

MANAGERIAL ASPECTS ON THE PREVENTION AND COMBATING CORRUPTION IN PUBLIC INSTITUTIONS AND PUBLIC SERVICES

Professor PhD Iliuță PĂTRAȘCU
Cristian Samoil FLORE

ABSTRACT

Corruption, a term which had been mentioned even in ancient sources, has become a concept that generates an ever-growing number of preoccupations to measure its effects and identify the most effective ways to implement strategies for preventing and combating it. Having in view the complexity of the causes that generate corruption and related risk factors, which may result in critical distortions in the political, economical and social area, it tends to become a habitual and endemic phenomenon in Romania. Against such a background, the campaigns for corruption prevention and fight have to be institutionalised and systematised, in order to make goal-oriented efforts, and this way, unwanted effects will not only be limited, but they will meet public interest, entailing an approach that embodies managerial strategies at the level of public institutions and services.

KEYWORDS: *corruption, risk factors, prevention and combating corruption, management strategies*

1. Considerations on corruption

Corruption involves *the misuse of public power* and incorrect decision-making. This is evident in all facets of economic and social life, but especially in the economic sector, where state ownership predominates, and use of public funds.

The word "corruption" is the etymology of the term 'corruption' in English, which in Romanian expresses "rotten things, weakness, removal of what is pure or abdication of moral norms and values ...". The notion of corruption we find mentioned in ancient sources, of which the most important source is the Bible where Jesus said of his betrayal by Judas for 30 pieces of silver. Also, a work of a considerable length of over 2500 years, (*Art of War*, developed by Sun Tzu), contains a reference to the corruption of enemy action.

Today, *the legal concept of corruption has been defined in the UN Convention against Transnational Organized Crime*, which criminalises corruption and recommended each State Party to adopt measures to assign the offense, nature of offense where the acts were committed with intent.

Corruption of public officials for acts such as national, foreign and international officials of public organizations have been established a series of measures to the Member, the harmonization of legislation or establishing a legislative framework. In this regard, are considered stealing, misappropriation or unlawful use of property by a public official, trafficking in influence, abuse of functions, illicit enrichment, unlawful removal of goods in the private sector etc.

On European level, The Council of Europe adopted in Strasbourg on 04.11.1999, Civil Law Convention on Corruption. In the sense that corruption legislation is seeking office, give, give, directly or indirectly accepting an illegal fee or other undue advantage affecting the normal performance of functions or illegal conduct or commission beneficiary unfair advantage.

At the regional level was the Stability Pact Anti Corruption Initiative which included countries such as Albania, Bosnia, Herzegovina, Croatia, Macedonia, Moldova, Romania, Serbia and Montenegro. The initiative seeks to renew its fight against corruption in the region, building over the current actions for better coordination of all efforts and relying on high-level political commitments.

In *Romania*, the concept of corruption is just incriminated during the Turkish domination in an imperfect form, because the Romanian countries were high officials and judges, receiving gifts from subordinates when appointed to an office, etc.. Also, *Pravilniceasca registry* of Prince Alexander Ypsilanti in 1870, prohibited under heavy penalty taking bribes to judges. *Ledger criminology and criminal procedure* in 1826 her crime of corruption by officials that facilitated its target for gifts or material benefits are as prisoners escape their supervision.

Since 1865 the Criminal Code was inspired by the French Code incriminate passive bribery and trading in influence. Subsequently brought significant changes in codes 1937, 1938 and 1969 on criminal regulations, when there were new institutions such as bribery, bribery, receiving undue benefits and traffic of influence.

In some special laws, designed to protect the public against illegal commercial activities or actions of companies, a declaration of adoption or blood donation, etc., similar acts of corruption are criminalized.

Finally, corruption highlights the same attitude detrimental to moral and ethical incorrect materialized in a *decision and obtaining for himself or for another, a gain unfair abuse of power in the exercise of duties, fraud, favoritism, conflict of interest or use of illicit funds to finance political parties and electoral campaigns*.

2. Types of corruption in public services community

Corruption is mediated by forms, client relationships and networks. Public officials and business people have identified that clientelist parties nepotism and corruption in public sector support. These relationships ensure success of the action involving corruption and secrecy and confidence between the parties.

Corruption involves breach of trust by a public official or politician, but also increase confidence in client relations. Mutual trust between participants in an act of corruption is supported by mechanisms that are designed to minimize the possibility of deception that is payment of bribes.

With regard to nepotism, I appreciate that is a key mediator of corruption, which is based on affection gained in the relationships of service and is seen throughout the public administration system. Political relations, maintain maintenance of nepotism by exerting pressure on the heads of institutions and procedures by changing the abuse of public officials with politically loyal people, placing orders and concealed illegal or abusive exercise and providing inside information.

There is also a type of corruption involves a mediating factor, such as a prior relationship between the participants, or a recommendation. In this case, negotiate prices and bribes as a transaction on the consumer market. The practice of small attentions are often dezinordinate, but their use leads to personal relationships that can be invested with

confidence at the expense of formal rules. Officials are perceived as discriminatory in some absolute despots decisions whose goodwill must be earned through a humble attitude, gratitude, or gifts. Citizen trust in a system that can influence a personal action to the detriment of others.

In legal terms, giving and receiving attention for winning favors is offense official release / bribery or as appropriate for receiving undue benefits.

Of corruption takes place in the implementation of laws, rules or procedures, but also the formulation of laws or public policies.

Corruption is a means of settling the interests, manifested by the dominance of primary loyalties, the scarcity of organizational skills, the formality of legislation and discrimination against minorities. Political and economic interests acquired through corruption as early implementation stage of regulations.

The bureaucracy of the government of Romania does not deal with corruption and the requirements of impartiality, neutrality and fairness, procedural safeguards and legal regulatory framework, have limits to the innovations of corruption.

3. Causes and effects of corruption

3.1. Introductory notions

Corruption, always affected economic and social development, diminished or wasted resources, it has aimed at other purposes and distorted the truth. This is a factor of instability, a threat, a definitive risk to the safety and state security.

In a wider concept, *risk is defined* as the probability of a negative event occurs or that there is a threat, more or less predictable, which can influence the objectives of public institutions.

Standard Ministry of Interior, SMAI - A nr.006 on principles and methodology standardization defines risk as the uncertainty of a result of actions or events or as a positive opportunity or negative threat. In the area of corruption, *the risk factor* is the condition or circumstance which contributes to the perpetration of acts of corruption, while the concept of vulnerability highlights feature a staff that is exposed to a hazard, or which reduces or maintains a reduced capacity to react when an event occurs.

3.1.1. Risk factors outside the public service community

Risk factors **outside the public service community**, is a set of processes and phenomena that contribute to reducing the ability of the institution's response to existing or potential risks. Of these the most difficult to control and the incidence in corruption, are:

- ✓ Development, consolidation and specialization of channels organized crime, and attract their internationalization in their composition of elements and indigenous groups;
- ✓ International environment, characterized by a dynamic growing crime in the area of corruption, unprecedented, both regionally and globally;
- ✓ Increased interest in some business environments to achieve, through illegal means and corruption of staff, of benefits depending on the area of activity in our country;
- ✓ Diversification of forms and procedures used for money laundering involving groups operating across Europe and Europe that have resulted in extra border crossing currency or bank transfer of proceeds from illicit transactions conducted on its territory;
- ✓ Amplification of illegal migration, human trafficking, drugs, etc. prohibited substances.

3.1.2. Internal risk factors

3.1.2.1. In the area of procurement activity

Logistics and procurement structures within a particular field longer in ministry activities, but no less important than others. Management of important values and a large volume of material and financial resources and relationships with people outside the institution leading to a high level of risk in corruption, as follows:

Risk factors	Method of disposal
<ul style="list-style-type: none"> • Pressure of managerial personnel to spend money allocated for procurement, especially on the end of the year. 	<ul style="list-style-type: none"> • Increased attention to how the implementation of public procurement at the completion of control activities, namely, internal audit; • Change H.G.R. no. 925/2006, to enable commencement of acquisition, previously indicated funding and allocation of funds.
<ul style="list-style-type: none"> • Increasing interest in some business environments to achieve, through illegal means, the profiles substantial "relationship" with public institutions. 	<ul style="list-style-type: none"> • Development of consultation with employers' associations and economic operators, suppliers of goods for more structural, in order to raise awareness about corruption; • Set annually by the DGA, of training to staff carrying out the procurement structures; • Conduct specialized training of personnel working in public procurement with representatives of the National Authority for Regulating and Monitoring of Public Procurement (NARMPP) and Electronic Procurement Service.
<ul style="list-style-type: none"> • Although O.U.G. no. 34/2006 created a more transparent framework of activity, there are still rules to allow: • Purchase of goods by using less transparent procedures. • Preparation of technical failure in the sense of the target completion of procedures by a single bidder. • Determination of delivery terms inconsistent with market practices so that they can not be honored than those traders who had knowledge about a particular purchase in advance. 	<ul style="list-style-type: none"> • Listing on the website of public institutions and their premises, the annual program of investments and Annual Procurement Program (this is public information according to Law no. 544/2001), but the Annual Report on awarding public contracts (although current legislation requires notification of the report, only to NARMPP, displayed on the website would help increase the integrity of the business premises procurement); • Increased transparency for economic operators and the general public within the meaning of timely publication on the website and media institutions subordinated MAY central or local, as appropriate, notices of intent and notices; • Review how to draw up technical specifications so that they can allow the participation of several economic operators (potential suppliers) in procurement; • Delivery is so established, that the procurement procedure can participate as many operators offering the product or service.

Risk factors in the performance of control activities in the various fields of competence of specialized structures of MAI, the issuance of permits, approvals, documents:

Risk factors	Method of disposal
<ul style="list-style-type: none"> • Procedures that allow breach regulations on access to information. 	<ul style="list-style-type: none"> • Improving technical supply of structures (systems, media and communications networks).
<ul style="list-style-type: none"> • Regulation of incorrect operation of one-stop shop. Currently there are different views of the institutions of May and DRPC INEP and the applicability of a single window system. 	<ul style="list-style-type: none"> • Clarify issues related to the activity in one-stop on-line system of license and registration certificates.
<ul style="list-style-type: none"> • The tendency of a part of people to reward for work personalities, coupled with insufficient knowledge of legal regulations in the field of corruption. 	<ul style="list-style-type: none"> • information and awareness campaigns about the services offered by MAI. • continue public information campaign on corruption-related legal provisions; • location of the headquarters of each structure a specific billboard business of preventing corruption, in all their activities in public spaces.
<ul style="list-style-type: none"> • High volume of applications / requests coming from citizens of some public services offered by the institution 	<ul style="list-style-type: none"> • Creation of online systems for applications / requests; • Publication on website all information, documents, notices, authorizations, etc. made by institution and issued the necessary documentation for complementary institutions; • Analyze the possibility of extending the single window system and other services offered by MAI.
<ul style="list-style-type: none"> • Failure to proactively control by management personnel on the performance of the staff reports. 	<ul style="list-style-type: none"> • Empowering managers on the adoption of an active behavior in the prevention of corruption. • Adopt regulations to prevent corruption, with clear tasks for managerial personnel (Order of the Minister).
<ul style="list-style-type: none"> • Affordability of laws for the purposes of assessment or subjective interpretation of the official (sanctions, fines, limits of criminal / wrongdoing). 	<ul style="list-style-type: none"> • Analyze current legislation, the fields to identify redundant rules, conflicting or corruption-generating potential for the modification; • Expanding video monitoring of contact functioning - citizen.
<ul style="list-style-type: none"> • Parallel implementation of powers of agent finding a contravention and crime, respectively a factor specialized on assistance in the field. 	<ul style="list-style-type: none"> • Evaluate internal procedures, particularly on those areas where corruption was detected and the proposed efficiency measures and increase transparency;

Risk factors	Method of disposal
<ul style="list-style-type: none"> • Procedures to allow practice/preferential or discriminatory treatment in functional exercise. • The existence of inefficient internal procedures and processes, unclear responsibilities of the institution, that violations of administrative procedures. 	<ul style="list-style-type: none"> • Relation between the strategic objectives of the more specific areas of activity of the MAI and their operational up to the job description.
<ul style="list-style-type: none"> • Insufficient revenue compared with the work performed, pressures and risks. 	<ul style="list-style-type: none"> • Analyze current level of distribution coefficients of hierarchy and their proposal to increase for those functions that require a high degree of complexity and responsibility.

References

1. Buletin documentar și de informare privind activitatea de prevenire și combatere a corupției - Anul II, Nr. 2(3)/2008 – Editura Ministerului Administrației și Internelor
2. “Management public în România” – coordonat de Mihai Păunescu în seria *Politici publice și integrare europeană* – Editura POLIROM 2008
3. *Corupția din perspectiva Ministerului Administrației și Internelor* – Editura Istros a muzeului Brăilei, 2007
4. Declarația Universală a Drepturilor Omului – adoptată și proclamată de Adunarea Generală a Organizației Națiunilor Unite prin Rezoluția 217A(III) din 10 decembrie 1948
5. Convenția împotriva torturii și a altor pedepse ori tratamente cu cruzime, inumane ori degradante – adoptată de Adunarea Generală a Națiunilor Unite prin Rezoluția 39/46 din 10.12.1984
6. Codul Penal al României, republicat cu modificările și completările ulterioare
7. Convenția penală privind corupția a Consiliului Europei, ratificată de Parlamentul României prin Legea nr.147/2002
8. Legea nr.161/2003 privind unele măsuri pentru asigurarea transparenței în exercitarea demnităților publice, a funcțiilor publice și în mediul de afaceri, prevenirea și sancționarea corupției, cu modificările și completările ulterioare
9. *Corupția și combaterea ei. Spre un model de construire a integrității naționale*, Editura Irecson, București, 2003
10. *Corupția în România. Realitate și percepție socială*, Editura Lumina Lex, București, 2005;