ETHICS, INTEGRITY AND ACCOUNTABILITY IN THE PUBLIC SECTOR

I. Introduction

Every country has its rules and norms for its citizens to follow. These rules vary according to the strength of the state’s or society’s constraint that ensures their respect and realisation. The strongest rules are always in form of coercive legal norms; the weakest are in form of shaped morality, which is to express desires and standards of the societal majority. Since these desires and standards are not always clearly formulated, they do not always represent the idea of majority, and because their essence identifies with their creators, the sanctions, which are formally or informally intended for their disrespect, are usually quite gentle, sometimes not even used, due to which their content is the most extendible and adoptable to diverse, even political needs.

The principles of ethics are not only differentiated according to the content, but also according to their bearers – it would be false to claim, that all members of the society must respect equally serious all moral rules. For some this holds true more, for others less; and without taking great chance it is possible to say that there exists part of each social organisation in every country, which should absolutely consistently respect the rules of ethics. This is the part that citizens entrusted leadership and administration of their country – so called public sector, in extensive meaning of that concept, a sector constituted of elected and nominated state functionaries and (usually) the entire sector of civil servants. Since public sector concerns with the realisation of public matters, all of its adherents without exception should follow the principles, such are ethics, objectiveness, impartiality, honesty, responsibility, etc. They should follow the principles, not because the services of the public sector must be available to all citizens under enlisted conditions, but also because this sector represents example and referral point for the rest of the society. Of course, this is ideal situation, which some countries achieve more, others less. This is influenced by subjective reasons, found in the personalities of politicians and officials, their material situation and attitudes towards work they do, and is also influenced by objective reasons in form of more or less violent social changes – wars, revolutions, emancipations, secessions, etc. Even though, there are important differences, but the general rule stands that normal democracies, which did not have such stirring
events have better formulated ethical standards followed, not only by great portion of the public sector but also by its citizens as well, in contradiction to the countries, which just went through wars or revolutions, political ruptures and various changes of status. In the countries where primarily is important physical survival, and where the former morality simply disappears, the rules of ethics are either unimportant or long period is necessary for their restoration, sometimes with different content too.

Very good examples of such situation are countries, which at the beginning of the past decade evolved from socialist countries; before, the moral rules were simply blown away and there was no one to systematically plan for the establishment and respect of new ethics – not merely due to objective reasons, but primarily because such circumstances suit newly established multiparty systems in which political parties fight with all means necessary for their existence, and where at first glance, the morality represents even an obstacle. In fight for existence from one election to another, there is simply no space for anything else but the most inevitably to respect coercive legal norms, which could also be interpreted differently, indeed, depending on necessities of daily politics. In order to win on next elections, the leaders of political parties believe everything is allowed, lies, hypocrisy, politically motivated changes towards yesterday untouchable legal postulates of a modern state, uncontrolled spitting on political opponents, and above all, unscrupulous economic gain for clients that enable their long existence on political scene. The citizens, as users of public sector’s services follow such behaviour and because they expected everything else after big changes happened, their disappointments in their representatives grow. A logical consequence of numerous individual disappointments is fall of the public sector’s integrity respectively its most exposed part – a government, which is bigger as smaller deviation in behaviour of new government is from the former that lost the elections doing similar mistakes. Now, people solely trust themselves and their closest ones, the mutual good and mutual progress are not of their interest, they do not go to elections, and if they do, they are capable of selecting even the most radical solutions.
II. Corruption of governments and their reputation

The citizens are expecting from their governments at least to appear to be working for their benefit and not for their own. This also is a reason why elections are lost or won. Every time the government disrespects law and other rules, the oppositions successfully uses it to show corruption to citizens and at the same time promises changes for better, if they were to win the elections. These are election paroles, which proven turn the elections’ results, but the reality hits soon. New faces that attacked corruption the most due to various objective and subjective reasons, usually cannot or do not want to act differently than their predecessors, because they follow the same goals and use similar methods. Earlier so sound principles, ethics, morality, and honesty become worthless change that is not to be seriously counted on for winning next elections, particularly because of influence of the sweets of power that always find representatives of political parties among publicly exposed offenders. Deceived electors do not overlook this and do not forgive; as first consequence is a fall of trust in elected government with such expectations. The necessary consequences are new societal tensions, people begin themselves to act as public sector and begin to look for the alternatives, unofficial variants for achievement of their goals. The realistic possibilities of society to step up ahead are minimised. People’s perception that the entire society is corrupt as their government is, shows the first alarming sign for serious governments that realise they could experience serious political and social difficulties, even defeat at the elections. These governments quickly try to do everything to turn public’s perception. The easiest is to achieve something at the formal level, to ratify some international document on this subject or similar. However, there exist governments, which have true intention to combat corruption making formal steps also the easiest beginning for them as well.

III. Is sheer adoption of international conventions sufficient enough?

Recently adopted international conventions on fight against corruption for the most part emphasised merely aspects of a criminal law, where only small space was left for the emphasis of ethics, integrity, and responsibility of the public sector. Nevertheless, even
adoption and true realisation of such conventions increased people’s trust in their governments. Recently, in year 2003, there was a convention open for ratification, which dealt with this subject directly and explicitly and, which in turn gave better opportunity for all governments to seriously counter corruption and improve their reputation. First and only global convention till now, which paid a lot of attention to prevention of corruption, the United Nations Convention against Corruption (hereinafter: UNCAC) has already entered into force. It requires from the governments of the countries that join to achieve at least the following:

- Adopt preventive anti-corruption policies and practices;
- Establish and operate preventive anti-corruption body or bodies;
- Establish and enforce Codes of conduct for public officials;
- Establish and operate appropriate systems of public procurement and management of public finances based on transparency, competition and objective criteria;
- Establish public reporting mechanisms; and
- Promote active participation of society in the prevention of and fight against corruption.

Majority of the UNCAC requirements are practical, certainly is necessary to do quite a lot on the way of realising them. Countries, which approached to this convention carelessly just not to appear strange for not adopting truly first global international legal act against corruption, could fall in not so innocent troubles. These troubles will increase when the UNCAC’s monitoring mechanism enters into force.

Anyhow, the governments ratifying UNCAC attest their readiness and desire to resist corruption, but the positive effects of such activity are lost quickly, if the governments do not approach to seriously to fulfil the obligations of the convention, which are indeed formed in such way that even minimal realisation truly helps to improve the situation and limit the scope of corruption in each country, thus automatically increasing citizens’ respect of their governments.

It is clear that ratifying some international document is easier to do than to implement it effectively. There are many reasons for it: weak institutional structure of certain countries, lack of adequately educated and motivated personnel, lack of necessary budget means,
inadequate relationship between existing and new institutions, etc. The experience shows that all problems are possible to solve, if true and sincere political will exists. This especially holds for the measures for the fight against corruption, which serious implementation could shortly cause more damage than good to the governments that approached it in this way: the sensitivity of people to corruption and the perception of the extent of such phenomenon in the country temporarily increase, the prosecution bodies inevitably come to dealing with members of the ruling political parties, the contours of organised resistance to corruption could frighten even those that are not so sure of honesty of their acting, which in turn generates their resistance. However, it is undisputable that serious long term realisation of anticorruption conventions, especially of UNCAC, brings tangible positive results for people of a certain country, for the entire public sector, and for the reputation of the governments that make a stand at the head of such measures.

IV. How to improve ethics, integrity and responsibility of the public sector?

Certainly, there are various possibilities and ways to improve the ethics, integrity, and responsibility of people employed in public sector; nevertheless, it is easier to achieve it, if people’s trust of their work increases. On the other hand, it holds true, the fairer the public sector more people trust it. Besides many other measures, the trust and respect could be increased by increasing ethics and responsibility of public sector. Therefore, what is to be done? UNCAC has been already passing around the list of most essential measures, which was created after long negotiations of number of countries on the content of the convention; in order to realise them, each government must overcome three types of obstacles respectively to adopt the measures in following areas:

a.) legislation sphere
b.) institutional building sphere
c.) a sphere of practical functioning of institutions and individuals
IV.1. Legislation measures

It is comprehensible that methods based on which UNCAC measures the realisation could not practically enter into force without adequate changes and completion of laws that create rules of the materially – legal content and sanctions for not realising them, that establish or change institutions and determine their position and their authorities, and that ensure practical conditions for institution’s operation in realisation of the material norms.

In regard to general goals of UNCAC, the basic legislative activities, which could bring best results, are following:

- Adoption of preventive anti-corruption policies and practices: even though this could prolong the procedure, it is important that all parts of the politics and the complete society cooperate in their adoption, which necessarily presumes the adoption of anti-corruption policies and practices in the parliament through cooperation of all opposing parties and other actors in the legislative procedures, and including the civil society;
- Establishment and operation of preventive anti-corruption body or bodies: most reliably, such bodies are established with the power of the law act through regular legislative procedure, through assurance of their adequate independence (also financial) and autonomy. Contrariwise, when such bodies are being established through the acts of the executive branch, the latter is to a great extent tempted to abolish them when such bodies begin to deal with them;
- Establish and enforce Codes of conduct for public officials: these codes are immanent to be adopted by occupational or professional associations on which people rely. What the legislator could do is to prescribe compulsory sanctions for their violations;
- Establish and operate appropriate systems of public procurement and management of public finances based on transparency, competition and objective criteria: management of public finances based on transparency decisively contributes to financial situation of a country, thus it must be legally settled in a way that assures respect of the contemporary state’s principles of public finances, equality and economy in allocation of public procurement, for all of which must be prescribed appropriate monitoring procedures;
- Establish public reporting mechanisms: state institutions cannot achieve meaningful results in fight against occurring forms of corruption by themselves only; for that
reason there must exist public reporting mechanisms, which are to make easier reporting of corrupt activities and are to ensure solid protection of whistleblowers;

- Promote active participation of society in the prevention of and fight against corruption: active participation of society in this area must not be left to goodwill of state institutions; the standards must be specified, which will enable participation of all elements of society in managing public matters, and fighting corruption, too.

Adoption of material regulations that follow the standards of international documents represents the easiest part of fight against corruption. What follows, is much more demanding, above all slower.

**IV.2. Institutional measures**

It becomes complicated immediately when one of international conventions demands establishment of new or reorganisation of existing institutions. It is interesting that new countries, which are now building their institutional structures and in most cases do not have enough budget means, are the ones that follow easier those demands than older, richer countries, that are convinced, for reasons only known to them, that their institutional structures are absolutely unchangeable and the best in the world. In order to realise its general goals, UNCAC demands abundance of institutional changes, in some cases quite explicitly and vivid, in other implicitly:

- Adopt preventive anti-corruption policies and practices in establish and operate preventive anti-corruption body or bodies: for this demand there are many possible solutions, surely the best is in form of independent and autonomous state body, which ensures realisation of preventive anti-corruption strategies and the prevention of corruption in all branches of power;

- Establish and enforce Codes of conduct for public officials: realisation of these codes of conduct can be ensured in various ways; what is unique for all of the solutions is that they must ensure equal and consistent treatment of all offenders;

- Establish and operate appropriate systems of public procurement and management of public finances based on transparency, competition and objective criteria: here, UNCAC is not particularly demanding because each country has Ministry of Finances
already; the problems could only occur in organising and installation of the
institutions, which control proper use of regulations on prevention of money
laundering, on public procurement, and which decide on disputes;

- Establish public reporting mechanisms: UNCAC does not express the need for
  specific institution, because these reports can be received by existing bodies (i.e. law
  enforcement bodies) and the preventive bodies described above;
- Promote active participation of society in the prevention of and fight against
corruption: here, there is also no need for the establishment of new institutions.

IV.3. Practical measures

Countries, in addition to adoption of proper regulations and establishment of adequate
institutional structure, must also ensure the practical conditions for the realisation of new
legislation and for working of new and old institutions according to new material rules.
According to achievement of the UNCAC basic goals, this means following:

- Adopt preventive anti-corruption policies and practices: it is not enough that strategies
  and practical measures are only outlined and adopted; they must be implemented, and
  for doing this there must exist institutions, which have all necessities for their normal
  operation. Besides, serious preventive work, at least at the beginning, slightly and
  seemingly increases the costs of the operation of all state institutions, which must
  cooperate in doing this;
- Establish and operate preventive anti-corruption body or bodies: preventive anti-
corruption body must be established, its independency must be ensured and sufficient
financial means given (at least for employing and training of adequate number of
qualified people, their salaries, adequate material – technical conditions for their work
and for taking care of the costs of their work), and it must ensure corresponding
cooperation of the government and other state institutions. In spite of UNCAC
contextual differences this seems bit excessive but it definitely holds true that it will be
evident, when this goal is to become implemented, how serious countries were in
ratifying UNCAC;
- Establish and enforce Codes of conduct for public officials: in order to realise the
codes of conduct in practice, it is important to establish and put in charge a
body/bodies, which will take care of sanctioning of codes’ violations and that will
assure conditions for their work;
- Establish and operate appropriate systems of public procurement and management of public finances based on transparency, competition and objective criteria: here, also will be needed to ensure institutions’ work conditions through sufficient financial means in order to be able to realise this goal;

- Establish public reporting mechanisms: in order to realise this goal and the existence of such institutions according to UNCAC demands, it will not cause great costs; however, the mechanism will have to be developed in such way that will assure for honest whistleblowers’ security in reporting even the biggest cases of corruption;

- Promote active participation of society in the prevention of and fight against corruption: realisation of this goal demands long, planned and systematically increase of public awareness of dangers and possibilities of fighting corruption – in essence, it will be necessary to create critical mass of population through sufficient number of people, who will constantly address and cooperate with the civil society, which will in turn make possible to go step ahead in developing of what is most important for prevention of corruption: people’s awareness. There will be no additional costs with this goal for quality operating of the preventive anti-corruption agency.

As a matter of fact, it is awfully strange that even the best and the most sacred ideas can be tripped and lost due to completely banal reasons, as for example realisation of global anti-corruption convention due to budgetary or financial reasons; however, it is important to be explicitly clear: implementation of UNCAC will cost countries some money but, which will be in a long run returned. Here, we will be able to see real and serious political will of governments that ratified this convention. If there will be no will, there will be no money, UNCAC will not be implemented and in countries it will not achieve its intentions and goals. Of course, countries will attempt to hide this fact, to camouflage it with various propagandistic receptions, and for those reasons, there is inevitable need for operating of the effective UNCAC monitoring mechanism.

V. Conclusion

Undeniable value of UNCAC along all pointed out is that it gives to both – governments and their citizens – instructions and criteria for serious prevention of corruption, which will
simultaneously increase or decrease the respect of governments and people’s trust in them. If the governments seriously approach toward implementation of the Convention’s goals, it will not bring only – indeed slow, but considerable – quality changes in the ethical behaviour of the entire public sector and in social relationships of the country at large, but the people will begin to trust them more and support them in prevention of corruption and other activities. Provided that citizens come to the conclusion, according to the UNCAC list of criteria for evaluation of seriousness and integrity of their governments, that in spite of formal ratification of the convention nothing is happening, which could be interpreted as its serious implementation, for them it would represent very clear indication that everything was just talk and promises of politicians in order to lead on the electors. In a short: if nothing else, the rules of the game called “fighting corruption” are known from now on, and it is up to each government to decide on whether it will follow them and begin to realise devices on ethics, integrity and responsibility of public sector, or it will silently stand in a corner and wait for the game to progress without them. But in this case, it is exposed to a great risk, that is to say, the game might finish without it…

Drago Kos