

1) Ad Article 15 subparagraph (a) [para. 14 of the report]

Excerpt from the Paper Issued by the Prosecutor General's Office of the Republic of Lithuania on the Overview of Prosecutors Practice in Criminal Cases of Corruption (Bribery, Bribery of an Intermediary, Graft and Abuse of Office) heard by Courts in 2008

23 January 2009 No. 10.6-7

During 2008, Lithuanian courts heard 231 criminal cases in which 238 persons were charged with criminal acts provided for in Article 227 of the Criminal Code

Table 4 presents data about the criminal cases under Art. 227 heard by Lithuanian courts in 2008.

A judgement passed by A county or territorial court	Number of cases heard	Number of persons		
		Convicted	Acquitted	Against whom criminal cases were dropped
Vilnius County	38	36	-	2
Kaunas County	73	70	-	3
Klaipėda County	40	40	-	1
Šiauliai County	45	43	-	2
Panevėžys County	35	37	1	3
Total:	231	226	1	11

Table 5 presents data about persons convicted under Article 227 and persons with respect to whom a criminal case was dropped.

County courts and territorial courts located in the area of their operation	Number of convicted persons	CC Article 227(1)		CC Article 227 (2)		CC Article 227 (3)	
		convicted	dropped	convicted	dropped	convicted	dropped
Vilnius County	36	12	-	6	2	18	-
Kaunas County	70	7	-	16	2	47	1
Klaipėda County	40	8	-	22	-	10	1

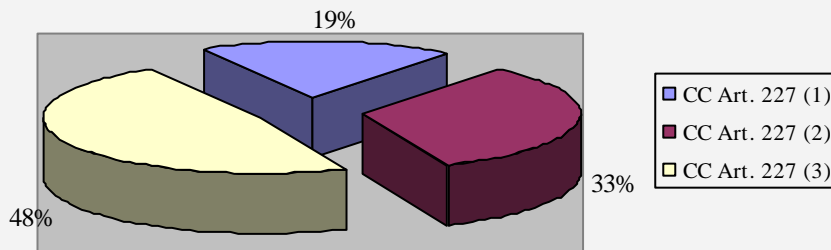
Šiauliai County	43	8	-	11	1	24	1
Panevėžys County	37	7	-	20	2	10	1
Total:	226	42	-	75	7	109	4

The reason for dropping the criminal cases were the following:

- 1) 1 criminal case was dropped as a result of insufficient elements of crime present;
- 2) 1 criminal case against 3 persons was dropped as a result of Article 95 (Statutes of Limitation)
- 3) Other criminal cases (against 8 persons in total) were dropped after application of Article 40 (Release on Bail)

The diagram below shows the data (in per cent) about the qualification of crimes committed under Article 227

Convicted persons under CC Article 227



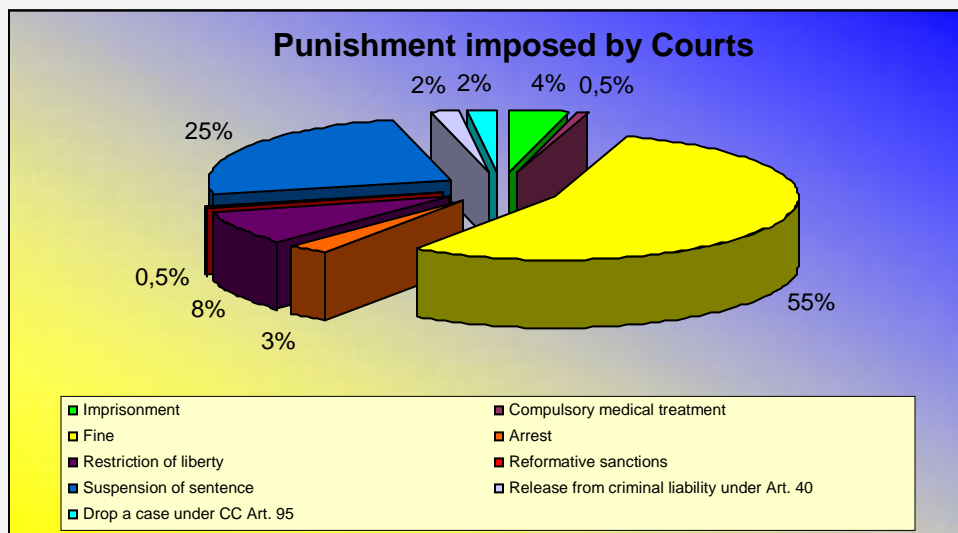
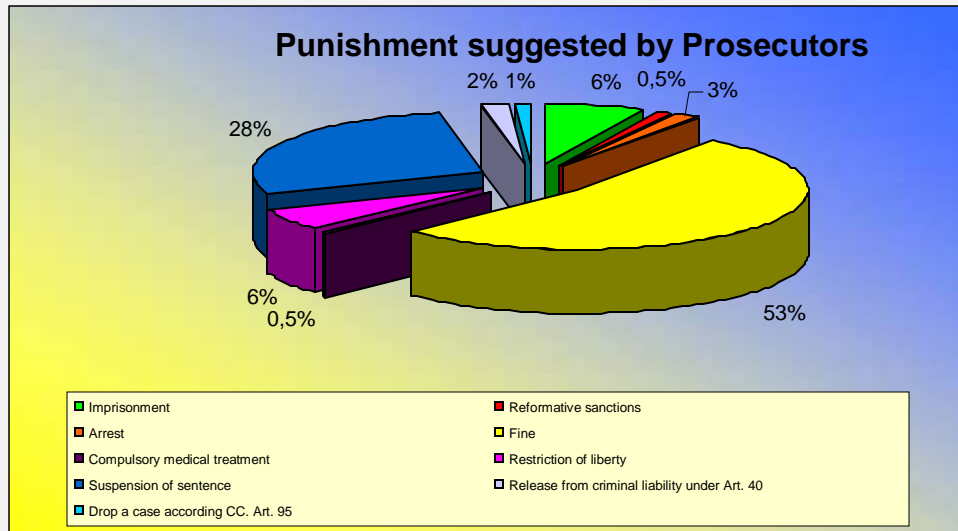
In a majority of cases prosecutors suggested that sanctions not related to imprisonment should be applied. The reason for that was that the majority of persons were charged with committing a misdemeanour under Article 227(3), i.e. giving a bribe of less than 1 MSL. Furthermore, crimes committed under Article 227(1) are considered minor crimes and therefore alternative punishment was sought in those cases.

Table 6 shows data about the type of punishment suggested by prosecutors and passed by courts to persons convicted under CC Article 227.

Table No. 6

Types of punishment under CC	Vilnius County	Kaunas County	Klaipėda County	Šiauliai County	Panevėžys County	In total for persons

Art. 27	Suggest by prosecutor	Imposed by court	Suggest by prosecutor	Imposed by court	Suggest by prosecutor	Imposed by court	Suggest by prosecutor	Imposed by court	Suggest by prosecutor	Imposed by court	Suggest by prosecutor	Imposed by court
Imprisonment	2	2	4	3	3	1	1	1	4	2	14	9
Suspension of sentence (CC Art. 75)	3	3	15	12	20	17	10	10	19	15	67	58
Fine	26	26	45	44	14	19	28	27	13	15	126	131
Restriction of liberty	3	2	4	8	2	2	3	4	2	4	14	20
Arrest	1	1	2	3	-	-	1	1	2	1	6	6
Compulsory medical treatment	1	1	-	-	-	-	-	-	-	-	1	1
Release on Bail (CC Art. 40)	-	-	2	3	1	1	2	2	-	-	5	6
Release due to lapse of time (CC Art. 95)	-	2	-	-	-	-	-	-	3	3	3	5
Reformative sanctions to minors					1	1					1	1



In all cases when the instrument of graft (money) was collected prosecutors suggested and courts imposed provisions of Article 72 of the CC, i.e. they confiscated the money paid by suspects to civil servants. In addition to the main punishment, Klaipėda county court in respect to 6 persons, Panevėžys district court with respect to 3 persons, and Pasvalys region district court with respect to 2 persons passed a penal sanction provided for in Art. 67 Para 2(4) and Art. 71, i.e. payment of a contribution to the fund of crime victims.

There was one criminal case of graft committed by a legal person.

2) Ad Article 15 subparagraph (b) [para. 20 of the report]

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23 January 2009 No. 10.6-7

Article 225 of the Criminal Code. Bribery

Article 225. Bribery

1. A civil servant or a person equivalent thereto who, for own benefit or for the benefit of other persons, directly or indirectly accepts, promises or agrees to accept a bribe, demands or provokes giving it for a lawful act or inaction in exercising his powers

shall be punished by deprivation of the right to be employed in a certain position or to engage in a certain type activities or by imprisonment for a term of up to four years.

2. A civil servant or a person equivalent thereto who, for own benefit or for the benefit of other persons, directly or indirectly accepts, promises or agrees to accept a bribe, demands or provokes giving it for an unlawful act or inaction in exercising his powers

shall be punished by deprivation of the right to be employed in a certain position or to engage in a certain type of activities or by imprisonment for a term of up to six years.

3. A civil servant or a person equivalent thereto who, for own benefit or for the benefit of other persons, directly or indirectly accepts, promises or agrees to accept a bribe in the amount exceeding 250 MSLs¹, demands or provokes giving it for a lawful or unlawful act or inaction in exercising his powers

shall be punished by imprisonment for a term of two up to eight years.

4. A civil servant or a person equivalent thereto who, for own benefit or for the benefit of other persons, directly or indirectly accepts, promises or agrees to accept a bribe in the amount less than 1 MSLs, demands or provokes giving it for a lawful or unlawful act or inaction in exercising his powers shall be considered to have committed a misdemeanour and

shall be punished by deprivation of the right to be employed in a certain position or to engage in a certain type of activities.

5. A legal entity shall also be held liable for the acts provided for in this Article.

During 2008, Lithuanian courts heard **13 criminal cases** against **13 persons** charged on the basis of Article 225.

Table 1 presents data on criminal cases of bribery heard by Lithuanian courts in **2007-2008**.

Table No. 1

County or Territorial Courts which Passed a Sentence	Number of Criminal Cases heard	Number of Persons		
		Convicted	Acquitted	With regard to whom a criminal case was dropped

¹ MSL is a minimum subsistence level. 1 MSL = LTL 130 (EUR 37.6), 250 MSL = LTL 32,500 (EUR 9,412)

	2008	2007	2008	2007	2008	2007	2008	2007
Vilnius County	6	1	7	-	-	2	2	-
Kaunas County	4	4	4	3	-	-	-	2
Klaipėda County	-	1	-	2	-	-	-	-
Šiauliai County	2	3	1	3	-	-	2	-
Panevėžys County	1	-	1	-	-	-	-	-
Total:	13	9	13	8	-	2	4	2

*In 2008, as compared to 2007, Lithuanian courts heard 31 per cent more cases of this category of criminal cases (in 2007, there were 9 criminal cases), 39 per cent more convicted persons (in 2007, there were 8 persons convicted), 50 per cent more persons with respect to whom criminal cases were dropped (In 2007, 2 criminal cases were dropped). Admittedly, in 2008, **no** persons were acquitted when charged with bribery (in 2007, two persons were acquitted).*

Cases of Bribery dealt with by Courts in 2007 and 2008

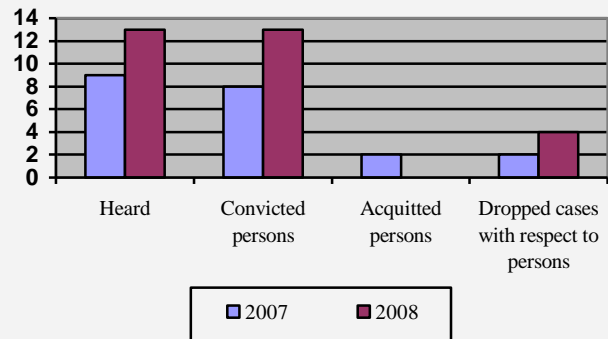


Table No. 2 presents data about convicted persons and criminal cases dropped with respect to whom criminal cases were dropped. (Article 225)

Table No. 2

County courts and counts located in the territory of its operation		Vilnius County	Kaunas County	Klaipėda County	Šiauliai County	Panevėžys County	Total
CC Art. 225(1)	Convicted	1	1	-	-	-	2
	Dropped	-	-	-	-	-	-
CC Art. 225 (2)	Convicted	3	1	-	1	-	5
	Dropped	1	-	-	-	-	1
CC Art. 225 (3)	Convicted	1	-	-	-	-	1
	Dropped	-	-	-	-	-	-
CC Art. 225 (4)	Convicted	2	1	-	-	-	3
	Dropped	-	-	-	-	-	-
CC Art. 225 (1-4 concurrence of offences)	Convicted	-	1	-	-	1	2
	Dropped	1	-	-	2	-	3

The Šiauliai county court dropped criminal cases with regard to 2 persons and Vilnius county court dropped a criminal case with regard to 1 person after application of Article 95 of the Criminal Code (Statute of Limitations).

3) *Ad Article 19 UNCAC [para. 47 of the report]*

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23 January 2009 No. 10.6-7

Article 228. Abuse of Office

During 2008, Lithuanian courts heard **34 criminal cases** against **51 persons**.

Table 7 presents data about criminal cases of abuse of office heard by courts in 2007-2008.

Table 7

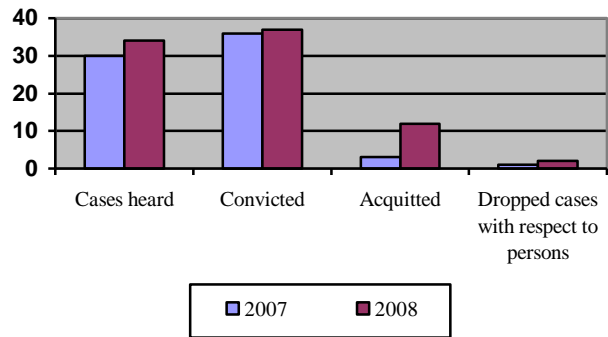
Country court or territorial court which passed a judgement	Number of cases heard	Number of persons		
		Convicted	Acquitted	With respect to whom criminal cases were dropped

	2008	2007	2008	2007	2008	2007	2008	2007
Vilnius County	14	8	14	9	9	-	-	-
Kaunas County	5	11	5	11	-	2	1	1
Klaipėda County	10	7	15	9	2	1	-	-
Šiauliai County	3	-	1	-	1	-	1	-
Panevėžys County	2	4	2	7	-	-	-	-
Total:	34	30	37	36	12	3	2	1

In 2008, as compared to 2007, the number of heard criminal cases on the abuse of office and the number of persons convicted in those cases did not change significantly. In 2008, courts heard 13 per cent more criminal cases (in 2007, 30 criminal cases were heard). The number of convicted persons increased only by 3 per cent (in 2007, there were 36 persons), the number of those persons with respect to whom criminal cases were dropped increased by one person (in 2007, a criminal case was dropped with respect to 1 person). Moreover, there was a significant increased (9 persons) of acquitted persons charged with the abuse of office (in 2007, 3 persons were acquitted).

The main reason why the number of acquitted persons increased in 2008 was insufficient assessment of committed acts from a legal application point of view. During the pre-trial examination a key qualifying feature of CC Art. 228 (big damage) was insufficiently identified. The damage caused is also an assessment criterion, yet the established court practice with regard to this issue was not taken into account.

Abuse of Office head by Courts in 2007 and 2008



Fine	2	2	1	1	13	14			1	-	17	17
Deprivation of the right to be employed in a certain position or to engage in a certain type of activities	6	5	4	3	4	1	1	1	1	2	16	12
Convicted	-	9	-	-	-	2	-	1	-	-	-	12
Released on Bail (CC Art. 40)	-	-	-	1	-	-	1	1	-	-	1	2

When imposing a sanction courts often taken into account CC Art. 54 (2), i.e. the personality of the offender. The abuse of office involves civil servants or persons of equivalent status who have no criminal record and therefore pursuant to Art. 55, alternative sanctions are imposed that do not involve imprisonment.

4) Ad Article 39 (2) UNCAC [para. 307 of the report]

Performance Report of the Special Investigation Service 2009

http://www.stt.lt/documents/planavimo_dokumenatai/2009_angl_ataskaita.pdf

INVESTIGATION OF COMPLAINTS AND REPORTS FROM INDIVIDUALS

In 2009 the STT received 878 complaints and reports from individuals, including 240 anonymous (27 per cent of all complaints and report received), with regard to potential infringement of the rights and lawful interest of persons resulting from alleged acts, omission or administrative decisions of a public administration establishment, and such reports were considered in accordance with the procedure set forth by the Law on Public Administration.

Compared to 2008, the number of complaints and reports went down by approx.19 per cent. In 2008 the STT offices received 1055 complaints and reports, 251 of them were anonymous (24 per cent).

This can be explained by the fact that from 15 December 2007 to 15 December 2008 STT implemented EU-funded project “Further Enhancement of Anti-Corruption Efforts” (No. 2005/017-494-01-01) comprising of anti-corruption education, including the strategy, planning and implementing the awareness raising campaign. The implementation of this component was successful in all respects: press releases were issued, trainings in communication with media were organised, advertising on the National Television was prepared and implemented.

Besides, in 2009 the STT received various requests from 518 persons by phone. In all these cases the callers were provided detailed information on phone and in case their complaints showed elements falling within the STT competence, such complaints were accepted by the STT for processing. The STT also processed and gave answers to 209 persons who sent over their inquiries by e-mail.

Out of 878 complaints and report received in 2009:

553 (63 per cent) were examined and administrative decisions were taken, i.e. due statutory actions pertaining to a complaint or report of a person on potential violation of the rights and lawful interests of such person were performed followed by a decision (answer to the applicant prepared).

_ 169 (19 per cent) were referred to other institutions as per their competence, i.e. in case when the STT had no authority to take a decision in the administrative proceedings of the subject matter of the complaint then such complaints were referred to the public administration entity vested with the necessary authority.

_ 132 (15 per cent) were refused to be considered on statutory grounds, i.e. in cases where the STT or the court had already taken the decision in the administrative proceedings on the same subject-matter and the person applying had not presented any further factual data providing the grounds for disputing such a decision. The greatest part of the applications to be left unexamined was the anonymous complaints and reports.

In the event when elements constituting a violation of the public interest, misfeasance of office or conflict of public and private interests in the public service have been determined during the processing of a report the STT would draw up a notification to competent authorities.

7. With regard to statistics on the number of reports received, Lithuania provided the following data:

709 complaints and statement in 2005

854 in 2006

819 in 2007

1055 in 2008

878 in 2009

In 2008 (as compared to 2007) there was an increase of 29 percent in the number of received complaints and reports.

This can be explained by the fact that from 15 December 2007 to 15 December 2008 STT implemented EU-funded project "Further Enhancement of Anti-Corruption Efforts" (No. 2005/017-494-01-01) comprising of anti-corruption education, including the strategy, planning and implementing the awareness raising campaign. The implementation of this component was successful in all respects: press releases were issued, trainings in communication with media were organised, advertising on the National Television was prepared and implemented.