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State in transition and corruption. Comparative analysis.

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The government and public administration's fundamental mission is the one of serving the public interest. The citizens wish that the public servants do their duty in an honest, correct and impartial way. More and more, is compulsory for the administration to take measures so that the public servants could not discredit the process of taking the official and public administration decisions through the interests and their personal relations. In the conditions in which the society demands are higher and higher, the governmental measures concerning the decrease of the corruption are due to be more and more concise and efficient. The corruption represents a threat for democracy, for the supremacy of right, of social equity and justice, erodes the principles of an efficient administration, undermines the market economy and endangers the stability of state institutions.

With a history of thousand of years, beginning as far back as antiquity, the corruption represents one of the behavioral models among most bad, but, in the same time, extremely prevalent among the officials and the selected representatives of the community. In the last century, corruption refers also to the behavior of those working in the private area. Although there are numberless of studies concerning this theme, by now, one cannot come up to a universal valid definition and unanimous accepted, carry to cover all the papers and the possible facts and which to constitute in any jurisdiction actions of corruption.

1. The definition of the corruption

The majority of authors consider that one single definition, generically valid, cannot be given to this phenomenon. In the Romanian language, the term is known with the sense of "obliquity from the morality, as an act of infringement of the social limits".³ The term of corruption drifts from the Latin "coruptio, -onis", which means obliquity from the morality, honesty, but also immorality, debauchery. According to other authors, the root of the word "corruption" descends from the Latin verb "rumpere", nominating, therefore, a fracture, a fissure, a crime.

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³ Breban, Vasile, 1992 *General dictionary of Romanian, vol. I*, Ed. Enciclopedică, Bucharest, p. 219

The break can consist in the violation of a moral rule or a social code, of conduct, or of an administrative settlement, but, each time, the one inclined to such violations follows the procurement for him, his family, his friends or social groups, for an advantage to its direct reward⁴.

Internationally, the problem of the notion of corruption is interdisciplinary treated. J. A. Gardiner appreciated that to the phenomenon of corruption one cannot give a single definition, because corruption is a national and international problem with multiple forms of manifestation, having various departures⁵.

Also, according to E. Hirsch Ballin, the phenomenon of corruption is demonstrated on different paths, as "a monster with many heads". In their researches, the theoreticians on this area formulated various definitions, sometimes different enough from one another, from the ones with an evasive, ambiguously and crossover content, to the ones with a large sphere of capaciousness which outclasses the area of what can represent the phenomenon researched.

Sociologically speaking, the corruption is considerate that stand of normative and moral unbalance of those societies found out in crisis, because it disturbs gravely the development of social relations to the institutional and interpersonal level, causing the diminution of the prestige and authority of public and private institutions as well as of instances specialized in control and social prevention, due to the implication in different business of some persons with appointments depending on decision from politics, legislative and executive authority, administration and justice.

As a social phenomenon, the corruption can be considerate the expression of an exercise of putridity, of spiritual degradation, which, through its amplitude, intensity and forms of manifestation represents a true barometer of the state of legality and normality in a society.

As per the opinion of the teacher Joseph S. Nye, from Harvard University, United States, "the corruption represents the behavior which deviates from the normal duties of a public role or violates rules against the exertion of some kind of specific influence, such as the bribe, the nepotism, the defalcation"⁶.

The research on the corruption has focused also on the classification of the different forms of corruption in the sight of putting into practice the concept from analytic and economic reasons. Therefore, there are many opinions in what concerns the method of classification for corruption in categories and sub - categories. Some researchers have defined corruption as being a particular state - society relation and make a distinction between the "politic" and

⁴ Cernea, Silviu, 1996, *Corruption, bureaucracy, directocracy and economy*, Ed. Sedona, p. 3

⁵ Tilea, Ionel, *The impact of organize crime over worl economy*, doctoral thesis, Bucharest, A.E.S., 2006

⁶ Nye, Joseph, 1967 *Corruption and Political Development*, p.419

“bureaucratic” corruption. Another classification is the one which has in sight the “functional” and “dysfunctional” corruption.

Other researchers had tried to relate corruption with other phenomena or processes. For instance, the political sciences had tried recently to place corruption and the fight against the phenomenon of corruption on the democratization agenda.

The state’s decisive role is reflected in most definitions given to corruption, which will define corruption as a particular state – society relation (and, some may say, corrupted).

The corruption is conventionally thought and is considerate as being the particular behavior of searching the welfare by someone which represents the state and the public authority. It represents the misuse of public funds by the public authorities, for their personal gain. The encyclopedias and the work definition used by the World Bank, Transparency International and others, shows that the corruption represents *the abuse of public power for the particular benefit*.

Another large used description is that the corruption represents a transaction between the private sector and public sector actors where through collective goods are illegally transformed in private goods.

The hithermost sense to the meaning of the majority of people is the one wherewith is expressed the knowingly violation by the representatives of certain state institutions, invested with authority, from various areas (economically, politic, administrative, legislative, justice) of the norms which they are bond to protect, conversely for obtaining certain material goods or advantages of any kind.

In general, juridical speaking, the sphere of the term of corruption is more limited, through facts of corruption being designated merely certain illegal actions incriminated therefore in the criminal law, heartily related by the bias of one or more person by an official, conversely for the obtaining of certain advantages.

In some systems of criminal law, the analyzed notion is larger, in the sphere of corruption being included both the facts mentioned above, and other unlawful facts concerning the abusive and unauthorized use of the power (political, administrative, judiciary), but also facts concerning the advantages procurement. On this line are included the Spanish, Portuguese, German and other penal codes.

Thus, for the majority of penal systems, the corruption is a concept foremost normative, which means the violation or the illegal either moral transgression of the norms referring to the duties of the public officials, economic agents or persons which accomplishes different

financial either banking operations. The penal codes of USA and France have such vision about the corruption.

Considering to the ones above, and allowing to the essential elements of the phenomenon, one defines the corruption as the activities ensemble which is unfurled between two parts in which one of them, appealing to the appointment or the quality of the second, offers the other illegal advantage barter for the reciprocal advantage.

2. The corruption's specific for the states in the transitional process

At over a decade immediately after the East Europe and Former Soviet Union countries have started simultaneously the economic and politic transition, free enterprises, relative dynamic, have appeared, but the boundary among state and economy still abided foggy in many of these countries. The fusion between state and economy which characterizes the communist system, was substituted in most countries by a new order in which it wasn't established precisely the cleavage between the public and the private interest⁷.

The corruption, in this geographic area, takes new forms and rises to higher levels, with explanations which constitute new challenges for the society host.

The countries in transition are engaged into a sustained process of determination for the juridical and institutional frame necessary for the society and economy management, simultaneously beginning a process of redistributing their assets.

In many countries the corruption came off to influence significantly the process of transition through the establishment of certain advantages to the level of legislation and the new appeared institutions, in the benefit of certain limited groups, distorting the politic and economic evolution of the social organism. The media doesn't cease the accounts about strong firms and big magnates who buy the politicians and the bureaucrats in order "to model" the juridical, political and institutional sectors and embezzle them in their own advantage.

Various scandals of corruption at top-level, disclosed politicians which encroached upon their sprocket in order to embezzle the public funds to their own firms or to ones of their acolytes, through "underground" systems of relations between the private and public firms. In many countries corruption is already considered to be ooze as part of the base institutional frame, undermining the government and loosening the credibility of the state.

^{7 7} Tilea, Ionel, The impact of organize crime over worl economy, doctoral thesis, Bucharest, A.E.S., 2006

The corruptions expand tallied with the diminution of the production, as well as with the accentuation of the poverty and social inequality in the zones found out in this stage of evolution for the society. The ones impoverished represent the main victims of the scourge.

In those countries in which the phenomenon is well installed, the corruption affects the driving force created by the system of reform. More and more new firms are hitched in the gearing of the underground economy.

The vital funds are withdrawn from the country, the foreign investors round or leave the zone disappointed. If certain absolutely necessary measures of reform aren't taken by a state firm management, the result is that some countries risk to be grasped in a vicious circle in which the endemic corruption leads to the diminution of the public incomes, undermines the general confidence and establishes latter the credibility of the state.

The countries which are in the transitional period to the free enterprise are affected of by corruption in a much more measure than the countries economically developed, therefore, to the general causes of the extension of this phenomenon are added other specific ones, respectively:

- The legislative cavity which appears in the transitional period, the emergence of certain normative papers either with gaps or which leaves the place to interpretations;
- The tendency of capitalization without labor, on unlawful paths, demonstrated by some officials from public or private units;
- The establishment and the operation of a big number of commercial societies without a solid bank stocks, most of them operating in the sphere of the trade, tortiouslying the productive units through the taking over of a patrimony undervalued and the development of certain activities based on "bank commission", many times without undertaking nothing, all operations being done by the wage earner from the state capital firms, besides which the particular firms operates in parallel;
- The allotting of credits, with reduced interest, on long term and without loan guarantees;
- The sale, the rent, the concession arrangement, the allowance into location administration of certain assets, commercial spaces and equipments, without the organization of auctions;
- The absence of the managerial proper preparation, which has facilitated the easily penetration of a pseudo foreign partners, which, with a low contribution to a bank stock, became majority in undervalued societies or whose major contribution consisted in bringing to overvalued prices the licenses, technologies, know – how etc.;
- The finishing of certain contracts of export trades and the delivery of good without the verification of the partner foreign firms financial trustworthiness.

From the analysis of the soundings and studies concerning the level of the corruption in the countries found out from transition to the free enterprise, one can remark big differences between countries, both in what concerns the administrative corruption, as well for the institutional one.

In another study accomplished in the year 2004 by the Institute GFK in the countries from Central and East Europe, was demonstrated that in Romania and Slovakia there is a maximum percentage of peoples who apprehend that the bribe is a natural part of life, and that who wants to live must give bribe. The level of corruption in the Central and East Europe countries is pointed up also by the World Bank Report, Anticorruption in Transition - contribution to the policy debate, which assures a comparison in this respect between the main geographic regions⁸.

The challenge which stands affront countries in transition is to increase the commitment on the path for the rebutment of the corruption, although this shall not be an easy task. The phenomenon “State Capture” creates earnest problems to these countries, and the measures against the corruption proved to be inefficient and hard to implement. The spring of these countries problems has its origins in the past, in the historic inheritance, but also in the economic structure or in the course traced in transition.

In some countries in transition, the taken measures favored the reform; in others no limit is loomed. The read-in of the corruption outpourings and the adoption of certain reform strategies which consider the specific profile of the corruption in different countries are helping elements in the elaboration of efficient strategists of struggle to this phenomenon.

3. Terms of comparison

In the realization of the analysis concerning the evolution of the institutional transformations and the fought against the corruption, for the both countries were taken into consideration, in main, a series of economic and of social perception indicator, such as:

- Gross intern income per head of inhabitant;
- Corruption perception indexes;
- BEEPPS Index – indicator realized by the Word Bank and the Bank for Reconstruction and Development;

^{8 8} Tilea, Ionel, The impact of organize crime over worl economy, doctoral thesis, Bucharest, A.E.S., 2006

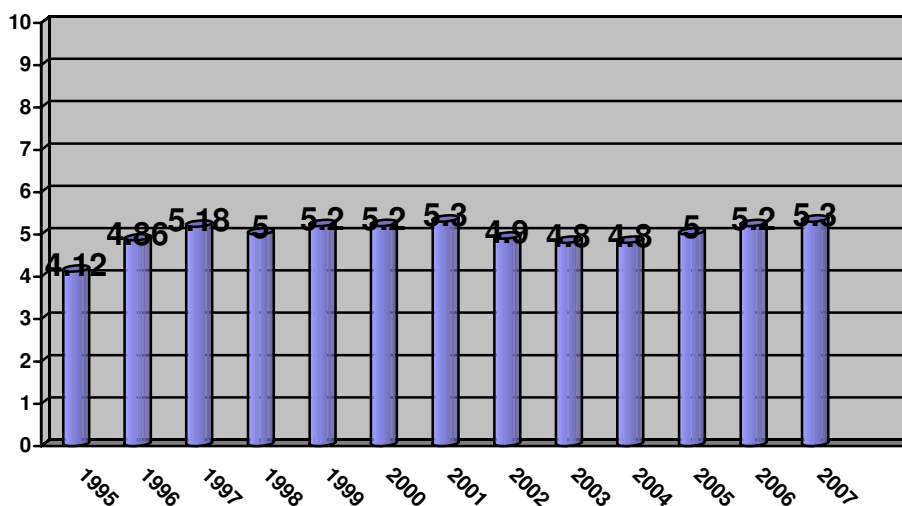
4. Hungary

Hungary is a Central European country with a population of approximately 10 million. After decades of a Soviet-style political system, it became a Western-style democracy in 1990, joined NATO in 1999, and has been a member state of the European Union since 2004. A shortage or faulty allocation of resources and over-bureaucratization of the legal and administrative system have remained structural causes of corruption, notably exacerbated by changes associated with economic, political and social transition.

Hungary was considered among one of the least corrupted former communist states by different international indicators. On national level, realized soundings of opinion demonstrate a large spread of corruption especially in the health area, of the police, of custom houses and also at the central administration level.

Hungary is situated, in general, very well in the international statistics concerning the corruption, in special in what concerns the states in transition. The index concerning the perception of corruption (PCI) of Transparency International placed Hungary on the spot 31 from 179 countries in 2007 with a score of 5,3. This fact places Hungary on the regional leader position to fight against the corruption among all the former communist states from Central and East Europe, being surpassed only by Slovenia (6, 6) and Estonia (6, 5). Otherwise, the level of corruption is placed to a relative stable level in Hungary over the time just how it can be noticed from the chart below. The various government-initiated anti-corruption programmes in Hungary are partially the result of international pressure. The most influential source of pressure is the European Union (EU). While seeking EU membership, Hungarian governments participated in several anti-corruption actions initiated by the EU⁹.

⁹ Transparency International, 2007, Corruption Risks in Hungary, National Integrity System Country Study, p. 15



According to the EBRD/World Bank's 1999 *Business Environment and Enterprise Performance Survey*, 32 percent of firms in Hungary report paying "irregular payments to get things done" frequently, mostly or always¹⁰. Procedures to obtain licences and permits are identified as the area where unofficial payments are most frequent and highest, with around 25 percent of respondents reporting a need to make a payment sometimes, frequently, mostly or always. Eight percent of firms reported that they have to pay to influence the content of new laws, decrees and regulations. More than onethird of firms reported paying unofficial payments to public officials equivalent to one to 25 percent of revenues on average per year¹¹. In 1992 were made the first steps in anticorruption and transparency through a modern Law on the Protection of Personal Data and Publication of Data of Public Interest¹² which was passed, the first in the post-communist region. This was followed in 2001 by the adoption of a comprehensive Governmental Strategy Against Corruption.¹³ It included a wide range of proposals including a wide range of legislative instruments mainly concerned with conflicts of interest, property declarations, money-laundering, terrorism, and public procurement.¹⁴ Many of these were embodied in legislation and partially implemented.¹⁵ The strategy, however, took the 'traditional approach' to combating administrative corruption by focusing primarily on punitive measures instead of prevention.

Anti-corruption activities continued in 2002 with the establishment of the State Secretariat of Public Finance, designed to monitor public procurement procedures and ensure transparency

¹⁰ See <<http://info.worldbank.org/beeeps/>>

¹¹ 29.4 percent of respondent firms report paying one to ten percent of revenues on average per year and 9.8 percent pay 10–25 percent.

¹² Act No. LXXX. of 1992 on the Protection of Personal Data and the Publicity of Data of Public Interest

¹³ Government Decision No. 1022 of 2001.

¹⁴ Government Decision No. 1022 of 2001. (III.14.) See points. 1-7.

¹⁵ From 14 measures identified as requiring legislative tasks, nine have been acted upon, Open Society Institute: Corruption and Anti-corruption Policy in Hungary. Monitoring the EU Accession Process: Corruption and Anti-Corruption Policy. 2002

in the handling of public finances. In 2003 the Parliament unanimously adopted the Glass Pockets Act to curb corruption by reinforcing guarantees of honest management of public expenditure and public property.¹⁶ The initiative was in general positive but the subsequent implementation of the Act has been patchy. It brought several new legal provisions. The introduction of the concept of ‘data of public interest’ made available information that would allow the State Audit Office to trace and check public expenditure even in the private sphere, reducing the scope of the business confidentiality exceptions previously used to block investigation.¹⁷

In 2003, a short-lived anti-corruption Ethics Council of the Republic was set up by the prime minister to propose anti-corruption legislation and a code of conduct for the civil service. A year later the State Secretariat of Public Finances and the Ethics Council were disbanded.

In 2005 a new Law on Freedom of Electronic Information was introduced, requiring public offices to make information of public relevance freely available on-line, but it has been implemented only partially.

Even though a Law on Lobbying was enacted in 2006 it has failed to make a significant contribution to the transparency of lobby activities, being too restrictive in scope and in any case only partly implemented.

In 2007 the Government initiated a new approach to combating corruption by requesting the Minister of Justice to draw up a long-term ‘strategic document’, and a short-term ‘programme of action’.¹⁸ These documents are due to be formulated in detail by the Anti-corruption Co-ordination Body (ACB) established in August of 2007.¹⁹

5. Bulgaria

Bulgaria, like all formal communist country's, after decades of a soviet-style political system, it became a Western-style democracy in 1990, joined NATO in 2004, and has been a member state of the European Union since 2007. Transition period have not been easy either for this country. Financial crisis from 1996 – 1997 is an example in this sens. In this context, a phenomenon like corruption could nor miss. We must mention the existence of a permanent interest for fighting against this phenomenon. Also it is very important to mention the interest

¹⁶ Adorján, R., 2003, Transparent Pockets program, Hungarian State Administration, No. 9. 550-560.

¹⁷ Report of the Data Protection and Freedom of Information Commissioner 2003.

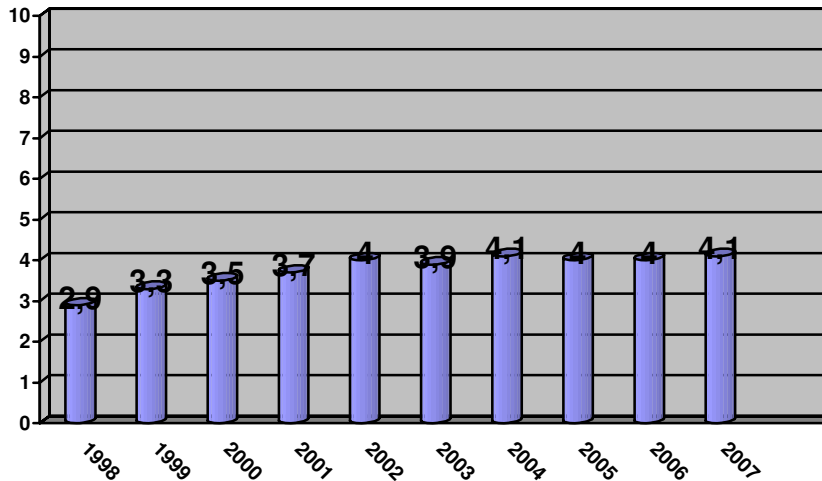
http://abiweb.obh.hu/dpc/annual_reports/2003/ar_dpc_2003.pdf [Accessed 1 July 2007].

¹⁸ Government Resolution No. 1037/2007, point I.

¹⁹ Website of the Ministry of Law and Justice, <http://irm.gov.hu/download/antikorrupctestulet.doc/antikorrupctestulet.doc>

showed by European Union to corruption, this being a point presented in all Country Report and in all Monitorizing Report.

Revealing in this sens is the evolution of TI – CPI as shown in the chart below



In order to fight corruption in 2001 has been aproved National Anticorruption Strategy. The main provision were:

- Creating a Common Institutional and Legal Environment for Curbing Corruption
- Guaranteeing Transparency in the Work of the Public Administration
- Improvement of the Financial and Fiscal Control
- Anti-Corruption Reform in the Customs Agency
- Anti-corruption Measures in the Ministry of the Interior system
- Combating Corruption at the Local Government Level
- Combating Corruption at the Local Government Level
- Anti-Corruption Measures in the Financing of Political Parties
- Anti-Corruption Reform in the Judiciary and Penal Legislation
- Transparency and Public Accountability in the Privatization Process
- Liberalizing the Conditions for Private Business Development
- Anti-Corruption Co-operation between the Government Institutions, Non-Governmental Organizations and the Mass Media.

As a result of implementation of this strategy reform, European Commission Report from 2005 mention the fact that some progress have been made in different areas including judiciary. In which concern the justice reform, the new penal code has been approved and implement. Constitutional changes had alloewd to prosecutors to have a greater investigation powers and reduce very much parliamentary immunity. This permit the investigation of high

political cases. In the same sense are also the actions that concern the reform of public administration, the reform of civil servant and the approval of a New Code of Administrative Procedure. Also has been approved an ethic code for executive branch.

In 2006 has been adopted the second strategy for combating corruption for the period 2006-2008 as part of obligations result from the position of candidate country – in that time – under the name National Strategy for Good Governance, Prevention and Counteraction of Corruption.

Main areas of the strategy:

- Counteraction of political corruption;
- Stricter regulation of lobbying;
- Mobility and rotation of the officials in the areas most sensitive to corruption;
- Stricter regulation of conflicts of interest when public administration officials move to the private sector;
- Counteraction of corruption health care and education;
- To strengthen the specialized and public control over the granting of public procurement and concession contracts;
- Counteraction VAT fraud and the grey economy;
- The establishment of centralized electronic system for registration of legal entities.

7. Conclusions and recommendations

As it can be notice from the short analysis realized before corruption is a phenomenon specific of the transition period. Causes can be simplified at a general level and can be identify in most – if not in all – states in transition:

- State propriety over production units;
- Over bureaucratized administration;
- Civil servant inadequate trained;
- Low level of transparency;
- Lack of professional statutes;
- Discretionary power of public administration;

As mandatory obligations we can mention:

- Accountability from public administration;
- transparency;
- appropriate legislation for public procurement;

- establishment of appropriate structures for coordination and implementation of anti corruption policy;
- implementation of New Public Management principles in public administration ;
- reduce parliamentary immunity;
- high level of efficiency for the structures of law enforcement..

Formalization of a model to fight against corruption is a hard thing to do if we take into account the specific of each country, of specific political construction and also other economic and social facts. Of course exists models that can establish some directions but none is general available. Spite all this, the only instruments that can be consider sufficient complex to involved all the element of anti-corruption fight is National Integrity System , instrument that has been applied for Bulgarian and Hungary.

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