

Some Considerations Regarding Corruption in The Local Public Administration

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Abstract

The present paper is intended to be a warning signal for possible forms of corruption that may be practiced by public officials and not only, while fulfilling their duties. Sometimes the official misconduct of the employee of the administrative-territorial unit can take the form of corruption when a working task is conditioned, resulting in an undue benefit, other than the due salary included in the individual employment contract. The administrative-territorial unit is the closest Public Institution to the individual taxpayer, and also, as far as corruption is concerned, the most vulnerable with its entire possible existence, generating negative consequences and prejudice of public money in the end.

Keywords: corruption, official misconduct, administrative-territorial unit, legislative inconsistencies, vesting of land possession, public procurement, doubtful and unsustainable professional competence, public official

The starting point of this paper is the more frequent observation of some deficient aspects registered in the activity of the administrative-territorial units, respectively the way the representative bodies as well as those of their execution carry out their activity.

The purpose of the present paper is not to turn into a court issuing sentences or judgments, absolute truth, or qualifying the results of an activity as the effects of corruption or of some deviations of disciplinary nature. For this reason, it is appropriate to define the two notions, namely corruption and disciplinary misconduct as follows:

Corruption can be defined as a state of deviation from normality, from a well specified duty in a legal provision (law, Government decision, emergency ordinance, order, etc.), respectively "the abusive use of a person of an intermediary or decision position in order to grant to the corrupter an economic or administrative advantage in exchange for a sum of money, gifts, travels, excursions, holidays or entertainment, or the receipt of property"¹.

The inappropriate behavior of a person, who carries out activity in the local community, to use the public function or position by evading or avoiding the fulfillment of certain dispositions, norms, attributions, etc. and obtaining from them material advantages or professional or administrative functions, is also considered corruption.

The disciplinary violation as it is defined by the explanatory dictionary of the Romanian language, represents "the discharging of one or more service obligations, respectively an act related to work which consists in an action or action committed with guilt by an employee through which this violated the legal norms, the internal regulation, the applicable individual or collective labor contract, the orders and the legal dispositions of the hierarchical managers".

¹ Coruptia în administrația publică locală – ISBN 973-99906-4-9 pag. 4

After the etymological clarification of the two notions, according to the assumed and defined title, the following part is dedicated to the development of the notion of corruption which one should recognize that in certain inflection points interferes with the disciplinary violation as both can be based on a service report.

Thus, in addition to its harmful effect, the phenomenon of corruption "comes and threatens democracy, the rule of law, social equity and justice, erodes the principles of efficient administration, undermines the market economy and endangers the stability of state institutions"².

Throughout human society, the phenomenon of corruption has taken on different names, but each name essentially included the behavioral models of the official or official representatives of that society, with the most harmful effects and consequences to the society in question, but beneficial to the individual.

Even though corruption existed in Romania and had the respective consequences, it was little discussed and especially presented, as it started from the NEW MAN, specific to totalitarian socialist economy, where each man was the possible occupant of the "right place by the right man". In order to give examples and, of course, with the approval of the "vigilant bodies of the state", sometimes a case used to go public.

It was only after the December 1989 revolution that the phenomenon of corruption "was revealed with greater visibility", although it was and would be present in every society and stage of human society, thus reaching the present days, corruption is the defining label of our country and of the Romanian official.

Without being negative, unpatriotic or not loving Romania, one should admit that with the change of the production forces and relations, there is corruption (as it is in all the countries of the world). It is not widespread, but nowadays corruption is part of a larger category of economic and financial crimes, which is one of the most aggressive forms of crime in Romania.

For this reason, in order to limit this phenomenon as much as possible during the 30 years of market economy, the Romanian legislature - the Parliament - with all its diversity of political colours, "has legislated a series of legal grounds that aimed at: the status of the Romanian parliamentarian, the ministerial responsibility, the status of the public official, the concept of assets declaration given by the dignitary and the public official, the prevention and fight against acts of corruption, etc.

The new institutional bodies, the Court of Accounts, the National Agency for Fiscal Administration, with the Anti-Corruption Directorate operative body, the Police, the National Office for Prevention and Control of Money Laundering, the Public Ministry and others have included in their Organization and Functioning Regulation the main task of preventing, identifying and combating corruption and misuse of public money, which have proved their usefulness in many cases.

Being rigorous with the above discussed title and issue of *corruption from a theoretical point of view*, in terms of local public administration, a public institution of local interest which is closest to the individual taxpayer, but also to the legal entity that is organized and has its headquarters and operates within the territorial administrative unit, corruption may have a higher and unfortunately existing level.

The most frequently mentioned area of corruption is the field of agricultural real estate.

² Programul național de prevenire a corupției – HG 1065/2001 – MO 728/13 nov 2001.

Unfortunately, the allocation of land belonging to individual beneficiaries, after almost 30 years of "Romanian democracy", has not been solved. Therefore, due to legislative inadvertence in the field and for various reasons, the official of the territorial administrative unit, also benefiting from the existing relatively reduced land area, prefers another "more attentive" beneficiary.

This can be the starting point for series after series of other possibilities of corruption. Even though each territorial administrative unit has a Commission with the obligation to complete the land allocation, respectively to vest the legal beneficiary in possession, the operation is far from completed, and the specialized bodies, in this case the Court of Accounts, in all its reports mentions the non-completion of vesting of possession.

A second favourable area for corruption is the field regarding the identification, inventory and conservation of public and private assets of the administrative-territorial unit, where corruption flourishes and assets are increasingly unknown, less used and mismanaged, leading to precarious public financial resources registered by the administrative-territorial unit.

A third thriving area for corruption is the area of public procurement where the fragmentation of the value of procurement gives the possibility to direct trust in favor of the more "careful" supplier.

This is the field that leads to the story of the tender, experience, traditionality book in relation to the purchasing unit, etc. Without being considered the last area, the most harmful seems to be the tolerance of the official of the administrative-territorial unit. It refers to the official who is not constructively involved in the action of pursuing the taxpayer, who does not impose or communicate the assigned tax burden, nor is involved in the realization of the budgetary receivables from the taxpayer. The latter in cohabitation with the official, does not declare or follow the payment of taxes and duties, does not enforce the receivable of the administrative-territorial unit.

All the possible aspects of corruption stated above, which do not have a limiting character, have their direct source exactly in the intervention of certain political structures in the recruitment of staff, which sometimes is without a study degree, with false school documents, with recommendations based on various criteria, etc., and especially professionally weak, eager for well-paid jobs and unfortunately very often in bad faith in the exercise of the duties entrusted by the job description.

The phenomenon of corruption can never be eradicated, but its limitation is possible if all the decision-makers and executors join hands in a unitary whole and have a single goal for the good of the city and the citizen within it.

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