### Response of Estonia to the questionnaire on the negative impact of corruption on the enjoyment of human rights

1. **Examples which show how anti-corruption efforts can be effectively complemented through the use of human rights standards, methods and mechanisms?**

In Estonia, the Ministry of Justice coordinates the anti-corruption policy, including drafting anti-corruption legislation and anti-corruption strategy. Fundamental document in preventing corruption is the Anti-Corruption Strategy 2013-2020, which was approved by the Estonian Government on 3 November 2013. The strategy has three broader objectives:

1) Enhancing awareness of corruption;

2) Increasing transparency of decisions and activities;

3) Strengthening of the capacity to carry out proceedings and deter corruption endangering national security.

The human rights perspective is integrated into the preventive measures against corruption found in the Anti-Corruption Strategy, although the strategy does not state it expressly. For example, one preventive measure provided in the Anti-Corruption Strategy is increasing transparency in health-care sector. Corruption in health sector has negative impact on the enjoyment of human rights as it violates the right to access to medical service. The same applies not only for preventive but all anti-corruption measures, as they are all indirectly targeted at negative impact of corruption on the enjoyment of human rights.

1. **Examples where national human rights institutions (NHRIs) identified corruption as a cause of human rights violations and effective remedial measures taken?**

The institution of the Chancellor of Justice ensures that the fundamental rights and freedoms of people are protected. If the Chancellor of Justice finds that the activity of an authority performing public duties is unlawful, he or she shall issue a statement that includes the description of how the authority has violated a person’s rights and, if necessary, makes a recommendation to the authority for compliance with the practice of legality and good administration or a suggestion for elimination of the violation. There have been no cases so far where the Chancellor of Justice has identified corruption as a cause of human rights violations.

1. **Examples which show how the work of national anti-corruption agencies (ACAs) and NHRIs can be interlinked, substantively, structurally and organizationally (such as existing memoranda of understanding; other formal working relations; designated human rights/anti-corruption focal points)?**

Not applicable. There is no specialized national anti-corruption agency in Estonia.

1. **Examples of engagement with regional and international human rights mechanisms that brought about change in anti-corruption efforts?**

Fight against corruption is an ongoing process that is influenced by different conventions, programs and strategies compiled by domestic and international organizations. UN, GRECO, OECD have all given relevant recommendations to Estonia which have helped to develop domestic regulation concerning corruption crimes. Effective international co-operation is also very important in order to combat corruption, which nowadays knows no state borders.

1. **Examples of the incorporation of human rights considerations in self-assessment of implementation of the United Nations Convention against Corruption?**

All anti-corruption measures and activities implicitly incorporate human rights considerations.

1. **Examples of successful human rights litigation, or of investment disputes or civil law cases where human rights arguments played a decisive role, in corruption cases;**

There have not been any corruption cases where violations of human rights through a corrupt act have played a decisive role. In corruption cases where human rights arguments have had influence on the outcome, the violation of human rights is usually been linked to the instruments of criminal prosecution, e.g. the conduct of surveillance activities.

**7.** **Good practices for safeguarding human rights while combating corruption, in particular with regard to:**

**a) The criminalization of corruption (e.g. illicit enrichment)**

Estonia has recently made amendments to the Penal Code regarding some corruption offences to make the regulation more efficient and clear. Bribery of public officials and bribery in private sector are now separate offences. There is no distinction between a “gratuity” and a “bribe” any more. Although illicit enrichment is not criminalized in Estonia, it is possible to confiscate illicit assets.

**b) The detection and investigation of corruption**

Corruption offences are investigated by the Central Criminal Police or the Security Police and pre-trial proceedings are led by the Prosecutor’s Office. Since 01.01.2012, there is a police division specialized in corruption crimes – the Corruption Crime Bureau of Central Criminal Police, which makes investigation more effective. Corruption crimes in general are difficult to detect and investigate because of the hidden nature of the criminal activity. That is the reason why it is important to enhance awareness of people working in public sector and citizens in general, and to make reporting of the crime easy. If a reporting person does not want to go to the police personally, information about a corruption offence may be communicated to the police via a special e-mail address for hints or autoreply hotline for hints. The informer’s anonymity shall be granted if needed.

**c) The prosecution and judicial proceedings (including *suo motu* powers)**

It is often necessary to conduct surveillance activities in order to investigate corruption crimes. The Code of Criminal Procedure states that surveillance activities are permitted on the bases provided for in the Code if collection of data by other activities or taking of evidence by other procedural acts is impossible, is impossible on time or is especially complicated or if this may damage the interests of the criminal proceedings. It means that the *ultima ratio* principle has to be taken into consideration each time surveillance activities are conducted. If not, the evidence gathered is illegal and cannot be used in court.

**d) In the recovery of illicit assets**

According to Estonian Penal Code, the court may apply confiscation of object used to commit offence and direct object of offence if it belongs to the offender at the time of the making of the judgment or ruling. Confiscation of assets acquired through offence, extended confiscation of assets acquired through criminal offence and substitution of confiscation is possible. Confiscation of illicit assets is in practice a widely used and is an effective instrument for combating corruption.

**8. Good practices for the protection of victims, witnesses, reporting persons, anti-corruption activists, whistleblowers and other persons involved in the fight against corruption which explicitly build on human rights standards;**

According to the State Liability Act, an individual or a legal person whose rights are violated by the unlawful activities of a public authority may claim compensation for damage suffered. However, relevant provisions have not yet been applied in practice with regard to corruption cases.

Measures insuring the safety of witnesses are stated in the Code of Criminal Procedure and in the Witness Protection Act. The Code of Criminal Procedure states that taking into account the gravity of a criminal offence or the exceptional circumstances relating thereto, a preliminary investigation judge may, at the request of the prosecutor's office, declare a witness anonymous by a ruling in order to ensure the safety of the witness. Persons who may know facts relating to a subject of proof in a criminal case and who are under actual risk of falling subject to unlawful influence can be protected by the Witness Protection Act. The same applies for their family members.

Whistleblower protection is regulated by law and the aim of the regulation is to protect the whistleblower from limitations and potentially negative consequences that may arise from notifying a corruption incident. The Anti-corruption Act states that if agencies performing public duties, their officials, persons exercising supervision over agencies, persons controlling declarations or bodies conducting proceedings concerning an offence are notified of an incident of corruption, the confidentiality of the fact of notification shall be ensured. Information about the fact of notification may be disclosed only with the written consent of the notifier. If the notifier is involved as a witness in the proceedings concerning the offence, the provisions of proceedings concerning the offence apply to incidents of corruption without violating the confidentiality of the fact of notification. Moreover, public and private institutions are encouraged to impose in-house regulations about notifying corruption incidents.

**9. Good practices for securing the independence and enhancing the effectiveness of ACAs which draw upon the United Nations Paris Principles and the practice and modalities followed for strengthening the independence and effectiveness of NHRIs (e.g. the International Coordinating Committee of NHRIs; its peer review process; sharing of substantive and administrative approaches to work);**

Not applicable.

**10. Any other issues relevant to the scope of this study, including for instance information on the use of indicators for measuring the negative impact of corruption on human rights or the correlation between corruption and human rights violations and vice versa.**

No.