

Transparency International Estonia



Enhancing Internal Supervision Capacity of Local Governments in Estonia

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EVALUATION REPORT

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1.1 The Background of the Project

Corruption in local governments is a serious problem in Estonia, the statistics indicate that 7% of Estonians have been solicited for bribes by local authorities and 8% of entrepreneurs stated that they had given bribes to local authorities in the course of doing business with them. Estonian police figures for corruption prosecutions indicate that from 30-50% of all prosecutions for corruption involve local authorities.

A 2008 audit by the National Audit Office concluded that there were 2 major reasons for local government corruption. The first was that local governments did not generally appreciate the need to assess and mitigate the risks of corruption and the second was that supervision of employees was sometimes poor.

For the reasons provided, TI Estonia saw the problem of local municipalities' corruption as a base ground for most of the other corrupt behaviors. As a local level executive power body, they have almost exclusive right to dispose public funds in the corresponding territory by procuring for services and distributing money. In the period of 2007-2013 Estonia can use EU structural funds at the amount of 53,3 billion crowns – this is twice as much as before and most of it will be distributed to or by local governments.

State Auditing Office has concluded that internal control in local municipalities is rather occasional than systematic and is conducted on significantly low level of competence in number of cases.

TI Estonia therefore conducted a project “*Enhancing Internal Supervision Capacity of Local Governments in Estonia*“, in order to enhance the capacity of internal supervising mechanisms of Estonian local municipalities.

Internal supervising systems should not be underestimated as tools in anti-corruption agenda. Local municipalities comprise variety of different tasks and day to day operations ranging from organizing of public procurements to arranging of zoning. The execution of these tasks is often delegated to different officials who, even despite the general anti-corruption attitude of municipality government may be involved in corrupt activities and thereof unlawfully biased. Intense working schedules and different competence of officials is likely to stop other officials from detecting the mismanagement or infringement by mere chance. Therefore the need for systematic and effective internal controlling mechanisms is crucial in Estonian municipal bodies.

Internal control in Estonian local municipalities is exercised on various levels.

The Municipal council is the legislative body of local governments. Councils are elected after every four years and have the right to appoint local governments. The risk is that council and government have so close political ties that the supervisory role is merely formal and all the decisions are done in close coordination.

The council is required to set up an **audit committee** that has the right to conduct financial and administrative supervision over the whole municipality. It is unwritten rule that head of this committee is appointed by the opposition in council to maintain the highest level of independency. However in many cases this guideline is not followed and combination of this committee is a mere result of political compromise. There are no educational or other requirements set by the law for members of audit committee.

Local Government Organization Act foresees extensive rights and obligations for the audit committees including monitoring the right and lawfulness of government activities, conformity with resolutions of council and conformity with the contracts the municipality has entered into. This is a great potential if used purposely and in the best interests of public.

1.2 The Purpose of the Project

The purpose of the project was to enhance the internal control mechanisms of selected local governments and provide training and aid materials on corruption related issues to as many local governments as possible in order to help the municipalities to prevent corruption more efficiently through helping the municipalities to improve their internal control mechanisms and realize their value and potential.

1.3 The Initially Planned Activities

a) Strengthening the internal control capacity of 6 selected local governments.

- 1) *Analysis* – an analysis via desk review and stakeholders' interviews will be conducted in the first phase of the project in order to get comprehensive overview of internal supervision management in local municipalities and existing practices. Analysis of EU regulations and other international law influencing Estonian legal system in regards with municipalities internal control regulations and world practice will also be included. This is done to determine the legal framework we are currently operating in. Analysis will be conducted by TI Estonia experts with consultative support by State Auditing Office.
- 2) *First draft of Internal control system assessment and development manual with self-assessment checklist* – based on the results of analysis the draft version of best practice manual is developed setting the standards what effective internal control should meet. This manual and a checklist as a part of it will be used to assess 6 selected municipalities and later distributed to other local governments in Estonia.
- 3) *Survey* – before starting the active assessment phase with 6 municipalities, a survey will be conducted among the members of corresponding councils and local governments. This is done to evaluate how the existence and effectiveness of internal control systems is seen before implementing the foreseen activities in municipalities. Similar survey will be repeated in the end of the project to see the effectiveness of these activities.
- 4) *Assessment of 6 selected municipalities* – several visits and targeted meetings will be held with the selected municipalities. The data collection and participation in their day to day

work (council meetings, government meetings, organizing procurements) will allow us to map internal control systems, their application and effectiveness in each one of them, providing us the information on practices, possible risks and obstacles for full implementation of internal control systems in 6 municipalities that are all different, but also have some common characteristics (region, size).

- 5) *Development and implementation of proposals* – TI Estonia will hold meetings with State Auditing Office and Ministry of Justice to discuss the assessment results and will develop a package of specific recommendations for each participating municipality. Recommendations will then be discussed with municipalities and agreed to the extent they see them feasible. Implementation will be carried out with support by TI Estonia, including drafting of relevant internal regulations, educating officials that should be exercising internal control and mediating the constructive dialogue between municipality and State Auditing Office.

b) Engaging all the local municipalities by distributing the results and experience of assessment

- 1) *Internal control system assessment and development manual with self-assessment checklist* – TI Estonia in cooperation with State Auditing Office will produce a comprehensive manual for local governments with suggestions and concrete action plans how to develop and improve their internal control mechanisms. 6 different models of improving internal control systems are offered.
- 2) *Regional workshops* – Five workshops in Estonian regions (Northern, Eastern, Western, Southern and Central) will be conducted in cooperation with TI Estonia, State Auditing Office, Association of Estonian Cities and Association of Municipalities of Estonia for the members of local municipality councils and local government officials. Objective of these workshops is to raise local municipalities' interest in developing their internal control mechanisms and provide them with knowledge and tools to do it.
- 3) *Ongoing consultative role* – TI Estonia will continuously keep assisting municipalities with improving their regulations. Field visits and dissemination of practical knowledge through targeted seminars will be done if necessary.

c) Proposals for legislative amendments, media appearance

Based on the results of the project relevant amendments of law will be proposed. To distribute the results and project related information, constant media appearance will be organized by TI Estonia.

d) Project evaluation

The whole project implementation will be carefully analyzed to determine what has been achieved and what was impossible to attain. This evaluation will be submitted to PTF along with full project activity and financial report.

1.4 The Initially Expected Impact

- a) First level impact. During and after the course of this project, 6 selected local governments will have better understanding on how internal supervision can be more effective in their administration. Relevant changes are implemented in order to enhance their capacity of internal supervision. Through the workshops best practice from 6 model governments will be transferred to number of other local governments. We also expect this impact to be threefold as some municipalities might feel somewhat obliged to start reforming their internal control systems after it has been done in their neighboring parishes and cities.
- b) Second level impact. Better supervision in local governments will ultimately lead to significantly reduced corruption in whole society. Local governments are crucial part of the corruption chain – if this is removed also private sector corruption will decrease significantly. As local governments are also service providers (detail planning, grant distribution, subsidiaries), corruption in their administration also reduces fair accessibility to public benefits for people. The ones that are not willing to bribe receive different treatment. Strengthening internal supervision and staff capacity of local governments will therefore limit inequality of people in the society.

2 Analyses of Project Outcome

Since the detailed project activities, timeframe and periodical progress has been already brought out in the previous reports this part will focus on a wider analytical perspective and try to describe the achieved outcomes and the project impact as a whole. The analytical part will also reflect upon some of the differences between some initially planned and eventually achieved outcomes and elaborate the process of thinking behind the changes made during the project implementation.

From the perspective of tangible large scale impact (second level impact) and indicators for measuring the impact it has to be said, that measuring is no easy task in case of such a project. Firstly the impacts do not manifest themselves immediately, especially in the case of trying to change attitudes (attitudes are an important basis for improvement in supervision mechanisms) that have formed over a long period of time and secondly there are almost no direct measurements that could be applied for this purpose on a large scale. One could of course argue, that sociological methods could be used, but one has to bear in mind, that these surveys would have to be done over a period of time, would be costly and would not be able to address the problem of determining causality between the project activities and the potential change in attitudes and behavior of local government employees in general. This is due to the amount of latent factors involved in cultural and administrative change.

From the perspective of measuring the direct impact of the project activities on legal reforms the task is a bit simpler and we can say with reasonable certainty that we managed to make a positive impact. It will be discussed in detail later.

Despite of the previously mentioned difficulties in accurately assessing the large scale impact, there is no reason to believe, that the project had none, on the contrary we believe that we managed to achieve quite a lot and there were even some unforeseen positive consequences, for example we managed to strengthen cooperation between various public sector institutions that were on our advisory board.

The initially planned activities mentioned under heading 1.3 will be now examined in detail and compared to the achieved outcomes.

1) We set out to strengthen the internal control capacity of 6 selected local governments through analyses of their situation, consultations with the municipalities, development of best practice proposals and compiling of a self-assessment tool with the help of national experts.

During the project we conducted interviews with 17 people from the selected municipalities (Laeva, Ülenurme, Luunja, Meeksi and Alatskivi, Tartu), conducted a desk review of existing legislation, documents and audits, prepared an analysis of their situation, met with the representatives of the select municipalities on numerous occasions, offered consultation and conducted two surveys on their internal control mechanisms. The results of the analysis prove that the problem with local municipalities is indeed complex. The main reason for inadequate corruption prevention system and a lack of internal control in municipalities is cultural (especially on the political level of local governments). The second aspect of the problem is the lack of resources and competence in smaller local governments. The third aspect is closely related to the previous two and it concerns the legislation which does not take into account the size of the local government and its resources and capacity. It can be said, that all three issues are intertwined with one and another. The cultural problem manifests as an occasional reluctance to acknowledge the importance of systematic anti-corruption efforts, council members and employees of municipalities often do not see the corruption prevention as a priority because it is believed that corruption only occurs somewhere else and unethical behavior is often not recognized as such.¹ This is partly so due to the soviet background of some of the servants and council members as during the soviet period of scarcity almost all economic relationships on a local level were personalized and favoritism, though illegal, was perceived as practical and normal. Even now there seems to be an inherent conflict in some municipalities when it comes to law and practice. The Anti- Corruption Act is strict and complicated to follow, therefore it is often perceived (by smaller municipalities) to set

¹ This problem is more common among council members because of their different backgrounds and political position. The employees have more likely received public sector ethics trainings and understand the problem better, their background is more unified and they are the more permanent part and competent of the local governments.

unreasonable restrictions. This in turn means that the law is seen as a hindrance and since the importance of corruption prevention is often not understood, the municipalities do the bare minimum required by the law and occasionally not even that. Also it has to be noted, that the awareness on the contents of the law and the restrictions it sets was in some cases disturbingly low.

Based on our findings we developed a draft version of the self-assessment tool and distributed it to our project partners in local governments and our advisory board members. It turned out, that there were more nuances than we had expected and the process of finalizing the tool turned out to be lengthy and complicated. The value and principle based approach we intended to take initially was not applicable because of the low level of knowledge on anti-corruption and related laws, thus more regulative and straightforward self-assessment tool was seen much more important. We had to revise our tool on numerous occasions and make considerable amendments to the initial version based on feedback we received from the local governments and our advisors.

Based upon our survey and consultations with both national experts and local governments we eventually published and distributed (the pdf version was sent to local governments via email, the manual is downloadable from our website and printed copies were distributed via post) the final version of the self-assessment toolkit/manual for the municipalities in which we took into account the results of our research and in addition to the legal and technical aspects strongly emphasized and explained the importance of corruption prevention, the real corruption risks and the broader consequences that follow corruption.

This means that we somewhat deviated from our initial plan to form six detailed models of internal control mechanisms and focused on a single model approach that would be light on the resources, in accordance with nuances of the Anti-Corruption Act and yet based on easily understood and accepted principles. As a result of the project we created a manual that is usable by most local governments and managed to instigate some changes in the corruption prevention measures in the five of the six selected municipalities. We achieved an agreement on the partial implementation of the corruption prevention measures we had proposed. The reason for focusing on five of the six local governments is the size of Tartu. After careful consideration we found that we were unable to provide necessary expertise in case of Tartu because their internal control was already developed to the sufficient extent. Tartu is yet one of the few municipalities where internal audit and controls division is in place tackling specifically the issues related to corruption (conflict of interest, embezzlement, bribery etc.). Most of the municipalities in Estonia would however not need that extensive measures and systematic anti-corruption plan with clear compliance regulations would suffice. Instead we focused on the five smaller local governments and used the example of Tartu for information and input. In conclusion we managed to strengthen the anti-corruption capacity of the selected local governments but only up to certain extent because some of the recommendations we made were claimed to inapplicable due to lack of personnel and resources and were met with caution. Another aspect that inhibited the full application of the proposals was timeframe of the activity. Number of procedural measures (whistle blowers

mechanisms, general codes of ethics, rules on dissemination of grants for NGO purposes etc.) need to be discussed and finally approved by the municipal council. The council members very often don't have any public service experience and thus are a "nut to crack" in a sense that they need to be convinced personally. That was not planned initially within the project timeframe.

We reached an agreement with the municipal heads that the proposed measures will be applied incrementally and that the more permanent members of the municipalities will systematically distribute the self-assessment manual to new council members and make an effort to convince the future council members that an anti-corruption plan is an important aspect of local governments effective functioning. The results are not 100% what we initially envisaged but we certainly consider them to be a significant improvement for the 6 (5) participating municipalities. The aim of the last field trip to the 5 municipalities was to confirm that the agreed plan is indeed being undertaken and there are no major obstacles.

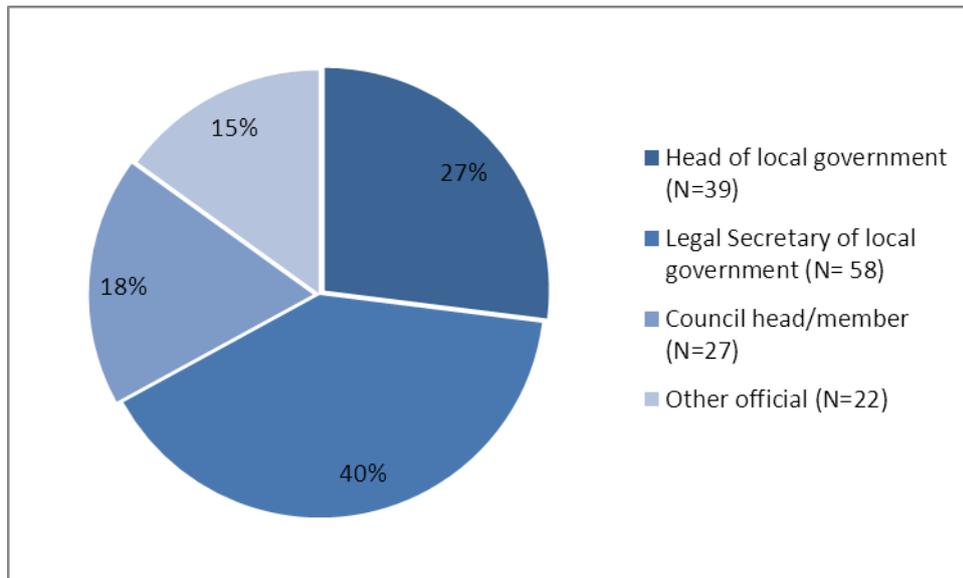
2) We set out to engage all local municipalities by distributing the results and experience of assessment of the selected six and distributing the self-assessment toolkit and offering advice if needed.

As a result of our analyses on local governments and their problems and the consultations with the six selected local governments we put together a training program for the local governments in partnership with the public sector representatives and the advisory board formed for the project. The program consisted of a theoretical lecture on anti-corruption regulations and internal control mechanisms and a practical case solving part. The latter means that the local governments were given situations from real life and asked if there had been a violation of the Anti-Corruption Act or not and what would be the correct way to solve the given situation. Later experts from National Audit Office, Police and Security Police commented on the proposed solutions, gave advice and answered to questions.

Instead on the initially planned five seminars, we came to a conclusion that holding four seminars in well picked locations and bigger venues will have the same impact. This change in the initial plan also suited our lectors and experts better.

We have good grounds to believe that the seminars turned out to be successful. The seminars managed to attract 146 participants from 99 local governments out of 226. The amount of governments involved in the process was slightly less than initially expected (50% out of 226) but the reason for lower rate of participation can be attributed to the very limited personnel of the smaller municipalities. However, it should be noted that we had set rather high professional requirements for the participants to ensure maximum subsequent impact. Only the heads of parish government and council and legal secretaries were invited to enroll as these are the positions with most impact on local government's anti-corruption attitudes and internal procedures.

PARTICIPATION STATISTICS BY POSITION



N=146

The seminars turned out to be even more energetic than we had anticipated. Those who participated were actively involved in discussions and asked a lot of questions. We even had some difficulties with staying in the envisioned timeframe and on the narrow topic. This clearly shows that the seminars were needed and the issues are even more complicated than expected. It was taken for granted that the seminars were free of charge.

A topic that kept reoccurring during the seminars was public procurement and problems related to its regulation (the regulation is far too complicated for smaller local governments because it requires extensive legal knowledge and larger procurements are done so rarely that no real competence can be built. Also there is no central procurement agency to help local governments). After the seminars we have been contacted several times and asked if we will continue offering corruption prevention seminars and if it is possible to order us to speak at a specific local government. So far we have also been providing free limited consultations to local governments with specific questions about the anti-corruption laws and regulations.

The success of the seminars was also proven by our analyses of feedback questionnaires, which showed the positive attitude of most of the respondents. Although there was also some negative and neutral feedback, most people found that the events had been useful and the knowledge gained will be of practical use in their everyday work. 81 people gave us written

feedback but the most interesting and thorough feedback was received orally, there were many attendants who said, that there should be much more trainings on the topic of corruption prevention. In addition to comments on the content of our workshops we were also often told that our seminars were especially helpful for the smaller local governments, since they could normally not afford to pay for such training and our events were of course free of charge.

After the seminars we were approached by ATAK (The civil service development and training center - one of our partners who handled the administrative side of the seminars – (venues and catering) and asked if we were interested in further cooperation on the topic. We consider this to be very important because ATAK is a state owned institution that was created in order to provide training for civil servants and to assist in the development of better civil service in general.

We were also contacted by the Public Sector Ethics Centre under the jurisdiction of Ministry of Finance and asked for permission to use and distribute the manual during public sector ethics seminars they have planned. We gladly agreed and copies of the manual have been now delivered to the ministry for use in their own training program.

We can't yet assess the impact of our training seminars because there is no new data available which would allow comparison but the National Audit Office is currently conducting a follow up audit in municipalities on corruption prevention measures and it's results should give us a basis to evaluate the effect of our project in the future. This is of course very dependent on the municipalities audited – if any of the 6 were included or if the representatives of the audited municipalities were present at the training seminars. And still the parallels can only be drawn with care as the audits date back several years whereas our project's stronger impact on municipalities has materialized just 6-12 month ago.

3) Media appearance

An important part of the project was to get media coverage in order to draw public attention to corruption problems in local governments. We managed to achieve some coverage both in local and national media. We wrote several news stories about the seminars that were sent to press but not many were picked up. We also published a news story on our webpage and distributed project related information in our monthly newsletters. Due to high importance of the topic, we have kept addressing the local governments' related issues in our media activities beyond this project as well. For instance on the 18th of April the Executive Director of TIE, Asso Prii participated in a radio debate together with the chairman of the Select Committee on the Application of Anti-Corruption Act of the Parliament and responsible person from the Ministry of Justice to discuss the changes that come with the new Anti-Corruption Act and challenges of implementation it will pose.

As mentioned in the sixth project report we planned to address the issue of local governments again during our National Integrity Systems study launch (a pan EU project that ran parallel to this project). On the sixth of June the report was launched and during the press event was

partially dedicated to the local governments as Airi Mikli, head of Local Governments' Audit Department at State Auditing Office was one of the panelists. Together with the overall coverage of the report, local government and related corruption topics achieved good coverage as well in online, print, radio and TV media. Special article written by TI Estonia on systematic challenges in tackling corruption in local governments was published by Estonian Public Broadcasting shortly after the launch.

Proposals for legislative amendments

Our close work with the local governments and consultations with our public sector partners enabled us to make suggestions to the new draft Anti –Corruption Act.

Altogether we made four substantial amendment proposals to the bill of the new Anti-Corruption Act. Three of our suggestions made it into the final bill.

We emphasized on several occasions the necessity to reevaluate the part that concerns the circle of officials required by law to present declarations of economic interests. The new law will reduce the amount of declarants considerably and therefore we found that the law should leave a possibility for the head of a local government to issue a decree that obligates additional civil servants deemed to work in high risk positions to declare their economic interest even when the law does not explicitly compel them to do so. This change in the law will increase the autonomy of local governments and give the head of a local government increased control over civil servants in case of need. This recommendation was accepted by the Ministry of Justice and made it into the final draft of the new anti-corruption law.

The second recommendation we made concerns the monetary value of gifts civil servants are allowed to accept. The new anti-corruption law initially set a maximum limit for monetary value of allowed gifts. The limit was set at 278 €. Considering the fact that this is the minimum salary in Estonia and salary distribution in different regions is very unequal we found this highly questionable. The sum is too high and the fact that such a limit even exists potentially sends a wrong signal. Our recommendation was accepted by the Ministry of Justice and the concept was abandoned.

The third and perhaps most promising amendment concerned the lack of central administration in educating and training civil servants, providing advice and guidelines on how to tackle corruption. Until now these activities have been rather segmented and inconsistent, thus the level on awareness in (especially) local level administration is regrettably low. We proposed that the Ministry of Justice should be responsible institution in this respect and the mandate should be vested into the Anti-Corruption Act. The Ministry refused to accept this proposal arguing that similar mandate is already stated in the statute of the Ministry. Still, the Select Committee on the Application of Anti-Corruption Act of the Parliament picked up our proposal when the draft bill reached the parliamentary proceedings and the Ministry of Justice was indeed assigned this (in our opinion very important) role.

The new Anti-Corruption Strategy of the Government will be adopted by the mid 2013 extending to the period of 2013-2020. It has been agreed by the Minister of Justice and the Minister of Interior that two major topics of this strategy will be local governments and private sector. As a result of current project we are in a significantly better position to provide our ideas and input to this strategic document.

3. Underlying Issues and Recommendations

One of the biggest causes for corruption related problems on the level of municipalities is the lack of recourses – both in finance and in properly trained personnel that can lead to mistakes out of negligence and incompetence (most of the violations of the anti-corruption law in small municipalities are not due to criminal intent but due to incompetence). Some of this can be attributed to a political problem on the highest level of government. Before addressing this issue further, we will give a very brief overview of social processes in Estonia that have led to this problem.

Since the beginning of the transition to the market based economy rural areas have been bleeding population to bigger settlements, such as county centers and cities. This decline in population has made living in smaller communities for the educated youth very unattractive, the salaries are not competitive and the availability of public services leaves to be desired. All this constitutes to the aforementioned problem of small local governments being underfinanced (revenue base of municipalities is largely based in the income tax paid by the inhabitants) and deprived of skilled personnel.

How is this issue political? The simple and brief answer is that Estonia has 226 municipalities. That is clearly too many. The discussion of a forced territorial reform has been going on for years but to no avail. Conducting the necessary reform is viewed as a political suicide and no government has been willing to take that risk. The reason for viewing the territorial reform as a political risk lies in the over politicization of municipalities. The dominant political parties all have their vested interests and people at the level of local governments. Though the topic of territorial reform has been brought forward almost by all political parties at one time or another the common denominator has been the fact of them being in opposition at the time of proposing the reform, therefore having no actual means of pushing it through. So the frequent propositions can be viewed as a safe political game which is played solely for popularity.

The second aspect of the problem lies on the level of municipalities. Though the necessary territorial reform has not been made, local governments have been given a legal right to merge and by merger ease their financial problems. This however has not worked as expected. The joining of municipalities would mean that some of the officials lose their jobs and so the voluntary mergers are rather exceptional. Because of the opposition to voluntary mergers, the legal possibility left by the central government can be also viewed as an attempt to avoid responsibility and loss of popularity.

In conclusion it can be said that the major obstacle in improving the anti-corruption practices at local levels is the lack of resources that can be used for creating and maintaining an efficient anti-corruption system. Many of the municipalities are too small and ill equipped to tackle the issue seriously. Successful system would require additional personnel and money for hiring external auditors in case of need. It must be said though, that the reform alone would not be sufficient. As mentioned in the previous section, one of the reasons for high corruption risks in municipalities is the disposition of people. The attitudes of many of the people involved do not support the creation of an efficient anti-corruption system and the seriousness of the issue is not always understood. Therefore in addition to the territorial reform there should be a systematic anti-corruption training program for officials and council members.

- In our opinion there is a dire necessity for territorial reform in order to improve the anti-corruption capabilities of local governments.
- In our opinion there should be a comprehensive state coordinated training program for officials of municipalities that would provide knowledge on the topic of corruption prevention and its importance.

4. Brief Project Summary

The most important achievements during the project:

- We managed to offer free help and training to the representatives of local governments
- We managed to instigate changes in the corruption prevention measures of the selected local governments
- We published and distributed the manual containing the self-assessment checklist for the local governments
- We helped to further the anti-corruption cooperation between different public institutions (State Audit Office, Security Police, Police and the Ministry of Justice)
- We managed to attract media's attention to the corruption related issues on the level of local governments
- We made successful suggestions to the new anti-corruption law ensuring better regulations in the future
- We ensured, that we will be included in the process of creating the governments next anti-corruption strategy

What we as an organization gained:

- Experience and knowledge that can be applied in our future work with local governments
- Good position in the eyes of local governments for the upcoming activities
- Important contacts from the public sector

Plans for the future:

- We plan to continue working on the problems related to local governments and transparency
- We plan to offer local governments additional training and seminars if possible
- We plan to advocate the necessity of territorial reform and free anti-corruption training for municipalities
- We plan to focus more on the most critical areas with corruption risks – namely public procurements and dissemination of public money
- We plan to focus on the use of public assets during the local governments' elections in 2013.