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## CORRUPTION MARKET

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**Abstract:** The Slovak Republic is known in the world as a country with a high level of corruption and where serious crimes are perpetrated. The situation in the Slovak Republic confirms the generally known knowledge that a big corruption creates the environment for small daily corruption and they influence each other. The decision model described in the article compares the benefits and costs of the corruption activities at the level of the individual benefits and society losses (resulting from this kind of activity). The aim is to create such legal mechanism which would significantly limit the decision area for the corruption activities.

**Keywords:** corruption, corruption market, patronage, model

### INTRODUCTION

Corruption (from Latin *corrumpere* = bribe, destroy) is an abuse of entrusted power for a private utility or profit. The corruption means the direct or indirect request, offer, providing or acceptance of a bribe or another inappropriate advantage, or its promise which deforms the correct execution of obligation or a behaviour required from an acceptor of bribe, inappropriate advantage or its promise.

As a bribe should be considered an inappropriate advantage reposing upon the direct proprietary profit or another advantaging which offers to a bribed person or which should be offered to bribed person or with its approval to another person on which this person neither any other have no rights. The bribe can have a form of a direct proprietary profit (cash remuneration, in kind) or a form of advantages of another kind (for example reciprocal service). As bribe can be considered also a profit which is not having proprietary value (for example better expectancy for career growth).

Monitoring and quantification of corruption in the world is contemporarily made by Transparency International which publishes every year the index of corruption perceptions index (CPI) in checked states. To a corruption is joined another malady and it is a patronage.

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National anticorruption unit of a National criminal agency treated in the last year together 357 cases. This unit is besides this scope of problems solving for example also cases of economic criminality or the damaging interests of European communities. Investigators of National anticorruption unit accused of these crimes together 260 persons in 2016 from which 141 were accused of corruption. Total financial loss resulting from these crimes was estimated at 29 720 082 Euro. Accused persons were asking for bribes 338 000 Euro in total in the last year. Of this amount 319 000 Euro were really passed. In opposite, 141 000 Euro is an amount of offered bribes from which really were passed 57 000 Euro.

The corruption undermines the access to public services and leads to illegal enrichment of persons and causes the tension in social structure. Corruption leads in general loss of confidence to public institutions. It leads into the rise in level of the feeling of anarchy and indifference putting in risk the basis of democracy. The corruption is undermining the law enforcement and is creating the place for development of organized crime. It is distorting the competition, is impeding the transparency and so leads into ineffective sources distribution (for example traders are not oriented to development of the offer of products but they prefer to concentrate their effort to development and maintenance of usable political contacts). It is destroying healthy economics because the winner is not the one economically the most competent but the one not offering products and services of best quality and using corruption to support its activities. It is deforming market mechanisms by overcharging services provided by public administration to citizens. The consequence are higher taxes or the state or public administration provides lower service quality and/or scope.

## **CORRUPTION MARKET**

Corruption is a serious social problem and its working out is important, actual and is requesting especially a necessary pressure of citizens to politicians as well as to persons in public administration. Slovak republic is evaluated in the world as a country with a high rate of corruption and serious economic crimes commitment. Corruption is a criminal offence. Penal Code effective since January 1<sup>st</sup> 2006 in its eighth head – Criminal offences against public order, in its third title named Corruption are enumerated all criminal offences having characteristics of corruption. These criminal offences are:

- Passive bribery,
- Active bribery,
- Trading influence,

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- Failing to report a criminal offence.

The situation in Slovakia confirms the generally applicable rule that a big economic corruption creates conditions for small daily corruption and these two phenomena are influencing each other.

## **DETERMINANTS OF CORRUPTION DEMAND**

Prevailing *determinants of corruption demand* can be divided into following groups:

- I do not have required parameter and I want what is depending on this parameter,
- There exists an extent of parameter that I fulfil, but I necessarily do not have to reach what is depending on parameter because there is somebody who can take subjective decisions,
- There are more people who fulfil parameter and the decision depends on an individual or a small group of people.

### *Trading influence*

Any person who, either directly or through an intermediary, receives, requests or accepts the promise of a bribe for using or having used his influence on the execution of duties by mentioned persons, shall be liable to a term of imprisonment of up to three years.

### *Active bribery*

Any person who, either directly or through an intermediary, promises, offers or gives a bribe to another person to make that person act or refrain from acting, and thus breaches his duties resulting from his employment, profession, position or function, promises, offers or gives a bribe for the same reason to a third party, either directly or through an intermediary, shall be liable to a term of imprisonment of up to three years.

However, concerning criminal offenses like trading influence and active bribery it is possible to avoid the criminality when the offender offered or promised a bribe only because he or she was asked to do so but has announced this fact immediately and voluntarily to a body involved in criminal proceedings or to a Police service. The soldier can announce this to his superior or to an appointing authority. Prisoner can announce this to a member of Court Guards and Prison Wardens Corps.

### *Failing to report a criminal offence*

Any person who obtains trustworthy information about the commission of any of felonies by another person, and fails to report such felony or criminal offence without delay to a body involved in the criminal proceedings or to the Police Force, shall be liable to a term of imprisonment of up to three years. Criminal prosecution is exclusively in hands of state

authorities. That is why citizens cannot accuse directly offenders but they can interpret to police and to prosecutors their suspicions.

They can do it as a verbal report on any police unit or on prosecution, or they can do it in writing. When it is a verbal announcement to a worker concerned has to draw up a report. He writing announcement has no a specific form. It is enough to trustworthy and exactly describe the act with indicating the offender – if the announcer knows his/her identity – and other witnesses. It is recommended not to directly accuse anybody of any criminal offence but only to present all determining circumstances (including names and functions) which are known by announcing person. In writing form it is possible to use “Bringing complaints to unknown offender” or a formulation “... due to above mentioned, body involved in the criminal proceedings should verify whether it is a criminal offense or not”.

Announcer of criminal offence should indicate its identification data for the case to be examined by investigation authority. In case he or she could be endangered by giving his/her identification data, he/she is not obliged to do so. The prosecution decides whether this concerns are reasonable or not. If the announcement indicated any exact information, the police is obliged to process also anonymous announcements.

Several announcers are afraid of potential legal consequences in case that the fault is not proved to a suspected person. In case that the announcer was manifestly fabling and lying this one can really face the judge. Because also a false accusation is punishable. When there is only a truth in the announcement, the announcer do not have to be afraid of anything. In the opposite any person who obtains trustworthy information about the commission of any of felonies by another person, and did not fail to report such felony or criminal offence without delay to a body involved in the criminal proceedings or to the Police Force is in risk to be punished.

## **DETERMINANTS OF OFFER**

- Corruption environment (laws, regulations, social environment),
- Low probability of punishment.

The Slovak republic is touched by one of most misty issue Gorila touching the government of Dzurinda as well as of Fico. The interlocation of financiers with government is so strong that there is no power strong enough to cut this interlocation. It looks like the country with 5 million people is a too small fishpond for too many fishes and so corruption becomes a kind of model for money and power reallocation. That may be also a reason why Slovakia

obtained 54<sup>th</sup> rank out of 175 countries in the world in the CPI made by Transparency international in 2014.

Corruption acting of persons involved in economics is joined to economic reasoning comparing benefits (B) resulting from corruption acting with marginal costs incurred to him/her in case of non-corruption acting or of being caught.

If the benefit of corruption acting is higher than the total costs for corruption acting then we will use the corruption as the mean to reach our aims (whereby we can compare short-term or long-term effect). For the analysis of the corruption acting we need to know the way how to define and measure costs and benefits. This problem can be expressed as suits.

$$\max B(x) - C(x)$$

where:

- B(x) is marginal benefit which we can gain from corruption acting of the activity (x),
- C(x) are expected costs to which we have to face in case we get caught performing this corruptive activity.

The form and the height of cost exercised towards the acceptor of bribe as well as towards the briber is defined by penal law.

The question is: *What should be the form of punishment to discourage involved economic persons to use corruption acting?*

Let examine the case, when the punishment would have the form of fine with the height (F) Euro and this fine will not be dependent on the height of bribe (x). The majority of corruption acting on the market is not directly observable and because not all concerned persons are identified, this fine is given with a certain probability ( $\pi$ ). This probability is dependent on the amount of sources dedicated to discovering these activities.

We can formally express the decision making on corruption market as:

$$\max B(x) - \pi(e) F$$

where:

- F is a fine,
- (x) represents activities joined to corruption acting,
- (e) is the level of effort to meet the law,
- $\pi(e) F$  is the probability of bribe acceptor identification.

The question is how should the state define the e and F? The corruption acting causes damages to other people. Social damages caused by corruption acting H(x) include the increase of costs and their projection into prices and c(e) are costs for exercise of the right. The state

opts for a several degree of the exercise of the right and for the height of punishment aware that its choice will influence the extent of corruption activities.

In case when we want to minimise overall social damages related to corruption acting, we can express it as follows:

$$\min H(x) - \pi(e) F(x) + c(e)$$

where:

- $H(x)$  overall social damages caused by corruption,
- $C(e)$  overall social costs for the exercise of the right.

This observation emphasizes the fact that the effective deterrent effect can have the increase of punishments according to the extent of corruption. It is necessary that the punishment has a proportional height to the height of the offence.

The level of corruption acting will be set as the equilibrium between marginal benefit (MB) and marginal costs expressed as follows:

$$MB(x) = \pi(e) F(x)$$

Higher level of right execution and higher fines (punishments) should provoke higher marginal costs for corruption acting and consequently decrease the overall social damages resulting from corruption.

In case the state decides to accept a certain level of corruption, what should be the value of  $e$  and  $F$  to guarantee the cheapest assuring of this level?

One of strategies of corruption prevention could be the imposing of high fines for such an acting.

## CONCLUSION

Convenient form of the right execution in the scope of corruption is to invest very low amount of money to catch a person performing corruption (whichever kind), but once the person is caught he or she will get a very high fine/punishment.

Persons involved in corruption have to face marginal sanctions and the society “has to find” optimal rate between the offence and the height of punishment.

Legislative framework of Slovak republic does not consist of a particular law concerning the fight against corruption and fraud. The problem of corruption and of the fight against corruption and fraud is regulated in several legislative measures:

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## KORUPCIJOS RINKA

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### S a n t r a u k a

Korupcija yra kriminalinis nusizengimas, tai piktnaudziavimas patiketa galia asmeninems reikmems. Ja galima ivardyti ne tik finansine nauda, bet ir tiesiogine ar netiesiogine prašyma, pasiulyma, pritarima gauti ar duoti kyši ar kiokia nauda, kas iskreipia teisinga ir teiseto elgesio sampratą. Korupcija kenkia viešųjų paslaugų sektoriui, padeda neteisetai praturėti ir sukelia socialines struktūros itampą. Apskritai korupcija didina pasitikėjimo valstybės institucijomis praradimą, judina demokratijos pagrindai, kenkia teisėsaugos įvaizdžiui ir kuria aplinką vystytis organizuotam nusikalstamumui, taip pat iskreipia konkurenciją, mažina skaidrumą.

Slovakijos Respublika pasaulyje yra žinoma kaip šalis, kurioje vyrauja korupcija ir vykdomi rimti ekonominiai nusikaltimai. Slovakijos situacija pagrindžia teorines žinias, kad stambaus masto korupcija kuria sąlygas nedidelio masto korupcijai ir viena kitai daro itaką. Slovakijos Respublikos baudžiamajame kodekse šiuo metu išvardijamos šios nusikaltamos korupcinės veikos: pasyvusis kyšininkavimas, aktyvusis kyšininkavimas, prekyba itaka, nepranešimas apie nusikalstamą veiką. Korupciniai asmenų veiksmai yra susieti su ekonomikos pagrindimu lyginant nauda, atsirandančią dėl korupcijos veiksmų, su išlaidomis jai: jeigu korupcijos nauda yra aukštesnė nei bendros išlaidos korupciniamsa veiksams atlikti, tada korupcija naudojama kaip priemonė tikslui pasiekti.

Straipsnyje aptariamas korupcijos modelis lygina korupcinės veiklos pajamas ir išlaidas jai. Siekiamas tikslas – sukurti tokį teisinį mechanizmą, kuris ribotų aptariamą korupcinės veiklos apimtį. Pabrėžiamas faktas, kad efektyvi atgrasinimo priemonė gali būti bausmių padidinimas atsižvelgiant į korupcijos mastą. Būtina sąlyga, kad bausmė būtų proporcinga nusizengimo dydžiui.

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**Pagrindinės sąvokos:** korupcija, korupcijos rinka, protekcija, modelis.

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