for appropriate services to another side. Otherwise the author-esses want to emphasize that there is a giver whose motives are mostly to tackle problems which occur and a taker whose motive is material well-being which allows corruption to appear.

The analysis of acts of law of the Republic of Lithuania has shown that according to the purview various types of corruption are recognized in our

country:

- administrative corruption (corruption which is related to the civil service);
- political corruption;
- corruption in a private sector;
- corruption in the international economic intercourse and corruption which is related with international organisations.

The national development of law pays most attention to the administrative corruption and the prevention of officers' misuse at work. As a result, further to this article the authoresses are going to pay most attention to manifestations of corruption in Lithuania's police and the State Border Guard Service.

THE LEGAL REGULATION OF CORRUPTION PREVENTION

As Lithuania joined the European Union the great attention was paid to the development of juridical base of corruption prevention. We have to admit that though the juridical base was developed, however, the law security of our country was not very powerful since it did not have the centre which could coordinate the research of corrupt crimes. The government, which had valued the evoked threat of corruption to the state's socioeconomic development and implemented the programme of executive proceedings of the year 1997 – 2000 and the act "In consequence of the development of means' control and prevention of crimes related with corruption" on the 15th of March in 1996, decided to establish a particular institution in 1997 which could fight against corruption¹⁵ according to the international commitments (since 1995 the European convention due to the search, arrest and confiscation of money-laundering and income obtained by criminal behaviour which was accepted by the Council of Europe have become effective in Lithuania). According to the act No 135 "In consequence of the establishment of the Special Investigative Service near the Home Office" on the 18th of February in 1997 the government entrusted the functions of fight against corruption and crimes for civil service to the modern institution of law security. In 2011 the structural variations in Lithuania's police were accomplished by eliminating the department of Corruption control of Lithuanian detective force and the Interior managing department of the Police force and establishing the Immunity department. The Immunity department is delegated to help to the general commissioner to organise and

implement the management of police institutions, arrange and coordinate the prevention and investigation¹⁶ of malfeasance, work ethic and other offences of police officers, not statutory public officials and workers and also the criminal acts of corrupt nature. On purpose to execute the corruption prevention and effectively fight against corruption violations the Immunity department and the select immunity subdivisions of SFSD were founded in the State frontiers security department on the 15th of September in 2004.

According to the accomplished analysis of Lithuanian acts of law of incorruptibility the authoresses have grouped them in the following way:

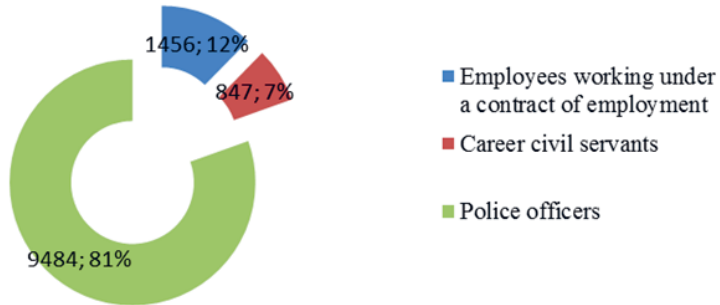
1. The decrees which define legal responsibility for corruption actions (Criminal Code, Executive Offence Code and Civil Code), the law of their variation and addition;
2. The rest decrees (Corruption prevention, Declaration of people's wealth and earnings, Coordination of public and private interests in the civil service, Public purchases, Public management, Civil service decrees, Criminal procedure code, Civil procedure code, Legal proceedings of administrative cases, Prevention of money-laundering, Grounding of capital procurement and income legitimacy, Competition, Lobby practice, Sponsorship control of political campaigns, Sponsorship of political parties and organisations, Special investigative service, Fundamentals of national security, Participants of criminal procedures and intelligence service, Security of officers of law enforcement institutions against criminal effect, Decrees of prevention of arranged criminality, Decrees of their variation and addition and etc.);
3. The acts of law accredited by the government, the decrees of Prime Minister, the decrees of the leader of Lithuania's police and the State Border Guard Service which define the particular means of a fight against corruption such as the accredited resolution of the government No 4-805 "In consequence of the confirmation of the programme of the national fight against corruption of the Republic of Lithuania in the year 2011-2014" on the 16th of June in 2011, the decree of the leader of the State Border Guard Service No 4-805 "The programme of corruption prevention of the State Border Guard Service near the Home Office of the Republic of Lithuania in the year 2011-2013" on the 20th of December in 2010, the decree of the general commissioner of Lithuania's police No 5-V-447 "In consequence of the programme of a fight against corruption in the police in the year 2012-2014 and

the confirmation of its means' scheme" on the 7th of June in 2012, the decree of the general commissioner of Lithuania's police No 5-V-448 "In consequence of the confirmation of means' scheme in the year 2012-2014 of a fight against corruption in the traffic police" on the 7th of June in 2012.

THE ANALYSIS OF CORRUPTION STATISTICS OF LITHUANIA'S POLICE OFFICERS

Corruption in the police is any behaviour of a police officer, career public official or worker who works under the employment contract which does not correspond to the given authority or stated morals and strive for a profit for himself or other people thereby he does much harm to the interests of people and the police system or it is the stimulation¹⁷ of such behaviour. There are 11787 people in Lithuania's police (Picture 1).

**The personnel of Lithuanian police
30/06/2013**

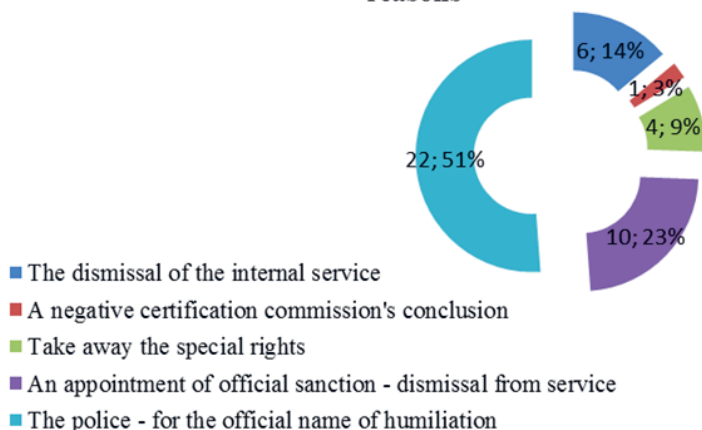


Picture 1. The personnel of Lithuanian police

There are 6487 men (68 per cent) and 2997 women (32 per cent) in the police. To read on the authoresses are going to analyse the corruption of the 1st half-year in 2013 as compared to the 1st half-year in 2012 as it has been mentioned before that the Immunity department in Lithuania was established in August in 2011. According to the data of the year 2012 the number of police personnel generally decreased by 1,6 per cent in the 1st

half-year in 2013, the amount of police officers declined to 2,2 per cent, the number of career public officials increased to 8,3 per cent and workers under the employment contract fell off to 3 per cent. In the 1st half-year of the year 2013 380 police officers were given the walking-papers and from this amount 43 policemen were shelved due to negative reasons. In respect that 18 per cent of all shelved officers amount 69 police officers from LCPD for reorganisation therefore it is stated that every seventh policeman is dismissed from work due to negative reasons (in the 1st half-year in 2012 – every 15th officer)¹⁸ (Picture 2).

Police officers dismissed from work due to negative reasons



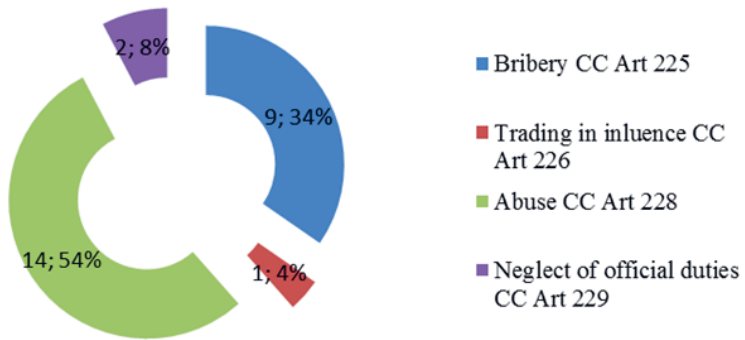
Picture 2. Police officers who are dismissed from work due to negative reasons

The 53rd article of Interior service statute of the Republic of Lithuania (abr. – Interior service statute) has provided for the fundamentals of dismissal from work. As a result, according to the statistics of the year 2013 of police officers' dismissal from work due to negative reasons which are represented in the 2nd picture it shows that 6 policemen have been dismissed leading the 8th particle of the 1st section of the 51st article of the Interior service statute and if the judgement has stood up whereby a police officer has been adjudged of a wilful crime or criminal offence or has been disqualified from working in the police department because of a crime or due to its administration he cannot perform the office. One of the police

officers has been dismissed according to the negative finding of the assessment commission four of them have lost the special rights according to the treatment of the law which are related to the performance of direct duties. Ten police officers have been shelved who have paid the official penalty to be dismissed from work thereby seven of them due to being drunk at work, three of them due to truancy without justification. 22 policemen have been dismissed due to the humiliation of the image of a police officer sixteen whereof have been shelved for driving a car after having drunk too much alcohol, meeting with an accident after a drink, avoidance to test the quantity of alcohol or withdrawal from the scene of an accident; three of them – for bribery and illegal coverage of a homebrew-maker; two of them – for illegal disposal of excise goods; one of them – for document's falsification.¹⁹ As compared with the first half-year in 2012 the number of dismissed policemen due to negative reasons has developed in 32 per cent and it has been conditioned by the increased number of stated disturbances related to excessive drinking.

In the 1st half-year in 2013 29 before-the-trial investigations have been launched whereby the reports about allegations have been presented to 55 police officers (5 – directors, 16 – experts / investigators, 32 – policemen on patrol / officers, 2 – other positions). In comparison to allegations which were stated to the police officers in the 1st half-year in 2012 their number has increased in 72 per cent and the number of launched before-the-trial investigations has developed in 16 per cent in the 1st half-year in 2013. Considering the latency of corrupt nature of criminal acts one growth of the number of before-the-trial investigations and suspect police officers is related to the establishment and proceedings of the Immunity subdivisions. As it was mentioned by the authoresses above the XXXIII chapter of the Criminal Code of the Republic of Lithuania provides responsibility for crimes and misdemeanours made to civil service and public interests. To follow the regulations of this chapter within the 1st half-year in 2013 26 allegations due to criminal acts accomplished during the office hours have been presented to Lithuanian policemen (Picture 3).

Suspected police officers



Picture 3. Suspected police officers

Since the year of 2012 great attention is being paid to the registered cases of bribery such as one of the methods of corruption prevention whereas their number is significantly increasing. With reference to the data of departmental register of criminal acts within the 1st half-year in 2013 448 bribery cases have been registered in the police. The accomplished analysis of the Immunity department has shown that people between 20 and 49 years old usually try to bribe police officers. The Immunity department has maintained that people at the age of 20 – 29 have absorbed the model of corruption operation therefore it has been understood that the incorrupt education of a society did not have more influence on that age-group.

By accomplishing the analysis of corruption in the police it has been drawn a conclusion that the number of ascertainable crimes and misdemeanours is increasing. The authoresses believe that it has been conditioned by the careful work of police officers of the newly instituted Immunity department.

THE ANALYSIS OF CORRUPTION CASES OF OFFICERS OF THE STATE BORDER GUARD SERVICE

On purpose to execute corruption prevention and effectively fight against corruption violations the Immunity department and the immunity subdivisions of the State Border Guard Service which are under control to the director of the Immunity department were instituted in the State

Border Guard Service on the 15th of September in 2004. The Immunity subdivisions were fully completed in the early part of the year 2006 and thereafter they began the disciplined and active proceedings in the area of corruption prevention (in total there are 24 staff). The fundamental work areas of the Immunity subdivisions are corruption prevention, incorrupt education and investigations of corrupt criminal acts. The Immunity subdivisions are the subjects of the criminal intelligence service and execute the investigations of the criminal intelligence service of corrupt criminal acts. The Immunity subdivisions of the State Border Guard Service administer all the means of corruption prevention provided in the decree of corruption prevention as well as the scheme of corruption prevention of relevant means to the State Border Guard Service is additionally confirmed every year.

To compare information and experience the Immunity subdivisions of the State Border Guard Service actively collaborate with the immunity subdivisions of other services whereas they execute the general investigations with the immunity subdivisions of the police.

According to the disposal method²⁰ of the analysis of corruption risk the determination of corruption expectation was accomplished in the State Border Guard Service in the 3rd quarter of the year 2010. It was stated that corruption does exist in the State Border Guard Service. In conformity with the analysed complaints and reports received from people by the chosen period of time, the launched before-the-trial investigations due to officers and the rest information of public and unadvertised format, 4 work areas in the State Border Guard Service were marked where the most expectation of corruption evidence was defined:

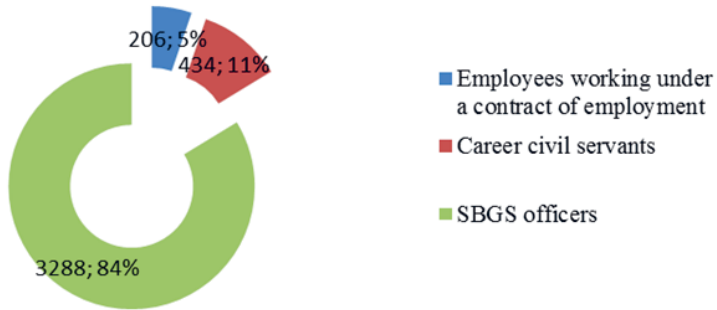
- To accomplish the check-up of people and vehicles which cross the border and according to competence secure the treatment of border-line control centres;
- To safeguard the state border overland and borderline's inland waters;
- To implement the national control of migratory procedures (the proceedings of subdivisions of illegal migration's prevention and control near the interior borders of the European Union);
- To administer public purchases according to competence.

According to the data of the State Border Guard Service during the period of 2006 – 2013 the allegations for criminal acts of corrupt nature have been stated for 152 officers (2006 – 31, 2007 – 19, 2008 – 31, 2009 – 17,

2010 – 19, 2011 -15, 2012 – 12, 2013 (1st half-year) - 8).

At present there are 3 928 officers in the State Border Guard Service: 3 288 police officers, 206 career civil servants and 434 employees working under a contract of employment (Picture 4).

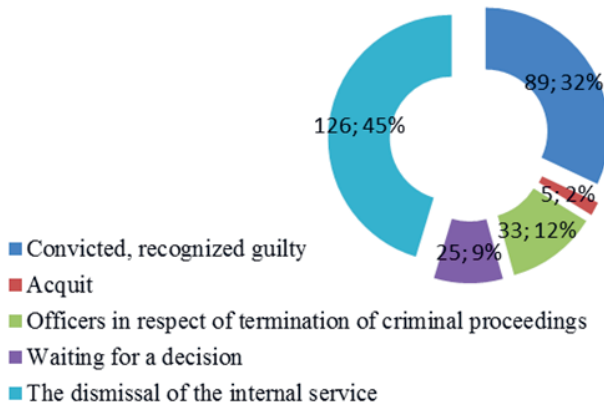
**The personnel of Lithuanian SBGS
01/09/2013**



Picture 4. The personnel of Lithuanian SBGS

Up to November of the year 2013 the allegations for corruption practice have been stated for 152 officers. 89 officers whereof have been convicted and adjudged, 33 criminal cases have been suspended, 126 officers have been dismissed from the internal service.

Suspected SBGS officers



Picture 5. Suspected SBGS officers

The fundamental corruption proceedings such as misfeasance and bribery are usually indicated in these forms:

1. The officers of the State Border Guard Service give information about a guard position to the people who organise cigarette smuggling.
2. The officers of the State Border Guard Service who work in the border-line checkpoint allow the organisers of cigarette smuggling to transport them in the fitted hiding-places of cars.
3. The officers of the State Border Guard Service who work in the border-line checkpoint let the stolen vehicles pass.
4. There is little bribery in the State Border Guard Service that is that the officers who work in the borderline checkpoint take small amounts of money from the people who cross the Lithuanian border (to put it simply, a driver gives and an officer takes money, practically a frontier-guard does not expect money).

THE MEANS TO IMPLEMENT CORRUPTION PREVENTION

On purpose to exercise corruption prevention properly and ensure clear and responsible work of Lithuania's police and the State Border Guard Service there have been instituted the Immunity subdivisions which have to organise and control the malfeasance of statutory and not statutory public officials and workers, work ethic violations and other offences, also the prevention and investigation of criminal acts of corrupt nature.

The programme of the fight against corruption in the police in the year 2012 – 2014 has been prepared which objective is to warrant the system of efficient and purposeful corruption prevention and control, ethics infraction, prevention and investigation of malfeasance and to found clear and responsible police.

According to the programme of the fight against corruption in the police in the year 2012 – 2014 and the accomplished statistical analysis which has maintained that the most corrupt officials in the police are traffic police officers the scheme of the means of the fight against corruption in the traffic police in the year 2012 – 2014 was confirmed by the decree No 5-V-448 of the general commissioner of Lithuania's police on the 7th of June in 2012.

Similarly the prepared programme of corruption prevention of the State Border Guard Service in the year 2011 – 2013 which objective was to strengthen corruption prevention in all briefs of the SBGS coherently and consistently, detect and eliminate the reasons and circumstances of corruption origin and due to them corruption could spread, reduce corruption in the SBGS on purpose to gain more effective proceedings of public officials and other workers of the SBGS and its subdivisions. The scheme of the means of corruption prevention relevant to the State Border Guard Service has been confirmed yearly.

The Immunity subdivisions of Lithuania's police and the SBGS have traversed the information collected by remote observation, detective intelligence service and exercising before-the-trial investigations which is related to possible criminal acts of officers of the police and the SBGS and have determined the most corrupt vulnerable areas which the most attention is given to.

The Immunity subdivisions of the State Border Guard Service actively collaborate with the Immunity subdivisions of the police they exchange information and execute general investigations.

CONCLUSION

Corruption is a complex problem which requires the systematic and integrated attitude; the phenomenon of corruption can be understood not only as a juridical question or criminal offence but also as the problem of culture, particular turn of mind of society, mentality and accredited social standards. Unless and until the society realizes that corruption is not only a criminal act but also a considerable ethical problem, the methods of fighting against corruption can give tangible results.

Corruption is one of the most dangerous social phenomena which increases danger to the rights of man, democracy and juridical state, distorts social justice, competition and trade conditions, reduces the growth of economy, puts a strain on the government, stability of institutions of state and local government and public morals. First of all, corruption is related to an undue extent of bureaucracy and regulation, non-existence of decisions discretion and accountability balance.

As Lithuania joined the European Union the great attention was paid to the development of juridical base of corruption prevention. We have to admit that though the juridical base was developed, however, the law

security of our country was not very powerful since it did not have the centre which could coordinate the research of corrupt crimes. On purpose to exercise corruption prevention properly and ensure clear and responsible work of Lithuania's police and the State Border Guard Service there have been instituted the Immunity subdivisions which have to organise and control the malfeasance of statutory and not statutory public officials and workers, work ethic violations and other offences, also the prevention and investigation of criminal acts of corrupt nature.

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- 11 The national programme of the year 2011-2014 of a fight against corruption of the Republic of Lithuania
- 12 http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=436086&p_tr2=2
- 13 Politicians, civil servants, judges, public officials according to the act of civil service and other people who work or on the other provided basis of the law perform the office in the institutions of state or local government, dispense the functions of the government representative or have got administrative authority, also official candidates for this position.
- 14 A bribe is the form of any wealth or personal interest to someone or a taker personally (material or immaterial, it is worth in the market or of no value) which expresses illegal or unfounded reward for the desirable legal or illegal action of a public official or a person of equal value or inaction in pursuance of authority.
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consequence of the confirmation of means' scheme in the year 2012-2014 of a fight against corruption in the traffic police" on the 7th of June in 2012, 8 section

- 17 The decree of the general commissioner of Lithuania's police No 5-V-447 "In consequence of the programme of a fight against corruption in the police in the year 2012-2014 and the confirmation of its means' scheme" on the 7th of June in 2012, 3 section
- 18 The report of police officers' criminal acts, malfeasance and corruption tendencies in the police system of the Immunity department of Police board near the Home Office in the 1st half-year in the year 2013
- 19 The information is represented following the report of police officers' criminal acts, malfeasance and corruption tendencies in the police system of the Immunity department of Police board near the Home Office in the 1st half-year in the year 2013
- 20 Government of LR The disposal method of corruption risk analysis, 8th October 2002, the act No. 1601, Žin., 2002, No. 98-4339