# Prevention of corruption in the organisation of work in rural municipalities and cities

*Are the measures stipulated by law for prevention of the threat of corruption implemented in local governments?*

Report of the National Audit Office to the Riigikogu, Tallinn, 22 December 2009

## Summary of audit results

The National Audit Office assessed whether or not local governments use the measures prescribed by law for prevention of corruption and whether or not local government officials have adhered to the obligation to refrain from activities and relationships involving the risk of corruption.

The National Audit Office audited 15 rural municipalities and cities and analysed anti-corruption organisation of work, the activities of officials outside their service and transactions of the officials with the local governments from 2007 to 2008. Recommendations were made to the audited persons considering the circumstance that the measures which prevent misuse of public authority are currently being amended with the new Anti-corruption Act and Public Service Act.

The consequences of corruption as a phenomenon are undisputedly negative and they threaten the welfare of society and reduce confidence in public authorities. The damages caused by acts of corruption can often also be measured as taxpayers' money lost if such money has not been used economically or expediently because private interests were preferred to public ones.

According to the public opinion, corruption in local governments is a serious problem and this is also confirmed by the surveys conducted at different times.

Taxpayers have the right to believe that local governments like all other agencies of public authority do everything they can to avoid threats of corruption and guarantee that authority is exercised lawfully. Transparent and open government and performance of the obligations assigned to administrative agencies and officials for prevention of corruption are the primary measures required for this.

**The National Audit Office finds that the audited local governments did not engage systematically in preventing corruption in the organisation of work and did not utilise all the measures designed for this purpose. The restrictions applicable to officials have been breached in many audited local governments, which has lead to the emergence of relationships involving the risk of corruption.**

The leaders and officials of local governments have generally adhered to the formal obligations that arise directly from law – for example, the activities associated with submission of declarations of economic interests have been performed as required. However, the audited persons have predominantly not used the right to check the activities of officials that is granted by law for prevention of corruption and the National Audit Office sees this as a significant omission in the prevention of corruption in local governments. The failure to use these possibilities was often justified with the belief that acts of corruption are excludes as

officers have a good overview of each other's activities. The situation ascertained during the audit shows that this belief is unfounded.

The above conclusion is based on the following circumstances:

- **Local governments have not created an organisation of work that would enable them to check that officials adhere to established restrictions.** Prevention of corruption is primarily an obligation of the officials themselves. The head of the administrative agency, however, must check whether or not an official adheres to the restrictions on employment and activities, and the procedural restrictions that apply to them. Only one of the audited local governments had checked this.

- **Many of the audited local governments have basically not assessed which of their officers are required to perform the obligations arising from the Anti-corruption Act.** Determination of the official position is important in the acknowledgement of actual risks and the basis for the appropriate implementation of anti-corruption measures. The risk of corruption can appear if some misuses their official position, or their position of authority. All officers cannot ordinarily hold such positions, but six of the fifteen audited local governments had still treated all their officers as officials. There were also cases where an officer was not considered an official irrespective of their official position.

- **The means for prevention of conflicts are not consistently used.** Officials must remove themselves from decision-making in cases where the personal interests of the official and public interests are juxtaposed. The law sets forth the procedural rules that show how removal from decision-making must take place. The National Audit Office found decisions in 2/3 of the audited local governments that had been made with the participation of an official and approved transactions with that official or a company associated with the officials. On the other hand, there were also many positive examples where the removal of officials from such decisions was recorded in the minutes of the local government.

- **Officials in many local governments have breached the prohibition of ancillary activities.** Pursuant to law, it is prohibited officials to engage in certain ancillary activities outside their position with may bring about acts or relationships involving the risk of corruption (so-called restrictions on employment and activities). Officials had breached these restrictions in five of the fifteen audited local governments.

- There are plans to amend the valid prohibitions of ancillary activities pursuant to the Draft Anti-corruption Act and Public Service Act which were being processed in the Riigikogu at the time this audit report was being prepared. According to the amendments, the prohibition of ancillary activities will no longer be general and the necessity of the prohibition will be assessed separately for each ancillary activity. However, the awareness of both officers and heads of administrative agencies has to be improved before this amendment can be implemented.

- **Some local government leaders have concluded prohibited transactions.** The prohibition of officials to conclude transactions with themselves has been breached in six local governments where the rural municipality mayor or an officer of the rural municipality or city government has participated in transactions with business or other organisation whilst being connected therewith. Dereliction of the prohibition on transactions concluded with oneself is a serious breach of the Anti-corruption Act. The National Audit Office has referred the facts of two such cases to the police for further investigation.

- **In most audited local governments, informing the public of the salary details of officials and the transactions with officials has not been organised as required.** Public control plays an important role in reducing the risk of corruption, but this is possible only if information about the activities and interests of officials is given to the public. The audit revealed that 4/5 of local governments had not disclosed the salary data of its officials and the transactions concluded with companies related to government members as required. It must also be mentioned that **all audited local governments had concluded transactions with companies related to members of the council or government.**

**Responses of audited rural municipalities and cities:** The majority of the audited local governments found that organisation of work for prevention of corruption in their agencies needed improvement and they agreed to implement the recommendations made by the National Audit Office in this audit report. Some of the audited local governments described the detailed activities that they intend to perform in the nearest future in order to implement the recommendations. For example, Jõgeva Rural Municipality plans to stipulate in the rules of internal procedure of the rural municipality government that assessment of official positions is mandatory, collect information about ancillary activities for its officials twice a year using a relevant reporting form, explain the obligations of officials in the prevention of corruption at the first rural municipality and government meeting of each quarter, etc.

The **Constitutional Committee of the Riigikogu** responded to the recommendation to initiate a discussion for amendment of the Anti-corruption Act that is being processed in the Riigikogu in order to obligate the heads of administrative agencies to implement internal control measures for the prevention of corruption that it is prepared to discuss the opinions given in the audit in the Constitutional Committee with the participation of the representatives of the National Audit Office if processing of said draft continues.

The **Minister of Justice** finds that initiation of a discussion is necessary to add the internal control obligations of the heads of administrative agencies to the Draft Anti-corruption Act. The response of the Minister of Justice also confirms the Ministry's readiness to prepare guidelines about assessment of risks related to corruption for local governments if the aforementioned internal control obligation is stipulated by law.

Some problems have appeared in the establishment of the internal audit requirement of local governments in the anti-corruption strategy and the Ministry of Justice is planning to cooperate with the Ministry of the Interior and the Ministry of Finance in order to find ways of resolving these problems.

The **Regional Minister** does not agree with the opinion of the National Audit Office that the Regional Minister is unwilling to perform the obligations taken in the anti-corruption strategy in respect of making internal audits mandatory for local governments. The Regional Minister claims that development of the relevant amendments to law has started in the ministry.

The **Director General of the Data Protection Inspectorate** promises in his response to the audit report that public disclosure of salary details in local governments will remain under scrutiny in the supervision activities of the Inspectorate.

Airi Mikli
Director of Audit, Local Governments Audit Department