

Corruption – the Politic and Bureaucratic Shield of the Underground Economy

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Abstract: In a conditional manner, corruption is considered the specific behavior for the entity that represents the state and public authority of using public resources for personal profits. International institutions for corruption evaluation (the World Bank or Transparency International) generally qualify the phenomenon as “the abuse of public power for private benefit”. Thus, corruption and underground economy create the condition for the development of group interests, that, thanks to their influence, do not subordinate the national legislation and control the political and economical national systems, giving a perspective on what is known in the professional literature as “state capture” (Hellman & Kaufmann, 2001).

Keywords: corruption; underground economy; Corruption Perception Index

1. Corruption, Determinant Factor of the Underground Economy (Definition and Manifestation Forms)

Regarded by some authors as one of the most critical behavior deviations, that distorts the public business administration towards private goals, corruption is a complex phenomenon that acts in various circumstances in order to offer the underground activities “probationers” protection against the compulsory actions of the state.

The definition of corruption is diverse and begins with “the faulty use of public power” or “moral decline”, up to the strict definition given by the law, definition that regards corruption as an act of bribery that involves a magistrate as well as the transfer of tangible resources. (Matei, 2009, p. 12)

In a conventional manner, corruption is considered to be the specific behavior of the person representing the state and the public authority to faulty use of public resources for personal profits. International institutions for corruption evaluation

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(the World Bank or Transparency International) generally describe the phenomenon as “the public power abuse for particular benefit”.

The legal framework of fight against corruption in our country is based on the purview of Law nr 78/2000 for the provenience, detection and penalization of corruption deeds, modified through the following regulatory documents: Law 69/2007 regarding modification and completion of Law 78/2000 for preventing, detecting and penalizing of corruption deeds, GEO 50/2006 regarding the means of insuring the health of court instances and Prosecutor’s offices and for the terms prorogation, Law 521/2004 – regarding the modification and completion of Law 78/2000 for preventing, detecting and penalizing corruption deeds, Law 161/2003 regarding several means of insuring the transparency in the public dignity exertions, of the public functions and the functions in the business environment, corruption preventing and penalizing, GEO 23/2002 – regarding the National Anticorruption Prosecutor’s Office and GO 83/2000 – for the modification and completion of Law 50/1996 regarding remuneration and other personnel right of the judicial authority body.

Law nr. 78/2000 for preventing, detecting and penalizing corruption deeds incriminates three types of infractions: corruption infractions (art.9), infractions assimilated to such infractions (art. 10-13) and infractions directly related to corruption infractions (art.17).

The shape diversity of the corruption phenomenon, starting from a simple bribery action up to the dramatic affectation of the economic, politic and administrative systems, makes it a complex phenomenon, with a continuous dynamics, hard to quantify and eradicate.

It is obvious that, alongside the modifications of the economic systems, the corruption forms of manifestation have changed, in the sense of their adaptation. Thus, there are many attempts of the used levers to cover all the mechanisms in the real economy, giving efficient and opportune “solutions” to the ones operating in the underground economy.

Thus, corruption and underground economy create the conditions for the development of interest groups which, due to their influences, do not subordinate the national legislation and control the political and economical national systems, giving a perspective of what is known in the professional literature as “state capture”. (Hellman & Kaufmann, 2001)

Transparency International also emphasizes in its researches the manifestation forms of corruption, which are also diverse, including: friendships, relations, family members and relatives, political corruption through election campaign donations etc, bribing for governmental contracts, all kinds of fraud, etc.

Recent studies have emphasize other corruption types, respectively: bribery, defalcation, fraud, extortion, etc.

According to *Transparency International*, the corruption phenomenon in the public sector almost has the same form and affects the same areas, whether it gathers way in a developed country or a developing one. The fields in the governmental activity that are mostly exposed to the corruption phenomenon can be graphically described as follows:

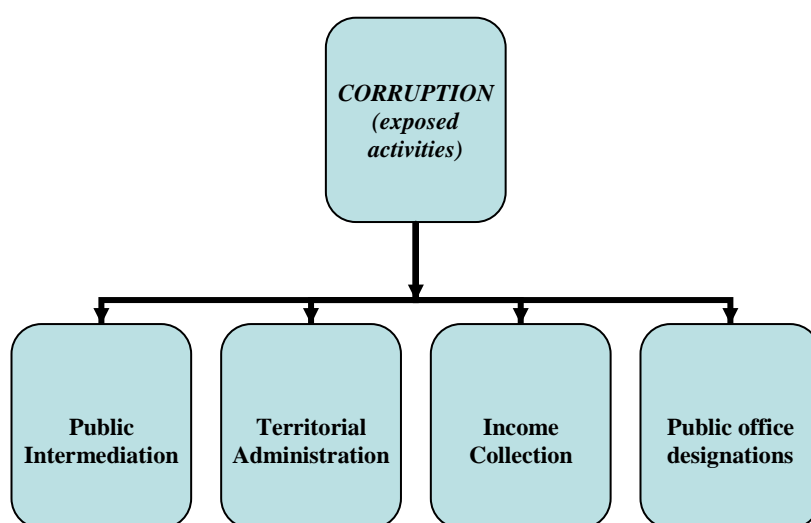


Figure 1. Fields of governmental activites exposed to corruption

Regarding the phenomenon forms of manifestation, several „fields” of interest have been marked up in our country: fraudulent privatisation and faked public acquisitions, foundations of phantom companies prospering among state companies by outsourcing of their profitable activities, bank plunder through preferential loans relying on clientele, the diminution of the consolidated state budget by toleration of the debt non-payments of some „protected” companies, as well as illegal AVT reimbursement, excisable products smuggling, use of fiscal document belonging to phantom companies, European funds defalcation.

2. Evaluation of the Corruption Level in the EU States

The problem of corrupt transactions evaluation is generated by the desire of generally evaluating the informal or unofficial activities, starting from a series of quantifiable factors that are specific the official economy:

- Incomes achieved by economic entities;
- The tax on income paid by entities (employees, employers, financial institutions and corporations paying interest rates and dividends);
- Corporate reports;
- Information in the industry/agriculture field reported by the Government or professional associations;
- External trade specific transactions;
- Incomes and expenditures reported by each level of administration;
- Macroeconomic indicators.

By contrast to the characteristics of determinations in the real economy previously mentioned, corruption specific activities do not offer any possibilities of quantification or estimation due to the sanction nature of the legal rules that lead this phenomenon, most of the estimations being base on surveys and under the condition of insuring the respondents' anonymity.

Even the unofficial economic activity, on the whole, can be estimated from various types of rigid information – comparing the changes in the evaluated economic activity to the parallel changes for this kind of variables, such as: used currency, electricity and fuel consumption, the miles of the passenger planes and the errors and omission in the data about international payments. (Matei, 2009, p. 57)

Researchers, as well as various international organizations have approached the issue of corruption evaluation from different perspectives. These can be grouped as following:

- Studies regarding perceptions of “experts”, business people, households and authorities;
- Studies regarding the direct experience of business people, households and authorities;
- Indirect measures of “gross information” regarding variables considered to be the result of corruption or correlated to it.

The attempts of “measuring” corruption might also have a series of alternative meanings regarding the following activities: (Lanyi, 2004)

- *The prevalence of corruption in specific contexts* – for example, how often is bribery encountered in a particular economic activity or in a public sector post. An indirect measure under this condition can be represented by the

time spent by the company management confronting with the state authorities (assuming that bribery prevalence is correlated to the bureaucracy “quantity”);

- *Level of corruption* – for example, the percentage in the income of a company or household that is spent on bribe or other costs correlated to corruption. This issue becomes hard to emphasize when dealing with high level corruption, or with the “state capture” concept;
- *The relative level of corruption prevalence in a country compared to other countries* (it involves a subjective side of the respondents);
- *Corruption impact* – for example, companies can estimate the additional costs they have due to corruption (both the value of the bribe and the time they loose with transactions involving the people asking for bribe).

Generally, the results of the corruption level determination need a series of adjustments before being published due to the problems raised by the accuracy of the measurements (answering the surveys), of processing and interpretation, and not the least, the negative influence on the states in case of publishing wrong studies.

It has been noticed that survey respondents can offer clear information about the percentage of bribe in their incomes, but they are inaccurate when trying to make a national estimation.

Due to the significant role corruption has in determining the business environment quality; some of the determinations of the abovementioned corruption level have been made by business oriented organizations. The most frequent used index for corruption level determination is the Corruption Perception Index (CPI), yearly published by Transparency International (TI).

The Corruption Perception Index (CPI) is the most comprehensive corruption international quantitative indicator. It is achieved by a team of Passau University researchers lead by Johann Lambsdorff. CPI determines the extent to which officials and politicians are thought to accept bribe, receive illegal commissions, assume public funds and commit such actions.

The indicator rates the states on a scale from 10 to 0, according to the noticed level of corruption. A score of 10 represents a totally trustful country, while a score of 0 shows a totally corrupted state.

The Transparency International Index is not based on data from its own experts, but is conceived as the weighted average of 17 different indices from 10 different organizations. CPI focuses on the public sector corruption and defines corruption as abuse of office in order to gain particular profits.

The Evolution of the EU states in the last year of CPI evaluation

	2009	2010	2009	2010	2009	2010
ROMANIA	-	-	3.7	3.6	-	-
Bulgaria	-	-	3.6	3.3	-	-
Turcia	-	-	4.4	4.2	-	-
Polonia	5.3	5.5	-	-	-	-
Cehia	-	-	4.6	4.4	-	-
Slovacia	-	-	4.3	4.0	-	-
Lituania	-	-	5	4.8	-	-
Letonia	-	-	4.3	4.2	-	-
Estonia	-	-	6.5	6.4	-	-
Ungaria	-	-	4.7	4.6	-	-
Slovenia	-	-	6.4	5.9	-	-
Malta	-	-	5.6	5.6	-	-
Cipru	-	-	6.3	6.3	-	-
Franta	6.8	7.0	-	-	-	-
Olanda	8.8	8.9	-	-	-	-
Germania	7.9	8.0	-	-	-	-
Marea Britanie	7.6	7.8	-	-	-	-
Italia	3.9	3.9	-	-	-	-
Grecia	-	-	3.5	3.4	-	-
Suedia	9.2	9.3	-	-	-	-
Finlanda	9.2	9.4	-	-	-	-
Spania	6.1	6.2	-	-	-	-
Portugalia	6	6.1	-	-	-	-
Austria	-	-	7.9	7.8	-	-
Belgia	7.1	7.5	-	-	-	-
Luxemburg	8.5	8.5	-	-	-	-
Danemarca	9.3	9.4	-	-	-	-
Irlanda	-	-	8	7.5	-	-

Source: www.transparencyinternational.org

3. The Public Office and „the Reversed Pyramid” of Corruption

In the attempt to emphasize the main corruption forms in our country, we have structured the “interest zones” for the corruption phenomenon depending on the public office significance, and the economic agents, as possible corruption incumbents, depending on the contribution to the gross added value achieved within the national economy.

The public office represents the assembly of attributions and responsibilities, established by law, with the object of achieving public power prerogatives by the central public administration, the local public administration and the self-governing administrative authorities¹.

¹ Law no. 188/ 1999 mod. regarding the Public Officers' Status.

In the exertion of public power prerogatives, public officers (people designed by law in a public office) fulfill, while respecting the basic principles of public office exertion, the following activities:

- Putting into application of laws and other regulatory documents;
- The elaboration of regulatory documents projects and other authority or public institution specific regulations, as well as insuring their appraisal;
- Elaborating of policy and strategy projects, programs, studies, analyses and statistics needed for the achievement and deployment of public policies, as well as the documentation needed for law execution, with a view to achieving the authority or public institution competence;
- Guidance, control and intern public audit;
- Human and financial resources management;
- Collecting budgetary debt;
- Representing the interest of the public authority or institution in its reports to natural or judicial persons of public or private legal entity, from the country or from abroad, limited by the competencies established by the leader of the public institution or authority, as well as representing in front of the law the public authority or institution where they operate;
- Completion of activities according to the public administration computerization strategy;

According to the legal stipulations, public offices are classified as follows:

- General public offices and specific public offices;
- First class public offices, second class public offices, third class public offices and management of the human and financial resources;
- State public offices, territorial public offices and local public offices.

Regarding the attribution level of the occupant of the public office, public offices are classified as follows:

- State public offices, territorial public offices and local public offices public offices appropriate to the high officials' category;
- Public offices appropriate to the leading public offices;
- Public offices appropriate to public servants.

In the high officials' category, people that are designed for the following public offices are included: general secretary of the Government and deputy general secretary of the Government, general secretary of ministries and other specialized institutions of the central public administration, prefect, deputy general secretary of ministries and other specialized institutions of the central public administration.

The principles of public office exertion regulated by the legal stipulations are:

- Legality, objectivity and impartiality;

- Transparency;
- Efficiency and expediency;
- Responsibility citizen orientation;
- Stability in public office exertion;
- Hierarchical subordination.

Empirically, depending on their contribution to GDP development, economic agents that operate within the national economy can be structured on three categories:

- Large contributors;
- Small and Medium size Enterprises;
- Small and individual contributors.

The pressure exerted by the economic agent on the public office depending on the “interest zone” can be graphically described as follows:

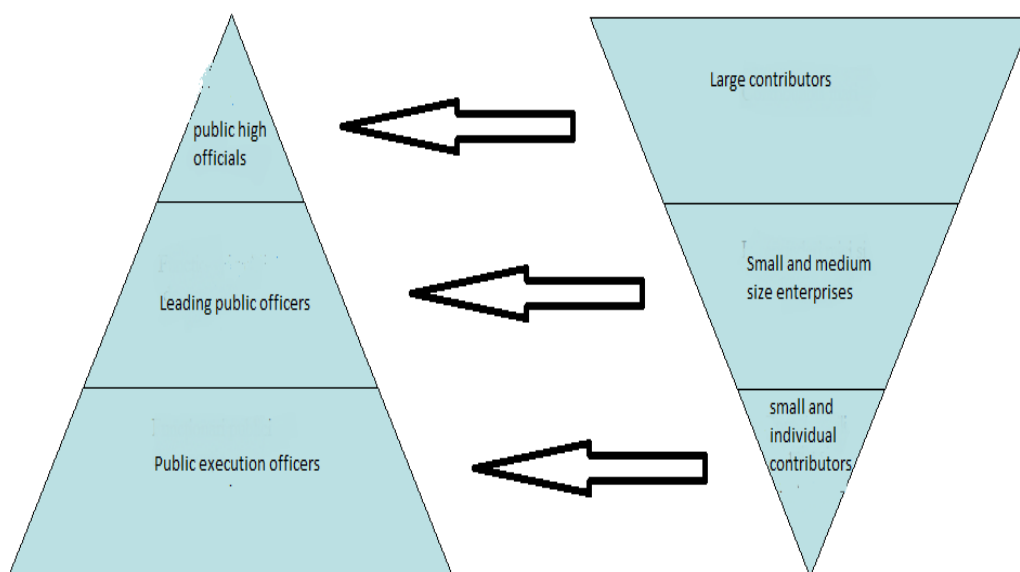


Figure 2. Economic agents pressure on the public office

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****Law no 78/2000 republished and modified on preventing, detecting and punishing corruption acts.*

****Law no 188/1999 republished and modified on the status of civil servants.*

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