

# Let's talk about the political Corruption in Hungary honestly

**Dr. László Kőhalmi Ph.D.**

Faculty of Law  
University of Pécs

## 1. Fundamental ideas about the definition of corruption

People talk a lot about **political corruption** in different television shows, and there are many scientific and educational papers written on this subject.<sup>1</sup> The public interest for this issue is reflected by the search engine of Google, which provides 801 000 results in Hungarian, and 11 million results in English for the term “political corruption.” In spite of the large amount of papers and analyses, we cannot say that it is a waste of time to examine the problem of political corruption in our country, judging its actuality to be long lost in the past – on the contrary: there are few problems with a greater significance as far as today's politics are concerned.

I determine **political corruption** – agreeing with András SAJÓ – as the corruption emerging in the functioning of the political system, namely, the betrayal of norms that serve public interest (public trust) for any kind of advantage.

The definition covers the following of such norms (for a certain advantage), where the behavior that follows the norm also violates public interest. The advantage being directly personal for the “traitor” is not a condition for this.<sup>2</sup>

It must be admitted however that even defining “common weal” raises serious difficulties (and where are we from defining political corruption yet?).<sup>3</sup> Can we equalize common weal and GDP? To my mind, this is far from being the case. Common weal is not necessarily equal to a decision that is rational from an economic point of view.

In his classic work (Social traps – Diagnoses<sup>4</sup>), Elemér HANKISS quotes Edward GIBBON, according to whom political corruption is: “the most infallible symptom of constitutional liberty”<sup>5</sup>.

---

<sup>1</sup> KRÁNITZ, Mariann: *A korrupciós bűnözés [Crimes of corruption]*. Közgazdasági és Jogi Könyvkiadó. Budapest, 1988. pg. 23-71. The author introduces several possible definitions of „political corruption” in her paper.

<sup>2</sup> SAJÓ, András: *A vesztegethető államtól a zsaroló államig [From the corrupt state to the extorting one]*. Mozgó Világ, July 2001. [web address: <http://www.mozgovilag.hu/2001/07/jul1.htm> (as of 12.29.2009)]

<sup>3</sup> GULYÁS, Gyula: *A politikai korrupcióról [On political corruption]*. IN: *Political corruption* (Ed. Gyula Gulyás). AULA Kiadó. Budapest, 2004. pg. 13.

<sup>4</sup> HANKISS, Elemér: *Társadalmi Csapdák – Diagnózisok [Social traps – Diagnoses]*. Magvető Kiadó. Budapest, 1983. pg. 86.

<sup>5</sup> „Corruption, the most infallible symptom of constitutional liberty.”

Lajos SZAMEL, in one of his papers that is quoted rarely today, explains that corruption originally meant the bribing of politicians and among them, the statesmen only.<sup>6</sup>

According to László LENGYEL, an overall trait of political corruption is that it has not changed during the ages. Characteristically, all governments make unbelievable efforts to cover up their own activities of corruption.<sup>7</sup>

László KORINEK calls attention to that the scope of offences of corruption – which is traditionally related to the workings of state and local government – includes more and more legal statements of facts, but such a criminal appellation (namely, “political corruption”) is missing not only from the Hungarian, but from foreign Penal Codes as well.<sup>8</sup>

According to Joseph LAPALOMBARA, we can talk about **political corruption** when functionaries provide unlawful advantage in exchange for private benefit, thus failing in their duty of public function.<sup>9</sup>

HEIDENHEIMER interprets political corruption basically as a **relation of exchange** that creates different relations of **obligation** (familial, patron-client, leader-follower, civic culture).<sup>10</sup>

According to C. Bicchieri and J. Duffy, political corruption is a phenomenon pervading both history and society.<sup>11</sup>

The intricate relations of political corruption is well-described by the so-called pyramid system of Tibor SEBESTYÉN. It points out that in the **static system** of corruption those situated on the lower levels of the hierarchy bribe the ones on the higher levels of decision-making for the sake of having illegal or unfair advantage; whereas in the **dynamic system** corruption starts from above, people on the higher levels of hierarchy want something from the lower ones (e. g. maintaining clientele).<sup>12</sup>

---

<sup>6</sup> SZAMEL, Lajos: *A korrupció, a protekció és a többi...*[Corruption, protection and so on...]. Kossuth Könyvkiadó. Budapest, 1989. pg. 7.

<sup>7</sup> LENGYEL, László: *A politikai korrupció kérdései* [Questions of political corruption]. IN: *A korrupció elleni küzdelem jogi és szervezeti eszközei* [The legal and organisational means of fighting corruption]. Acta Humana Studiosorum. Kutatók Emberi Jogi Tanulmányai [Scientists' Papers on Human Rights]. Emberi Jogok Magyar Központja Közalapítvány [Foundation of the Hungarian Center for Human Rights]. Budapest, 2007. pg. 11

<sup>8</sup> KORINEK, László: *A korrupció legfontosabb kriminológiai összefüggései* [The most important criminological connections of corruption]. IN: *Politika és korrupció – A törvényesség és a törvénytelenység határai* [Politics and corruption. Limits of law and crime]. Konferencia kötet [Conference collection]. (Ed.: Ferenc Csefkó –Csaba Horváth). Pécsi Tudományegyetem Állam-és Jogtudományi Kar, PTE ÁJK Politikatudományi és Társadalomelméleti Tanszék, Pécs-Baranyai Értelmiségi Egyesület. Pécs, 2010. pg. 265: “The collection of crimes of corruption is a practice, as in given statements of facts a significant characteristic of them appears either definitely and obviously (e. g. bribery), or in other cases not necessarily, but typically (e. g. abuse of authority): private benefit, or at least the aiming of consequences different from according to rules. Under such circumstances, it is not objectionable, in fact, it is quite useful from the viewpoint of cognition to sort and qualify the norms describing forbidden behaviour.”

<sup>9</sup> LAPALOMBARA, Joseph: *Structural and Institutional Aspects of Corruption*. *Social Research*. Summer (1994) 2. LXI (1994) 2. [internet address: [http://findarticles.com/p/articles/mi\\_m2267/is\\_n2\\_v61/ai\\_15764923/pg\\_2/?tag=content;col1](http://findarticles.com/p/articles/mi_m2267/is_n2_v61/ai_15764923/pg_2/?tag=content;col1) (as of 12.29.2009)]

<sup>10</sup> HEIDENHEIMER Arnold J.: *A korrupcióhoz való viszony a közösségek egyes típusaiban* [Relation to corruption of certain types of a community]. IN: *Politikai korrupció* [Political corruption]. (Ed. Gyula GULYÁS). AULA Kiadó. Budapest, 2004. pg. 50-54.

<sup>11</sup> BICCHIERI, Cristina – DUFFY, John: *Korrupciós ciklusok* [Corruption cycles]. IN: *Politikai korrupció* [Political corruption]. (Ed. Gyula GULYÁS). AULA Kiadó. Budapest, 2004. pg. 87

<sup>12</sup> SEBESTYÉN, Tibor: *A politikai korrupció piramisa és kármultiplikátora* [The pyramid and damage-multiplier of political corruption]. Polgári Szemle. December 2009 (V./6.) [web address: [http://www.polgariszemle.hu/app/interface.php?view\\_v\\_article&I...](http://www.polgariszemle.hu/app/interface.php?view_v_article&I...) (as of 12.29.2009)]

**Political corruption** must be distinguished – in spite of the supposed similarity – from **“everyday” corruption**. Everyday (or small-time) corruption is when household or other personal providers are given a small amount of gratuity, tip<sup>13</sup>, or when the traffic warden, the policeman, an official or other person of minor authority are given bribe casually – in an envelope – usually by civilians.<sup>14</sup>

However, political corruption usually appears in a **systematic** fashion, mostly in the sense that it makes decisions that define and control a given system. So the term “systematic” does not necessarily mean something that is regular, but by all means something that refers to the wicked nature of the whole political system.

Corruption appearing in the political system – with an expression from mountaineering – gets **acclimatized** fast and becomes **immanent** to the system itself. After appearing in the system, political corruption starts to proliferate and causes **contraselection**, economic setback, decline, and weakens the effectiveness of state and local government institutes.

While a small-time criminal – excluding mental upset – usually causes “only” as much material damage as he or she stole (e. g. a stolen bicycle, pocket watch etc.), the corrupt politician may cause negative effects even to state economy that exceed the damage done by his or her corrupt activity, e. g. by planning the subway or the motorway in an irrational way.

Political corruption has a great **damage multiplier**, namely, the quotient of the indirect macroeconomic damage done on a long-term period to the society and the amount of the unfair advantages directly obtained by the violators.

Political corruption can make the state or local government investments more expensive by approximately 20-25 percent, and by our standard this could mean several hundred billion forints pulled out of state economy. I don’t think it is an overstatement to say that political corruption is one of the greatest challenges of our time.<sup>15</sup>

According to the research made by Mária VÁSÁRHELYI the public opinion – in its own system of norms – **judges more harshly the corrupt politician** than the corrupt official. The primary cause of this may be that people linked privatization to **corruption** from the first moment on (they almost became synonymous), and this had become more than evident by e. g. the scandal of the ÁPV Rt. over the premiums (the infamous Tocsik-case), in which it was justified what had previously been heard about, and been experienced maybe in their own environment.<sup>16</sup>

Political corruption may appear in several forms, such as:

- corruption between the public sphere and the political sphere

---

<sup>13</sup> HEIDENHEIMER op.cit. pg. 57: *The author calls this „petty” corruption. Petty corruption is a „friendly” evasion of certain rules, for example, the slight distortion of facts, ignoring deadlines, using small tricks with parking tickets etc.*

<sup>14</sup> SEBESTYÉN op. cit.

<sup>15</sup> KRÁNZITZ, Mariann: *Korrupció a világban – internacionális korrupció [Corruption in the world – international corruption]*. IN: *Kriminológiai és Kriminálisztika Évkönyv [Yearbook of Criminology. Criminology Studies]* XXX. (Ed.: László PUSZTAI) IKVA. Budapest, 1993. pg. 113

<sup>16</sup> VÁSÁRHELYI, Mária: *A korrupció a közgondolkodásban [Corruption in public thinking]*. Szociológiai Szemle [Review of Sociology] 1998/4 [web address: <http://www.mtapti.hu/mszt/19984/vasarhel.html>]. According to the research made by Mária VÁSÁRHELYI „two-thirds of the public thinks today that privatization is the hotbed of corruption, and every second adult citizen is of the opinion that privatization does not help, but worsen the economic status of Hungary.”

- corruption between the private sector and the political sphere
- corruption between politicians.<sup>17</sup>

In Hungary, undoubtedly one of the most “slippery”, politically corrupted zones is the field between the private sector and the political sphere, furthermore, the strange and inscrutable world of **public procurement**.

## 2. Problems of political corruption

The most comprehensive analysis of corruption in the Hungarian specialized literature had been made by Marianna KRÁNITZ who found during her research that every society must pay the “**price of democracy**” and in this price, the rising number of crimes and the change of their quality, and also the unique alterations of corruption are “calculated”, among other things.<sup>18</sup>

The political transformation in itself did not – could not! – abolished corruption, but reshaped it, changed its nature and direction. This is because corruption is very closely connected to the economic, political and social **milieu**, in which it is realized. And furthermore: there are very few social phenomena that are so up-to-date, and which follow the changes of their milieu, as corruption. The **ability to readily accommodate** can be detected in the years of and following the political transformation of Hungary.

Consequently, the **features** of corruption – although its basic nature and essence did not change – were different before the transformation from what they are now in the democratic system.

While discussing political corruption, I would like to emphasize principally – and in my opinion this is the eternal “**poisoned apple**” status of this phenomenon – that it is a very effective way of solving problems and enforcing interests, and so it is very tempting for everyone.

When taking the few thousand years of the history of mankind, we cannot point out a single civilization without corruption, but of course we cannot resign from the pursuit of the dream of reaching such an ideal state. Furthermore, we do have convincing knowledge of such communities, which took the fight against political corruption seriously, and where the intensity of corruption thus clearly diminished.

Nevertheless we must see that political corruption reacts to the changes of the legal circumstances in a very **sensible** way – like water, or light –, it immediately finds its way through the cracks and activates itself, starting a whole avalanche of **corrupt acts**.

Problems are further deepened by the fact that political corruption never really “respected” the borders of countries and continents. This phenomenon had probably been one of the first (if not THE first) to be **globalized**.<sup>19</sup>

---

<sup>17</sup> GÖRGÉNYI, Ilona: *Az Európai Unió elvárásai a vesztegetés kriminalizálása terén a kerethatározat előtt és után [Expectations of the European Union on the field of the crime of corruption before and after the framework decision]*. IN: Györgyi Kálmán *Ünnepi Kötet* (Szerk.: Gellér Balázs). KJK-KERSZÖV Jogi és Üzleti Kiadó Kft. Budapest, 2004. 285-286.o.

<sup>18</sup> KRÁNITZ, Mariann: *A korrupció utolsó huszonöt éve Magyarországon [The last 25 years of corruption in Hungary]. Posztumusz tanulmány [posthumous paper]*. *Ügyészek Lapja* 2006/5. pg. 26-28

<sup>19</sup> KRÁNITZ, Mariann: *A korrupció utolsó huszonöt éve Magyarországon [The last 25 years of corruption in Hungary]. Kiadatlan tanulmány [Unpublished paper]*. pg. 5

We can only fight an unwanted phenomenon successfully, if we are familiar with the characteristics of the given phenomenon. The problem with political corruption is that there are too much “**dark spots.**” Although there are two methods through which we can get a better and deeper understanding of the phenomenon and its workings, one of them is the **corruption-perception index** created by the international organization **Transparency International**, the other is the **collection of information on criminal statistics.**

The international civil organization fighting against corruption, the Berlin-based Transparency International creates and publishes the **Corruption Perceptions Index** or CPI of the individual countries at the same time. The index creates the countries’ rank of corruption by weighting, which is based on studies published by independent economic and financial organizations.<sup>20</sup> The scoring (the weighting) happens on a scale from one to ten, where a fully corruption-clear country could receive ten points, but such a country has never been found yet in the history of CPIs. (In 2009, for example, the first place was taken by the least corruption-ridden Iceland with 9.4 points, and Afghanistan and Somalia finished last with 1.3 and 1.21 points respectively.)<sup>21</sup>

But the Perceptions Index, due to its **subjective** nature, is “only” capable to provide certain guidelines regarding the contamination in each country. But the subjective scale is not really appropriate for the analysis of such a really objective phenomenon, as corruption, which is closely connected to the fragments of economy, bureaucracy and authority.

Also, CPI induces a “**labeling effect,**” in that it puts either a positive or a negative label on the given country. Furthermore, this labeling itself works as a generative factor. A country with a small level of corruption will be even clearer, and a country contaminated with corruption will become even more corrupted.

CPI is an internationally accepted **standard**, but it can provide strongly **questionable** results and consequences as far as the judgment of a given country’s state of corruption is concerned.<sup>22</sup>

But according to the information from criminal statistics, we should think that political corruption is a rarity in our criminology. This is obviously a false diagnosis because of **latency**<sup>23</sup>, since due to **the unity of interest** between the provider and receiver of the unfair

---

<sup>20</sup> KRÁNITZ, M. op. cit. Pg. 6

<sup>21</sup> <http://www.transparency.hu/cpi2009>

<sup>22</sup> KRÁNITZ, M. op. cit. Pg. 6

<sup>23</sup> KÓSA, Eszter – ALEXA, Noémi: *Corruption Risk in Hungary (National Integrity System Country Study). Part One.* Nyitott Könyvműhely. Budapest, 2007.pg.21-22. „The Unified Criminal Statistics of the Police and Prosecution Service contain data on corruption offences (namely bribery and trading in influence) defined in Chapter XV Title VII and VIII of the Hungarian Criminal Code (HCC). During the last 15 years the number of detected corruption offences has fluctuated between 400 and 1000 per year, with sudden ‘jumps’ in the figures (e.g. 344 in 1991 and 782 in 1992, 955 in 2005 and 480 in 2006.).<sup>19</sup>

These data, however, are misleading as a basis for any far-reaching or unambiguous conclusions on the actual situation of corruption in Hungary, and should be approached with the following factors in mind: a) Some categories of offences (e.g. breach of trust<sup>20</sup> or official duties<sup>21</sup>) committed as a result of corruption are not registered as such in the system. b) Given the very high latency of corruption,<sup>22</sup> figures on bribery and trading in influence (e.g. 480 in 2006) reflect only a fraction of the actual number of such offences.<sup>23</sup> c) The sudden ‘jumps’ of the figures (e.g. 955 in 2005 and 480 in 2006) are usual associated with small statistical sets,<sup>24</sup> and do not reflect general trends in the incidence of corruption. Just one case involving multiple offences (e.g. a serial bribery of custom and excise guards) can influence the statistical data disproportionately.<sup>25</sup> d) Yearly figures reflect only the number of corruption offences on which data is provided in the given year (the year in

advantage, very few criminal procedures are initiated because of activities of corruption. (E.g. Zoltán Székely, previously a Member of Parliament, asked for a bribe of 20 million forints, but got a legally binding sentence of 6 years in prison and a secondary financial punishment of 9 million forints instead.)

The low number<sup>24</sup> of criminal procedures can be explained by the fact that most of these procedures start after a civil denouncement – as László KORINEK found out during his latency research<sup>25</sup>: “the citizen is the eye of law” – and in case of political corruption, the willingness to denounce is extremely low.<sup>26</sup>

Mariann KRÁNITZ even called the statistics referring to the rate of corruption cases and their relation to the whole number of criminal cases **tragicomical**.<sup>27</sup>

Even if we “add up” our knowledge of political corruption gained from the Perceptions Index and criminal statistics, we cannot say that we are familiar with the whole spectrum of political corruption.

One of the crucial problems<sup>28</sup> of corruption in Hungary comes from the **malfunction** of our **economic system**. As previously in socialism the lack of products and services caused corruption, today **overproduction** is the “mainspring”. Most of the market members would be glad to sell services to the state and local government sector. In this case, a small present (e. g. a bonus holiday) to the mayor or a Member of Parliament makes it easier to choose one company or the other. And we must admit that the system of **public procurement** is a **dead-end**, I would even go so far as to say that at the time of “**freehand purchase**,” public money had been spent in a much favorable way than today.

---

*which e.g. criminal charges were brought).*<sup>26</sup> Altogether, these limitations of the available data suggest that cases of corruption that have come to light represent only a small proportion of corrupt practices actually taking place, the majority of which remain undetected.

*In the Transparency International (TI) Corruption Perceptions Index (CPI) Hungary's ranking and scores have remained almost unchanged in the last six years...*”

<sup>24</sup> KORINEK, L. op. cit. Pg. 270: „Because of the rather high latency of crimes of corruption, one must accept the fact regarding the methodology of research that there are serious obstacles in the way of direct cognition. Thus the reflection of the phenomenon – which happens in a particular circle and way – gets an emphasis during scientific work.”

<sup>25</sup> KORINEK, László: *A bűnözés visszatükröződése. Latens bűnözés, bűnözésábrázolás, félelem a bűnözéstől [Reflections of crime. Latent crime, describing crime, fear from crime]*. IN: (Ed.) GÖNCZÖL, Katalin-KEREZSI, Klára-KORINEK, László-LÉVAY, Miklós: *Kriminológia – Szakkriminológia [Criminology – Special Criminology]*. Complex Kiadó Jogi és Üzleti Tartalomszolgáltató Kft. Budapest, 2006. pg. 249-257

<sup>26</sup> GÁL, István László: *Gazdasági büntetőjog közgazdászoknak [Economic Criminal Law for Economists]*. Akadémiai Kiadó. Budapest, 2007. pg. 78

<sup>27</sup> KRÁNITZ M. op. cit. Pg. 6

<sup>28</sup> KÓSA, E. – ALEXA, N. opt.cit. pg.178. The Recommendations of Transparency International: „The political and economic transition in Hungary has been accompanied by widespread corruption. Shortage or bad allocation of resources, an over-bureaucratized legal system and public administration<sup>15</sup> and networks based on mutual favours<sup>16</sup> have remained structural causes of corruption. Society has undergone significant changes that have undermined generally accepted norms of behaviour (anomie) and strengthened tendencies towards corruption.<sup>17</sup> In some sectors the change from planned economy to a liberal market system has altered the underlying structure of corrupt behaviour. In the shortage economy of socialism, the direction of corruption was from buyer to seller as buyers sought to obtain goods and services in short supply (quality food and imported goods). After the change of regime, the direction of corruption in several sectors (business, public contracting etc.) is from seller (entrepreneur) to buyer (client).”

It looks like that our politicians are again and again tempted by the financial possibilities offered by the **real estate business**. In the days of councils, the “out of turn” apportion of a flat, and today, the underselling of a state or local government real estate can feed up the bank account of corrupt politicians. A real estate “on the periphery” can suddenly be qualified as an inner city area by the local government, the previously worthless site becomes a building site, and this is quite a bargain for the insiders. The local government can be easily seen through, when it accepts an expert’s opinion on one of its own estates, who gives a detailed justification of the worthlessness of that local government estate and the necessity of it being immediately sold.

### 3. The criminal *de lege lata* regulation of political corruption

The legislators<sup>29</sup> of Hungary deal with **delinquencies of corruption** in the same chapter of violations against public life as with the crimes against polity and jurisdiction.<sup>30</sup>

One must pay special attention to these delinquencies since it is a basic question of importance for every society that the functionaries, the members of the social-economic and political life, so the legitimate leaders of a community do their tasks without predilection. This circumstance determines the trust of citizens in the different state and local government<sup>31</sup> organizations, and their opinion about the political and social system.

---

<sup>29</sup> KOSA, E. – ALEXA, N. opt.cit. pg.177. The Recommendations of Transparency International: „*Legislature*: • *Ad hoc committees and select committees should be provided with the necessary tools in order to fulfil their tasks.* • *In the case of fact-finding committees established on the subject of corruption, trading in influence or the use of public funds, an effort must be made for political compromise in order that the committees are not used to disguise inactivity and instead demonstrate a true willingness to investigate.* • *The salary system for MPs should be more transparent and the practice of compensating without appropriate documentation should be stopped.* • *A code of ethics for MPs is necessary and a general awareness-raising campaign should target MPs to clarify issues related to offering and accepting gifts and favours and lobbying.* • *Parliament should ensure that MPs do not abuse their immunity to prevent legitimate investigations and that evidence is gathered in a timely manner.* • *Due consideration should be given to the idea of amending legislation so as to enable investigations in cases concerning parliamentarians as alleged offenders.* • *With respect to areas of legislation that must be adopted by absolute majority, serious consideration should be given to better and more meaningful co-operation among political forces, both from the government and opposition, so as to give true power to the Parliament.* • *The scope of the Act on Lobbying should be extended to include any person or organisation that seeks to influence legislation or its implementation on behalf of a private interest.*”

<sup>30</sup> FÖLDVÁRI, József: *A közélet tisztasága elleni bűncselekmények [Crimes against Public Justice]*. IN: Emil ERDŐSY – József FÖLDVÁRI – Mihály TÓTH: *Magyar Büntetőjog Különös Rész [Hungarian Criminal Law Special Part]*. (Ed.: Tóth Mihály). Fourth, reworked edition. Osiris Kiadó. Budapest, 2007. pg. 293.

<sup>31</sup> KOSA, E. – ALEXA, N. opt.cit. pg.184-185. The Recommendations of Regional and Local Governments: „*The conflicting positions of elected politicians and the chief administrative officer should be reconciled through more administrative and professional/technical support to CAOs, who are the local ‘guardians of legality’.* • *In the market environment, local government with significant business property of its own needs technical support and improved professional capacity to deal with issues of public-private partnerships, assessment of complex business models and managing cost-benefit analysis.* • *Local government influence over growing public utility companies and holdings of community service provision must be increased by introducing controlling and management information systems by cost/profit centres.* • *Public procurement practices should be improved by making the entire decision-making process over tendering more transparent and by using e-procurement techniques.* • *Standard local conflict of interest regulations and codes of conduct should be disseminated among local governments. On the basis of these, codes tailored to local circumstances and specificities should be adopted.* • *Administrative accountability should be improved through horizontal networks: technical support to professional associations for establishing systems of performance and financial benchmarks.* • *A fiscal*

According to the Minister's Preamble of the Penal Code, the provisions of the legal statements of facts that are after corrupt behavior "*protect first and foremost the trust invested in the lawful, unbiased and impartial workings of state authorities, officials and people of other important social function. The so called crimes of corruption (bribery and profiteering from power) endanger this trust, and the purity of public life in general, and those strict moral and social requirements that should be effective not only in the workings of authorities and officials, but in the economic and cultural life as well.*"<sup>32</sup>

Considering that the crimes of corruption have such a great demoralizing effect in politics, fifteen paragraphs of law deal with crimes against the purity of public life.

Crimes against the purity of public life are the following:

- Bribery Penal Code 250-255/A. §<sup>33</sup>
- Misprision of Bribery 255/B §<sup>34</sup>
- Influence Peddling 256. §<sup>35</sup>
- Persecution of a Person Making a Notice of Public Concern 257. §<sup>36</sup>

---

information system should support local decision-making. At the local level, public fiscal reports should be made available for independent policy research and policy design by the Ministry of Finance or the State Treasury. • Internet-based information-sharing should be supported in small towns and villages. • Design and extended use of citizens' charters should be initiated and publicised. • Rules of post-public employment must be adjusted to local conditions."

<sup>32</sup> Minister's Preamble of the Penal Code

<sup>33</sup> Act IV of 1978 on the Criminal Code Section 250. Bribery „(1) Any public official who requests an unlawful advantage in connection with his actions in an official capacity, or accepts such advantage or a promise thereof, or agrees with the party requesting or accepting the advantage, is guilty of a felony punishable by imprisonment between one to five years. (2) The punishment shall be imprisonment between two to eight years if the act of crime is committed: a) by a public official in a high office, or by one vested with competence in affairs of key importance; b) by another public official in matters of great importance. (3) The perpetrator shall be punished by imprisonment between two to eight years, or between five to ten years in accordance with the distinction contained in Subsections (1) and (2), if he breaches his official duty in exchange for unlawful advantage, exceeds his competence or otherwise abuses his official position, or if he commits the act in criminal conspiracy or in a pattern of business operation."

<sup>34</sup> Act IV of 1978 on the Criminal Code Section 255/B. Misprision of Bribery „(1) Any public official who has positive knowledge of an act of bribery (Sections 250-255 of the Criminal Code) yet undetected, and fails to promptly report that to the authorities is guilty of a felony punishable by imprisonment for up to three years. (2) The close relative of the perpetrator shall not be liable for prosecution pursuant to Subsection (1)."

<sup>35</sup> Act IV of 1978 on the Criminal Code Section 256. Influence Peddling „(1) Any person who - purporting to influence a public official - requests or accepts an unlawful advantage for himself or on behalf of another person is guilty of a felony punishable by imprisonment between one to five years. (2) The punishment shall be imprisonment between two to eight years if the perpetrator: a) purports to or pretends that he is bribing a public official; b) pretends to be a public official; c) commits the crime in a pattern of business operation. (3) Any person who commits the crime defined in Subsection (1): a) in connection with an employee or member of an economic operator or non-governmental organization is guilty of a misdemeanor punishable by imprisonment for up to two years; b) in connection with an employee or member who is authorized to act in the name and on behalf of an economic operator or non-governmental organization is guilty of a felony punishable by imprisonment for up to three years. (4) Any person who commits the crime defined in Subsection (3) in a pattern of business operation is guilty of a felony punishable by imprisonment for up to three years, or between one to five years, as consistent with the categories specified therein."

<sup>36</sup> Act IV of 1978 on the Criminal Code Section 255/B Persecution of a Person Making a Notice of Public Concern „Any person who takes any detrimental action against a person who has made an announcement of public concern is guilty of a misdemeanor punishable by imprisonment for up to two years."



Crimes against the purity of international public life are the following:

- Bribery in International Relations 258/B-258/D.§<sup>37</sup>
- Influence Peddling in International Relations 258/E.§<sup>38</sup>
- Misprision of Bribery in International Relations 258/F.§<sup>39</sup>

In my opinion, the Hungarian Penal Code has quite serious sanctions (a maximum of ten years imprisonment in certain cases) for the perpetrators of crimes of corruption and also the court judgment practice is to sentence the recipient of even a few ten thousand forints of bribe to **imprisonment that is to be enforced by all means**.

According to an interesting suggestion of Mihály TÓTH, the exaggerated and unrealistic sanctions may have an opposite effect: if part of the legal norms is impossible to adhere to, then the law-abiding behavior becomes questioned elsewhere as well.<sup>40</sup>

#### 4. Means of criminal legislation in the fight against political corruption

The fight<sup>41</sup> against political corruption is a somewhat risky question, because the hunters and the hunted, those who **conduct** and those who **undergo impeachment** are often the

---

<sup>37</sup> Act IV of 1978 on the Criminal Code Section 258/B. Bribery in International Relations „(1) Any person who gives or promises unlawful advantage to a public official of another country or to a third person on account of such public official, in connection with his actions in an official capacity is guilty of a misdemeanor punishable by imprisonment for up to three years. (2) The person committing bribery shall be punished by imprisonment between one to five years, if he gives or promises the unlawful advantage to a foreign public official to induce him to breach his official duty, exceed his competence or otherwise abuse his official position. (3) The director of a business association, or a member or employee with authority to exercise control or supervision shall be punished according to Subsection (1), if the member or employee of the business association commits the criminal act defined in Subsections (1) and (2) for the benefit of the business association, and the criminal act could have been prevented had he properly fulfilled his control or supervisory obligations. (4) The director of a business association, or a member or employee with authority to exercise control or supervision shall be punished for misdemeanor by imprisonment for up to two years, if the criminal act defined in Subsection (3) is committed due to negligence.”

<sup>38</sup> Act IV of 1978 on the Criminal Code Section 258/E. Influence Peddling in International Relations „Any person who - purporting to influence a foreign public official - requests or accepts an unlawful advantage for himself or on behalf of another person is guilty of a felony punishable by imprisonment for up to five years.”

<sup>39</sup> Act IV of 1978 on the Criminal Code Section 258/F. Misprision of Bribery in International Relations „Any public official who has positive knowledge of an act of bribery in international relations (Sections 258/B-258/D of the Criminal Code) yet undetected, and fails to promptly report that to the authorities is guilty of a felony punishable by imprisonment for up to three years, community service work, or a financial penalty.”

<sup>40</sup> TÓTH, Mihály: *Adalékok a kriminális korrupció megítélésének néhány újabb kérdéséhez* [Additions to the new problems regarding the judgement of criminal corruption]. IN: *Politika és korrupció – A törvényesség és a törvénytelenység határai* [Politics and corruption - Limits of law and crime]. Konferencia kötet [Conference collection]. (Ed.: Ferenc Csefkó –Csaba Horváth). Pécsi Tudományegyetem Állam-és Jogtudományi Kar, PTE ÁJK Politikatudományi és Társadalomelméleti Tanszék, Pécs-Baranyai Értelmisségi Egyesület. Pécs, 2010. pg. 286

<sup>41</sup> KÓSA, E. – ALEXA, N. po.cit. pg.178. The Recommendations of Transparency International: „●An new effective, transparent and rigorously enforced regulation of campaign and party financing should be the top priority, including rigorous regulation of the use of government advertising/public relations ● The unrealistic 386 million-forint campaign spending limit, which drives campaign financing off the books, should be eliminated and a more specific definition of what should be considered as campaign costs should be provided. ● The disclosure of campaign costs should be far more detailed to enable effective monitoring of revenues and expenditures. ● Third-party payment of campaign costs should be banned. ● The SAO should be authorised to

members of the same political elite. People of political power punish other people with political power, so this can easily turn into a “family issue,” which can in turn effect the efficiency of the fight against corruption.

According to Gyula GULYÁS, fighting against political corruption is rendered more difficult by the people’s **ambivalent** feelings toward politics: on the one hand, they regard political corruption as an elemental part of the political system, on the other, they protest against it with all their might.<sup>42</sup>

The phenomena of corruption are not obvious, and neither the way they are legally judged. Does that Member of Parliament have criminal responsibility who, in the case of an investment of several billion forints, enforces the interests of his or her own voting district as opposed to the interests of the whole country?

The fight against political corruption **depends on the context**: it depends on the balance of forces within the elite, and the relation between the elite and the society whether the strategies against corruption are probably going to be only specious solutions or substantive measures.

Those politicians who declare war on corruption need not only the support of the law, but also a **moral legitimacy** to be successful in their **fight against corruption**.<sup>43</sup> But politicians advertising zero corruption can easily become the prisoners of their own promises, and **lose their legitimacy** quickly and irreversibly.

According to Gyula GULYÁS, anti-corruption policies depend on the governments’ decisions:

- what do they consider the cause of corruption
- how do they judge its social consequences
- how determined is the government in abolishing political corruption.<sup>44</sup>

If we consider the **moral weakness** of the politicians’ as the genesis of political corruption, then the appropriate anti-corruption strategy should be the right combination of **penalty policy** and **payment policy**.

On the one hand, this can lead to the introduction of a system of highly severe sanctions on the activities of corrupt politicians e.g. criminal laws that allow the sentencing of ten or more years of imprisonment.

On the other hand, it can mean the raising of the politicians’ wages. As long as the payment (e.g. royalty, official allowance) of the politicians (and I mean by this the professional or “semi-professional” politicians) for their service amounts to only a

---

*conduct actual investigations of parties’ finances. • Stricter conflict-of-interest rules for local government representatives should be introduced (at a minimum, comparable to those applying to MPs). • Binding limits and disclosure rules on hospitality should be introduced and monitored.”*

<sup>42</sup> GULYÁS, Gyula: *A politikai korruptióról [On political corruption]*. IN: Politikai korrupció [Political corruption]. (Ed. Gyula Gulyás). AULA Kiadó. Budapest, 2004. pg. 40

<sup>43</sup> GULYÁS, Gy. op.cit. pg. 41 It is worth mentioning, that as „flagships” in the war against political corruption, R. Gandhi in the election campaign of 1984 or President Lopez Portillo between 1976 and 1982 established their future political career.

<sup>44</sup> GULYÁS Gy. op.cit. pg. 42

“supplementary income” and is not enough for a living, the politician shall try to solve the dilemma of either serving the public and not being able to earn enough money for himself; or making enough money and considering the public matters only occasionally.

Then again, we must know that the fight against corruption has an **economically rational optimality** as well. If the state (for example, Singapore) pays too much to its politicians (e.g. all members of local governments would receive a monthly royalty of 2 million forints = 7.500 EUR), then the resulting state expense could exceed the damages done by political corruption, so – from an economic point of view – the state should rather undertake the damage of corruption than the extra allowances of politicians.

In connection with the fight against corruption the representatives of different disciplines provided many ideas in accordance with the field they were working on. As a representative of criminology, I would like to provide a few suggestions and opinions below:

- For the fight against corruption to be successful, first we need a simpler **law-system**. The obsolete and outdated laws need revision, and wrong laws must be filtered out. Legislation should be simplified, and we must prevent any form of Lex Imperfecta. Laws should be used not to hinder, but to help both the participants of the economy and the citizens as well.<sup>45</sup>
- The *ultima ratio* role of criminal law. Regarding corruption, the role of criminal law sanctions should be neither under-, nor overrated. It is not a role and task of the criminal law to solve the problems of social and political life. Unfortunately in Hungary, there is a tradition of the all-time government trying to solve the dysfunctions of society with the help of criminal law since the political transformation. In the field of political corruption, the problems are basically not of a penal nature, but are connected to other branches of law altogether.<sup>46</sup> The legislator cannot resign from influencing political corruption with the means of criminal law, but the main line of bearing should be the use of social – and not penal – tools. Criminal law as an *ultima ratio* can only be effective, if it is supported by the wide selection of tools and methods for suppression and prevention.<sup>47</sup>
- Utilization of the possibilities of **witness protection** in a better way. In cases of political corruption, there are such people (e.g. secretaries, drivers) who could be key witnesses, as they have information on all the daily businesses of certain politicians, but their possibilities of livelihood are limited. If those people who provide information on political corruption could participate in a witness protection program, probably the “willingness to bear witness” would be higher, and witness memory would largely improve. But regarding witness protection we must point out that the present regulation system should be improved, as the level of salary provided by the state to a relocated witness with a new identity is not too tempting.

---

<sup>45</sup> KRÁNITZ, M. op.cit pg. 35

<sup>46</sup> MÁRKI, Zoltán: *Válasz a korrupciós kihívásokra [Answering the challenges of corruption]. IN: Korrupció Magyarországon [Corruption in Hungary]*. (Ed.: Ferenc Csefkó – Csaba Horváth). Pécs-Baranyai Értelmiségi Egyesült – Pécsi Tudományegyetem Állam-és Jogtudományi Kara. Pécs, 2001. pg. 37-38

<sup>47</sup> KRÁNITZ, M. op.cit pg. 5

Witness protection is often connected to the use of plea bargain, and to the case when the legislator is trying to break the consensus of will and interest between the parties involved in political corruption with the opportunity to plead guilty and the promise of impunity [Penal Code 255/A.§].

- The world of the delinquencies of political corruption is usually known for conspiracies, communication through intermediary channels, speech and messages of an “encoded” (ciphered) nature (e.g. lobby-money, soap, cookie, club of beneficiary entrepreneurs). In order to improve the results of retracing corruption one cannot forget about the use of **undercover investigators** and **secret service methods**.
- From time to time, the claim surfaces among both professionals of theory and practice that in cases of delinquencies of political corruption, special rules of verification should be applied to the presumed perpetrators. The so called **reversion of the burden of proof**, as a *novum* of criminal procedure would mean that the accused should prove the legal origin of the assets coming from corruption, and if he or she would be unable to do that – e.g. the assets are not backed up by income subject to tax or tariffs –, then it would mean an incriminating circumstance (fact) for him or her.

In my opinion, the revision of the burden of proof can lead to serious abuse by the authorities with a power to punish – e.g. the moral liquidation of political opponents – and thus this is by all means an innovation that should be rejected.

- A suggestion is raised from time to time by the government in power that an **independent authority / office** (e.g. Office for the Protection of Public Order, Anti-Corruption Office) should be established for the fight against corruption. In my opinion, this is a faulty and unprofessional notion. In Hungary the prosecution can cover this area well, it is unnecessary to double the organizational system of the fight against corruption, as in certain cases this could lead to a clash between scopes of authority, to loss of information and to a war on prestige (rivalry) between authorities.
- Joining the international and European penal **treaties and provisions against (political) corruption** as soon as possible, and adjusting the Hungarian substantive, procedural and executive laws to international standards.<sup>48</sup>

Summarizing my thoughts about political corruption, I can say that the viewpoint that presents most of the politicians as soulless creatures filling their own pockets with money is false, as this is prevented by many legal means (e.g. declaration of property). The election campaigns obviously want to create political advantage from the existence of economic-political corruption, but this is only a technique of political marketing to gain more votes.

But it is also true that a jeans-wearing representative can sometimes become a plutocrat in no time and this is not the world of coincidences (and lottery jackpots).

The fight against economic-political corruption seems to be an unending war and success comes only after a long, long time.

---

<sup>48</sup> VÉGVÁRI, Réka: *Nemzetközi fellépés a korrupció ellen [International fight against corruption]*. *Állam-és Jogtudomány [State and Law Science]* XLII: 2001. pg. 99-100 VÉGVÁRI Réka: *Vesztegetés [Bribery]*. IN: *Az Európai Büntetőjog Kézikönyve [Handbook of European Penal Law]*. (Ed.: Ferenc KONDOROSI –Katalin LIGETI). Magyar Közlöny lap-és Könyvkiadó. Budapest, 2008. pg. 468-469

## Bibliography

**Bicchieri, C. – Duffy, J.:** Korupciós ciklusok [Corruption cycles]. IN: Politikai korupció [Political corruption]. (Ed. Gyula GULYÁS). AULA Kiadó. Budapest, 2004. pg. 87-108. ISBN 963 9478 98 9.

**Földvári, J.:** A közélet tisztasága elleni bűncselekmények [Crimes against Public Justice]. IN: ERDŐSY, E. – FÖLDVÁRI, J. – TÓTH, M.: Magyar Büntetőjog Különös Rész [Hungarian Criminal Law Special Part]. (Ed.: Tóth, M.). Negyedik, javított kiadás [Fourth, reworked edition]. Osiris Kiadó. Budapest, 2007. ISBN 978 963 389 960 1.

**Gál, I.L.:** Gazdasági büntetőjog közgazdászoknak [Economic Criminal Law for Economists]. Akadémiai Kiadó. Budapest, 2007. ISBN 978 963 058 536 1.

**Gönczöl, K. – Kerecsi, K. – Korinek, L.-Lévay, M.:** Kriminológia – Szakkriminológia

[Criminology – Special Criminology]. Complex Kiadó Jogi és Üzleti Tartalomszolgáltató Kft. Budapest, 2006. pg. 249-257. ISBN 978 963 224 892 9.

**Görgényi, I.:** Az Európai Unió elvárásai a vesztegetés kriminalizálása terén a kerethatározat előtt és után [Expectations of the European Union on the field of the crime of corruption before and after the framework decision]. IN: Györgyi Kálmán Ünnepi Kötet (Ed.: GELLÉR, B.). KJK-KERSZÖV Jogi és Üzleti Kiadó Kft. Budapest, 2004. pg. 279-293. ISBN 963 224 543 1.

**Gulyás, Gy.:** A politikai korupcióról [On political corruption]. IN: Politikai korupció [Political corruption]. (Ed. Gyula GULYÁS). AULA Kiadó. Budapest, 2004. pg. 7-43. ISBN 963 9478 98 9.

**Hankiss, E.:** Társadalmi Csapdák – Diagnózisok [Social traps – Diagnoses]. Magvető Kiadó. Budapest, 1983. pg. 86. ISBN 963 271 917 4.

**Heidenheimer A. J.:** A korupcióhoz való viszony a közösségek egyes típusaiban [Relation to corruption of certain types of a community]. IN: Politikai korupció [Political corruption]. (Ed. Gyula GULYÁS). AULA Kiadó. Budapest, 2004. pg. 50-61. . ISBN 963 9478 98 9.

**Korinek, L.:** A bűnözés visszatükröződése. Latens bűnözés, bűnözésábrázolás, félelem a bűnözéstől [Reflections of crime. Latent crime, describing crime, fear from crime]. IN: (Ed.) Gönczöl, K. – Kerecsi, K. – Korinek, L. – Lévay, M. : Kriminológia – Szakkriminológia [Criminology – Special Criminology]. Complex Kiadó Jogi és Üzleti Tartalomszolgáltató Kft. Budapest, 2006. pg. 247-272. ISBN 978 963 224 892 9.

**Korinek, L.:** A korupció legfontosabb kriminológiai összefüggései [The most important criminological connections of corruption]. IN: Politika és korupció – A törvényesség és a törvénytelenység határai [Politics and corruption. Limits of law and crime]. Konferencia kötet [Conference collection]. (Ed.: Csefkó, F. – Horváth, Cs.). Pécsi Tudományegyetem Állam-és Jogtudományi Kar, PTE ÁJK Politikatudományi és Társadalomelméleti Tanszék, Pécs-Baranyai Értelmiségi Egyesület. Pécs, 2010.pg. 263-283. ISBN 978 963 642 357 5.

**Kósa, Eszter – Alexa, Noémi:** Corruption Risk in Hungary (National Integrity System Country Study). Part One. Nyitott Könyvműhely. Budapest, 2007. ISBN 978-963-9725-25-6.

**Kránitz, Mariann:** A korrupciós bűnözés [Crimes of corruption]. Közgazdasági és Jogi Könyvkiadó. Budapest, 1988. pg. 1-341. ISBN 963 221 976 7.

**Kránitz, M.:** Korrupció a világban – internacionális korrupció [Corruption in the world – international corruption]. IN: Kriminológiai és Kriminalisztika Évkönyv [Yearbook of Criminology. Criminology Studies] XXX. (Ed.: László PUSZTAI) IKVA. Budapest, 1993. pg. 113-154. ISSN 1219 9477.

**Kránitz, M.:** A korrupció utolsó huszonöt éve Magyarországon [The last 25 years of corruption in Hungary]. Posztumusz tanulmány [posthumous paper]. Ügyészek Lapja 2006/5. pg. 25-40. ISSN 1217-7059.

**Kránitz, M.:** A korrupció utolsó huszonöt éve Magyarországon [The last 25 years of corruption in Hungary]. Kiadatlan tanulmány [Unpublished paper].pg. 1-36

**LaPalombara, Joseph:** Structural and Institutional Aspects of Corruption. Social Research. Summer (1994) 2. LXI (1994) 2. [internet address: [http://findarticles.com/p/articles/mi\\_m2267/is\\_n2\\_v61/ai\\_15764923/pg\\_2/?tag=content;coll](http://findarticles.com/p/articles/mi_m2267/is_n2_v61/ai_15764923/pg_2/?tag=content;coll) (as of 12.29.2009)]

**Lengyel, L.:** A politikai korrupció kérdései [Questions of political corruption]. IN: A korrupció elleni küzdelem jogi és szervezeti eszközei [The legal and organisational means of fighting corruption]. Acta Humana Studiosorum. Kutatók Emberi Jogi Tanulmányai [Scientists' Papers on Human Rights]. Emberi Jogok Magyar Központja Közalapítvány [Foundation of the Hungarian Center for Human Rights]. Budapest, 2007. pg. 11-17. ISBN 978 963 06 2955 3.

**Márki, Z.:** Válasz a korrupciós kihívásokra [Answering the challenges of corruption]. IN: Korrupció Magyarországon [Corruption in Hungary]. (Ed.: Ferenc Csefkó –Csaba Horváth). Pécs-Baranyai Értelmiségi Egyesült – Pécsi Tudományegyetem Állam-és Jogtudományi Kara. Pécs, 2001. pg. 33-41. ISBN 963 8490 20 9.

**Sajó, A.:** A vesztegethető államtól a zsaroló államig [From the corrupt state to the extorting one]. Mozgó Világ, July 2001. [web address: <http://www.mozgovilag.hu/2001/07/jul1.htm> (as of 12.29.2009)] ISSN 0324-4601.

**Sebestyén, T.:** A politikai korrupció piramisa és kármultiplikátora [The pyramid and damage-multiplier of political corruption]. Polgári Szemle. December 2009 (V./6.) [web address: [http://www.polgariszemle.hu/app/interface.php?view\\_v\\_article&I...](http://www.polgariszemle.hu/app/interface.php?view_v_article&I...) (as of 12.29.2009)]

**Szamel, L.:** A korrupció, a protekció és a többi...[Corruption , protection and so on...]. Kossuth Könyvkiadó. Budapest, 1989. pg. 1-216. ISBN 963 09 3410 8.

**Tóth, M.:** Adalékok a kriminális korrupció megítélésének néhány újabb kérdéséhez [Additions to the new problems regarding the judgement of criminal corruption]. IN: Politika és korrupció – A törvényesség és a törvénytelenesség határai [Politics and corruption - Limits of law and crime]. Konferencia kötet [Conference collection]. (Ed.: Ferenc Csefkó –Csaba Horváth). Pécsi Tudományegyetem Állam-és Jogtudományi Kar, PTE ÁJK Politikatudományi és Társadalomelméleti Tanszék, Pécs-Baranyai Értelmiségi Egyesület. Pécs, 2010. pg. 284-293. ISBN 978 963 642 357 5.

**Vásárhelyi, M.:** A korrupció a közgondolkodásban [Corruption in public thinking]. Szociológiai Szemle [Review of Sociology] 1998/4 [web address: <http://www.mtapti.hu/mszt/19984/vasarhel.htm>]

**Végvári, R.:** Nemzetközi fellépés a korrupció ellen [International fight against corruption]. Állam-és Jogtudomány [State and Law Science] XLII: 2001. pg. 85-121. ISSN 0002-564X

**Végvári, R.:** Vesztegetés [Bribery]. IN: Az Európai Büntetőjog Kézikönyve [Handbook of European Penal Law]. (Ed.: Ferenc KONDOROSI –Katalin LIGETI). Magyar Közlöny lap-és Könyvkiadó. Budapest, 2008. pg. 468-469. ISBN 978 963 972 231 6.