

Prevention of corruption in the transactions of municipalities and cities

Have the restrictions imposed on officials by law been adhered to in the transactions carried out by local authorities?

Do the internal control measures of local authorities reduce the risk of restrictions being breached?

National Audit Office's report to the *Riigikogu*, Tallinn, 30 October 2012

Summary of audit results

The National Audit Office audited the economic transactions performed by ten local authorities in 2010 and 2011 to ascertain whether or not officials have abstained from taking part in transactions and making decisions that are prohibited for them under the Anti-corruption Act. This prohibition applies to transactions of local authorities with officials, their families, and companies related to the officials and their families.

The law regards these prohibitions as procedural restrictions.

The National Audit Office also evaluated the adequacy of the internal control measures of the audited local authorities, which have been introduced to inspect officials' performance of their obligations in the case of such transactions. The obligation is imposed on the heads of local government agencies as well as all other agencies by the Anti-corruption Act.

The audited local authorities were Avinurme Municipality, Elva Town, Karksi Municipality, Kose Municipality, Kullamaa Municipality, Kuusalu Municipality, Kärla Municipality, Laekvere Municipality, Rae Municipality and Viljandi City.

The National Audit Office also audited the prevention of corruption in local authorities in 2009. The problems identified at the time were one of the reasons why we decided to audit the area again. People would like public authorities to serve them in their interests, and be honest and transparent in their activities. This is why certain obligations have been imposed on them by law, and one of these is the obligation to avoid situations involving the risk of corruption. This also applies to persons in positions of power in local authorities. Failure to perform obligations may promote and lead to acts of corruption which cause financial damage to the state or local authority: damage which taxpayers have to pay for in the end. Understandably, acts of corruption also undermine people's faith in public authorities and reduce their interest in having a say in state and local government matters.

Procedural restrictions on transactions performed by officials with public property are some of the most important measures in the prevention of corruption, and violations are subject to strict punishment.

The National Audit Office finds that performance of the obligations established for prevention of corruption is not a priority for local government leaders, which has resulted in repeated breaches of the Anti-corruption Act.

The state will also have to start paying more attention to these problems in order to put an end to this.

The National Audit Office found that officials in **eight of the ten audited local authorities** had breached the restrictions established with the Anti-corruption Act. Most of the breaches are cases where a local government official entered into transactions with private companies that are related to the officials themselves or their close relatives. The sum of such transactions amounted to tens of thousands of euros in some of the audited local governments. Another obligation that has been breached is that officials must abstain from making decisions if it concerns the interests of companies related to the official or persons close to them, i.e. if the decision may lead to a conflict of interest. The organisation of work in local authorities plays an important role in the prevention of breaches.

In order to check adherence to restrictions successfully, it is necessary to know which companies the officials are related to. The audit revealed that local authorities did not always have an overview of all of the companies of their officials.

When we compared the information that we collected about such companies from the commercial register with the information provided by the local authorities themselves, we found companies in all of the audited local authorities that were not on the lists of local authorities. The difference was generally in double figures. The actions taken by local authorities to inspect certain transactions were also not satisfactory. Adherence to restrictions has been inspected with a clearly determined goal only in Kullamaa Municipality while inspection in other local authorities was random, based on practices and not identifiable on the basis of documents. With the exception of Kullamaa Municipality, the internal control measures in the audited municipalities were not adequate to inspect adherence to restrictions.

The Ministry of Justice must also help guarantee that internal controls in local authorities are adequate for the prevention of corruption by developing guidelines on how to inspect adherence to restrictions. The law requires agencies to inspect this, but does not say how this must be done, which is why the requirement does not yield the desired result. Instructing local authorities would be part of the Ministry of Justice's role, which it must perform as the coordinator of anti-corruption activities when the new Anti-corruption Act enters into force in April next year.

The National Audit Office is of the opinion that the Ministry of Justice should also help find better solutions to disclosing transactions performed with officials and their companies. Disclosure of transactions and transparency of activities are important measures in the prevention of corruption, but it has not yet been regulated with such a goal. Transactions with companies related to officials had been performed in all of the audited local authorities, but public information about these transactions is difficult to obtain. The auditees had done so in different ways in their annual reports, which should include overviews of such transactions pursuant to accounting policies and procedures, and information about many companies had not been included. The accounting policies and procedures that require disclosure of such information are not generally mandatory for local authorities.

Breaches of the Anti-corruption Act in local authorities can also be explained by the fact that officials do not acknowledge the necessity of the restrictions as much as they should, and do not know their details very well.

Awareness should be improved by local authorities themselves and also by the state, as the state is the one that established the restrictions and should make sure that they are adhered to.

Development of an anti-corruption strategy for 2013-2017 has begun on the initiative of the Ministry of Justice.

The National Audit Office also finds that more attention should be paid to raising the awareness of local authorities when goals are set in the new strategy and then implemented. This is not a separate goal in the current strategy.

Responses of auditees:

As a result of the audit, the National Audit Office made recommendations to the Minister of Justice and the audited local authorities. The Minister of Justice agreed to implement the recommendations and also promised to develop guidelines on how agencies should inspect that officials adhere to the anti-corruption restrictions imposed on them by law. However, the minister said that the guidelines will likely not be completed in 2013 as recommended by the National Audit Office and that this will take more time. As recommended by the National Audit Office, the Minister of Justice also plans to analyse options to stipulate, at the level of law, the obligation of local authorities to disclose transactions with officials and other transactions presenting a corruption risk. The minister also agreed to cooperate with local government associations when planning training, and pay more attention to improving the awareness of local authorities in the new anti-corruption strategy. Eight of the nine audited local authorities that were advised to establish in their organisation of work how officials' adherence to valid restrictions is inspected agreed to implement the recommendation.

All chairmen of councils in the local authorities where the National Audit Office found breaches agreed with the National Audit Office's proposal to discuss assigning the audit committee the task of also inspecting adherence to restrictions in the local authority in the following year and submit the results to the council for discussion.

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