

CORRUPTION PREVENTION IN THE PUBLIC SECTOR OF THE REPUBLIC OF CROATIA

Verica Akrap

UDK 343.3 (497.5)

No matter how developed a country is, it is not immune to corruption. Public institutions, as a rule, practice behaviours such as wastefulness, fraud, poor management and others that are not in the best public interest. Therefore, strengthening mechanisms of financial control in public institutions is considered to be of utmost importance when fighting corruption. The state cannot be governed successfully without effective and efficient public administration. This can be achieved through transparency in public service provision, by increasing responsibility, level of service and openness in the way public organizations work and improve their operation.

1. *Introduction*

Corruption is the abuse of public service for private gains.¹ Literature offers two meanings of corruption. One of them is more restrictive reducing corruption to bribery, receiving and giving commission for illegal gain or legal gain, but using “connections”, informal channels of power and influence. On the other hand, a broader understanding of corruption suggests that corruption is the abuse of public function whereby an individual, group or the entire leading elite receive benefits they would otherwise not receive had criteria of professional competence and expertise been applied. Whereas corruption in its restricted sense may be interpreted as a form of criminal activity, its broader sense does not derive from the fact that laws are good and the individual implementing them bad, but from the fact that the very laws and the entire political system give rise to corruption as a social phenomenon.²

In his message on the occasion of World Peace Day, Pope John Paul II emphasises that democracy is always liable to abuse and falsification. The

1 The World Bank, *Helping Countries Combat Corruption: “The Role of the World Bank, Poverty Reduction and Economic Management Network”*, September 1997, pp. 19–20.

2 D. Grubiša: “Korupcija, nepotizam i grijeh struktura“, *Erasmus* No. 24/1998., Zagreb, p. 26.

right of the citizen to participate in community life is violated when the democratisation process is paralysed due to protectionism and corruption, which hinders not only legal participation in exercising power, but also access to a just distribution of resources and public services. The Pope's idea of corruption differs considerably from those that reduce it to certain forms of bribery. He emphasises that the evil of corruption should not be passed over in silence as it undermines the social and political development of so many nations. He suggests that corruption should first be defeated, which requires determined action on the part of the government supported by all citizens i. e. it requires the public to have access to all activities performed by public administration. The state must serve its citizens and supervise all economic and financial activities. The Pope clearly implies that this requires courage because corruption, if seen as a general debasement of a society, is in the first place connected with political power, that is, state institutions.³

2. *Incidence of corruption in the Republic of Croatia*

The results obtained from a survey conducted in 2000⁴ suggest that there is corruption in Croatia and that it represents a big problem. The sample included managers in the public sector, in units of regional government and local government and self government and companies that are partly or fully financed from the state budget. The sample comprised 380 respondents from all Croatian counties. One questionnaire was sent to each subject of audit, usually to the management. The question "Does corruption exist in Croatia?" was answered positively by 349 respondents (91.8%), 30 respondents (7.9%) said they did not know, and one respondent (0.3%) gave a negative answer. As for the assessment of the size of corruption in Croatia, 268 respondents (70.5%) said that corruption was a big problem, 66 respondents (17.4%) answered it was not a big problem when compared to others, 44 respondents (11.6%) said they did not know and two 2 respondents (0.5%) did not see corruption as a problem.

Corruption as a phenomenon is particularly characteristic of countries in transition from socialist to market economies. According to scholars who study transition in post-communist countries of the former USSR, in societies going through the stage of the so called "wild capitalism" the level of corruption is much higher today than it was at the time of communism.⁵ As in other

3 D. Grubiša: "Korupcija, nepotizam i grijeh struktura", quotation, p. 26.

4 V. Akrap: "Istraživanje uloge državne revizije u otkrivanju i sprječavanju korupcije", master's thesis, Ekonomski fakultet, Zagreb, 2001

5 D. Grubiša: "Politička korupcija u društvima u tranziciji", Erasmus, No. 14/1995., Zagreb, 1995, p. 34.

countries in transition, the emergence of corruption in Croatia was facilitated by transitional processes, but it was the long period of war that contributed to its intensification. It is common knowledge that corruption thrives in war circumstances and this makes Croatia specific in relation to other countries in transition.

3. *Identification of high risk areas*

It is much easier to prevent corruption than to detect it or root it out when it is in full swing. Successful prevention requires investigation of critical segments in all state institutions which are, by their nature, susceptible to corruption the most. This is where experience of other countries might be helpful. Learning about corruption, the methods of its detection and prevention are not taken for granted but involve the acquisition and development of skills. Therefore it might be useful to learn about the experience and practice of other countries and apply them in the Republic of Croatia taking into consideration specific local circumstances.

According to the World Bank, anti-corruption practices should have a special place within the overall reform, and state bureaucracy is to be supervised in eight particularly sensitive areas. Harvard Institute for International Development has listed these:

- issuing permits, licences, quotas, passports, import-export documents, bank licences,
- implementation of price control,
- restriction of new companies and investors and application of monopoly restrictions, — solicitation of public tenders for various purchases, granting subsidies and so-called “soft” loans, tax exemption, customs and tax benefits,
- imposing foreign exchange control, — allocation of lots, warehouses and business premises, as well as telecommunication licences and infrastructural facilities, — discretionary application of socially desirable regulations such as those applied to health care and environmental protection and — prevention of non-transparent budgetary decisions made by the government, ministers and other officials, for which they are not held accountable.⁶

6 D. Grubiša: “Korupcija, nepotizam i grijeh struktura”, quotation, p. 21

Inadequate skills and competencies of the staff, purchase of goods and services without bidding, weaknesses of the internal control system, lacking management skills and inappropriate political appointments are some examples of high risk factors which give rise to malpractice and corruption. Areas of administration that can serve as an example of areas particularly susceptible to corruption are the following: collection of taxes and other sources of revenue, management of purchases and contracts, granting concessions, permits and licences, staff employment and management, customs duties and the process of privatisation. Analysing government activities particularly susceptible to corruption, Jeremy Pope concludes that the level of corruption is the highest in public procurement, customs duties collection, taxation, the police (especially traffic police), immigration offices, authorisation and issuing of licences (including driving licences), the provision of services where the state has monopoly, issuing building permits, zoning and government appointments.⁷ Purchasing very often implies bribery and corruption. However, there are approaches that can decrease the level of corruption in this traditionally difficult area. One of them is “non-bribery guarantees” which implies that key executive officials are required to offer their personal guarantees that there were no corrupt practices and that all commissions and other payments made to the third party in a specific transaction will be refunded.

In Poland seven high risk areas have been identified that are deemed to foster corruption and undermine the work of state institutions. They are the following: — broad authority of a single official, — arbitrary decisions, — undervaluing documentation and reporting, — poor internal audit, — unequal access to information, — lack of personal responsibility, — absence of corruption prevention mechanisms. It has been noted that delegating broad authority to a single official is commonplace in many state institutions where an individual has a number of various responsibilities with virtually no participation of others. A case in point is the customs where a single official is in charge of the entire procedure related to customs duty collection, including checking both documents and cargo. A similar situation can be found in the area of privatisation, where in certain cases one official is in charge of a number of decisions related to the selection of privatisation methods and the definition of privatisation conditions. Another example is the traffic police, where the same policeman stops a vehicle, writes the report, sets and collects the fine. If the police accepted credit cards only, they would no longer act as cashiers and this would free them from accusations of taking bribes from drivers they stop on the road.

7 J. Pope: “Enhancing Accountability and Ethics in Public Service” (in: *New Perspectives on Combating Corruption — A joint publication of Transparency International and the Economic Development Institute of the World Bank, Washington, 1998*), pp. 123–137

Incidence of corruption can increase due to the lack of staff rotation in certain public services susceptible to corruption. Corruption is more likely to occur if a civil servant has held the same office for years. More frequent staff rotation would make corruption less practicable.

Making decisions at one's discretion may easily turn into autocratic behaviour, when an official handles a case preferentially rather than following established criteria. Thus, in Poland until recently the number of fines imposed by different policemen for the same offences varied up to 50%⁸, with actual circumstances in which the decision was made remaining unclear and non-transparent.

Deficient or unreliable documentation is not an uncommon feature of the work of public institutions. Requests related to filing cases, reporting and handling them tend to be ignored as unnecessary red tape, although strictly sticking to facts on these formalities more often than not represents the key factor of transparency in administrative procedures and transactions that include public assets.

Effective internal audit in public administration is a key instrument in corruption prevention. Public institutions should be subject to continuous supervision with efficient internal audits being an important feature of democratic practices in public administration. Unfortunately, many institutions tend to have weak, small and poorly organised internal audit units, which, as a rule, perform their activities with no adequate plans and preparation. Internal audits are often carried out as a response to occasional needs, irregularly and with no plan, sometimes even on request and for no obvious reason.

Corruption prevention should ensure that public institutions apply procedures that will invariably provide all interested parties with equal access to information helping them have their cases settled and their requests fulfilled. Individuals who are authorised for handling certain matters do not always provide all interested parties with the right information on these possibilities. As a result, benefits of certain decisions are available only to those who are aware of their existence and who require them.

The Polish experience has shown either that public administration lacks consistency in the application of corruption prevention mechanisms or that these mechanisms, even when applied, do not actually work. Thus the anti-corruption law is applied on a formal rather than a practical level, which makes it a symbolic rather than practical corruption prevention instrument. As for the openness and transparency of public finances, the Law on Public

8 A. Hussein: "Methodological Guidelines on Corruption — Threatened Areas Auditing", in "The Role of Supreme Audit Institutions in Combating Fraud and Corruption and Their Co-operation With Other Authorities", International Conference Materials, February 25–26, 2003, Sofia, National Audit Office of Bulgaria, USAID, European Union, p. 76

Finances requires publication of data on the amount of written-off debt, specifying each debtor. However, there are no mechanisms indicating unreliable companies. Law violation relating to a contract made with a public institution is not an obstacle to making other similar contracts. There is no systematic collection and use of information on partners who have proved to be unreliable in their dealings with the public sector.

Bribery is not easy to prove. It is much easier to prove wastefulness as it is often obvious, can be checked and may be a visible sign of corruption. As such, it can be proved and punished. Yet, excuses are too often made for wastefulness and they are based on legal and moral codes. The welfare of patients, for example, serves as an excuse for excessive health service spending, and the care for employees may be used to justify wasteful behaviour on the part of state administration or companies. As a result, wastefulness very often remains unpunished and nobody is held accountable for it. Absence of real accountability for inappropriate spending of public resources is a serious problem which may give rise to corruption. The Polish experience shows that in many public institutions responsibilities are not clearly defined for specific executives or institutions. Institutions very often operate with no statutory provisions or internal rules; scope of work and job description are not clearly defined for employees; sometimes it is unclear why particular duties are performed by certain individuals and nobody else. Vaguely defined tasks and scopes of responsibility often lead to the lack of transparency in the operation of institutions and facilitate the emergence of corruption.

4. *Factors contributing to the development of corruption*

Anti-corruption combat in a society should be carried on through activities aimed at decreasing corruption opportunities and strengthening control mechanisms. There are several factors that contribute to the development and level of corruption in a particular country. These include the legislation, the conduct and actions of state leaders and the existence of corruption prevention mechanisms.

4.1. Legislation

Corruption occurs when rules and regulations are either too complex or difficult to understand. Laws and regulations should be clear and unambiguous with no unnecessary repetition, and gains should exceed the costs of their implementation. The mechanisms of state laws and social norms should detect corruption and minimise it, if not render impossible, so that it is an excess rather than a social phenomenon. Overregulation and complex legislation

may unintentionally lead to illegal activities. It is essential to bear in mind two simple truths: firstly, laws will be ineffective if they are not accompanied by implementation measures; secondly, it is necessary to determine measures which will enhance responsibility and transparency and restrict areas where corruption emerges most frequently.

4.2. Conduct and actions of state leaders

When introducing the reform of the national integration system it is important to know that in the absence of political will, both for change and consistent implementation on all government levels, no law will help prevent corruption. One of the major obstacles to reform lies at the very heart of the government i. e. politicians and the government's political interests. They will, invariably, see the change towards a higher level of transparency and responsibility as a decline in their power, which is exactly what this change brings about. Bad news is that it is those whose conflicts of interest are the most acute that have the most power to stop reforms. In a certain way, state leadership reflects the entire society. It is believed that corruption across the system is a mere reflection of corruption within the very state leadership simply because it is difficult to expect lower level state officials to behave differently from their superiors.

4.3. *Corruption prevention mechanisms*

Corruption will be almost impossible to eliminate in the absence of responsibility and of the risk of being caught and duly punished. When the decision making procedure is not under scrutiny, the fundamental principles of responsibility will be disrupted. This is when the subtlest forms of corruption emerge. Laws and regulations together with appropriate mechanisms of their supervision as well as incentives to observe them can lower the level of corruption. Although corruption generally stems from the monopoly to power that public servants and politicians have and occurs in all countries, both poor and rich, and at all levels of development, it is, however, more noticeable in two different types of countries. Corruption can be a certain way of circumventing rigidity in an overly centralised and planned society. People who act as "door-keepers" may require payment in return for providing access to key services or rare products. It can also be a way to overcome the uncertainties of a weak state and a poorly developed open economy. In the latter case the drive to offer or accept a bribe may be a consequence of too few rules. If the state has not established and enforced clear regulations governing economic activities and the implementation of administrative discretion, individuals

may “play it safe” by paying officials for permits or protection they need (e. g. law enforcers and judges).

5. *Corruption prevention strategies*

Experience shows that corruption can be prevented by reducing opportunities for corrupt practices and the gains of both those receiving and offering bribes (i. e. so that both sides become more vulnerable to detection and punishment). It is essential to develop a coordinated, transparent and comprehensive government strategy, which will reduce opportunities for corrupt practices, facilitate their detection and make it less likely for an individual to benefit from them. As for the effectiveness of the anti-corruption policy, Jeremy Pope⁹ suggests that corruption should be seen as a high risk and low gain activity. Without a holistic approach no single tactic is likely to be effective. It is necessary to adopt comprehensive anti-corruption laws and identify areas of government activity most susceptible to corruption.

There are several prerequisites of successful strategy implementation. It is important to enhance ethics in the public sector, particularly in the context of business transactions between the private and the public sectors. The role of free press and open political debate as well as that of responsibility is also essential. It is not advisable to make promises you cannot keep because broken promises enhance the cynicism of the public towards politics. Furthermore, rules have to be equally applied to those who prepare and pass laws and to those violating them, which means that they should be applied both to major corrupt practices of prominent politicians and government officials and routine minor corrupt practices of local officials. The next prerequisite is that whatever is carried out, somebody should be held accountable for it, i. e. somebody has to implement, supervise and update it. Reforms should focus on strategic areas, such as the police and the state treasury where prevention and detection of corrupt practices can be more efficient, carried out promptly and easily perceived by the public. The police have a prominent role in this as they are held directly accountable for daily law enforcement and are the government’s representatives the public gets in touch with most often. If they are perceived as honest, this will enhance public awareness of the rule of law and trust in the state. The state will also benefit if taxes are collected properly and regularly and if public expenditure control is effective. At a lower level changes should focus on activities where the individual has great power or authority.

9 J. Pope: “Enhancing Accountability and Ethics in Public Service”, quotation, pp. 123–137

Attention should be focused on four large groups of strategies on corruption reduction. The first group includes strategies relating to the basic structure of government programmes. The emphasis is on the enhancement of ethical behaviour of the government, implementation of the existing laws, imposition of efficient sanctions on both those offering and receiving bribes and on the development of international mechanisms of support. The second group includes strategies that focus on the reform of basic government procedures in order to enhance transparency and reduce corruption. This includes the reform of bureaucratic procedures related to public procurement, financing political campaigns and election laws as well as the creation of independent judiciary. The strategies belonging to the third group relate to government programmes which may reinforce corruption as they are poorly designed or completely unnecessary. Specifications for public procurement of standardised products need to be reformulated in order to reduce manipulation due to tailor-made specifications. The number of permits should be minimised since their large number lends itself to corruption. Here the public interest criteria should be clearly defined. The fourth group of strategies relates to public opinion. It should be formed in such a way that it allows the possibility of substantial corruption reduction. However, if public distrust in the government is based on actual facts, then public opinion is unlikely to change.

The best protection against corruption is, as in any other form of criminal activity, good chances that it will be detected, tried in court and punished. Therefore, it is crucial to have efficient institutions that are authorised to impose and apply sanctions, which will help prevent corruption among public servants. The reform programme emphasises the importance of and need for an open, highly competitive and transparent system of public procurement. Regulation ought to be simplified as much as possible, not only to reduce the need for serving through bribery, but also to facilitate business transactions and allow easy access to public services. A certain level of income is also required as it may eliminate the need of public servants for supplementing their income through bribes. This is why strict restrictions and regular supervision of officials' discretionary power is crucial. In order to prevent the development of long-term relationships with suppliers and customers, frequent rotation of staff is desirable. Laws and procedures for the prevention of undesirable association of public servants with suppliers should be efficient and transparent. Guidelines for decision making need to be published and accessible to the public. Furthermore, it is necessary to enable prompt and efficient supervision of decisions which are believed by the injured party to have been implemented contrary to the published guidelines. It is also advisable to set up efficient investigation offices and ensure certain channels that may be used by subordinate officials to report corrupt practices of their superiors.

Experience of other countries may serve as an incentive for taking action. For example, the Dutch minister of internal affairs encouraged the development of a consistent corruption prevention policy and the protection of impeccable conduct in public services. He proposed these seven measures: — careful examination of all departments and organisations and identification of high risk units, areas, offices and activities, — taking preventive measures including a strict division of responsibilities, control measures, rotation of activities and establishment of a reliable advisory board or advisors, — careful monitoring of employment procedures, — establishment of a code of ethics and rules of conduct for public servants and employees, — continuously reminding the staff of the rules of conduct, — supervising the observation of the rules of conduct, — taking retaliatory measures and imposing sanctions for cases of unacceptable conduct.¹⁰

6. *Conclusion*

For successful corruption prevention individual, institutional and cultural environment of a particular country should be considered. The key conditions for starting anti-corruption combat is the existence of political will, since it is the country's leadership where corruption is sheltered in many different ways. Despite the existence of political will for corruption prevention in Croatia, we can easily foresee with a high level of certainty that it may take a long time for political subjects to reduce corruption to an acceptable level should an elaborate system of anti-corruption measures be introduced. The Law on Anti-corruption Measures is only one of the prerequisites existing in almost all countries. However, it alone cannot make corruption prevention efficient. This is why it is important to examine critical segments in state institutions that are by their nature most susceptible to corruption. As a result, each public institution should develop their own programme of systematic measures in order to eliminate or at least reduce the risk of corruption.

10 J. Vrolijk: "Role of the Netherlands Court of Audit in Fighting Fraud and Corruption", in "The Role of Supreme Audit Institutions in Combating Fraud and Corruption and Their Co-operation With Other Authorities", International Conference Materials, February 25–26, 2003, Sofia, National Audit Office of Bulgaria, USAID, European Union, p. 65.

References:

1. V. Akrap: "Istraživanje uloge državne revizije u otkrivanju i sprječavanju korupcije", master's thesis, Ekonomski fakultet, Zagreb, 2001
2. Grubiša, D.: "Korupcija, nepotizam i grijeh struktura", Erasmus No. 24/1998., Zagreb, 1998
3. Grubiša, D.: "Politička korupcija u društvima u tranziciji", Erasmus, Časopis za kulturu demokracije, No. 14/1995, Zagreb, 1995
4. Hussein, A.: "Methodological Guidelines on Corruption — Threatened Areas Auditing", in "The Role of Supreme Audit Institutions in Combating Fraud and Corruption and Their Co-operation With Other Authorities", International Conference Materials, February 25–26, 2003, Sofia, National Audit Office of Bulgaria, USAID, European Union
5. Kregar, J.: "Etiologija korupcije", Revizija, Zagreb, January 1997— special edition
6. Pope, J.: "Enhancing Accountability and Ethics in Public Service" (in: New Perspectives on Combatting Corruption — A joint publication of Transparency International and the Economic Development Institute of the World Bank, Washington, 1998)
7. Tanzi, V.: "Corruption Around the World: Causes, Consequences, Scope and Cures", International Monetary Fund, Working Paper, WP 98/63, Washington, 1998
8. The World Bank, Helping Countries Combat Corruption: "The Role of the World Bank, Poverty Reduction and Economic Management Network", September 1997
9. Vrolijk, J.: "Role of the Netherlands Court of Audit in Fighting Fraud and Corruption", in "The Role of Supreme Audit Institutions in Combatting Fraud and Corruption and Their Co-operation With Other Authorities", International Conference Materials, February 25–26, 2003, Sofia, National Audit Office of Bulgaria, USAID, European Union
10. XVI International Congress of Supreme Audit Institutions (INCOSAI), Montevideo, Uruguay, Principal and Country Papers, Montevideo, 1998