

Chapter 4

Multi-purpose Anti-Corruption Agencies

Hong Kong, China: Independent Commission Against Corruption

The Independent Commission Against Corruption (ICAC) was established in Hong Kong in 1974 as an independent, multi-disciplinary body. Its mandate is a combination of three main tasks: pursue the corrupt through effective detection and investigation; eliminate opportunities for corruption by introducing corruption-resistant practices; and educate the public on the harms of corruption and foster their support in fighting corruption. The ICAC reports directly to the head of the government. At the end of 2011, 73% of the Commission's staff worked in the investigative branch.

Background Information

The decision to set up an independent, multi-disciplinary institution to effectively curb corruption from law enforcement, preventive and educational sides was a direct result of a report from a commission of inquiry into corruption in Hong Kong conducted in 1973. The report concluded that corrupt practices had seriously infiltrated many spheres of Hong Kong's public life, and that corruption was particularly serious within the police force. Accordingly, the report clearly pointed out that "responsible bodies generally feel that the public will never be convinced that Government really intends to fight corruption unless the Anti-Corruption Office is separated from the Police."

Following the report, the ICAC was established in February 1974. Since its inception, the ICAC mandate covered three main functions: investigation, prevention and education. To be effective, the ICAC was from the outset endowed with necessary investigative powers – such as arrest, search and seizure, access to financial information and confiscation of assets.

From the very beginning of its operations, the ICAC attached great importance to raising public confidence and to establishing the credibility and effectiveness of the institution. Accordingly, one of the first priorities of the ICAC was the apprehension and conviction of an infamous high-ranking police officer, suspected of corruption, who fled Hong Kong, and was in the public eye a symbol of the corrupt police force and of the ineffectiveness of the law enforcement institutions. Within a year, the officer was extradited back to Hong Kong, successfully prosecuted, and convicted. In the following year, the ICAC successfully cracked down on a corruption syndicate involving police officers. The ICAC's early successes gave a boost to public confidence in its anti-corruption work. Already by 1977, three years after the establishment of ICAC, the proportion of non-anonymous corruption reports (complaints about corruption) made to ICAC surpassed that of anonymous reports.

Legal and Institutional Framework

The ICAC derives its status from the Independent Commission Against Corruption Ordinance. The institution is a dedicated anti-corruption agency independent of the public service, other law enforcement agencies or prosecutorial service, combining investigative, preventive and educational tasks. Its independence is guaranteed by the Basic Law, Hong Kong's mini-constitution, which states that the ICAC is accountable to the Chief Executive. In addition, the ICAC is given specific legal powers and tasks, which can be perceived through two other laws: the Prevention of Bribery Ordinance, and the Elections (Corrupt and Illegal Conduct) Ordinance.

Independent Commission Against Corruption Ordinance

- Establishes the ICAC and prescribes the duties of the ICAC Commissioner;
- Sets the parameters of the ICAC's investigation work, the procedure for handling an arrested person and for the disposal of property connected with offences;
- Gives the ICAC the powers of arrest, detention and granting bail;
- Confers on the ICAC the powers of search and seizure;
- Vests the ICAC with the power of taking non-intimate samples from an arrested person for forensic analysis;
- Empowers the ICAC to arrest persons referred as *prescribed officers* (listed below) who commit the offence of blackmail by or through misuse of office as well as any persons who commit crimes connected with, or directly or indirectly facilitated by, suspected offences under the Prevention of Bribery Ordinance and the Elections (Corrupt and Illegal Conduct) Ordinance.

Prescribed officers include any person holding an office of remuneration under the Government and any principal official of the Government appointed in accordance with the Basic Law or of the Monetary Authority appointed under certain provisions of the Exchange Fund Ordinance, Chairman of the Public Service Commission, any member of the staff of the Independent Commission Against Corruption, as well as any judicial officer holding a judicial office specified in Schedule 1 to the Judicial Officers Recommendation Commission Ordinance, any judicial officer appointed by the Chief Justice and any member of the staff of the judiciary.

Prevention of Bribery Ordinance

- Specifies the offences of bribery involving government, public body and private sector employees;
- Gives the ICAC powers, with the order of court, to unravel and identify the transactions and assets concealed in different guises by the corrupt. The powers include searching bank accounts; searching and seizing documents; and requiring the suspects to provide details of their assets, income and expenditure;
- Confers on the ICAC the powers, with the order of court, to detain travel documents and restrain disposal of property in order to stop the corrupt from attempting to flee Hong Kong or laundering their ill-gotten gains so as to avoid forfeiture by the courts; and,
- Gives the ICAC the power to protect confidentiality of an investigation.

Elections (Corrupt and Illegal Conduct) Ordinance

- Prevents corrupt and illegal conduct at elections;
- Specifies offences involving the elections to elect the Chief Executive (the head of the Hong Kong Special Administrative Region Government), members of the Legislative Council, District Councils, Heung Yee Kuk, the Chairman or Vice-Chairman or members of the Executive Committee of Rural Committees, and Village Representatives.

Box 4.1. The Procedure of Investigating and Prosecuting Corruption Crimes by ICAC

1. ICAC Report Centre receives a complaint (by individuals, legal persons, ICAC Regional Offices or by other governmental departments) about corruption;
2. The complaint is examined by the Directorate of the Operations Department and categorised with a view to pursuing or not pursuing further action;
3. For complaints with further action recommended, investigations will be carried out by the ICAC's Operations Department;
4. For complaints with substantiated evidence, relevant details will be submitted, for the consideration for and institution of prosecution, to the Secretary for Justice, the head of the Department of Justice of the Hong Kong Special Administrative Region Government;
5. Prosecution of corruption will be conducted by the two ICAC sections (public sector and private sector corruption) of the Commercial Crime Unit, the Prosecutions Division, and the Department of Justice. It advises the ICAC and handles its prosecutions.
6. Reports on prosecutions, concluded investigations, etc. will be submitted to the Operations Review Committee, the oversight body of the Operations Department.

Source: Independent Commission Against Corruption (Hong Kong, China), Department of Justice

Organisationally, the ICAC comprises the office of the Commissioner and three functional departments - Operations, Corruption Prevention, and Community Relations - serviced by the Administration Branch. Operations Department receives, considers and investigates complaints alleging corrupt practices. Corruption Prevention Department examines practices and procedures of government departments and public bodies to reduce corruption opportunities and offers corruption prevention advice to private organisations upon request. The Community Relations Department educates the public against the threats of corruption and enlists public support in combating corruption. Within the Operations Department, there is a Witness Protection and Firearms Section, an International and Mainland (Operational) Liaison Section, a Forensic Accounting Group, and an Information Technology and Computer Forensics Group (see organisational chart below).

Human, Training and Material Resources

In its first year of operation, the ICAC hired 369 people through open recruitment. Experienced people were attracted and hired from various local sources and the United Kingdom police forces, in addition to specialists headhunted from the accounting and other professions in the private sector.

As at the end of 2011, the Commission employed 1 298 staff, including 947 in the Operations Department, 59 in the Corruption Prevention Department, 177 in the Community Relations Department and 115 in the Administration Branch¹ (see organisational chart below).

More than half of the staff currently working in the ICAC has served in the Commission for more than 10 years. Interest in working for the ICAC has been high since its establishment, and the Commission never has problems with staffing from that perspective. One of the reasons for this lies in the overall public support in curbing corruption, as well as in the credibility that ICAC has gained through effective implementation of its mandate and tasks.

Throughout the years, the ICAC has developed an elaborate system of training for its personnel.

Basic training. During their first tour of duty, all new recruits undergo an extensive Induction Training Programme, which provides basic training to them so that they may be deployed to any of the three Departments within the Commission. All new recruits serve their first contract in the Operations Department so that they can benefit from exposure to a wide range of corruption investigations before being considered for a posting to either the Corruption Prevention or Community Relations Departments. Training for new recruits lasts just over two years, with a Stage I Induction course at the time of joining, a Stage II course after several months of on-the-job training, followed by a Stage III course towards the end of their first contract. Officers undergo intensive training on a wide range of subjects whilst on these courses, including law, rules of evidence, computer forensics, financial investigation skills, cognitive interview techniques, corruption prevention, communication skills, and so on.

Continuous training. Continuous professional training for serving officers covers such subjects as asset recovery, forensic accounting and undercover operations. Additionally, officers benefit from local external courses. These courses enable officers to keep abreast of the latest developments in various fields such as information technology, the financial markets, corporate finance, leadership and strategic management. Given the increasing number of cases requiring financial and computer data analysis, ICAC has not only increased its professional training for its investigators on financial investigation and computer forensics, but also created a new Forensic Accounting Group to support frontline investigations, as well as expanding its experience-sharing with law enforcement agencies abroad.

In addition to this professional training, officers also receive training on team building, leadership, stress management, change management, quality management and personal effectiveness. ICAC officers also receive extensive professional and management training abroad.

Budget-wise, the ICAC is one of the most envied anti-corruption agencies in the world. The annual budget of the Commission amounts to US\$ around 106 Million, which corresponds to about US\$ 15 per capita of the Hong Kong Special Administrative Region. The ICAC is financed from a single head of expenditure of the Government budget. Its annual estimates are considered by the Advisory Committee on Corruption, before submission to the Chief Executive for approval in accordance with the ICAC Ordinance. Similar to other government departments, the ICAC's annual estimates are also subject to approval of the Legislative Council. The ICAC's accounts are

administered according to government regulations and procedures, and are subject to examination by the Director of Audit.

Accountability

The work of the ICAC comes under the scrutiny of four independent advisory committees, comprising community leaders or responsible citizens and appointed by the Chief Executive of the Hong Kong Special Administrative Region:

- Advisory Committee on Corruption;
- Operations Review Committee;
- Corruption Prevention Advisory Committee; and
- Citizens Advisory Committee on Community Relations.

The committees respectively offer advice and improvement proposals on the overall policies of the Commission, as well as the work of its three functional departments. In addition, the ICAC produces annual reports, which are available on its website. Also, statistics including corruption complaints, election-related corruption complaints, and prosecutions are also uploaded for the free access of the public.

Practice and Highlights

Box 4.2. Performance Standards employed by ICAC

All tasks are performed within “performance standards” in which the ICAC staff are committed to:

- Respond to a report of corruption within 48 hours;
- Respond to a report which does not involve corruption within 2 working days;
- Respond to a request for corruption prevention advice within 2 working days; and
- Respond to a request for anti-corruption education services or information within 2 working days.

Source: Independent Commission Against Corruption (Hong Kong, China).

Receiving corruption complaints. In recent years, the number of corruption complaints (excluding those related to elections) received by the ICAC ranges from 3,300 to 4,000 a year. The total number of election-related complaints ranges from around 600 to 900 per election year. Comparison of corruption complaints in 1975 and 2011 shows a significant drop in complaints relating to the public sector, in particular the police; and a significant increase in complaints in relation to the private sector. To receive reports from the public, its Report Centre operates 24-hour a day. In 2011, the Centre dealt with 5,963 corruption and non-corruption reports.

Pro-active Investigation of Corruption Cases. The Operations Department is responsible for investigations and is the largest department of the ICAC. It employs proactive investigation techniques to identify instances of corruption that might otherwise go unreported. The strategy includes the use of undercover operations and broader and more effective use of intelligence and information technology. This approach has been proven to be effective in uncovering many serious cases of corruption.

Advising on corruption prevention. The Corruption Prevention Department each year conducts about 70 detailed procedural reviews and hundreds of consultations to help government and public bodies to identify and eliminate management and organisational weaknesses that breed corruption loopholes. Its Advisory Services Group provides free, confidential and tailor-made corruption prevention advice to private organisations.

Researching on anti-corruption initiatives. The Centre of Anti-Corruption Studies, currently under the auspices of the Corruption Prevention Department, was established in April 2009 to facilitate and conduct research and analytical studies on issues pertaining to the development of anti-corruption initiatives locally, regionally, and internationally. In September 2010, the Centre hosted the Conference on Collaborative Governance and Integrity Management, which was attended by over 200 public officers, anti-corruption personnel and academics from Europe, the United States, China and Hong Kong. The latest anti-corruption literature and anti-corruption laws can be found on the Centre's dedicated website www.cacs.icac.hk.

Furthermore, the ICAC's Community Relations Department puts efforts into tailor-made education campaigns for different target groups including:

The Public sector. In spearheading integrity programmes for staff of public institutions, the ICAC has forged close partnership with the Civil Service Bureau (CSB), which is in charge of government staff policy and other matters. In late 2006, the ICAC and the CSB jointly launched the Ethical Leadership Programme and requested each government organisation head to appoint a senior directorate officer to be the Ethics Officer in assuming the overall responsibilities of developing and sustaining ethical culture in his/her own organisation. Currently, a network of around 150 Ethics Officers and Assistant Ethics Officers coming from all government organisations has been formed. Apart from offering Ethics Officers advice in devising and implementing integrity management plans, the ICAC also regularly organises workshops for Ethics Officers to share and exchange views on issues of common concern such as supervisory accountability, conflict of interest and misconduct in public office. In addition, training assistance and training packages are also provided to meet individual departments' needs.

The Business community. In mid-1990s, a business ethics campaign was first launched to reach over 2,000 listed and major companies, and trade and professional associations to encourage these organisations to adopt corporate codes of conduct. A similar programme for all listed companies in Hong Kong was again completed in 2005. As an on-going practice, the ICAC now offers service to all newly listed companies within three months of their listing. Over 65% of these companies contacted adopted ICAC's prevention services. Besides, with the support of six major chambers of commerce in Hong Kong, the ICAC set up the Hong Kong Ethics Development Centre in 1995 to promote business ethics on a long-term basis. Anti-corruption seminars and training sessions are regularly held for managers and employees in various trades, including the financial services, construction and tourism industries, and professionals such as accountants, engineers, surveyors and architects.

Youth. To sustain a culture of probity in our society, the ICAC inculcates the values of honesty and integrity amongst youth in different phases of their school life through teaching packages, projects, or face-to-face talks/workshops. The ICAC uses more interactive means such as drama performances to disseminate anti-corruption messages to secondary students. To optimise the impact of preventive education, the ICAC has also partnered with various youth bodies, district organisations, schools, and universities. With the support of tertiary education institutions, the ICAC has been organising an

Ambassador Programme since 2007, with an aim to mobilising university students to organise activities on the school campus to put across probity messages among their fellow students. Besides, a Personal Ethics Module for University Students was developed in 2010, and eight local universities incorporated the module in their General Education Programmes in 2011/12.

Elections. To uphold clean and fair public elections and to inculcate a clean election culture, the ICAC have launched comprehensive education and publicity programmes to promote the “Support Clean Elections” message to the Hong Kong community. The programmes comprise briefings and distribution of reference materials to candidates, election helpers and voters, as well as the running of an election hotline and a dedicated website. The ICAC will also arrange roving exhibitions, poster campaigns, TV and radio advertisements, and engage a mobile exhibition vehicle to enhance public awareness to the importance of upholding clean public elections.

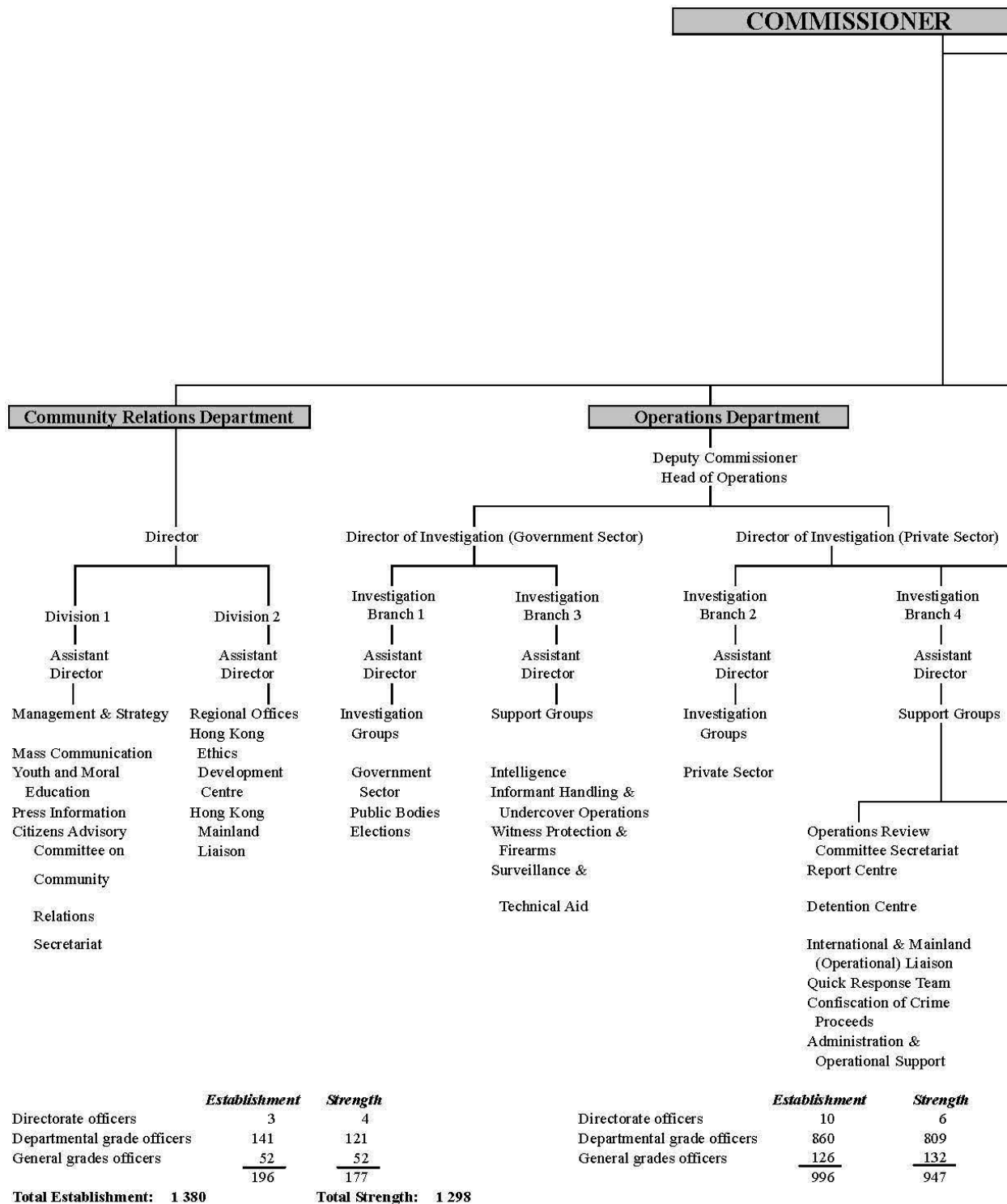
Box 4.3. Anti-corruption Efforts in Hong Kong Infrastructure Projects

To provide corruption prevention input to the government agencies implementing infrastructure projects, the ICAC has set up a task group comprising of construction professionals with substantial corruption prevention experience to conduct regular reviews on the procedures adopted by these agencies for the letting and administration of consultancy agreements and construction works contracts to identify corruption loopholes and recommend measures to plug them. For mega-size infrastructure projects such as the West Kowloon Cultural District Development (involving the development of 15 performing arts venues, a cultural institution with museum functions, an exhibition centre and more than 3 hectares of piazza areas), and the new cruise terminal (involving two alongside berths of 800 metres and a cruise terminal building on a site measuring 7.6 hectares), the ICAC adopted a whole-process approach, whereby advice on the tender assessment procedures is offered first, followed by ICAC’s representatives sitting as observers on the tender assessment panels of respective projects to further advise on the assessment procedures as and when appropriate. Integrity management workshops are also organised for the management and supervisory staff of the implementing agencies, consultants and contractors involved in these projects to raise their integrity standard and awareness of corruption prevention.

Source: Independent Commission Against Corruption (Hong Kong, China).

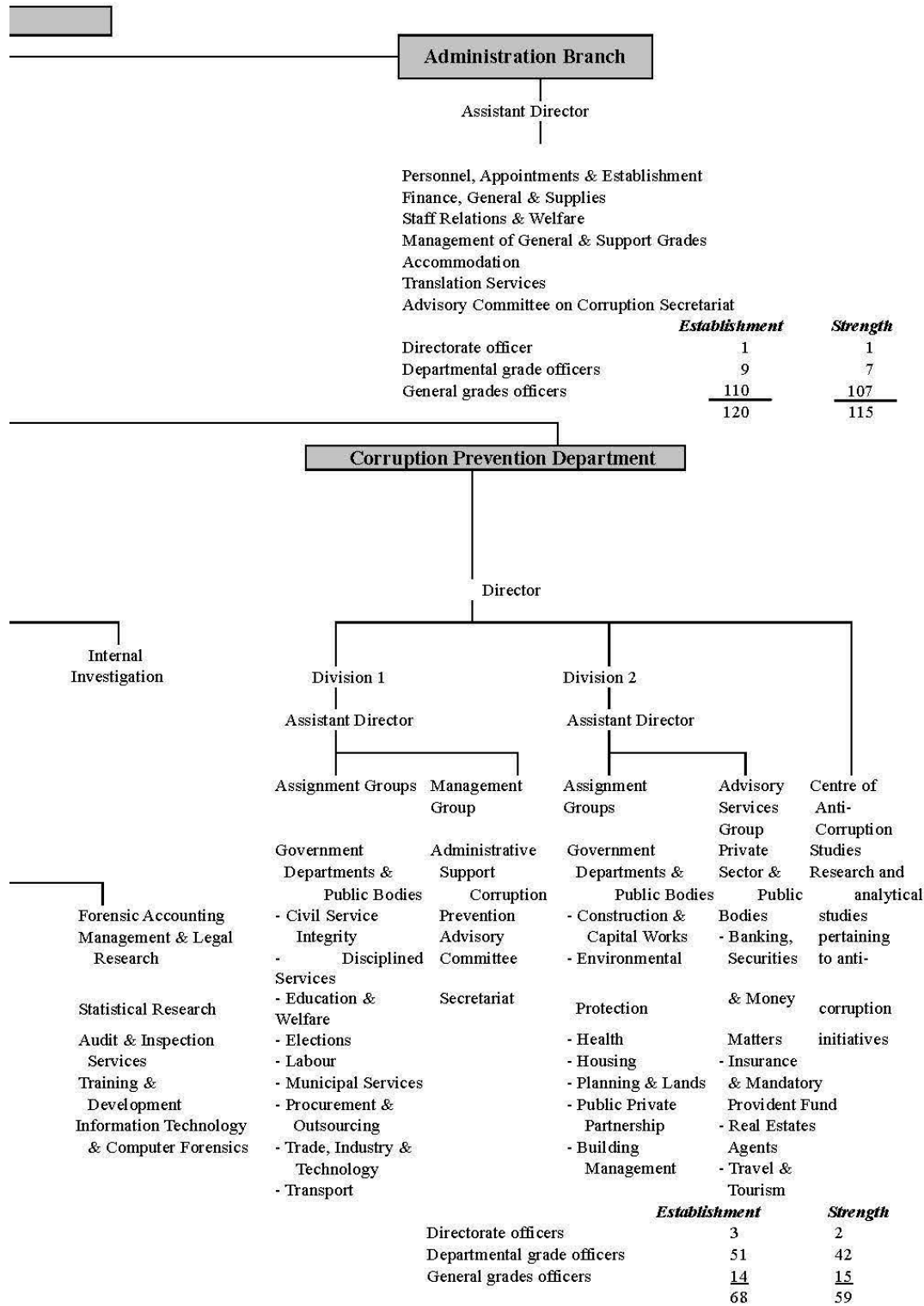
Educating the public and enlisting their support to anti-corruption work. In pursuing their tasks, the Community Relations Department, through seven regional offices strategically located in different parts of the territory, co-operates with relevant public institutions such as the district councils and non-government organisations to provide corruption prevention education and convey anti-corruption messages to different walks of life in the community. One of the manifestations of the continued public support and involvement is the ICAC Club, with over 1,000 volunteers, which provides an avenue for citizens to help organise community education programmes.

Figure 4.1. Organisation of the Independent Commission



Source: Independent Commission against Corruption. Hong Kong Special Administrative Region. 2011 Annual Report.

Against Corruption, position as of 31 December 2011



Face-to-face contact aside, the use of mass media has proven to be an effective strategy to educate the public against the evils of corruption. Each year, the Community Relations Department produces theme-based announcements of public interest to draw the public's attention to the work carried out by the ICAC. In recent years, the Department has also widely used the internet to keep the public posted of ICAC news and developments.

Apart from the corporate website (www.icac.org.hk), the Department has developed three other thematic websites – the Hong Kong Ethics Development Centre; iTeen Camp; and the Moral Education website – dedicated to the business sector, youth, and teachers specialising in moral education, respectively. In June 2004, a web-based audio-visual platform, the ICAC Channel, was launched to provide latest information through multimedia productions. The ICAC also started to discuss and interact with youngsters on messages of positive values and integrity via popular social media platforms to strengthen its online presence since 2009.

Meanwhile, TV drama series, a signature product that the ICAC produces at an interval of two to three years, continued to attract a wide audience. Each of the five episodes of “ICAC Investigators” broadcast in 2011 had an average audience of around 1.2 Million in Hong Kong. The drama was also awarded one of the top 20 best TV Programmes in 2011 at the Appreciation Index organised by the public service broadcaster Radio Television Hong Kong.

Contact information

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Singapore: Corrupt Practices Investigation Bureau

The Corrupt Practices Investigation Bureau (CPIB) was established in 1952 as an independent anti-corruption agency. Its mandate is to investigate and prevent corruption in the public and private sector. The main functions of the CPIB are to receive and investigate complaints alleging corrupt practices; investigate malpractices and misconduct by public officers which raise a suspicion of bribery and corruption-related offences; and prevent corruption by examining the practices and procedures in the public service to minimise opportunities for corrupt practices.

Background Information

Singapore's Corrupt Practices Investigation Bureau (CPIB) was established, in 1952, as an independent body responsible for the investigation and prevention of corruption. Prior to 1952, a small unit known as the Anti-Corruption Branch under the Criminal Investigation Department of the Singapore Police Force was in charge of investigating corruption cases.

Corruption was perceived to be a way of life in the forties and early fifties in Singapore. The relative ineffectiveness of the Anti-Corruption Branch in curbing corruption led to the establishment of the CPIB as an independent body, separated from the Police, to investigate all corruption cases. In the early days, the CPIB faced a number of difficulties. For instance, weak anti-corruption laws and the lack of resources hampered the gathering of evidence against corrupt individuals. Another problem was the lack of broad public support. Citizens did not cooperate fully with the CPIB as they were sceptical of its effectiveness and were afraid of reprisals.

The breakthrough came in 1959, when Singapore attained internal self-government. The People's Action Party - led Government was committed to putting an end to corrupt practices in Singapore through the means of toughened legislation and a revamped CPIB, which was devoted entirely to the investigation of corrupt practices and preparation of evidence to be used for prosecution. Firm action was taken against corrupt officials, and public confidence in the CPIB grew as people realised that the Government was sincere in its anti-corruption drive.

The Prevention of Corruption Act was enacted in June 1960. It incorporates significant provisions to eliminate deficiencies in then-existing anti-corruption legislation. Additional powers of investigation were given to the CPIB, and punishment for corrupt behaviour was also enhanced. The Prevention of Corruption Act today provides the CPIB with the necessary power to fight corruption. In 1989, the Corruption (Confiscation of Benefits) Act was passed. The Act empowers the court to freeze and confiscate properties and assets obtained by corrupt offenders. In 1999, the Corruption (Confiscation of Benefits) Act was replaced with a new legislation called the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act. New offences of money laundering were introduced in addition to giving the same powers to the court for the freezing and confiscation of properties and assets obtained by offenders.

Legal and Institutional Framework

CPIB is an independent governmental body with the mandate to investigate and prevent corruption in the public and private sectors in Singapore. The CPIB derives its

powers of investigation from the Prevention of Corruption Act (Chapter 241) which forms the legal basis.

The main *functions* of the CPIB are to:

- Receive and *investigate* complaints alleging *corrupt practice*;
- *Investigate malpractices and misconduct* by public officers with an undertone of corruption; and
- *Prevent corruption* via public education and by examining the practices and procedures in the public service to minimise opportunities for corrupt practices.

The CPIB is responsible solely for the *investigation* of corruption-related offences involving bribery. Other economic crime offences (e.g., such as embezzlement) fall under the jurisdiction of the Commercial Affairs Department of the Singapore Police Force. The bureau is responsible for safeguarding the integrity of the public service and for encouraging corruption-free transactions in the private sector. While the CPIB investigates offences falling within the ambit of the Prevention of Corruption Act, prosecutorial powers reside with the Attorney-General. The courts discharge the adjudication function. These form part of the necessary checks and balances for the rule of law in Singapore.

While the primary function of the bureau is to investigate corruption under the Prevention of Corruption Act, it is also empowered to launch an investigation into any other criminal offences discovered in the course of a corruption investigation.

Besides investigation of corruption offences, the bureau carries out *corruption prevention*. The CPIB reviews the work methods and procedures of selected departments and public bodies to identify administrative weaknesses in the existing systems which could facilitate corruption and malpractices, and recommends corresponding remedial and prevention measures to the heads of departments concerned. Officers of the bureau also reach out to schools, government agencies, business and international communities through public education talks, learning journeys, visits, seminars, workshops and conferences to create awareness on the pitfalls of corruption.

Under the Prevention of Corruption Act,² CPIB has the following *powers*:

Powers of arrest:

Section 15 (1) The Director or any special investigator may without a warrant arrest any person who has been concerned in any offence under Prevention of Corruption Act or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been so concerned.

Section 15 (2) The Director or a special investigator arresting a person under subsection (1) may search such person and take possession of all articles found upon him which there is reason to believe were the fruits or other evidence of the crime.

Powers of investigation:

Section 17 (1) In any case relating to the commission

- (a) of an offence under section 165 or under 213 to 215 of the Penal Code, or of any conspiracy to commit, or of any attempt to commit, or of any abetment of such an offence;

- (b) of an offence under the Prevention of Corruption Act; or
- (c) of any seizable offence under any written law which may be disclosed in the course of an investigation under the Prevention of Corruption Act

The Director or a special investigator may, without the order of the Public Prosecutor, exercise all or any of the power in relation to police investigations into any offences given by the Criminal Procedure Code.

Provided that an investigation into an offence under the Penal Code shall be deemed to be a police investigation to which sections 23 and 258 of the Criminal Procedure Code 2010 shall apply in the same manner and to the same extent as if the Director or the special investigator concerned were a police officer.

Special powers of investigation:

Section 18 (1) Notwithstanding anything in any other law, the Public Prosecutor, if satisfied that there are reasonable grounds for suspecting that an offence under the Prevention of Corruption Act has been committed, may, by order, authorise the Director or any police officer of or above the rank of assistant superintendent named in such order or a special investigator so named to make an investigation in the matter in such manner or mode as may be specified in that order. The order may authorise the investigation of any bank account, share account, purchase account, expense account or any other account, or any safe deposit box in any bank, and shall be sufficient authority for the disclosure or production by any person of all or any information or accounts or documents or articles as may be required by the officer so authorised.

Section 18 (2) Any person who fails to disclose such information or to produce such accounts or documents or articles to the person so authorised shall be guilty of an offence and shall be liable on conviction to a fine not exceeding SGD 2,000 or to imprisonment for a term not exceeding one year or to both.

Powers of investigation authorised by Public Prosecutor:

Section 19 The Public Prosecutor may issue an order to authorise the Director or a special investigator to exercise, in the case of any offence under any written law, all or any of the powers in relation to police investigations given by the Criminal Procedure Code.

Public Prosecutor's power to order inspection of bankers' books:

Section 20 (1) The Public Prosecutor may, if he considers that any evidence of the commission of an offence under the Prevention of Corruption Act or under sections 161 to 165 or 213 to 215 of the Penal Code or of a conspiracy to commit, or an attempt to commit, or an abetment of any such offences by a person in the service of the Government or of any department thereof or of a public body is likely to be found in any banker's book relating to that person, his wife or child or to a person reasonably believed by the Public Prosecutor to be a trustee or agent for that person, by order authorise the Director or any special investigator named in the order or any police officer of or above the rank of assistant superintendent so named to inspect any book and the Director, special investigator or police officer so authorised may, at all reasonable times, enter the bank specified in the order and inspect the books kept therein and may take copies of any relevant entry in any such book.

Public Prosecutor’s powers to obtain information:

Section 21 (1) In the course of any investigation or proceedings into or relating to an offence by any person in the service of the Government or of any department thereof or of any public body under the Prevention of Corruption Act or under section 161 to 165 or 213 to 215 of the Penal Code or a conspiracy to commit, or an attempt to commit, or an abetment on any such offence, the Public Prosecutor may, notwithstanding anything in any other written law to the contrary, by written notice –

- (a) Require that person to furnish a sworn statement in writing enumerating all movable or immovable property belonging to or possessed by that person and by the spouse, sons and daughters of that person, and specifying the date on which each of the properties enumerated was acquired whether by way of purchase, gift, bequest, inheritance or otherwise;
- (b) Require that person to furnish a sworn statement in writing of any money or other property sent out of Singapore by him, his spouse, sons and daughters during such period as may be specified in the notice;
- (c) Require any other person to furnish a sworn statement in writing enumerating all movable or immovable property belonging to or possessed by that person where the Public Prosecutor has reasonable grounds to believe that the information can assist the investigation;
- (d) Require the Comptroller of Income Tax to furnish, as specified in the notice, all information available to the Comptroller relating to the affairs of that person or of the spouse or a son or daughter of that person, and to produce or furnish, as specified in the notice, any document or a certified copy of any document relating to that person, spouse, son or daughter which is in the possession or under the control of the Comptroller;
- (e) Require the person in charge of any department, office or establishment of the Government, or the president, chairman, manager or chief executive officer of any public body to produce or furnish, as specified in the notice, any document or a certified copy of any document which is in his possession or under his control;
- (f) Require the manager of any bank to give copies of the accounts of that person or of the spouse or a son or daughter of that person at the bank.

Section 21 (2) Every person to whom a notice is sent by the Public Prosecutor under subsection (1), notwithstanding the provisions of any written law or any oath of secrecy to the contrary, comply with the terms of that notice within such time as may be specified therein and any person who wilfully neglects or fails so to comply shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year or to both.

Powers of search and seizure:

Section 22 (1) Whenever it appears to any Magistrate or to the Director upon information and after such inquiry as he thinks necessary that there is reasonable cause to believe that in any place there is any document containing any evidence of, or any article or property relating to –

the commission of an offence under the Prevention of Corruption Act, or under sections 161 to 165, or 213 to 215, of the Penal Code; or

a conspiracy to commit, or any attempt to commit, or an abetment of any such offence –

the Magistrate or the Director may, by warrant directed to any special investigator or police officer not below the rank of inspector empower the special investigator or police officer to enter that place by force if necessary and to search, seize and detain any such document, article or property.

Accountability

CPIB is directly subordinated to the Prime Minister's Office. The Bureau is headed by a Director who is directly responsible and report to the Prime Minister.

The Director of the CPIB is an officer appointed by the President of Singapore. Cabinet or a Minister acting under the general authority of the Cabinet advises or recommends the President a candidate. The President can, however, acting in his discretion, refuse to appoint or revoke the appointment of the Director if he does not concur with the advice or recommendation. In addition, the President may appoint such number of deputy directors, assistant directors and special investigators of the CPIB as he may think fit. He may also create different grades for deputy directors, assistant directors and special investigators as he may think fit.

Any powers conferred on and duties to be performed by the Director under the Prevention of Corruption Act may - subject to the orders and directions of the Director - be exercised or performed by a Deputy Director or an assistant director of the Bureau. A Deputy Director and an assistant director of the Bureau may exercise the powers conferred by the Prevention of Corruption Act on a special investigator. The Director, deputy directors, assistant directors and special investigators of the CPIB are public servants within the meaning of the Penal Code.

Human and Material Resources and Training

CPIB has one of the smallest officer-to-population ratio among the forerunner anti-corruption agencies in the region. CPIB obtains the budget to fund its operations annually from the Ministry of Finance.

With a lean outfit of less than 150 officers, training is naturally a critical function which determines the effectiveness in CPIB's operations. All newly-appointed officers undergo a 4-months basic course aimed at instilling knowledge of the law, investigation and enforcement procedures. A competency-based training framework also ensures that each level of officers have the required skill-sets and are competent to perform their duties. Besides formal training, the Bureau organises awareness talks to enhance officers' professional and personal development. Officers who are inclined towards specialist areas, such as forensics and polygraph, are also given opportunities to build their expertise in these areas and obtain accreditations.

Highlights and practice

Singapore supports a *zero-tolerance approach to corruption*. It is based on a whole-of-government effort together with the participation of the community and relies on a strong political will and encompasses:

- the rule of law, i.e., strong and effective anti-corruption law and independent judiciary,
- a functionally independent anti-corruption agency; and
- a responsive government that serves the public interest.

Personal example set by the Government provide moral authority for the anti-corruption movement in Singapore. Also it demonstrates that the political will is the corner-stone of any anti-corruption effort. It is believed that corruption in Singapore is very much under control and that a culture of zero tolerance to corruption has been inculcated in the society. Singapore has been ranked regularly by *Transparency International* as one of the five least corrupt countries in the world. Likewise, the *Political and Economic Risk Consultancy's Corruption in Asia Report*, since its inception in 1995, has ranked Singapore as the least corrupt country in Asia.

Independence was strengthened by subordinating the CPIB directly to the Prime Minister with the aim to prevent undue interference and to ensure that the CPIB does not favour any particular government department or public institution. Under the supervision of the Prime Minister's Office, the CPIB was able to operate without fear or favour. In addition, Constitutional amendments were made in 1991 for the Elected President to appoint or revoke the appointment of the Director of the CPIB. The amendments also allow the Elected President to concur with the Director of the CPIB to carry out certain investigations notwithstanding that the Prime Minister had refused to give his consent.

Building skills and ensuring integrity of CPIB staff. As part of the on-going civil service-wide reforms started in Singapore in 1995 under the broad umbrella of the initiative called *Public Service in the 21st Century*, CPIB enhances process-control so as to better manage investigations, principally through the introduction of *performance indicators*. This is directed towards the mission of "swift and sure action", case management system, case conference, and a full review of all investigative processes as part of fulfilling ISO 9000 requirements. Further, CPIB strives to enhance personnel practices through the *improvement of career opportunities and training*, and creating an *organisational culture* characterised by an adherence to the core values of integrity, devotion and teamwork. CPIB uses a system of *personnel appraisals* and organisational health surveys to encourage its officers to align themselves to these values. In addition, CPIB works closely with the Public Service Division and other key civil service departments to ensure that the high level of integrity within the Singapore Civil Service is upheld.

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Lithuania: Special Investigation Service

The Special Investigation Service (Specialiųjų tyrimų tarnyba – STT) is a multi-purpose anti-corruption body established in 1997 in Lithuania. STT has a broad mandate in the anti-corruption fields of investigation, prevention and education. Institutionally, the STT is an independent body accountable to the President of the Republic and the Parliament. In addition to law enforcement and criminal intelligence powers related to bribery and corruption-related offences, the STT has general functions in the field of prevention, education, co-ordination and implementation of the National Anti-corruption Programme. However, the STT is generally perceived as a law enforcement institution. In 2012, the service had some 230 staff in the central office and 5 regional departments, most of them were employed in investigation divisions.

Background Information

In the period from regaining its independence in 1990 till becoming a member of the European Union and NATO in 2004, Lithuania has succeeded in building one of the most comprehensive anti-corruption systems in Europe, based on a multi-faceted approach of preventive and repressive, legal and institutional measures. This can be attributed to a number of factors, including the political commitment of successive governments, strong outside incentives and reform requirements during the accession process to the EU, as well as membership in international anti-corruption monitoring mechanisms such as the Council of Europe's GRECO. The process of legislative reform in the area of corruption has also been facilitated by Lithuania's accession to major international treaties in the field of corruption and its participation in different technical co-operation and evaluation programmes, including those of the OECD.

The STT was initially established in 1997 under the Ministry of the Interior, and performed the function of criminal prosecution regarding corruption in the public and private sector.³ Recognising the need to address corruption through a multi-faceted approach of repression, prevention and education, Lithuania further explored various models of anti-corruption institutions, and decided to follow the well-publicised *Hong Kong model*. In 2000, the Law on the STT was adopted, which created an independent institution with a broad mandate in the fields of investigation and prevention of corruption. Building on the material and human resources of its predecessor, the new institution became operational within a month from the adoption of the law.

The STT has been designed as a focal anti-corruption body to detect, investigate and prevent corruption offences, to provide education in the field of corruption, to ensure co-ordination of the anti-corruption measures between state and municipal bodies as well as with the civil society and the private sector, and to co-ordinate anti-corruption strategies at the national and local level. The main objectives of the STT are to create a national system of corruption prevention, to improve the legal anti-corruption framework, to develop corruption-related data and analyses, and to develop international relations to combat corruption.⁴

The STT is the most visible part of an otherwise complex legal and institutional framework of the Lithuanian anti-corruption system. The National Anti-corruption Programme, adopted by the Parliament (Seimas) in 2002 and updated every two years, bases the fight against corruption on three pillars: prevention, investigation and enforcement and public education. It also provides for monitoring and review mechanism

enabling regular updating of the measures, setting of priorities, and foresees the adoption of sector and institution specific anti-corruption strategies. Preventive aspects of the system are on a general and strategic level addressed by the Law on the Prevention of Corruption adopted in 2002. Corruption and transparency measures are further regulated by different laws and regulations that cover all common corruption prevention topics: prevention of conflicts of interest; declaration of assets and income by public officials; ethics and transparency of the public service; prevention of money-laundering and financial control over the use of public funds.

In addition to the STT, there are other specialised anti-corruption bodies in the field of prevention and co-ordination in Lithuania:

The *Chief Official Ethics Commission (VTEK)*. Established in 1999, VTEK is an independent institution accountable to the Parliament and comprising five members (the President of the Republic; the President of the Parliament; and the Prime Minister each appoints one member, and the Minister of Justice appoints two) assisted by a small permanent Secretariat. Under the Law on the Adjustment of Public and Private Interests and the Law on the Prevention of Corruption, VTEK is the main control institution in the area of prevention of conflicts of interest of high-level public officials and the central authority in the field of public ethics, providing expertise and recommendations concerning anti-corruption programmes and legal reforms in this field. VTEK receives, and within its scope of jurisdiction investigates, complaints from the general public; it can initiate investigations on the basis of information received. While performing investigations, it has the right to access information and documents from all other institutions, and may refer cases to the prosecution authorities or courts.

The *Seimas Anti-corruption Commission*. This is a parliamentary body set up in 2001. Its functions, as described in the Law on the Seimas Anti-corruption Commission, consist of monitoring of the implementation of the National Anti-corruption Programme, hearing reports of different institutions on their work in the anti-corruption field, analysing and elaborating of legislative proposals in the area of corruption, and other financial and economic crimes. The Commission also receives complaints by citizens and has powers to request documents and experts' assistance from other state institutions, to invite present and past state officials to give explanations on matters under elaboration, as well as to propose to other institutions to conduct inspections and resolve issues under their competence.

Inter-departmental Commission for Co-ordinating the Fight against Corruption. This is a non-permanent body set-up in 2003 under the Government consisting of senior representatives of different ministries and other bodies, e.g. the STT, which meets periodically to review and discuss co-ordination of the implementation of the National Anti-Corruption Programme, as well as other activities of central and local government institutions and agencies in the areas of corruption-prevention and detention of corruption-related violations of law.

Department of Organised Crime and Corruption within the Prosecutor General's Office (DOCC). The DOCC is a specialised prosecution service with jurisdiction to commence and conduct prosecution against organised crime and corruption related offences; to conduct, co-ordinate or supervise pre-trial investigations in this area. Specialised divisions within the Prosecutors Service with jurisdiction over organised and corruption offences have been created already in 1993. In 2001, these were restructured into the DOCC, which is a separate department within the Prosecutor General's Office.

Furthermore, the DOCC has five regional Divisions integrated in the regional prosecutor's offices.

Finally, there are specialised law enforcement bodies within the Ministry of the Interior or the Government which have similar functions and which cooperate with the STT in the implementation of their respective mandates. These are: the Financial Crime Investigation Service, Police Organised Crime Investigation Service, and the State Security Department.

Legal and Institutional Framework

The main legal basis governing the objectives, main tasks and functions, organisation, financing, accountability and the rights and duties of the officers of the STT is the Law on the Special Investigation Service adopted in 2000. Further tasks of the Service are prescribed by the Law on the Prevention of Corruption, while its investigative powers derive from the Law on Operational Activities and the Criminal Procedure Code.

Article 2 of the Law on the STT establishes that it is “a state law enforcement agency functioning on the statutory basis, accountable to the President of the Republic and the Seimas, which detects and investigates corruption-related criminal acts, develops and implements corruption-prevention measures.”

The Law also provides for a definition of corruption as “a direct or indirect seeking for, demand or acceptance by a public servant or a person of equivalent status of any property or personal benefit (a gift, favour, promise, privilege) for himself or another person for a specific act or omission according to the functions discharged, as well as acting or omission by a public servant or a person of equivalent status in seeking, demanding property or personal benefit for himself or another person, or in accepting that benefit, also a direct or indirect offer or giving by a person of any property or personal benefit (a gift, favour, promise, privilege) to a public servant or a person of equivalent status for a specific act or omission according to the functions of a public servant or a person of equivalent status, as well as intermediation in committing the acts specified in this paragraph.” This definition is important, since it frames the “jurisdiction” of the STT in the performance of its tasks.

Under Article 8 of the Law, the STT shall perform the following *functions*:

- carry out intelligence activities in detecting and preventing corruption-related criminal acts;
- conduct a pre-trial investigation of corruption-related criminal acts;
- co-operate with other law enforcement institutions in the manner laid down by legal acts;
- collect, store, analyse and sum up the information about corruption and related social and economic phenomena;
- on the basis of the available information, prepare and implement corruption-prevention and other measures;
- jointly with other law enforcement institutions implement crime control and prevention programmes;

- report in writing, at least twice a year, to the President of the Republic and the Chairman of the Seimas about the results of the Service's activities and submit its proposals how to make the activities more effective.

Article 15 of the Law on the Prevention of Corruption gives the STT further specific functions in relation to the co-ordination and implementation of the National Anti-corruption Programme at national and local level, such as to:

- together with the Government participate in the development and implementation of the National Anti-Corruption Programme;
- put forward proposals to the President, the Seimas and the Government as to the introduction and amendment of legislation necessary for the implementation of corruption-prevention activities;
- take part in the Government's discharge of its functions of co-ordination and supervision of State and Municipal agencies' corruption-prevention activities;
- together with other State and Municipal agencies, implement corruption prevention measures;
- together with other State and Municipal agencies, implement the National Anti-Corruption Programme.

The STT also carries out background checks (or "vetting process") of officials before they are appointed to certain public functions, depending on the level of clearance required.

In spite of a broad mandate in the field of prevention and co-ordination, the STT is predominantly characterised as a law enforcement body. It has original – but not exclusive – jurisdiction over detection and investigation of corruption-related offences as enumerated in the Article 2 of the STT law, including cases of bribery, trading in influence, graft, abuse of office, bribery of an intermediary, tampering with official records, misappropriation/embezzlement of property, and others.

The investigative powers and the conduct of criminal investigation by the STT are governed by the Criminal Procedure Code and the Law on Operational Activities.

Corruption offences are processed in the same manner, and before regular criminal courts, as all other criminal offences. Accordingly, the difference in investigation and prosecution of corruption offences does not lie in the specific procedural powers of the main actors, but in the specialised institutions that are tasked with detection and investigation – STT – and prosecution – DOCC – of corruption offences. Normally, it is the STT that initiates preliminary investigation into most suspected or alleged corruption offences either based on the information or complaints received, or as a result of the services' own pro-active activity. When another law enforcement or security service (e.g. the Financial Crime Investigation Service; the Police Organised Crime Investigation Service; the State Security Service, the Tax or Customs Administration) detects a corruption offence, they normally inform the STT or the DOCC to take over. As stated above, the STT does not have exclusive jurisdiction over corruption offences, and there seems to be some outstanding issues in this field, especially in relation to conflicting competencies in cases of concurrence of corruption, and financial and organised crime offences.⁵

The Law on STT, the Law on Operational Activities, and the Criminal Procedure Code give the STT a wide range of investigative powers. These include access to

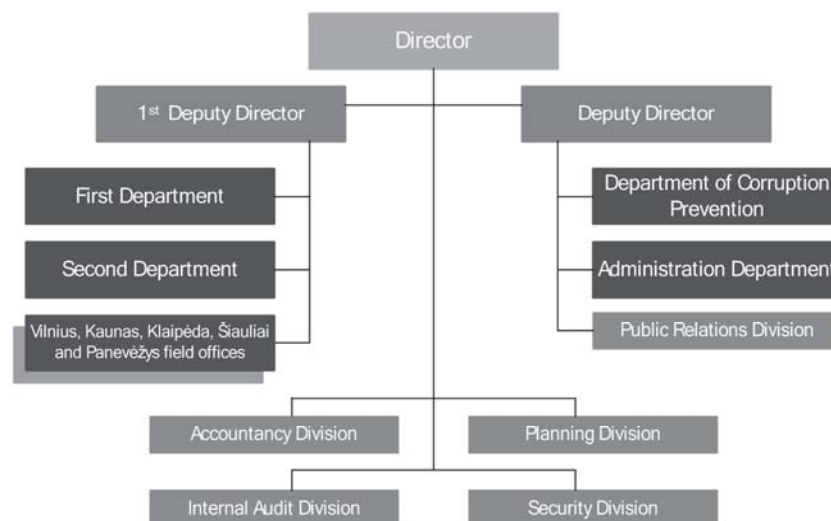
financial data and special investigative means such as covert interception of telecommunications, covert surveillance, deployment of undercover agents and simulated corruption offences (the Constitutional Court has, in 2002, limited the application of provocation and entrapment). While there are no special provisions related to the protection of informants or collaborators of justice in corruption cases, the CPC prescribes a number of procedural protective measures for witnesses, including anonymity; furthermore, a special law on the protection of witnesses and other participants in the criminal procedure and operational activities can be applied to corruption cases.

All pre-trial investigations are conducted under the supervision of the prosecutor – in cases of corruption a prosecutor from a regional division of the DOCC – who formally commences and supervises the pre-trial investigation. In cases of conflicting jurisdiction of law enforcement agencies (e.g. a case of corruption with elements of organised crime or other economic crime), it is the prosecutor who co-ordinates different agencies, can form joint investigation teams, and request further expertise (e.g. in the financial field) from other state institutions. In 2001, the Prosecutor-General and heads of all law enforcement, control and security bodies of Lithuania signed a memorandum on mutual co-operation and exchange of information in operational investigative activities.

All corruption offences investigated by the STT fall under the jurisdiction of the DOCC regional prosecutors. The most important, complicated and urgent cases, as well as those of high public interest, such as offences against the state, major organised crime offences, particular corruption offences, or offences committed by or against high-level state officials, may be taken over by the central DOCC office within the Prosecutor General's Office.

Internally, the STT is structured to reflect its tasks and consists of departments on intelligence activities, prevention and education on a central level and investigative and prevention divisions on regional levels. The STT has a central office in Vilnius, and 5 regional departments.

Figure 4.2. STT Organisational Structure



Source: Special Investigation Service (Lithuania) (STT).

Human and Material Resources

The independent status of the STT is secured through the process of appointment of the Service's top management and regulation on the recruitment, selection of its officers, as well as procedures for their dismissals. The Director is appointed for a term of 5 years by the President of the Republic and with the consent of the Seimas; and can only be dismissed by the President with the consent of the Seimas. The first Deputy Director and the Deputy Director of the STT are appointed and dismissed by the President on the suggestion of the Director.

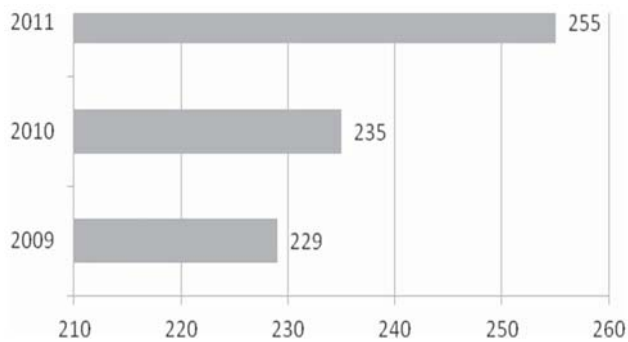
The Law on the STT prescribes detailed rules for the screening and recruitment of the STT officers and rules on the prevention of the conflict of interest. There is also an internal Code of Conduct of the employees of the STT. Furthermore, the Law on STT grants specific immunity to all STT officers. According to Article 17, a criminal action against an STT officer can only be initiated by the Prosecutor-General or his Deputy; the STT officer, in the course of the performance of his/her duties, as a rule cannot be subject to arrest and searches by the regular police; information on personal data of STT officers are considered state secrets; STT officers and their family members can benefit from special protective measures against threats.

Accountability

The STT is accountable to the President of the Republic and to the Seimas, to which it has to provide semi-annual and annual performance reports. It does not report to the Government. Operationally, the STT is also supervised by the prosecution service – DOCC. The public oversight is limited to the openness of the Service through its public relations activities and regular publications of its reports and major activities. In spite of this, however, and especially in the light of its law enforcement nature, the STT has since its establishment maintained rather open and close co-operation with civil society, in particular the national chapter of *Transparency International*.

Practice and Highlights

In 2011, the majority of *pre-trial investigations* were instituted on the basis of elements constituting the criminal act detected by the STT officers. These investigations are usually very complex: more criminal acts are subject to investigation; more suspects are interrogated; more pre-trial investigation acts are conducted, etc. As a result, they take a longer period of time to conclude. In 2011, more complex and prolonged pre-trial investigations were conducted, therefore, the number of completed pre-trial investigations decreased.

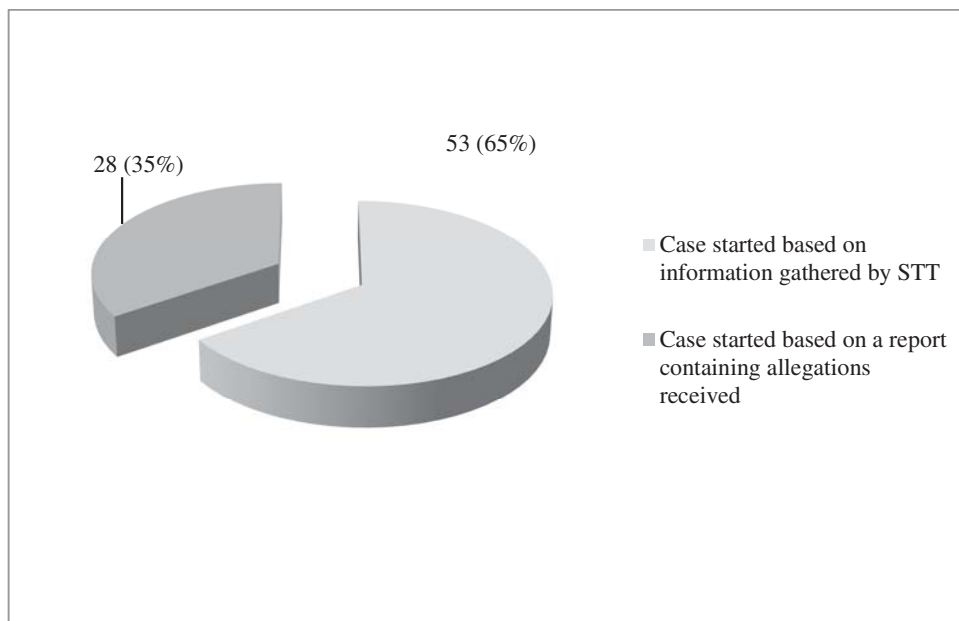
Figure 4.3. Number of pre-trial investigations conducted by STT

In 2011, the number of *pre-trial investigations* conducted by the STT increased by 8,5 percent compared to 2010.

Out of 255 pre-trial investigations 35 percent were of a *complex nature*.

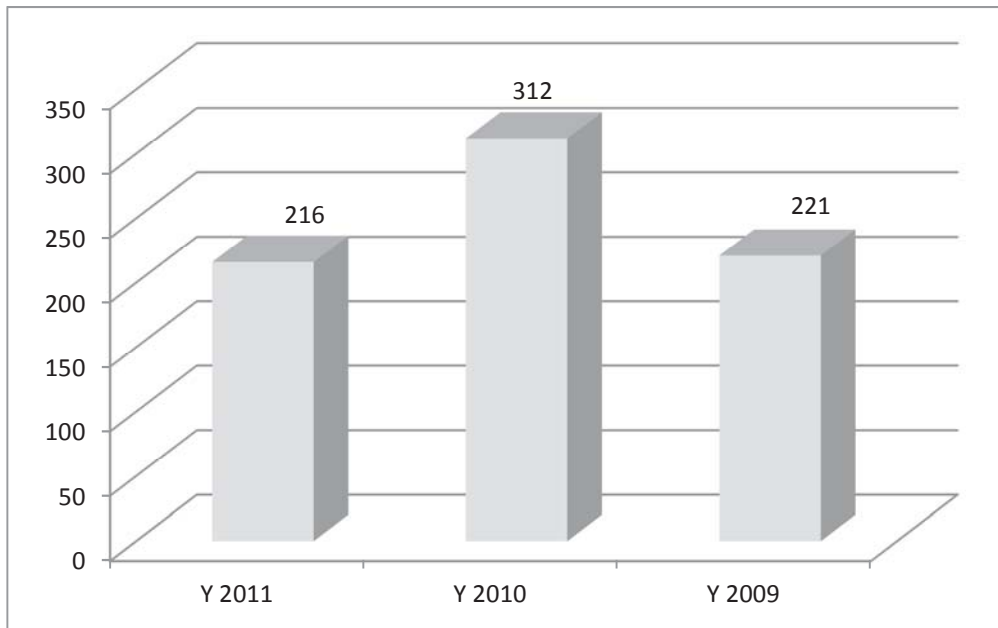
In 2011, pre-trial investigations were carried out by 28 officers each of whom averaged 9 pre-trial investigations including 3 complex ones.

Source: Special Investigation Service (Lithuania).

Figure 4.4. Pre-trial investigations instituted by the STT, by source of information

Source: Special Investigation Service, Lithuania.

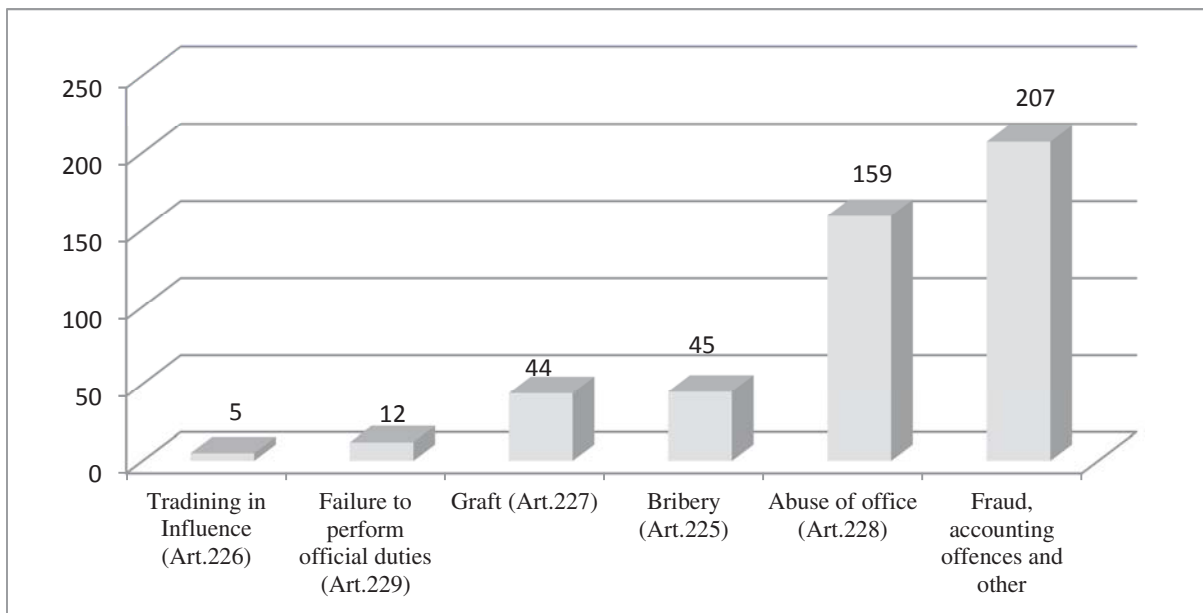
Figure 4.5. The number of persons suspected of the commission of an offence in STT cases



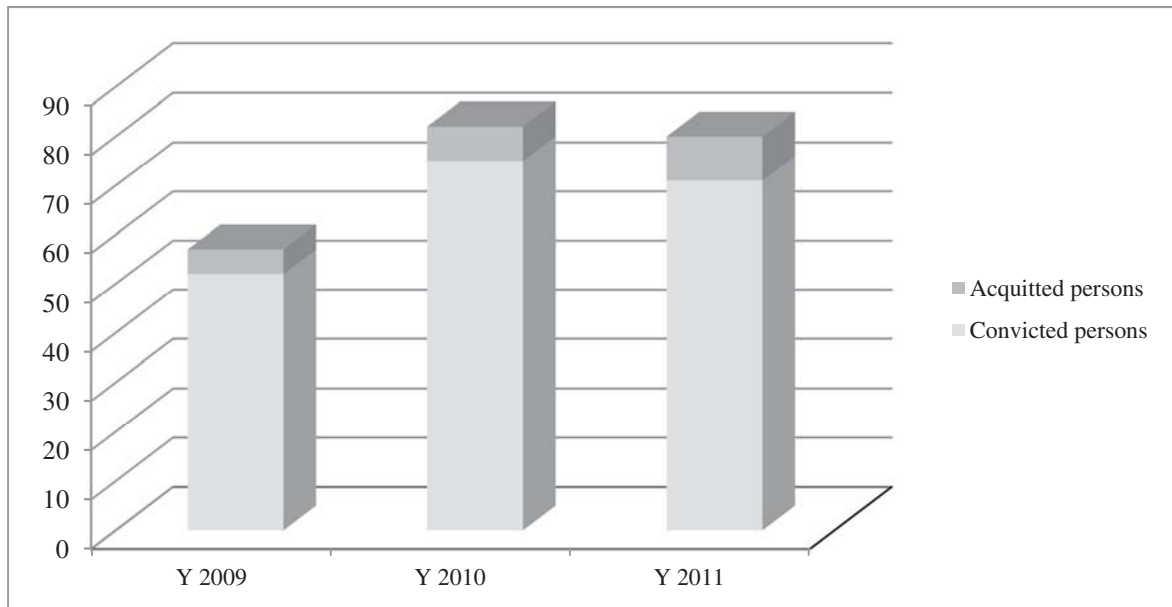
Note: In 2011, out of 216 persons suspected, 131 were public servants, 7 legal persons and 78 other persons.

Source: Special Investigation Service (Lithuania).

Figure 4.6. Detected criminal acts, by the Article of the Criminal Code



Source: Special Investigation Service (Lithuania).

Figure 4.7. The number of convicted and acquitted persons

Persons convicted in 2011:

- 35 public servants (judgement of conviction has come into effect for 11 public servants and has not come into effect for 24 public servants);
- 36 other persons (judgement of conviction has come into effect for 23 persons and has not come into effect for 13 persons).

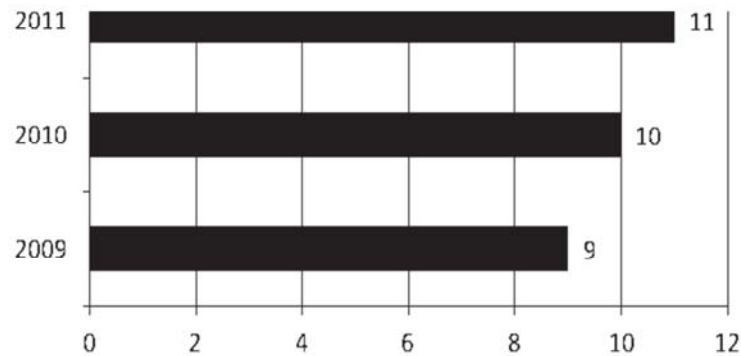
Persons acquitted in 2011:

- 6 public servants (judgement of acquittal has come into effect for 4 public servants and has not come into effect for 2 public servants);
- 2 other persons (judgement of acquittal has come into effect for both of them);
- 1 legal person (judgement of acquittal has come into effect).

Source: Special Investigation Service (Lithuania).

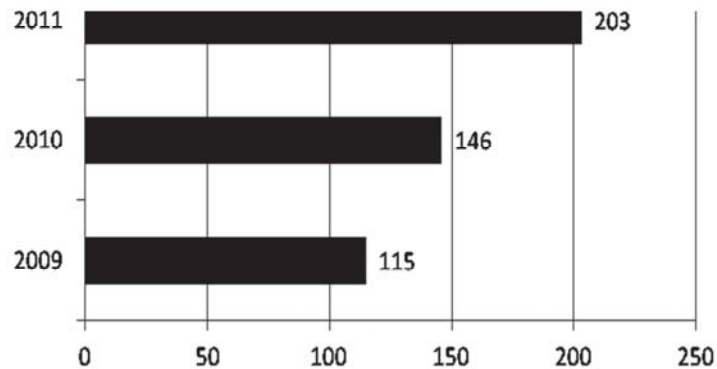
Prevention of Corruption. It is important for the STT to identify causes and reasons for the emergence of corruption, to work out tactics to counter it and to monitor changes and foresee their impact in order to properly implement the assigned functions. The STT, in co-operation with other public and private organisations, seeks to *identify systems and procedures that create preconditions for corruption and to eliminate them.*

Corruption risk analysis. STT assesses the activities of state or municipal institutions, following a procedure prescribed by the Government, and presents conclusions about the development of anti-corruption programmes, as well as recommendations concerning other corruption-prevention measures to these state and municipal institutions.

Figure 4.8. The number of corruption-risk analyses conducted by STT

Source: Special Investigation Service (Lithuania).

Anti-corruption assessment of legal acts carried out by the STT is aimed at assessing the impact of legal regulation on the level of corruption, *i.e.* at detecting legal loopholes facilitating corruption (collisions, inaccuracy of procedures and measures, etc.), and ensuring that legal acts are adopted taking into consideration the potential results of their implementation.

Figure 4.9. Anti-corruption assessment of legal acts, 2009-2011

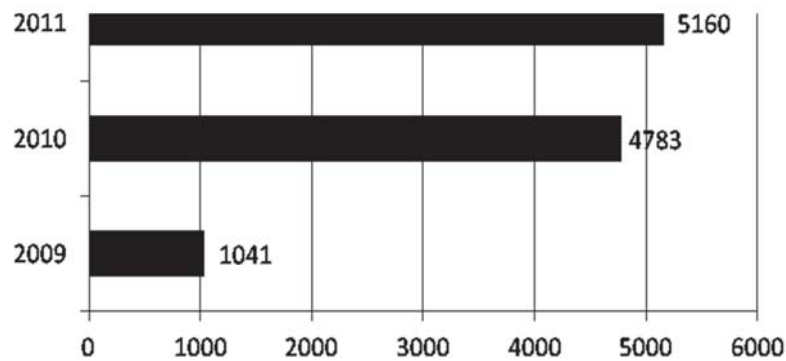
Source: Special Investigation Service (Lithuania).

Screening of persons is a corruption-prevention measure aimed at preventing persons lacking integrity from holding office at a state and municipal institution, receiving state awards, having access to sensitive information or granting personnel security clearance certificate, acquiring shares or long-term tangible assets of public limited liability companies and private limited liability companies owned by state and municipal institutions.

Screening of persons by the STT applies to the following groups:

- persons seeking or holding a position at a state or municipal institution or enterprise and at European Union or other international judicial or other institutions (the Law on Corruption Prevention);
- persons seeking a personnel security clearance certificate (the Law on State Secrets and Official Secrets);
- persons nominated for state awards (the Law on State Awards);
- potential purchasers (the Regulations on Privatisation of State and Municipal Assets at Public Auctions);
- in accordance with co-operation agreements with entities of operational activities, co-operates with such entities.

Figure 4.10. The number of screened natural persons and enterprises



Source: Special Investigation Service (Lithuania).

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Latvia: Corruption Prevention and Combating Bureau

The Corruption Prevention and Combating Bureau (Korupcijas novēršanas un apkarošanas birojs – KNAB) is a multi-purpose anti-corruption agency set up in Latvia in 2002. Its mandate combines prevention, education and investigation of corruption. The KNAB is an independent institution within the public administration system, endowed with investigatory powers. Since its establishment, the KNAB has been gradually strengthened with more financial and human resources. However, due to the economic crisis, budgetary cuts affected all public institutions, and the KNAB’s budget was decreased by 30% in 2009. In 2012, the budget of the KNAB amounted to approximately EURO 3 Million. In January 2012, there were 133 staff members, the majority of whom work on criminal investigations. Since its establishment, the KNAB has frequently been named as one of the most trusted Latvian public institutions.

Background Information

The development of an anti-corruption policy in Latvia began in 1995, when the Parliament adopted the Law “On Prevention of Corruption”. In 1997, the Corruption Prevention Council, a coordinative government institution of representatives from 16 state institutions chaired by the Minister of Justice, was established. A permanent Secretariat to the Council was created in 1999, but it consisted only of three persons. In addition, some existing institutions were strengthened, such as the Security Police and the State Revenue Service. Nevertheless, the fight against corruption was not a priority for any specific body - existing institutions lacked co-ordination, with little results to show for.

A proposal for setting up of a new, independent anti-corruption body was under discussion for several years before it was included in the corruption-prevention programme adopted by the government in 2000. It was decided to create this institution based on the Hong Kong model. The objective was to develop a single focal point for all anti-corruption efforts. The new institution was to deal with prevention, investigation and education of corruption in a comprehensive manner, and had a focus on control of political party financing.

Regarding the status, there were three proposals - an independent institution with a head appointed by the Parliament, an institution attached to the Ministry of Justice with its head appointed by the government; or an institution attached to the General-Prosecutor’s Office, with its head appointed by the Prosecutor-General.⁶ Finally, an independent institution was created.

The law establishing the KNAB was drafted by a working group created in October 2000. It consisted of representatives of the Financial Intelligence Unit, the Prosecutor General’s Office, the State Police, the Security Police, the Ministry of Justice, the Supreme Court, the State Revenues Service, and Transparency International-Latvia (TI Latvia).⁷ The Law was adopted by Parliament in April 2002, and entered into force in May 2002 (by June 2012, it had been amended eleven times).

It took about one year to make the institution operational. The staff of the new agency was recruited mainly from former law enforcement officers, officials from other state institutions and, to a lesser extent, representatives of the private sector.⁸ The KNAB carries out the totality of its functions since February 2003.

The KNAB was established in the context of increasing attention from the international community to corruption problems in Latvia. The main impetus was the accession process to the EU. Since 1998, the fight against corruption was part of the national accession programme; the European Commission regularly called upon the government to step it up. World Bank experts suggested the creation of a specialised anti-corruption agency in 1998. In 1999, Latvia signed the Council of Europe Criminal Law Convention, requiring authorities specialised in the fight against corruption; the 2002 GRECO evaluation stated that the Corruption Prevention Council does not bring about the expected results and efforts of police institutions to fight corruption, saying that they “are frankly segmented and disjointed and that there is an obvious lack of direction and co-ordination which no doubt leads to lost opportunities”.⁹

The establishment of the KNAB faced several difficulties. While political parties represented at the Parliament voted for the law establishing the KNAB, to some extent due to international pressure, once it started to control party financing and proposed to impose sanctions on some of their members, parties were reluctant to support these measures. Establishing co-ordination with other public institutions was another difficulty. Some institutions had diverging views on directions of the national anti-corruption policy, and their willingness to participate varied. Among law enforcement institutions, the State Police, for instance, did not support the idea of establishing “another law enforcement institution.”

In the beginning, some rivalries emerged among the KNAB, the Police and the Prosecutor-General’s Office. Besides, the public had high expectations that the work carried out by the KNAB would have quick and tangible results. Throughout the last 10 years of KNAB’s pro-active work, it has achieved significant results, which allowed it to become one of the most trusted public institutions in Latvia and a reliable and recognised partner of many anti-corruption institutions internationally.

Another challenge KNAB has been facing was the nomination of the head of the KNAB. Since 2002, there have been four Directors approved by the Parliament. The selection of KNAB’s Director has always triggered various procedural issues and disputes among political parties. In order to select the current Director, a professional selection commission was established. It was headed by the Head of the State Chancellery, and it consisted of representatives of the Supreme Court and the Prosecutor-General’s Offices, as well as the Heads of the Constitutional Protection Bureau and the Security Police. A representative of the Latvian chapter of Transparency International participated in the role of observer. In November 2011, the current head of the KNAB was nominated.

Legal and Institutional Framework

The Law on the Corruption Prevention and Combating Bureau forms the legal basis for KNAB. Further, activities of the Bureau are regulated by the Criminal Law, the Criminal Procedure Law, the Investigatory Operations Law, the Code of Administrative Violations, the Law on Preventing Conflict of Interest in the Activities of Public Officials, the Law on Financing of Political Organisations (Parties) and the Law on Pre-election Campaigns before the Saeima Elections and Elections to the European Parliament and the Law on Pre-election Campaigns before Local Government Elections.

The *Law on the Corruption Prevention and Combating Bureau* provides that KNAB is an institution of state administration and that it can carry out investigatory operations.

According to this law, the main *functions* of KNAB are as follows:

Corruption prevention:

- Develop and coordinate the implementation of the national anti-corruption strategy and its mid-term implementation programme, approved by the Cabinet of Ministers;
- Receive and process complaints from citizens, and carry out inquiries upon request of the President, the Cabinet of Ministers, the Parliament, or the Prosecutor General;
- Analyse the results of complaints, inquiries, declarations, corruption-prevention practice, and violations detected by public institutions; suggestion of improvements to ministries and the State Civil Service Administration;
- Elaborate a methodology for corruption prevention in local and national public institutions and in the private sector;
- Analyse existing laws and suggest amendments and draft new laws;
- Control the application of the Law on Prevention of Conflict of Interest in the Activities of Public Officials and other legal acts relating to restrictions of public officials;
- Educate the public on their rights and on ethics, disseminate information regarding trends in corruption and detected violations, carry out public opinion surveys and analysis;
- Develop and coordinate international assistance projects, coordinate international co-operation and analyse experience of other countries;
- On request of the Corruption and Crime Prevention Council, provide information and suggestions on corruption-prevention.

Combating (investigating) corruption:

- Detect and investigate criminal offences related to corruption in the public service as set out in the Criminal Law, and in accordance with the Criminal Procedure Law (see below);
- Hold public officials administratively liable and impose sanctions for administrative violations related to corruption prevention;
- The Law provides also that other relevant authorities with investigatory powers are obliged to assist the KNAB in investigations.

Control over the implementation of rules on political party financing and pre-election campaigning:

- Control the application of the Law on Financing of Political Organisations (Parties) and the conformity with the restrictions for pre-election campaigns;
- Hold persons administratively liable and impose administrative sanctions for violations regarding political party financing and pre-election campaigning;
- Investigate and conduct investigatory operations to detect criminal offences related to violations of rules relative to financing of political organisations and their unions set out in the Criminal Law, except when state security services have jurisdiction;

- Receive and process complaints of citizens, and carry out inquiries requested by the President, the Cabinet of Ministers, the Parliament, or the Prosecutor-General;
- Centralise and analyse information in financial declarations submitted by political organisations and their unions and on relevant violations detected;
- Analyse existing laws, suggest amendments and draft new laws;
- Develop public opinion surveys and analyses;
- Educate and inform the public on rules on financing of political organisations and pre-election campaigns, violations committed and preventive measures taken;

Political parties financing: Under the *Law on Financing of Political Parties*, the KNAB officers have *powers and rights* to carry out investigatory operations; issue administrative protocols, investigate administrative cases, impose administrative sanctions; request and receive information, including classified documents, from other public agencies, enterprises, organisations and persons free of charge, as well as request and receive information from financial institutions on bank accounts and bank transactions (since 2004); make use of registered data bases; give warning on prohibition to violate the law; and have free access to premises of public institutions and other buildings.

The law requires the *political parties to submit to KNAB the following information:* election income and expenditure declarations; and annual financial reports.

KNAB is responsible for *criminal offences* related to activities of public officials in cases involving corruption (Criminal Code, articles 198, 288.² – 288.⁵, 316 – 330), which are as follows: exceeding official authority; using of official position in bad faith; failure to act by a public official; taking a bribe (passive bribery); misappropriation of a bribe; intermediation in bribery; giving a bribe (active bribery); violation of restrictions imposed on a public official; unlawful participation in property transactions; trading in influence; forging of official documents; false official information; disclosure of confidential information; disclosure of confidential information after leaving the public duty; unauthorised receipt of benefits; illegal financing of political parties.

KNAB is a *pre-trial investigation body* according to the Article 386 of the Criminal Procedure Law. KNAB can investigate, under supervision of a public prosecutor, criminal offences involving political party financing and public sector activities involving corruption (Article 387, (6)). In conflicting situations, the Prosecutor-General establishes which pre-trial agency is best placed to investigate the case. After the preliminary investigation, the KNAB forwards proceedings to the Office of Prosecutor-General, asking to start criminal prosecution.

According to the *Code of Administrative Violations*, KNAB can conduct inquiries and impose sanctions in cases involving the following *administrative violations*:

- limitations to additional employment (fine LVL 50 – 250 (Latvian Lats) with/without prohibition to hold public office);
- failure to report conflict of interest (fine up to LVL 250 with/without prohibition to hold public office);
- limitations and incompatibilities for public officials regarding business interests, representation, other income, use of public property, performing public duty in conflict

of interest situation (fine from LVL 50 to 250 with/without prohibition to hold public office);

- limitations regarding taking of gifts, donations or other material benefits (fine from LVL 50 to 250 with/without confiscation of property acquired);
- failure to perform the duties of heads of state or local administrations with respect to prevention of conflict of interest (fine from LVL 50 to 250);
- prohibition to disclose information regarding a person who has reported on other public official's conflict of interest or for creation of unfavourable working conditions without reasonable grounds (fine from LVL 50 to 500 with/without prohibition);
- violation of political parties' financing rules (fines from LVL 250 to 10.000 with/without confiscation).
- failure to comply in good time with the lawful requests of a public official exercising control, supervision or investigatory functions (fine up to LVL 250).
- violation of the rules on pre-election campaigning (warning or a fine up to LVL 1000).

Human and Material Resources

In 2011 there were 137 staff members working at the KNAB, including 2 deputy directors, 10 heads of divisions, 4 deputy heads of divisions, 60 employees working in enforcement and 34 in prevention.

The head of the KNAB is appointed by the Parliament pursuant to the proposition of the Cabinet of Ministers for a term of five years. For this purpose, the Cabinet can set up a selection commission. In 2011, a professional selection commission was set up bringing together the Heads of the State Chancellery, the Constitution Protection Bureau and the Security Policy, representatives of the Supreme Court and the Prosecutor-General's Office. *Transparency International Latvia* participated as observers. There was an open job vacancy; 13 candidates applied, whose names and CV were made public and widely discussed. The current Director was approved by 92 votes out of 100 of Latvian Parliamentarians.

The rules for providing and financing training for the KNAB staff members were determined in 2004. Trainings range from techniques to question suspects and witnesses, procurement procedures, administrative violations and criminal procedure legislation to effective communication, accounting, insurance etc.

The *Code of Ethics of KNAB* was introduced in July 2004. The supervision of its application is exercised by an Ethics Commission.

Accountability

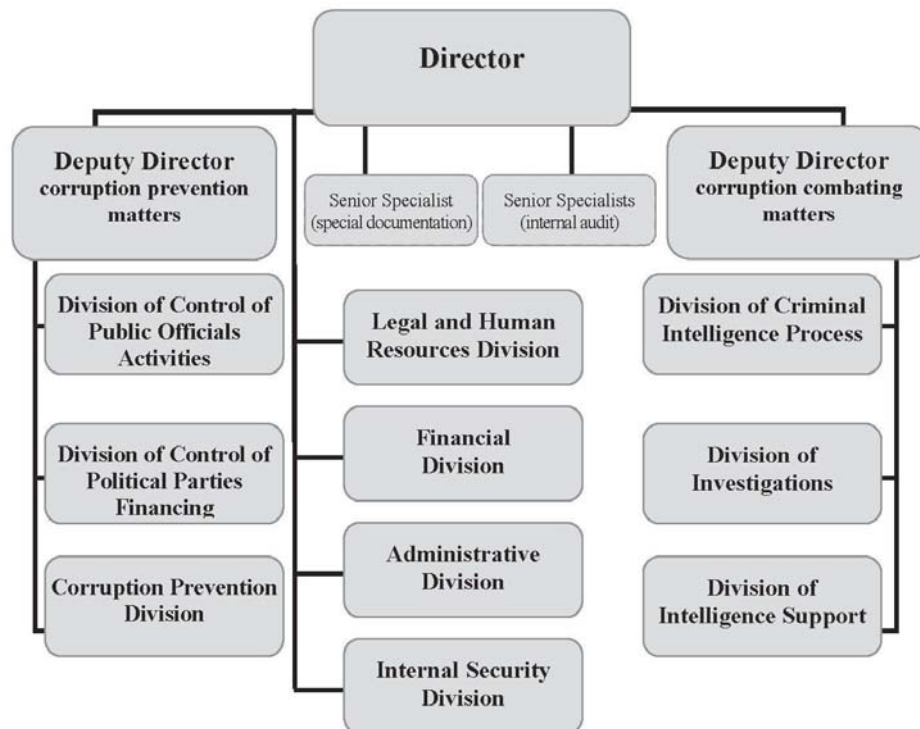
Initially, the KNAB was under the supervision of the Ministry of Justice, but since 2004, it is supervised directly by the Prime Minister. The Prime Minister has rights to cancel an illegal decision, but he has no right to give orders to the Bureau or its officials.

The Parliamentary Corruption Prevention Subcommittee of the Defence, Internal Affairs and Corruption Prevention Committee is overseeing the work of the KNAB; it serves as a forum to inform the deputies about activities and developments at the KNAB; the Commission has no right to oppose the decisions of KNAB.

Table 4.1. KNAB Annual Budget, in million euros

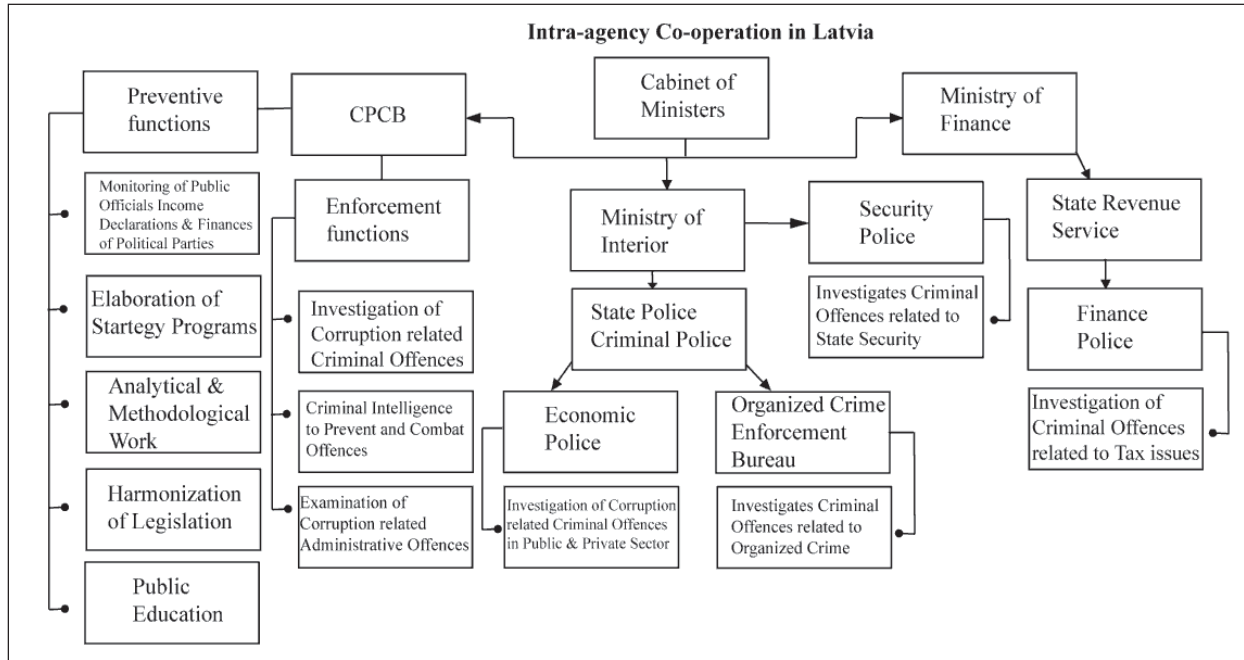
Year	Total
2003	2.37
2004	4.13
2005	3.59
2006	4.55
2007	5.1
2008	5.19
2009	3.66
2010	3.48
2011	3.51
2012	3.34

Source: Corruption Prevention and Combating Bureau (Latvia).

Figure 4.11. KNAB Organisational Structure (20.10.2011)

Source: Corruption Prevention and Combating Bureau (Latvia).

Figure 4.12. Inter-agency co-operation in Latvia



Note: KNAB is referred to as CPCB in the above chart

Source: Corruption Prevention and Combating Bureau (Latvia).

The KNAB has an obligation to submit activity reports to the Cabinet of Ministers and the Parliament every six months. The legislation provides that the KNAB also prepares regular public reports on preventive activities, detected criminal offences and administrative violations. This is reflected in activity reports released every six months in Latvian, and the annual public report. Reports are public information available on the website.

With regard to political party financing, the KNAB reports on the results of control of declarations submitted by political parties within a year. According to the law, these reports and the declarations are public information, and are thus published in the official gazette and available through the searchable political parties financing data base on the website of the KNAB at www.knab.gov.lv/db. Every year, the KNAB prepares reports on the implementation of the national anti-corruption programme.

Public oversight is ensured by the Public Consultative Council. The establishment of the Council in April 2004 followed the need to involve the public, an important element in the Hong Kong model, and also to increase public trust. The Council consists of 15 non-governmental organisations, including the Foreign Investors Council of Latvia, the Ethics Council, the Latvian Medical Association, the Association of Building Professions, the Confederation of Employers, the Union of Lawyers, the Association of Commercial Banks, the Association of Local Authorities, the Chamber for Trade and Industry, the Journalists' Union, Transparency International Latvia, the policy Center "Providus", and the Latvian Lawyers' Association. The main task of the Council is to make assessments and give recommendations, for instance on improving prevention of corruption in the courts.

In addition, the Foreign Advisory Panel was formed soon after the establishment of the KNAB. It aims to provide a forum for the KNAB and foreign missions and international organisations to discuss the activities of the KNAB and needs for support and assistance. The Panel includes representatives of foreign embassies and international organisations' missions. The Panel gets together on a regular basis. For instance, its discussion can focus on the implementation of the National Programme for Corruption Prevention and Combating, results of investigations, control of political parties financing, control of public officials, amendments to legal acts, etc.¹⁰

Practice and Highlights

National Anti-corruption Strategy. Since 1998, Latvia develops anti-corruption policy through mid-term policy planning documents developed under the leadership of KNAB. In 2009, the Latvian Cabinet of Ministers adopted the national Anti-corruption Programme for 2009 – 2013, which was developed by the KNAB. The KNAB has been given the responsibility to control and coordinate the implementation of the programme. In practice, the Bureau informs institutions mentioned in the programme on their respective tasks and centralises information on steps taken; the Bureau gathers the replies on implementation from the relevant institutions and submits to the Cabinet of Ministers an annual report on the implementation of the programme.

Control over political party financing. This is a key area of work of the KNAB. Activities are split into four phases: 1) verification of party declarations with respect to the requirements of the Law on Financing of Political Organisations (Parties); 2) control of accounting documents; 3) control of donations; 4) legality checks and counter-checks and 5) control of pre-election campaigning

In 2011, the KNAB completed control of annual financial reports, elections income/expenditure declarations and membership fees lists, from 130 political parties. Overall, since the establishment of the KNAB, political parties were requested to return illegal donations over an amount of approximately LVL 2 Million (approximately 2.8 millions) following KNAB's requests. During the Parliament's extraordinary elections in 2011, political parties' election expenses did not exceed the stipulated threshold; therefore, the KNAB was not required to stop the pre-election campaign. Also in 2011, donations to political parties continued to drop due to the economic crisis, as well as due to a short pre-election period. As of 2012, political parties in Latvia are partly funded from the national budget. Public funding is granted to those political parties that won more than 2 percent of votes in the last parliamentary elections. The eligible political parties receive 0,50 LVL (approximately 0,71 EURO) annually per vote received.

In September 2011, the Parliament finally adopted amendments to the Criminal Law providing for the criminalisation of illegal financing of political parties, which will reduce the possibility of avoiding liability for serious violations of party financing.

Through the criminalisation of illegal political party financing activities, the KNAB will be able to hold persons who will accept, demand or fund large amounts (more than 10 000 LVL) liable. For such crimes, and depending on the gravity of the offence, a maximum penalty of imprisonment for up to six years is foreseen.

Criminal liability is also foreseen for illegal political party funding on a large scale, for example, for persons donating to political parties from illegal incomes; from the proceeds of crime; or exceeding the threshold. For such offences, the maximum penalty is

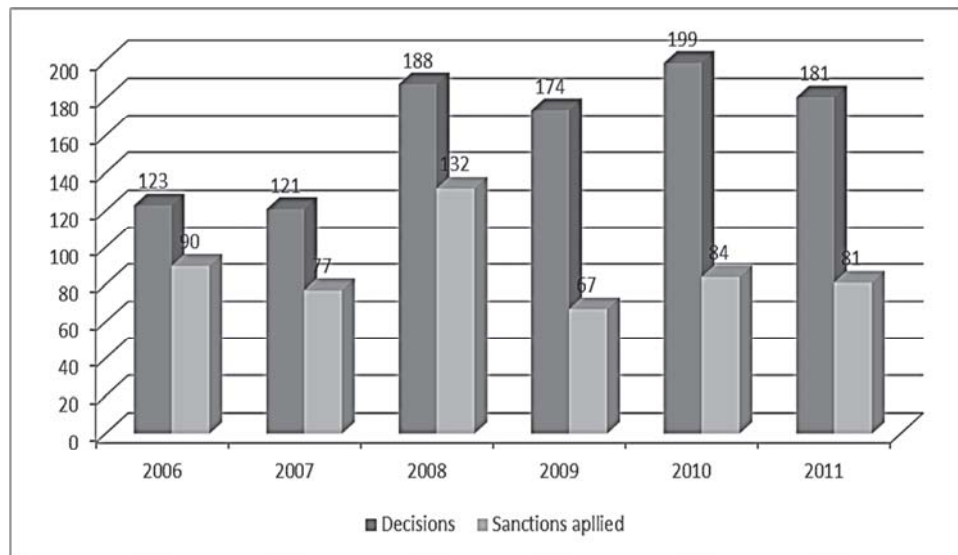
imprisonment for up to four years, for intermediation in illegal financing on a large scale - imprisonment for up to two years.

Taking into account that a person's activities relating to illegal party financing are latent (hidden), it is foreseen to allow an exemption from criminal liability if the illegal financing is linked to extortion, or if the person after the crime was committed voluntarily informs of the occurrence, thus contributing to the detection of the crime.

By determining criminal liability on a variety of political parties' financing-related crimes, control of the political parties' funding, including disclosure of so-called "slush funds" will be improved. KNAB's experience in controlling the financing of political parties, as well as foreign experience, shows that such violations are significant, and they differ from other types of infringements by the great harm they cause to the public interest.

Prevention of conflict of interest in the public sector. The work is based on reports and complaints received by the KNAB on possible breaches of the Law on the Prevention of Conflict of Interest in Activities of Public Officials and the declarations of public officials that are submitted to the State Revenues Service, but can be requested by the KNAB. By the end of 2011, 725 public officials were held administratively liable for violations of the Law on the Prevention of Conflict of Interest. In 2011, 81 public official was held administratively liable for violating this law; fines in the amount of 6880 LVL were imposed (approximately 10 000 EURO), 88 public officials were issued reprimands and 7 were asked to reimburse to the state damages in the amount of 76 905 LVL (109 427 EURO).

Figure 4.13. Number of administrative decisions taken and sanctions applied by KNAB



Source: Corruption Prevention and Combating Bureau (Latvia).

During its work, KNAB established that there are still a considerable number of violations with regard to public procurement at the municipality level. Providing benefits to individual businesses or economic groups in obtaining public procurement contracts and other irregularities, which points to exceeding of a public authority contrary to national interests, is the most common infraction. Another negative trend identified by

KNAB with regard to municipalities is that more often there are signs when executive power merges with decision-making power. This, in turn, creates conflict of interest situations and increases risks when municipal resources are used inefficiently; it also distorts the check and balances system.

In June 2011, amendments to the “Law on Prevention of Conflict of Interest in Activities of Public Officials” entered into force, providing legal protection to persons who submitted information on public officials' conflicts of interest situations and other corruptive offences in an institution (*whistleblowing*). Necessary amendments to the Administrative Violations Code were also adopted determining administrative responsibility for violations of the above-mentioned prohibition of disclosure of information relating to persons who informed on public officials' conflict of interest situations. Such provisions are necessary to ensure reporting on corruption offences, and to promote crime prevention, as well as detection, thereby reducing the risks of corruption.

Education of society and public officials. KNAB provides training to various institutions of the public administration on topics of applying provisions of the “Law on Prevention of Conflict of Interest in Activities of Public Officials”, and on recommendations concerning internal anti-corruption measures in state and municipal institutions. During 2011, KNAB has organised 127 educative workshops where 3.600 public officials participated. In 2011, special attention was paid to the explanation of provisions of the “Law on Prevention of Conflict of Interest in Activities of Public Officials.” *Review and development of anti-corruption policy and legislation:* Over the years, the KNAB has developed valuable expertise in this area. The KNAB has developed a number of proposals and draft laws either alone or in working groups with, for example, the Ministries of Finance, Interior and Justice, the State Revenues Service and the Financial Intelligence Unit. This has helped to achieve, for instance, its own access to bank information or to establish administrative liability of political parties in Latvia. Proposals were developed on such issues as control of income of physical persons, rental of state and local property, and lobbying.

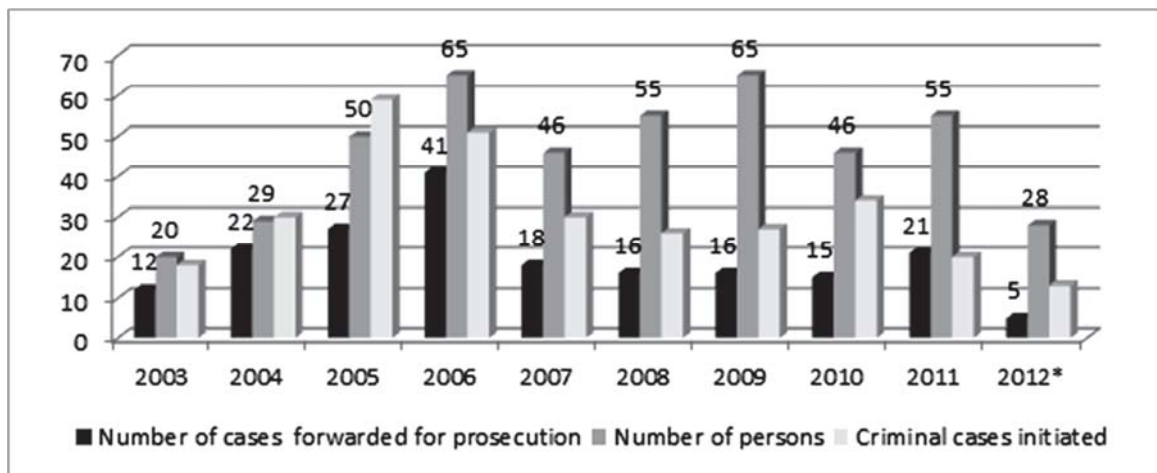
Investigation of corruption-related offences. In terms of disclosing and investigating corruption, there is a growing number of high-profile corruption cases initiated by KNAB and now being prosecuted and adjudicated. Lately, KNAB has investigated bribery crimes with implications beyond the borders of Latvia. The increasing diversity of detected corruption offences both in terms of size of the bribe and level of officials is considered to be one of the successes of KNAB. The first investigation was opened by KNAB in April 2003. By the end of 2011, the KNAB had asked the Prosecutor's Office to start criminal prosecution against 430 persons. These cases mostly involved active and passive bribery, and the use of official position in bad faith.

Among investigations started since 2003, a number of them involve alleged corruption of senior state or local officials; cases were started, for example, against prosecutors, judges, high level officials of the Customs and State Revenues Service, mayors of large cities. There were also cases involving attempts to bribe officials of the KNAB. Cases investigated by the KNAB involving large state-owned companies, public procurement, and senior-level officials and politicians attracted considerable public attention.

Besides, investigative work of the KNAB is closely linked with efficient prosecution and adjudicating of corruption cases. Since 2003, there were 105 court decisions against persons in cases started by the KNAB. In 87% of the cases, the persons were found

guilty and convicted, in 11%, they were found not guilty. The information and data collected during the KNAB's investigations have shown that while there has been success in eradicating occasional corruption, there are still cases where individual persons tend to gain an illegal advantage for themselves or for others by using their official position in bad faith. Increasingly it is found that in order to obtain a personal gain, close personal ties are used, as well as complicated schemes and illegal transfer of payments involving intermediates, shell companies registered as offshore companies and other money-laundering schemes. Such a phenomenon occurs mainly in sectors where considerable financial resources are managed, especially in public procurement, as well as in sectors of public service providers, municipalities and state-owned companies, as well as in areas where the state controls the lawfulness of oligopolistic companies and fights the shadow economy.

Figure 4.14. Investigation of Corruption-related offences by the KNAB, 2003-2012



Source: Corruption Prevention and Combating Bureau (Latvia).

Contact Details

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Poland: Central Anti-corruption Bureau

The Central Anti-corruption Bureau (Centralny Biuro Antykorupcyjne-CBA) exists in Poland since July 2006. It is a multifunctional anti-corruption agency conducting investigation, prevention and public education. It reports to the Prime Minister. Today the CBA employs 779 officers and its main focus is on investigations into corruption crimes.

Background Information

The mandate of CBA is to prevent corruption, including through the monitoring of income declarations, investigating corruption, conducting research on corruption in Poland, as well as educating the public on corruption. It primarily focuses on corruption in public and economic life, with a specific emphasis on public and local government institutions. The CBA is also charged with the fight against activities that are considered detrimental to Poland's economic interests.

The Central Anticorruption Bureau is a centralised government administration office, the head of which is supervised by the Prime Minister. The Prime Minister, or a member of the Council of Ministers appointed for that purpose, coordinates the work of the CBA, through the provision of guidelines for the CBA's work, and the approval, on an annual basis, of the CBA's work plan.

The CBA's structure is provided by a charter of the Prime Minister; it is structurally divided into the Operations and Investigations Department; the Security Department; the Control Proceedings Department; the Analysis Department; the Operational Techniques Department; the Law Bureau; the Finance Bureau; the Human Resources and Training Bureau; the Logistics Bureau; the IT Bureau; the Control and Internal Affairs Bureau; the Internal Audit Bureau; the Cabinet of the Head of CBA; the CBA has offices in 11 out of the 16 voivodeships of Poland.

Legal and Institutional Framework

The CBA's legal basis is the June 2006 Central Anti-corruption Bureau Bill.¹¹

The CBA mandate is structured around four "pillars":

Pillar 1: Operational and investigative activities

This includes the prevention and detection of offences against, among others, the activity of public institutions and local government; the administration of justice; the financing of political parties and fiscal obligations. During criminal investigations, the CBA has police powers, including the right to use special investigative techniques, including wiretapping; undercover operation; and technical surveillance.

Pillar 2: Control Activities

This involves the verification of "asset declarations or statements on conducting business activities by persons performing public functions as well as the detection and fight against acts of breaking the law within the scope of the decisions issued and accomplished within the scope of, among others, privatisation and commercialisation, financial support and granting public procurement orders as well as conducting business activities by persons performing public functions."¹²

Pillar 3: Analytical Activities

This involves the carrying out of analytical activities concerning the phenomena falling within the scope of the CBA’s competence as well as presenting information on the above to the Parliament of the Republic of Poland, the President and the Prime Minister. This involves the CBA’s activity within the ‘anti-corruption shield’, which was elaborated in the Chancellery of the Prime Minister (KPRM) according to the decision of the Prime Minister. The main goal of the ‘shield’ is prevention of irregularities in privatisation of key enterprises and in public procurement. The activities within the scope of the anti-corruption shield are coordinated by the Chancellery of the Prime Minister.”¹³

Pillar 4: Anti-corruption Prevention, including education of the public

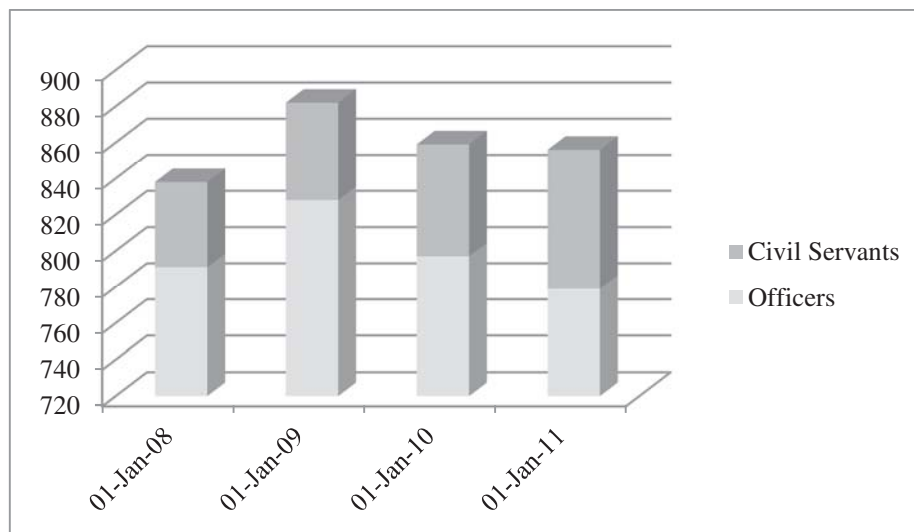
The CBA has an Anti-corruption Education portal at www.antykorupcja.gov.pl and www.antykorupcja.edu.pl. This resource site informs on common corruption phenomena, and aims at the promotion of attitudes and behaviours favouring corruption-prevention. Since 2010, an anti-corruption hotline is in operation for the public to report corruption-cases.

Human, Training, and Material Resources

The Head of the CBA is appointed, and can be recalled, by the Prime Minister, with the consent of the President, the Committee for Special Services and the Parliamentary Special Services Committee. The appointment is for a 4-year term, and there is the possibility of one extension of the mandate.

In 2011 the budget of the CBA was PLN 108 million (Polish Zloty) or approximately 28 million Euros.

Figure 4.15. CBA Staff, 2008 – 2011



Source: Central Anticorruption Bureau (Poland).

As demonstrated in Figure 4.15., in 2011 the CBA employed 779 officers and 77 civil servants (administrative, IT, logistical functions). The 2011 Performance Report points out that these levels are too low to perform the CBA's tasks efficiently.

The Anti-Corruption Bureau Bill in its Article 50 prescribes the recruitment procedure for officers. The terms of the recruitment procedure are set out by the Prime Minister. A probationary period of 3 years applies to CBA officers; this period can be extended, or shortened. A performance appraisal is done every 6 months for officers in probation, and every two years for permanent officers. The law also prescribes the parameters of demotion, suspension or dismissal from service. A number of incompatibility clauses apply: neither the Head of the CBA nor officers can be members of a political party, or act for a political party; there is a ban on trade union membership, and being a CBA officer is incompatible with public office functions. CBA officers are banned from additional employment (except for research and academic activities if approved by the Head of the CBA) and engage in economic activity as prescribed by the relevant law. Prior to assuming duty, CBA officers have to submit asset declarations,¹⁴ which also extend to their spouses or cohabiting partners.

The Head of the CBA defines a suitable training structure for the office.

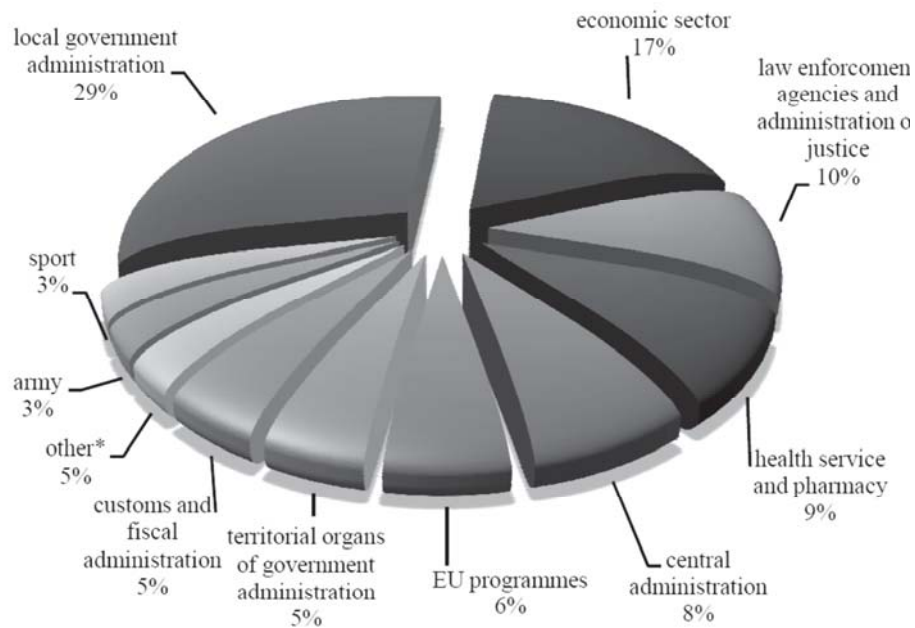
Accountability

The CBA reports directly to the Polish Prime Minister. The activities of the Head of the CBA are controlled by the Sejm, the lower house of the Polish parliament. The Head of the CBA reports, on an annual basis, to the Prime Minister and the Parliamentary Committee for Special Services, on the performance of the CBA. A performance report is also made to the Sejm (the lower house of the Polish parliament) and the Senate (the upper house); this report does not contain classified information (as defined by law).

Practice and Highlights

In 2011, the organisational units of the Central Anti-Corruption Bureau instituted 256 operational cases, and accomplished 227 ones. The total number of cases carried out was 511. In the same period, 248 investigations were instituted and 205 accomplished. 419 investigations were carried out. From among all instituted proceedings, 75 were assigned by the Prosecutor. The Bureau also continued 7 cases which had previously been suspended. The investigations related mostly to the local government administration, and subsequently to the economic sector, law enforcement agencies, administration of justice and health service.

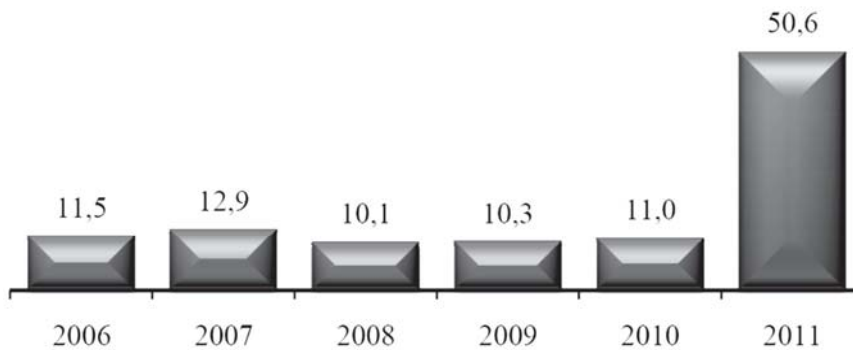
Figure 4.16. Sectors and percentages of CBA investigations in 2011¹⁵



*The category covers, among others, education and higher education.

Source: Central Anticorruption Bureau (Poland).

Figure 4.17. Approximate value of property seized in CBA investigations, in millions of Polish Zloty¹⁶



Source: Central Anticorruption Bureau (Poland).

Contact Information

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Indonesia: Corruption Eradication Commission

The Corruption Eradication Commission (Komisi Pemberantasan Korupsi – KPK) is an agency established in Indonesia in 2002 to investigate and prosecute corruption cases, prevent corruption and for public education. KPK has also a control function. KPK is known for its active enforcement actions, including for pursuing high profile cases.

Background Information

The KPK is investigating and prosecuting corruption; it also has a control function.

The Indonesian Corruption Eradication Commission (KPK) exists since 2002 and became operational in late 2003. It succeeds a number of anti-corruption initiatives initiated by consecutive governments of Indonesia. The KPK was an attempt to turn around these previous, by-and-large unsuccessful efforts.

KPK has targeted high-ranking public officials, members of parliament, representatives of the central bank, governors and mayors. With a 100% conviction rate, the KPK is believed to be an exceptional example of an effective law enforcement agency.¹⁷

The agency enjoys wide public support; it is being criticised, including by NGOs, for not being able to extend its effectiveness to the regional and local levels – a function of the limited resources of the KPK, and the complex administrative structure of Indonesia, itself a reflection of Indonesia's geography.

Legal and Institutional Framework

Law No.30/2002 on the Corruption Eradication Commission¹⁸ provides the legal basis for the establishment of the KPK. It is independent from the judiciary, the executive, and the legislative.

Its *mandate* reflects a comprehensive approach to fighting what is considered entrenched and systemic corruption, and is *five-fold*:

- The KPK coordinates *investigations, indictments, and prosecutions against criminal acts of corruption*;
- It has established a *reporting system* for the purpose of eradicating corruption;
- It *requests information* on acts with the purpose of eradicating corruption *from relevant institutions*;
- It arranges *hearings and meetings with institutions authorised to eradicate corruption*; and
- It *requests reports* from relevant institutions pertaining to the prevention of criminal acts of corruption.

The KPK is authorised to conduct *pre-investigations, investigations, and prosecutions of corruption cases* that: i) involve law enforcement officials, state officials, and other individuals connected to corruption acts as perpetrated by law enforcement officials or state officials; ii) have generated significant public concern and/or iii) have lost the state at least IDR 1 bn (the equivalent of USD 100 000). Prosecutions are carried out before special anti-corruption courts, or TIPIKOR.

KPK is authorised to take over investigation or prosecution of corruption cases handled by the National Police and Attorney General's Office; both institutions are obliged to hand over suspects and related evidence, dossiers and other documentation within 14 working days from KPK's official date of request. Cases are being transferred from the National Police or the Attorney General's Office based on reports from the public that these institutions do not follow up on cases, or that they handle them slowly without proper reason; that the cases are being processed improperly, thereby protecting the perpetrator; that there are indications of corruption in case processing; or when there are signs of interference from the executive, legislative and/or judicial branches during the process.

KPK has the authority to order high officials or superiors of suspects to suspend them from office; request wealth or tax data of suspects from any relevant agency; and suspend financial or commercial transactions, as well as other agreements or permits etc.

The KPK comprises of a Board of Commissioners, an Advisory Team, Deputies and the Secretariat-General, Directors and Head of Bureaus.

The Board of Commissioners has five members: 1 chairman, and four vice-chairmen. The Commissioners are state officials originating from the government, and from the general public. KPK Commissioners are shortlisted by a specific selection committee set up for this purpose by the President of Indonesia. Their candidacy is submitted to the parliament by the President; they are elected by the parliament, and sworn in by the President. The Commissioner's term is four years, and they can be re-elected for another term. The Board of Commissioners oversees the four areas of work, i.e. prevention, enforcement, information, and data, as well as internal compliance and public complaints. Each unit is headed by a deputy.

The Advisory Team is made up of four members from diverse expertise to help the Board of Commissioners in the exercise of its tasks and authorities.

The Secretariat General supports the KPK. It is appointed by the president, but is accountable to KPK.

The KPK cooperates with other law enforcement agencies internationally and nationally. KPK can request assistance from foreign law enforcement bodies to search, arrest, and confiscate evidence abroad; it can also request the police and other relevant agencies to conduct arrests, detention, searches and confiscation in ongoing corruption cases.

KPK has the authority to register and review personal wealth reports of state officials.

Human and Material Resources, Training

The KPK has 699 staff: 5 Commissioners; 2 advisors; 246 seconded civil servants, and 415 permanent and 31 non-permanent staff. 136 staff work on Prevention; 266 on Enforcement; 134 on Information and Data; 76 on Internal Supervision and Public Complaints; and 138 work in the Secretariat General.

There is a Code of Ethics for KPK Commissioners, which has been set to ensure that the KPK senior level leads by example not only its own staff, but that of other institutions as well.

The KPK budget for 2011 was IDR 576,590,708,000 (Indonesian Rupiah), most of which was received from the State Budget.

Accountability

The KPK's finances are audited by the Indonesian Supreme Audit Board. It is accountable to the public. KPK publishes Annual Reports, containing a narrative description of the areas and rationale of the KPK's work, as well as a very detailed quantitative breakdown of the KPK's work, including estimates on the prevention of potential losses the state budget; statistical and narrative information on cases investigated and prosecuted; data on complaints received; and assets recovered.

Practice and Highlights

The KPK reports to have prevented the loss of 150 trillion IDR¹⁹ to the state budget in 2011 through *prevention activities and co-ordination with relevant government agencies*, such as the Ministry of Energy and Mineral Resources, the Ministry of Finance, and the State Audit Board and others. KPK had carried out an assessment of Indonesia's Upstream Oil and Gas Executive Agency (*BP Migas*) and discovered that state assets, while being supervised by the government, were not fully controlled, resulting in the risk of the state receiving less of its share in oil and gas proceeds.²⁰

Further, KPK advised relevant state agencies on the prevention of integrity risks in the oil and gas sector and advised the introduction of an integrated online information system.

KPK works to *improve the public service*, and has identified a number of institutions as its priority for co-ordination and supervision. These are Immigration Services; Land Management; Driving License and Vehicle Registration Services; Transportation Services; Inspectorate Offices; and Regional Public Hospitals, among other. KPK works with these institutions to improve the functioning of their existing supervisory mechanisms; it identifies best practices among various agencies and uses them as a benchmark for others; and promotes the use of IT to reduce opportunities for corruption.

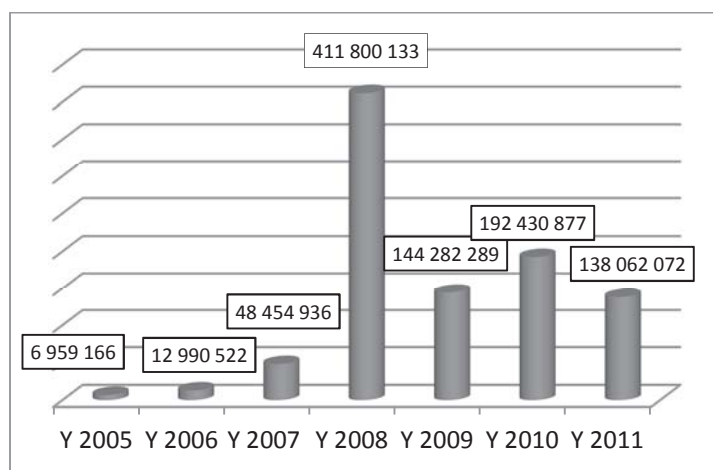
Another *prevention* effort has been started in 2010. As a result of a Presidential Instruction it was decided to establish *Corruption-Free Zones* by various government agencies. This initiative requires from the agencies to implement practical measures to improve their institutions, including their human resources. Under the initiative, district and municipality governments can put themselves forward as Corruption-Free Zones, and the KPK assesses whether the criteria are fulfilled. Among these criteria are that a) the municipality promotes anti-corruption education in schools; b) it establishes anti-corruption zones in its public services; c) the government of the region must have signed an integrity pact proposed by the KPK. To date, the KPK has started efforts with 17 municipalities to qualify as Corruption-Free Zones; only one of these has been awarded the distinction. Among the central-level institutions, only the Ministry of Agriculture and the Ministry of Law and Human Rights have declared themselves as Corruption-Free Zones.

Enforcement action. Since 2004, corruption cases that KPK investigated and prosecuted are increasing year by year. In 2011 KPK has conducted pre-investigation in 78 cases (including investigation into alleged corruption in the procurement of medical equipment; alleged corruption in the procurement procedure for IT in a state-owned company; alleged corruption in the management of social aid). A total of 45 cases were prosecuted in 2011, including 5 cases opened in 2010.²¹

Table 4.2. The number of cases handled by KPK, 2004 – 11

	2004	2005	2006	2007	2008	2009	2010	2011
Pre-trial investigation	23	29	36	70	70	67	54	78
Investigation	2	19	27	24	47	37	40	39
Prosecution	2	17	23	19	35	32	32	40
Final court judgements	0	5	17	23	23	37	34	34

Source: Corruption Eradication Commission (Indonesia).

Figure 4.18. Assets recovered from proceeds of crime by KPK, 2005 – 2011, in thousands of IDR

Source: Corruption Eradication Commission (Indonesia).

Prevention of Potential Asset Loses. In performing Co-ordination and Supervision task, KPK together with Indonesia's Upstream Oil and Gas Executive Agency (*BP Migas*), Ministry of Energy and Mineral Resources, Ministry of Finance, the Audit Board of the Republic of Indonesia (BPK), and the Finance and Development Supervisory Agency (BPKP), found potential asset losses in the upstream oil and gas sector totalling IDR 152.96 trillion. The sum is comprised of asset saved in the upstream oil and gas sector amounting to IDR 152.43 trillion and potential losses averted from transfer of state assets amounting to IDR 532.20 billion. The potential losses derived from the discovery that the state assets not fully under state control, in spite of government supervision. This gave rise to risk that state asset managed by oil and gas contractors will slip undetected and that state will receive less than its fair share in oil and gas proceeds.

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Botswana: the Directorate on Corruption and Economic Crime

The Directorate on Corruption and Economic Crime (DCEC) exists in Botswana since 1994. It was established with the Hong Kong Independent Anti-Corruption Commission as a model. Transparency International continuously rank Botswana as the least corrupt country in Africa.²² The conviction rate for cases brought to the prosecution by the DCEC is high with 70%.

Background Information

Several scandals rocked Botswana in the nineties, and a Commission of Enquiry was approved by Government to look into a tender of Primary School Books which was dubiously awarded, a tender to build houses by the Botswana Housing Corporation and allocation of plots in and around the capital city Gaborone.

Following the findings of this Commission, the government decided to form a body that will address and redress corruption related matters in the country. Therefore, the Directorate on Corruption and Economic Crime (DCEC) of Botswana was formed by an Act of Parliament in September 1994. The said Act, known as the Corruption and Economic Crime Act of 1994, mandates the DCEC to lead the fight against corruption by *investigating, preventing and educating* on matters related to corruption and economic crime.²³

Legal and Institutional Framework

The statutory mandate of the DCEC is to combat corruption, which is pursued through a three-pronged strategy of investigation, prevention and public education.

According to the Corruption and Economic Crime Act, the *tasks* of the DCEC are as follows:

Investigation

- To receive and investigate any complaints alleging corruption in any public body;
- To investigate any alleged or suspected offences under this Act, or any other offence disclosed during such an investigation;
- To investigate any alleged or suspected contravention of any of the provisions of the fiscal and revenue laws of the country;
- To investigate any conduct of any person, which in the opinion of the Director, may be connected with or conducive to corruption;
- To assist any law enforcement agency of the Government in the investigation offences involving dishonesty or cheating of the public revenue;

Corruption Prevention

- To examine the practices and procedures of public bodies in order to facilitate the discovery of corrupt practices and to secure the revision of methods of work or procedures which, in the opinion of the Director, may be conducive to corrupt practices;

- To instruct, advise and assist any person, on the latter's request, on ways in which corrupt practices may be eliminated by such person;
- To advise heads of public bodies of changes in practices or procedures compatible with the effective discharge of the duties of such public bodies which the Director thinks necessary to reduce the likelihood of the occurrence of corrupt practices;

Public Education

- To educate the public against the evils of corruption; and
- To enlist and foster public support in combating corruption.

The DCEC is an operationally autonomous body with the Director reporting directly to the President of Botswana. The Director of the DCEC is also appointed by the President. The DCEC Director cannot take orders from any person on whom to investigate, when to investigate and how to investigate. Classification of investigative matters is solely the prerogative of the Director with her/his Senior Management team.

The DCEC co-operates and has signed memoranda of understanding with such agencies as the Competition authority of Botswana, the Botswana Unified Revenue Service, The Public Procurement and Asset Disposal Board, the Office of the Auditor General and the Office of the Ombudsman. The Police and the Intelligence and Security Agency also play a pivotal role in fighting corruption since they assist with operational matters and detaining suspects caught by the DCEC.

Resources and Training

The DCEC is headed by a Director, who is assisted by one deputy. There are five Assistant Directors, each of whom heads a distinct branch responsible for a specific task.

The DCEC has four divisions:

- *Corporate Services Division* is in charge of the day-to-day running of the DCEC.
- *Public Education Division* is in charge of teaching the public country-wide.
- *Investigations Division* investigates allegations and suspicions of corruption and economic crime.
- *Corruption Prevention Division*, which analyses governmental departments and institutions for corruption risks.

The DCEC headquarters are in the capital Gaborone. There are two branch offices - in Francistown, which covers the northern part of Botswana, and in Maun, also in the North and the tourism capital of the country.

The DCEC notes that given its high caseload the Department lacks manpower, including skilled personnel and equipment, such as IT, transport, forensic or stationery. The DCEC highlights that, while the internationally recommended ratio is 10 cases per an officer, in the DCEC the average caseload is 25 cases per an officer. The funds for training are also not enough to fulfil the DCEC's training needs.

Accountability

Administratively the DCEC is a department within a Ministry, while operationally it is an autonomous law enforcement body.

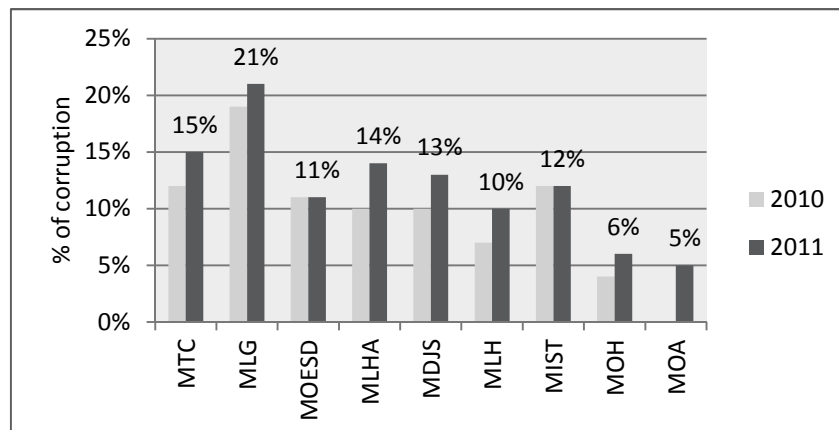
Public support to the DCEC is high, an indicator for which, according to the DCEC, is the number of reports the Directorate is receiving from citizens on corruption.

Practice and Highlights

Investigation and prosecution:

- For the past ten years the percentage of reports classified for investigation ranged between 30 – 33%, but 2010 saw that percentage increase by 8% to 41%. More complex cases were received with more companies being taken to court on various corruption offences. This increase, according to the DCEC, could be attributed to aggressive public education campaigns; Compared to when it first started operating back in 1994 the type and relevance of reports that the DCEC receives has improved;
- To effectively tackle different types of corruption, the DCEC has divided its Investigation Division into Sector Specific Units. There are now Financial Investigations, Computer Forensics, Construction and Engineering, Land and Property, Immigration and Transport units, as well as the Quick Response Team. The training plan of the DCEC has been streamlined accordingly, and officers are now empowered with relevant skills for a specific role in the investigation. In the past officers were doubling up, investigating different matters without specialization.

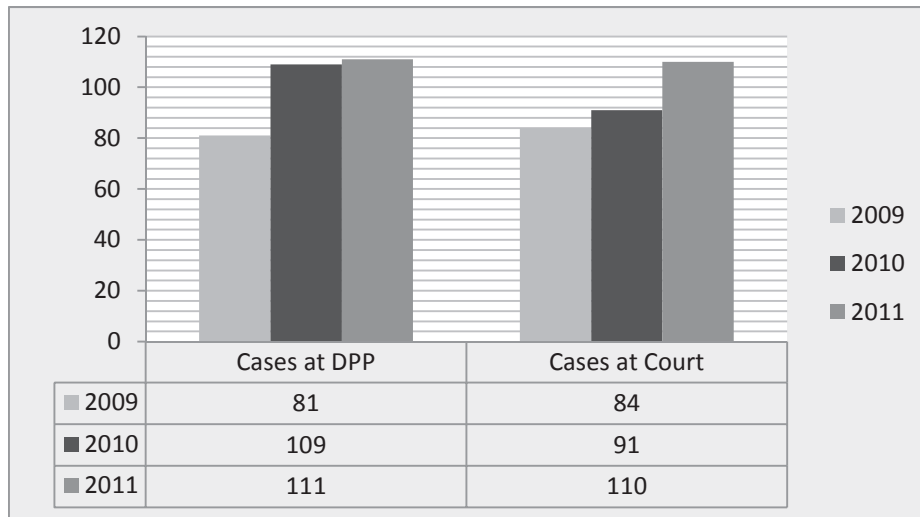
Figure 4.19. Corruption allegations received by the DCEC per ministry



<i>MTC</i>	<i>Ministry of Transport and Communication</i>
<i>MLH</i>	<i>Ministry of Lands and Housing</i>
<i>MLG</i>	<i>Ministry of Local Government</i>
<i>MIST</i>	<i>Ministry of Infrastructure, Science & Technology</i>
<i>MOESD</i>	<i>Ministry of Educations and Skills development</i>
<i>MOH</i>	<i>Ministry of Health</i>
<i>MLHA</i>	<i>Ministry of Labour and Home Affairs</i>
<i>MOA</i>	<i>Ministry of Agriculture</i>
<i>MDJS</i>	<i>Ministry of Defence, Justice and Security (mainly Botswana Police Service)</i>

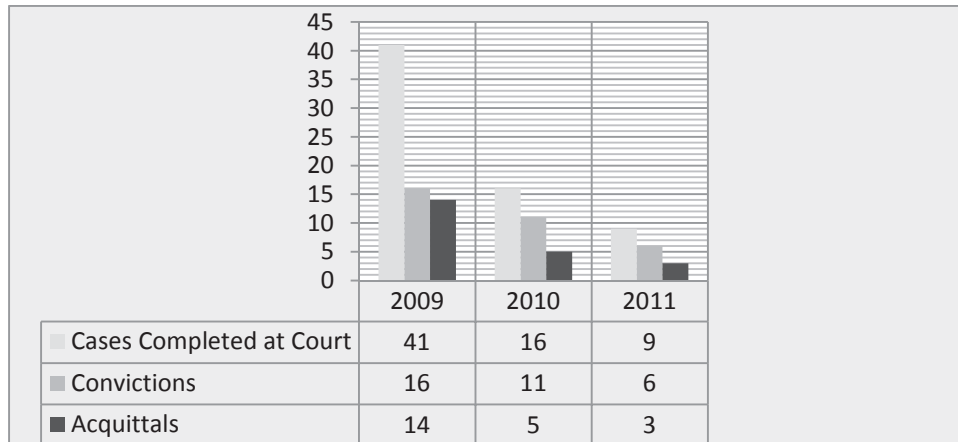
Source: Directorate on Corruption and Economic Crime (Botswana).

Figure 4.20. Number of cases at the Directorate of Public Prosecution and Courts, 2009 to 2011



Source: Directorate on Corruption and Economic Crime (Botswana).

Figure 4.21. Cases Completed, 2009 - 2011



Source: Directorate on Corruption and Economic Crime (Botswana).

Corruption Prevention:

- Corruption Prevention Committees and Anti-Corruption Units* have been formed in all ministries and public institutions in order to assist the DCEC in addressing corruption risks and their institutions. Most senior public servants in these institutions are considered Permanent Secretaries and reviewed on their anti-corruption efforts on a quarterly base. This has enabled fighting corruption to be the responsibility of not only the DCEC, but other stakeholders as well, in particular the public institutions with high corruption risks. The DCEC highlights as one of its successes the reduction of corruption levels within institutions that earlier came out top in terms of the rate of corruption.

- In September 2011 the DCEC concluded a project started in 2006 between the DCEC and Botswana Confederation of Commerce Industry and Manpower. This project led to the launching of the first ever business *Ethics Code of Conduct for private sector*. This code is meant to guide private business to avoid unfair practices and corrupt dealings when running their businesses. This is the first event of its kind in Africa, as in most countries collaboration between government and the private sector on issues of good governance is taboo.
- In working closely with other government ministries, the DCEC assisted the Ministry of Finance and Development Planning in setting up the *Financial Intelligence Agency*. This is seen as a positive development as it will assist the DCEC in analyzing the suspicious transaction reports and referring to DCEC only those that need further investigation.

Community Education:

- The DCEC's *publications* sensitize the public about issues on corruption that affect their day to day lives. Several of such publications have been distributed to stakeholders around the country for free.
- Working with *media* and the use of *Internet* are also important tools to reach out to the public and make out of corruption a topic for public debate. Currently there is an ongoing project in which the DCEC aspires to produce a 13 episode television drama, which will be an edutainment product for the population.
- Perhaps the most significant achievement on the public education front, according to the DCEC, is the *inclusion of anti-corruption concepts into the formal secondary school curriculum* starting in January 2011. This initiative complements others started some years back such as formation of anti corruption clubs in secondary schools and the usage of outdoor broadcasting van to reach rural and distant areas.
- The DCEC has helped to make *anti-corruption education available in villages* through collaboration with Village Development Committees and *Kgotla talks*.²⁴ Today the DCEC is forming Community Anti-Corruption Clubs in big villages in Botswana; thus far four have been formed, and capacitating of these clubs is ongoing.

International co-operation:

- The DCEC continues to *benchmark and study other anti-corruption institutions* within the region and internationally in an attempt to revamp the existing efforts and to keep pace with the international anti-corruption tempo. Furthermore, although Botswana is still ranked the least corrupt country in Africa, corruption continues to proliferate hence the need for the DCEC to tap into the experience of well fairing countries so as to keep to the promise of steering Botswana towards a corruption free society. Some of the countries that the DCEC has learned best practices from include Hong Kong, Singapore, Australia, Britain, Kenya, Zambia, Sweden, Norway, to mention but a few.
- The DCEC is a founding member of the *Southern African Forum Against corruption*, an association of anti-corruption agencies in Southern Africa Development Community countries, with headquarters in Botswana.
- The DCEC, in collaboration with the Commonwealth Secretariat, organized the first ever anti-corruption conference for Heads of Anti-Corruption Agencies in Commonwealth countries in Africa, in May 2011. The purpose of the conference was to share experiences among anti-

corruption agencies and discuss particular corruption challenges facing the region. At this meeting it was agreed to form an *Association of Anti-Corruption Agencies in Commonwealth Africa*. The DCEC Director was nominated as its Chair and was tasked to formulate the constitution of the association. The 2nd Conference was hosted by Zambia in May 2012.

- The DCEC also contributed to the formation of the *African Association of Anti-Corruption Authorities* formed in June 2011 in Bujumbura, Burundi. The mandate of this association is to enable an experience sharing platform for African countries and to assist in coordinating anti-corruption efforts in the region.

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24. A Kgotla is a royal kraal or a traditional platform governed by the village chief.



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