

Experiences in the changing patterns of corruption
and the main directions of combating corruption at
the policing agencies supervised by the Minister of
the Interior of the Republic of Hungary



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Corruption is a highly complex social phenomenon which has accompanied the history of mankind and the development of society without interruption, albeit in different forms of appearance and at varying intensity.

Corruption as a concept is well known, yet there is not a uniform definition of the term, as different definitions of the concept have evolved in each discipline. This negative phenomenon includes the institution of gratuities and tips as well as bribery and influence peddling, which is to be persecuted also with the instruments available to criminal law. In spite of its wide-ranging criteria, the Hungarian Penal Code provides for the penalisation of those behaviours, which jeopardise fairness in public life, confidence in official persons and the operation of the authorities and the high-level moral requirements set against the activities of official persons.

Corruption in Hungarian society is not a new-born phenomenon, even though there have been periods when society was lenient, so to speak, understanding, in relation to this form of violating the law. Twentieth century Hungarian society met with corruption most frequently in the form of favouritism. Until the 1990s, this type of favouritism was characterised by dealing with one's affairs on the basis of contacts, which appeared at all levels of society. As a result of the socio-economic changes taking place since the early 1990s, the requests for or offers of unlawful advantages were related to various state subsidies or investment projects. The various oil affairs, customs affairs as transactions suspicious of corruption came to the light of day in those days. Today, it is again individual violations of the law that have come to the foreground; a potential corruption threat permeating the entire economy has, however, remained in the area of public procurement.

Controlling acts against fairness in public life has been present in legislation and the application of the law; its legal instruments have been incorporated into the Hungarian legal system.

Our Penal Code does not contain the word corruption and hence a criminal act described as such. When we are seeking an answer to the penal evaluation of illegal acts covered by this concept, we should examine the facts which the legislator regulates under criminal acts against fairness in public life and criminal acts committed in office, stressing thereby the need of society for an enhanced protection of confidence in the operation of the authorities and official persons.

Bribery is outstanding among corruption type criminal acts owing to its form of appearance and frequency. Under the conducts regulated as bribery, we distinguish between bribery in office and economic bribery. Both can be active or passive, depending on whether the perpetrator gives or accepts, promises or asks for the illegal advantage.

The number of criminal acts of a corruption nature which became known in the Hungary of the 1990s tendentiously increased, albeit with minor fluctuations. The cyclic nature of criminal acts becoming known can be traced back to a number of factors. These may include facts such that the attempts at combating the new forms of corruption-type criminality have not been sufficiently efficient, excessive legal regulations or, to the contrary, the absence of legal regulations impeded the initiation of procedures. The structural distribution of criminality indicates that bribery in office and influence peddling have become more frequent in the 1990s. The substantial decline in the formerly dominant role of economic bribery can be attributed to the fact that, as a result of the establishment of a market economy, the shortage economy, which had been the most frequent cause of economic corruption, ceased to exist.

The number of corruption-type criminal acts, which have become known in the Republic of Hungary in 1998, was 903, showing an increase of 0.1% relative to the preceding year. Statistical figures, however, are not the same as the number of actual corruption-type criminal acts, as it is necessary to calculate with a high degree of latency here, due to the community of interests between the giver and taker of the bribe, the outstanding difficulties in proving this type of criminal acts and the difficulty in controlling the illegal activity of the passive subject of bribery, which surpasses that of other criminal acts.

The growth rate of corruption-type criminal acts which have become known

		1990	1991	1992	1993	1994	1995	1996	1997	1998
Number of corruption-type criminal acts		335	344	782	464	796	509	967	865	903
Number of briberies in office		152	185	336	212	480	296	604	380	392
Number of economic briberies		172	136	127	198	143	138	120	270	272
Number of acts of influence peddling		11	23	319	54	173	75	243	215	239

In nearly 90% of the cases exposed, the subject of the advantage requested, given, accepted or promised was cash and in 10% of the cases, in-kind benefits of pecuniary value or the performances of services. In the given cases, the cash benefits amounted to several thousand, not rarely millions of forints. (The highest amount of cash benefit was Ft 10 million.) The amount of the bribery depended on the financial position of the active briber or of the client, the nature of the violation of obligations or the position of the targeted official (or not official) person. Of the motives prompting perpetrators to commit this type of criminal act, the obtaining of illegal financial benefits stands out, but as subsidiary reasons, a corrupt moral attitude, the underdeveloped sense of vocation and the low risk of discovery and the absence of control can also not be neglected.

The distribution of persons subject to criminal procedures owing to criminal acts against fairness in public life by level of education indicates that the share of those with secondary or higher-level education is high relative to other categories of criminal acts. This can only partly be attributed to the fact that the perpetrator of both the passive bribery in office and of passive economic bribery tends to fill a position linked to such qualifications in most cases because the vast majority of perpetrators tend to be the active bribers. The substantial share of perpetrators with higher level of education is worrying, because it may point to a deterioration in the ability of moral resistance of individuals with decision-making powers.

Society rightfully demands that the policing agencies equipped with executive powers (thus the Police, the Border Guard, the firefighting units and civil protection) aim not only at enforcing the provisions of the law but also that their members respect the provisions of the legal standards to the utmost and perform their service duties properly.

In spite of the abuses explored, the majority of the members of the policing agencies perform their service tasks honestly, albeit they work in truly difficult circumstances. The number of discovered acts of corruption and their forms of appearance show a different picture for each agency. Discovered acts of corruption were adjudged partly under criminal procedures and partly under disciplinary procedures.

The contamination of the Police stands out relative to the other policing agencies: the majority of abuses of this type were committed by policemen. The greater stress on the significance of corruption within the Police is warranted not only by statistical figures but also by the fact that public opinion scrutinises the operation of the Police with an outstanding attention relative to the other policing agencies. The primary reason for this is that entering into a legal relationship with the Police is inevitable for the enforcement of citizens' rights and the performance of their obligations even in the case of abidance by the law.

Corruption-type criminal acts associated with the Police include, in addition to the "classical" crime of bribery, also certain cases of abuse of powers and to a lesser extent influence peddling and connivance. Other criminal acts, such as unauthorised management of data and the forgery of documents are frequently linked to these crimes. Corruption-type criminal acts constitute about 8-10% of the total number of criminal acts committed by police officers based on the data of the past few years. Criminal acts of this nature considerably exceed the destructive effects of other criminal acts as they can substantially destroy the confidence of society in the police, the belief of the public in the efforts and integrity of the police.

Number of perpetrators who are policemen involved in criminal acts against fairness in public life

	1993	1994	1995	1996	1997
Corruption-type criminal acts	24	14	26	54	70
Bribery in office	23	13	23	51	61
Economic bribery	-	-	1	2	1
Influence peddling	1	1	2	1	8

Within the staff of the agencies subject to the Ministry of the Interior, the exposure of the staff of the Border Guard to corruption is the highest in the fields of shopping tourism, migration, man- and vehicle smuggling.

Basically, criminal acts against the fairness in public life occurred in relation to the absence of conditions of entering or leaving the country, procedures related to alien policing and stamping for the prolongation of the stay of illegal employees, in relation to taking stolen vehicles abroad and mansmuggling. The abuses discovered at the Border Guard have a detrimental impact on the international evaluation of the Republic of Hungary, particularly in view of the fact that these violations of the law tend to be implemented at border crossing stations in a manner affecting foreign nationals.

Number of perpetrators who are border guards involved in criminal acts against fairness in public life

	1995	1996	1997
Corruption-type criminal acts	3	14	13
Bribery	3	14	13
Influence peddling	-	-	-

The number of corruption-type criminal acts and their share in the total number of staff is negligible in relation to the staff of the firefighting units and civil protection.

The real peril of corruption exposed at the policing agencies is manifested in the fact that such acts have an exceedingly detrimental impact on the evaluation of the entire agency, as public opinion tends to generalise and the corruptibility of a few members of the body is projected to the entire organisation.

Areas of occurrence of corruption-type acts exposed at the policing agencies

Over the past few years, corruption-type acts basically focused on three areas in relation to the policing agencies:

- activities of administering the law by the authorities (licensing/restricting activities affecting citizens, on-site fines),
- activities related to management (procurement, ordering services, withdrawal of tangible assets from use, their sale, undertaking contractual obligations),
- direction and management (service organisation).

As far as potential exposure is concerned, levying on-site fines and licensing by the authorities stand out among the law administration activities of the authorities.

Levying on-site fines is the area of the appearance of corruption which resulted in the negative evaluation of the policing agency authorised with the power to levy on-site fines and in the shaking of confidence in the operation of the agency. A much disputed mode of on-site fines, which can be applied as a possible sanction for petty offences, is payment of the fine in cash. In addition to the improper and irregular handling of the cash taken over in the course of levying the on-site fine, most of the abuses take place in the form of accepting amounts requested or offered as consideration for declaring the petty offence committed as never happened. The new code of petty offence prepared by the Ministry of the Interior intends to change the current practice of levying on-site fines, which is suitable for implementing corruption, when it terminates the possibility of paying the fine in cash. In the cases specified in the legal regulation, the perpetrator of a petty offence caught in the act—provided he acknowledges the petty offence—should be given a cash transfer order.

With the adoption of the current draft of the new petty offence code, the practice of paying fines on site in cash will cease, as a result of which the number of corruption acts may decrease but corruption as a phenomenon will not be terminated by the amendment in legal regulations. The introduction of the transfer order will not by itself exclude the possibility that the police officer or the border guard regard the petty offence committed as never happened against a consideration.

Taking action under their administrative functions, policing agencies issue official certificates. In some cases, the issuance of the official certificate is mandatory, in other cases it is issued by the authorities upon the request of the client. In general, the law subjects the issuance of a certificate to stringent personal and objective conditions. At the same time, the law may give discretionary powers to the authorities in issuing a certificate. The legal norms tend not to give any guidelines for exercising the discretionary powers, entrusting the decision exclusively to the judgement of the official taking action. In such cases, the exercise of discretionary powers provides an opportunity for abuse of such powers in the absence of supervising conformity with the law.

Owing to the improper practices of the past few years, policing agencies accepted donations from foundations, legal entities and individuals without having ascertained whether the operation of the donating agency was in conformity with the law or, in case of a natural person, whether he had a criminal record.

After accepting a donation, it has become open to doubt to what extent the policing agency concerned could make an unbiased and objective decision in criminal procedures initiated against the entity or person giving the donation or in an administrative procedure where such a person was the client. The same problems arose as a result of the participation of members of the policing agencies in foundations, which provided donations to the employer of the person concerned.

Instruments introduced in the legal system to curb corruption

Taking the recommendations of the Union into account, the Hungarian Penal Code was recently amended, as a result of which the legislator supplemented the range of criminal acts against fairness in public life with "bribery in international relations" and "influence peddling in international relations". Through this, the Republic of Hungary satisfied the recommendations of the Union made on the subject of criminal measures required to combat corruption. In addition to the Penal Code, the legislator, by introducing the legal institution of "exclusion from the procedure" in the various procedural rules, intended to guarantee not only an unbiased procedure but also to exclude any personal intertwining which may imply the threat of corruption.

To avoid the intertwining of personal and financial interests, the act on the service relations of the professional members of policing agencies tightened up on the conditions of establishing legal relations concomitant with the performance of work for members of the policing agency. The act specified the facts giving rise to conflict of interest; it also subjected the establishment of other legal relations not in conflict with the service relationship to licensing or to a reporting obligation.

In spite of the legal provisions described, there was no spectacular improvement in curbing corruption, hence the development of additional solutions to combat corruption were called for, not restricted to legislation only.

Possible ways and means of preventing corruption

With a view to the prevention and the efficiency of eliminating corruption, the Government of the Republic of Hungary announced its anti-corruption program early this year. Under the program, the development of a strategy affecting the entire sector is currently in progress at the Ministry of the Interior. The strategy includes the enactment of the necessary legal institutions as well as the development of efficient methods facilitating the elimination of corruption.

To create a fair public life, we wish to guarantee that even prior to the final conclusion of a criminal procedure initiated owing to the well-grounded suspicion of an act of corruption that the law enable the suspension of the service relationship or its termination on account of unworthiness if the member of the professional staff has admitted to having committed the criminal act of which he or she is accused of or if he was caught in the act and if appropriate evidence is available to the agency taking action.

It is envisaged that the Penal Code would not penalise the person guilty of active or passive bribery who informs the authorities of the illegal action, which also serves the detection and proof of corruption.

One of the fundamental instruments of elimination corruption is unexpected, continuous, repeatedly ordered and implemented control. Such activity should be focused particularly on the compliance of licensing activities performed out of turn or for reasons of equity, the implementation of the rules of administration and the protection of secrets and the order of storing data, keeping records and transmitting data.

The enactment of codes of ethics could be an instrument in the internal purification of a policing agency. If violations do not reach the level of penal or disciplinary evaluation, following an ethical procedure, the service relationship could be terminated on account of unworthiness.

A refining of the current recruitment system could also result in the curbing of violations of the law exposed within the policing agencies. By a circumspect and thorough investigation, attempts should be made to learn of the personal circumstances of individuals wishing to join the policing agencies particularly with respect to their earlier employment, lifestyle, law abiding behaviour, personality and human relations.

Education, particularly at the educational institutions of the policing agencies, is an efficient area for preventing corruption. It assists the staff in recognising attempts at corruption and in managing conflicts that may arise or in warding off illegal acts.

Earlier, acts against fairness in public life were explored as a result of control; currently, the majority of penal procedures pending were initiated on the basis of information obtained from complaints and reports lodged owing to the illegal nature of the measures taken by members of policing agencies. Therefore, outstanding attention should be paid to the exploration of complaints lodged against members of the staff to investigate eventual suspicions of corruption.

It is difficult to detect and even more difficult to prove illegal acts appearing in relation to asking for offering and accepting illegal advantages at the policing agencies. The primary reason for this is the substantial increase in the degree of conspiracy and organisation of illegal acts and, furthermore, that typical acts of corruption do not in general have a victim, as the confronting parties have both committed illegal acts. In many cases, proof is made more difficult by the passivity of the citizens and of the staff

concerned, manifested in not making a report of abuses of which they have learned. This passivity may be traced back to alleged or genuine loyalty to colleagues and the absence of adequate information for citizens. Therefore, to prevent corruption, it is inevitable to provide information to citizens in a very wide range concerning the mode of the exercise of their rights encouraging them to report any acts of corruption that they may learn of as soon as possible.

As a result of the conspiracy and organisation manifested in acts of corruption, the traditional set of open instruments in detection proves to be less and less efficient. This is supported by the fact that in some of the cases explored the taking up and establishment of the contact and the transfer of the consideration were implemented through intermediaries. Owing to the unsuccessful deployment of the open instruments of investigation, the significance of operative secret investigation and of the potential inherent in the related special instruments and methods has increased.

One of the most important elements of the fight against corruption is the public. The results of an inquiry into acts against fairness in public life should be made known not only to the staff of the agency concerned but also to the public through the media.

Naturally, the instruments described can be successful in combating corruption only when used together.