

# **Bureaucracy, and Law Making Mechanism: their influence on the Quality of Business Environment**

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## **Abstract**

In the 1990's, most of Central and Eastern European countries (CEECs) went through radical liberalization and adopted large-scale packages of economical and political reforms. Now the questions are: How is the development of the legal and institutional infrastructure in the accordance of these radical changes in the society and in the economy? What is the degree of civil servants' wilfulness and power that leads to the corruption? How are law making procedures ruled and how is law enforcement mechanism operating? This paper draws on the results of interview studies among entrepreneurs and managers in Estonia and neighbouring countries (Finland, Sweden and Russia) undertaken in order to study government agencies behaviour, law making procedures and operating of the law enforcement mechanism.

The author agrees with the argument that the two central dangers that any society faces are disorder and dictatorship. Disorder means risks and social losses/costs to individuals and their property of private expropriation. Disorder is connected also with the private subversion of various public institutions through bribes and threats. Another extreme situation, dictatorship, means risks social losses/costs to individuals and their property of expropriation by the state and its agents (taxation, violation of property, corruption, bribes, restrictions to competitive entry problem is, how to find an optimal trade off between the costs of disorder and those of dictatorship via institutions-building. Operating of the enforcement mechanism is very important, and if this mechanism is not well working, self-enforcement mechanisms will carry out this void space.

Keywords: legal environment, corruption, law making procedures, and law enforcement mechanism.

## **Introduction**

### **Theoretical Approach**

The legal and institutional environment in the countries, which became the members of the European Union (EU) on the 1st of May 2004, is still dynamically changing. It is understandable when it comes to a long list of main objectives during the complicated transition period: restructuring of the whole economy, implementing strategy of liberalization and large-scale privatisation in all spheres of social – economic live of the countries. All these activities have caused changes in value appraisal and behaviour of individuals and economic agents, rapid changes has taken part in the legal environment influencing economic development and growth. It is also important to emphasize that all these changes have to be flexible and to be in accordance with changes in the world economy.

It is very hard to argue with the statement “The two central dangers that any society faces are disorder and dictatorship” (Djankov et al, 2003, p. 598). Disorder means risks and social losses/costs to individuals and their property of private expropriation (banditry, theft, murder, violation of agreements, torts, monopoly pricing). Another extreme situation, dictatorship, means risks social losses/costs to individuals and their property of expropriation by the state and its agents (taxation, violation of property, corruption, bribes, restrictions to competitive entry). Such a phenomena as corruption, bribes – reflect both disorder and dictatorship. The problem is, how to find an optimal trade off between the costs of disorder and those of dictatorship and what are the tools for that.

Poor governance has hampered sustainable economic growth, development of private sector economic activity, and the reduction of social equity and poverty.

Sustainable development is a term that nowadays is widely used by politicians. The concept of sustainable development is in the process of development; therefore the definition of the term is constantly revised. Sustainable development is about promoting an integrated approach. It includes economic, social and environmental objectives. Economic objectives include growth, efficiency and stability. Sustainability is a systemic concept, showing the continuity of economic, social, institutional and environmental aspects of human society. Sustainability affects every level of organization, starting from the local neighbourhood to the entire planet. The original term was “sustainable development”, this term was adopted by the Agenda 21 program of the United Nations. There are various attitudes what aspects of life can be included in “sustainable development”. Despite differences, there are common principles in most charters or action programmers to achieve sustainable development, sustainability or sustainable prosperity. These include the following:

- dealing cautiously with risk, uncertainty and irreversibility;
- integration of environmental , social and economic goals in policies and activities;
- ensuring appropriate valuation, appreciation and restoration of nature;
- conservation of biodiversity and ecological integrity;
- ensuring inter-generational equity;
- equal opportunity and community participation/sustainable community;
- recognizing the global dimension;
- a commitment to best practice;
- no net loss of human capital or natural capital;
- the principle of continuous improvement
- the need for the good governance (Hargroves and Smith 2005).

There are three main types of sustainability: institutional; economical and financial; ecological. The main question for institutional sustainability may be formulated as the following: can the strengthened institutional structure continue to deliver the results of the technical cooperation to the ultimate end-users? Thinking about the results, as a matter of fact, they may not be sustainable. For example the planning unit strengthened by the technical cooperation ceases to have access to top-management or is not provided with adequate resources for the effective performance after the technical cooperation terminated. Also institutional sustainability can be linked to the concept of social sustainability. Speaking about economical and financial sustainability we try answer for the question: can the results of technical cooperation continue to yield an economic benefit after the technical cooperation is withdrawn? Thus economic (distinct from financial) sustainability may be at risk, if the end-users continue to depend on heavily- subsidized activities and inputs.

The United Nations has declared a Decade of Education for Sustainable Development starting from January 2005. Individuals and organizations can join in sharing resources for creating a sustainable future. All development assistance should be implemented with the aim of achieving sustainable benefits. Ten key factors that influence sustainability development can be mentioned. Among them are: government policies; management and organization; financial and economic.

Only a strong state is able to maintain market order, uphold universal rights, and regulate the highly uneven distribution of economic power in transition economies (Bruszt 2000, p. 22). On the other hand a strong state can easily support and implement an inter-disciplinary approach of sustainable development.

It is argued that for emerge and function of market system a country needs neither too little nor too much government (Rajan and Zingales 2003). A country can achieve such balance when the ownership is distributed properly. The both diametric

positions are not “healthy” for the sustainable development of the country. If ownership concentration is too high (as in the Russian oil and gas industry) it is harmful for market development.

Widespread corruption remains one of the leading problems for governments, business and individuals round the world. Why so much attention is being focused on corruption? Is it because of the fact that nowadays there are more corruption cases than it was in past? Is it therefore that of the fact that previously this phenomenon was somehow ignored? Several approaches to answer the following questions can be chosen: centrally planned economies experienced a great deal of corrupt practices (they were not widely reported and in some cases just ignored). The process of globalisation has brought together individuals from different countries with little corruption with those where corruption is widespread. And as a result of that process – increase the international attention to corruption.

An important element of corruption is its ability to spread very fast and without any control. Corruption is often likened to a cancer, which destroys systematically social “organism”. “Corruption takes many forms and it is a universal cancer” (Eigen, 2004). According to Preamble of the Criminal Law Convention on Corruption “Corruption threatens the rule of law, democracy and human rights, undermines good governance, fairness and social justice, distorts competition, hinders economic development and endangers the stability of democratic institutions and the moral foundations of society”.

Corruption, as an institutional problem, flourishes in the countries where is weak legal systems, poor enforcement mechanisms and little transparency at various levels of government. It is a behaviour that introduces additional costs on governments, businesses, individuals in the long run. Thus, sustainable solutions are required for an institutional approach to combating corruption. It means not only blaming on individuals but also reforming government agencies and reducing opportunities for illegal behaviour.

The Transparency International (TI) ranked 163 countries by Corruption Perceptions Index (CPI) in 2006. CPI is a composite index. Because the index is based on polls, the final results are subjective and at some extend are less reliable for countries with fewer sources. Also there are differences between countries: for example a matter viewed as acceptable tipping in one country may be considered as bribery in another. Therefore the poll results are supposed to be understood very specifically, measuring mostly public perception, rather than presenting an objective measure of corruption. The scores range from 10 (squeaky clean) to 0 (highly corrupt). A score 5.0 is the number TI that considers the borderline figure distinguishing countries, which other have or do not have serious corruption problems. Illustration of this can be seen in the Table 1.

**Table 1. The Corruption Perceptions Index for the countries of the Baltic Sea Area (by the water drainage)**

| Country   | 2004<br>CPI<br>Score | Country<br>rank 2004 | 2005 CPI<br>Score | Country<br>rank 2005 | 2006 CPI<br>Score | Country<br>rank 2006 |
|-----------|----------------------|----------------------|-------------------|----------------------|-------------------|----------------------|
| Finland   | 9.7                  | 1/146                | 9.6               | 2/159                | 9.6               | 1/163                |
| Denmark   | 9.5                  | 3/146                | 9.5               | 4/159                | 9.5               | 4/163                |
| Sweden    | 9.2                  | 6/146                | 9.2               | 6/159                | 9.2               | 6/163                |
| Norway    | 8.9                  | 8/146                | 8.9               | 8/159                | 8.8               | 8/163                |
| Germany   | 8.2                  | 15/146               | 8.2               | 16/159               | 8.0               | 16/163               |
| Estonia   | 6.0                  | 32/146               | 6.4               | 27/159               | 6.7               | 24/163               |
| Lithuania | 4.6                  | 45/146               | 4.8               | 44/159               | 4.8               | 46/163               |

|                |     |         |     |         |     |         |
|----------------|-----|---------|-----|---------|-----|---------|
| Czech Republic | 4.2 | 51/146  | 4.3 | 47/159  | 4.8 | 46/163  |
| Latvia         | 4.0 | 57/146  | 4.2 | 51/159  | 4.7 | 49/163  |
| Slovakia       | 4.0 | 58/146  | 4.3 | 47/159  | 4.7 | 49/163  |
| Poland         | 3.5 | 69/146  | 3.4 | 70/159  | 3.7 | 61/163  |
| Belarus        | 3.3 | 74/146  | 2.6 | 107/159 | 2.1 | 151/163 |
| Russia         | 2.8 | 95/146  | 2.4 | 126/159 | 2.5 | 121/163 |
| Ukraine        | 2.2 | 128/146 | 2.6 | 107/159 | 2.8 | 99/163  |

**Source:** The 2004; 2005; 2006 Transparency International Corruption Perceptions Index

In 2004, Estonia stood at the 32<sup>nd</sup> place among ranked 146 countries by the Transparency International's CPI (6.0 points) and in 2006 the situation has been improved the 24<sup>th</sup> position among 163 countries (6.7 points). Our neighbour country Finland (9.7 points) was ranked as a least corrupt country, the first position and in 2006 was also on the same position with (9.6 points). Russia was on the 95<sup>th</sup> position in the ranking list by CPI (2.8 points), in 2006 has dropt this position and became 121<sup>st</sup> with (2.5 points). The other Baltic countries Lithuania took 45<sup>th</sup> place (4.6 points) and Latvia 57<sup>th</sup> place (4.0 points) in 2004, both countries have improved their positions and became on the 46<sup>th</sup> place (4.8 points) and 49<sup>th</sup> place (4.7 points) correspondently. During the last three years (2004 to 2006) almost all countries presented in the Tab.1 more or less have the stable position of CPI.

Corruption is generally regarded as marginal in Northern Europe (Levi and Nelken 1996, 3). From the comparative perspective, Sweden is usually from year to year ranked among the least corrupted countries. The explanation given for this phenomenon is that Sweden has a well-functioning political system and a relatively efficient bureaucracy. Also Sweden is characterized by a well-working legal system, high levels of trust between citizens.

The struggle against corruption is very actually in all countries and at the same on the international level. For example, the OECD Convention on Combating Bribery of Foreign Public Officials was signed by representatives of 34 nations (Eizenstat 1998). This convention is a major achievement for the rule of law for international business. The U.S. Agency for International Development (USAID) is one of the most important and prime government agents in the efforts to combat with corruption in the international business (Atwood 1998). Various international institutions (World Trade Organization (WTO), the World Bank, the International Monetary Fund (IMF) and others) are also playing very important role in the struggle process against corruption (Huang and Wei 2003, Arvis and Berenbeim 2003). For example, Huang and Wei (2003) found that pegged exchange rates (currency boards or dollarisation) are typically not optimal in countries with serious corruption. Some of the most significant studies on corruption coming out of the IMF in recent years are collected in Abed and Gupta (2002). Arvis and Berenbeim (2003) reported results of the research conducted by the World Bank and the Conference Board in East Asia. Government procurement contracts are one of the most important areas for generating immense opportunities for bribes, kickbacks, and other corruption phenomena (Strombom 1998)

As it was mentioned already corruption is an outcome – a reflection of a country's legal, economic, cultural and political institutions. Corruption can be a response to either beneficial or harmful rules. A number of parallels have been proposed for thinking about corruption. There the less each of these parallels can be illuminating in certain ways, none of them capture the phenomena perfectly.

Bribing has parallels to lobbying in the form of campaign contributions or influence buying through other means, but again, they are not perfect substitutes (Harstad and Svensson, 2004).

It is hard for entrepreneurs to operate and to invest. Expropriation of profits through official corruption is the most conspicuous. Managers of startup manufacturing firms were asked in a survey whether “extralegal” payments were needed in order to receive government services or a business license: more than 90% of Russian managers and about 20% of Polish ones said they were. The most concerned about corruption firms invested nearly 40% less than those least concerned. More than 90% of Russian responded managers and 8% of Polish managers said that payments to private agencies (mafia) were necessary for “protection” of their activities (Jonson, McMillan, and Woodruff 2002).

There are several ways how to combat corruption. Centre for International Private Enterprise (CIPE) with the help of its partner organizations has developed a policy tools. They can be distinguished as public sector recommendations and private sector recommendations. (Svenson, 2005). The main ideas for public sector recommendations are: 1) require independent audits for both small-scale and large procurements funded through the multilateral development banks or other foreign aid; 2) reduce the “shadow” economy; 3) salaries of civil servants must be competitive with private sector ones. For the private sector recommendations can be mentioned the following: 1) promote clear rules on conflict of interests for the members of the public sector; 2) develop an independent media equipped with tools of analysis to detect and expose corrupt behaviour; 3) establish clear guidelines on standards with which government agencies award subsidies and exemptions from fines, tariffs and taxes.

In the next section, are presented some results of special interview studies, which questionnaire was similar to Borner (et al. 1995). Entrepreneurs and managers from Estonia and other neighbour countries (Finland, Sweden, Russia) were respondents. Interviews were undertaken in 1998, 2001, 2004, and 2006. This study was a logical continuation of the sample surveys undertaken in 1994-1999 in order to study the development of the economic environment in Estonia more widely (Vensel and Wihlborg, 2001). The sample general characteristics, variables characterizing the behaviour of the government agencies, of law making procedures, and of law enforcement mechanism are presented and discussed.

## **Empirical Results of Surveys, 1998-2006**

### **A. Sample General Characteristics**

Distribution of respondents by their profession, firm location, and occupied industry was as follows in Tables 2 and 3. It can be concluded that respondents represent different business professions (mainly top-managers in all countries), they were occupied in various industries and their firms located mostly in big towns. Respondents in all countries were mostly participants of training courses for managers.

**Table 2. Sample General Characteristics**

| Distribution by...      | Estonia |      |      |      | Russia - total |      |      |
|-------------------------|---------|------|------|------|----------------|------|------|
|                         | 1998    | 2001 | 2004 | 2006 | 2001           | 2004 | 2006 |
| ... <i>Profession</i>   |         |      |      |      |                |      |      |
| Owner or top-manager    | 57.8    | 41.5 | 45.2 | 45.5 | 51.5           | 52.4 | 58.4 |
| Medium level-manager    | 21.9    | 22.6 | 26.0 | 32.5 | 28.0           | 27.5 | 33.4 |
| High-skilled specialist | 20.3    | 35.9 | 28.8 | 22.0 | 20.5           | 20.1 | 8.2  |

|                                 |      |      |      |      |      |      |      |
|---------------------------------|------|------|------|------|------|------|------|
| <i>...Firm Location</i>         |      |      |      |      |      |      |      |
| The capital                     | 46.9 | 53.5 | 71.4 | 75.4 | 22.7 | 23.5 | 38,4 |
| Other bigger town               | 14.8 | 17.6 | 25.6 | 20.6 | 77.3 | 76.5 | 61.6 |
| Small town                      | 30.5 | 20.4 | 3.0  | 2.0  | 0.0  | 0.0  | 0.0  |
| Village, rural place            | 7.8  | 8.5  | 0.0  | 2.0  | 0.0  | 0.0  | 0.0  |
| <i>...Occupied Industry</i>     |      |      |      |      |      |      |      |
| Manufacturing industries        | 33.6 | 22.5 | 41.2 | 38.2 | 16.7 | 17.2 | 22,5 |
| Other productive industries     | 26.5 | 26.8 | 10.8 | 15.3 | 22.7 | 24.6 | 18.4 |
| Trade, communication, transport | 22.7 | 34.5 | 35.6 | 30.0 | 40.9 | 42.5 | 51,4 |
| Other services                  | 17.2 | 16.2 | 12.4 | 16.5 | 19.7 | 15.7 | 7.7  |
| Number of Respondents           | 128  | 142  | 136  | 158  | 132  | 172  | 250  |

**Source:** On the bases of the results of special interview studies

**Table 3. Sample General Characteristics**

| Distribution by...              | Finland |      |      | Sweden |      |      |
|---------------------------------|---------|------|------|--------|------|------|
|                                 | 2001    | 2004 | 2006 | 2001   | 2004 | 2006 |
| <i>...Profession</i>            |         |      |      |        |      |      |
| Owner or top-manager            | 52.3    | 53.0 | 48.4 | 52.4   | 51.6 | 54.7 |
| Medium level-manager            | 29.2    | 28.5 | 33.6 | 31.7   | 32.4 | 27.7 |
| High-skilled specialist         | 18.5    | 18.5 | 18.0 | 15.9   | 16.0 | 17.6 |
| <i>...Firm Location</i>         |         |      |      |        |      |      |
| The capital                     | 20.0    | 18.0 | 22.7 | 0.0    | 0.0  | 17.5 |
| Other bigger town               | 53.9    | 52.5 | 64.8 | 36.5   | 42.5 | 35.6 |
| Small town                      | 16.9    | 18.5 | 12.5 | 52.4   | 45.0 | 43.4 |
| Village, rural place            | 9.2     | 11.0 | 0.0  | 11.1   | 12.5 | 3.5  |
| <i>...Occupied Industry</i>     |         |      |      |        |      |      |
| Manufacturing industries        | 15.4    | 17.5 | 7.3  | 12.7   | 12.8 | 14.8 |
| Other productive industries     | 30.8    | 38.5 | 39.0 | 44.4   | 42.8 | 19.6 |
| Trade, communication, transport | 41.5    | 36.9 | 42.7 | 28.6   | 27.8 | 46.9 |
| Other services                  | 12.3    | 7.1  | 11.0 | 14.3   | 16.6 | 18.7 |
| Number of Respondents           | 65      | 75   | 132  | 63     | 65   | 145  |

**Source:** On the bases of the results of special interview studies

## **B. Government Agencies' Behaviour**

Five questions were given to evaluate government agencies' or civil servants' behaviour, and five variables were formulated on the basis of these questions. Questions were similar to (Borner et al., 1995, 173-177). Respondents evaluated questions in six-point scale, and carried out surveys' results are presented in Appendixes 1 and 2. Some comments to all variables characterizing government agencies behaviour are as follows.

### **1. Civil Servants' Wilfulness:**

This variable is a result of the question: "Please evaluate the following quotation for your country: "Laws and regulations are so complicated, unclear and sometimes even contradictory that it is impossible to adhere to them on a regular basis. Therefore, civil servants can always find ways and means to give you a hard time (long delays, arbitrary decisions etc.)." This happens: never (1), rarely (2), sometimes (3), frequently (4), mostly (5), or always (6)."

Civil servants wilfulness were evaluated by respondents as quite frequent phenomenon in Estonia and in Russia, but as rarely happening both in Finland and Sweden. It can be mentioned a little decline (improvement of the business environment) in Russia (average grade 3.90, given by Russian respondents in 2004, and 3.97 in 2006), and about the same level of civil servants' wilfulness in Estonia in 1998 and in 2006. Finnish and Swedish respondents evaluations were quite similar in the observed years, 2001, 2004, and 2006. It can be concluded that civil servants' wilfulness is a serious problem in Estonian society (indeed, also in Russian society).

### **2. Will to Resist and Fight Back:**

This variable was formulated on the basis of the question: "Assume that you are confronted with clearly unfair procedures or outright demands for bribes by a civil servant. Would you try to resist and fight back either by appealing to his superior, or to an administrative court?" There are the same answers as for the previous question.

The resistance and fighting back and possibilities were valued by respondents quite highly in Finland and in Sweden, less in Russia and in Estonia (in general, as frequent phenomenon). We may conclude that the will to resist and fight back in the case of civil servants' wilfulness is not very high in Estonia. Nevertheless in both countries (Estonia and Russia) the attitude of the businesspeople towards this phenomenon is changing. Seems that respondents start understanding, that resistance makes sense.

### **3. Civil Servants' Power:**

This variable was formulated from the question: "Please evaluate the following quotation for Estonia: "As an entrepreneur you are always afraid of committing a small "error" here and there in the eyes of regulatory bodies because these "errors" can be (ab)used by civil servants to gain a position of power and construct a case to blackmail you." There are the same answers as for the previous question.

Possibilities to gain a position of power by civil servants are evaluated by respondents as frequently happening event in Russia and in Estonia (average grades respectively 3.27 and 3.14 points in 2006), and as sometimes happening in Finland and Sweden (average grades 1.92 and 1.98 points in 2006). It is interesting that respondents evaluated civil servants wilfulness as more relevant problem in comparison with possibilities to gain a position of power. In any case, civil servants power problems (for example blackmailing cases) are relevant both in Estonian and Russian society.

### **4. Knowing the Civil Servants - Speeding Up the Procedure:**

The next two variables are connected with the cases when economic agent knows the civil servant personally. Variable "Speeding up the Procedure" is formulated on the basis of the question: "If you know the civil servant you have to deal with personally, can these speed up the procedure? Knowing the civil servant personally will speed up the procedure" There are the same answers as for the previous question.

Russian and Estonian respondents evaluated that knowing the civil servant personally will speed up the procedure very frequently - average estimates

respectively 4.38 and 4.50 in 2006. It is interesting to mention that this phenomenon is even more relevant in Estonia (due to the small society, where about all players are knowing each other). This is just sometimes happening in Finland and in Sweden. Fact, that knowing the civil servant personally will speed up different procedures of economic agents, is very dangerous especially in a small society and this generate basis for widespread corruption cases.

### **5. Knowing the Civil Servants - Influencing his Decision:**

This variable was based on the question: “If you know the civil servant you have to deal personally, can this influence his decision (for example, amount of taxes, issuing a business license etc.)?” There are the same answers as for the previous question.

This phenomenon was evaluated by respondents as happening also frequently in Russia and in Estonia (average estimates respectively 4.12 and 3.2 in 2004), but not in Finland and in Sweden. It is also quite interesting that knowing the civil servant will speed up the concrete procedure very frequently, but this will influence the decision of the civil servant not so frequently –especially in Estonia. In any case we may argue that knowing civil servants personally will distort their decisions, will speed up needed procedures and sometimes also influencing civil servants’ decision.

It can be concluded, that Estonia is situated (by evaluated civil servants’ behaviour characteristics) quite clearly between Russia and its Western neighbours, but at the same time nearer to Russian estimates. For example, if civil servants wilfulness is estimated in Russia and in Estonia as frequent phenomenon (average estimates respectively 3.97 and 3.65 points in 2006), then this phenomenon both in Finland and in Sweden is estimated as rarely happening (average estimates correspondingly 2.05 and 2.28 points in 2006). The same quite clear differences are between other characteristics of government agencies behaviour.

## **C. Law Making Procedures**

There were four variables characterizing law-making procedures in Estonia and in other countries. These variables are also presented in Appendix 1.

### **1. Unexpected Changes in Law:**

This variable is a result of the question: “As an entrepreneur, do you regularly have to cope with unexpected changes in laws and/or policies which could seriously affect your business? Changes in the law and policies are predictable: never, i.e. changes are completely unpredictable (1), rarely, i.e. mostly unpredictable (2), sometimes, i.e. frequently unpredictable (3), frequently, i.e. fairly predictable (4), mostly, i.e. highly predictable (5), always, i.e. completely predictable (6).”

Changes in laws and/or economic policies were evaluated by respondents in all countries as sometimes unpredictable - average estimates 2.69 points in Russia, 3.00 points in Estonia, 2.33 points in Finland, and 2.57 points in Sweden in 2004). In general, entrepreneurs have to cope with unexpected changes in laws and policies in countries, which could affect their business. Although the results of 2006 show that in all countries there is a positive tendency. In Estonia the result is 3.4 and for the other countries: Russia - 2.9 points, Finland and Sweden 3.01 and 3.33 points respectively.

### **2. Information Availability:**

This variable is formulated on the basis of the question: “As an entrepreneur, are you officially or unofficially informed (through mass media, business associations etc.) about new laws and/or plans to change existing laws or policies? You are informed: never (1), rarely (2), sometimes (3), frequently (4), mostly (5), always (6).”



Information availability problem was evaluated by respondents as sometimes happening phenomenon in Russia and in Estonia (average estimates respectively 3.24 and 3.45 in Estonia in 2004), but as mostly happening phenomenon in Finland and in Sweden (average estimates 4.88 and 5.02 points in 2006). The answers of managers and entrepreneurs in Estonia and in Russia have shown that the situation is being improved about new laws or plans to change existing laws and policies. The points are 4.50 and 4.00 respectively.

### **3. Possibilities to Consult:**

This variable is a result of the question: “In case of important legal changes affecting your business, can you voice your concerns indirectly and/or are you directly consulted?” There are the same answers as for the previous question.

Estonian and Russian respondents were on the opinion that the possibilities to voice their concerns indirectly or directly are quite small. The variable “Possibilities to consult” was clearly evaluated by respondents as rarely happening case, both in Estonia and in Russia (average estimates respectively 2.22 and 2.03 in 2006). And so, in general there is nothing to do in the case of important legal changes affecting the business. Finnish and Swedish respondents evaluated their possibilities to consult much more higher – average estimates respectively 4.12 and 4.35 points in 2006.

### **4. Government’s Announcements Credibility:**

The basis for this variable was the question: “Do you expect the government to stick to announced major policies (e.g. new tax law, infrastructure projects, budget goals and priorities, protection of domestic producers etc.)?” There are the same answers as for the previous question.

The government announcements’ credibility was evaluated by Estonian and Russian respondents as sometimes (or even rarely) happening phenomenon (average estimates respectively 2.65 and 2.08 points in 2006). We may argue that government announcements’ credibility is quite low, which is also typical in the conditions of unstable political and economic environment in a small transition country, and even more characteristic in Russia. Finnish and Swedish respondents evaluated government announcements’ credibility very highly, as mostly happening phenomenon – average estimates respectively 5.17 and 4.98 points in 2006. It is quite interesting to mention that government announcements’ credibility was lower in Russian towns Kaliningrad and St. Petersburg (average grade 2.02 points in both towns in 2006) in comparison with the capital Moscow (average 2.25 points in 2006 and even 2.53 points in 2001).

## **D. Law Enforcement Mechanism**

Four variables were formulated on the basis of specific questions to respondents (Appendix 1). All variables are connected with the court objectivity and credibility problems.

### **1.Objectivity of Courts:**

This variable is formulated on the basis of the question: “Imagine a private conflict is brought into court with the evidence being very clearly in your favour. Do you have confidence that the assigned judge will enforce the law objectively? Courts can be trusted to enforce the law objectively according to transparent rules: never (1), rarely (2), sometimes (3), frequently (4), mostly (5), or always (6).

Estonian respondents evaluated that this happens in general sometimes (average estimate 3.85 points in 2006), Russian respondents surprisingly, that frequently (4.15 points in 2006), Finnish and Swedish respondents that mostly (average estimates respectively 5.40 and 5.28 points in 2006). We may conclude that in most cases courts

are not trusted in Estonia and economic agents have to use self-enforcement mechanisms in the case of disputes.

## **2. Power of Money on the Decisions:**

This variable is formulated on the basis of the question: “Please consider the following quotation for Estonia: “The party who pays more (e.g. bribes or better lawyers) will win the case. Even if the evidence is clear, money can change the result.” There are the same answers as for the previous question.

Respondents evaluated this case as sometimes happening in Estonia and in Russia (average estimates respectively 3.41 and 3.48 in 2006). Finnish and Swedish respondents evaluated that this will happen very rarely – average estimates respectively 1.70 and 1.65 in 2006. So, we may argue that money plays quite important role in court cases both in Estonia and in Russia. It must be added that this is also widespread public opinion.

## **3. Knowing the Judge Personally:**

The basis for formulation this variable was the question: “Is it irrelevant which individual judge decides on a case? Is it advantageous to know the assigned judge? If you know the assigned judge personally, this will influence the procedure and result.” There are the same answers as for the previous question.

Estonian and Russian respondents were on the opinion that knowing the assigned judge personally will in general sometimes influence the court procedure and result (average estimates respectively 2.70 and 3.10 in 2006). We may conclude that personal relationships play an important role in court cases, both in Russia and in Estonia. In Finland and in Sweden this happens rarely – average estimates respectively 2.01 and 1.78 points in 2004.

## **4. Turning to the Higher Court:**

This variable was formulated on the basis of the question: “If you were treated unfairly in court (i.e. because of bribery demands or a decision you do not deem “correct”), would you fight this by going to a higher court?” You would appeal: never (1), rarely (2), sometimes (3), frequently (4), mostly (5), or always (6).

Respondents in all observed countries evaluated the will to fight with unfair court decisions as frequently happening (average estimates 4.35 points in Estonia and 4.35 points in Russia in 2006) or as mostly happening (average estimates 5.05 points in Finland and 5.42 points in Sweden). It is quite surprising that although respondents did not trust the objectivity of courts very highly, they are optimistic and will appeal in the case of unfair court decisions to a higher court. There are a notable number of cases appealing to a higher court in Estonia, and sometimes these were successful.

The general conclusion on the basis of a comparative analysis is exactly the same: There are significant differences between Russia and Nordic countries, and Estonia lies between them. For example, if objectivity of courts is estimated in Finland and in Sweden as mostly (even near to always) happening phenomenon, then in Russia and in Estonia this happens only sometimes. The will to resist and to turn to the higher court in the case of unfair court decisions was quite high in all countries – this phenomenon was estimated as very frequently happening even in Russia.

## **E. Uncertainties in Government Agencies’ Behaviour, Law Making Procedures, and Law Enforcement**

Respondent’s estimates to uncertainties in government agencies behaviour, law making procedures and law enforcement mechanism in Estonia, Russia, Finland and Sweden are presented in Table 4. All variables about the uncertainties were

formulated on the basis of the question: “Do you think that during the last 5 years uncertainties in dealing with government agencies/in law making/in law enforcement have: increased (1), remained about the same (2), or decreased (3)?”

In general, all these uncertainties have remained about the same (or decreased a little) during the last five years in Estonia and in Russia. We can mention a little improvement (decrease) of all uncertainties in Russia, and a small worsening of all these uncertainties (increase) in Estonia. It is quite remarkable, that all these three uncertainties decreased during last five years in Finland and in Sweden.

**Table 4. Estimates of Uncertainties in Different Countries**

| Uncertainties in                 | Year | Estonia | Russia, total | Moscow | St. Petersburg. | Kalinin grad. | Finland | Sweden |
|----------------------------------|------|---------|---------------|--------|-----------------|---------------|---------|--------|
| dealing with government agencies | 2001 | 2.28    | 1.95          | 2.17   | 1.76            | 1.98          | 2.11    | 2.41   |
|                                  | 2006 | 2.05    | 2.04          | 2.18   | 2.04            | 1.98          | 2.56    | 2.48   |
| law making procedures            | 2001 | 2.30    | 1.82          | 2.03   | 1.85            | 1.69          | 2.55    | 2.43   |
|                                  | 2006 | 2.26    | 1.96          | 2.23   | 1.86            | 1.88          | 2.56    | 2.51   |
| law enforcement                  | 2001 | 2.27    | 1.78          | 1.83   | 1.73            | 1.79          | 2.38    | 2.60   |
|                                  | 2006 | 2.10    | 2.06          | 1.86   | 2.10            | 2.06          | 2.40    | 2.68   |

**Source:** On the bases of the results of special interview studies

### Concluding Remarks

Nowadays the world's economies become more globalise and domestic economies become more integrated, rising business crime rates in various regions are no longer a local problem. Thus, crime needs to be combated simultaneously on both the national and international level.

Corruption still remains one of the main obstacles to sustainable development. And it leads to loss of public funds needed for improvement of social sphere (education, healthcare and etc.) in developing countries and less extends in developed countries. In many countries lack of transparency of laws, and rules creates a fruitful ground for corruption. It can be noticed in transition countries. Laws or various regulations are written in a way leaving grounds for different interpretations. Rules are often confusing and some times are changed without proper public announcements.

Counteracting corruption requires actions in the following areas: prevention, education, and disclosure and elimination of corruptive practices. Prevention involves the removal of sources of corruption, especially by passing effective laws and promoting good initiatives by governments, central and local administration and non-governmental organizations.

The goal is to clean up laws, regulations and procedures that encourage corrupt dealings. It is essential to eliminate legal loopholes, ambiguous regulations and to avoid situations, which enable officials to use complete discretion while making decisions. The public sector structure needs to be examined; a unified system for public procurement should be introduced.

Today economies shape cultures, as the value systems, attitudes, and rules of conduct and the principles applied in the business world trickle into other areas of social life. Also, the weaknesses and malfeasance of the business world tend to become a part of modern society.

Structural reforms help to improve economic governance and reduce the opportunities for rent-seeking behavior. Poor governance generally creates opportunities and incentives for corruption.

One of the advantages of the fundamental economic reform approach is that by linking anticorruption strategies to reform of economic policies and institutions, the fight with corruption can be seen as one of the issues concerning economic policy. Continuous economic reform aimed at reducing policy distortions and strengthening economic institutions are bound to reduce the opportunities for corruption, while progress in establishing an effective administrative and legal system and in creating a more open society is likely to facilitate detection of corruption behavior and raise the cost to those who may be engaged in it. Thus, anticorruption strategies are related to the reform process-taking place in government institutions.

Any realistic strategy must be based on the principle that there are always two sides in a process. On one hand there are those who demand acts of corruption on the part of public sector employees and on the other hand there are public employees willing to perform these acts for a bribe. It means that demand and supply exist in a case of corruption. It can be pointed out that fight against corruption is often connected with the process of reforms. Therefore corruption will decrease only in those countries where governments are willing to substantially reduce some of their functions.

As a general conclusion, it can be noted that there is a remarkable degree of estrangement from politics and government agencies in more or less stable political and economical institutional environment in a small country as Estonia, which is now a new member of the European Union.

Market-oriented policy reforms have played a significant role in promoting subsequent economic growth. Legal and regulatory institutions have been developed according to the changing political and economical situation.

Concerning the Russian case resistance by the immediate beneficiaries of liberalization and privatisation (former nomenklatura, oligarchs) to competition that could reduce their special privileges should be broken and policymakers cannot postpone the liquidation and restructuring of the old sector until the cushion provided by new enterprises is in place. At the same time policymakers face a dilemma: privatisation by sale to ineffective owners versus continue state ownership.

On the basis of the empirical study, we may formulate answers to the above-mentioned questions:

(1) The degree of civil servants' wilfulness and power is quite high:

- civil servants can frequently find ways and means to give entrepreneurs and managers a hard time, and sometimes they are able to gain a position of power and to construct a case to blackmail entrepreneurs and managers;
- knowing the civil servant personally will mostly speed up needed procedures, and sometimes this will influence the decisions of civil servants - this phenomenon is dangerous especially in a small society and this generates a basis for corruption;
- fortunately, there exists the will to resist and fight back by appealing civil servant's superior or to the court.

(2) entrepreneurs and managers have to cope quite frequently with unexpected changes in laws and government economic policies, which could seriously affect their business decisions;

- the situation with information about new laws and plans to change existing laws and policies has been improved, but still quite small for entrepreneurs and managers remain possibilities to voice their concerns indirectly or directly;

- the government announcements' credibility was evaluated by responded entrepreneurs and managers as only sometimes happening phenomenon.  
(3) entrepreneurs and managers do not trust courts and judges objectivity, and in most cases economic agents have to use self-enforcement mechanisms in the case of various disputes and conflicts;
  - money power on the court decisions still plays an important role in the court cases, knowing the judge personally could influence the court procedures and outcomes also quite frequently;
  - surprisingly, Estonian and Russian entrepreneurs and managers are quite optimistic and they will to fight with unfair court decisions, and in most cases they will to turn to a higher level court.
- (4) Uncertainties in dealing with government agencies, uncertainties in law making rules, and uncertainties in law enforcement mechanisms are not improved during the last five years and mostly these uncertainties remained about the same level.

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## Appendix 1.

**Table 4. Estimates of Government Agencies Behaviour, Law Making Procedures, and Law Enforcement Mechanism in Different Countries**

|   | Estonia |      |      | Russia-total Moscow |      |      |      | St.Peterburg |      | Kaliningrad |      | Finland |      | Sweden |      |
|---|---------|------|------|---------------------|------|------|------|--------------|------|-------------|------|---------|------|--------|------|
|   | 1998    | 2001 | 2004 | 2001                | 2004 | 2001 | 2004 | 2001         | 2004 | 2001        | 2004 | 2001    | 2004 | 2001   | 2004 |
| <i>Government Agencies Behaviour</i>                      |         |      |      |                     |      |      |      |              |      |             |      |         |      |        |      |
| 1. Civil servants' wilfulness                             | 3.74    | 3.49 | 3.70 | 4.17                | 3.90 | 3.93 | 3.88 | 4.10         | 3.86 | 4.33        | 3.93 | 2.09    | 2.07 | 2.28   | 2.31 |
| 2. Will to resist, fight back                             | 3.23    | 3.08 | 3.19 | 2.73                | 3.23 | 2.63 | 3.28 | 2.93         | 3.57 | 2.64        | 2.99 | 4.06    | 4.12 | 4.41   | 4.69 |
| 3. Civil servants' power                                  | 2.88    | 2.70 | 3.12 | 3.21                | 3.16 | 4.00 | 3.88 | 2.95         | 2.82 | 3.00        | 3.02 | 1.91    | 1.92 | 2.08   | 1.98 |
| 4. Knowing the civil servants – speeding up the procedure | 4.38    | 4.16 | 4.57 | 4.39                | 4.31 | 4.63 | 4.73 | 4.15         | 4.02 | 4.44        | 4.28 | 2.52    | 2.72 | 2.41   | 2.37 |
| 5. Knowing the civil servants – influencing his decision  | 3.27    | 3.14 | 3.57 | 4.45                | 4.19 | 4.83 | 4.60 | 3.90         | 3.78 | 4.64        | 4.25 | 2.06    | 2.12 | 2.03   | 1.97 |
| <i>Law Making Procedure</i>                               |         |      |      |                     |      |      |      |              |      |             |      |         |      |        |      |
| 1. Unexpected changes in law                              | 3.12    | 2.89 | 3.00 | 3.14                | 2.69 | 3.23 | 2.43 | 3.05         | 2.55 | 3.16        | 2.91 | 2.34    | 2.33 | 3.05   | 2.57 |
| 2. Information availability                               | 3.13    | 3.48 | 3.45 | 3.52                | 3.24 | 3.57 | 3.00 | 3.07         | 2.82 | 3.80        | 3.63 | 4.85    | 4.88 | 4.44   | 5.02 |
| 3. Possibilities to consult                               | 1.73    | 2.20 | 2.24 | 1.73                | 1.95 | 1.50 | 1.60 | 1.85         | 1.78 | 1.77        | 2.23 | 4.45    | 4.09 | 3.65   | 4.29 |
| 4. Government's announcements credibility                 | 2.88    | 3.17 | 2.60 | 2.17                | 2.06 | 2.53 | 2.25 | 2.12         | 2.00 | 2.03        | 2.00 | 5.11    | 5.15 | 4.67   | 4.91 |
| <i>Enforcement Mechanism</i>                              |         |      |      |                     |      |      |      |              |      |             |      |         |      |        |      |
| 1. Objectivity of courts                                  | 3.30    | 3.50 | 3.26 | 3.27                | 4.10 | 3.43 | 3.95 | 2.95         | 3.78 | 3.41        | 4.38 | 5.45    | 5.44 | 4.79   | 5.25 |
| 2. Power of money on the decisions                        | 4.13    | 3.86 | 3.41 | 4.33                | 3.48 | 4.50 | 3.28 | 4.15         | 3.64 | 4.36        | 3.47 | 1.83    | 1.76 | 2.16   | 1.63 |
| 3. Knowing the judge personally                           | 3.09    | 3.39 | 2.76 | 3.64                | 3.08 | 3.63 | 3.00 | 3.82         | 3.02 | 3.36        | 3.16 | 2.02    | 2.01 | 2.00   | 1.78 |
| 4. Turning to a higher court                              | 4.77    | 4.75 | 4.31 | 3.98                | 4.26 | 4.43 | 4.53 | 3.41         | 3.98 | 4.13        | 4.31 | 4.91    | 4.95 | 4.87   | 5.28 |

**Source:** On the bases of the results of special interview studies

## Appendix 2.

**Table 5. Estimates of Government Agencies Behavior, Law Making Procedures, and Law Enforcement Mechanism in Different Countries**

|   | Estonia | Russia-total | Moscow | St.Peterburg | Kaliningrad | Finland | Sweden |
|---|---------|--------------|--------|--------------|-------------|---------|--------|
|   | 2006    | 2006         | 2006   | 2006         | 2006        | 2006    | 2006   |
| <i>Government Agencies Behaviour</i>                      |         |              |        |              |             |         |        |
| 1. Civil servants' wilfulness                             | 3.65    | 3.97         | 3.97   | 3.95         | 4.00        | 2.05    | 2.28   |
| 2. Will to resist, fight back                             | 3.50    | 3.35         | 3.35   | 3.58         | 3.43        | 4.25    | 4.78   |
| 3. Civil servants' power                                  | 3.14    | 3.27         | 3.95   | 2.88         | 3.00        | 1.92    | 1.989  |
| 4. Knowing the civil servants – speeding up the procedure | 4.50    | 4.38         | 4.65   | 4.10         | 4.40        | 2.70    | 2.32   |
| 5. Knowing the civil servants – influencing his decision  | 3.65    | 3.97         | 4.45   | 3.70         | 4.20        | 2.05    | 2.28   |
| <i>Law Making Procedure</i>                               |         |              |        |              |             |         |        |
| 1. Unexpected changes in law                              | 3.40    | 2.90         | 2.90   | 2.80         | 3.00        | 3.01    | 3.33   |
| 2. Information availability                               | 4.50    | 4.00         | 4.45   | 3.70         | 4.06        | 4.88    | 5.02   |
| 3. Possibilities to consult                               | 2.24    | 2.03         | 1.85   | 1.85         | 2.25        | 4.12    | 4.35   |
| 4. Government's announcements credibility                 | 2.65    | 2.08         | 2.26   | 2.00         | 2.00        | 5.17    | 4.98   |
| <i>Enforcement Mechanism</i>                              |         |              |        |              |             |         |        |
| 1. Objectivity of courts                                  | 3.85    | 4.15         | 4.18   | 4.00         | 4.39        | 5.40    | 5.28   |
| 2. Power of money on the decisions                        | 3.41    | 3.48         |        |              |             | 1.70    | 1.65   |
| 3. Knowing the judge personally                           | 2.70    | 3.10         | 3.02   | 3.05         | 3.05        | 2.01    | 1.78   |
| 4. Turning to a higher court                              | 4.35    | 4.35         | 4.68   | 4.02         | 4.35        | 5.05    | 5.42   |

**Source:** On the bases of the results of special interview studies