

RESEARCH ARTICLE:

The comparative analysis of the integrity system in the European states

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ABSTRACT

Based on an intense comparative analysis of the current integrity assurance systems in the exercise of public functions and dignities in several states, the research provides important results on the administrative institutions developed in Europe in order to monitor and ensure integrity in the exercise of public functions and dignities.

KEYWORDS: *integrity, corruption, authorities and institutions, reforms.*

1.Introduction

The historical evolution of corruption cannot be dissociated from the social, economic, political, legal and cultural processes that have taken place in society.

Starting from the common sense of corruption, as a deviation from morality or law, criminologically, corruption is a deviant behaviour from certain social standards. From a criminological point of view, corruption is an illegal or immoral activity by which an individual, taking advantage of the public function he or she occupies, acts in order to obtain personal benefits¹.

2.Comparative analysis of integrity systems in Europe

The causes of corruption are:

- the lack of stability of the legislation on preventing and combating corruption and its frequent changes;
- lack of transparency and poor organization of public institutions and authorities;
- inefficiency of the administrative apparatus and excessive bureaucracy;
- the nature of society and social inequality;
- discrepancy between people;
- economic factors, people's desire to create a social comfort;
- the culture of a people and the lack of adequate education;
- the integrity of a person.

The term integrity is often used as an antonym of corruption, but integrity means not just corruption but involves improving

¹Dobrinioiu, V. 1995. *Corruption in Romanian Criminal Law*, Bucharest, Romania: Ed. Atlas Lex, p. 46.

communication and transparency in the public decision-making process so as not to create suspicion that private interest overrides public interest².

Public integrity implies the cumulative fulfilment of three conditions:

- the incorruptibility of the decision, irrespective of the beneficiary;
- observance of the principles of transparency and competitiveness;
- good management in terms of economy, efficiency and effectiveness.

Since ancient times, corruption has been one of the greatest problems of society, and when it involves civil servants and elected representatives, it affects the administration of public affairs.

The Council of Europe, which aims to defend and promote pluralist democracy, human rights and the rule of law, has played a pioneering role in the fight against corruption, as it poses a threat to the core values quoted³.

The Council of Europe has developed a series of multidimensional legal instruments addressing issues such as criminalizing corruption in the public and private sector, accountability and compensation in cases of corruption, civil servants' conduct, and political party funding.

These instruments aim at improving the capacity of states to fight corruption both at national and international level. Monitoring compliance with these standards was entrusted in 1999 to the Group of States Against Corruption, known as GRECO⁴.

2.1.Croatia, the Law on the Prevention of Conflicts of Interest was designed to prevent conflicts of interest

²Pro Democracy Association, CENTRAS Assistance Center for NGOs - CENTRAS and the Center for Legal Resources - CRJ within the national project Get attitude! - Campaign of NGOs and Local Media for Identifying and Preventing Corruption - Bucharest, 2010.

³https://ro.wikipedia.org/wiki/Consiliul_Europei

⁴<https://www.coe.int/en/web/greco/home>

between private and public interest in the performance of public duties, the obligations of officials to submit a report on the property status are established, the procedure for checking the data from the submitted reports on officials' assets, the duration of the obligations and the restrictions on the activities of officials after the termination of their public duties, election, composition and competence of the Conflict Resolution Committee, and a procedure before the Commission and the Law for sanctions provided for by the Commission may be imposed in cases of violation of the provisions of this Law.

For the purpose of implementing this Law, a Conflict Resolution Committee has been established as a permanent, independent and independent state body that carries out the tasks of the scope of work and competencies set forth in this Law. The Conflict Resolution Committee consists of a president and four members. The President and the members of the Commission shall be elected for a period of five years and may be elected on their duties at most 2 times⁵.

2.2.France, the High Authority for the Transparency of Public Life (HATVP) is an independent administrative authority (AAI) charged with a public service mission: to promote the integrity and exemplarity of public officials.

With the adoption of the transparency laws of October 2013, France has entered a new phase of modernization of public life. Twenty-five years after the first law on financial transparency, the legislator has decided that the promotion of public integrity must be a fully-fledged public policy entrusted to a fully independent authority with more efficient means.

The creation of the High Authority for the Transparency of Public Life is the culmination of a gradual strengthening of

the transparency requirements incumbent on public officials.

The French Anti-Corruption Agency (AFA) is a service with national jurisdiction created by the law of 9 December 2016 on transparency, the fight against corruption and the modernization of economic life.

Placed with the Minister of Justice and the Minister in charge of the Budget, it assists the competent authorities and the persons who are confronted to prevent and detect the facts of corruption, trading of influence, concussion, illegal take of interest, misappropriation of public funds and favouritism. Its expertise may be sought by the courts, large companies, administrations or communities.

The AFA is headed by a magistrate of the non-hierarchical judiciary, Charles Duchaine, appointed by decree of the President of the Republic for a period of six years non-renewable. The French Anti-Corruption Agency has replaced the Central Office for the Prevention of Corruption (SCPC) while benefiting from a strengthening of its powers.

The French Anti-Corruption Agency has an administrative control power enabling it to verify the reality and efficiency of anti-corruption compliance mechanisms implemented, in particular by companies, state administrations or local authorities. This control concerns both state or local governments and economic actors (private or public companies)⁶.

2.3.Greece, the General Secretariat for the Fight Against Corruption (GGCA) was established by Law 4320/2015, which defines the institutional framework of its operation. He is the Deputy Minister for Transparency and Human Rights and is an institutional coordinating body with powers to supervise and take initiatives at political and legislative level for all control

⁵<https://www.sukobinteresa.hr/hr/o-povjerenstvu>

⁶<https://www.economie.gouv.fr/afa/lagence>

mechanisms, structures and services in charge of combating corruption. At the same time, it cooperates with International Organizations, Institutions and Services of the European Union or other states to develop.

The National Strategic Anti-Corruption Plan is practically called upon to address organized and targeted multi-faceted corruption by bringing together all stakeholders, both the whole of the Administration and the citizens, to implement relevant multidisciplinary and multilevel actions.

The areas of activity of the General Secretariat as the Greek Agency AFCOS concern:

- Anti- Fraud Policies and in particular the elaboration, coordination and monitoring at national level of institutional and political initiatives.

- The reporting of irregularities, to ensure the completeness and correctness of the evidence of irregularities and suspected fraud reported by the competent national authorities to the European Anti-Fraud Office (OLAF).

- At the Complaints Appeal. The Secretariat's Complaints Office receives complaints (a) in corruption cases in the public and private sectors; (b) fraud cases in co-financed, transnational and other programs.

- Operational Co-ordination in fraud cases⁷.

2.4.Hungary, according to national, European and international surveys, is moderately affected by corruption. The perception of corruption within the society is higher than the actual occurrence of corruption recorded by research and thus corruption is in the centre of public attention. Corruption is not only a criminal offence. It undermines public trust in public institutions, distorts competition, increases public expenditures and

endangers democracy. That is why the state has an obligation to fight corruption and pursue the elimination of this phenomenon.

Following changes in the legal framework, the competence of the Police has broadened in the recent years. National Protective Service (Nemzeti Védelmi Szolgálat, NVSZ) established as part of the organisation of the Police in 2011, successfully dismantled internal corruption networks within the Police that had previously operated smoothly. The main tasks of NVSZ include reducing corruption, stopping organised criminal groups from infiltrating the police force, carrying out detection activities and protecting officers and their families who are threatened as a consequence of carrying out their duties. To effectively counter corruption, new measures, namely lifestyle monitoring and integrity testing were also introduced.

In 2014, the governmental corruption prevention structure was reformed. As a result, the Minister of Interior was tasked with the coordination of corruption prevention measures, who implements this task by way of NVSZ. To this end, NVSZ established the Corruption Prevention Department (Korrupciómegelőzési Főosztály – KMF) on 1st October 2014. Thus structures, methods and tools that aim either for the prevention or for the detection of corruption are now both under the same organisation, NVSZ, which ensures a comprehensive approach on tackling corruption.

KMF delivers strategic planning, methodological support, risk assessment and coordination, participates in the development of the integrity management system, develops and implements awareness raising and information campaigns and contributes to the fulfilment of obligations arising from international cooperation⁸.

⁷<http://www.gsac.gov.gr/index.php/el/>

⁸<http://corruptionprevention.gov.hu/index>

2.5. Italy, in 2014, was established National Anti-Corruption Authority (ANAC).

This can be identified in the prevention of corruption within public administrations, in subsidiaries and affiliates also through the implementation of transparency in all management aspects, as well as through the activity of supervision in the field of public contracts, offices and however, in every sector of the public administration that can potentially develop corruption phenomena, while avoiding aggravating procedures with negative repercussions on citizens and businesses, directing the behavior and activities of public employees, with consultative and regulatory measures, as well as through cognitive activity.

The key to the activity of the new ANAC, in the vision currently expressed, is that of supervising to prevent corruption by creating a network of collaboration within public administrations and at the same time increasing the efficiency in the use of resources, reducing formal controls, which also involve procedural burdens and actually increase the costs of public administration without creating value for citizens and businesses.

2.6. Latvia, the KNAB is a direct administration institution under the supervision of the Cabinet of Ministers, which, in accordance with the Law on Corruption Prevention and Combating Bureau, defines specific functions in the prevention and combating of corruption, as well as in controlling the implementation of the financing regulations of political organizations (parties) and their associations.

Despite a relatively short period of operation, significant progress has been made in the implementation of the KNAB's functions in preventing and combating corruption, as well as in drafting amendments to regulatory enactments that

increase the capacity of the KNAB to perform statutory functions.

The KNAB evaluates the knowledge and understanding of the public and officials on anti-corruption issues and, based on the results, carries out educational activities in areas such as anti-corruption legislation, preventive measures taken by the authorities and prevention ethics; informs the public about the trends of corruption and the corruption cases detected, as well as about the measures taken to prevent and fight corruption.

In the field of corruption prevention, the Bureau is developing a National Strategy and Program for Corruption Prevention and Combating, as well as coordinating the cooperation between the institutions mentioned in the program in order to achieve the set goals. The Office develops a methodology for preventing and combating corruption in state and municipal institutions and the private sector. KNAB analyses the practice of state institutions in preventing corruption and detected corruption cases and submits their proposals for the elimination of identified deficiencies.

KNAB controls the prevention of conflicts of interest in the activities of public officials, as well as compliance with prohibitions and additional restrictions imposed on state officials by regulatory enactments. When the law "On Prevention of Conflict of Interest in Activities of Public Officials" is violated, the Bureau calls state officials to administrative liability - investigates administrative violation cases and applies penalties for administrative violations, which are subject to review by the Office in accordance with the Latvian Administrative Violations Code.

The KNAB informs the public about the trends of corruption and the cases of corruption detected, as well as about the measures taken to prevent and combat corruption and educate the public,

including public officials, on legal and ethical issues⁹.

2.7.Lithuania - Reforms in the government structure launched after restoration of Lithuania's Independence in 1990 highlighted the problem of corruption in state and municipal institutions. A number of law enforcement institutions were involved in the fight against this criminal practice but there was no central body to undertake coordination of the investigation of corruption-related offences. In 1997, the Government decided to establish a separate institution tasked to fight against corruption.

On the Establishment of the Special Investigation Service under the Ministry of the Interior, the newly established law enforcement institution was entrusted with the functions to fight against corruption and offences against the civil service.

Although at the outset of its activity STT initiated quite a number of proceedings in connection with corruption-related offences, it seemed apparent that law enforcement efforts consisting in detecting and investigating isolated offences were insufficient; it was necessary to analyse and investigate the system of public administration so that it does not provide opportunities for corrupt practices, i.e. to preclude the possibility of corruption.

On 2 May 2000, with the adoption of the Law on the Special Investigation Service by the Seimas, STT became an institution independent from the executive branch, accountable to the President and the Seimas of the Republic of Lithuania, engaged in the detection and investigation of corruption-related offences and developing and implementing corruption prevention measures.

On 28 May 2002, the Seimas adopted the Law on Corruption Prevention, a legal act drafted on the initiative of Special

Investigation Service, to enable a more efficient fight against corruption. This legal act established new measures for identifying and removing the causes and opportunities for corruption, including corruption risk analysis, anti-corruption assessment of legislation and draft legislation, and anti-corruption education and awareness raising of the public.

In July 2002, Special Investigation Service established the Department of Corruption Prevention and delegated to it anti-corruption assessment of legislation, monitoring the implementation of the National Anti-Corruption Programme measures, preparation of methodologies for the assessment of the probability of corruption, the analysis of opportunities for corruption and anti-corruption education and awareness raising of the public.

A further significant line of STT activity is anti-corruption education of the public having the principal purpose to convince the public that the benefits of corruption are but temporary, while its negative consequences persist for a very long time.

Special Investigation Service specialists determine whether or not the administration systems of individual agencies create opportunities for corruption and abuse of office, provide reasoned conclusions and proposals and carry out anti-corruption assessment of legislation that is particularly prone to corruption and present conclusions as to how it may be improved¹⁰.

2.8.Poland - The tasks of the Bureau in the area of the Office's competence (combating corruption in public and economic life, in particular in state and local government institutions, as well as combating activities that undermine the economic interests of the state) are primarily the identification, prevention and detection of crimes.

⁹<https://www.knab.gov.lv/lv/knab/functions/>

¹⁰<https://www.stt.lt/en/menu/about-stt/historical-background/#turinys>

The The Central Anticorruption Bureau's main objective is to combat corruption at the interface between public and private sectors. According to art. 2 of the Act on the Central Anti-Corruption Bureau, the Office's jurisdiction is to recognize, prevent and detect crimes, prosecute perpetrators, conduct control, analytical and preventive activities.

Within the limits of statutory tasks, The Central Anticorruption Bureau officers perform:

- operational and reconnaissance activities to prevent the commissioning of crimes, their recognition and detection, and
- if there is a justified suspicion of committing a crime - investigative measures to prosecute perpetrators of crimes;
- control activities to reveal cases of corruption in state institutions and local government, as well as abuses of persons performing public functions, as well as activities detrimental to the economic interests of the state;
- operational-reconnaissance and analytical-information activities in order to obtain and process information relevant to the fight against corruption in state institutions and local government as well as activities detrimental to the economic interests of the state¹¹.

2.9. Portugal, the Corruption Prevention Council is an independent administrative entity which works with the Court of Auditors and has as its purpose the development of a national activity in the field of corruption prevention and related offenses under the law.

The Corruption Prevention Council is not, therefore, a criminal investigation body, which is in charge of other organs and institutions of the State, especially the Public Ministry.

The activity of the Corruption Prevention Council is exclusively focused on the prevention of corruption, with the following responsibilities:

- collect and organize information on the prevention of active or passive corruption; economic and financial crime, money laundering, influence peddling, unlawful appropriation of public property, harmful administration, embezzlement, economic participation in business, abuse of power or breach of the duty of secrecy, as well as acquisition of real estate or securities as a result of the illicit obtaining or use of inside information in the exercise of functions in the Public Administration or in the public sector business;
- monitor the implementation of the legal instruments and administrative measures adopted by the Public Administration and the public sector for the prevention of corruption and evaluate their effectiveness;
- to give an opinion, at the request of the Assembly of the Republic, the Government or the organs of self-government of the autonomous regions, on the preparation or approval of normative, internal or international instruments for the prevention or repression of the facts referred to in a).
- the Corruption Prevention Council collaborates, at the request of the interested public entities, in the adoption of internal measures that can prevent corruption, namely:
 - in the elaboration of codes of conduct which, among other objectives, facilitate the communication to the competent authorities of such facts or situations known in the performance of their duties and establish the duty to participate in external activities, investments, assets or substantial benefits or which may lead to conflicts of interest in the performance of their duties;
 - in the promotion of actions of initial or permanent formation of the

¹¹<https://cba.gov.pl/pl/o-cba/uprawnienia/349,uprawnienia.html>

respective agents for the prevention and combat of those facts or situations.

- the Corruption Prevention Council cooperates with international organizations in activities oriented towards the same objectives¹².

2.10.Slovenia, the Commission for the Prevention of Corruption seeks to ensure the strengthening of the functioning of the rule of law, the establishment of measures and methods for enhancing integrity, transparency and the prevention of corruption, and the prevention and resolution of conflicts of interest.

The Commission has already established effective monitoring mechanisms:

- detection and investigation of corrupt practices,
- keeping a register of lobbyists,
- control of the property status of officials,
- control of business restrictions,
- register gifts,
- identifying conflicts of interest.

The Commission has already established effective preventive mechanisms:

- implementation of integrity plans as one of the basic tools for (self) perceiving corruption risks in all public sector institutions,
- application Supervisor as a fundamental tool in the area of transparency in the use of public funds,
- answer questions, in particular with regard to integrity plans, conflicts of interest, business restrictions and anti-corruption clauses,
- education, training and awareness-raising, and other preventive measures and projects.

The Commission for the Prevention of Corruption will be strategically focused on:

1) Preparation of systemic analysis, recommendations and policy opinions with a view to perceiving and eliminating systemic corrupt risks.

2) Systematic and thematic controls in areas where the Commission for the Prevention of Corruption perceives the most corruption risks (health, banking, local self-government, state asset management, state property sales, public procurement ...).

3) Carrying out research and analysis in the field of perception of corruption risks, encouraging the preparation of the development of a methodology for detecting conflicts of interest and measuring corruption - in cooperation with national, scientific and research institutions and non-governmental organizations.

4) Evaluation and upgrading of integrity plans will be carried out with the aim of becoming a comprehensive mechanism for (self) perceiving and eliminating corruption risks and the risks of other unethical and unlawful practices in public sector institutions.

5) Education, training and awareness-raising and youth work. Focused training for individual target groups, implementation of anti-corruption content in the curricula of primary and secondary schools, training and awareness-raising projects (traditional Anti-Corruption Week, traditional Anti-Corruption Film Festival ...).

6) Enhanced international activity. The proactive functioning of the Commission in the field of international activities, the exchange of information, knowledge and practice, and the organization of at least one international conference every two years.

7) Upgrading the Supervisor application as a unique tool for analysing, detecting and preventing corruption risks in the area of spending public funds, limiting operations, conflicts of interest and ensuring transparency.

¹²www.cpc.teontas.pt/instituicao/competencias.html

8) Transparency of lobbying contacts. The Commission will work to raise awareness of the importance of reporting on lobbying, so that all stakeholders will report consistently. It will strengthen monitoring and training in the field of lobbying.

9) In-depth control over the assets of taxpayers, also in connection with the prevention of conflicts of interest.

10) Protection of applicants ("whistle-blowers"). We will prepare a proposal for an integrated system solution to establish internal and external systems for reporting irregularities and protecting applicants of corruption and other irregularities in public sector institutions and wider¹³.

2.11. Romania - The National Integrity Agency (ANI) is an autonomous administrative authority and legal figure operating at the national level as a single structure, with headquarters in Bucharest. By the adoption of Law no. 144/2007, Romania became the first EU country specialized in verifying wealth, as well as the legal regime of conflicts of interests and incompatibilities. Although the liability to declare wealth has existed since 1996 and asset disclosures have been public documents since 2003, the control mechanisms were difficult to use and the monitoring of conflicts of interests had never been exercised systematically. The emergence of the ANI was due both to the deficit of legislative regulation in this regard and to the lack of a specialized, unique institution administering efficiently a system of verification in the areas of accumulation of unjustified incomes, of conflicts of interests and of incompatibilities.

The aims of the ANI are: ensuring integrity in the exercise of public positions and dignities; preventing institutional corruption through exercising

responsibility in assessing wealth statements, data and information regarding wealth, as well as changes in assets, incompatibilities and potential conflicts of interest during the performance of public positions and dignities¹⁴.

3. Conclusions

Following the comparative analysis of the current integrity assurance systems in the exercise of public functions and dignities in several states, we have come to the conclusion that they operate under the same mechanism, each of which has special legislation that regulates the anti-corruption fight.

There are administrative institutions with tasks in monitoring and ensuring integrity in the exercise of public functions and dignities that are autonomous and independent.

Thus, in order for the normative system in the field of integrity to be an operative one, it is absolutely necessary to have a special law on the prevention of conflicts of interest in the exercise of public office, to prevent private interests from influencing decision making in the exercise of public functions, impartiality, objectivity and transparency in the exercise of public office and to strengthen public confidence in public institutions. Ideally, there should also be a law on preventing and fighting against corruption, which applies to both civil servants and the private sector.

As for the institutional system in the field of integrity assurance, there must be a specialized institution in this field, an administrative authority, independent and especially autonomous. Not to be subordinated to bodies that could influence its activity due to its political component and have a reasonable number of employees to function properly.

¹³<https://www.kpk-rs.si/komisija-2/o-komisiji/vizija-senata-komisije-za-preprecevanje-korupcije/>

¹⁴<http://www.networkforintegrity.org/continents/europe/national-integrity-agency-ani/>

Appointment of the head of the institution by organizing a competition and clear establishment of the term of office to a maximum of 5 years, without the possibility of renewal.

Those subject to integrity laws should be in the public domain (the country's president, parliamentarians, governors, heads of all public institutions, state-owned trading companies, local elected representatives, and everything that is related to the state budget) to which they should adding from the private domain all those who have contractual relations with their state benefit from European funds.

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