

**Regional Seminar on Promoting Integrity in Customs and Border  
Services in central Asia and the South Caucasus**

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**Integrity as a tool to promote economic development  
focusing on the Lithuanian context**

**Introduction**

This presentation will assess the current situation of corruption in customs and throughout the Republic of Lithuania, the impact of country economical development on Corrupt relations, business attitudes to corruption, their confidence in the customs and expectation related to the customs modernization activities, simplification of procedures and other innovations.

Two methods traditionally are applied to measure the prevalence of corruption in Lithuania as well as in other countries: crime statistics indexes and sociological survey data (Corruption perception index).

A crime statistics index is a conventional tool for assessing the state criminality, however, the crime rate statistics show only the data of reported (registered) offences, and based on the statistics alone it is quite complicated to evaluate the actual changes in the prevalence of corruption as this phenomenon is particularly latent.

The data of the Department of Informatics and Communications to the Ministry of Interior shows that in 2009 890 offenses of a corruption nature (bribery, graft an abuse of office) were registered, i.e. close to 23 percent more than in 2008 (724).

The Transparency International Lithuania Chapter (TILC) sociological studies "Lithuanian Map of Corruption 2007", found out that among the main social problems in Lithuania corruption, according to the opinion of it's residents, occupies the 3<sup>rd</sup> place, according to the business managers' opinion - 4<sup>th</sup> place and only the civil servants put the corruption in the first place on the list of the main social problems.

According to results of the CPI survey announced on 17 November, 2009 by the TI Lithuania's score was 4,9 and it was ranked 52<sup>nd</sup> among 180 countries of the world in the table. Such a high CPI score has been assigned to our country for the first time since 1999. The CPI score of Lithuania for 2009 is by 0,3 point higher than in 2008.

In 2009 Lithuania came quite close to the 5 pints threshold stepping over which is considered that the country is capable of controlling corruption (0 means a highly corruption country and 10 means a very transparent state). According to the valuation provided by the international experts, Lithuania is one of the nine countries having made the greatest progress since 2008.

Lithuania has created all possible legal frameworks for corruption prevention and control, also ratified key international agreements in this field. National laws and bylaws establish criminal, administrative, disciplinary and other liability for the criminal corruption-related offenses - bribery, bribery of an intermediary, abuse, omissions, etc. The country has a special Institutions specializing in the fight against corruption - both at a political level, as well as law enforcement agencies.

Notwithstanding this, Lithuania did not succeed in reaching the score in 5, which is considered to be a separation line between the low corruption states and the states encountering serious corruption problems.

## **I. The Impact of Country Economical Development on Corrupt Relations**

The ratings designed by international organizations and agencies - „Index of Economic Freedom“ designed by „The Heritage Foundation“ and „Wall Street Journal“, „Ease of Doing Business“, totalled by „World Bank“ may be used to determine the quality of governance. In addition, may be used the rating of corruption perception by the global organisation leading the fight against corruption – „Transparency International“.

Some authors believe that during the statistical analysis it is not difficult to ascertain that the above mentioned indexes are suitable to measure their reliance on the standart of living (Gross Domestic Product (GDP) per resident).

While analysing this topic I have discovered a scientific article by Mr. V. Gavelis, Doctor of Economic Sciences, Docent of the Faculty of Economics of Vilnius University (2005) about the influence of the economic development to the corruption relations. The area of the author's scientific activity – analysis of corruption relations in the context of economic activity.

Corruption facts can be divided into four groups according to public relations they express: economical, legal, moral and political. In the group of economical factors of corruption the level of economical development of the country takes a special place. Its impact manifests itself by peculiarities of the system of wages of state officers and servants. Incapability of the state to pay it's employees wages that would guarantee normal level of living is the key factor that determines minor corruption deals in the systems of the police, health care, customs, border guard and education.

### **1. Correlation of gross domestic product and index of perception of corruption**

The research by TI having embraced dozens of countries of the world, indicate that the level of corruption is determined by the degree of economical development of the country. When assessing the level of corruption by the CPI high correlation (relationship between two variables) degree between the level of corruption and GDP per capita is noticed.

According to V.Gavelis close correlation between the level of corruption and GDP per capita is indicated by the investigations of V.Tanzi and R.Davoodi (correlation ratio 0,87) as well as the data of Russian public fund „Indem“ (correlation ratio 0,87). The conclusions of V.Tanzi and H.R.Davoodi having analysed the data of 97 countries in year 1997 and the results of „Indem“ research having analysed the data of 90 countries of year 2000, practically coincide: the corruption level in economically weak countries is higher. We see that the highest level of corruption and respectively lowest CPI is in the countries, where GDP per capita is up to 10 000 USD.

According to survey high correlation occurs only between CPI and GDP per capita. Meanwhile corruption correlation between CPI and total value of GDP is weak. This indirectly indicates that corrupt activity is more determined by economical wellbeing of an individual and not of the society.

Therefore, according to this opinion I have tried to determine relation between GDP per Lithuanian resident and state's CPI. In case of Lithuania, the coefficient of correlation between GDP and CPI is quite small – 0,47. Moreover, from 2001 when GDP was growing from ~ 3 000 to ~11 000 USD, the CPI stay almost permanent and remained at 4,7 – 4,8. This means that when GDP fluctuated from 3 000 to 11 000 USD per resident, a situation in Lithuania practically did not change. On the other hand, it may be said that when GDP was noticeably lower than 10 000 USD the Lithuanian CPI was fairly high.

## **2. Impact of the level of wages on corrupt relations**

*„...Human resource management practices, which have proved useful in controlling or eliminating corruption in Customs, include: providing sufficient salary, other remuneration and condition to ensure Customs personnel are able to maintain a decent standard of living;...“*

*The Revised Arusha Declaration*

Survey make assumption, that low economical development of the country automatically determines low wages of state officers and servants, which is turn additionally stimulate corrupt activity. When establishing wages to these employees, the state bases in its financial capabilities and not the objective evaluation and payment for work results. Therefore low wages of employees paid from state budget bring forth the feeling of their social disparagement, negation and underestimation, which objectively impacts their work results in respect to their quantity.

Not earning what in their opinion belongs to them, these employees gain strong motivation to apply work methods that would allow receiving not only legal but also illegal income. Thus, two markets of the same products (services) may form – legal and illegal (corrupt).

Hiring of state institutions employees paid from state budget is practically implemented under conditions of monopoly. Meanwhile, the services provided by these institutions are priced according to the conditions of perfect competition market.

In this context it is noteworthy that the majority of employees hired by the state are educated people, having collected great human capital. When their wages do not coincide with margin value of the product created by margin employee, they feel their work is exploited and undervalued, which gives additional motives for corrupt activity. This activity by most of them is assessed as the means of getting earned income, which is not paid by the official job contract.

So, the level of economical development of the country affects corrupt relations indirectly through the ability of the country to pay state hired employees the wages that would stop corrupt deals. However, in spite of economical development of the country, corruption can be objectively prognosticated at the primary stage of hiring employees – applying the conditions of monopoly to the hire.

These contradictions partially explain current situation in the market of social services of Lithuania: police officers win cases against the state for illegally lowered or unpaid wages, long queues in medical institutions, difficult to form the contingency of police and customs officers, etc.

## **II. Customs**

The Lithuanian Customs system comprises the Customs Department under the Ministry of Finance of the Republic of Lithuania, Customs Criminal Service (CCS), Customs Information Systems centre, Customs Laboratory, Customs Training Centre, 3 Territorial Customs offices (Vilnius, Kaunas, Klaipeda), 15 Cargo posts, 8 road posts, 7 railway posts, 1 post office, 4 airport posts, 3 seaport posts and 3 river port posts.

The inspection and law enforcement functions in Customs is carried out by the 2 structural units - the Customs Criminal Service and the Internal Investigation Service (IIS) of the Customs Department. The main goal of the CCS is to combat smuggling. The main functions of the IIS is prevention and control of corruption, and to ensure integrity and reliability of personnel. The IIS as

the specialized structural unit of the Customs Department is directly responsible to the Director-General. Both units are provided with all operational (intelligence) and prosecution powers.

The rate of corruption in the customs (crime statistics index) - is determined by the average ratio between the number of disclosed corruption-related offenses and the number of customs civil servants working in the system at the beginning and end of the accounting period.

In 2003 - 2010, 53 pre-trial investigation have been started in criminal cases where the corruption-related crimes in customs activities area were committed (abuse, bribery, failure to carry out a duty, forgery and related offenses - abetting smuggling, etc.). Suspicions were voiced to 98 customs officials.

Unfortunately, the vast majority of these cases were dismissed during the pre-trial investigation stage (50 officials) due to lack of evidence to prove their guilt. During the same period the first instance courts sentenced only 14 customs officials, only one to a real imprisonment. Officers usually pay a fine or prison sentence is deferred. Another five officers were suspended in respect of proceedings before the limitation period, 9 of the suspected officers were acquitted.

According to a public survey (TILS „Lithuanian map of corruption 2007“, 2009“) Lithuanian citizens did not classify the customs as one of the most corrupt institutions in the country (14 th place), but 17 percent respondents however, stated that they had used their contacts while dealing with customs formalities, another 26 percent respondents indicated that while the processing of customs formalities they were allowed to understand the desirability of "reward." In addition, 17 percent. of the interviewed people state that in order to maintain the customs formalities they have given "consideration" or other benefits.

Meanwhile, a TNS Gallup 2007 public survey showed that Lithuanian business representatives explicitly recognize that, in assessing changes in the Lithuanian Customs after Lithuania's accession to the EU, they observed positive changes. The positive result is seen in the simplification of procedures, less bureaucracy, greater efficiency of legal procedures.

As for weaknesses, observed by businessmen in the activities of customs, it is generally referred to these aspects: the expediency of performance of customs formalities is still too small, timeliness, null / not available simplification of customs procedures, lack of detailed, clear and timely information about changes in the performance of customs procedures, lack of reliable processing, Customs Officers' license, etc.

The assessment of the business co-operation with customs agents at once points out that under the prevailing tradition the interaction with the customs, communication and / or co-operation with customs authorities is quite problematic. Entrepreneurs felt hurtful customs approach to business, as potential criminals. Until this approach does not change, cooperation between the two institutions, in their view, is hardly feasible. The most common customs style - controlling and punishing - can not be an equivalent basis for cooperation.

### **1. Priority areas for action in the fight against corruption in customs**

*„If you fight with the state, the state must use the same tools“*

Prezident of the Republic of Lithuania D. Grybauskaitė

Corruption in customs is a constituent part of a smuggling offense, we can say that corruption is the consequence or side effect of the smuggling. This is especially true of organized smuggling found in the customs road posts on external EU borders with the third countries, where customs, state border guard and other public servants are also involved. Thus, the fundamental reasons of corruption and related phenomena are based on the economic background, which influences the specific geographical position of Lithuania.

Another phenomenon which Lithuanian customs is facing is a so-called casual corruption related to misuse of official's power and wish to profit from both individuals and business, as well as fraud intended to avoid customs prohibitions and requirements or speed up the performance of customs formalities paying illegal fees (facilitation payments) or bribes to customs officials.

Decisive impact on both usual/casual and organized corruption appearance is lead by the human factor - Customs staff reliability (integrity) on the one hand and public attitudes, and (no) tolerance of this phenomenon from another.

In view of the fight against corruption, there are different kinds of the control and prevention measures: *Preventive tools* aimed to ensure the reliability and integrity of customs staff, education, customs modernization, simplification of procedures; *Control measures* which are related to the criminal or disciplinary liability of a public servants, or application of control measures to detect, punish and deter people from corruption-related offenses.

Corruption offences analysis shows that the most risky, in respect to the appearance of corruption are the customs posts, particularly the road posts. In 2009 even 84 percent of the corruption-related offenses were recorded at the customs posts, in most cases at the road posts – 16, cargo posts - 12 and Sea Port posts - 10 cases of corruption.

Regarding CCS data for April 2010, Lithuania seized - 182 million packets of contraband cigarettes which represents about 80 percent of the value of goods seized last year. The maximum value of the seized goods - nearly 90 percent of cigarettes and other tobacco products. It should be noted that even 92 percent of the tobacco products retained in Lithuania, are not intended to Lithuanian, but to the foreign market.

As regards the present situation in Lithuania, one has to admit that the main focus and strength in the fight against corruption in customs lies in the protection of state borders in order to protect the Lithuanian and EU-wide market from illegal goods - especially tobacco, large quantities being transported from Belarus and the Russian Federation Kaliningrad.

With regard to the smuggling as one of the main reasons for the economic corruption, public attitude to this phenomenon is also highly important. Recent sociological research shows that most of the Lithuanian population looks favorably to the smuggling.

The Lithuanian Free Market Institute (LFMI) has recently made the public survey about population's approach to the smuggling and use of illegal goods. The results of the survey show that this year the smuggling as a phenomenon was justified by approximately 61 percent of population, although the last year the percent was only 43.

According to the same study, the population believes that the main causes of smuggling are economic in nature: 1) huge price differences between neighboring countries, which lead to increases in excise taxes, 2) the increase in prices of commodity and decreased population's possibility to buy them legally. In the third place the interviewees mentioned that it is too complicated and expensive to do business legally.

Fortunately, despite the fact that (only) 11 percent of the Lithuanian citizens believe that corruption in government encourages the smuggling, only 6 percent of people claim that the law enforcement structures are not able to fight corruption and smuggling.

## 1. Reform and modernisation

*„Corruption typically occurs in situations where outdated and inefficient practices are employed and where clients have an incentive to attempt to avoid slow or burdensome procedures by offering bribes and paying facilitation payments“*

### *The Revised Arusha Declaration*

As a participant of the Lithuanian national anti-corruption programme the Customs Department is in charge of implementation of such measures for the prevention of corruption:

*In Single window implementation area:* to implement a service of electronic delivery of customs declarations applying a principle of a „single window“.

*In e-customs regulation implementation area:* to project and implement a national documents' processing system for electronic declaration of goods and electronic processing of documents, which would embrace all stages of customs clearance and all ways of delivery of customs declarations.

*Customs duties area:* 1) To clearly establish competence, responsibility and authority of the customs officers performing customs controls of carried goods, vehicles, passengers and luggage, and performing customs clearance at customs posts, linking them with separate phases of customs control. 2) To perform in the Lithuanian Customs the measures of implementation of quality management system.

These measures are intended primarily for customs modernization, improvement of the business environment, innovation and implementation of modern control measures, corruption prevention.

However, considering this aspect it is interesting the approach of the business representatives to the innovation, relations and cooperation with the customs officers, and, finally, their awareness and willingness to invest in the new instruments, i.e. *Identification of business' needs*.

In regard to this, in 2007 the Customs Department initiated a Project financed from the funds of the European Union called „The identification of economic entities' needs in order to improve the quality of services provided by the Lithuanian Customs“.

The overall objective of this Project was to determine the operators' needs related to Lithuanian customs services, in order the needs of operators would be taken into account while designing, developing and promoting new or developing the existing customs information systems.

I will mention the main results of the research, because these systems were aimed not only to improve the business environment and the customs service quality, but also to improve corruption prevention. In this regard, the most interesting thing is to find out how business representatives – large customs clients, Lithuanian economic entities, customs brokers and guarantors and other interest groups, evaluate the customs in general, its co-operation with economic entities, implementation of e-customs systems, simplification of customs procedures and innovation.

*Customs and business cooperation* – definitions mainly used by businessmen to describe co-operation with the Lithuanian Customs indicate that a close cooperation with the Lithuanian Customs and business, in the opinion of the businessmen, does not actually exist. Part of the business representatives characterize co-operation with the customs authorities as a "constructive", the basis for relations being „necessity“, others argue that collaboration is "declarative".

Entrepreneurs felt hurtful because of the customs approach to business, as potential criminals. Until this approach does not change, cooperation between the two institutions, in their view, is hardly feasible. The current style of the customs itself - controlling and punishing - also can not be a basis for the equivalent cooperation.

For the businessmen *information on performance of customs procedures*, for the enforcement of the planned changes, etc., is basically sufficient. The main "formal" sources of such an information are two: customs website and Official Gazette „Valstybės žinios“ published by the state. However, entrepreneurs who have a greater experience and perform more customs operations greatly appreciate the information received directly from the customs officials. Often the latter informal "mouth-to-mouth" source becomes a key source of information about the customs.

The essential part of the latter source of information – to have acquainted customs officials working in posts or territorial customs offices. Transformation of such formal relationships to the informal relationships often mean that small businessmen who not have such relationships tend to call them protection of acquaintances through the expeditious performance of customs clearance procedures.

*E-customs systems assessment* - generally speaking, even businessmen know little about the development of paperless customs, theoretically they have favourable opinion in respect of this innovation. However, in practice the business is prone to look cautiously to the implementation of the new e-customs. In their opinion, the implementation of innovations firstly should be properly considered taking into account the relation between investment and future benefit. Big companies are more inclined to invest to new e-systems, small companies would not be inclined to invest in such innovations.

*Evaluation of customs procedures simplification* - the idea of simplifying the procedural requirements is very acceptable for businessmen, but they know a little about already operating simplified procedures and their benefit to small business operators and even fewer of them use the simplifications.

Business entities using the simplified procedures, are satisfied with the benefits, whereas those, who do not use them, often advocate that requirements that must be met in order to gain access to these procedures, are too high to small and medium-sized business entities and so they are basically intended to large business entities. In assessing the benefits of simplified procedures, quite often is expressed the opinion that these procedures make the clearance of procedures not easier but, on contrary, more difficult.

*Innovation assessment* - Speaking about the "single-window" and "one-stop" innovation, entrepreneurs more often know something about the „single-window“ principle. „Single window“ service is spontaneously perceived as a positive innovation, although it is understood very differently. „Single window“ principle is more often understood by businessmen as the arrangement of all affairs at one window and is associated with the institution, which is delegated to perform all functions related to international trade. Businessmen usually have not heard about „one-stop“ principle.

In assessing other possible customs innovation, most businessmen would very welcome („and relationships with the customs would significantly improve“) innovation, which allows to present goods to the customs post only when there is a need for control; the majority of entrepreneurs would highly appreciate the establishment of an automated information system, which would enable them to order and receive guarantees. A little less entrepreneurs would positively evaluate the capabilities of the systematic auditing.

*Overall rating of the Customs* - businessmen tend to evaluate services provided by the Lithuanian Customs positively. However, the positive assessment of the Customs and its services is not always associated with the impeccable organization of the assessment of customs work, but with the fact that the Lithuanian businessmen are accustomed to the existing system of organization of the customs activities. Increased interest in developments in the customs organization is received from the larger business entities, which are more related to the customs-related activities.

### **3. Human Resource Management**

The Lithuanian customs authorities in the implementation of personnel policies focus on the reliability and integrity of customs personnel, development and promotion of officials' resistance to corruption. According to 01-07-2010 data Lithuanian customs employ 2543 customs officers and public servants. During 2003-2009 the number of Customs employees decreased by 736 people. Nearly 95.3 percent of currently employed customs officers have university education.

All customs officials have a special – statute public servant status, which means that they are governed by special law - the Lithuanian Customs Authority Statute. This Statute provides with general and special requirements for persons seeking for employment in the customs, governs the conduct of officials in working and non-working hours.

The Lithuanian customs works following basic measures designed to prevent corruption in personnel management: selection, responsibility, promotion and evaluation of performance, professional ethics rules, an oversight implementation, rotation, education and others.

*Selection:* The candidates applying for the service in the Customs of the Republic of Lithuania, are sample tested in order to find out if the person is of a good reputation, and if there are no other restrictions established in the Statute related to the candidate's personality, past and reputation.

According to the Rules approved by the Government of the Republic of Lithuania the inspecting authority has the right to receive intelligence and other reliable information from all law enforcement or other authorities about the person seeking to hold public office, and information about all convicted public officials put into a special register. This provision, as an independent corruption-prevention measure is established by the Law on Corruption Prevention of the Republic of Lithuania.

In addition, presently at the Customs is being installed the Customs Personal Characteristics Valuation System based on psychology, for the candidates applying for work in the customs service, the system would help to select not only the candidates possessing the best professional qualities, but also those with strong anti-corruption standards. The officials, performing the selection together with the specially trained psychologists, on the basis of a special questionnaire and interview results, will provide with the recommendations about the candidate's reliability and resistance to corruption.

*Responsibility:* Customs officials according to the corruption-related legal acts may be subject to disciplinary, administrative or criminal liability. In addition, all the customs officers shall be valid for a service code of ethics rules governing their mutual relations and conducting their work and activities after work and establishing responsibility for not governed relations, or humiliation of customs official's name.

Persons accepted in the service must be introduced with the Customs Officer Code of Conduct and put their signature confirming that they were warned about the responsibility for these infringements. Customs service line managers and the IIS is in charge of supervision of rules of Ethics code and implementation of these rules in practice. Each customs office had concluded an Official Ethics Commission which shall examine ethical abuses. For gross violation of professional ethics, the Committee may recommend to start the procedure for disciplinary punishment, or to dismiss persons from employment.

Customs officials in the Code of Ethics are bound by a principle provision that leaders at all levels of the Customs (department heads, chiefs posts, shift bosses) should be responsible for the prevention of corruption, and report on the corruption cases. This means that every manager is to anticipate the risks of corruption in their work and should control the inspection programme, which aims to counter the spread of corruption.

The Code of Ethics also provides that all employees at any level, must report their suspicions to their line manager and may, if they consider it appropriate, also inform the Anti-Corruption Unit. The rapporteur should be reassured that anonymity of his/ her identity will be protected.

The dismissal from customs is possible only for the serious misconduct or in case of entry into force of a judicial decision in which a person is convicted of having committed a criminal offense. During the 2003-2010 period, the Court of First Instance has sentenced 14 customs officers, another 5 cases were terminated before the limitation period, 9 of customs officers were acquitted.

It should be noted that after the dismissal many customs officers were successfully employed by private companies in some way related to customs operations (customs brokers, carriers, logistics companies). It is easy to foresee that in these cases opaque ties between former customs officers and private sector are not breaking, on contrary, experience in customs matters, make those persons an attractive „product“ for this specific job market.

Restriction of activities and control: to ensure the customs control and prevent the illegal corruption offenses, customs apply a number of customs control measures, mostly oriented to officials working at the customs posts who may perform possible illegal activities.

The Statute and the Rules approved by the Director-General of the Customs Department provided with a number of limitations associated with posts officials and prohibited to carry particular items (e.g. mobile phones, cash sums, tobacco and other excise goods in possession of unmarked stamps) in the customs post territory. Customs officials are also obliged to immediately report any not governed relationship, potential conflicts of interest or attempted bribery.

Customs officers are also examined and inspected during their official activities and conduct. Inspection officers are empowered by customs legal acts at any time to check any of the customs office (post) and work of officials, request if they have prohibited items, check for persons and vehicles, draw up protocols of administrative violations of law.

Unfortunately, the customs authorities do not have a possibility to practise „secret client “ measures, however, there is increasing practice, when inspection officer dresses in the same uniform as the ordinary customs official and works with the appropriate officials in the same post. During such inspections not only officials working at the posts, but also individuals and business relations with customs officials are being observed.

Indeed, such control actions are adequate to deal effectively with the so-called casual corruption and arbitrariness of customs officers, and to discipline not only officials but also businessmen. Such measures are usually carried out at random, but based on intelligence information, reports from anonymous, previously identified cases of corruption. Time has shown that this measure is actually effective enough and does not require large investments.

Other measures to prevent corruption in the field of security staff, without a doubt are: the monitoring of the private interests conflict, rotation, promotion of officers integrity, annual career assessment, anti-corruption education and others.