

# Countering Narcotics and Organized Crime in the Baltic Sea Region

Klas Kärstrand

Report from the Silk Road Studies Program Workshop  
Tallinn, Estonia, May 9-10, 2007

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*Central Asia- Caucasus Institute  
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## **i. Introduction and Executive Summary**

The workshop from which this report originates dealt with organized crime, corruption and investment of criminal proceeds in the Baltic Sea region. This workshop report, compiled by Klas Kärrstrand, summarizes the presentations made during the workshop and the discussions stimulated by the each of the presentations. This is the fourth workshop within the project “Countering narcotics and organized crime in the Baltic Sea Region” sponsored by the Swedish National Drug Policy Coordinator. Each workshop gathers law enforcement personnel and researchers from Finland, Estonia, Latvia, Lithuania and Sweden. During two days the participants make an assessment of recent developments and trends concerning smuggling of narcotics and organized crime in the region. The main purpose is to identify recent trends and developments in order to point out potential consequences for the social, economic, legal and political development, in especially Estonia, Latvia and Lithuania, but also for the region as a whole.

Besides the overall purpose to identify trends in organized crime and narcotics smuggling each workshop have focused more deeply on one specific issue of concern which has been identified by the workshop participants. The workshop preceding the one in Tallinn focused on regional cooperation between law enforcement agencies and the workshop before that focused on security concerns, such as societal, political and economic security threats posed by organized crime and narcotics smuggling in the region. The workshop in Tallinn in May 2007 paid attention to corruption, investment of criminal proceeds, and state capture. Through out all the previous workshops the participants have underlined their worries concerning a potential link between politics and organized crime. For this particular workshop Dr Louise Shelley from Terrorism, Transnational Crime and Corruption Center in Washington D.C. was invited to give her view on organized crime in the former Soviet Union from a comparative perspective. Dr Rasma Karklins shared with the participants her analysis of corruption in Latvia and Dr Aurelijus Gutauskas provided an oversight of the recent changes in the Lithuanian legislative framework on organized crime. In addition, Risto Pullat, director of the Estonian Police Academy, gave a brief presentation on

the new Estonian legal framework regarding confiscation of criminal proceeds and a brief overview on recent developments in the AML/CFT framework in Estonia. Dina Spule, representative of the KNAB, presented the work of KNAB and the results achieved so far. The conclusions and recommendations of this report are based on the presentations made during the workshop and the discussions that were stimulated by them.

Organized crime in the Baltic countries have been shaped by its Soviet past, the rapid social and economic restructuring in the early 1990s, its geographical location making it a transit region for both legal and illegal goods and the process of reintegration with the western community. For many other post-Soviet countries crime has become a key determinant of political behaviour, economic development and social life. Partly owing to the existence of alternative elites at the time of transition, independent media, previous experience of democracy and statehood, the absence of violent conflicts and EU conditionality the Baltic states have been less affected by organized crime. Nevertheless, the criminalization of some former Soviet states affects the Baltic States as organized crime groups have long-standing contacts across the post-Soviet space. These contacts together with the process of globalization and reintegration into the western community mean that new arenas and opportunities for Baltic organized crime groups have emerged. Baltic crime groups have pursued lucrative opportunities by using their potential as facilitators of narcotics smuggling in both directions of the east-west smuggling route. Baltic organized crime groups have become prominent actors in both the regional and lately the international drug smuggling scene. In the regional context the neighbouring Nordic countries serve as consumer markets even though this might be increasingly untrue as local consumption of narcotics is on the rise.

Several measures have been employed by countries in the region to effectively combat organized crime groups. Legislative frameworks for the specific task of fighting organized crime have been adopted by Estonia, Latvia and Lithuania. Recently there has been an increased focus on “follow the money” approaches, and legislative amendments aimed at facilitating the law enforcement capability to target illegally gained economic assets are underway. In this work the countries of the region are faced with several problems and challenges. One is the lack of professionals, a problem which is not likely to decrease in significance in the near to mid-term as unemployment is low and a substantial part of the workforce have left the



Baltic states seeking better employment opportunities in Western Europe. Another major challenge faced by Baltic law enforcement, besides a lack of professionals, is corruption on both the administrative and to a certain extent political level. Even though none of the Baltic States have become criminalized to the same extent as some other post-Soviet countries corruption is a factor intrinsically connected to organized crime. Among the Baltic States, Latvia has often been singled out as being more affected by high-level corruption than the other countries. While there are proven examples of attempted state capture in Latvia there are no hard evidence of direct links between organized crime groups pursuing more violent forms of crimes and committers of state capture. Corruption at the top echelons of society may however impede efforts to combat organized crime especially money laundering and the legalization of criminal proceeds. As such, political corruption may contribute to making societies more vulnerable to organized crime, both through direct collusion but also indirectly and perhaps inadvertently. There is however indications that the anti-corruption policies in Latvia have begun to yield notable results. Nevertheless, it is troubling that the fight against corruption seems to be led by a few institutions and individuals. This dynamic can in the long run be potentially detrimental to the fight against organized crime. Baltic law enforcements ability to implement the legislative changes to combat organized crime effectively will to some extent be dependent on its ability to meet the challenges outlined above. Hence, future policies directed at narcotics and organized crime in the region should include;

- Increased focus on anticorruption measures – administrative and political corruption breeds organized crime and prevents adequate state responses.
- Support for and strengthening of all regional forces promoting transparency and the fight against corruption.
- Regional cooperation should include “follow the money” - approaches – asset seizure should be made easier
- A strategy should be laid out on how to tackle the present and future shortage of professionals as part of a regional cooperation plan.

Dr. Anna Jonsson  
Project Director

## 2. The Nexus of Politics, Corruption and Organized Crime

Discussions during previous workshops have briefly touched upon issues related to corruption, mostly in the form of administrative corruption but also to a certain extent corruption involving publicly elected politicians. During the workshop held in Tallinn May 9-10 2007 these issues were discussed at greater length following presentations by Dr Rasma Karklins and Dr Louise Shelley. In her presentation, Dr Shelley focused on post-Soviet crime from a comparative perspective, comparing the common characteristics of crime in other post-communist societies with crime in the Baltic region. Dr Karklins gave an extensive overview on alleged state capture in Latvia, where cases of corruption have led to convictions in court. Dr Shelley's and Dr Karklin's presentations and the main conclusions from the discussions that followed are summarized in the section below.

### 2.1. Post-Soviet Organized Crime: a Comparative Perspective

For many of the former Eastern Bloc countries crime became a key determinant of political behaviour, economic development, and social life. In countries where networks of criminals gained the upper hand regular law enforcement measures quickly became inadequate and in some states still is today. Under such circumstances high levels of crime can no longer be regarded a transitional phenomenon. While not in any way unaffected by the increased activity of organized crime groups the Baltic States have, according to Dr Shelley, managed to reduce crime to a level where crime is a problem merely of crime per se. Other successor states of the former Soviet Union and parts of Eastern Europe have been affected to a larger extent by a criminalization of both state structures and the economy.

Several reasons for these diverging paths were proposed by Dr Shelley during the workshop. The existence of alternative elites as well as previous experience of statehood together with different length of exposure to the socialist system is all factors working in favour of less criminalized Baltic states. Another important factor has been the prospects of EU and NATO

integration which made counter-crime efforts a priority. The Baltic states have also avoided internal and external armed conflicts which some other post-communist countries in the Balkans, Caucasus and Central Asia have been less fortunate.

In authoritarian states the absence of accountability has made organized crime more pronounced. Unlike in some of the authoritarian states, the Baltic states have free media and investigative journalism which have proven to be an important factor in providing accountability and restraining organized crime. There was also a rotation of power; in the Baltic states a new elite came to power while in other countries criminalized elites and members of the Soviet security apparatus remained in power or moved into power after the break-up of the Soviet union. This is true to a much lesser extent in the Baltic states as they were able to recruit leadership from their émigré communities who had been unaffected by the corrupt practices of the communist regime. There is a similar divergence in the economy and privatization processes. State company and property were to a lesser extent privatized to former Komsomol, party- and security apparatus elite, a development that somewhat prevented the emergence of semi-legal and authoritarian-minded oligarchs. The privatization processes in the Baltic states also encouraged the development of a middle class which, according to Dr Shelley, in many countries has proved to be a bulwark against organized crime.

Other former post-Soviet states have been less fortunate in their fight against organized crime. Their problems with crime can no longer be said to be a transitional phenomena rather a pervasive problem affecting all parts of society. In many countries high rates of violence, comparable to crime levels in some South American states, endure. In these states privatization processes suffered from a lack of transparency and politics soon got infiltrated by organized crime groups leading to an abuse of the justice system by criminalized and corrupt legal officials. Last but not least, there is a significant difference in living standards across the post-Soviet states. The Baltic region has developed at a tremendous pace while in other countries, such as Tajikistan where social indicators are at the level of some of the poorest countries in Africa, economic progress has been abysmal. This difference is also reflected in diverging levels and forms of crime.

Crime in many of the former Soviet states has been signified by new forms of criminality not previously known or not known on large scale. This form

of criminality arose on a large scale only after the collapse of the Soviet Union. Human trafficking for sexual or labour exploitation as well as human smuggling on a large scale are forms of criminality which have increased significantly during the last seventeen years. Initially, trafficking took place almost exclusively for sexual exploitation, whereas today human trafficking for labour exploitation purposes eclipses the sexual trafficking in terms of numbers of people being trafficked. The human trafficking is part of a larger pattern of illegal migration affecting the region of former USSR and Eastern Europe which since the collapse of communism has become the third largest region for migration. Much of this migration is illegal. Russia for example is estimated to harbour ten million illegal migrants, compared to a domestic population of 140 million.

The patterns of cooperation among criminal groups from different parts of the former USSR seem to be the same in human trafficking as in other forms of criminality. Criminal groups within the post-Soviet space have since long nurtured and developed the contacts made during Soviet times. Contacts between criminals within the Soviet Union were also in effect promoted by the anti-crime policies of the Soviet Union. Criminals from all parts of the USSR where in many cases forced to settle in some of the larger Baltic cities after having served time in Gulag labour camps. As during the time of the Soviet Union contacts between groups within the post-Soviet space are naturally made easier by the common language which was promoted during Soviet times. Nowadays, there are numerous examples of cooperation and relations between organized crime groups based in the Baltic region and the entire former Soviet Union. Hence, criminalization of other post-Soviet states affects the Baltic states. The fall of communism, globalization and the reintegration of the Baltic countries into the European community have in effect promoted contacts between criminals on a global scale. Dr Shelley gave several examples of contacts between criminal networks in the US and Latvia. Transnational contacts such as these adds another dimension to the already difficult task of combating organized crime in the Baltic Sea region.

## **2.2. State Capture: the Case of Latvia**

While the Baltic region as a whole has not suffered from state criminalization as other post-Soviet countries have, Latvia has since the country gained independence for the second time in its history in 1992 been

plagued by political corruption or so called state capture.<sup>1</sup> A handful of prominent figures within the Latvian business elite have had an enormous influence on political life in Latvia. This is especially true of the four main so-called oligarchs that have dominated both business and politics in Latvia. One of them has dominated politics in the coastal town of Ventspils since re-independence but is currently in detention awaiting trial on charges of among other things money laundering. By many he is considered to be the only Latvian oligarch in the true sense of the word, as his business imperium, setting it apart from business imperia of other claimed-to-be-oligarchs also includes a number of domestic media outlets. Another is a three-time prime minister who started his career as a deputy minister in the Latvian ministry of agriculture and later made a fortune in the newly privatized food processing industry. The third have held several prominent positions within the Latvian state. The fourth and the most withdrawn from public politics are the part-owner and president of one of the most successful Latvian banks.

The oligarchs' involvement in politics ranges from open participation to passive support of political parties through funding. There has been, both in the past and present, rumours and allegations of involvement in politics through the use of illegal methods. Instances of unlawful attempts at influencing political decisions are however difficult to prove. The lack of hard data naturally poses an enormous challenge to any attempt at analyzing the phenomenon of state capture. Despite the lack of hard evidence at least three different measures could, according to Dr Rasma Karklins, be used as indicators of so called state capture. One is the corruption surveys conducted by domestic and international institutions such as the World Bank and Transparency International. The World Bank's Business Environment and Enterprise Performance Studies (BEEPS) surveys which specifically targets state capture have been conducted in a number of the post-Soviet states, including the Baltic states. Latvia has in all of the three rounds of surveys proved to be suffering from a comparatively high level of state capture despite its economic performance and democratic credentials.<sup>2</sup> The second

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<sup>1</sup> State capture is a term used by the World Bank referring to bribery aiming to influence the *formulation* and *contents* of laws and regulations separating it from administrative corruption which refers to unlawful attempts at influencing the *implementation* of laws and regulations.

<sup>2</sup> See Hellman et. al., *Anticorruption in Transition: A Contribution to the Policy Debate*, World Bank, 2000, Gray, Ch., J. Hellman and R. Ryterman, *Anticorruption in Transition 2: Corruption in Enterprise-State Interactions in Europe and Central Asia 1999 – 2002*, World Bank 2004 and

measure mentioned by Dr Karklins were so called scandals involving politicians and businessmen reported in Latvian media outlets. These reports often lack hard evidence which limits their value as indicators of state capture. Despite this, scandals reported in the media often indicate that something unlawful has happened, even though such reports may be less useful in terms of untangling issues of individual criminal culpability and so forth. One such example from Latvia is the so called “Latvenergo - missing three million”-scandal reported by international and domestic media. Reportedly three million had gone missing in a complex deal allegedly involving state-owned companies and offshore businesses.<sup>3</sup> While not being able to provide proof of anyone’s guilt, it became obvious that the money was unaccounted for. A third type of data available to researchers is publicly available information provided by law enforcement agencies. In the past there has been a lack of this type of data regarding Latvia. Despite numerous allegations of graft among Latvian politicians and state officials, for a long period no cases of political corruption reached the public. In recent years this is beginning to change as more and more cases reach courts and investigation material becomes publicly available.

Several instances where state capture can be proven was presented and discussed at the workshop. One case involves state capture on municipality level although Latvian media have reported of connections also to national politics. In this case the Corruption Prevention and Combating Bureau (KNAB) were approached by a deputy of the Jurmala City Council with information that there had been attempts to buy his vote at the Jurmala Mayoral election. KNAB initiated a sting operation in which the necessary information to start a prosecution was gathered. Four persons were later prosecuted; the former Jurmala mayor and another culprit were sentenced to five years in prison, whilst one received a suspended sentence. The fourth culprit is currently in hiding and his whereabouts are unknown.<sup>4</sup> The political consequences of this are the proven institutional capture of political power on the municipality level. From a criminal point of view the attempted bribery’s aim was to get access to political power and raise criminal profit.

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Anderson, J. H. and C. W. Grey, *Anticorruption in Transition 3: Who is Succeeding and Why?*, World Bank, 2006. All reports available on <http://www.worldbank.org>

<sup>3</sup> Dienas Bizness 2005-07-19, *Baltic Times* 1998-07-23, *Baltic Times* 1998-10-01

<sup>4</sup> *Baltic Times* 2007-03-28, Dienas Bizness 2007-03-23

The second case discussed was a case receiving much more media attention both domestically and internationally as it directly involves one of the above-mentioned Latvian oligarchs currently in detention on suspicion on charges of among other things large-scale bribery and money laundering. The prosecutors office have gathered material in the case for several years, material that will become publicly available and open for research if a trial would be opened against this particular person. He is the acting mayor in the coastal town of Ventspils since the 1980s and allegedly in control of a business empire revolving around the highly profitable transit trade with Russian oil. He has also been involved in national politics as a long-standing backer of the political party the Latvian Greens and the Farmer Union. In the parliamentary elections of 2006 he ran as their nominee for the post of Prime minister.<sup>5</sup> On March 14, 2007 he was detained on suspicions of among other things bribery. If convicted on the charges it would indicate that state capture exists at the very top echelons of the Latvian political elite. Apart from the far-reaching political consequences his alleged criminal actions amounts to large-scale criminality including large-scale and repeated bribery, corruption and unlawful privatisation of state property.

The third case presented revolves around a procurement deal in connection to the introduction of digital television in Latvia. The Digital Radio and Television Centre of Latvia, which is owned partly and indirectly by the state, and an offshore company, Kempmayer Media Limited stands at the forefront of the scandal. The political corruption side of the case involves one of the above-mentioned Latvian oligarchs who are claimed by many commentators to be one of the beneficiaries of the corrupted procurement deal. During the investigation the Latvian police have worked in close cooperation with the Serious Fraud Office of Great Britain in trying to establish the beneficiaries behind the Jersey-registered Kempmayer Media Limited. Several convictions have been reached and a dozen people, many of them closely associated with the above-mentioned oligarch, stands accused of involvement in the case.<sup>6</sup>

Scandals and court cases such as these suggest that there are connections between money, oligarchs and politics in Latvia. A small segment of the

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<sup>5</sup> *Baltic Times* 2007-02-28

<sup>6</sup> *Baltic Times* 2003-09-04, *Baltic Times* 2003-11-13, *Baltic Times* 2003-11-20, *Baltic Times* 2003-12-11, *Baltic Times* 2006-09-07, Transparency International (Delna) 2006-10-03: "Documents Suggest Liepnieks Was Director of Company Which Owned Kempmayer"

Latvian political and economical elite uses their ability to assert political influence with the aim of furthering their own individual business interests. What is more worrying in a long-term perspective is their ability to push through legislative changes with the aim of avoiding legal accountability and promoting their political influence. Several attempts of introducing legislative changes suggest this might be the case. After the 2002 elections changes were made to laws regulating the financing of political campaigns. The changes were made to regulate the relatively large sums of money being spent on election campaigning in Latvia. In the parliamentary elections of 2006 two government parties backed by two oligarchs broke these laws according to a ruling by the Latvian Supreme Court. The parties will therefore be requested to repay the sum unaccounted for as well as additional fines. In the wake of the 2006 elections both parties had tried to initiate amendments to the recently amended laws allowing for larger contributions from donors. Another more recent case of legislative changes which are suspected of being initiated primarily to protect the interests of the oligarchs is the proposed amendments to the national and state security law. The amendments which were initiated by the government, would give the parliament, and hence the government and their backers, more insight into the works of national security institutions. Members of the national security committee which would be headed by the Prime minister and include other members of the government would if the laws were to pass be given access to the investigations of security institutions, including the Latvian Corruption Prevention and Combating Bureau which is in charge of several high-profile investigations involving some of the oligarchs and backers of the government. The national security committee would also be given the right to initiate investigations into the work of security institutions.

Not only are the contents of the amendments a reason for concern but also the way in which it passed through parliament. During Christmas holidays the government used an emergency article in the constitution which gives them the right to pass legislation while the legislative assembly is in recess. The Latvian President, stridently opposing the amendments, firstly used her right to send the amendments back to the Parliament. However, in the second reading the legislation passed parliament with a surprisingly convincing majority. Eventually the President invoked her right to suspend the legislation and called for a national referendum which was held July 7, 2007. The Latvian government's concern over national security legislation



has been portrayed by commentators as a direct answer to the legal difficulties currently faced by members and backers of the government.<sup>7</sup> The President herself said in a comment that the amendments would “open the door to very serious political manipulation... and, ultimately, influence by the so-called oligarchs, who would be very dangerous.” She also stated that she was “ready to make [her] my fears known - namely, that there could be inappropriate interference in those of our investigations which could touch either certain political groups, or the people who support them financially and stand behind them.”<sup>8</sup> If true, the amendments are a clear case of attempted state capture which if it succeeds will have severe repercussions on the state of democracy and the rule of law in Latvia.

The above-mentioned examples from Latvia are some indications of state capture involving networks of highly politically influential businessmen. Their attempts at capturing the state have in most cases been aimed at avoiding legal accountability and securing control over political decisions which would promote their business interests. From these cases two main points can be drawn. Firstly, the high prevalence of state capture in Latvia indicated by the World Bank’s BEEPS surveys has in several cases proven to be substantiated. Some cases of state capture have reached courts and convictions have been rendered, investigations into other cases are ongoing and there are more cases of alleged state capture which might be objects of investigations in the near future. Secondly, political consequences aside, these cases have included several severe criminal offences including large-scale white-collar crimes such as: bribery, tax evasion and various criminal economic schemes.

### **2.3. Connections between State Capture and Organized Crime**

So far there has been no proven cases of violent crimes being used either as an instrument of capturing the state or with the aim of acquiring illegal money through criminal business. Journalists and reporters trying to shed some light into government corruption have however received threats and

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<sup>7</sup> Axis Information and Analysis 2007-03-26: “Latvian oligarchs and the State control over secret services”

<sup>8</sup> Axis Information and Analysis, 2007-03-26: “Latvian oligarchs and the State control over secret services”

have had their phones tapped.<sup>9</sup> Instances of more violent types of crime such as extortion and the threat and use of violence, which would indicate a possible collusion of state captors and violent organized crime groups, have been alleged but are even more difficult to prove than the already hard-proven cases of state capture. Hence, there are no proven direct links between political corruption and organised crime in Latvia. However there are indicators suggesting that indirect and to some extent direct links may exist. There is at least one indirect link between elements of state capture and organized crime. The case of the initiated amendments to the State and National Security Law illustrates this indirect link. Law enforcement agencies' measures against organized crime risks being undermined as the government, backed by persons connected to the investigations conducted by security institutions, gains access to investigation material. One of the workshop participants also pointed to the fact that persons alleged to be involved in capturing the Latvian state often have held positions as ministers of transport. Hence they have extensive powers over transportation sector which is considered to be a vital asset to organized crime groups involved in large-scale smuggling of illicit goods. Another case of state capture mentioned above involves the control over a businesses empire controlling much of the activity in the largest port of Latvia. Control over ports has in the past and in previous workshops been pointed out as a valuable asset to organized crime as it is a natural point of entry and exit of narcotics and other illicit goods passing to and through the country. Hence ports are exposed both to corruption and more violent attempts at asserting control by organized crime. Corruption has been used by organized crime as a method of facilitating crimes or to avoid accountability for violent or non-violent crimes. One workshop participant pointed to the fact that the Lithuanian anti-corruption agency often received valuable information regarding narcotics smuggling when investigating administrative corruption cases.

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<sup>9</sup> The most prominent example is perhaps the journalist Ilze Jaunalksne who received the US State Department Women of Courage Awards in March 2007.  
<http://usinfo.state.gov/xarchives/display.html?p=washfile-english&y=2007&m=March&x=20070309171300mlenuhreto.8625147>

### 3. Recent Trends in Organized Crime and Narcotics Smuggling

The following section is an account of recent trends in organized crime with a special focus on the smuggling of illicit substances as assessed by police- and customs officials in the region. The broad outline of narcotics smuggling in the region have been described in previous workshop reports.<sup>10</sup> The focus in this report will be on the most recent trends and possible changes in patterns of narcotics smuggling and distribution.

#### 3.1. Amphetamine Type Stimulants

The patterns of smuggling and production of amphetamine type stimulants (ATS) in the Baltic region has been stable for many years. Hence few significant new trends could be noted. As have been the case for several years illegal laboratories are established in Lithuania of which the products are mainly exported to Scandinavia. Precursor chemicals used in the production of ATS and other narcotics are produced in Russia. Owing in part to its geographical position and the existence of illegal drug labs Lithuania constitutes both an end-market as well as a transit country for precursors going from Russia destined for the Netherlands. As indicated by detentions made in connection to seizures of precursors along the transit route a number of Lithuanian citizens are heavily involved. Lithuanian law enforcement is working actively in cooperation with foreign partners to stem the flow of precursors. According to Estonian law enforcement officials a number of illegal drug labs exist also in Estonia. The ATS produced in Estonia are mostly exported to Finland and Russia. The Estonian police discovered and

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<sup>10</sup> For an account of the broader outlines of organized crime and narcotics smuggling in the region please consult reports from previous workshops within the project; Poljarevic, E., Swanström, N., and Peterson, E., *Organized Crime and Narcotics in the Baltic Sea Region: Issues of National and Regional Security*, Report from the CACI&SRSP Conference, Stockholm, Sweden, 1-2 June, 2005, Poljarevic, Emin, *Societal Security in the Baltic Sea Region: Regional Efforts to Combat Organized Crime and Narcotics Smuggling*, May 2006, and Poljarevic, Emin, *Countering Narcotics and Organized Crime in the Baltic Sea Region*, Report from the Silk Road Studies Program Workshop, Riga, Latvia, April 6-7, 2005. All reports available at <http://www.silkroadstudies.org>

shut down two labs in 2006. In Latvia no laboratory producing ATS have been discovered in recent years although law enforcement discovered a lab producing methadone in 2006.

### **3.2. Heroin**

The majority of the heroine entering the Baltic region is transported from Central Asia via Russia. Links between Baltic criminal groups on the one hand and Russian and Central Asian groups on the other have become apparent through the investigation of heroine smuggling cases. Lithuania seems to be especially exposed to the heroine trade. A clear tendency noted by Lithuanian narcotics police is an increased involvement of Central Asian groups in the heroine trade. An investigation of a Kazakh group suspected of supplying Lithuanian groups with heroine ended in May 2007 with the seizure of 5,5 kg of heroine. The investigation which was conducted by the narcotics unit of the Lithuanian police had been ongoing for some months. A seizure was made on the border between Lithuania and Belarus and four citizens of Kazakhstan, one of them with a residence permit in Lithuania, were detained.

Latvian police officials report of a larger consignment of heroine being bought at a discount price by a group of Russian nationals residing in Latvia. The group was actively seeking potential customers when Latvian police authorities in cooperation with the US Drug Enforcement Agency managed to intervene. Finnish police also reports of a connection between Russian and domestic groups in the smuggling of heroine. The market for heroine in Finland is however relatively limited which increasingly seems to be the case also in Estonia. Tallinn used to be a large consumer market but nowadays the only region in Estonia where the use of heroine is widely spread is the Narva-region in north-eastern part of the country. Instead there has been an increase in the spread of so called "China white". According to the Estonian narcotics police the drug enters Estonia from continental Europe via Russia.

### **3.3. Subutex**

The smuggling and use of Subutex has been discussed during previous workshops. The conclusions made during previous workshops regarding the trade seem largely to be true today with few exceptions. Finland is the largest consumer market in the northern Baltic region. One important new trend seems to be the increased involvement of foreign nationals, many of them

Russian citizens, in the smuggling and distribution of Subutex in Finland. The trade used to be firmly controlled by Finnish criminals. The modus operandi remains as reported before; larger consignment (of approx 2000 pills each) from the Subutex producing country France and smaller consignments prescribed by Latvian and Estonian doctors. In 2006 Finnish customs and police made seizures totalling an amount of 23, 000 pills.

### **3.4. Cocaine**

The market for cocaine was generally very limited in the Baltic States up until the early 2000, as was the involvement of Baltic citizens in the international cocaine trade. Arrests and seizures made in recent years indicate that the situation has changed. A few years ago Baltic citizens started to become involved in the smuggling of cocaine and more recently the Baltic consumer market for cocaine has been expanding. The smuggling of cocaine to the Baltic region from South America and the Caribbean takes two forms. Initially the smuggling was done through the use of “swollowers”, couriers who transport packages of cocaine in their stomach. Lately, Lithuanian customs have noticed an increase in the number of “swollowers” holding Lithuanian passports, entering Lithuania via the main airports in continental Europe as Amsterdam, Brussels, Frankfurt and Paris.

Another method increasingly being used is the large-scale smuggling of cocaine on vessels entering European harbours from South America. Latvian police has noted an increased flow of cocaine from vessels entering Latvian harbours. The cocaine is often brought ashore by members of the crew who are then met by members of local crime groups whom they hand over the consignment of drug to. Law enforcement in the region has made a number of seizures and arrests connected to the smuggling of cocaine on vessels. Some of the drugs are destined for the Russian market while some end up in the Baltic states. Russian police who has an extensive cooperation with their Estonian counterparts have noted a significant increase in the amount of cocaine being smuggled on boats entering Russian territory. Both a number of Latvians and Lithuanians are believed by the police to be involved in the smuggling of cocaine from South America. Some of them have established themselves in South America on a permanent basis and have acquired residence permits.

The increased involvement of Baltic citizens in cocaine smuggling has been paired with an expanded market for cocaine in both Estonia and Latvia.

Latvian police reports a drop in prices making the drug available and affordable for a new group of consumers. At the same time Latvian customs reports of clashes between competing crime groups trying to dominate the Latvian cocaine market. In recent years there has been at least one premeditated murder of a known cocaine trade organizer and an additional murder attempt against another organized crime figure believed by the police to be involved in the same trade. Similarly, Estonian narcotics police reports of a 20 to 30 percent drop in the retail price of cocaine. The Estonian cocaine market has also expanded to include a new type of users such as students. Despite the drop in prices in both Estonia and Latvia the profit margins in cocaine trade are believed by the police to be relatively high. The Lithuanian market for cocaine is however still relatively limited in part due to the popularity of amphetamine type stimulants.

## **4. State Response – Countering Organized Crime and Corruption**

During the workshop held in Tallinn May 9-10, the participants were given presentations on experiences of countering organized crime and corruption in the Baltic States. Legal aspects of the fight against corruption and the legalisation of criminal proceeds were given special attention. Risto Pullat, director of the Estonian Police Academy, gave a brief presentation on the new Estonian legal framework regarding confiscation of criminal proceeds and a brief overview on recent developments in the AML/CFT framework in Estonia. Dina Spule, representative of the KNAB, presented the work of KNAB and the results achieved so far. Dr Aurelijus Gutauskas of the Mykolas Romeris University gave a talk on the fight of organized crime in Lithuania from a legislative framework perspective. Their presentations and the comments made following their presentations are summarized in the section below.

### **4.1. Estonia and the Investments of Criminal Proceeds**

The fight against organized crime in Estonia took one vital step forward when the new law on confiscation of criminal proceeds came into force February 1, 2007. The new law provides for new methods of confiscation and it aims at preventing the investments of criminal proceeds by employing the “follow the money”-approach. The motivations for the implementation of the new law were manifold, including:

- Criminal activities should not be profitable
- Preventing criminal proceeds from being integrated into the legal economy
- The system for confiscation of criminal proceeds had up until the new law came into force not been particularly effective
- The usage of identity theft by criminals had made confiscation problematic

Therefore, the new law includes many features considered vital for an effective prevention of the legalisation of criminal proceeds. One of the prime features provided by the new law is the reversed burden of proof with regards to assets in possession by criminals. The person suspected of being in possession of illegally gained proceeds is under the burden, in a case of doubt, to prove the legality of his assets and income. The new law also includes a framework of material punishment. Thus far material punishment has not been used more than seven times. The average material punishment is up till this point 40 000 EEK which is a negligible sum compared to the assets many convicted persons are suspected of being in possession of. The new law makes confiscation of proceeds of crime possible also from a third person if this person has acquired the assets from an offender or a suspect as a gift or in any other manner for a price considerably below market price. The easiness by which criminals could circumvent confiscation by transferring proceeds to a third party, often a relative or a business partner, have obstructed the fight against criminals in the past.

The general principal permeating the new law is that possessions gained through crime should and will be confiscated; crime should not be profitable. The possession confiscated does not have to coincide with the possession gained through crime as long as it is deemed to be of a corresponding value. According to the new law, being in possession of criminal proceeds constitutes a crime which could give the offender a minimum of three years and up to life time imprisonment. The new law cannot be applied retroactively.

#### *AML in Estonia*

In the past six years there have been two cases of money laundering in Estonia. The responsible authority for money laundering in Estonia has notified the police of transactions amounting to EEK 4, 9 billion (approx. EUR 310 mln). Out of these, EEK 109.5 million (approx. EUR 7, 0 mln) have been confiscated. The European Union's third directive on Money Laundering will proscribe the member states to create or designate a body responsible for the detection of criminal profits. In Estonia the Money Laundering Data Bureau working under the Central Criminal Police has been assigned this task. The Bureau is currently understaffed but will be expected to have five officials. In addition, a committee will be set up by the Estonian government to oversee the AML/CFT work. The committee will



among others include representatives of the Estonian Central Bank, defence police, financial inspection, state prosecutor and the Ministry of Justice. The setting up of new AML/CFT bodies and the increased workload induced by an increase in available data, i.e. Suspicious Activity Report's, will strain the resources of already understaffed governmental bodies. Thus in the short-term perspective the fight against money laundering and the legalisation of criminal proceeds in Estonia will be somewhat hampered by the lack of employable professionals.

#### **4.2. The Corruption Prevention and Combating Bureau of Latvia**

Many international organisations such as the World Bank, European Union and NATO have in the past pointed to the lack of coordinated efforts to fight corruption in Latvia. Partly as a response to the call for decisive steps towards fighting corruption KNAB<sup>11</sup> was set up by the Latvian government in October 2002. The body became fully operational five months later, in February 2003, and is since then the leading anti-corruption authority in Latvia. Previously uncoordinated efforts to fight corruption, with functions spread across many different governmental bodies, were thus taken over by and are now coordinated by KNAB. In doing this, the successful experience of anti-corruption work in Hong Kong was used as a model and a source of inspiration. The aim is to fight corruption in a coordinated and comprehensive way through prevention, investigation and education. KNAB is an independent public administration institution under the supervision of the Cabinet of Ministers. The supervision is executed by the Prime minister and limited to the examination of the lawfulness of decisions. The parliament appoints the director of KNAB on recommendation by the Cabinet of Ministers. Since May 2004 the KNAB is headed by Dr Aleksejs Loskutovs.

##### *Prevention, Investigation and Education*

KNAB works to prevent corruption in several different ways. One of them is through the drafting and coordination of the implementation of the national anti-corruption programme and the national-anti corruption strategy. In August 2004 the Cabinet of Ministers adopted the current programme which includes measures to be taken in several priority areas. Another of KNAB's

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<sup>11</sup> Korupcijas novēršanas un apkarošanas biroja - Corruption Prevention and Combating Bureau

preventive tasks is to analyse current methods of fighting corruption. This is done through gathering of information on measures taken by public institutions and corruption-related offences. The aim is both to be able to develop concrete guidelines for anti-corruption plans and how to act in instances of conflict of interest as well as to evaluate national anticorruption measures. KNAB also takes part in the drafting of laws and analysis of existing laws. As an example KNAB has been involved in the preparation for amendments to the law on political party and election campaign financing law.

KNAB has a preventive control function with regards to public officials. This function is carried out to ensure that public officials are not guided by personal interest when performing their duty. Cases are often initiated after receiving complaints from individual citizens and public institutions. An important part of the control process is the asset declaration which public officials according to law has to submit to the State Revenue Service. Sanctions in case of liability includes, according to the Administrative Violations Code, fines, restriction to hold public office and confiscation of assets.

As a preventive measure KNAB also controls the financing of political parties through their annual financial declaration, pre- and post-election declarations and annual reports. In case of liability KNAB, through its law enforcing role, can impose fines and ask parties to return illegally acquired funds. All information submitted by political parties is gathered in a publicly available database administered by KNAB. An expert group has been gathered involving KNAB on how to create a legal framework for lobbying which is currently lacking in Latvia.

The prevention of administrative corruption consists of three parts. One is the prevention of conflict of interest described above. Another is the education functions of KNAB which consists of seminars for public officials on internal anti-corruption control mechanisms, prevention of conflict of interest and promotion of professional ethics. Another is the work of the report centre where all citizens can report instances of corruption through the free hotline which, according to KNAB representatives, is widely appreciated among citizens.

As a pre-trial investigatory body KNAB is in charge of gathering information and carrying out investigations to detect criminal offences

related to corruption in public service and related to financing of political parties. Corruption related offences are thus only within the competence of KNAB when conducted within the public sector. The only exception to this rule is when private persons are used as intermediaries in corruption cases within the public sector. Corruption related offences within the private sphere fall within the competence of the financial police.

Offences set out in the Criminal Law Articles 316 to 330 falls under KNAB's competence. These include; exceeding a public officials authority; using official position in bad faith; public official's failure to act, i.e. a public official fails to perform his or her assigned duties, intentionally or through negligence and thus causes harm to a state authority, its rights and interests; accepting and giving bribes, including misappropriation of a bribe and intermediation in a bribery; violating restrictions imposed on a public official repeatedly or if substantial harm is caused to the state interests; unlawful participation in property transactions by a public official; trading in influence, i.e. giving/accepting material value, property or other kind of benefits to/by a public official to personally influence the activities or decisions of a public official; intermediation in financing of political parties.

KNAB also has the right to initiate criminal procedure and start preliminary investigations. In order to investigate offences KNAB is authorised to perform criminal intelligence activities. After a preliminary investigation has been conducted and evidenced gathered the proceedings are forwarded to the prosecutor's office together with a formal request to start criminal prosecution.

### *Results*

To evaluate the work of KNAB is naturally difficult as there are no given criteria by which to evaluate it. The numbers of rulings and adjudicated cases have however increased from year to year. In the initial months after KNAB became fully operational a lot of effort had to be spent on setting up the different functions of the bureau and solving practical issues. Subsequently, few results in terms of cases handled on the one hand, and prosecutions and convictions on the other were visible. However, in 2004 the corresponding numbers increased manifold. The number of administrative violations where KNAB proved liability increased nearly fourfold between 2004 and 2005, from around 200 cases to around 750 cases in 2005 (see appendix figure 2). A majority of the violations (54 %) are due to the failure of public officials to

submit income declaration while only a fragment (1 %) concerns administrative corruption, i.e. acceptance of gifts and donations (see appendix figure 3). Similar to the increase in the number of administrative violations the number of initiated criminal proceedings, prosecutions initiated, and adjudicated cases have increased over time. As with the number of administrative violations the greatest year-on-year increase took place between 2004 and 2005 (see appendix figure 4).

Another area in which the presence of KNAB seems to have had an effect is political party funding. The total amount of funding registered by political parties during the 2002 parliamentary election campaign was close to LVL 600 000 (approx. EUR 850 000) while the elections of 2006 saw a near threefold decrease in election campaign funding (see appendix figure 1). Between 2003 and 2006, 62 decisions were adopted by KNAB regarding illegal donations to political parties and as a result parties were asked to return a total of 374 000 LVL (approx. EUR 530 000) to the state budget. The control of election campaigning financing during the parliamentary elections in 2006 have not yet been fully completed.

#### *Preconditions for Successful Investigation*

Perhaps more encouraging than the number of cases handled is the public's seemingly high level of appreciation and trust in KNAB's work. This especially since public trust, according to Dina Spule of KNAB, is one of the most important factors in successful anti-corruption work. One indicator of increased public trust is the increase of cases where private persons approach KNAB, reporting on instances of perceived corruption or seeking advice on how to deal with cases of conflict of interest. Apart from trust from society there are several other preconditions for successful investigative work. One is the independence and confidentiality of KNAB. In this respect the laws regulating the work of KNAB is the main foundation ensuring adequate legal powers and the avoidance of undue influence. In avoiding undue influence the financial and technical resources made available to KNAB also comes into play since the budget is set by a parliamentary decision. However, the Latvian government has through decisions adopted by the parliament increased the budget of KNAB ever year since it was established which is encouraging. However KNAB had to start from scratch in terms of technical resources (computers and other type of equipment needed to conduct investigatory work etc.) and have been under-staffed ever since it was set up.

Technical means have however been acquired since then, as well as a qualified staff which is another precondition for successful investigatory anti-corruption work. However, in some departments of KNAB several vacancies exist to this date.

#### **4.3. The Fight against Organized Crime in Lithuania from a Criminal Law Perspective**

The analysis of organized criminal activities of recent years suggests that organized crime groups are much more professional now than before. Nowadays unlawful activities are based on good mutual relations both on domestic and international levels and rely on highly organized financial, technical, and informational supplies. Organized crime groups in Lithuania and Baltic Sea Region are involved in transnational crimes such as:

- production and distribution of counterfeit money
- thefts
- smuggling and illegal production of cigarettes and narcotics
- legal and illegal migration and trafficking in human beings
- narcobusiness
- prostitution
- economic and financial crimes

Globalization has had an impact on the overall criminological situation in all countries of the Baltic Sea region. In the case of Lithuania the effect has been an increase in international crimes as Lithuanian organized crime groups have strong relations with criminals from United Kingdom, Germany and Spain. Organized crime groups are planning and perpetrating criminal activities together, especially in the areas of narcotics, trade in human beings, smuggling and forgery. International contacts and cooperation with foreign criminal groups makes the perpetration of these crimes easier for Lithuanian groups. The great profits to be made from dealing with narcotics could in part explain why organized groups are engaged in drug smuggling both inside and outside of prison. The profits could also to some extent explain the fierce competition between different groups in trying to take control and dominate the trade of narcotics.

According to Lithuanian operational intelligence there are thirteen differently organized criminal associations, about 30 organized criminal

groups, and several dozens of small organized criminal gangs in Lithuania. Together they have over 1, 500 members and almost the same numbers of persons are affiliated with the groups. According to available data no single organisation is currently able to co-ordinate the activities of all organised criminal groups or operate throughout the whole territory of Lithuania. Nor are there any groups whose activities are based on a purely ethnical principle.

#### *Legal Framework*

In the past few years, Lithuania has made a marked improvement in reforming its justice system to better be able to combat organized crime groups. A legal framework facilitating the fight against organised crime has been drafted and is efficiently applied at present. As a first step, a new Criminal Code and a new Code of Criminal Procedure entered into force on 1<sup>st</sup> of May, 2003. The legal framework complies with the strategic goals set in the National Programme for Crime Prevention and Control of Combating Organised Crime and is, according to Dr Aurelijus Gutauskas, within the scope of human rights guarantees and international legal standards. Its aim is to create a network of preventive measures undermining the economic strength of organised criminal groups.

Organized crime has destructive impact on many spheres of state activities, life and values. It discredits the public, political, and legal system, reduces confidence in the authorities, hinders business development and if uncontrolled may result in the threat of general criminalisation. Therefore, prevention and control of organised crime is considered one of the most important priority directions. Organized crime is manifested in various forms of criminal activity and thus certain principles of prevention and control apply to the corresponding types of crime for organized crime prevention and control. The following tasks have therefore been set in the Lithuanian National Programme for Crime Prevention and Control:

- 1) to destroy the economic capacity of organised crime groups, criminal business and internal organisational infrastructure and relations, as well as other fundamentals of organised criminal activity paying special attention to leading and organising links of groups
- 2) to create efficient control mechanisms blocking the legalisation of funds acquired through criminal activity

- 3) to enhance the activity of law-enforcement, finance and control and other concerned institutions directed against organised criminal groups, to ensure their cooperation and to implement the principle of inevitable liability
- 4) to devote special attention to and take necessary legal, administrative, organisational, financial and other measures seeking to block the expansion of the scale of organised crime and to minimise it
- 5) when conducting organised crime control, to assess the measures applied and their impact on human rights since the threat posed by organized criminal activities may not serve as a ground for applying special measures that would violate human rights
- 6) to create an atmosphere of intolerance of criminal business and profit, illegal goods and services in society, to seek to enhance public support and cooperation with law-enforcement institutions
- 7) taking into consideration the international character of organised crime, to devote special attention to international cooperation of law-enforcement and other concerned institutions

#### *Implementing the Legal Framework - Organized Crime Investigation Board*

The Lithuanian Criminal Police Organized Crime Investigation Service is a structural unit, whose task it is to investigate the activity of criminal organized groups and associations in Lithuania. The work of the Criminal Police Organized Crime Investigation Service is regulated in the Law on Operational Activities. This law regulates the legal principles of operational activities, the principles and aims of operational activities, the rights and duties of the entities of operational activities, the conducting of operational activities and investigations, participation of persons in operational activities, the use and disclosure of operational information and the supervision, oversight and funding of above-mentioned activities.

A successful control and prevention of organized crime is largely depending on the methods of investigation. Information obtained through operational activities in the course of police operations should be registered in accordance with the procedure established in the legal acts. Operational information on individuals, events, and information from other persons or entities designated to provide information to operational entities should be gathered and managed in a data bank.

Operational investigation means an organisational tactical form of operational activity, comprised of operational activities, including those requiring the authorisation of the court or prosecutor. In implementing an operational investigation, the entities of operational activity may process operational investigation cases. As described by Dr Gutauskas operational investigation comprises two elements: *covert operation* and *stakeout*. *Covert operation* means the totality of operational activities striving to apprehend the persons who are committing a crime or have committed a crime and (or) to collect evidence, when having information about an attempt to commit a crime or a crime being committed, conditions are arranged so that the attempt to carry out the crime or the crime being committed would take place in the pre-set scene. *Stakeout* means the totality of operational activities striving to stop the persons who are committing or have committed a crime and collect evidence, when one has information with respect to such persons and the time and place where the crime took place.

Often organized crime investigation service is familiar with the persons who have connections with organized crime structures. Therefore, when crimes committed are attributed to organized crime the police searches for the suspected persons among a list of known persons. Intelligence information often points towards one person the only thing preventing an arrest is the lack of available evidence which would hold up in court. In Lithuania, as in many countries, this is the major problem of crime-control with regards to organized crime.

In implementing operational activities (overt and covert intelligence activities) the Organized Crime Investigation Service use all available methods of obtaining operational information through operational methods such as: intelligence interview, surveillance, covert monitoring, verification, use of agents, and electronic surveillance. The basis of performing operational activities is second source information concerning the targets of operation. Using these operational methods law enforcement can get primary source information about the activities of organized crime groups. Organized Crime Investigation Services use automatic analytical information systems, like "Analyst's notebook" which is also used in the UK, and "CRONOS" which is used in the Russian Federation.

Operational analytical information system means the system of managing the data obtained during the process of operational activities about individuals, events, and other targets designated to provide information to



operational entities. Management of operational analytical system is any operation conducted with this data: collection, recording, amassing, classifying, grouping, connecting, changing (amending or correcting), and supplying, publishing, using, keeping, logging and (or) arithmetical operations, search, dissemination, destruction or any other operation or collection of activities.

By analyzing the gathered information law enforcement finds out how many and what kind of activities are carried out by organized criminal groups within Lithuania. In case the police have enough information, they will start an operational investigation. If for example the police have information about plans to sell a large amount of drugs, they will attempt to start a secret operation. In such cases security personnel from foreign countries can be requested to initiate a purchase of the narcotics. During the process of operational investigation information about individuals, events, and other targets are gathered. Analysis of the property of the suspected person is performed and his relations with the criminal world as well as other organizations are established. By using the before and after-crime investigation methods, other network elements are understood.

In practice, the Organized Crime Investigation Service use covert operation methods. A covert operation means the totality of operational activities with the aim to apprehend the persons who are committing a crime or have committed a crime and/or to collect evidence of an attempt to commit a crime or a crime being committed. Conditions are arranged so that the attempt to carry out the crime or the crime being committed would take place on a pre-set scene, at a pre set time. This method is useful when the criminal activities of an organized group are latent. Most often it is impossible to obtain sufficient information from members of the criminal group. Therefore, the police must initiate active ways to solve the crime and establish the identity of the individuals who are planning, engaged in or possibly already have committed the crime. In other words, this means that the police have to employ strategic and tactical intelligence against organized criminal groups.

#### *The Law on Preventive Detention*

One very important step forward, albeit controversial, in the fight against organized crime in Lithuania was the Law on Preventive Detention. The law made possible preventive detention of a person for the term of two month on

the basis of suspicion of association with a criminal group. This law clearly was not in accordance with the constitution or international human rights standards. Nevertheless, it has according to the Lithuanian police been very effective and of great help when trying to neutralize the activity of organized crime groups in Lithuania. The risk of being detained on a mere suspicion of being member of a criminal group prevented, according to Dr Gutauskas, many would be criminals from getting involved in organized crime.

The police used this law actively and several members of organized groups were detained. The law was used in a simple and straightforward way. Police detained persons on suspicion and only after having detained the person started searching for evidence that would support such a suspension. If they failed to find evidence the detained person was released after two month. Despite being used in contradiction to the legislator's original intention the law and the way in which it was utilized by law enforcement gave result. Many groups were stopped or had to change their modus operandi and sometimes cease there operation. Organized crime groups in Lithuania thus became more cautious and less aggressive. The preventive detention law was eventually abolished after having been in force for four years. It was replaced with the Organized Crime Control Law, which foresaw another form of influence of organized crime.

#### *Preventive Measures*

The Organized Crime Control Law prescribes the application of preventive measures in respect of a person who: by his actions may restrict the rights and freedoms of other persons; creates conditions for the emergence and development of social and economic preconditions of organised crime; and poses a threat to public security. The law proscribes a number of preventive measures, namely official warnings and so called court injunctions. Preventive measures provided for by this law may be applied with respect to a person regarding whom information has been received in the manner laid down by the laws of the Republic of Lithuania and when there is sufficient ground to believe that the person:

- a) May be connected with the activities of a criminal syndicate or may be a member of a criminal syndicate
- b) Renders financial or material assistance to the criminal syndicate and provides it with information useful for the development of its criminal activities

- c) May carry out an act of organised robbery, extortion, terrorising of a person, economic or financial crimes or other unlawful acts and thereby bring about grave consequences or cause extensive damage to the interests of the state, the public or individuals

An official warning is a written demand by an authorised officer requesting that a person should: abide by the Constitution and the laws of the Republic of Lithuania; abstain from restricting the rights and freedoms of other persons; or abstain from infringing the law. In addition, a written warning contains information concerning the possible legal consequences of continued violations of the law.

A so called court injunction is a measure which bears some resemblance to the former preventive detention law. An authorised police official, in the process of implementing a decision taken by the chief of a police institution or an official acting for him regarding the expediency of issuing a court injunction, shall have the right to summon the person to be subjected to a court injunction to the police station in order to question him regarding the circumstances, which are the very basis for approaching the court for issuance of a court injunction. Under this law a court can oblige the person under suspicion of participation in organized crime activities not to: maintain any contact with the persons specifically named, directly or through other persons by technical or other means; live at the permanent place of residence indicated by the person and to remain at the place of residence at the appointed time; not to frequent the places indicated. The court injunction may be issued to cover a term from one to six months and may be extended for up to three months. A person who violates the injunctions established by the court shall be held liable in accordance with the procedure established by law. In 2006 this law was applied 132 times and in 2005, 206 times.

The Organized Crime Control Law has proven to be very effective, according to Dr Gutauskas. The organized crime investigation service has used these measures successfully and has on a number of occasions been able to avoid armed clashes between organized criminal groups. The applied measures also send clear signals to other members of the groups who understand they are being observed and as a consequence have to refrain from taking action.

As a result of the increase of organized crime, which may be found in many areas of economic life, the legislator has incorporated a new article on

criminal associations. This article turns the mere existence of a criminal unit into a crime. Hence, being a member of a criminal group is a crime in and by itself. A criminal association is defined in the new criminal code as when three or more persons unite with a purpose of criminal activities to commit one or several serious or very serious crimes, when there is a constant relationship between the accomplices as well as distribution of tasks and roles among them. Formally, a group of people constitutes a criminal association if they feature: three or more persons; an agreement to commit serious or very serious crimes; consistent relations between accomplices; and distribution of roles and tasks among them.

The legislator's definition of a criminal association aims to reflect the phenomenon of organized crime and is therefore expected to be informative. However, the formal features of the criminal association alone are, according to Dr Gutauskas, not sufficient as to identify organized crime groups. A too broad definition runs the risk of being used against criminals who in fact are not members of organized crime groups. By some, especially political actors who might be inclined to judge the merits of the law by the number of convictions reached, this is seen as less of a problem. However, it is generally recognized both in theory and practice of criminal justice that incrimination of criminal association must be in conformity not only with the formal signs of the legal definition, but also with the aims of the law. These aims, as is widely accepted, are to fight the phenomenon of organized crime, which presuppose activities of groups of the highest organizational level. This can be proved by establishing such circumstances as hierarchy, structure, leadership, planning of the activities, profitability of the activities, joint financial fund of groups, ways of disciplining the members, the use of telecommunication equipment, and resort to physical and mental violence in their activities including possession of arms. However, in practice criminal units are not often designated as criminal associations, which show that courts are not inclined to abuse the article on criminal association. Generally, courts rule out the charges on criminal association due to difficulties in proving the existence of a criminal association as defined by law.

Witnesses and victims in organized crime cases are often afraid to give testimony and therefore the completion of the cases largely depends upon active work of the police in gathering other evidence. Most often the grounds for commencing the investigation is the information, received during the application of secret strategic measures. In the meanwhile, extensive work is

carried out within witness and victim protection programs. This sphere of activities has direct influence on the efficiency of the fight against organised crime, since successful investigations to a rather great extent relies on the testimony of witnesses, especially those who once were members of criminal groups.

Collaborators with justice refers to any person who faces criminal charges or has been convicted of having taken part in an association of criminals or other criminal organization of any kind, or in organized crime offences, but agrees to cooperate with criminal justice authorities, particularly by giving information or testimony about the criminal association or organization or any offence connected with organized crime or other serious crimes. A person who has helped to suppress the activity of a criminal group is released from the criminal liability of being a member of an organized criminal group. Hence, it is possible to offer a deal to a member of an organized crime group. The deal is to give evidence against the group in exchange for freedom. This type of release has been used only in few cases, although it is increasing. Lithuania is small country which limits the ability to offer an effective program of witness protection, which in turn makes it a less viable option to members of organized criminal groups.

There are a number of necessary conditions set out in Article 39-1 of the Lithuanian Criminal Code which has to be fulfilled before a person could be released from responsibility. First, the person being a member of organized group must have taken part in the crime committed by the group. Second, he or she must also confess to having participated in that criminal activity. Third, he or she must provide law enforcement bodies with valuable information, which can be used to suppress the activity of that particular organized group or bring the members thereof to trial. A member of an organized group, who has participated in premeditated murder, or who has already been relieved from responsibility due to cooperation with law enforcement, as well as the main organizer of the group can not be released from responsibility. The main benefit that collaborators with justice can obtain is to be released from criminal liability. The courts shall render a judgement of dismissal where there are grounds for relieving the accused person from criminal liability. Sometimes if the court has not rendered a judgement of dismissal, it can treat the fact of collaboration as a mitigating circumstance.

The Programme for the Protection of Witnesses and Victims from Criminal Influence, which provides for legal, organisational, financial and scientific measures, was charted in 1993. To implement the Program the Criminal Procedure Code had to be amended. Amendments and supplements related to the secrecy of witness and victim identity were introduced. The Law on the Protection of Parties to the Criminal Procedure and Operational Activities and Officials of Law Enforcement Institutions from Criminal Influence, provides for the protection of life, health, property, and constitutional rights and freedoms of the participants of operational activities, witnesses, victims and other persons related to criminal cases, at the same time as it ensures thorough and impartial investigation of the circumstances of a case. In 2000, a trilateral agreement with the Republic of Latvia and the Republic of Estonia on co-operation in protection of victims and witnesses was signed. The agreement entered into force in 2001.

#### *Money Laundering, Corruption and Drug Control*

In an attempt to detect and undermine illegitimately acquired economic resources of organised criminal groups the Law on Property Acquisition and Proof of Income Legality by Persons and the Law on Operational Activities which provide for temporary restrictions of ownership rights and the obligation to declare property and income have been extensively applied. Money laundering prevention measures have been laid down in the Law on the Prevention of Money Laundering. The Lithuanian Government has also adopted a Program for the Prevention of Organised Crime and Corruption. The program aims at uniting the efforts of law enforcement and other institutions to enforce the provisions of laws, ratified international conventions and intergovernmental agreements related to the prevention of organised crime and corruption.

In Lithuania, as elsewhere, organized crime is usually related to corruption. One of the major steps of Lithuania in the sphere of combating corruption is the consolidation of independence of the Special Investigation Service – a law enforcement institution charged with the responsibility of combating corruption. Lithuania also has a Law on the National Strategy for Combating Corruption and the Law on the Prevention of Corruption.

The legal basis in the sphere of narcotic drugs control in Lithuania is sufficiently well established. The Law on the Control of Narcotic and Psychotropic Substances was passed in 1998 and a year later the Law on the

Control of the Precursors of Narcotic and Psychotropic Substances was adopted. Lithuania has acceded to the relevant international conventions. According to Dr Gutauskas penal laws and other legal acts of the Republic of Lithuania regulating narcotic drugs control are in conformity with the provisions of the legal acts of other EU member states.

#### *Examples of Successful Controlling and Identifying Organized Crime Groups*

Working within the Lithuanian legal framework of combating organized crime the Organized Crime Investigation Board of Lithuania has managed to identify and take actions against a number of Lithuanian organized crime groups. In November 2004 officers of the Organized Crime Investigation Chief Board of the Lithuanian Criminal Police Bureau exposed an underground false Euro printing house in Kaunas. Almost 9 million worth of false Euro bills, lots of materials and equipment for their production as well as quite a large amount of authentic Euros were found at the production site. The false Euros had been produced and distributed by a well-organized group of 17 persons; each of the members had his own task to accomplish. Printing of the money took place at different locations, at one location the banknotes were printed, while water marks, serial numbers and the like were impressed at a different location. The falsified money was later distributed in Lithuania and Europe. The criminals had a strict distribution of roles: some were organizers, others were implementing the orders. None of them allegedly knew where the money was taken to as the information was distributed within the group on a need-to-know basis.

Another prominent example was the group “Smaugliai” which was an independent, well-organized criminal group composed of five persons. It was characterized by strict hierarchy and distribution of roles and territories. Its members were predominantly young people, seeking to establish themselves in the criminal world. This group was lead by citizen A., who was known to be violent and who had a huge psychological influence upon the members of the group. Physical punishment was used as a preventive measure by the group to ensure that the drug dealers were disciplined and paid on time. Besides drug dealing the “Smaugliai” group committed several types of crimes including attempts to murder, document falsification, illegal disposal of firearms, ammunition and explosives, and extortion of property.

All through the 1990s a Lithuanian citizen, V. J., run an organized criminal group based in Vilnius which was composed of around 25 members. The

group attacked companies, organizations, and individual persons. The group, which was best described as a criminal alliance, arranged to maintain long-term relationships. They were in constant search for arms suitable for assaults with the purpose of robbing shops, currency exchange bureaus, or wealthy persons. From 1991 to 1997 in various compositions they prepared, organized, and carried out assaults including thefts, pre-mediated murders, attempts to murder under aggravating circumstances, intended property destructions or injuries in a manner causing danger to society, half grievous body injuries, thefts of important personal documents, purchase, distribution and production of firearms and explosives as well as theft of firearms during a robbery. In 2000, the members of an organized group bearing similar traits were sentenced for crimes committed between 1996 and 1998 in Vilnius. The group was led by a well-known criminal and was engaged in kidnapping, burglary, and theft of high value cars. This organized group was notorious for its excessive use of violence towards victims

#### *Challenges and Remaining Problems in Fighting Organized Crime in Lithuania*

Despite several successful investigations such as the above-mentioned, several challenges in fighting organized crime in Lithuania remain. The main task of Lithuanian law enforcements with regards to the prevention and control of organized crime is to:

- Destroy the economic potential of organized crime groups
- Destroy internal executive infrastructure and the relations
- Destroy other preconditions of organized crime, paying special attention to the leading and organizing chains of the groups
- To create an efficient control mechanism, impeding the legalization of funds acquired in criminal ways
- To promote the fight against organized crime groups of law enforcement, finance and control institutions as well as other institutions concerned and ensure their cooperation

In trying to accomplish these tasks several deficiencies in the Lithuanian framework of combating organized crime have become evident. They were summarized by Dr Gutauskas as follows:

1. The police's main objective is to eliminate the leadership of the criminal network. However, the local police are at present not



capable of solving this task, mainly due to the poor cooperation between different law enforcement bodies. Such cooperation is necessary to be able to inflict serious damage and eliminate criminal networks.

2. Lithuania is highly affected by Russian-speaking transnational organized crime groups. Since this form of organized crime has proven to be extremely adaptable and agile in its activities its connections with Lithuanian groups constitute a challenge to Lithuanian law enforcement.
3. Legislation reforms have allowed the authorities to work more efficiently with innovative techniques that limit the organized crime network's activities. The legislative framework must however continuously be adapted to new conditions in the country. Although the process may be interrupted by mistrust between different institutions, these problems must be overcome in order to efficiently counter organized crime, which is far more flexible.
4. The need to develop intelligence capabilities in Lithuania is great. The processing of the acquired information should be highly prioritized. The operative personnel receive the information, which has to be sorted and analyzed before it reaches the cooperating body, which makes tactical decisions as quickly as it can. The operative part of the struggle against organized crime is too weak. Today, a large part of the law enforcement personnel is administrative staff, making human resources on the field decidedly inadequate. As mentioned above, the coordination of law enforcement operations is not sufficiently flexible. The operative staffs therefore often avoid formal procedures and uses personal contacts between officers to rapidly react to detected criminal activity. Direct cooperation on a professional and not on personal basis is thus needed. Permanent coordinating bodies in each city should be formed, so that the exchange of information will be frequent, swift, and efficient.
5. Targeting the most sensitive component of the organized crime should be a main priority for the law enforcement agencies. By targeting the money, the authorities would increase the criminal's

transaction costs, thus reducing the profitability of criminal activity while simultaneously increasing the chances of internal breakdown of the criminal organizations.

6. Since the issue of organized crime is complex, there is a need for complex solutions. Awareness on the part of political actors and the general public is necessary for the social mobilization which is necessary to combat this problem. All levels of society should be mobilized, from parents and school teachers to social workers, politicians, police and customs. This includes the drafting and implementation of far-reaching action plans against organized criminals and their activities.

Despite the possibility to point to some of the existing deficiencies in the fight against organized crime it is very difficult to foresee trends in the developments of organized crime in Lithuania. Up to 1993 the threat of organized crime was very real in Lithuania. Some commentators even raised the question of who will ultimately control the situation in the country: criminal justice or organized crime. However, due to new laws directed to fight organized crime and due to the strengthening of the criminal justice system, a few successful trials and convictions in court took place, which contributed to weakening the position and influence of organized crime in Lithuania. However, organized crime groups remain strong enough, for example concerning smuggling, racketeering, burglary and car thefts, and corruption. The future depends on the development of the political and economical situation in Lithuania on the one hand, and reforms of the legal and criminal justice system on the other.

## 5. Conclusions

For many post-Soviet states organized crime has become a key determinant of political behaviour, economic development and social life. The existence of alternative elites at the time of transition, independent media, previous experience of democracy and statehood, the absence of violent conflicts and EU conditionality have all been factors that partially explain why the Baltic States are less affected by organized crime than are other Soviet successor states. However the criminalization of some of the former Soviet states does affect the Baltic States as organized crime groups have long-standing contacts, in part facilitated by the Soviet experience and Russian as the common working language. At the same time new arenas and opportunities for Baltic organized crime groups have emerged through the process of globalization and reintegration into the western community. Crime groups in the Baltic States have thus come to act as facilitators in the smuggling of narcotics and precursors on the east-west route.

To effectively combat organized crime groups legislative frameworks for the specific tasks of fighting organized crime have been adopted by all the Baltic States. Recently there has been an increased focus on the “follow the money” approach. In all the Baltic countries legislative amendments aimed at facilitating law enforcement capability at targeting illegally gained economic assets are underway. In Lithuania, where the risk of state criminalization was seen as an imminent threat in the beginning of the 1990s, laws providing for harsh law enforcement measures were adopted early on. The law on preventive detention proved to be effective but hardly in accordance with international and European legal standards and it was thus eventually amended. Instead, several laws have been adopted specifically aimed at strengthening the preventive aspects of the fight against organized crime. These include a law on so called court injunctions as well as a law on property acquisition and on proof of legality of income.

In Latvia a similar process of amending laws to further target the legalisation of criminal proceeds are underway. KNAB has proved to be one of the most important state bodies when it comes to fighting corruption in Latvia. In

Estonia the law on confiscation of criminal proceeds has recently been amended. The principal and encouraging aim of the law is to make crime unprofitable. Estonia has also begun preparations for the European Union third money laundering directive which includes the creation of a body responsible for the detection of criminal profits and a committee overseeing the AML/CFT<sup>12</sup> work.

Thus, the Baltic States have made significant progress in their struggle against organized crime, but some highly troubling trends remain. First, the Baltic countries are facing challenges both due to difficulties in recruiting highly educated professionals to the law enforcement agencies and what according to many analysts seem to be specific instances of high-level political corruption. Baltic organized crime groups have also been able to establish themselves, moving from smuggling of regionally produced narcotics towards smuggling cocaine from South America to the Baltic countries and Russia, in increasingly large quantities.

The lack of professionals is not likely to decrease in significance in the near to mid-term as unemployment is low and a substantial part of the workforce have left seeking better employment opportunities in Western Europe. Hence, law enforcement in the region needs to be able to cope with the challenges raised by difficulties in recruiting competent staff.

As stated above, even though none of the Baltic States have become criminalized to the same extent as some other post-Soviet states corruption is a factor intrinsically connected to organized crime. Among the Baltic States, Latvia has often been singled out as being more affected by high-level corruption than the other countries. Murky privatization deals early on during the political and economic transition led to the emergence of four oligarchs that have assumed a prominent role in Latvian politics and business over the past decade and a half. While there are proven examples of attempted state capture in Latvia there are no hard evidence of direct links between organized crime groups pursuing more violent forms of crimes and committers of state capture. Corruption at the top echelons of society may however impede efforts to combat organized crime especially money laundering and the legalization of criminal proceeds. As such, political corruption may make societies more vulnerable to organized crime, both through direct collusion but also indirectly and perhaps inadvertently. There

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<sup>12</sup> Anti Money Laundering/Combating the Financing of Terrorism

is however indications that Latvia's anti-corruption policy has begun to yield notable successes. The increasing number of investigations pursued and convictions obtained by the anti-corruption KNAB are examples of this. It is however troubling that the fight against corruption seems to be led by a few institutions and individuals – such as the former president Vaira Vike-Freiberga, the head of the anti-corruption bureau, the chief prosecutor, some investigative journalists and two NGOs – whereas leading members of the current government seems to counteracting certain aspects of this work. This dynamic can in the long run be potentially detrimental to the fight against organized crime.

There are clear signs of regional overlap between organized crime groups in the Baltic Sea Region. Baltic crime groups have been heavily involved in narcotics trafficking from local production facilities to Sweden and the other Nordic countries. Reversely, Swedish law enforcement officials has noted an incipient trend among Swedish organized crime groups of establishing business enterprises in the Baltic region, suspected to be used for money laundering. Moreover, Baltic crime groups have gone from primarily being regional drug smugglers to an increased involvement in the global drug smuggling scene, as in the case of cocaine smuggling from South America. This corresponds to an expansion of local drug consumption, as detailed by representatives of regional law enforcement agencies. Barring an unforeseen drop in either prices or transaction costs, profits from narcotics trafficking therefore seems more likely to increase than decrease in the short- to mid-term.

Taken together, these trends indicate a clear interest for law enforcement agencies in the region to cooperate in areas of mutual interest and priority. One such area is arguably countering money laundering, financial crimes and seizing the proceeds of crimes. Such cooperation could take many forms, ranging from intelligence-sharing in specific cases, technical assistance and augmenting the capabilities of law enforcement agencies in times of transition, such as that which Estonia will face in the AML/CFT area as it implements the EU's Third Money Laundering Directive. Some efforts may also be exerted at the political level to support investigations into high-level political corruption and criticizing attempts by influential politicians to complicate such efforts. Future policies directed at narcotics and organized crime in the region should therefore include;

- Increased focus on anticorruption measures – administrative and political corruption breeds organized crime and prevents adequate state responses.
- Support and strengthening of all regional forces, both state bodies and NGOs, promoting transparency in the fight against corruption.
- Regional cooperation should include “follow the money” - approaches and asset seizure should be made easier
- A strategy should be laid out on how to tackle the present and future shortage of professionals as a part of regional cooperation plan.

## Appendix

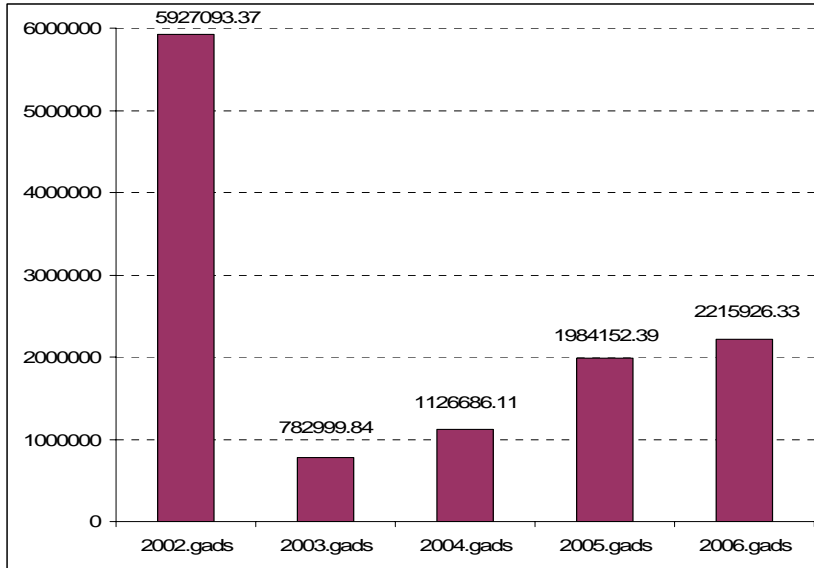


Figure 1 Donations to political parties in Latvia (LVL)

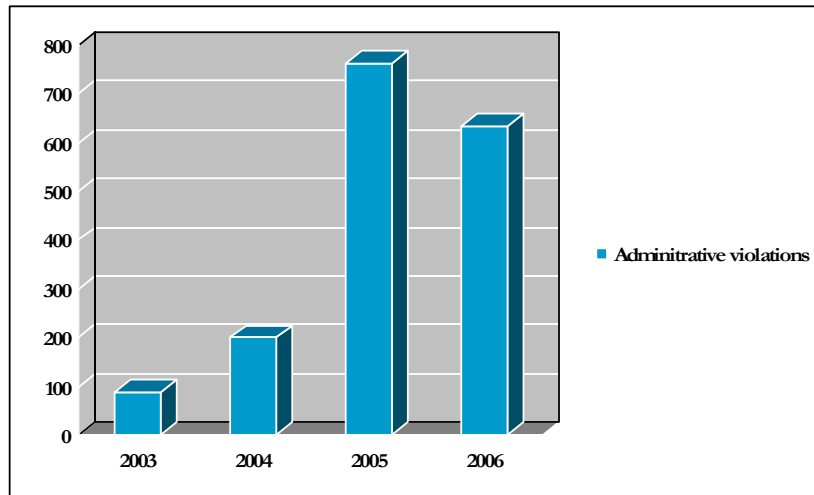


Figure 2 Administrative violations

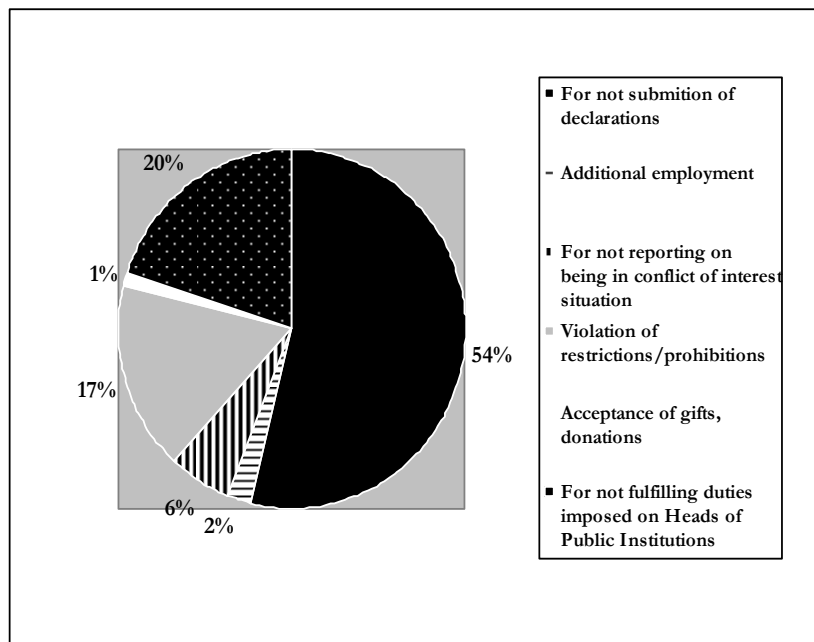


Figure 3 Criminal proceedings initiated by KNAB

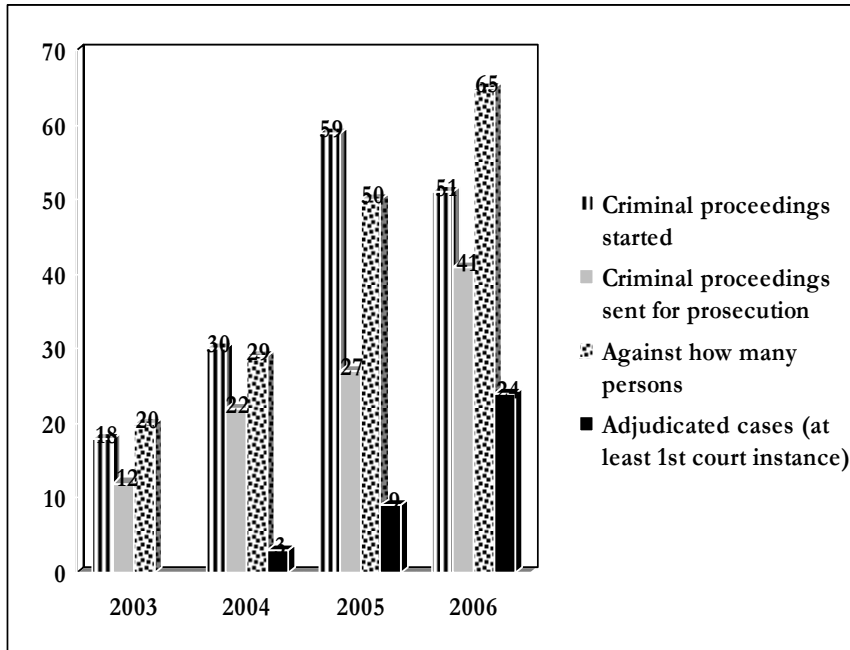


Figure 1  
Adjudicated cases  
in criminal  
proceedings

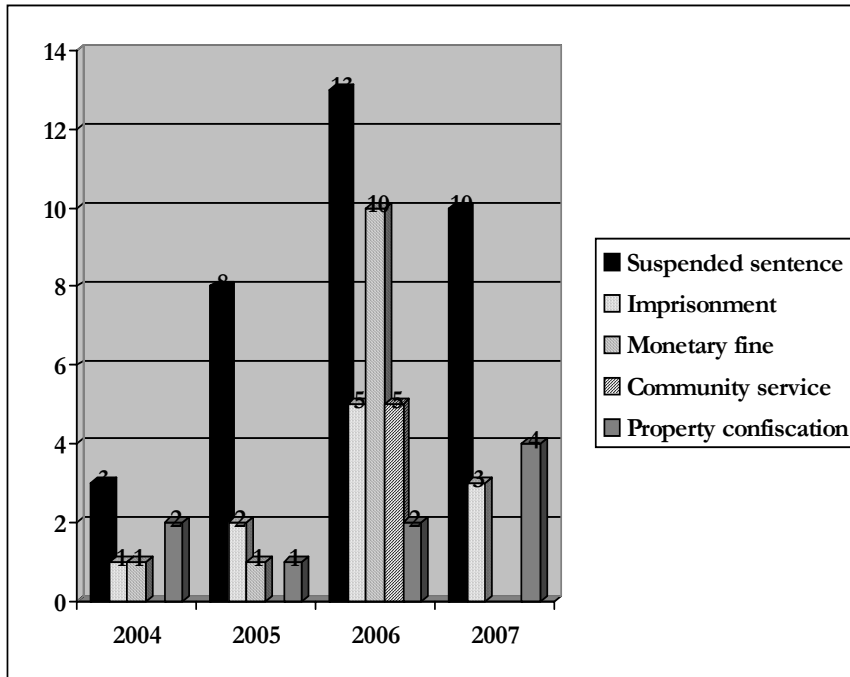


Figure 5  
Accused  
persons in criminal  
proceedings  
initiated by KNAB  
in 2006

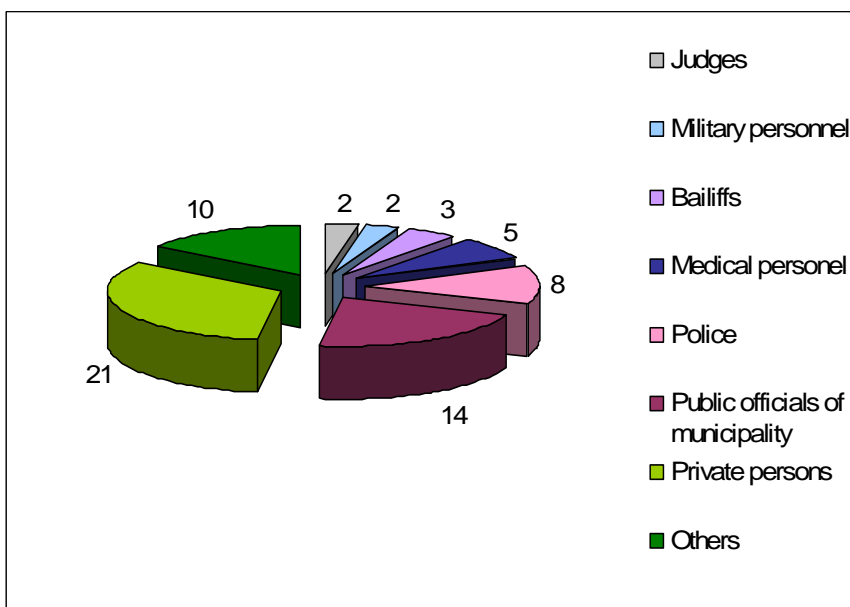


Figure 6  
Accused  
persons in criminal  
proceedings  
initiated by KNAB  
in 2006