



European Partners against Corruption  
Anti-Corruption Working Group

Report

# **COMMON STANDARDS and BEST PRACTICE FOR ANTI-CORRUPTION AGENCIES**

Special Investigation Service, Lithuania  
Corruption Prevention and Combating Bureau, Latvia

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## Background

Common standards and best practice for anti-corruption agencies was recognised to be a relevant and important topic to the European Partners against Corruption (EPAC) in the Budapest declaration adopted by the 6th EPAC Annual Conference held on 22-24 November 2006 in Budapest. According to the Budapest declaration a working group on Common standards and best practice for anti-corruption agencies (ACA WG) was set up and reported its results to the EPAC Conference on 12-14 December 2007 in Helsinki.

The working group is chaired by:

- Corruption Prevention and Combating Bureau (KNAB), Latvia
- Special Investigation Service (STT), Lithuania

The working group also includes:

- Federal Ministry of the Interior, Federal Bureau for Internal Affairs (BIA), Austria
- Brigade Centrale de Lutte contre la Corruption (BCLC), France
- Department of Internal Investigations (DIE), City of Hamburg, Germany
- Central Anti-Corruption Bureau (CBA), Poland
- National Anti-Corruption Directorate (DNA), Romania
- Commission for the Prevention of Corruption (CPC), Slovenia

Drawing on the established international requirements, the objective of the working group is to define common standards and identify best practice that ensures efficient work of anti-corruption agencies. To achieve its objective, the working group looks at national legislation and functions, activities and results of anti-corruption institutions.

The methodology of the working group is based on the questionnaire, which allowed collecting information on legislative and institutional measures existing in each participating country. Further, the main functions, activities and statistical data of the involved specialised anti-corruption institutions were analysed. The answers were collected from the Chairs and all the above listed members of the working group in spring 2007. The working group held three meetings in Vilnius on 8 May 2007, in Riga on 10 October 2007 and in Vilnius on 16 November 2007. This report is based on the information collected through the questionnaire and the above-mentioned meetings. The latest working group meeting took place on 6-7 May 2008 in Riga. The report was finalised before this meeting.

Anti-corruption agencies, referred to as ACAs, mean anti-corruption agencies, specialised units and departments in public administration and law enforcement institutions with a mandate to fight against and prevent corruption and provide anti-corruption education.

## Introduction

Since late nineties specialised anti-corruption agencies have been increasingly considered to be an effective solution to preventing and fighting corruption. This has led to setting up of anti-corruption bodies or specialised units in many European countries.

The role of specialised, independent, well-trained and adequately resourced bodies fighting corruption is recognised in the Council of Europe Committee of Ministers Resolution 97 (24) on the Twenty Guiding Principles for the Fight against Corruption, in particular in its principles 3 and 7.

Further, the importance of specialised authorities is acknowledged in the Council of Europe Criminal Law Convention on Corruption. Its article 20 stresses that specialised authorities should be independent and able to work efficiently.

More recently, the United Nations Convention against Corruption has set out a mandatory requirement to ensure the existence of preventive anti-corruption body or bodies (article 6) and of bodies fighting corruption through law enforcement (article 36).

Since 1999 regular monitoring of anti-corruption efforts has been ensured by the Council of Europe Group of States against Corruption – GRECO. A number of GRECO reports have provided useful recommendations supporting establishment and reinforcement of anti-corruption agencies.

International conventions and recommendations provide an important expression of common commitment on the main general requirements and common fundamental principles. Meanwhile, only effective regulatory and practical measures taken at national level to implement these standards can help to have impact on corruption.

The need to facilitate the exchange of information on successful practices for preventing and combating corruption and patterns and trends in corruption is stressed in the United Nations Convention against Corruption (Article 63).

Finally, in its resolution “Appeal to states parties and invitation to signatories to the United Nations Convention against Corruption to adapt their legislation and regulations”, the Conference of the States Parties to the United Nations Convention against Corruption has underlined the important role of adopting measures at national level.

# I COMMON STANDARDS

## 1. Necessary independence and autonomy of specialised anti-corruption institutions

(United Nations Convention against Corruption, Art. 6 and 36, Council of Europe Criminal Law Convention, Art.20, Council of Europe Resolution (97) 24, Art. 3)

**International standards require necessary independence and autonomy to be ensured for the anti-corruption authorities with the aim to help them to carry out their functions effectively and be free from undue pressure. Practice of the ACA WG agencies shows that they are ensured through an appropriate status of the institution, appointment and dismissal procedure for director's and other senior posts, independence of investigations and possibility of direct communication with the mass media.**

### Status of the institution

In **Austria**, the Federal Bureau for Internal Affairs (BIA) is a special department for the fight against corruption, i.e. for security and criminal police investigations in cases of malpractice (§§ 302-313 Austrian Penal Code, StGB<sup>1</sup>), within the Austrian Federal Ministry of the Interior (Mol). It was established by the decree of the Minister of the Interior on 31 January 2001. In order to achieve a reasonable degree of independence, BIA was set up outside the classical law enforcement hierarchies, i.e. the Directorate-General for Public Security. BIA is integrated into Directorate-General IV and, de lege lata, forms part of its chain of command. An exception to the subordination, such as it is defined by the Federal Constitutional Law in article 20, does not exist, even though in everyday practice, no instructions are issued concerning investigation matters. Yet, whenever the Bureau deals with matters of the security administration, it acts as the Directorate-General for Public Security.

BCLC in **France** is an inter-ministerial body also within the Ministry of the Interior. It is attached to the Central Direction of the Criminal Investigations within the Criminal Police. It is a separate unit of this Direction dealing specifically with corruption cases. DIE in Germany is also part of the Ministry of the Interior Administration.

**German** DIE in Hamburg is subordinated to the Minister of Interior but is separated from police and other structures of the Authority of the Interior.

In **Latvia**, KNAB is a statutory public administration institution under supervision of the Cabinet of Ministers headed by the Prime Minister. The State Administration Structure Law provides for two forms of supervision: subordination and control, where the subordination is more limited. In case of KNAB, the supervision is in the form of subordination. The supervisor can assess the lawfulness of decisions, revoke unlawful decisions and order to take decision in cases of unlawful lack of action. In practice, the Prime Minister several times started a disciplinary investigation against the Director of KNAB. Such action was taken relating to legality of his decisions or lack of action. In September 2007, the Prime Minister has also suspended the Director from his functions during such a disciplinary investigation. This was done in combination with setting up a working group led by the Prosecutor General, as required by the Law on KNAB in order to dismiss the Director by the Parliament. The Director was reinstated in his functions after the disciplinary commission issued a reprimand.

In **Lithuania**, STT is a state law enforcement agency functioning on the statutory basis, and accountable to the President of the Republic and the Seimas (Lithuanian Parliament).

CBA in **Poland** is a centralised government administration office supervised by the Prime Minister. It was established by the Central Anti-corruption Bureau Bill of 9 June 2006 which entered into force on 24 July 2006.

In **Romania**, the status of DNA is set out in the Emergency Government Ordinance No. 43/4.04.2002 regarding the National Anti-corruption Prosecutor's Office, approved by the Law no. 503/2002. It is a legal entity within the Prosecutor's Office, which is attached to the High Court of Cassation and Justice (GPO). The General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation directs DNA through the chief prosecutor of DNA. According to the Romanian Constitution, the prosecutors in Romania fulfil their activity under the authority of the Minister of Justice. According to the Law 304/2004 on Judicial Organisation, the authority of the Minister of Justice is limited to the right of the Minister to verify the managerial efficiency, and the way how the prosecutors fulfil their legal attributions. Any interference in the measures taken by the prosecutors in the

criminal cases or in the solutions adopted cannot be justified. The law still confers DNA important features of independence. DNA is independent in its relationship with courts, prosecutorial offices and other public authorities. DNA has a great deal of financial autonomy. The budget of DNA is part of the budget of the Prosecutor's office and can only be used on the basis of the disposition of the chief prosecutor of DNA. The chief prosecutor of DNA has the main role

in the appointment and revocation procedure of DNA prosecutors (with the approval of the Superior Council of Magistracy), of DNA police officers (following the order for temporary transfer issued by the Ministry of Administration and the Interior) and of DNA specialists.

CPC in **Slovenia** is an independent state institution.

### **Appointment and dismissal**

In **Austria**, the Act on the Advertising of Vacancies contains systematic and comprehensive provisions governing appointments to management-level functions and higher-level jobs in the public service. Sections I to VI of this Act stipulate that any appointment of a person to the management of an organisational unit specified in the Act must be preceded by public advertising. For special management functions, a Board of Review is to be set up at the central ministries, which have to submit an expert opinion on the suitability of candidates to the Federal Minister in each case. State-of-the-art methods of staff selection may be used in the review process.

In **France**, the chief of BCLC is nominated by the Ministry of the Interior, namely National Police. His/her deputy is appointed by the Ministry of Defence, i.e. National Gendarmerie.

In **Latvia**, pursuant to the Law on Corruption Prevention and Combating Bureau, the Director of KNAB is appointed by the Saeima (Parliament) on recommendation of the Cabinet of Ministers for 5 years. The Cabinet of Ministers can announce an open competition for this position. Other Bureau officials in managerial positions, such as Deputies of the Director and heads of Divisions, as well as other officials of KNAB are appointed and dismissed by the Director. For example, in the process of appointment of the Director in 2004, the Cabinet of Ministers announced an open competition to which 20 candidates applied. The commission selecting candidates was headed by the Prime Minister and consisted of representatives of state institutions and one NGO.

In **Lithuania**, a candidate to the post of the Director of the Special Investigation Service is nominated to the Seimas (Parliament) by the President of the Republic of Lithuania who also appoints and dismisses the Director, by and with the consent of the Seimas, according to the Law on STT. The First Deputy Director and the Deputy Director are appointed and dismissed by the President of the Republic on the advice of the Director.

The Head of CBA in **Poland** is appointed and recalled by the Prime Minister, with the consent of the President of the Republic of Poland, the Committee for Special Services and the Parliamentary Special Services Committee, for a period of 4 years, which may be prolonged only once, for another term of 4 years, in accordance with CBA Bill of 9 June 2006 (art. 5-11).

DNA in **Romania** is headed by the Chief Prosecutor, equivalent to the First Deputy General Prosecutor. The two deputy chief prosecutors are equivalent to the Deputy General Prosecutor. The Chief Prosecutor of DNA, his/her deputies and the chief prosecutors of the sections of DNA are appointed by the President of Romania, on the proposal of the Minister of Justice and following the advisory note of the Superior Council of Magistracy. The revocation procedure is analogical to the appointment procedure. There could be several reasons for revocation, including failure to meet the conditions of appointment, inappropriate exercise of managerial attributions as regards efficient organisation, communication capacity, assuming the responsibility and managerial capacity, and the imposition of a disciplinary sanction.

In **Slovenia**, the Chairman and Vice-Chairman of CPC are elected by the Parliament on the proposal of the President of the Republic. One member of CPC is nominated by the Government, one member by the Judicial Council and one member - by the Parliament.

## Independence of investigations

In **France**, the investigations of BCLC are directed by the Public Prosecutor or examining magistrate (juge d'instruction).

In **Latvia**, the independence of criminal investigations of KNAB is ensured through common rules applied to criminal investigations in Latvia. An investigation is started by an investigator or prosecutor. When conducting the investigation, the investigator who is assigned to carry out these proceedings, and is called "the person directing the proceedings", enjoys quite significant independence in conducting the investigation until it is transferred to the prosecution office. During this period, the investigator makes all the decisions about procedural steps to be taken to proceed with the investigation and he is not obliged to ask his/her superior to approve these decisions. Personal independence and professionalism of the management and investigators of KNAB also help to preserve the independence of investigations.

The independence of investigations in **Romania** is ensured by the legal dispositions that prohibit the reallocation of cases unless strictly limited situations occur; a legal disposition allows the prosecutor to notify the Superior Council of Magistracy regarding any attempt at interference with an investigation even if this interference would come from the upper hierarchy.

## 2. Preserving the confidentiality of investigations

(Council of Europe Resolution (97) 24, Art. 3)

**Confidentiality of investigations should be ensured in order to protect the interests of the parties to proceedings (witnesses, whistleblowers, suspects, investigators) and increase the efficiency of investigations. There are different provisions on that in the national legal systems of the ACA WG countries such as secrecy of investigations, including witness and whistleblower protection, and limits to information that can be communicated.**

Generally, Article 310 of the Criminal Code prohibits the breach of official secrecy in **Austria**. Moreover, article 3.1 of BIA introductory decree states that employees of the Ministry of the Interior must not be prevented from reporting suspicious circumstances directly to the Bureau. BIA guarantees to treat data of persons reporting suspicious circumstances as confidentially as possible. In this regard, BIA strives, of course, for cooperation with the competent legal authorities.

The confidentiality of investigations in **Latvia** is guaranteed by the Criminal Procedure Law. Pursuant to Article 375 all materials of the proceedings during criminal proceedings are subject to the "secret of investigation". According to the Criminal Procedure Law, there are some materials that have to be provided to the defence lawyer, such as the decision to start criminal proceedings; other materials can be requested and shall be provided if the person directing the proceedings decides to do so. Protection of information regarding operational activities and confidentiality of persons involved in operational activities is a duty of KNAB as operational activities body according to the Law on Investigatory Activities. The Law on State Secret also determines that information on organisation, methods, plans and persons involved in activities of operational activities bodies is a state secret.

In **Lithuania**, the pre-trial investigations conducted by the Special Investigation Service are coordinated and supervised by a prosecutor following the procedure prescribed by laws.

In **Poland**, confidentiality of investigations is protected on the basis of CBA Bill of 9 June 2006, Protection of Classified Information Act dated on 22 January 1999 and Protection of Personal Data Act dated on 29 August 1997.

In **Romania**, in order to preserve the interests of the investigation as well as the rights of privacy and the presumption of innocence, the pre-trial stage of a criminal case is non-public, the law specifies in a very strict manner which investigative acts have to be communicated and the persons or authorities to whom those acts should be communicated.

In **France**, the investigations are also secret.



### 3. Accountability

(United Nations Convention against Corruption, Art. 1, 5 and 10)

**Accountability of anti-corruption institutions is essential for ensuring their credibility and transparency and for building the public's trust. Practice of the ACA WG agencies shows that the main elements of accountability include regular reports presented to the Parliament, President's Office and Government and available to the public as well as public forums such as consultative councils.**

In **Austria**, apart from the overall control of law enforcement entities by the Minister of the Interior, the judicial authorities and the parliament, BIA is also subject to the control of the Legal Protection Officer. The Legal Protection Officer has a variety of monitoring competencies. They depend on the intensity of investigational activities. Security authorities have an obligation to apply for an explicit authorisation for the commencement of each investigation in cases of "extended danger investigation" as well as before the deployment of special investigation methods or techniques. The authorisation, which can only be obtained if the legal requirements are met, is decisive for the legitimacy of activities relating to the basic rights. BIA believes that independent competencies of the Minister of the Interior and the right to give orders to the subordinated security authorities are not affected by this. The Legal Protection Officer should be informed after the implementation of special investigation methods or techniques, undercover use of video and audio recording devices, processing of data obtained by others using video and audio recording devices (unless the method is implemented in case of "extended danger investigation"). Also the Legal Protection Officer should be informed before a public video surveillance or three days after its start, if the Legal Protection Officer remains silent.

In **Latvia**, KNAB prepares annual reports and semi-annual activity reports submitted to the Cabinet of Ministers and the Saeima, as well as made public on the website [www.knab.gov.lv](http://www.knab.gov.lv). In addition, KNAB submits a report about the implementation of the National Programme for Corruption Prevention and Combating 2004-2008 to the Cabinet of Ministers once a year. Additionally, KNAB makes public the information about detected violations in the area of party and election campaign financing. KNAB maintains a public data base of declarations received from political parties (financial activities, election expenditures) and information about donations to political parties at <http://www.knab.lv/db/declaration>, <http://www.knab.gov.lv/db/donations>. Parliamentary oversight is ensured by the Defence, Internal Affairs and Corruption Prevention Committee of the Saeima supervising KNAB and 11 other institutions.

The operational activities when conducted by KNAB in relation to the constitutional rights of inviolability of private life, for instance, wiretapping or investigatory entry, are conducted only with a permission of a judge of the Supreme Court. In general, the lawfulness of the above activities conducted by KNAB is ensured by prosecutors specially assigned by the Prosecutor General. Regarding criminal investigations, arrest, search and freezing of property conducted by KNAB have to be sanctioned by an investigatory judge (detention for 48 hours can be done without a permission of the investigatory judge).

Finally, as regards consulting of the public, KNAB has a Public Consultative Council including 15 non-governmental organisations and the Foreign Advisory Panel consisting of diplomatic and international representations and foreign businesses in Latvia.

In **Lithuania**, the parliamentary control of STT is conducted by the Seimas of the Republic of Lithuania, pursuant to the Law on STT.

In **Poland**, CBA has a special obligation to provide the Parliament with the information about the results of its activities as well as to submit the report to the Prime Minister and the Parliamentary Special Services Committee before 31 March each year. According to the Polish criminal proceeding law and CBA's Bill, the courts and prosecutor offices are responsible for the supervision of investigations, including supervision of special operations such as controlled bribery and operational control.

In **Romania**, DNA draws up annual reports on its activity and submits it to the Superior Council of Magistracy as well as to the Minister of Justice no later than February next year; the Minister of Justice then submits the conclusions on the activity report to the Parliament. DNA, as any other prosecution office, can be subject to the judicial control of the judicial inspectors of the Superior Council of Magistracy.

In **Slovenia**, CPC prepares annual reports to the Parliament and quarterly reports to a special commission within the Parliament concerning financial disclosures and gifts.

## 4. Three equally important and complementary areas of activity – prevention, education and investigation

(United Nations Convention against Corruption, Art. 6 and 36, Council of Europe Criminal Law Convention, Art.20, Council of Europe Resolution (97) 24, Art. 3 and 7)

**Prevention, education and investigation should be considered equally important and complementary areas of activity. Practice of the ACA WG shows that there are different approaches as to the scope of functions. Some agencies perform the “full scope” of functions – investigation, prevention and education (Latvian KNAB, Lithuanian STT, Polish CBA); some deal with investigation and prevention (Austrian BIA); and some perform one specific function – investigation, prosecution or prevention (German Die, French BCLC, Romanian DNA and Slovenian CPC).**

In **Austria**, BIA conducts security and criminal police investigations in cases of corruption or suspected malpractice by public officers. BIA cooperates directly with the competent public prosecutor's offices and courts. BIA conducts investigations nationwide and, given its sphere of responsibilities, represents a centre of competence for all other security services. In the area of education, BIA conducts various training programmes, including specific anti-corruption courses. Furthermore, the BIA has strengthened its capacities in the field of corruption prevention. At the moment, it is proactively engaged in several working groups in the development of a code of conduct for all public servants under the lead of the Federal Chancellery of Austria.

In **France**, BCLC is an investigative anti-corruption body, which treats all forms of public and private corruption. BCLC has a particular focus on corruption of foreign public agents. It also deals with infringement of the company laws. Corruption prevention is the competence of the Central service of prevention of the corruption (S.C.P.C.). In the area of education, BCLC provides training in the gendarmerie and police academies. BCLC also gives seminars in foreign countries within the framework of the UN Convention.

**German** DIE in Hamburg investigates cases of police misbehaviour and corruption in the entire administration, as well as cases of corruption in private sector.

In **Latvia**, KNAB is in charge of prevention of corruption - through prevention of conflicts of interest, control of political parties and pre-election campaign financing, analysis and education - and carries out operational activities and pre-trial investigation to detect and investigate corruption offences in the public service and in relation to political parties.

STT in **Lithuania** carries out operational activities in detecting and preventing corruption-related criminal acts, conducts pre-trial investigation of corruption-related criminal acts, and analyses information about corruption and related social and economic phenomena. STT is also in charge of corruption prevention, including education, by preparing and implementing corruption prevention and other measures and jointly with other law enforcement institutions implementing crime control and prevention programmes.

CBA in **Poland**, as a specialised state service with police powers, combats corruption in public and private sector. The four main areas of activities of CBA are following: criminal investigation, corruption prevention, anti-corruption information, and operational activities. In the area of investigation, CBA identifies, prevents and detects any form of crime against state and self-government institutions' activities, political parties' financing, justice, elections and referenda, public procurement, credibility of documents, property, economic turnover, tax duties, grant and subsidy settlements - if it is related to any form of corruption or activity which may endanger the State's economic interests. CBA is also responsible for corruption prevention. In this area CBA, as a special anti-corruption service, aims at ensuring proper, abuse- and irregularity-free functioning of the State and its economy. This aim is supported by the special instrument called “controlling activities”, which consists of disclosing of and responding to such breaches of law as concerns limitations of running of a private business by public officials, privatisation and commercialisation, financial support, public procurements, state or private properties, concessions, permissions, exemptions, allowances, preferences, quotas, limits, credit guarantees, verifying the correctness and authenticity of public officials declarations and running of a private business declarations. CBA also conducts analytical and informative activities concerning corruption-related matters and any activities which may endanger the State's economic interests.

In **Romania**, DNA is competent to investigate and prosecute high and medium level corruption cases. DNA has no competence in prevention and anti-corruption education.

In its turn, CPC in **Slovenia** is a preventive anti-corruption body, including functions such as education, but has neither powers nor functions to investigate corruption.

## 5. Adequate resources and training

(United Nations Convention against Corruption, Art. 6 and 36, Council of Europe Criminal Law Convention, Art.20, Council of Europe Resolution (97) 24, Art.3 and 7)

**To perform their functions effectively anti-corruption agencies should be provided with adequate material resources and specialised staff. The level of human and financial resources allocated to different ACA WG agencies varies from country to country. Therefore, their adequacy may be assessed by some more qualitative indicators such as regular increase in financial resources, stability of human resources, academic background, previous work experience of staff members, reliability of staff members, efficiency of recruitment procedures, career prospects and professional training.**

### Financial resources

In **Austria**, BIA does not have its own budget but its activities are financed by the overall budget of the Ministry of the Interior. So far, there have been no problems with regard to proper financing of BIA's activities.

In **France**, BCLC also does not have a separate budget but is financed from the budget of the Ministry of the Interior.

STT in **Lithuania** is financed from the state budget and has a separate budget managed by STT. STT may also have its own special funds for operational activities. STT has the right to receive support from foreign public institutions, establishments and international organisations at the procedure prescribed by laws to implement tasks and functions provided for in this Law.

Similarly, the KNAB in **Latvia** is financed from the state budget, can receive foreign public resources and manage its own budget. More specifically the budget is drafted by KNAB, submitted to the Ministry of Finance and adopted as part of the law On the State Budget by the Cabinet of Ministers and the Saeima. The budget of KNAB is gradually increasing from LVL 1.66 million in 2003 to LVL 3.49 million in 2007. The increase in allocations is partially explained by the growth of the staff number as well as the inflation. In addition, funds were received by KNAB from the European Union PHARE project (EUR1.2 million, included in the budget) and the World Bank (about USD 320,000).

CBA in **Poland** is financed by the State, according to the Central Anti-corruption Bureau Bill of 9 June 2006 (art. 4).

In **Romania**, the budget of DNA amounted to approximately EUR 20 million in 2006.

In the view of **Slovenian** CPC, their resources are not adequate and are subject to hostile relations with the government.

### Human resources and training

At present, BIA's staff consists of 53 highly committed male and female officers from all Austrian regions (Bundesländer). The officers of BIA are contracted in two different ways:

- Established posts ensure continuity within the management and the supporting services. Professional specialisation is assured through the process of advertising vacancies;
- The officers assigned to BIA hold an established post at their regular department in one of the Austrian Bundesländer, but are posted to the BIA for a limited period. For assigned posts, preference is given to officers with a record of relevant criminal investigation.

BIA points out that the application for employment with the BIA is based exclusively on voluntariness and, thus, expects maximum motivation and performance. Officers on assignment mostly work in the operational field. So far, around 120 officers have worked at BIA for at least one month and for an average period of 14 months. Consequently, around 80 former BIA officers have returned to their regular departments where they now disseminate BIA's ideas: the fight against all types of corruption and the enhancement of awareness for the development of anti-corruption culture, especially through prevention and education.

**German** DIE in Hamburg has 55 staff members. Besides police officers and investigators there is one tax investigator integrated from the Ministry of Finance.

In **France** the staff of BCLC is gathered from different institutions. The Chief is a national senior police officer; the deputy of the chief is an officer of the national gendarmerie. The aim of BCLC is to have 20 staff positions filled. As of 2005, BCLC had 11 policemen, 2 gendarmes and one tax inspector.

The staff of KNAB in **Latvia** has been gradually increasing from 111 staff members (120 staff positions) in 2003 to 143 (162 staff positions) as of end 2007. Previous work experience and reliability are the most important criteria for selecting staff members. For instance, criminal investigators must have at least 3 years of previous experience. Most of the staff members hold law faculty/police academy background and experience of work in law enforcement and tax authorities. Regarding academic background, there is one official with doctor's degree, one official preparing his Doctor thesis and 36 officials with master's degree. The candidates to officials' positions need to undergo security clearance. Another characteristic of KNAB is that most of staff members are rather young: in 2005, the average age of staff members was 34 years. KNAB stresses that despite the defined criteria and interest to work in KNAB - it was especially true in the beginning - it is often not easy to find effective candidates. KNAB puts special attention on training. Further training is needed to promote knowledge of foreign languages.

STT in **Lithuania** has put in place a new staff selection system which helps to identify special areas and requirements for the candidates to work in STT that are in-line with the agency's tasks. All the staff of STT performing key functions have higher education, more than 90 per cent of them have high university education. Four STT employees have doctor's degree. STT employees are experts of different fields and activities: lawyers, economists, financial specialists, managers, etc. Several STT employees, apart from performing their key functions, also work in the academic area and teach students: STT creates favourable conditions for such work.

Adequate resources and time is spent for the training of STT employees. STT encourages its staff to learn foreign languages, improve their computer literacy skills and improve their expertise and managerial skills to perform their tasks effectively.

In **Poland**, the newly established CBA has plans to have approximately 1000 officers in 2007.

In **Romanian** DNA 89% of the total number of posts, i.e. 501 out of 566, were filled as of December 31, 2006. In terms of the category of posts, it looks like this:

- 118 prosecutors out of 145 (81%)
- 162 police officers out of 170 (95%)
- 52 specialists out of 55 (95%)
- 81 auxiliary personnel out of 100 (81%)
- 88 administrative and economic personnel out of 96 (92%)

DNA also has its own judicial police. The judicial police officers can perform only the criminal investigation acts disposed by the prosecutors within DNA, carrying out their activity under the direction, supervision and control of the prosecutor. The police officers are appointed by the Chief Prosecutor of the National Anti-corruption Directorate for 6 years (with the possibility of extending the mandate with their consent), first being seconded by the order of the Ministry of Administration and Interior. They must have a university degree and, at least, 6 years experience of service.

## 6. Adequate criminal liability

(United Nations Convention, Art. 15-19, Council of Europe Criminal Law Convention, Art. 2-4, 8, and 12-15, Council of Europe Resolution (97) 24, Art. 2)

**To enable anti-corruption agencies to dispose of effective means for their work and facilitate international cooperation in investigating and prosecuting corruption, different activities that are related to corruption should be criminalised in each country and treated as a serious crime. The sanctions should be adequate and effective.**

## 7. Coordination of anti-corruption policies and cooperation at national level

(United Nations Convention against Corruption, Art. 5 and 38, Council of Europe Criminal Law Convention, Art.21)

**Anti-corruption bodies do not fight corruption alone. The international conventions encourage all public institutions to prevent corruption in their ranks and in the country in general. Therefore, coordination of anticorruption efforts at national level is important. Practice in the ACA WG countries shows that anti-corruption agencies act as coordinating bodies of national anti-corruption efforts or take part in inter-institutional workings groups. They also participate in ad-hoc working groups set up to deal with a specific area, for example, financing of political parties, lobbying, etc.**

In security administration matters, the BIA (as the department established for this purpose), plays a coordinating role by organising the fight against corruption in the public sector in **Austria**. This is due to BIA's competence in security and criminal police investigations of allegations and complaints related to malpractice. BIA interacts with a number of local government bodies, NGOs and interest groups involved in preventive anti-corruption activities.

In **France**, there are also several other bodies in the anti-corruption area besides BCLC, including the body in charge of prevention of corruption - the Central Service of Corruption Prevention (Service Central de prévention de la corruption), the Commission for Transparency of Political Life (Commission pour la transparence financière de la vie politique) and the National Commission of Election Campaign and Political Financing (Commission nationale des comptes de campagne et des financements politiques). There is no specific co-ordination mechanism among all these bodies.

In **Latvia**, there are several other competent institutions such as the Criminal Police of the State Police (public/private corruption as part of economic/organised crime), the Security Police (offences related to the state security), the Ministry of Finance, including the State Revenues Service (collection of declarations of assets of public officials, imposition of taxes) and the Financial Police (offences related to taxes). The Crime Prevention Council of Latvia set up in 2004 is the institution in charge of coordinating and improving the work of public institutions in the area of crime prevention, including corruption combating and prevention. It includes the Prime Minister, Ministers of Justice, the Interior, Finances, Welfare, Education and Science, the Prosecutor General, President of the Supreme Court, the Auditor General, president of the Bank of Latvia, head of the Financial and Capital Market Commission. The ad-hoc working groups for specific subject matters are often formed, especially in the area of prevention (lobbying, financial and economic auditing, control of sources of incomes of natural persons).

In **Lithuania**, other competent institutions include parliamentary commissions (Anti-corruption Commission), interdepartmental commissions (Interdepartmental Commission for Fighting Corruption represented by the Minister of the Interior, Government Chancellor, Director of STT, Prosecutor General's Office, State Security Department, Ministry of Justice, Ministry of Finance, Ministry of Economy, Chief Official Ethics Commission) and ministries and departments, law enforcement agencies (structural units responsible for internal investigations (immunities), internal audit, personnel).

In **Poland**, CBA coordinates operational and informative-analytical activities related to the art. 2 of the Bill which are conducted by the Head of the Internal Security Agency (Agencja Bezpieczeństwa Wewnętrznego), military services, Police Commander in Chief of the General Headquarters of Police (Komenda Główna Policji), Head of the Polish Border Guard (Komenda Główna Straży Granicznej), Chief Commander of Military Police (Komenda Główna Żandarmerii Wojskowej), General Inspector of Financial Information (Generalny Inspektorat Informacji Finansowej), General Inspector of Fiscal Control (Generalny Inspektorat Kontroli Skarbowej) and Head of the Customs Services (Służby Celne). Those bodies cooperate with CBA in order to combat any form of corrupt behaviour or practice as well as to fight any activity which may endanger the State's economic interests. Finally, in Poland there are also the Committee for Special Services, the Parliamentary Special Services Committee, Ministry of Justice and Ministry of the Interior and Administration.

DNA in **Romania** does not have coordinating attributions of other bodies having competence in the fight against corruption. The coordination of the efforts of all the authorities with attributions in the fight against corruption is assured by the inter-institutional structure named the Council for the Coordination of the National Anti-corruption Strategy's Implementation. The Council is set up under the authority of the Prime Minister and its coordination and general secretariat are insured by the Ministry of Justice. The Council holds meetings on a quarterly basis and whenever it is necessary. NGOs and journalists are also invited to its meetings.

In **Slovenia**, apart from CPC there are only law enforcement bodies dealing with the suppression of corruption, and there is no institutionalised coordination with them.

## 8. Strengthening international co-operation

(United Nations Convention against Corruption, Art. 43, 48 and 49, Council of Europe Criminal Law Convention, Chapter IV, Council of Europe Resolution (97) 24, Art.20)

**The ACA WG agencies consider international co-operation very useful for exchanging experience and solutions in the area of fight against corruption as well as jointly addressing corruption as a global challenge. Within the European Union, it can be further enhanced through the establishment of the European Anti-Corruption Contact**

**Point Network and the International Anti-Corruption Summer School. The main forms of international co-operation among anti-corruption authorities include joint international initiatives, exchange of knowledge, experience and personnel and law enforcement cooperation on a case-by-case basis.**

In **Austria**, BIA was instrumental in initiating and setting up an informal association of the Police Monitoring and Inspection Bodies of the EU Member Countries as well as of the national Anti-Corruption Agencies. Moreover, BIA is tasked with assuring technical networking as well as safeguarding and intensifying international cooperation in the fight against corruption.

Bearing in mind that increasingly prompt and effective assistance from other countries is needed, KNAB in **Latvia** believes that development of a reliable contact point network for cooperation on corruption prevention and enforcement issues would be valuable. Such a network would provide, inter alia, an opportunity to find assistance and ensure the confidentiality of information.

## II BEST PRACTICE

### 2.1. Corruption Prevention

#### 2.1.1. National anti-corruption programmes

(United Nations Convention against Corruption, Art. 5, Council of Europe Resolution (97) 24, Art.1)

**Anticorruption programmes help to coordinate anti-corruption efforts among different institutions and set priorities. While it is difficult to implement all the measures and there is often lack of resources in other institutions, it is a good instrument to keep them involved in the fight against corruption by assigning tasks under this programme.**

Contribution of the working group agencies varies from function to coordinate the drafting and implementation of the programme (Latvian KNAB, Lithuanian STT and Slovenian CPC) to implementation of specific tasks assigned to the agency under the programme (Polish CBA, Romanian DNA).

#### 2.1.2. Monitoring of funding of election campaigns and political parties

(United Nations Convention against Corruption, Art. 5, Council of Europe Resolution (97) 24, Art. 1 and 15, Council of Europe Recommendation Rec(2003)4)

**International standards require countries to take necessary legislative and administrative measures to ensure independent monitoring of financing of political parties and election campaigns.**

In **France**, BCLC is only qualified to treat criminal offences related to elections. BCLC cooperates with the National Commission of Election Campaign and Political Financing that in turn is a specialised institution in charge of controlling financing of electoral campaigns and adherence to the financial and accounting obligations by political parties in France.

In **Latvia**, KNAB has a separate, permanent function to control adherence to the rules of financing of political organisations (parties) and pre-election campaigns. KNAB checks the legality of donations received by political parties, alleged violations of limitations of the pre-election expenditure amounts, annual financial declarations, pre- and after-election campaign expenditure declarations. The KNAB may perform an investigation concerning violations of party financing regulations, impose administrative sanctions and ask political parties to return illegally acquired funding to the state budget. Besides, KNAB can conduct criminal investigation in cases where there is criminal liability foreseen in relation to financing of political parties.

In **Lithuania**, STT together with other relevant institutions participates in drafting proposals for the improvement of the existing system of funding of elections and political campaigns.

In **Poland**, CBA detects, investigates and prevents any form of a crime with regard to political parties' financing, elections and referendums in connection to any form of corruption or activity which may endanger the state's economic interests.

#### 2.1.3. Regulation of lobbying

(United Nations Convention against Corruption, Art. 5, Council of Europe Resolution (97) 24, Art. 1)

The **Latvian** KNAB and **Lithuanian** STT participate in drafting proposals for the improvement of the existing regulation on lobbying.

The working group led by KNAB has developed a concept on the "Need for Regulation of Lobbying in Latvia" submitted to the Meeting of State Secretaries in March 2007. The working group highlighted the need to increase transparency in activities of lobbyists based on the rights of the public to know, which individuals or groups have made proposals that served to adopt certain legal acts or policy documents developed, i.e. there should be written documentation about the activities of lobbyists.

#### 2.1.4. Anti-corruption review and development of legislation

(United Nations Convention against Corruption, Art. 5, Council of Europe Resolution (97) 24, Art. 1)

##### **Anti-corruption review of legislation and legal drafting is a preventive measure aimed at diminishing loopholes in a legal system.**

In **Lithuania**, STT is continually reviewing legislation and draft legislation from anti-corruption point of view in accordance with the Law on Corruption Prevention.

In **Poland**, CBA is considering the introduction of a complex analysis of the existing and draft legislation.

#### 2.1.5. Risk analysis and internal control systems

(United Nations Convention against Corruption, Art. 5 and 7, Council of Europe Resolution (97) 24, Art.1 and 11)

##### **Risk analysis and availability of internal control systems are preventive measures designed for identifying and preventing loopholes in procedures and building corruption prevention capacities of an individual public administration institution.**

In **Latvia**, within implementation of the national anti-corruption programme and also existing regulation on internal control systems in public institutions, development of internal anti-corruption measures is one of the priorities in preventing corruption. The elements of internal controls used in practice include internal anti-corruption plans, codes of ethics, ethics commissions, internal control units, internal audit units, etc. KNAB provides the necessary guidance. The institutions also have to report to KNAB regularly on the results with regard to implementation of those measures related to internal control that are provided in the state programme. In September 2007, KNAB has carried out a survey „Promotion of internal control systems and anti-corruption measures in state and municipal institutions“. For example, it showed that 90% of institutions have developed a code of ethics, while 89% - an internal anti-corruption plan.

In **Lithuania**, risk assessment of most corruption prone areas is carried out by STT which also requires involvement of a state or municipal institution whose area of activity is being checked. On the basis of a conclusion concerning the probability of manifestation of corruption submitted by a state and municipal institutions, STT conducts corruption risk analysis.

#### 2.1.6. Prevention of conflict of interest

(United Nations Convention against Corruption, Art. 5, 7 and 8, Council of Europe Resolution (97) 24, Art. 1, Council of Europe Model Code of Conduct for Public Officials, Art.13)

In **Latvia**, KNAB has a separate function to examine the adherence of public officials to the Law on Prevention of Conflict of Interest and other relevant legal acts and hold public officials liable, including imposition of sanctions in cases of violations. The public official held liable can be further asked to pay the damage caused to the state through civil proceedings.

In **Lithuania**, STT participates in drafting proposals for the improvement of the existing regulation on the prevention of conflict of interest.

The **Polish** CBA exercises controlling activities with regard to violation of limitations of running of a private business by public officials, privatisation and commercialisation, financial support, public procurement, state or private property, etc.

In **Slovenia**, the CPC is responsible for monitoring possible conflicts of interest.



### 2.1.7. Development of codes of conduct

(United Nations Convention against Corruption, Art. 5, 7 and 8, Council of Europe Resolution (97) 24, Art. 1, 10 and 15, Committee of Ministers of the Council of Europe Recommendation on Model Code of Conduct for Public Officials)

**It is recognised that codes of conduct are important for promoting values such as integrity, honesty and accountability. The codes are to provide guidance to officials and clarify what conduct is expected from them by the public. The international requirements recognise both the codes for all public officials and for elected officials.**

In **Lithuania**, STT participates in drafting and improving the existing codes of conduct for public officials and policy-makers.

In **Latvia**, KNAB monitors the implementation of codes of conduct in public institutions (see above).

In **Slovenia**, the CPC is responsible for the promotion of ethic values.

### 2.1.8. Screening of personnel in public institutions

(United Nations Convention against Corruption, Art. 5 and 7, Council of Europe Resolution (97) 24, Art. 1)

In **Lithuania** to ensure an overall assessment of a person's suitability for a nominated position, a screening procedure as part of the personnel selection system is applied to persons holding or seeking to hold a leading position in a state or municipal institution. The following information is taken into account about a nominee: former disciplinary, administrative and criminal sanctions, involvement in conflict-of-interest situations, whether intelligence investigation is being carried out, abuse of narcotic or psychotropic substances or alcohol, etc. Following the Law on Corruption Prevention, the procedure is carried out by STT.

### 2.1.9. Declaration of assets and income by public officials

(United Nations Convention against Corruption, Art. 5 and 8, Council of Europe Resolution (97) 24, Art. 1)

The **Latvian** KNAB has a mandate to impose sanctions for violations by public officials of restrictions related to the engagement in additional employment or business activities, obtaining of illegal income, acceptance of gifts and other types of financial aid.

The **Lithuanian** STT participates in drafting proposals for better regulation of income and expenditure declaration and liability of public officials and persons equivalent in status to a public officials for owning property the acquisition source of which cannot be justified.

The **Polish** CBA is responsible for verifying the correctness and authenticity of public officials' declarations and running of private business declarations. It also exercises controlling activities with regard to violation of limitations of running of a private business by public officials, privatisation and commercialisation, financial support, public procurement, state or private property, etc.

The **Slovenian** CPC is responsible for monitoring declarations of assets.

### 2.1.10. Damage recovery through civil law

(United Nations Convention against Corruption, Art. 5 and 20, Council of Europe Resolution (97) 24, Art. 1)

In **Latvia**, KNAB ensures that income and financial benefits obtained by violating the restrictions specified in a relevant law accrue to the State.

The **Lithuanian** STT participates in drafting proposals for improving the regulation with regard to liability of public officials and persons equivalent in status to public officials for owning property the acquisition source of which cannot be justified.

### 2.1.11. Reporting of corruption by citizens

(United Nations Convention against Corruption, Art. 5 and 13, Council of Europe Resolution (97) 24, Art. 1)

**According to international requirements, access should be provided to anti-corruption bodies for the reporting, including anonymously, of any incidents that may be considered to constitute an offence related to corruption. Practice of the ACA WG shows that information received from ordinary citizens may help identify loopholes in a legal system and procedures or even provide substantial evidence to start an investigation. Moreover, in a sense it helps raise the awareness that the fight against corruption is an individual responsibility of each of us.**

The **Latvian** KNAB Report Centre is responsible for collecting complaints on suspicions of corruption and other violations committed by public officials (conflict of interest, etc.) from citizens and legal persons. Reports can be both anonymous and in person. They are submitted in writing, by phone, e-mail or fax. All complaints are treated by KNAB and checked, if necessary. The **Lithuanian** STT has the Complaints Division which performs very similar functions to the KNAB's Report Centre.

## 2.2. Education and Public Relations

(United Nations Convention against Corruption, Art. 5 and 13, Council of Europe Resolution (97) 24, Art. 1)

### 2.2.1. Targeted anti-corruption education

**Generally, anti-corruption education is fundamental in preventing corruption, eventually even more important and efficient than detecting corruption and sanctioning it. Responsibility of the ACA WG agencies in this field of activity depend on the scope of functions and varies from country to country.**

#### **Anti-corruption programmes for school students**

In **Latvia**, anti-corruption programmes for general schools are based on an integrated approach: social science and ethics teachers are supplied with complementary methodological study materials on anti-corruption. **Lithuania** has also introduced integrated anti-corruption curricula for secondary schools and anti-corruption training programmes for universities. KNAB and STT participate in the preparation of training material by providing methodological and expert assistance to their partners - NGO's and state institutions. In Slovenia, CPC takes part in anti-corruption programmes for schools following their request.

#### **Anti-corruption seminars for public officials**

In **Lithuania** and **Slovenia**, training is conducted on request, in **Latvia** and in **Austria** on a regular basis. The length of training may vary from a one-day course to three-week seminar and covers such issues as public sector ethics, observation of provisions of conflict of interest prevention (in Latvia), etc. BIA, KNAB and STT provide methodological and expert assistance to their partner organisations in preparing training materials and are invited to give lectures. With the scientific support of the European and international universities, BIA organised the "First International Anti-Corruption Summer School - IACSS 2007" which was held from 6 to 13 July 2007 in Austria. The second International Anti-Corruption Summer School – IACSS 2008 is held from 9 to 13 July 2008, also in Austria. BIA also organises and conducts courses, seminars and advanced career coaching programmes at the Austrian Law Enforcement Academy for colleagues from the Ministry of the Interior.

### 2.2.2. Awareness raising campaigns

**While these are often ad hoc activities, it can draw the attention of a wider public to the problem of corruption. Different forms are used.**

In **Austria**, poster and leaflet campaigns have been organised by BIA, in **Latvia** an awareness raising campaign with a slogan "Corruption is prostitution of entrusted power" has been conducted by KNAB. In addition, other anti-corruption events are organised: a competition of drawings by schoolchildren on the theme of anti-corruption (in **Latvia**), presentation of publications in the field of anti-corruption (in **Austria**), and publication of annual surveys on corruption (in **Slovenia**).

### 2.2.3. Public relations

**Direct public relations are especially important for anti-corruption agencies. It is widely recognised that the public is the main partner of anti-corruption agencies.**

The **Latvian** KNAB, **Lithuanian** STT, Polish CBA and **Romanian** DNA have special public relations units. Most agencies in the working group have websites that are regularly updated and some are also available in English. It is recognised that citizens must receive information on time and regularly in order to ensure that anti-corruption agencies are transparent and show the results. This information for the public is considered to be one of the conditions for gaining public trust. In this sense, it is close to report centres that all together create an image of anti-corruption agencies that are somehow different from other law enforcement agencies, in case citizens have doubts that their report to them will not be pursued. For example, in **Latvia** and **Romania**, the website is a good tool for citizens not only to report corruption, but also ask various questions in a discrete and easy way, including request explanations on legal norms.

### 2.2.4. Sociological surveys

It is a useful tool to regularly study public opinion on the anti-corruption agency and assessment of anti-corruption measures taken by it (**Latvia**), awareness of the public about corruption (**Latvia, Lithuania**) as well as to identify target groups for education activities (**Lithuania**).

## 2.3. Investigation of Corruption

### 2.3.1. Access to information

(United Nations Convention against Corruption, Art. 48 and 39, Council of Europe Criminal Law Convention, Art.21)

**Adequate and timely information is crucial for successful investigation and prosecution of corruption crimes. International standards highlight need to exchange information among public bodies and encourage to provide access to citizens to report corruption (see also above, "Reporting of Corruption by Citizens"). The ACA WG practice shows that different sources and tools are used to collect and analyse information, such as intelligence analysis, internal and public databases, inter-agency agreements, mass media, bank information, information from private companies, reports from citizens, including whistleblowers and informants.**

In **Latvia**, KNAB has created a special local data base and an integrated data base that allows direct access to data bases of such public institutions as the State Income Service, Land Register, Enterprises Register, Ministry of the Interior data base and others. This project was implemented with support of the EU PHARE programme. In order to achieve more effective detection of criminal offences, KNAB also performs the analysis of the information accumulated during operational activities, as well as public information and information collected during examination performed by different Divisions of the Bureau. Finally, co-operation with citizens is a very valuable source of information. KNAB encourages citizens to report corruption and other relevant irregularities that are known to them (see above on the KNAB Report Centre).

In **Romania**, the state agencies with controlling attributions as well as the intelligence services are obliged to provide DNA with any data and information on the corruption crimes. With a view to increasing the speed and improving the quality of the information received, DNA signed the collaboration protocols with such state agencies as the National Office for Preventing and Control Money Laundering, the National Customs Authority, the General Inspectorate of the Romanian Police, Bucharest Stock Exchange, National Printing House (through this protocol NAD was given access to the data base regarding the companies which procured special printed documents and paper of value) and other. DNA is allowed to ask banking, financial or accountant documents. Through the cooperation protocols the prosecutors have access to the data bases of the National Office of Trade Register, of the Ministry of Administration and Interior (data bases related to passports, driving licenses, etc).

### 2.3.2. Effective means for gathering evidence

(United Nations Convention against Corruption, Art. 50, Council of Europe Criminal Law Convention, Art. 23, Resolution (97)24, Art. 3)

**Successful litigation largely depends on solid evidence, which often can be uncovered by using effective means such as undercover operations, special investigative techniques, databases and intelligence analysis.**

In **Austria**, special measures that are relevant for the fight against crime are set out in the Austrian Code of Criminal Procedure (StPO) and the Austrian Security Police Act (SPG). The SPG includes surveillance (§ 54, par. 2), undercover investigation (§ 54, par. 3), and identification of personal data with the aid of audio and video recording devices (§ 54, par. 4). The StPO provides for more special legal instruments (procedural coercive measures) such as custody (§175ff), pre-trial detention (§180ff), seizure (§143ff), house search (§139ff), telephone tapping (§149ff), audio and video recording (§149d ff) and dragnet investigation (§149i ff). On 1 January 2008, the Austrian Law on the Reform of Criminal Procedure will become effective. It defines special legal instruments of surveillance and undercover investigation. Moreover, the provisions on communication interception in general will be restructured. In order to cover all forms of modern communication, the approach that will be taken is technology-independent.

In **Germany**, the recovery of assets, search and examination are recognised as important measures to collect evidence.

In **Latvia**, KNAB considers that effective means for gathering evidence form a combination of adequate legal powers, technical means, qualified staff working as a team, limiting oversight to law enforcement and judicial authorities, avoiding undue influence, for instance, from political or economic interests; seeking to safeguard confidentiality, when necessary.

In **Lithuania**, effective means for collecting evidence are considered measures used while performing operational (intelligence) activities. The law also sets out techniques of operational activities, which, when covertly applied, ensure effective collection of data/evidence of criminal activity. While applying such measures investigation and detection of corruption crimes can be proactive. The Criminal Procedure Code provides for the following means: control and recording of information transmitted via telecommunication networks, secret surveillance, performing actions that simulate criminal activity, interviewing, searching and seizure.

In **Poland**, CBA possess different measures like operational control, undercover operations, technical surveillance, access to databases (esp. bank information and public official's declarations) and controlling activities.

In **Romania**, DNA prosecutors can use such means for gathering evidence as surveillance of bank accounts and other assimilated accounts, surveillance, interception and taping of the communications (following the authorisation issued by the judge), access to IT systems (following the authorisation issued by the judge when the action implies access to correspondence), asking for communication of scripts, banking, financial or accountant documents. Whenever needed for identifying or collecting evidence, the prosecutor can also ask for a judge's warrant of house searching. Intelligence services, control services and other competent authorities in collecting and processing information are obliged to inform DNA prosecutors. The bank secrecy and the professional secrecy, with the exception of the professional secrecy of the lawyer, cannot be opposed to the prosecutor after the commencing of the criminal investigation.

### 2.3.3. Effective cooperation between national authorities and law enforcement cooperation

(United Nations Convention against Corruption, Art. 38 and 48)

**International standards, in particular the United Nations Convention against Corruption, encourage States Parties to enhance cooperation among law enforcement bodies in investigating corruption. In practice, there are different forms, which include joint operations and exchange of information obligation and technical means.**

In **Latvia**, during operational and investigatory activities KNAB cooperates with Constitution Protection Bureau, Defence Intelligence and Security Service, State Police, Security Police, etc. Within this cooperation information exchange, operational combinations and common activities are performed. However, it needs to be stressed that a very important question is loyalty. Taking into account that the success of the operational activities is linked to the high level of confidentiality, it is very important to cooperate with reliable partners in order not to undermine the operation.

In **Romania**, according to the Emergency Government Ordinance No. 43/2002, the intelligence services and institutions with control attributions are obliged to provide DNA prosecutors, without delay, with any collected data or information that could indicate the perpetration of a corruption offence (see above on cooperation protocols).

#### 2.3.4. Protection of whistleblowers and witnesses

(United Nations Convention against Corruption, Art. 32 and 33)

**Ensuring the protection of whistleblowers and witnesses is important for gaining trust and maintaining cooperation with citizens.**

There exists no special status of whistleblowers in the **French** law. It is possible to hear witnesses under cover of anonymity or to hide their place of residence.

In **Latvia**, there exists a provision on whistleblowers protection foreseen by the Labour Law (Art.9), which states that it is prohibited to apply sanctions to an employee or to otherwise directly or indirectly cause adverse consequences for him or her because the employee, within the scope of employment legal relationships, exercises his or her rights in a permissible way or if he/she informs the competent institutions or public officials on his/her suspicions on committed offence or administrative violation at the work place. To further develop the legal framework for protection of persons who report corruption offences, the working group within KNAB was established and proposed to include regulation in the draft law on "Prevention of Conflict of Interest". The proposal is to impose a duty on public officials to immediately report the conflict of interest situations or any other corruptive offences if they learn such information. These provisions also provide for protection of public officials who have reported on the above mentioned facts. As the draft law has not been adopted, these provisions are not in force yet.

In **Lithuania**, the Criminal Procedure Code determines that victims and witnesses may remain anonymous, i.e. their identity is kept secret and is only disclosed to the pre-trial investigator, prosecutor and the judge. Besides, the Code provides for a special procedure of interviewing such persons. The Law on State and Official Secrets stipulates that the data from which the identity of a witness or a victim in a criminal case may be established shall be considered a state secret and during pre-trial investigation the defendant shall have no right to get familiar with the data of the victim or a witness whose identity is kept anonymous. The Law on the Protection of Actors of the Criminal Procedure and Operational Activities, Judges and Law Enforcement Authorities from Criminal Interference provides for the types of protection that could be provided, including physical protection of a person and his/her property, temporary transfer of a person to a safe place; change of residence, work place and/or educational establishment; change of biographical data; plastic operation changing the appearance of the person, provision of a firearm and special protection means. There are special police divisions that are in charge of the protection of victims and witnesses. In Lithuania there is also a new intelligence management strategy under development which will encourage whistleblowers to report acts of corruption.

In accordance with **Polish** law, witnesses and whistleblowers in Poland are offered anonymity and institution of crown witnesses.

DNA in **Romania** can take the measures provided by Law no. 682/2002 on witness protection in order to ensure the protection of witnesses and victims. The Law No. 571/2004 provides protection measures for the personnel of the public authorities, public institutions and other entities that unveil information related to the infringements of the law.

#### 2.3.5. Mitigation of punishment

(United Nations Convention against Corruption, Art. 37)

**The Convention provides for mitigation of punishment for persons cooperating in the investigation and prosecution of corruption offences. Practice shows that it serves as an incentive for motivating citizens to cooperate as well as adds to the efficiency of investigations.**

Pursuant to the Criminal Law of **Latvia** a person who has given a bribe shall be released from criminal liability if this bribe is extorted from this person or if, after the bribe has been given, he or she voluntarily informs of the occurrence. A person who has given a bribe shall be released from criminal liability if he or she voluntarily informs about the occurrence. Due to such provision investigations can be more effective since as a result of this provision an investigator can get the valuable evidence. There is a proposal currently reviewed by the Parliament to reinforce the system of mitigation of punishment to ensure more efficient cooperation with citizens in detecting crime.

In **Romania**, the person who committed one of the offences falling under the jurisdiction of DNA and who, during his/her investigation, denounces and facilitates the identification and the investigation of other persons that committed similar offences, benefits from the mitigation of their penalty by half.

### **2.3.6. Specialised task forces and involvement of experts**

(United Nations Convention against Corruption, Art. 61)

**The Convention encourages State Parties to facilitate cooperation among public authorities and bodies investigating and prosecuting corruption, as well as to analyse in collaboration with experts trends in corruption and the circumstances in which corruption offences have been committed.**

DNA in **Romania** is a complex structure carrying out investigating and criminal prosecution work. For this purpose, DNA forms specialised task forces, in which prosecutors work along with police officers and experts. DNA believes it helps to increase efficiency of the criminal investigations. Within DNA, 51 experts of high qualification in the economic, financial, banking, customs, IT fields, as well as in other fields, are appointed by order of the chief prosecutor, following the opinion of the competent ministries, their attribution being to clarify the technical aspects in the criminal investigation. The experts have the status of a public servant and they carry out their activity under the direction, supervision and control of the DNA prosecutors. It is also worth mentioning that in the structure of the DNA there is a unit, the Technical Service, responsible for providing the forensic support to the prosecutors and police officers in organising sting operations and in enforcing the warrants for the interception of communication issued by the judges in corruption cases.

# III COMMON TRENDS IN COMBATING CORRUPTION

## 1. Jurisdiction

<b>BIA, Austria</b>	<ul style="list-style-type: none"> <li>• Corruption in the public sector;</li> <li>• Also entitled to investigate private perpetrators.</li> </ul>
<b>BCLC, France</b>	<ul style="list-style-type: none"> <li>• Corruption in the public and private sectors;</li> <li>• Particular attention to corruption of foreign public officials, violations in the area of public procurement and commercial law.</li> </ul>
<b>KNAB, Latvia</b>	<ul style="list-style-type: none"> <li>• Corruption in the public sector;</li> <li>• Criminal offences related to financing of political parties.</li> </ul>
<b>STT, Lithuania</b>	<ul style="list-style-type: none"> <li>• Corruption in the public sector.</li> </ul>
<b>DIE, Germany (City of Hamburg)</b>	<ul style="list-style-type: none"> <li>• Investigations relating to police misbehaviour;</li> <li>• Corruption in the public administration;</li> <li>• Corruption in the private sector.</li> </ul>
<b>CBA, Poland</b>	<ul style="list-style-type: none"> <li>• Corruption in the public and private sectors ;</li> <li>• Any form of crime against activities of state and self-government institutions;</li> <li>• Financing of political parties;</li> <li>• Areas of justice, elections and referenda, public procurement, credibility of documents, property, economic turnover, tax duties, grant and subsidy settlements, if connected to corruption or may endanger the State's economic interests.</li> </ul>
<b>DNA, Romania</b>	<ul style="list-style-type: none"> <li>• Corruption in the public sector;</li> <li>• Offences similar to corruption, offences directly connected to corruption, e.g., money laundering, tax evasion, offences against financial interests of the EU, economic or office criminal offences if they cause a damage of over one million euros, e.g., fraud, tax evasion, offences in the customs area.</li> </ul>

## 2. Special criterion to start an investigation

<b>BIA, Austria</b>	No special criterion
<b>BCLC, France</b>	No special criterion
<b>KNAB, Latvia</b>	No special criterion
<b>STT, Lithuania</b>	No special criterion
<b>DIE, Germany (City of Hamburg)</b>	Real adequate evidence
<b>CBA, Poland</b>	No special criterion
<b>DNA, Romania</b>	<p>Jurisdiction of DNA encompasses investigation and prosecution of high and medium level corruption and similar offences. There are the following legal criteria for DNA to start an investigation:</p> <ul style="list-style-type: none"> <li>• if the value of the bribe exceeds 10,000 euros;</li> <li>• if the value of damage caused by committing the offence exceeds 200,000 euros; or</li> <li>• if the offence is committed by a certain category of persons, e.g. members of Parliament, Government, State Secretaries, judges, prosecutors, police officers, certain senior local officials.</li> </ul>

### 3. Main sources of information for commenced investigations

<b>BIA, Austria</b>	N/A
<b>BCLC, France</b>	<ul style="list-style-type: none"> <li>• Reports (denunciations);</li> <li>• Information collected on BCLC fs own initiative;</li> <li>• Information from the Prosecution Office.</li> </ul>
<b>KNAB, Latvia</b>	<ul style="list-style-type: none"> <li>• Information collected through operational activities of KNAB;</li> <li>• Reports and complaints of citizens and legal persons, including to the Report Centre of KNAB;</li> <li>• Report from a “bribe giver” (in certain cases the Criminal Law provides for the release from responsibility);</li> <li>• Information collected in administrative investigations of KNAB (for example, relating to declarations of assets, control of interest, financing of political parties);</li> <li>• Information forwarded by other law enforcement institutions or the Prosecution Office.</li> </ul>
<b>STT, Lithuania</b>	<ul style="list-style-type: none"> <li>• Reports from complainants;</li> <li>• Intelligence (operational activities).</li> </ul>
<b>DIE, Germany (City of Hamburg)</b>	<ul style="list-style-type: none"> <li>• Complaints;</li> <li>• Anonymous reports.</li> </ul>
<b>CBA, Poland</b>	N/A
<b>DNA, Romania</b>	<p>The practice of DNA show that the most valuable sources of information are the following:</p> <ul style="list-style-type: none"> <li>• Reports (denunciations) from persons who were requested to give a bribe. These help DNA to organise undercover operations.</li> <li>• Reports from other state authorities or institutions with control attributions, e.g. the Court of Accounts, the Financial Guard, the Department for the Fight against EU Frauds, etc.</li> <li>• ex officio notifications following information coming from intelligence services as well as from press.</li> </ul>

### 4. Financial and economic auditing in corruption investigations

<b>BIA, Austria</b>	N/A
<b>BCLC, France</b>	<ul style="list-style-type: none"> <li>• Performed by BCLC investigators (BCLC has investigators specialised in tax);</li> <li>• Requests of financial and economic information can be prepared by external e xperts in accountancy.</li> </ul>
<b>KNAB, Latvia</b>	<ul style="list-style-type: none"> <li>• Financial Auditing Division of KNAB;</li> <li>• State Police (Audit Unit of the Expertise Bureau of Forensic Research Department of State Police)</li> </ul>
<b>STT, Lithuania</b>	<ul style="list-style-type: none"> <li>• State Control (Supreme Audit)</li> </ul>
<b>DIE, Germany (City of Hamburg)</b>	N/A
<b>CBA, Poland</b>	N/A
<b>DNA, Romania</b>	<p>Whenever there is the need of clarifying certain technical, economical, financial aspects within an investigation, or when the value of the damage needs to be established, DNA prosecutor requests for a specialist fs report to be drawn. The analysis and the report are done by one of the 52 specialists working within DNA.</p>



## 5. Average time spent between starting an investigation and first instance court sentence

<b>BIA, Austria</b>	N/A
<b>BCLC, France</b>	Variable. The duration of an investigation and the prolongation, if necessary, are fixed by the Prosecutor.
<b>KNAB, Latvia</b>	<ul style="list-style-type: none"> <li>Starting from approximately 3 months up to 1 year (around 40% cases);</li> <li>Up to 2 years (45% cases);</li> <li>More than 2 years (15% of cases).</li> </ul>
<b>STT, Lithuania</b>	In average 3 years
<b>DIE, Germany (City of Hamburg)</b>	In average 5 years
<b>CBA, Poland</b>	Variable.
<b>DNA, Romania</b>	N/A

## 6. Sanctions determined in the first instance court sentences

<b>BIA, Austria</b>	N/A
<b>BCLC, France</b>	No sentenced cases yet.
<b>KNAB, Latvia</b>	<ul style="list-style-type: none"> <li>Suspended sentence is the most often applied sanction in cases initiated by KNAB and adjudicated in first instance in 2004-2006;</li> <li>The second most commonly used sanction is monetary fine;</li> <li>There is a trend to increasingly apply real imprisonment as sanction - once in cases sentenced in the first instance in 2004 (final sentence was 7 years), twice in 2005 (2 and 1,5 years), 3 times in 2006 (2, 2,6 years, 6 months), 14 times in 2007 (information till 26 October 2007).</li> </ul>
<b>STT, Lithuania</b>	N/A
<b>DIE, Germany (City of Hamburg)</b>	N/A
<b>CBA, Poland</b>	N/A
<b>DNA, Romania</b>	Usually between 1 and 7 years of imprisonment

## 7. Use of a suspended sanction by the courts

<b>BIA, Austria</b>	N/A
<b>BCLC, France</b>	N/A
<b>KNAB, Latvia</b>	Most common type of sanctions in criminal processes, which were investigated by KNAB.
<b>STT, Lithuania</b>	Suspended sanction is used.
<b>DIE, Germany (City of Hamburg)</b>	N/A
<b>CBA, Poland</b>	N/A
<b>DNA, Romania</b>	More than 50% of the conviction sentences ruled were suspended sentences.

## 8. Use of monetary fine as sanction by the courts

<b>BIA, Austria</b>	N/A
<b>BCLC, France</b>	N/A
<b>KNAB, Latvia</b>	Monetary fines are often used in cases investigated by KNAB.
<b>STT, Lithuania</b>	Monetary sanction is used.
<b>DIE, Germany (City of Hamburg)</b>	N/A
<b>CBA, Poland</b>	N/A
<b>DNA, Romania</b>	In Romanian law monetary fine is not prescribed as a sanction for corruption offences.

## 9. Use of property confiscation

<b>BIA, Austria</b>	N/A
<b>BCLC, France</b>	Property confiscation is used as additional punishment.
<b>KNAB, Latvia</b>	Property confiscation can be used as basic and additional punishment. Property confiscation was applied in several cases, especially in cases of real imprisonment
<b>STT, Lithuania</b>	Only as an additional sanction. By law, property confiscation may not be applied as the main punishment.
<b>DIE, Germany (City of Hamburg)</b>	N/A
<b>CBA, Poland</b>	N/A
<b>DNA, Romania</b>	Confiscation of proceeds of crime, including corruption, in Romanian law is a safety measure. It is imposed as a compulsory measure whenever the value of the seized property is not used for covering the civil party's request for compensation of the damage or whenever it is not returned to the co-operant witness.

## 10. Level of officials and areas of activities in corruption investigations and prosecutions

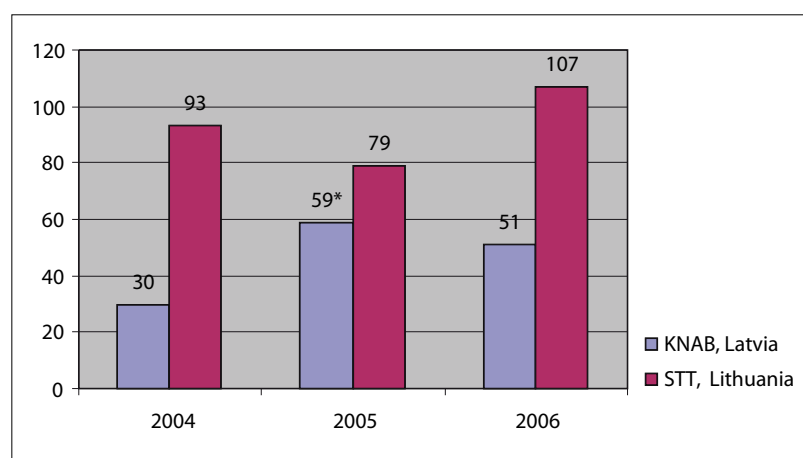
<b>BIA, Austria</b>	N/A
<b>BCLC, France</b>	Tax services, French and foreign political decision makers, directors of companies
<b>KNAB, Latvia</b>	Both ordinary and senior level officials, e.g. prosecutor, judges, head of district court, heads of municipal councils, state secretary, and directors of schools. Most common areas: police and other bodies under the Ministry of the Interior, judicial system (including prosecution), municipalities, and health care system.
<b>STT, Lithuania</b>	Both ordinary and senior level officials, e.g. ministerial undersecretary, head of the police commissariat, hospital chief physician, and heads of divisions of different institutions. Police and fire service officers, municipal and health care officials.
<b>DIE, Germany (City of Hamburg)</b>	Senior level, e.g. Members of Parliament, Members of Government, state secretaries. Most common areas in 2006 and 2007: public procurement, privatisation and immovable property restitution, illegal financing of electoral campaigns, influencing criminal investigations and/or trial decisions.
<b>CBA, Poland</b>	N/A
<b>DNA, Romania</b>	N/A

## IV SELECTED CASE STATISTICS AND EXAMPLES

**Table 1. Offences detected by BIA, Austria, 2005-2006**

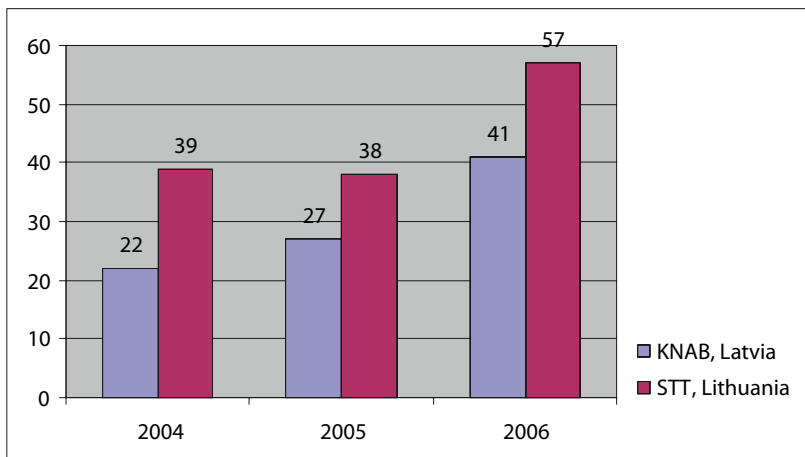
OFFENCES	In 2005
§ 302 StGB1 - Abuse of official authority	104
§ 303 StGB - Negligent trespass	1
§ 304 StGB - Acceptance of gifts	362
§ 307 StGB - Bribery	2
§ 310 StGB - Breach of official secrecy	24
§ 311 StGB - False recording or authentication in office	1
§ 312 StGB - Tantalisation or neglect of a prisoner	1
§ 313 StGB - Criminal offences due to abuse of an official function	14
Total	509
OFFENCES	In 2006
§ 302 StGB - Abuse of official authority	135
§ 303 StGB - Negligent trespass	1
§ 304 StGB - Acceptance of gifts	11
§ 307 StGB - Bribery	3
§ 310 StGB - Breach of official secrecy	38
§ 311 StGB - False recording or authentication in office	1
§ 312 StGB - Tantalization or neglect of a prisoner	3
§ 313 StGB - Criminal offences due to abuse of an official function	20
Total	212

**Chart 1. Number of initiated investigations by KNAB, Latvia, and STT, Lithuania, 2005-2006**

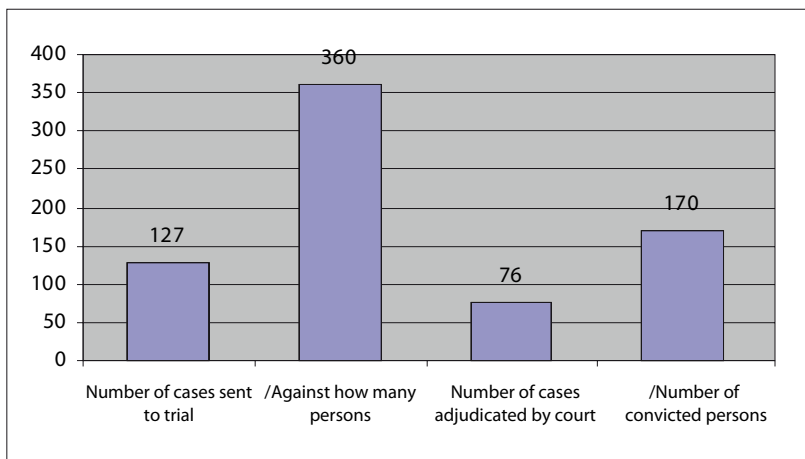


- 34 criminal cases and 25 criminal proceedings, after/before new Criminal Procedure Law

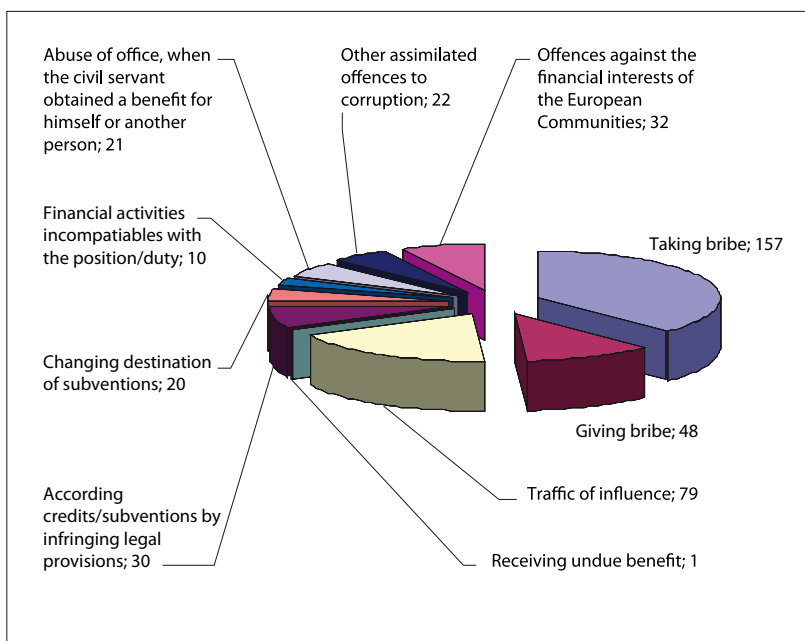
**Chart 2. Number of cases sent to prosecution by KNAB, Latvia, and STT, Lithuania, 2005-2006**



**Chart 3. Number of cases and defendants sent to trial by DNA, Romania, 2006**



**Chart 4. Main offences in cases of DNA, Romania, 2006**



## Example of a case investigated by BIA, Austria

This case shows corruption, obstruction and the exertion of influence on international murder investigations relating to Polish Organised Crime. (.....) (Member of Polish OC) and EDOK (Austrian police task force against organised crime, until 2003).

Start of the investigations. It was reported to the police that .... was granted the Austrian nationality due to bribing (about EUR 36,000). Telephone tapping: .... commissioned an assassination. Warsaw: findings about organised crime and commissioned murders.

Creation of the special task force „NORD“. Parallel investigations led by the BIA because .... was informant for EDOK.

....., born in 1945, personal data (deceased!): Member of Prushkov Group; - Former military intelligence service officer; - Alcohol and cigarette smuggling; - Acid assassination attempt on Polish public prosecutor; - Car smuggling into the USA; - Protection rackets;

- Informant for EDOK and Germany in drug operations; - Diplomat for ..... in Slovakia.

Assassination of ..... Assassination of the Minister of Sports of Poland, ....., in Warsaw. .... directed the killer and the decoy. Motive for the murder of .....: about EUR 430,000. Detention of ..... and the killer in Poland, New York and Vienna.

Problems (1): - tempted kidnapping of the detained decoy from the Polish prison by “fake police”; - Dubious suicide of the killer in the Polish prison; - During his detention in Austria .... got hold of a mobile phone. He also used one of the prison’s telephones; - He faked a poison attack on himself; - During his detention he corrected a parliamentary question against the members of the special task force NORD; - He received the personal data of the members of the special task force; - Threats against NORD as well as against public prosecutor and examining magistrate; - .... and a lawyer brought several charges against NORD; - the lawyer blocked the investigations by lodging complaints with the BIA and the courts; - ... received information about the investigations and their outcome; - he tried to influence the examining magistrate.

Problems (2): - The BIA received 2 fake bombs; - Several witnesses under witness protection; - Special personal protection of the public prosecutor and a Polish speaking member of NORD; - he received visits in prison in spite of prohibition of visits; - conflict between the Polish and the Austrian special task forces (no exchange of data) caused by a deliberate charge; - He sent public servants to Poland for denigrating the Austrian special task force. Manipulated telephone data at Polish telecommunications operator; - Legal authorities: custody for public servants only possible in cases of danger of collusion and normally only for 2 months. As the public servants are all Austrians and suspended, there is no danger of escape, infringement or recurrence. Legal authorities: no separate public prosecutor for corruption issues.

### The role of corruption:

Meeting with the Polish public prosecutor in Vienna in order to stop proceedings

Manipulation of telephone data at the Polish telecommunications operator

He bought the Austrian citizenship

He had his Polish criminal record erased

He bribed a Polish border policeman

He bribed and influenced Austrian police officers

### The cause:

Relationship between him as informant and his leaders was too close

His leaders as informant were the chief officer of EDOK as well as the team leader of the investigation team for Russian organised crime and his deputy

..... had been leader of informants

Corruption

..... should not have been allowed as informant

..... - EDOK

EDOK officer influenced the disciplinary proceedings through blackmail

Mobile phones were used conspiratorially, partly with SIM cards from abroad

They had regular meetings among themselves and with .....

The informant’s information was given to the “highest bidder”

The information was not given to the police but to private companies, e.g. to the group X (famous supplier of drinks)  
One EDOK officer changed to group X using the information there  
They used contacts and official trips abroad for business reasons, e.g. for closing deals for group X in Riga

..... - EDOK

Common flights of officers and businessmen disguised as "conferences on organised crime"

Information sold to the press

Review of the situation of Russian organised crime in Austria passed on to book authors

Wrong information given to the press for denigrating the special task force NORD

They got visa on the pretext that the alleged informants worked for EDOK

Positive assessments, e.g. for a honorary consul, for about US \$ 60,000

Positive assessments for foreigners acquiring land

All in all, approximately EUR 360,000 of unknown origin

After quintuple homicide in a bar in Warsaw: telephone tapping at Berlin customs revealed that ..... had commissioned it

Meeting of German customs, EDOK as well as Austrian and Polish homicide investigators

All of them received the telephone tapping records

The Austrian EDOK officers made telephone tapping records disappear and organised personal protection for ..... from the police task force "Cobra"

They covered up the findings about the quintuple homicide

Wanted to change ..... identity with the help of XY-Bureau (USA) and to fly him out to the USA shortly before NORD arrested him (official trip to Los Angeles)

They invented informants and bombarded NORD with charges

Cancelled the contracts of service of NORD members

Leaked explosive information to Polish media

Provided themselves with information about planned official trips

Provided themselves with information about planned investigations

They tapped phone calls digitally (with a prepared suit)

All calls during the day within the last 3 years

They intercepted Interpol correspondence

Wanted to release witnesses against ..... (e.g. in Spain)

#### The Results:

..... was arrested and died on the day of the pronouncement of the sentence

Altogether 4 EDOK officers were detained

Between 1.5 and 3 years imprisonment

All of the accused officers were dismissed

Several charges of corruption

EDOK was abolished

Strict rules for informants were introduced

#### Conclusions:

Intensive cooperation between the special task force and the BIA

But: strict separation of the investigations

No common interrogations

Avoidance of reasons for bias

Reflection on the dangers for the members of the special task force and the internal department, also for their private lives

Security in the office and concerning the incoming mail (video cameras, alarm system, etc.)

The special task force may have to move to a new, separate office

Counter eavesdropping alarm tools for office and cars

Use of separate mobile phones (prepaid phones)

It's not all over after the detention of the offenders

Telephone tapping disclosed a conspiracy against the BIA ("All the BIA victims have to unite")

Creation of classified files (need-to-know principle)

Chronological record of all incidents  
Who informed whom about what and when?  
Putting the offenders off the scent and fixing wrong dates of operation  
Changing and cancelling of dates of operation  
Only short explanations about the reasons for official trips abroad on the forms for official trips  
Official trips preferably by car and not by plane, booking of the rooms on site  
No use of typical police cars  
Best solution: fake registration numbers for surveillance operations  
Charges should have cover names or file numbers  
Important: data storage and protection for laptops, creation of a separate network.

## Example of cases investigated by KNAB, Latvia

On 18 March 2005, KNAB initiated an investigation into giving a bribe in the amount of EUR 20,000 during the elections of the mayor of the municipality of Jurmala city. KNAB asked to start prosecution against 3 persons according to Article 323 (2) for bribery committed by a group of persons with previous agreement. Two suspects were candidates for deputies to Jurmala city council, from which one was also a public official, namely a former mayor of Jurmala city. The investigation revealed that two suspects tried to secure support of several elected deputies for election of a specific candidate to the position of Jurmala city mayor. To one of the deputies specific position and money were offered. Evidence was collected that to the deputy a bribe in the amount of EUR 20,000 was given with the aim to secure the outcome desired by the bribe givers in the elections of Jurmala city mayor. The case was handled over to court on 22 February 2006. On 1 March 2007 the case was sent to another court as the brother of one of the suspects was a judge in the respective court. The court sessions were several times postponed because suspects were not present; including in July 2006 it was postponed to January 2007. On 23 March 2007 Zemgales regional court has sentenced ....., the Jurmala city deputy, to 5 years of imprisonment with property confiscation for giving bribe, ....., an entrepreneur, for 5 years imprisonment with property confiscation (European Arrest Order issued on 19 April 2007) and ..... with 3 years suspended sentence. There was a fourth suspect, but due to the fact that he was not present several times, part of the proceedings was separated as a separate case.

On 3 April 2003 KNAB initiated criminal investigation into taking of bribes (Article 320 of the Criminal Code) and intermediary in bribery (Art.323) for asking a 10,000 US dollars worth bribe from a natural person. For the first time, the prosecutor of such a high level was arrested for taking a bribe. The person asking for the bribe was the prosecutor of the Organised Crime Office ..... with an intermediary. The case was sent for prosecution. The two persons were charged. The case was reviewed by the Riga Regional Court on 11 November 2003. The suspected prosecutor was sentenced to 10 years of imprisonment with property confiscation for 3 offences: asking for the bribe, misuse of office and lack of action. There was an appeal against the sentence and it was reduced to 7 years with confiscation. The suspected intermediary was sentenced to 3 years of suspended sentence. Both sentences were appealed against and the last instance court - the Supreme Court - did not review them. The sentenced prosecutor denied his guilt.

## Example of cases investigated by STT, Lithuania

On 20 April 2004, STT initiated a criminal case against the state secretary of the Ministry of Health, ....., who had allegedly abused his office and for personal gain caused huge damage for the state. .... protected the interests of one company, hence evading the rules of public procurement.

On 18 October 2006, ..... was found guilty for the abuse of office and counterfeiting documents and received a fine of LTL 3,250 (EUR 941) and was refused a right for work in the public service for two years.

On 3 June 2005, a criminal case was initiated against two public officials, ..... and ....., who was the Chief Commissioner of Vilnius Chief Police Commissariat, was seeking personal benefit and abusing his office from September 2000 until October 2002. Instead of hiring employees to carry out works in his private domain, he used persons under arrest. .... asked his subordinate, ....., head of the detention house, to provide persons held under administrative arrest to perform the works. .... abused his office and brought such persons to work in the privately owned place of ..... was sentenced for 3 years of imprisonment with the suspension of punishment for 2 years. .... received a fine of five thousand litas.

## Example of case prosecuted by DNA, Romania

The anti-corruption prosecutors sent to trial two defendants:

M. I. - former Director of the National Company of Lignite Oltenia (NCLC), former State Secretary of the Ministry of Economy and Trade, for committing:

1. Offences similar to corruption, namely:
  - a) Carrying out financial operations, using information obtained by virtue of the position, duty or task;
  - b) Using information which is not meant for publicity;
2. Abuse of office against the public interests;
3. Forgery of statements; and
4. Forgery of private documents.

V. I. - former general director of NCLC, for committing the following offences:

1. Offences similar to corruption, namely:
  - a) Carrying out of financial operations, using information obtained by virtue of the position, duty or task;
  - b) Using information which is not meant for publicity,
2. Taking a bribe,
3. Abuse of office against the public interests; and
4. Forgery of statements.

The evidence showed that during June-October 2002, the two defendants, taking advantage of their positions and being aware of the production and investments plans of NCLC, at very low prices directly or through intermediaries bought real estate located in several villages of the Gorj County, in the areas they knew would be affected by the mining plans. Hence, the defendants purchased houses and pieces of land at very low prices, from persons who would be forced to move as a result of the mining plans provided in the production and investment plans of NCLC. In exchange for the houses which were to be demolished considering the mining exploitation from Roşia, Rovinari and Jilţ the two defendants requested luxury villas to be rebuilt with the funds of the National Company of Lignite Oltenia, in the district Primaverii from Târgu Jiu. Thus, they benefited from the undue advantage at a total of ROL 8,693,003,490 (over 2 million euro), the sum representing the prejudice cause to NCLC. It is worth mentioning that the production and investment plans of NCLC were confidential information, which had never been published.

The plan used by the defendant in order to have the houses reconstructed, functioned as follows: first, they used to identify the persons they knew would be affected by the mining plans and then, they sent their subordinates to convince the owners to sell, telling them either that the mining exploitation would never reach their houses or, that they would receive the money very late and a smaller amount than the one the defendants would pay them. This is how they convinced people to sell and shortly after, they closed the exchange agreements with the mining exploitations, based on which they had villas reconstructed in Târgu Jiu, with the funds of NCLC.

The defendant M.I. specifically bought himself or through the intermediary of his wife or his sister-in-law, three properties for which he paid the total sum of ROL 360,000,000 (10,000 euro). The defendant's reconstructed villa was estimated at ROL 7,243,692,000, in 2004, a sum acknowledged by the defendant. The sum of ROL 4,145,265,443 was paid out of the total value, by the three mining exploitations - Roşia, Rovinari and Jilţ - sub-units of NCLC, which contributed to reconstructing his villa.

The undue advantage obtained by the defendant M.I. amounts to ROL 3,785,000,000 (1 million euro), being established as the difference between the value of the reconstruction paid by the mining exploitations and the sums paid by the defendant when he purchased the properties.

The evidence also showed that M.I. forged two documents dated 21 and 22 April 2006, which falsely stipulated that he credited with different sums of money the company reconstructing his villa. The fact is that the defendant had a debt of over ROL 3 billion to that company. According to the evidence managed by the prosecutors, the defendant M.I. omitted to mention, in his asset declaration, as State Secretary at the Ministry of Economy and Trade, the purchased properties, as well as the debts he owed to the construction companies, other persons or banks.

Regarding the defendant V.I., he used a similar plan, namely, he took advantage of the information he had access to and he bought himself, or through the intermediary of his wife, 5 properties in areas he knew would



be affected by the mining exploitations Roşia and Jilţ, with the declared purpose of benefiting from the reconstruction. He bought the 5 houses for ROL 804,577,909 (22,000 euro) and he benefited in the sum of ROL 5,352,315,956, which was paid for the reconstruction of his villa by the two mining exploitations within NCLC. The undue advantage obtained by the defendant V.I. amounts to ROL 4,547,738,047 (over 1 million euro), representing the difference between the value of the reconstruction paid by the mining exploitations and the sums paid by the defendant when he purchased the properties.

The evidence showed that the defendant V.I. had also received approximately ROL 2.8 billion as a bribe from another denouncer, in exchange for awarding contracts, on behalf of NCLC to a construction company. The same defendant signed a contract of sale, falsely declaring in the presence of a public notary that the piece of land representing the object of the contract had not been sold previously. The file was sent to a Tribunal.

## **Example of case investigated by CBA, Poland**

In December 2006, CBA's officers arrested two businessmen who were the members of the Board of Supervisors and the Board of a company with the State share stock. They acted against the a/m company in order to achieve benefits. The financial loss is about 100 million zlotys. According to the decision of the Court they were temporarily detained.

In the same time CBA's officers have also detained a police officer who was suspected of demanding the bribe for false information, exceeding his competences, realising classified information for criminals and advising criminal groups how to avoid punishment. According to the decision of the Court he was also temporarily detained.