

# GOVERNMENTAL STRATEGY TO COMBAT CORRUPTION IN ROMANIA

Isabela, Stancea<sup>1</sup>

## Summary:

*Corruption in the public administration is an act, attitude or behavior of a person who holds himself a dose of power in certain spheres of social, politic, economic, legal, etc, or in certain professional fields whereby fulfills/does not fulfill certain tasks and aims to obtain goods, benefits, services for himself or for his family. Thus, corruption is directly related to the holding of power in a certain field and constitutes a threat to democracy, the rule of law, social equity and justice, eroding the principles of efficient administration, undermining the market economy and threatening the stability of state institutions.*

**Keywords:** *corruption, acts of corruption, anticorruption procedures, principles.*

Although corruption has been the subject of numerous studies and public debates so far there has not been reached a comprehensive definition, universally valid. This is because corruption is an extremely complex issue, which is presented in different forms, is manifested in all spheres of social life, threatening the stability and credibility of public authorities and institutions, and even the rule of law.

Corruption has been reported since ancient times, so it is not a product of the new democracy; it has been seen in the communist regime when it was facilitated by the lack of goods specific to that period. An example that seems relevant is the one of marketing color TVs' on the Romanian Market. The Romanian electronic industry started to produce in the 1980's color TV's. Sometimes there were also imported from URSS, but no one ever saw these TV's in shops. Being in insufficient quantities, the only methods to procure them was either through an acquaintance, or due to bribe, of both of them combined. Meaning, under conditions of tight supply over the official price there was added one typical to corrupt practices (Gulyas, Radu, Balică, Haruța, 2011).

We all know that often, to easily solve a personal interest, a citizen goes to the doctor, city hall, police with a "gift", meant to guarantee the solving of the problem. Always, the doctor, public official or police man receive that "gift" in a natural manner, as a natural fact, ordinary, that they deserve, although the solving of that problem represents to them a duty. In all these cases we are standing in front of giving and receiving bribery crimes, in other words, corruption. Of small corruption that do not hurt the interests of a wider community, of a state.

When we talk about crimes like deception with serious consequences, tax evasion, bid faked embezzlement, money laundering, etc. terminating with the acquittal of the ones implicated or there are disposed only punishments with suspension, we tend to ask ourselves, regarding the corruption in justice, in the political area, about the big corruption. That corruption that affects the national economy, stigmatizing the cheek of a nation, destroys a nation's dignity. Corruption at a high level represents the most dangerous form of corruption because these acts can not be known by the public opinion but only when they are felt in the good administration of public business, under the shape of prejudice bought to the national economy, slowing the good functioning of the administrative apparatus.

After 1989, at a national level, the appearance of corruption, determined regulation laws, such as:

-Law no.78/2000 for preventing, revealing and sanctioning of acts of corruption<sup>2</sup>. This law establishes an obligation for persons holding a public position to perform their duties in

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<sup>1</sup> Assistant Professor PhD, Constantin Brancoveanu University of Pitesti, The Legal and Administrative Sciences Department

<sup>2</sup> Published in the Official Gazette no. 219 of the 18th of May 2000.

strict compliance with the laws and rules of professional conduct, to protect the legitimate rights and interests of citizens, without the use of powers acquired in virtue of his position to acquire for themselves or others of money, goods or favors;

-Law no.161/2003 regarding some measures for ensuring transparency in exercising the public dignities, of public positions and in the business environment, prevention and sanctioning of corruption<sup>1</sup>;

-Law no.144/2007 regarding the establishment, organization and functioning of the National Integrity Agency<sup>2</sup>.

All these laws, adopted only in view of Romania's accession to the European Union that contained ambiguous, repetitive provisions, did not produce the desired effect; corruption has grown and increasingly diversified.

In parallel, international, also in accession to European structures, our country has signed many agreements and conventions on corruption, including:

- The United Nations Convention against Corruption, adopted in New York on the 31st of October 2003, ratified by Romania by Law no. 365/2004, published in Official Gazette of Romania, Part I, nr.903 on the 5th of October 2004;

- The Civil Law Convention on Corruption, adopted in Strasbourg on the 4th of November 1999 ratified by Romania by Law no.147/2002, published in the Official Gazette of Romania, Part I, no. 260 of the 18th of April 2002;

- The Criminal Law Convention on Corruption, adopted in Strasbourg on the 27th of January 1999 ratified by Romania by Law nr.27/2002;

- The Additional Protocol to the Criminal Law Convention on Corruption of the Council of Europe, adopted in Strasbourg on the 15th of May 2003, ratified by Law no. 260/2004.

According to the definition given by Transparency International, taken from the UN Convention against corruption, this represents „abusive use of the power entrusted, Either in the public sector, either in the private one, with the purpose of satisfying some personal or group interests”.

The Convention<sup>3</sup> considers to be corruption, the offering or accepting of undue advantages for himself or for another person or entity.

According to the DEX, corruption represents an „deviation from morality, from honor, from debt; debauchery, depravity”<sup>4</sup>, when the penal Code, without defining corruption, establishes the crimes that are in its competence: taking bribes, bribery, reception of undue benefits, traffic of influence, conflict of interest.

Therefore, we are talking about corruption whenever a holder of power, a civil servant or any occupant of a public office, is determined by financial or other rewards, such as the promise of promotion, that are not required by law to take any action, that favors the one offering the reward thus causing harm to the public and its interests (Friedrich, 1999).

To summarize, but keeping constant elements, in our opinion, corruption in the public administration is an act, attitude or behavior of a person who holds himself a dose of power in certain spheres of social, politic, economic, legal, etc, or in certain professional fields whereby fulfills/does not fulfill certain tasks and aims to obtain goods, benefits, services for himself or for his family. Thus, corruption is directly related to the holding of power in a certain field.

In the specialized literature, the power was defined as a set of social relations that express the authority of an individual or group of individuals vested with the right to

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<sup>1</sup> Published in the Official Gazette no. 279 of the 21st of April 2003.

<sup>2</sup> Published in the Official Gazette, Part I no. 359 of 25/05/2007. The law came into force on 28.05.2007.

<sup>3</sup> On the 9th of December 2003, Romania signed the UN Convention against Corruption (UN Convention Against Corruption - UNCAC), ratifying it by Law. 365 of the 15th of September 2004.

<sup>4</sup> The Romanian Academy, The Romanian Explanatory Dictionary, Second Edition, The Encyclopedic Universe Publishing House, Bucharest, 1996.

command, order and impose to the members of the society, the attitude adopted by them in order to achieve a common goal(Grădinaru, Mihalcea, Popescu, Neagu, 2011).

We observe that corruption is a threat to democracy, to the rule of law, to social equity and justice, eroding the principles of efficient administration, undermining the market economy and threatening the stability of state institutions (Ciuncan, 2003).

In order to eradicate corruption or at least substantially reduce corruption there must first be analyzed the causes which favor the occurrence of this phenomenon. There were identified a number of causes which favor the appearance of corruption, as follows:

-The desire for rapid enrichment of some people in public office. Starting from the question of who are the corrupt, we will also have the answer, who is corruptor. The corrupt are persons who, by nature of the office, have a dose of power-managers of public institutions, even private, the big companies that have a monopoly, ministers, state secretaries, experts in various fields, parliamentarians, who have the possibility to hide debts, or to conceal income through subcontractors, mayors, prefects, etc.

- The tendency to obtain a specific service or good in an easy way. This time initiative must belong to corruptor. He is the one that, in order to satisfy some interests regarding which he does not have certainty that he will get otherwise, tends to 'ensure' success by offering benefits to the person who has the power to fix the problem. This attitude is encouraged by the deterioration of living standards, the absence of effective control, the chase continues after additional earnings, inherited attitudes during totalitarian regime under which that benefit is proper;

- Tolerance, lack of involvement and disinterest of the authorities with control attributions. The direct involvement of decision makers and political leaders in acts of corruption, perpetuation of the communist political power structures, inefficient political structures, which adopts laws, according to their own interests just in order to promote corruption, mismanagement of public interest (often even losing sight of the interests in favor of private interests), closing contracts to the disadvantage of the state at governmental level, promoting in hierarchy based on political criteria or other criteria than those related to competence, misuse of government institutions, illegalities committed during electoral campaigns, directing government auctions, are acts that favor corruption.

The National Anticorruption Strategy, Government's for the years 2012-2015 is a document of strategic vision in medium term, which provides the major coordinates action in support of promoting integrity and good governance in all public institutions<sup>1</sup>.

This strategy is based on a set of principles whose observance is necessary to achieve a more efficient public administration: the rule of law, accountability, assessment and management principle, risks of corruption, the principle of proportionality in the development and implementation of anticorruption procedures, the principle of responsibility at the highest level of commitment to the principle of committing corruption prevention, the effectiveness in combating corruption, cooperation and coherence, public-private partnership aims to prevent and reduce corruption through rigorous application of the regulatory and institutional framework in order to achieve maximum results in the fight against this phenomenon.

Results of regular reports of assessment of anti-corruption measures implemented by Romania indicates that it is not necessary to adopt new legislation but must, however, that in each public or private, to emphasize the effective implementation of international anticorruption standards, promoting institutional integrity by implementing ethical codes, implementing control standards at every level and measures to streamline administrative sanction mechanisms.

The National Anticorruption Strategy proposes the implementation of new tools dedicated to as best European practices, such as risk assessment methodology for corruption. This methodology has been successfully tested by DGA in the SNA 2008-2010, and during

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<sup>1</sup> Published in the Official Gazette of Romania, Part I, no. 202/27. III.2012.

the implementation of the new strategy is aimed at testing the application of this instrument in other public institutions, and depending on the results it may decide to prepare a new uniform methodology, which is to later be implemented by all public institutions<sup>1</sup>.

Also, one of Romania's major objectives is the accession to the Organization for Cooperation and Development in Europe (OECD) and obtain the status of a full member of the Working Group on Combating Bribery in the International Business Transactions of the OECD is a priority for the Agency national Anti-Corruption.

Another strategic objective of SNA it represents, fixing vulnerabilities specific of the public institutions through the systematic implementation of preventive measures. For the practical implementation of this measure it is necessary to introduce it gradually in all public institutions of a uniform methodology for assessing the risks of corruption, strengthening the role and status of the ethics counselor, increase institutional transparency by increasing the availability of open public data provided by public authorities.

Strategic objectives of the SNA can be found in justice. Thus, according to the National Anticorruption Strategy 2012-2015, special attention should be paid to strengthening the integrity and transparency of the judicial system by promoting anti-corruption measures and ethical standards of professional disciplinary judiciary system by strengthening the role and status of the Judicial Inspection.

It also will aim to increase the transparency of financing political parties and electoral campaigns by providing public funding sources for the activities of political parties by the regular organization of Permanent Electoral Authority of training sessions for political parties and capacity building in the administration and control of the agencies.

It is aimed to increase the integrity among lawmakers by adopting a code of ethics for parliamentarians and by regulating prohibitions for ombudsmen to provide advice or to represent public authorities or other economic-financial entities with majority stockholder state.

In the public procurement field it aims to increase the effectiveness of prevention of corruption by preventing conflicts of interest in managing public funds, the systematization of legislation, of procedures and materials of a guiding nature, building a database of companies that have executed corresponding contracts with public funds, organizing regular training courses to promote multidisciplinary good practices both nationally and internationally in this field<sup>2</sup>.

In order to promote a competitive business environment and with integrity, it is envisaged to implement international standards concerning anti-corruption policies also in the private sector, to promote fair competition by identifying, deterring and penalizing anti-competitive practices, the exchange of best practices in the implementation of integrity programs between the public and private business.

At local government level, to enhance the integrity, efficiency and transparency it is considered a simplification of administrative procedures for issuing permits and certificates, adapting organizational structures to the standards of price and population served, organizing regular consultations with citizens in order to increase their level of trust in public institutions and their representatives.

To improve anti-corruption education, and of institutional integrity, it is to be taken into account the knowledge of the civil servants, of the underlying ethical exercise of public functions or public dignity, the duties, the mission and mandate of the public institutions, the applicable

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<sup>1</sup> Government Decision no. 215/2012 regarding the approval of the National Anticorruption Strategy for the period 2012-2015, of the inventory of corruption prevention measures and evaluation indicators as well as the National Action Plan for implementing the National Anticorruption Strategy published in the Official Gazette no. 202 of the 27th of March 2012.

<sup>2</sup> Government Decision no. 215/2012 regarding the approval of the National Anticorruption Strategy for the period 2012-2015, of the inventory of corruption prevention measures and evaluation indicators as well as the National Action Plan for implementing the National Anticorruption Strategy published in the Official Gazette no. 202 of the 27th of March 2012..

penalties. In this respect, the NAS will conduct activities to inform citizens about the obligations of the public institutions and civil servants, but also on the legal and civic modalities to fight against corruption in public administration that every citizen has at its disposal.

The National Anticorruption Strategy for 2012-2015 is considering measures to combat corruption through administrative and penal tools. Thus DNA results on the investigation and prosecution of high level corruption cases, including cases involving current or former members of Parliament or Government, are still compelling and has seen a marked increase in the number of convictions, but the results recorded in courts still present a mixed picture. Although most cases of high level corruption are settled within three years, a significant number of major cases involving officials are pending for over three years, and in some of these cases has already reached the limitation period<sup>1</sup>.

To do this it is necessary to continue the investigation processes, impartially, of the acts of corruption also at the local level, improving all aspects of the the monitoring activity and evaluation of assets and achieving effects that allow a significant reduction in cases of unjustified wealth, conflicts of interest or incompatibilities. It also seeks to ensure the highest possible protection of the financial interests of the European Union in Romania by all legal and specific informational means, and strengthening the administrative control levers through the regular publication of a report on disciplinary measures imposed or ordered, as well as enhancing cooperation with judicial authorities in order to maximize the results of internal control.

But, beyond the measures taken by the Government, we believe that for the elimination or at least reduction of corruption would be necessary to remove the causes that generate and the means which facilitate it:

- A first solution would be monitoring and permanent control of persons exposed to the risk of being corrupted. This form of control should be unannounced and above the hierarchical control that takes place usually at the level of each public institution. It is felt currently in the Romanian society, a crisis state, institutionalized at all levels of social life, which manifests itself by weakening the legal and social controls, a crisis of credibility of some institutions of the state, an extreme, incomprehensible tolerance, of the factors of decision or control. Most times people definitively convicted for corruption are precisely those invested with the powers of security, surveillance, control and management of some public institutions;

- Moral and civic education from a very young age. We stated above that corruption is an abnormal behavior, but is also closely linked to education, individual's mentality inculcated from childhood. This behavior is considered specific to human nature in general and those in official positions, in particular. Exactly in order to prevent the development of this behavior, it would be necessary to introduce in primary, secondary or high schools or in the form classes, programs of moral education by which the small people to be aware of the dangerousness of this phenomenon and its impact on society. If this were would be cluttering too much the curriculum, it might organize annually in educational institutions symposiums, conferences, seminars on corruption;

- Increase of the efficiency of the judicial system by eliminating political interference in the justice by prosecuting the matter without delay regarding acts of corruption, and application of appropriate penalties, to those guilty, and the confiscation of their property. One of the causes that determine proliferation of corruption is caused by the lack of a coherent legal framework with uniform regulations and harsher penalties. Currently judges face a huge amount of cases and legislative acts to which they relate, contain provisions contrary ambiguous leading to the adoption of non-unitary decisions, contradictory and very late in relation to the time of the offense. The penalty should be applied in a timely fashion after the deed, otherwise educational and preventive effect is not achieved;

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<sup>1</sup> [http://www.mt.ro/nou/\\_img/documente/HG%20215\\_2012.pdf](http://www.mt.ro/nou/_img/documente/HG%20215_2012.pdf)

- Fighting corruption would prove effective in the situation of the country's economic recovery, and recovery is not possible without reducing corruption. In other words, it is difficult to fight against those who violate the law, police officers who do not have a decent salary. For this purpose, it is necessary to increase the salaries of civil servants so that they do not resort to such acts. In parallel requires the organization of professional education courses of such officials, in which they focus on their integrity, impartiality, fairness and accuracy;

- The involvement of the civil society in reducing corruption, through campaigns in which corrupters are to be discouraged from resorting to such acts. Corruption gangrened the whole society; we all want to live in a country in which competence and professionalism to constitute selection criteria in any function, a country in which an auction is won on points and not relationships, not to have to "stimulate" the customs official so that he does not control your luggage. We must not forget that public services are not paid; those who provide these services are paid by the state to do so.

In this situation, the community is one that should impose.

Corruption is an issue that belongs to all countries of the world, there was in all kinds of political regimes being characteristic to all social organizations. However, it presents dangerous degrees of intensity and very different from one state to another, in relation to the level of development, and their civilization. However, major cases of corruption were reported over time in countries such as USA, France, UK and Germany. Recently there have been reported unethical behavior in countries considered immune to this phenomenon, such as the Netherlands or Finland, and experts in the field from these countries increasingly expressing more concerns that they would see a significant increase of acts in conflict with the moral rules (Radu, Gyula, 2010).

### **Conclusions**

The modern society has become more and more violent, more and more eroded by obscure interests, by the desire for fast gain by any means and with any risk. Corruption represents the most dangerous phenomenon with which a nation can face with, it is a destructive attitude, a sick mentality that affects the majority of fields of the social, political, economical, juridical and administrative life. It has become an organized phenomenon, specialized, a practice, already gaining the shape or organisation networks or persons that have the possibility to influence different representatives of the state from the political, juridical or administrative structures.

The fight against corruption, although pretty tough and more efficient, will not succeed to totally eliminate this phenomenon. And that is because, aside from the silent complicity between the corrupt and the corruptant, the corruption phenomenon continues to be understood as a mentality, a tradition, a behaviour.

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