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**Exploring the reasons behind persistent low-level corruption in Hungary
by looking into (the absence of) formally reported wrongdoings**

“The less said, the better”

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Abstract

This master thesis in Sociology of Law explored the persistency of low-level corruption in post-communist Hungary. By adopting an anthropological approach 20 unstructured in-depth interviews were conducted in Hungarian language. The main focus of the research was on how law actually works. The collected material suggested that inadequate legislation supports informal economic transactions (“bad regulation generates necessary corruption”). Therefore Ehrlich’s ‘living law’ and legal pluralism provided a theoretical framework. The results supported the idea that the phenomenon of petty corruption persisted and proliferated during the transition process, and kept growing despite the EU accession. Four main reasons were identified for individuals taking part in informal transactions which fit into the ‘survival tactic’ literature of post-communist societies: ‘not enough salary’, ‘I have no choice, because the regulations are wrong’, ‘I am pressured by my superior or the institute’, ‘just go with the flow’. The reasons behind the low frequency of formally reported wrong-doing were considered and it was suggested that citizens try to control corruption in informal ways. The lack of political will to implement adequate laws, and the civil social organisations never-ending fight to introduce legislation were presented. The research intends to contribute to the categorisation of petty corruption in Hungary, by establishing living law imperatives.

Key words: legal pluralism, living law, low-level corruption, whistleblowing

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1. Introduction

In Hungary the 'merjtenni.hu' legal aid homepage was started in 2010 by the Hungarian Chapter of Transparency International (TI). The target was to motivate whistleblowers¹ and citizens who encountered corruption to speak up about their experiences. Because there wasn't comprehensive legislation about reporting, and the current law contains many loopholes, the home page instead of giving a clear definition and options for whistleblowers lists several areas and cases of corruption. It also lists the authorities to which concerned citizen can submit complaints or notifications about the corrupt practices. The listed areas are health care, education, EU funds, labour cases, environment, public procurement, unfair trade, fraud, and lobbying. It is possible to submit a petition on the homepage requesting advice and in some cases legal aid from the TI. In spite of the fact that there is a test (with five simple questions) to determine whether a case is a corruption case or something else, during a four year period there were only a couple of cases which would satisfy the definition of an EU standard whistleblowing report according to the legal leader of the TI Hungary.

However, another anti-corruption page (fizettem.hu) run by a partner organization (Atlatszo.hu) of the TI listed more than ninety reported low-level corruption cases during the last twelve months. On the homepage, citizens can submit how much bribe they paid and to whom, or indicate that they were asked for a bribe (or occasionally, the fact that they wanted to pay, but the other party didn't expect the bribe). Usually people provide a detailed description of the corrupt situation. This homepage seems very popular and some of the stories have been read more than one thousand times according to the statistics. Here there seems to be a contradiction - on the one hand it seems that citizens are not interested in reporting corruption (from TI and Ombudsman reports), or that they do not know which practices are corrupt - but on the other hand they are willing to submit details regarding the bribery they have partaken in, and share their stories of how to deal with a greedy gynecologist, how much they had to pay to get a driving license, or how you are expected to give money to corrupt police officers.

The example above demonstrates the existence of and the hidden nature of informal economic transactions and the difficulties around combating low-level corruption in Hungary. Indirectly it also highlights a difference in the socio-

¹ Transparency International (TI) defines whistleblowing as the disclosure or reporting of wrong-doing, which includes corruption and several other areas besides. A whistleblower is any public or private sector employee or worker who discloses information about wrong-doing and who is at risk of retribution.

economic and cultural settings between the old and new EU member states²: in the old member states whistleblowing is an effective means to combat corruption, whilst in Hungary there is no protection against retaliation when someone reports a wrong-doing in any formal way. The existence of the informal economic transactions reported in Hungary (such as payments for getting a driving licence, thank-you-money in hospitals) shows similarities to the other Central and Eastern European (CEE) countries with a communist past (EU Anti-corruption Report 2013). Low-level corruption cases can also be identified in Western EU³ countries, especially in the police and health care sectors - but they show differences to those in the CEE countries in nature and scale (EU Anti-corruption Report 2013 - The Report). The Report recognised that the health care sector is the most effected by low-level corruption in Hungary. However, already in 2003 GRECO (Group of States Against Corruption) pointed out that the ‘gratitude’ payments for public services (especially in the healthcare sector) are a form of ‘accepted’ corruption (GRECO Evaluation Report, 2002). This report addresses an important notion - that not all corruption is perceived as negative by the citizen - but fails to mention all the other affected sectors and areas (as does The Report (2013)). Everyday corrupt practices cannot be neglected when citizens face strong pressure to be corrupt in order to access services legally due to them. In this environment initiatives against bribery are unlikely to have any effect (Batory, 2012). The EU’s initiatives, and its administrative traditions, are rooted in a Western European context of institutional stability, but the core state institutions in the CEE countries have been in profound transformation after the collapse of communism (Dimitrova, 2010).

The reasons for the difficulties of the Eastern enlargement can be seen from different perspectives. On the one hand, the communist past of the CEE countries indicates differences compared to the Western member states - informality and

² In this research I refer as old member states who joined before 1981 to the EU, and as new member state to the countries, which joined with the Eastern Enlargement.

³ In this research I use CEE countries as the countries with communist past and Western-EU countries, without major influence of communist tradition.

petty corruption had a long tradition under the Communist regime in Hungary and in other CEE countries (Sajó, 2002, Galasi and Kertesi, 1987). After the fall of the communist system the phenomenon of petty corruption persisted and even proliferated in these societies (Holmes, 1997). Informal transactions that would be labelled as corrupt in one EU member state (e.g. Sweden or UK) may be morally accepted practice in the cultural context of another member state (e.g. Hungary, Slovakia or Czech Republic). Supporting this statement Batory (2012) argues that in the CEE countries corruption remained a systemic element of the state-society relationship to overcome bureaucracy. During the communist period low-level and high-level corruption were mutually tolerated in Hungary in order to maintain political stability (Gellén, 2014). On the other hand, after the democratic transition the CEE countries chose to approach the Western world - which resulted in joining to international organisations, such as NATO and the EU. The EU accession required the CEE countries to comply with EU standards in relation to economic indicators, living standards and the rule of law. Hence, the accession of CEE countries to the EU implies that these countries have been able to achieve notable progress in promoting the rule of law and living standards. However, the efficiency of the instruments provided by the EU for decreasing corruption during the CEE countries' negotiation and accession process - such as directives, recommendations and policies - can be debated (DeRidder, 2009; Mungiu-Pippidi, 2005). It seems that instead of establishing successful institutions for reducing corruption (in this project particularly in Hungary), the result was producing laws which do not meet the socio-economic context of the CEE countries (e.g. whistleblowing act, 2013: CLXV). Instruments that worked well in old EU member states (e.g. anti-corruption measures such as penalising various conducts previously not recognised as criminal and setting up specialised anti-corruption agencies, courts and prosecution services) show their limitations in the post-communist countries (DeRidder, 2009; Batory, 2012). Finally, following Polese's (2008) argument, I suggest that corruption is not an objective term - it depends on the context and the same definition is not applicable everywhere.

‘Offering a box of chocolates to a teacher... does not have the same meaning in Odessa (or Budapest) and London’ (Polese, 2008:57).

2. Research problem

The main differences between forms of corruption in the EU member states are in low-level corruption: In the United Kingdom, Sweden and Denmark less than 1% of respondents to the Special Eurobarometer of Corruption (2013) had been expected to pay a bribe, compared to Hungary 13%, Slovakia 14% and Poland 15%. According to the Freedom House’s Nation in Transit 2015 Survey Hungary scored 3.75 for corruption (scale is to 1 to 7 and 7 is the worst), in contrast to other post-communist countries which scored above 6 (Russia 6.75, Azerbaijan 6.75, Ukraine 6, Uzbekistan 6.75).

It seems that low-level corruption is a complex phenomenon, and in Hungary (and similarly in other CEE countries) there are several areas where the informal rules and practices are prevalent and dominate everyday life, thereby subverting formal structures. Informal transactions are widespread in sectors such as education, police, local government, sport organisations - where citizens and state officials interact more intensively on a daily basis. In post-communist countries, because of the relatively quick democratic transition, the old (communist) and new (democratic) systems coexisted, and still coexist, which produces systemic corruption (Schweitzer, 2003). This means that the formal (written, ratified law) and informal (unwritten, but used by the members of society) regulating mechanisms coexist and often clash. Therefore an interesting phenomenon arises in the form of informal transactions⁴ between the public sphere (health care, education, local government other authorities) and the citizens. It is possible to argue that the informal transactions often do not go further than might be expected in a context of a friendship (for example), and it can be perceived positively - “the

⁴ Informal economic practices those which are not regulated, monitored or controlled directly or indirectly by the state. With regards to formal and informal regulating mechanisms, formal can be defined in terms of state institutions and informal is outside the state’s regulatory regime.

police officer was a good person, instead of the fine, I had to pay only a bribe” (Ledeneva, 1998; Jancsics, 2014). When there is interaction between citizens and authorities (officials), the cost may be the power or property of the state. This means that as a legacy of the communist past, the state as an organisation plays a significant role in propagating the flow of informal transactions.

In the introduction I mentioned how few corruption cases are reported in Hungary. Whistleblowing is an EU-wide regulated and accepted tool for reducing low-level corruption. Most assessments, reports and policy papers on whistleblowing are only concerned with its legal background. The TI’s report on whistleblowers in the EU (2013) does not take into consideration how well a country’s whistleblowing laws and regulation work in practice when rating countries. In the CEEC region the K-monitor (Hungarian NGO) presented a paper in 2010 on whistleblowing that also only concentrated on the legal framework. The same paper revealed that in Hungary more than half of public officials answering a survey about reporting corruption responded, “The less said, the better.”

This thesis is intended to make a contribution to the understanding of low-level corruption in Hungary using socio-legal theories, and also to explain new factors which might strengthen prevalent corruption such as the reasons behind the low frequency of formally reported complains of corruption.

3. Literature review

There has been much research which produced theoretically and empirically grounded accounts of the various manifestations and forms of low-level corruption and informal economic transactions. The literature review demonstrates the richness of empirical data which can be generated, and also presents how authors from different academic traditions (such as sociology, legal and political studies, economy, ethnography and anthropology) can clearly contribute to debates regarding the role of informal economic transaction in a number of theoretical and conceptual ways.

The scholarly interest in low-level corruption is particularly prevalent in the fields of economy (Elliott, 1997; Kiltgaard, 1988; Szántó et al., 2009), sociology (Ledeneva, 1998; Patino, 2002), organisation sociology (Jancsics, 2013, 2014), anthropology (Anders and Nuijten, 2005; Rivkin-Fish, 2005; Polese, 2008; Shore and Haller, 2005), political science (Karklins, 2002; Mungiu-Pippidi, 2005), ethnography (Flood, 2003) and, last but not least, socio-legal scholarship (Urinboyev and Svensson, 2013; Holmes, 1997).

I found that these studies were focused on five key factors - namely the communist past, economic explanations, structural factors, legal factors and sociological factors.

The first factor considered is the communist past. According to the most common theory, the causes of corruption in post-soviet societies relate either to the transition phase or to the communist past (Karklins, 2002; De Ridder, 2009; Georgiev, 2013). Hajnal (2008) suggests that during communism, petty corruption's function was to facilitate state-society relationships to ensure that actions of public administration and public service that otherwise ought to happen, would in fact take place. Lomnitz (1988) notes that during communism, the use of personal connections (social networks) has been recognised as a central strategy to overcome shortages caused by the inefficiencies of the system. In connection with the transition phase Jancsics (2014) suggests that the economic insecurity following the communist era and global recession, combined with the new political regime (such as in Hungary), can be the cause of rising corruption.

The second factor considered is economic explanations, with most scholars favouring the principal-agent model. This is valid from an economic point of view - i.e. taking part in corruption appears a rational decision in the spectrum of cost-benefit. Szántó et al. (2009) identified some typical network configurations of corrupt transactions in Hungary as examples of this. Their research is based on the principal-agent-client model and many other approaches to corruption show similarities to Schweitzer's (2003) cost-benefit duality. However this approach

seems inappropriate where petty-corruption manifests itself as a survival tactic. Polese (2008) proposed that most of the ‘economic transactions’ reported as bribe taking have a deeper meaning and can be analysed within the framework of gift exchange and proposes the recognition of a grey zone between different levels of corruption. The findings of Wallace and Latcheva’s (2006) article about the informal economy in transition CEE countries show that the informal economy predominates over other economies, especially in Czech Republic and Hungary. The Freedom House’s findings revealed that Poland, Hungary and Czech Republic have actually regressed democratically during the EU enlargement negotiations (Mungiu-Pippidi, 2005).

Third on the list are social factors. In new EU Member States with a communist legacy, the people’s actions are influenced by multiple, alternative (to the state law) and often conflicting normative orders (Nijuten and Anders, 2007). Shore and Haller (2005) pointed out that corruption is seen as endemic by western researchers and policy makers in non-Western, transitional societies, which is congruent with the mainstream social scientific approach that emphasises “moral inferiority” in corruption and bribery in Central and Eastern Europe. Jancsics (2014) challenged the idea of moral inferiority by arguing that in many cases, people participate in informal organisational resource exchanges not because of immorality or greed, but rather because of powerful external forces, which are defined by the author as a ‘Robin Hood’ attitude - consume more; I cannot afford to violate the rules; dysfunctional post-socialist institution; don’t turn on an in-group mate; gatekeepers; ordered to be corrupt. Informal transactions can follow the logic of gift exchange based on the concept of reciprocity between two friends. This is similar to Ledeneva's (1998) description of “blat” as an informal exchange system based on reciprocity and trust in the Russian economy. However, as Jancsics (2014) explains, if one of the participants gives a gift that belongs to an organisation or to the state, then that should be considered as corruption.

Fourthly, as Jancsincs (2013) explains in his paper on petty corruption in CEE countries, external structural factors such as physical environment can determine the actors' opportunity. This notion is based on the structural approach, but it highlights the importance of organisation in maintaining and supporting informal transactions and corruption. Moor (1973) presents the concept of a self-regulating social field and the important but limited place of law in it, using the garment industry as an example. The so called symbolic or fictive friendships are part of the process by which resources are allocated. The phenomenon described by Moor (1973) is situated in the private sector, but the fieldwork conducted in the health care sector in post-soviet Russia contains similar patterns. Rivkin-Fish (2005) presents the doctors' dilemma: they could accept money informally and acquire the feeling that their work was respected, but in doing so they would need to break the law, and risk being exposed as 'corrupt'. On the other hand, they could refuse to take payments, enjoy the safety of following the rules, but thereby exclude themselves from the possibility of receiving both symbolic status and material gain. These examples show clearly the existence of moral economy inside the system or organisation.

The fifth, legal factor, is connected to inadequate legislation. As a part of the EU anti-corruption policy, there are some EU level reports which make an attempt to provide an overview of the EU as a whole, but at the same time giving a nation-specific analysis of the member states. The latest EU Anti-Corruption Report (2014) directed attention to the inadequate legislation of whistleblowing in Hungary, which results in the low number of formally reported cases of corruption. In contrast to the situation in Hungary, a British study presented the inside story for whistleblowers as told by 1,000 callers to Public Concern at Work's confidential advice line. This high number of samples was collected between 20 August and 30 December 2010. (In comparison, the Hungarian Ombudsman received 220 reports during similar time period). It is a study about people who witnessed malpractice in the workplace and are unsure whether or how to raise their concern. This study is outstanding in the way that it tries to

create a profile of possible whistleblowers. The inadequate legislation can be a reason behind the low number of formally reported wrongdoings, which indicates a fear of retaliation.

Definition of corruption

When examining and comparing the problem of corruption in EU countries, it is difficult to find a unified definition of corruption⁵. Karklins (2002) argues that when examining corruption in post-communist countries, the TI's definition - which is similar to that of the World Bank and the EU (EU Anti-Corruption Report, 2014) - "the misuse of public power for private gain" - needs an addition, such as "at the expense of the public good". Shore and Haller (2005) noted that the TI's definition is Western Centric - it may be not appropriate in the special social settings of the CEE countries, which are influenced by communist legacy. Jancsics (2013) presents the definition of corruption as an informal/illegal and secret exchange of formally allocated resources. In other words, money, goods or other resources, which are considered to belong to an organisation or collectivity, are instead handled or exchanged covertly in ways that benefit one or more persons who are not the formal owner. This definition takes into consideration the special social settings of Hungary and captures the essence of the social functions of 'mass petty corruption' (Gellén, 2014). Therefore I will employ this definition in my thesis. I am also keen to establish a corruption definition which is specific in the Hungarian context as it is perceived by the interviewee.

Petty corruption

From an economical point of view, petty or low-level corruption occurs when private actors interact with non-elected government officials, particularly lower-level, administrative bureaucrats (Elliott, 1997). From a political point of view Karlkins (2002) organises corrupt acts according to their level of damage for the citizens and political consequences. She argues that when individual citizens

⁵ For example there is no unified criminal definition of corruption within Member States thus leading to different ways of recording corruption related offences. (EU Anti-Corruption Report, 2014)

initiate the bribe (for example to a traffic policeman) it is politically less consequential than instances where public officials extort payoff from citizens in an organised manner. However, Klitgaard (1988) suggested that rampant petty corruption may also be more politically corrosive over time because it affects more people on a regular basis. Jancsics's (2013) sociological definition of petty corruption, which describes the phenomenon in the Hungarian context, is similar to the previously mentioned definitions in the sense that it occurs between low-level officials of state administrations and their clients, and it involves relatively small sums of money or exchanges of favours between street level bureaucrats and ordinary citizens. The definition contains the 'favour' as an element. Explaining the economies of favours (in the case of countries with socialist past), Humphrey (2002) argues in his paper that many respondents found activities - traditionally understood as corruption or bribery - legitimate and appropriate behaviour and did not perceive them as corrupt. In other cases people saw the inappropriateness of their behaviour, but chose to obey much stronger social forces that somewhat legitimated or at least made the act ethically neutral (Humphrey, 2002). The favour can be seen as similar to the informal exchange system "blat" which is based on reciprocity and trust in the Russian economy, as described by Ledeneva (1998). It could also manifest itself as nepotism (including friendship and party membership as well as relatives) which was wide-spread in communism (Georgiev, 2013).

During writing the literature review I explored the social settings of CEE countries and the possible interpretation of low-level corruption in research papers and the factors which can play a role in the persistence of low-level corruption in Hungary. I also identified a suitable approach and definition for examining corruption. I consider the first factor - the communist past - as a valid one, but it is important to note that informal transactions proliferated during and after the transition process and also after the EU accession (Holmes, 1997). Economic, cost-benefit explanations often rule out situations such as "the system made me do it" (Karklins, 2005) or survival strategy - "I do it because I have to" - because it

assumed to be a free choice to participate in informal transactions. The sociological factors take into consideration conflicting normative orders and alternative morality in society, which provide a strong base to elaborate on using socio-legal theories. Structural factors are extremely important to my research, because the subjects are all situated in organisational structures. It is important to note that - following Ehrlich's notion of social association - there are informal associations inside the formal organisation, and their rules also have an effect on the interviewees. Legal factors have particular importance because of the difficulties that the Hungarian state had to face after the democratic transition (after the fall of communism) and the EU accession.

This research contributes additional empirical evidence to the literature on informal economic transaction in post-communist countries (specifically in the CEE context) by analysing petty-corruption from a sociology of law perspective, focusing on the co-existence of - and occasional conflict between - state law and informal norms. This approach provides us with nuanced understanding of how and why petty corruption remains prevalent in Hungarian society despite the innumerable anti-corruption initiatives and Hungary's accession to EU.

4. The aim of the research and research questions

Based on the gaps and deficiencies of previous research I formulated the following research aims and questions. The aim of the research is to provide nuanced and contextual understanding of the reasons behind the existence and persistence of low-level corruption in Hungary. Using unstructured interviews I will explore the perceptions of low-level corruption and the social obstacles preventing formally reporting wrong-doings. I will consider whistleblowing - the implementation of which as an instrument was recommended by the EU. It is a good example of an (anti-corruption) instrument which works well in Western EU countries, however has little effect or practical use in CEE countries like Hungary, even if the legal background exists (EU Anti-Corruption Report, 2014). The

interviews will help to define an informal definition of corruption, and identify in which respects it differs from the legal definition, which is an important part of mapping and understanding the unwritten rules of informal transactions. The research will include not only the internal actor's perspective (citizens), but also the external actors' perspective of the subject - such as anti-corruption organisations and relevant ministries. In accordance with the aim of the thesis, the paper will address the following research questions:

Why is low-level corruption so persistent in Hungary despite the democratic transformation that took place after the fall of communism and the EU accession?

a) Why do people continue to pay bribes?

b) Why are there so few formally reported low-level corruption cases?

c) Under what circumstances do people report wrongdoings?

d) What is the difference between the legal definition and informal definition of corruption (as it is perceived by members of society)?

e) How is the problem of wide-spread petty corruption and the low level of officially reported petty corruption cases perceived by external actors (such as anti-corruption organisations and the government / relevant ministries)? To what extent is this perception reflected in their policy?

5. Historical outlook

It was emphasised above that the history of Hungary plays a central role in examining and understanding the reasons behind persistent low-level corruption. Therefore I will provide a brief historical outlook. Instead of presenting Hungarian history in detail I adopted a legal-historical point of view (In the Appendix I listed the main stages of Hungarian history, indicating the different forms of government). Historical episodes where a legally plural environment

appeared will be presented briefly. In general, legal pluralism seems to flourish in the following situations: the country chooses to join and adopt the principles and laws of another state (it can manifest in a coalition); the country chooses to join an international organisation; the result of a violent occupation of the country. Hungary is situated on the clash point of West and East, and from the early history of state there have been situations where the king and the nobles (in 1000) or the citizens (in 2003) have had to choose between joining to the West or the East. At other times the country was forced into a coalition by the West (1867, Austro-Hungarian Empire) or occupied violently by the East (1526, Ottoman Empire; 1945, Soviet occupation). The main episodes which generated a legally plural environment were when Hungary became part of the Austro-Hungarian Empire (1867-1918), during the Soviet occupation (1945-1990) and from 2004 with the EU accession. During the first two periods people reacted by revolting against the oppressor (1848, 1956), and when these attempts failed they have utilised so-called passive resistance.

Ottoman Hungary 1541-1699

In 1526 military forces from the Ottoman Empire under the leadership of Sultan Suleiman I annihilated the armies of the Kingdom of Hungary at the Battle of Mohács under King Louis II. The country was divided into three parts: Ottoman Hungary, Transylvania and the Habsburgs part. The Ottomans divided the territory of the Kingdom of Hungary that came under their control into administrative districts (called eyalets). The Ottoman occupation lasted almost 200 years in certain part of the country, but it had no lasting legally plural effect. Ottoman policy manifested in the systemic deconstruction of the country through depopulation, imprisonment of the original population and the repopulation of the land with foreign settlers. The Ottomans did not compel the Christians of the empire to adopt Islam. The Ottoman occupation had little cultural effect on the Hungarian people, because the two populations were separated - thanks to the resettlement policy. The Ottomans were more interested in economic exploitation than the assimilation of the local people (Pálffy, 2009).

Hungary from 1945-1990

Although the communist regime in Hungary was not totalitarian, the state-party tried to satisfy the Stalinist ordinance of social legality by transforming the Hungarian laws, and as a consequence of that the legal system was drastically altered. Low-level criminal and deviant behaviour in communist Hungary were responses to regime oppression, but the underlying social, cultural and economic dislocation resulting from the modernisation of Hungary was also a significant factor (Brown, 2007). Before 1945 the modernisation process was under way, assisted by the post-war coalition government, which was accompanied by broad popular support. Peasants left their farms in search of wage labour in factories. Women and youths entered the workforce in much greater numbers than ever before. A vast majority of the population found themselves working longer hours for less money than they had before the war. The Stalinist variant of modernity imposed on Hungary both intensified these modernising tensions and directed popular dissatisfaction with them directly back to the state. The communist system was often confounded by pre-existing modes of social, cultural and economic organisation. In the Soviet case, Lynne Viola has argued that “The great irony of resistance - or what the state chose to see as resistance - is that its identification as such in combination with the state’s repression led to the strengthening of older cultural formation, identities and loyalties” (Viola, 2008, p.41.). The shadow or second economy flourished under communism. Systemic shortage of day to day goods and services under planned Stalinist economy motivated the emergence and expansion of ‘blat’ networks (Ledeneva, 2009). The ‘blat’ is a system of informal inter-personal network operating on principles emphasising reciprocal exchanges of favours (Aliyev, 2013). In the Hungarian context the system was never called blat, but ‘*uram-bátyám rendszer*’, which has same functions as ‘blat’ networking and can be translated as "old-boys network". The crackdown after the 1956 revolution resulted in divergence from Hungary’s Eastern European neighbours: while other states of Eastern Europe retained a more doctrinaire form of communism, Hungary became “the happiest barracks in the Bloc”, thanks to the reforms such as small scale private production and retail

trade becoming legal once again, privately-owned household plots were allowed and the cultural sphere was controlled more indulgently (Brown, 2007).

1990- Democratic transition

After the fall of the communist system a democratic transition started. As a part of the transition there was an emphasis on building trust between the state and the citizen. Janos Kornai (2004), the internationally recognised researcher of the post-socialist system summarised the biggest challenges of a democratic transition process:

1. Citizen participation in the preparation of bills through referendums, advocated by interest groups or directly.
2. Impartial, neutral organisations and accountability: central bank, energy sector, judicial service, transparent monitoring, auditing.
3. Referendums, which establish participation in decision-making, and not only in decisions affecting the whole country, but in smaller-scale, local questions as well.
4. Non-Governmental Organisations (NGO) play an important role in building trust. There is a positive correlation between the activity of NGO's and civil organisations and the mutual trust between the state and the members of the society.
5. Joining to International Organisations, such as NATO, the EU, World Bank, UN, WHO.

EU accession

In 2003 Hungarian citizens voted to join the European Union in a referendum. It is difficult to evaluate the success of the democratic transition without political overtones, and that is not the purpose of this thesis. However, fourteen years after the democratic transition, Hungary became a part of the European Union. It is visible that during that fourteen year period the Hungarian state and society had to complete a big journey from communism to become EU-conformed. Following

the eastern enlargement process, the EU's legal cultures became diverse and plural - in both the traditional legal pluralist sense - different legal systems co-existing in the same geographical space (Avbelj, 2006, Twining, 2000) - and also in the increased inconsistency of the EU's common regulations and those of the member states⁶ (Barber, 2006).

6. Theory: living law, legal pluralism

Ehrlich's 'living law'

Corruption during socialism occurred through a network of connections for exchanges of services (barter trade, non-monetary exchange) and was draped in the rhetoric of friendship (Georgiev, 2013). At the same time widespread petty corruption and the culture of mutual favours made everyday life tolerable (Sandholt & Taagepera, 2005). Jancsics (2014) and Urinboyev and Svensson (2013) present petty corruption as a part of everyday culture that is built on the imperative of individual and collective survival. I will examine various forms of informal organisation, regulation and governance which occur outside the state law. After conducting the field research I realised that Ehrlich's living law is a suitable analytical framework to theorise the results. Living law is the "law that dominates life itself even though it has not been posited in legal propositions" (Ehrlich, 2002:493). Ehrlich argued that social life is guided by norms of conduct, which are parts of the whole of law or living law even if they have not been posited in legal proposition (Deflem, 2008). Living law is primary in social life, its goal is to maintain the peace and cooperation in the community. Ehrlich, using the legal pluralist approach, reminds jurists that talking about society without empirically studying its diversity is inadequate (Gessner and Nelken, 2007). To distinguish the legal norms from other types of normative statements and behaviours he developed the so called 'opinion necessitatis theory' (Ehrlich,

⁶ Barber (2006) argues in his study about legal orders of European Union that legal system is pluralist when it contains inconsistent rules of recognition that cannot be legally resolved from within the system.

2002). In this social-psychological approach he considered reactive social emotions - the violation of legal norms of living law evoked revolt in people as an emotive reaction (Trevino, 2013:8). Ehrlich suggested that people in communal relationships perform their duties whilst creating their own rules. The norms of conduct tie the community together. Ehrlich developed his theory in contrast to the legal positivist viewpoint of his time. The positivistic theories refer to law as a body of legal rules or norms which exist independently of social and cultural practices of the citizens and the officials (Banakar, 2012). Law would primarily stem from the authority of the state and it has a formalistic system of rules and procedures which provide authority and unity to law as a system. In contrast, Ehrlich introduced the theory of social association which is based on simple and complex social relations (face to face, state) and organised association on a basis of four so-called facts of law: usage, domination, possession, disposition (Deflem, 2008). He argued that society consisted of many associations, and positive law is only one of them. It also means that the state is not superior to other associations.

Legal pluralism

Using legal pluralism as one of the guiding theories of the thesis is suitable on the one hand because of the existence of normative orders other than the state law in Hungary, and on the other hand because of the legally plural environment which is the result of being a part of the EU. Legal pluralism is one of the dominant concepts in the field of legal anthropology and it can be seen as a key concept in a postmodern view of law. According to Merry (1992) legal pluralism is generally defined as a situation in which two or more legal systems coexist in the same social field. The representatives of legal anthropological scholarship (Merry 1988, Griffiths 1992, von Benda-Beckmann 2002, Nuijten and Anders, 2007) agree that the state does not have a monopoly on law, because there are all sorts of normative orders not attached to the state which nevertheless are law. Sally Falk Moore (1973) states the fundamental assumption of legal pluralism - when presenting the idea of semi-autonomous social field - that not all the phenomena related to law (and not all that are law-like) have their source in government. Benda-Beckmann (2002) advocated legal pluralism explaining that law has many

forms of existence: law may be embodied in written and spoken text; law can exist in the knowledge of people; law may be inscribed into the status of persons, resources and organisations as well as into social relationships and institutions, giving them a legal status, usually with wide-ranging legal consequences, which, under the conditions of legal pluralism, are potentially ‘multi-normative’ (Benda-Beckmann, 1999); law may be involved in social processes / social interaction. Tamanaha (1993) argues in “The Folly of Legal Pluralism” that such a generous view of what law is perilously close to the conclusion that all forms of social control are law. He suggested a solution to the problem: to come up with a definition of law independent of the state, yet able to differentiate law from other forms of normative order. Living law and theories of legal pluralism in general are often criticised for failing to distinguish between certain social and cultural norms on the one hand, and legal norms on the other (Banakar, 2012).

In the analytical part I discuss different organisations (hospital, school, local government, sport organisation). I see these organisations as social associations. In these social associations two or more legal systems co-exist (Merry, 1992) - which is compatible with the definition of legal pluralism - and I could observe normative orders beside the state regulations. Two (or more) normative orders could be seen in the observed areas: state law, and the lived rules of normative order (which Ehrlich contrasted to the state law). There plural normative orders not only co-exist, but come into contact and clash, and so legal pluralist theory and Ehrlich’s living law theory helped to analyse my collected data. The use of in-depth unstructured interviews as the methodology of the thesis is compatible with these theories because, similarly to Ehrlich, I collected empirical data on social practices and usages, and I wanted to find out how law actually works.

7. Methodology

I have chosen to follow an anthropological approach to law and use corresponding research methods, because I was interested in understanding the informal norms,

practices and constitution of society. Anthropology is concerned with understanding the rules and norms that govern social conduct. This approach is also useful for exploring what corruption means in different parts of the world, how it is embedded in everyday life, why intolerance to corruption is greater in some places than others and how it becomes institutionalised and reproduced (Haller and Shore, 2005). Griffith (1992) notes that an ethnographic approach to law has advantages when documenting people's experiences of law in daily life. The research of corruption requires qualitative research techniques, because its measurement is based on people's perception.

The field research took place between April and May 2015 in Hungary. The field work consisted of two parts: observation and unstructured interviews. I performed these two data collection methods in parallel. I conducted most of the interviews in Budapest, except for the interviews with the local government member and the ex-mayor, which took place in a small town close to the Lake Balaton. I chose Budapest as a main area for my research because I had the contacts and social network available there.

I adopted a perspective which examines low-level corruption from the view-point of those citizens who are in a position to handle the money or property of state or local government, or an organisation tightly connected to state or local government, or in a position where they could abuse the power delegated to them by the state. The citizens who work in these positions in Hungary are mostly public servants or civil servants. When choosing the participants I considered the following areas: health care, police, education, local government, EU funds, and the following occupations: doctors, policemen, primary school teachers, university teachers, PhD students, ministry-workers, secretaries in civil organisations, members of local government and small town mayors.

Before contacting the interviewees I prepared an invitation and a participant information sheet about taking part in the research. It contained the title of the research and contact details of the researcher and supervisor. It stated that the

research is part of a master thesis in sociology of law at Lund University, Sweden. It also contained an invitation paragraph regarding the research, explained the purpose of the research, the nature of the research topic, what will happen if the potential participant chose to take part, notes about confidentiality, and the presentation of the results. I also explained how the collected material would be used, and that during the interviews I wouldn't use an audio-recording device. I presented an ethical statement explaining that I wouldn't use and abuse the participants' personal data. I also attached an outline of the interview with questions and some made up examples of low-level corruption cases (the full document is situated in the Appendix II in English.)

I sent out the invitation to 20 people from the selected areas, and I received positive replies from all the target people. After the replies I made appointments with the interviewees. I left it up to them to decide where they wanted to meet. I conducted unstructured interviews. Being Hungarian, I had the advantage of knowing the language and having an understanding of the local conditions and situations, which provided an internal perspective to the study. Before the interviews I prepared some guiding questions. I had two purposes for this. Firstly, I sent out the questions to the interviewees so they had time to think about the subject. Secondly, the questions and the interview have a special logic and built up structure, and it helped me to keep up the process of the interview. However, the questions were mainly used as a guide and were adapted according to the pace of the interview.

The logic of the interview questions was as follows: I started with general questions about corruption in Hungary. Here most of the interviewees referred to political corruption. I guided them to talk about low-level corruption. I asked questions about their perception of petty corruption in different time periods: during communism (which they preferred to call socialism), after the democratic transition (1990), and finally after the EU accession. I also asked them about typical excuses, rituals and usages of corruption. After the general part I started to ask specific questions related to their working places (areas) and their own

behaviour and perception of corruption. There were questions about the necessity of corruption, how they would define corruption, and their participation in corrupt activities. Most of the questions worked according to my expectations. Finally I asked questions about formally and informally reporting and handling corrupt activities which they have experienced in their working place. The interviews lasted from 45 minutes to 2 hours, depending on the interviewee. Safety precautions both for researchers and interviewees forced me to avoid all types of apparent documentation methods, such as recording and taking notes. Instead, immediately following an interview, I wrote down my recollections. To protect the anonymity of informants, a number was assigned to each informant instead of using their name. During the presentation of the results I will use fictitious names.

During the field research, extensive and rich material was collected. The full presentation of all the collected material would exceed the limitations of a master thesis, therefore I chose to present certain interviews and specific topics that have more relevance to my research questions. These are education (in primary school), civil organisations and local government (mayor and local government member). All of these topics contain information about the abuse of EU funds. Guided by the research question, I also present interviews with the representatives of relevant state and civil society (anti-corruption) organisations.

8. Presentation of the data and analysis

The nature of the research and the collected material require a special structure for the presentation. I will present relevant sections of the unstructured in-depth interviews as originally spoken (or in the words of) by the interviewees. It is appropriate because of the words chosen and the logic that they have used. I conducted the interviews in Hungarian language. It is a rich language with many expressions and synonyms for the same word. For example low-level corruption was described with many different words “mutyi”, “kummantás” “megoldjuk okosba” “sumákolás”, “simliskedés”. I tried to translate the text in a way which I

think reflects the most the original thoughts and words. The linguistic presentation is useful to understand the local context of informal transactions. In practice, when I translated the invitation for the research and the interview questions to Hungarian, I couldn't find an adequate word to describe low-level corruption, because the phenomenon, which is well known by the members of the society, cannot be described only by low sums of money and the involvement of low-level officials. I chose to call the phenomenon 'everyday corruption' when talking about it with the interviewees.

The analysis part cannot be separated from the presentation of the collected data because in the different sections I explore different aspects of low-level corruption. Because the interviews are presented in a narrative way it is more convenient and logical to provide the analysis immediately after the interviews rather than in a different section.

8.1. Observation

As part of the research I conducted observation in parallel with the unstructured interviews. I didn't plan the observation as a separate part of the fieldwork, but during my stay in Hungary, I unintentionally observed some examples of informal economic practices and the appearance of local moral codes.

While walking on the streets of Budapest to an interview - which took place in a public café - I saw that a police car stopped another car. One of the policemen walked around to the driver while the second policeman stayed behind. When the driver emerged from his car, he offered his hand for a handshake (in Hungary handshake is a part of salutation, but it is mostly informal) as a sign of greeting to the policeman with a big smile on his face. At that point I was very close to them so I saw that the man hid some cash in his hand, and the policemen accepted it during the handshake. Immediately after the transaction they looked around for anybody who might have observed the transaction. I didn't show any sign of interest, and just walked past. I heard that the policeman immediately instructed the man to go on his way. In Hungary it is the most common informal transaction which takes places on the roads, but I have never observed the transaction in this

manner. Normally it takes time, and has a whole ritual around the informal payment: firstly, the policeman wants to find out whether the person would be willing to pay or not. This time there was no such ritual before the action. Obviously the man had enough money and experience with this type of transaction and he was in a hurry. When this informal transaction takes place, there are certain rules and communication forms which are well-known amongst the citizens and the police. The first sign for the call or openness for corruption was that the second policeman stayed in the car. If there are two of them, it is more difficult to initiate a transaction. For example the sentence “we can find another solution” is a call for bribery. The driver must give the bribe hidden in the car’s registration certificate or during the handshake. Citizens are aware of the police’s corrupt practices, however they have several reasons to choose to solve the problems in an informal way. The observed transaction, and the way as it happened, showed a shared language between the police officer and the citizen. It also shows that it wasn’t an individual case - the driver was aware of what he had to do to avoid penalty points, the waste of time and paying a fine.

The citizens feel that even if they would report the transaction, the police wouldn’t investigate: they should provide strong evidence of the act, probably video footage, or a record of the conversation just to start a case (submit an accusation). On the other hand if the citizen really broke the law, it is cheaper to pay a bribe than the fine. I learnt from some of the informants that they see this kind of corruption as an ongoing fight between the police and the citizens:

“It was the case with the medical kits. They started to check the expiry dates of the medical kits in the cars. So people started to buy medical kits. There is no regulation, no laws about it, but they still could threaten you, just to get some money. I wanted to buy a medical kit too, but then they stopped checking. I guess they came up with something else...”

This passage also implies that police corruption is not a separate, single act of some individuals, and there is no easy way to stop it. In other words it shows the

existence of a shared language among policemen, which serves to reconstruct the meaning and application of traffic laws. Citizens, instead of resisting paying unlawful bribes, play according to the rules of “living law” that is commonplace.

Another time I was travelling on a tram. After ten minutes of my journey I observed some movement in the carriage. Some people desperately wanted to reach the machines which validate the ticket, and other people moved closer to the door, preparing for a quick exit when the tram stopped. These were the signs that ticket inspectors were on the tram. Some people failed to show tickets, and one of them had to leave the tram at the next stop accompanied by three inspectors. When the tram left the station we sadly looked at the poor fellow, who was caught by the inspectors and was surrounded by them as if he was a criminal. I also saw that they stopped filling in the official forms, and he was looking for his wallet. It is fascinating that there are always some people who get caught. On one hand there are problems with the transportation and ticketing system. You can only buy tickets at certain places - there might be a ticket selling machine on the vehicle, but it normally doesn't work. Sometimes the validating machine doesn't work either. It happened to me several times that I didn't have a season ticket, and I had to take public transport to go to the place where I could buy it. Citizens/travellers also have to use separate tickets (which cost the same price) on every means of transport regardless if the trip takes 5 minutes or 1 hour. On the other hand the people in Budapest treat public transport as if it was free for everyone. Public transport had relatively low cost, but nowadays it is getting more expensive rapidly, and people feel that it is not fair and refuse to buy tickets. Some of them simply can't afford it. Students and pensioners still can buy season tickets at a good price. Interested in the subject, I came across a homepage called “BKV-figyelő” (Budapest Public Transport Observer) where (similar to the page mentioned in the introduction) citizens can submit their experiences with ticket controllers and drivers, and about travelling on public transport in general. Interestingly, one of the bus drivers submitted a story where the ticket inspectors abused a women with young children, telling them their ticket was not valid even

though it was validated by the bus driver ten minutes before, and they forced them to either get off, buy a ticket from them or pay a bribe. The women asked the driver to tell the inspectors that he saw her validating the ticket. When the bus driver told the inspectors the truth, their answer was that he should 'just concentrate on the driving'. The driver also stated that he tried to submit a complaint against the behaviour of the inspectors several times, but the company threatened to fire him. He chose this method to inform the passengers about what they can expect. This case also shows a shared language not only between the inspectors, but the inspectors and the company. It is also interesting how the bus driver wants to inform the passengers about the different application of the transportation rules - the living law. The inspectors' behaviour towards the young mother has to be distinguished from a redistributive informal transaction - it was the abuse of their authority and their physical power. It was more like a predatory transaction where resources go from weak to strong.

Unfortunately I got sick during the fieldwork, and I had to visit the general practitioner (GP). When I entered the waiting room I had to get a number which indicated my position in the queue. While I was waiting there, several people came in and asked for the doctor, calling her by her first name. I noticed that some of the patients (mostly the older generation) had presents with them: a bottle of wine, chocolate or jar of jam. Some people even went so far that they knocked on the GP's door. My number indicated that I was third in the queue, but I had to wait almost two hours because the other patients who arrived with presents got in to see the GP before me. I complained to my parents about the service. My father explained that he does not take presents to the GP, but there is a very good dentist close to where they live, and he always takes some chocolates to her and the assistant when he gets a treatment. It means that if he has an urgent problem then the doctor will make an appointment for him immediately - for example, if they have an empty time slot, they just call him in and he can have the treatment as

soon as possible. He explained that this is nothing to do with thank-you-money⁷. It is more than that - building a relationship with them. During the interview with the local government member I heard the same argument - *“We always brought some carrots and flowers for the GP, it was good to be friendly with him if there is a problem. Also, I think the Hungarians are just very friendly people, especially in the countryside - and barter trade is very common as well. But when you got sick it was good that that you could summon the doctor, and he didn’t hesitate to come. Of course the doctor is always respected anyway”*.

Author’s comment/ Analysis:

Theorisation of the observation

These observations reflected a similar phenomenon observed by Eugen Ehrlich in Bukowina a century ago, which he called ‘living law’. Ehrlich’s distinction between living law and state law is formulated in a specifically CEE context - that of the old Austro-Hungarian Empire - made up of many nationalities, languages and cultures. One interesting insight I gained was that the laws and regulation of the state are not the only regulators of political, social and economical life in Hungary, there are many other competing informal normative orders of living law that influence social behaviour and everyday life - in many areas of living - more effectively than the laws of the state. The driver’s intention to pay a bribe to the policeman (even if he didn’t break the law) and when the passenger bribes the ticket inspector suggest a legally plural situation. In this case the facts of living law have a greater impact on the situation than the law posited by the state (Ehrlich, 2002). When the police are making up false excuses (e.g. medical kit) to initiate corruption we have to emphasise that it is not a single, separate act. It suggests rules which could be said to have evolved spontaneously out of social life, and that there is an inner ordering of the associations (e.g. police) or groups. In contrast, the actions of the ticket inspectors, who are using not just their authority, but also physical power, to threaten passengers into a corrupt situation

⁷In practice it means that despite all kinds of medical care being free for most of the citizens in Hungary, patients usually willingly pay the doctors after the treatment. It is especially widespread at childbirth and at all kind of surgeries.

does not indicate the existence of the same rules. Their behaviour, rather, is predatory. When visiting the GP, people have to learn the inner orders of the social association (which consists of the doctor and the patients) in order to receive the GP's attention - in this case by bringing them chocolate and cognac or jam.

Low salaries - but the state looks away

The actions of the policeman and the inspector taking bribes can be attributed as a way to complement their low salaries. As Polese (2008) suggested in the case of Ukraine, the state cannot guarantee a decent salary and therefore overlooks informal economic transactions. In Hungary, in 2013, 10% of policeman (4000 people) earned the national minimum salary. However Ferenc Krémer (1998), criminologist, suggests that the corrupt act doesn't depend on the salary earned, and he disagrees with the policy inside the organisation: the employment of strong control, which relies on the hierarchy. The fear inside the organisation won't stop corruption, it will just increase the secrecy.

Communication strategies

The case of the corrupt police officer is congruent with Jancsics' (2014) findings on the clients'⁸ action during corrupt transactions. Jancsics (2014) describes communication strategies when he explores the role of clients in petty corruption by analysing corrupt exchanges between citizens and low level public and private employees in post-communist Hungary. He identifies the rituals around the corrupt practice as a 'mating dance'. This refers to a situation when the citizen is usually cautious about asking the other side directly about corruption. They leave room for manoeuvre just in case the agent is not willing to be corrupt. This is the manner in which the observed transaction is initiated generally. However, in the observed situation, the communication can be described using Jancsics' (2014) terminology 'openly ask'- i.e. when someone knows the structure of corrupt situations, and how to communicate with skill in such a situation. Jancsics (2014) interestingly distinguishes the role of clients with different social backgrounds in

⁸ Jancsics (2014) in his paper sees the corrupt act as a transaction between agent and client, where the client is an ordinary citizen.

'on the spot' transactions (situations which do not require any previous relationship between agent and client). Based on Jancsics' (2014) categorisation I could identify that the client was an entrepreneur, because he participated proactively and confidently - the transaction was initiated boldly without discussion with the policeman - he just handed over the money and dominated the situation.

The culture of 'chocolate and cognac'

In the case with the GP, it is important to notice and emphasise the differences between the observed situation and the 'thank-you-money' culture that exists in Hungary, and the doctor's dilemma (to accept money for the otherwise free service as described by Rivkin-Fish (2005) in Russian health care). The best example of the applicability of Ehrlich's living law ideas on a current social problem in Hungary is in the health-care sector: the state couldn't regulate the so-called 'thank-you-money'-giving, and, recognising that the penalty (three years imprisonment) for mandatory money or gift-giving had no effect on the flow of informal transactions, declared it legal (as long as it happened after the treatment). Providing chocolate and cognac (as it appears in the literature) has a special meaning. As Patino (2002) discussed, some specific objects take on a special meaning when offered as a sign of attention. In this situation the participants rarely offer money, because they have a personal relationship with the GP. In the case of 'thank-you-money', the patients are aware that any paid amount is to compliment the salary of the doctor (they also pay it for receiving particularly good treatment). During my fieldwork I only observed chocolate and cognac (or their equal) being given, however Patino (2003) suggests that the tendency to offer chocolate and cognac is still present, but that money is largely gaining ground because of the ever-increasing availability of luxury goods.

8.2. Unstructured in-depth interviews

I have chosen to present four key interviews which cover the areas of education, local government, sports organisation and EU funds. I selected these areas because they are the public areas most affected by informal economic transactions

(after health care and the police)⁹. It would be possible to conduct separate research on each area, but in this thesis I consider them all as ‘social associations’ as described by Ehrlich (2002). I see certain organisations (primary school, sport organisation, local government) as a plurality of human beings who, in their relationships with one another, recognise certain rules of conduct as binding, and, generally at least, actually regulate their conduct according to them. What Ehrlich referred to as the associations’ ‘inner order’ is determined by these rules of conduct (Deflem, 2008). This means that law, by definition, is a part of the many different kinds of associations in which people interrelate, and that legal pluralism is an inherent quality of society (Tervino, 2013).

Each interview will contain several narratives - I have selected the key highlights of the interviews. For a better understanding and for completeness I will also present interviews with external actors - the leaders of Transparency International, the Society for Civil Rights, and the Ombudsman.

The structure of the interviews:

1. Education (Interview 1)

The interview with the primary school teacher shows the special relationship between the teacher and the school children and their parents. In this relationship gift-giving is not always regarded as corrupt.

2. Sport association (Interview 2)

The interview with the secretary of the sports organisation shows how the secretary has to overcome legal difficulties, lack of resources and salaries to run the organisation as it is best for the people who work there, and also for the athletes and the sport. Sport organisations have a special legal status in Hungary which is regulated in a special legal document (2004: I). This means that they are

⁹ I base this assumption on the reported low-level corruption cases on the TI’s page, on Fizettem.hu, public and political blogs, and on the few reports which were submitted to the Ombudsman.

half supported by the state, and function half as a civil organisation. That is why they are relevant and interesting institutes to examine.

3. Local government (Interview 3)

The interview with the local government official shows the conflict between the local moral codes and good governance.

4. Interview with external actors (Interview 4)

Transparency International as an anti-corruption non-governmental organisation (NGO) is the most relevant actor in the fight for an adequate whistleblowing legislation, and for this they co-operate with other NGOs such as the Society for Civil Rights. According to whistleblowing law (2013: CLXV) the Ombudsman and his office is responsible for whistleblowing reports and therefore his insight into the functioning of the institute can be relevant.

8.2.1. Education

Interview 1

Katalin, a primary school teacher (58-years old): *“Some of the parents in my class are more than just parents, rather they are friends”*

"I can tell you about the changes through systems, because I started to work as a teacher in 1975 and worked 15 years during the communist period. During communism - I would rather call it socialism - everyday corruption appeared in different forms than after 1990 and nowadays. It was rather nepotism: everything was controlled by the party and the state, the corruption was based on party membership, but there was no room for corruption as it is today. There were fewer resources, the salaries were low, but you could barely buy anything. Because the 'system transition' (the democratic transition) didn't happen suddenly, it didn't have much impact. I remember that after joining the EU, there was high expectation inside the institute. We were told that we have to change how things get done, because we would have to comply with EU standards. It appeared in administration procedures, how and what to teach and how to behave. It was

forbidden to accept any gift (even a scone, or a flower) because it is corruption, but because there wasn't any precedent it became less important. The EU funds made the corruption worse. It represented a new pot of money, which it was possible to spend.

It is hard to define what is corruption, because some teachers in the school don't even realise that what they do is corrupt, they just simply go with the flow. I am conscious about it but I have to do it, because often my boss does it and I am forced to take part in it: everybody is involved and they are involved at higher levels as well. It is more comfortable to take part in it. 'Just get on with it' - I tell to myself. Some also say that the salaries are too low, but it is not true really. I heard such excuses from colleagues, that 'everybody does it, so I can as well'.

We are all involved: all the teachers could take part in corruption, because we are in an everyday relationship with the parents. I think the schoolmaster could take part in more serious corruption, just because of his position and his relationship with the council, the education institute (which is responsible for the school's matters) and the parents as well. For example, we don't know how the institute lets the school have two primary school classes of 32 children (according to the rules it should be around 20 children in one class), it is against the rules, but we don't ask, because it secures two more working places. I think the headmaster is not clean, but he is a good man, he wants to maintain the school integrity and working places. The school also took part in the so-called "labor mutyi"¹⁰.

There are certain communication methods and typical questions that the parents ask when initiating a proposal: 'My son will get the best grade in mathematics, won't he?', or, 'What we can do to get a better grade?'. But after 40-years teaching you know just from the behaviour of the parents and you feel when someone expects something (for example) in return for the "end of the year" present. But

10 The 'labor mutyi' is a school scandal, when many school applied for EU fund to set up a lab in the school, and they bought all kind of equipment and wrote manuals to teaching in the lab. However there are not enough qualified teachers who could hold a lesson in the labs so all the equipment just stand there without use.

nowadays parents can surprise me, really, some of them clearly states an offer. One of the parents offered to buy a new electronic board for the school, if the headmaster fires one of the teachers.

I have taken part in corruption, because even if you accept any small gift it is corruption. If I think about my own case it is difficult to regard all the gifts as corruption, because some of the parents in my class are more than just parents, rather they are friends. Sometimes I receive theatre tickets, or for example one of the parents suggested and nominated me for a state award. I was nominated before, but I didn't get it, because of some reason - they said nobody will get it without help. I got it this time. Her daughter wasn't so good in mathematics, but she was very hard-working. I gave her a better grade, but I think I would have done that anyway.

Corruption is negative but in some cases it is necessary. A bad regulation generates necessary corruption. It is also necessary, when the headmaster does it to protect a school, or when I have to take part in it to support the school. It is negative when it is purely guided by the greed of some teacher: for example when the headmaster lent out the institute's property to a teacher for free without paying rent. I didn't make a formal report, but I told to the headmaster that it is totally illegal and he should stop this activity. Luckily the activity stopped, but I think I would really report it. I have already looked up where to submit a complaint.

I would report this case because it was totally illegal, and if it would be public knowledge, it would mean a bad reputation for the school. In other cases, I would report because the only motivation is greed. I am in a good position. I am the department leader, so I go directly to the headmaster, if nothing happens, then I can go further. I think reporting also depends on the position - I could not have reported, and I wouldn't have when I started teaching 40 years ago. I think that after I leave the institution I would not report either, because it won't affect me. If I report without name, I feel safe. I feel safe to go the headmaster, but I would feel safe in any other ways. I would always prefer to chose an informal rather than a

direct way to solve problem, first in the department and after at the headmaster. He is a reasonable man, and I can see that he cares about the school. Before we had different headmasters - when I had some suggestions they reacted very badly, so it was better to be silent."

Author's comments / Analysis

Some of the expressions used by the interviewee require explanation. In general, when conducting interviews I have interviewed two different generations: fifty to sixty years old (Interview 1 and Interview 3), and twenty-five to thirty-five years old (Interview 2). Those citizen who really lived under communism as it was before 1956 are already too old to work. The fifty to sixty year old generation spent most of their life under communism, but it was already a 'softer' communism. Therefore, they preferred to refer to the period before 1990 as socialism. In Hungary the democratic transition is described as system transition, which refers to the change from communism to democracy. 'Mutyi' is a word which nowadays describe low-level corruption in the Hungary, it describes a situation when something is 'dodgy'.

The key highlights of the interview

The teachers' story highlights the relationships inside the organisation/ social association between the teachers and teachers, the teachers and the headmaster and the teachers and the parents. It explores the normative order inside the social association, which differs from the state law, and the regulations of the institute. It also provides an insight into the reasons and excuses for taking part in informal economic transactions, and the teachers' perception of necessary corruption and greed.

Key moments of the interview:

1. The teachers' participation in everyday corruption: reasons and excuses

(1) The state law and the norms inside the social association differ from each other. Some of the teachers follow the rules of the social association and do not

consider the state law, and the legality (from the state law perspective) of the norms set by the people inside the organisation.

(2) 'Bad regulation generates necessary corruption'. Sometimes, the regulations are wrong and the teachers have to go against the regulation for the students or the institutes for their own good.

(3) Some teachers are conscious of the nature of their transactions, but it is easier to go with the flow than fight against it.

2. The superior's behaviour - 'reflexive web of normative expectations' (Ziegert, 2009)

It is important to notice how the headmaster's behaviour is perceived by the teachers, and the effect that it has on the teachers' actions. It is possible to identify three different patterns:

(1) 'If it is legal for him, why I wouldn't do it?' in other words, it can motivate corruption.

(2) 'If he does it, he will look away when I do it' - it can also legitimise corruption. In this situation the headmaster sets the norms of the social association with his acts and behaviour.

(3) 'If he does it I have to do it. Just get on with it' - it forces people to take part, to collaborate. Jancsics (2014), based on extensive research (50 in-depth interviews) in post-communist Hungary, defined the main types of external imperatives for petty corruption. He identified an imperative which shows similarities to this: 'ordered to be corrupt' - it is an organisational-level imperative, which requires a hierarchical relation. The headmaster's behaviour is a crucial part of the social association's normative ordering. Ziegert (2009), when developing Ehrlich's idea of social association, sees the associations' internal means of regulation as possessing a degree of reflexivity. He explains that the legal norms provide the individual members with a relational 'reference point' that tells them not only what conduct is expected of them, but that also tells them, in relative terms, what they can expect from others.

3. Friendship and gift-giving

In Hungary the primary school teacher functions like a third parent. The children go to school when they are age seven and the same person will teach them for four years. He or she educates the pupils in all subjects except languages and computer science. This means that they spend six hours every day for four years with the children. In Hungary the parents don't only want to choose the school, but the teacher as well. It is understandable why a teacher-parent relationship can become a friendship during four years, and it is build on trust and communication. This is the same reason why the parents appreciate the work of the teacher and often show respect with gifts and favours. The examination of this special relationship helps us to understand the difference between 'expressing gratitude' and 'bribing'. This situation is similar to that which Polese (2008) explores in post-Soviet Ukraine, and he suggests that the gift-bribe dichotomy lies behind almost all transactions. Patico (2002) maintains that there is a sharp difference between offering money and offering chocolate and cognac (or in this case theatre tickets), because only the latter recognises the 'personhood' of the teacher. From the legal point of view there is also little difference: both donations in money and commodities are punished as corruption - though a difference exists at socio-cultural level (Polese, 2008).

When Katalin mentions that she would have give a better grade to the student regardless of receiving the theatre tickets, it implies that she does not consider that act as corrupt. Katalin's perception of the gift-bribe dichotomy is close to what Polese (2008) described in the case of the university teachers in Ukraine.

- (1) The frequency of the gift-exchange: it makes a difference if it is a habit of the teacher or if it only happened once or twice.
- (2) Whether the gift is given before or after the service itself ('end of the year' present or during the school year) can determine the nature of the transaction.
- (3) In Polese's (2008) research, one of the interviewees came up with the definition: "If I receive it, is a gift. If I demand it, then it is a bribe". Katalin never

demanded any of the presents - however sometimes she still felt obliged to give a better grade.

4. Accepted corruption and reporting formally or informally:

Katalin is well aware of the unwritten rules inside the organisation. She distinguishes between acceptable and unacceptable corruption:

Acceptable: A certain level of everyday corruption is accepted. This is congruent with what Rumyantseva (2005) reported in Uzbekistan where some of interviewees believed that a little corruption does not hurt anyone.

Unacceptable: (1) if the only motivation is greed, (2) it is happening openly, (3) it could affect the school's reputation negatively, and (4) if the amount of money is too big.

The distinction between the different types of corruption - necessary or pure greed - indicates the existence of a dual morality in bribery and reveals the multi-faceted meaning and morality of informal transactions. The distinction, and Katalin's emotional reasoning, reminds us of Ehrlich's 'Opinio necessitatis', where he suggest that the legal norm of living law was unique in that the emotive reaction it evoked in people for its violation is revolt (Trevino, 2013:8.).

There are informal answers for such behaviour, and also formal reports to the headmaster. This means that there are unwritten rules which cover corrupt activities, but there are informal rules to control the same. The integrity of the institution is more important than a scandal. She mentioned that she has to follow the unwritten rules (or living law in Ehrlich's terms) of her organisation in order to keep her job and maintain the school's reputation. There is no distinction between good and bad bribery, but if they regard corruption as necessary, then it is acceptable. Informal transactions, which are interpreted as corrupt in the Western moral and juridical codes, could be regarded as a morally acceptable behaviour according to the living law of the school. This example illustrates well the existence of dual competing notions of morality in Hungary, since the actions and

working practices of school workers are shaped by the living law as well as the juristic law.

8.2.2. Sport Organisation

Interview 2

Istvan, a general secretary in sport organisation (35-year old): “bad regulation generates necessary corruption”

"Generally speaking about corruption in Hungary, I can confirm that it is a big problem and it is possible to observe it everywhere you look. It seems to be coded into our behaviour somehow. We Hungarians just simply can't solve some problems without corruption. I don't think that anything changed after 1990, it is a long term procedure. However, much changed after the EU accession with the introduction of the high number of regulations - for a while - but after it got worse again. It seems that we, Hungarians, cannot work in other ways. This behaviour is coded in the individuals, or we learnt it from our parents, I don't know.

I am taking part in informal economic transactions because I don't get enough salary, and I have to maintain my living standard somehow. I don't do this job for the money, but simply I don't get enough. There is a lot of state and EU money, which if you don't claim or deal with, it will land somewhere else. I also do it to guarantee the better functioning of the organisation.

I mentioned the low salary as an excuse for corruption, but at the same time I think that a salary raise would not result in engaging in less corruption, because the state simply cannot pay that much. A bit more money wouldn't solve anything. They always say that a pay rise for the police and for health care workers would solve corruption, but I don't think so. They would just start to live in a higher standard, and they would still need additional money to maintain that. For example, when you are student, you never have money, but you don't have high expectations, later you start to earn some money, you can buy a car for example, but then you have to maintain the car.

I deal with corruption on daily basis. I think those who say that they never took part in any corruption are lying. So we have an employee in the office who is there every day, and he is dealing with the small things like mailing, keeping clothes, keeping equipments and so on. He is a voluntary worker on paper, but we pay him a salary which is close to the minimum salary. If we would pay a real salary it would be twice as expensive for the federation, because then we would have to pay to the state all the tax and contributions. So with this trick we save money, but at the same time I have to get that money somehow. Our office is in the same building as other sport associations' offices, and we have an active relationship with the other workers. They might know something about the trick with the employee, but we tend to keep it as a secret. It is also possible that other organisations do the same trick, but it is not easy to do. It is actually easier the legal way, but you lose money, and you can provide less. This is the choice.

Two times a year, before Christmas and before the summer, I take the office workers - three or four of us - for a lunch as a team-building activity. I am paying for the food with money that belongs to the federation. But I really think we deserve it. There would be an official way to do this, but it is a lot of paper-work and tax, so it is cheaper this way. I don't feel so good about it. But we are talking about 100 Euro all together, maximum. It is corruption. I have the reasons and excuses why I am doing it: it is mainly to help the organisation and because the laws and regulations are wrong. But the reason doesn't matter, I am still using the organisation's or the state's property, so that's why it is corruption.

There are other cases inside our organisation. We have different committees, and the members sometimes volunteer to do certain tasks. It is good for me, because it reduces my work a bit. We always have to do tricks with the invoices - that is quite normal, because the regulations are not flexible. One of the committee members asks for cash regularly in advance of completing his task. Last time he organised some catering. He provided an invoice in the end, but I am sure that he bought some food for himself. Another time he volunteered to provide some banners. He said he knows a good company, but he asked for the money in

advance. He presented invoices again, but I suspected something dodgy. I checked the prices of the banners online at the company and similar companies. There wasn't much difference, but he said he can get it cheaper, so I suspect he kept some of the money.

I didn't mention it, because it wasn't a lot of money, and I treated it as a payment for him, for his work. But I will keep following his affairs, I don't really trust him. I shouldn't let him to do it at all. I feel bad about it, but I would say maximum 20% abuse of the money is acceptable.

The third case is proper corruption. There is a state fund for the sport federations and every civil organisation. The annual budget is based on this fund for most of the civil organisation. One year a man came to the office - he belongs to another sport federation - and he said that he can do the application for us. He also said that we won't get the fund without his help. He asked 20% percent of the money what we would win for his service. I said no to his offer, he threatened us again, saying that we won't see any of the money. We completed the application, and we won. I suppose he said the same for many other federations and I suppose that he got some positive answers. I think he got into trouble later, because he is no longer at that federation. I regret that I didn't report this case. In the other cases I tried and I would always use an informal way. I would try, and I do try to discuss problems inside the organisation. The other reason for why I wouldn't go public with the inner problems of the organisation is because it would influence the reputation of the federation and sport, and I would do more damage for the sport than for the people who deserve it."

Author's notes / Analysis

Key highlights of the interview

The interview highlights the problem of low salaries - hardly enough to make a living. Therefore the secretary has to find alternative ways to complement his salary from other resources. It also shows that in a similar way the secretary tries to complement the federation resources by using tricks and alternative solutions.

He has to bend the rules posited by the state. The inadequate state regulations, economic considerations and rationality motivate this action. It is particularly interesting to hear how the general secretary sets the rules in the social association.

The key moments of the interview:

1. Perception of corruption as a part of the culture

It seems that there isn't a unified view about the relationship between communism and wide-spread everyday corruption, but all the interviewees agreed that with the EU accession the situation regarding low-level corruption became worse. According to Istvan the openness for using informal ways instead of formal is a part of the Hungarian culture in two ways:

- (1) 'If the formal way doesn't work, don't give up! There are informal ways to solve it.'
- (2) 'If the formal way is too difficult or expensive then use informal ways to solve it.'

This might be explained by the historical background of Hungary (as described in the historical outlook). Resistance against the oppressors and finding alternative solutions in legally plural situations and during economic shortages were the means to survive (for example during the 200-year Ottoman occupation and 50 years under communism). As a legacy of the communist past, the '*uram-bátyám rendszer*', which is similar to the 'blat' system, still functions as an alternative solution.

"If you can't solve something first time, you have to look for someone who might know you in the organisation or someone who knows someone. 'Do you have anybody who you are familiar with?' This is the question to ask."

Istvan suggests that after the EU accession, because of the new regulations there was a positive change. However, the regulation made the legal system even more complex. Barber (2006) argues in his study about legal orders of the European

Union that the legal system is pluralist if it contains inconsistent rules of recognition that cannot be legally resolved from within the system. Because of the legally plural situation people started to act in an informal way.

2. Taking part in corruption: reason and excuses and rationality

Istvan says that when he takes part in corruption, he has two reasons and excuses: (1) he doesn't earn enough so he is using informal transactions to contribute to his salary, (2) he also does it to ensure the better functioning of the organisation.

Interestingly he states that a pay rise wouldn't result in him engaging in less corruption. This notion is congruent with the findings of extensive research into police corruption conducted by criminologist Ferenc Krémer (1998).

The state can't guarantee enough salary for the people who work in public and state institutes such as hospitals, schools and sport organisations. In connection with that, Polese (2008) noted that in a society with informal economy and kinship networks, where the state fails to secure basic needs for citizens, informal economic transactions often make up for the inability of the state. That is what Istvan is aware of - the state cannot guarantee a decent salary, but there are other ways.

During an interview with a university teacher and PhD student I heard a similar excuse for taking part in corruption by abusing EU fund for research.

“Corruption is negative, but necessary. If teachers would have higher salary and the researchers more grants, they would pay more attention to the research and to their job. The salaries are so low, but there is a golden pot - the EU funds. It is an easy way to get money. So it is necessary, because you simply don't bring home enough money.” (University teacher and PhD student, 40-years old)

Polese (2008) notes a similar situation in Ukraine in higher education - only the teachers in Ukraine complement their salary by accepting bribes before examinations.

3. Informal ways to regulate corruption

An interesting part of the interview is how Istvan controls the informal economic practices in an informal way inside the organisation:

(1) He is aware of other people's practices, but he lets them get away with it and treats the 'cheated' money as a salary. (2) He would always choose informal ways over formal, in order to protect the integrity and the reputation of the organisation. It seems that he secures the maintenance of the organisation, and it flourishes with informal economic practices, but it does not mean that all the practices are allowed. He doesn't encourage informal practices, but he looks away - when it is small scale and he feels that the abuse of a certain amount of money is legitimate as a salary contribution. If he wouldn't control the practices in this way, it would be even more widespread and those practices wouldn't necessarily help the organisation. When he lets people abuse the organisation's money, he sets the social association's own rules inside the formal organisation. His connection with the committee members is personal. Lomnitz (1988) showed that informal activities based on personal connections constituted a system of exchange based on interpersonal trust and loyalty that runs underneath and parallel to the formal administrative rules. Istvan built up his trust-based network within the formal organisation itself.

Istvan has to control the informal trust-based network, and set the rules. He treats 20% abuse of the organisation's money as salary, but over 20% is not acceptable. There is no written rule that determines the 20%, but he clearly connects an emotion to the abuse of over 20%. Putting this into the context of Ehrlich's 'opinion necessitatis', the norms of living law are unique in that the emotive reaction it evoked in people for its violation is revolt. The fact that he looks away when 20% or less of the money was abused provides a reference point to the individual members of the social association and tells them not only what conduct is expected of them, but that also tells them, in relative terms, what they can expect from others. Ziegert (2013) describes this as a 'reflexive web of normative expectations' - which constitutes the domain of law.

4. Moral dilemma

When he mentions the case with the EU fund, he calls it 'proper corruption', implying that the previous cases were just 'corruption-like' activities. Contradicting this, he is aware that all the other activities which are perceived negatively are corrupt, but they are necessary, and that is why they are different. When he is engaged in corruption he does it for the organisation, although he doesn't think that it legitimises the corrupt act. This shows the difficulties when establishing a formal or even informal definition of corruption. Istvan's moral dilemma is most visible around the Christmas dinner. He is listing reasons to legitimise his corrupt action, which is similar to what Humphrey described in the Russia. Humphrey (2002) argues in his paper that activities which are traditionally understood as corruption or bribery were found by many respondents to be legitimate and appropriate behaviour and not perceived as corrupt. In other cases people saw the appropriateness of their behaviour but they obeyed much stronger social forces that somewhat legitimised or at least made the act ethically neutral (Humphrey, 2002).

8.2.3. Local government

Interview 3

Kalman, Local government member and ex-mayor (56 year-old): *"If you are in the power you don't have to find opportunities, the hardest part is to say no to all kinds of opportunities"*

"I don't think that there was any corruption during communism, because the people had nothing to give. If there were favours they based mostly on whether you were member of the party or not. There was nepotism, but I wouldn't call it corruption. Especially in the countryside, we didn't notice much, we had just nothing. So I think the everyday corruption started after communism, because the salaries were still low, but you could actually buy goods. The EU has many regulations, but I think it has no effect on Hungary at all. I mean normal people don't even feel whether they are part of the EU or not. It is just nothing, except for the EU funds. There are some dubious cases around the funds, but there is a

problem with the laws, and the system. You can never apply for the fund that you need, so you have to apply for something else, and cheat.

I have never taken part in corruption personally, but it affected my life when I didn't want to take part. That is why I lost my chair as a mayor, so in this way it affects my life. I care about the town and I care about the people, but I don't care about politics and power. I just wanted to do everything legally and to improve the town, not just stick with the old system. I wanted to make the system more efficient.

I could take part in corrupt activities when I was the mayor, and it is not even difficult, because there are many offers. If you are in power you don't have to find opportunities, the hardest part is to say no to all kind of opportunities. I think the council members can be corrupt as well: sometimes it is hard to understand how they vote and what they vote. Sometimes you can suspect that there was something in the background.

When I become the mayor, people started to act differently. I was just a normal citizen before. My wife is a teacher, I have a teacher's qualification as well, but I worked as a librarian and I was the leader of the local historical society. I don't care a lot about power, so I didn't expect people to act differently towards me, but they did. Some of them felt frightened and didn't want to speak about normal things. Other people started to become aggressive and claimed that I should do this and that for them and the village. In the beginning I tried to listen to everyone's complains, but it was very over-whelming. I couldn't help and satisfy everyone, so some people became angry.

I got some invitations for corruption. I ordered some new flowers for the town gardens. I just used the same place as my predecessor, because that seemed quite fine. When they did the delivery, the delivery man said that there are a couple of flowers for me, and asked me where he should put them. I didn't understand at first: did he mean for me, personally? I said that I didn't order any so he should take them back. He said he can't do that and left them. I didn't want to take them

home so I gave them to the office workers. I told them they are free to take. It made me wonder why I got the flowers. It could have been a friendly gesture, designed to make sure that we order from them next time. The worst case is that the previous mayor had some kind of deal with them. So they thought that the deal hadn't change. Anyway, I was satisfied with their delivery and I ordered from them next time and they didn't send any extra flowers.

A more serious case, which basically costs me my position, is the following. You can say that we are a tourist town, especially during the summer. There are 4-5 restaurants, pubs and buffet on the main square, which is the most frequented place. These establishments are owned by three people, and they have some other establishments around the town. They do not own the buildings - they are the town's property. I found out that they had a contract with the town, which meant that they were able to rent the buildings quite cheap. It was an old contract (6 years-old). The revision of the contract was due in the end of my term - if we were satisfied with their work we could contract them for another 6 years. I wanted to make the competition procedure public, so other entrepreneurs could bid for the places, or at least the old contractors should show some work and effort to keep the places. Interestingly, everyone was against me in this case -the contractors obviously, the council members, and some of the citizens as well. The entrepreneurs took it for granted that the place was theirs, and the citizens said that they don't want foreign people - that I should support the locals. I talked with the entrepreneurs personally and I said they have to understand that they have to take part in the new bidding competition. After that they started a campaign against me. There were some nasty accusations and conversations on the internet and in the local newspaper. Then the election came, and I lost by a couple of votes and I had to leave.

While I was the mayor I applied for many funds, and I controlled the expenditure and the reserves, so when I stopped being a mayor the village had 90 million Ft. After I resigned as mayor I stayed on as a council member, and in this way I could still have some overview of the village's financial records. In most cases the

council has to vote about projects and expenditure, it is not only the mayor's decision. Shortly after I left the new mayor made two decisions, one without the council, and another formally with the council, but legally without. In the first case he ordered a closed meeting, because of "trade secrets". This meeting was about the prolongation of the entrepreneurs' contracts. When I looked into the new contract I learnt that the entrepreneurs had to pay less than before. As I mentioned, when I left the post as a mayor the town had 90million Ft. In the first month the mayor decided that the town needed to re-decorate the square where the restaurants and pubs are - and the project would cost 45million Ft. The council had to make a decision about it. The mayor couldn't provide a detailed plan of costs and constructions. But the council voted yes. I don't understand how it could happen. I asked to look into the detailed financial plan of the construction, but as the other council member voted yes, I couldn't do a lot. I don't really know where to report.

Of course I am aware of where I could report officially, at the Ombudsman, but I have a personal experience with him. We invited the Ombudsman for the opening of the new library, so I was talking with him and with the other politicians who came with him. I didn't feel that he would do anything, he is just the same political person.

I would rather do it in an informal way. I would talk with people in the town, also I could write in the local newspaper, and there is live broadcasting of the council meetings in the local television. But last time when there was some argument at the council meeting they just stopped the cameras. Now the new mayor controls the whole media, so there is not a lot that I can do. I am also afraid. It is a small town, everybody knows me. I don't want to be the bad guy. I am afraid that someday someone will damage my car or so on. I have spoken up in the council, because I know the financial records of the town, and I know that we could spend that 45 million Ft in a better way, for example developing the school, or pensioner home, not to make the rich entrepreneur even richer. I just want to develop the town.

I would report if it is something very big, and against the town's development, then I couldn't let it go. This 45-million Ft project should be big enough, but I don't have any proof. On paper it will be all fine, and it was the council's decision. Whether they offered something to the council members for voting yes is another question. I don't feel safe. I would risk my position in the society. I have already lost some friends.

Author's notes / Analysis

The key highlights of the interview

Kalman refuses to enter into, and obey the norms of the social association, he only wants to accept the state law, which is unacceptable for the locals. This interview provided an insight into corruption's hidden connection's with local moral codes.

The key moments from the interview

1. General perception of corruption

Kalman's perception of corruption during and after the fall of communism is congruent with that of the primary school teacher. They are the same age, and they both lived during communism, which is a possible explanation for the similar opinion. However, it is possible to identify the following differences (1) According to Kalman the EU accession has had no effect on people's everyday life. (2) Kalman suggests that there was no corruption during communism (3) He also indicates that Budapest citizens and people from the countryside might have a different perception of informal transactions.

2. The cost of only obeying the state law

In opposition to Istvan's opinion in the previous section ("whoever claims that he or she never took part in corruption is lying"), Kalman states that he was in many situation when he had to refuse corruption, but he never took part in it. The fact that he lost his post as a mayor supports this statement. He failed to notice the inner ordering of the social association in which he became an important figure as the mayor. To support this argument I will use the interview to make a list of

where the norms of the social association became visible how they differed from the state law.

(1) Kalman was disturbed by the people's different behaviour towards him when he became mayor. Some people were frightened, and some got aggressive, but he just wanted to listen to all the complaints. He couldn't help everybody, which made him feel exhausted, and the local community wasn't satisfied with him - they felt he did not want to help, while he just wanted to keep to the formal ways.

(2) The case with the flowers revealed a possible 'uram-bátyám' relationship between the ex-mayor and the flower provider. The favour and bribe wasn't attached to the mayor as a person, but to the position. This action was not a simple attempt to bribe. In connection with this, Ledeneva (1989) notes that in post-communist countries it is possible to distinguish a long-term economic relationship (called 'blat') from transactions with a character of immediate reciprocity for a bribe.

(3) The same 'uram-bátyám' long term relationship appears in connection with the local entrepreneurs (restaurant owners). They considered the mayor's legally and rationally supported suggestion to announce a competition procedure for renting out the restaurant buildings as a personal attack. They reacted the same way by personally attacking the mayor instead of initiating a consultation or taking part in the competition.

(4) Kalman mentions that sometimes he does not understand the reasons and rationality behind the council members' voting. He has different morals and views to the rest of the council members. However it seems that the mayor's 'attack' against the local restaurant owners evoked an emotive reaction in the other council members as a violation of the norms of living law in the local community. Ehrlich (2002) suggested that people in communal relationships perform their duties whilst creating their own rules. Small municipalities in Hungary can be seen as communal relationship. In 2012, the State Audit Office (SAO) published a report on the deficiencies of internal audits at local government level in small

entities, based on a pilot involving 12 municipalities. The most frequent deficiencies were: lack of internal regulations, lack of definitions regarding powers and responsibilities, unregulated communication with external partners and lack of hierarchical management information system (EU anti-corruption report 2013). Some municipalities have adopted ethical codes, which mostly provide general guideline on fair treatment of clients without necessarily covering practical rules on gifts or favours (EU anti-corruption report, 2013). This shows that on local government level there are no strict regulations in place. The mayor has to learn and obey the rules of social association because that is the expected behaviour.

The way he lost his position, and how his behaviour was perceived by the local people, is similar to the situation described by Urinboyev and Svensson (2013) in connection with the ‘mahalla’¹¹ in rural Uzbekistan. They describe the case of two state officials who are centre of the ‘everyday mahalla talk’. “Sardor is a high level state official, while Rahmon is a district-level traffic policeman (low-level official). However, in everyday mahalla life, Sardor, despite having such a high official status did not have a decent reputation and was often described as a communist, a term that carries negative meaning and is used in relation to law-abiding state officials who do not share their political influence and resources with their kin and mahalla. As a high-level state official, Sardor had power and he could easily divert the resources to mahalla, but he always rejected the request of mahalla and asked them to solve their problems through formal channels. Because of his attempts to keep his public office separate from the private sphere Sardor was regarded as a communist in the words of many mahalla residents they encountered, while Rahmon who engaged in informal transactions was a man of respect” (Urinboyev & Svensson, 2013:378).

¹¹ Before the establishment of the Soviet rule in Uzbekistan, mahallas fulfilled local self-government functions connecting private sphere with public sphere. An informal council of elders (oqsoqol, or aksakal) provided leadership.

3. Formal and informal reporting

(1) As a local government member he tried the formal way for reporting and speaking up against the debatable actions of the new mayor and other local government members, but soon he realised the formal ways do not work (because they ordered close meetings, and they cut off the live TV broadcast). He tried informal ways, talking with the local citizens.

(2) His scepticism against the Ombudsman and his activity is interesting, because Kalman is admittedly idealistic. But he sees no point in reporting formally, and he regards the Ombudsman as a 'political person'.

(3) In his case the formal reporting and the fight against corrupt practices, or at least not engaging in them, did not only cost him his post as mayor, but his status in the society, and the village's local hierarchy. Sadly Kalman felt physically frightened as well - when he mentioned that he doesn't want someone to damage his car.

8.2.4. The external actors' opinion

Interview 4

Miklos Ligeti, Transparency International

"In connection with motivating formal reporting of wrongdoings we have been trying for a long time (10 years) to establish protection for whistleblowers. The TI's Hungarian chapter already employs some tools and forums where the whistleblowers can seek help (legal advice mostly) and has persuaded the government to implement the whistleblowing protection law (2013:CLXV). Although the law and the legislation appear to be formally acceptable, there is no instrumental background to achieve the protection. We have an active relationship with the British chapter and we gained an insight into their practices through working together. This revealed an enormous gap between the EU-standard whistle blowing system and legislation and the so-called whistleblower protection (laws and systems which are employed in Hungary). Whistleblowing is an Anglo-Saxon institute born in the normative order of Western Europe, and I think it only

really works in that cultures. Still, we haven't given up on establishing EU standard whistleblowing and whistleblowers' protection in Hungary. But we had to transform the institute to make it suitable for the circumstances, and the Hungarian legal and normative order. I don't believe that Hungarians are morally inferior. The society is simply not ready to overcome of the fear and negative feelings connected to speaking up.

Regarding whistleblowing, there is a double-layer problem in Hungary: the society as a whole doesn't support reporting and the actual legislation doesn't work. The regulation for whistleblowers only functions to legitimise the state power and also serves to provide EU conformity, but there is no real intent behind the words. It is clearly visible from the case of Andras Horvath, when instead of protecting the whistleblower and investigation, the state instituted legal proceedings against him.¹² Realising that we can't expect any real protection from the whistleblowing law, we have decided to work together with our partner organisations and we just launched a new whistleblowing program. Our intention is to provide publicity, legal and - if it is necessary and appropriate - financial support for the whistleblowers.

Laszlo Szekely, Ombudsman

(This material was collected from a conference on the evaluation of whistleblowing legislation, 2015 May)

In the last year we received 410 whistleblowing statements. In 70% of the cases the whistleblower requested anonymity. This high rate shows that the people are scared of the consequences. We were afraid when we launched the project that we would receive a high number of reports, but the data refutes the stereotype that the Hungarian nation is an informer nation. Only 40% of the reports fit the criteria as being legally grounded.

¹² Former tax administration (NAV) employee Andras Horvath went public claiming that the reluctance of the NAV to uncover VAT fraud arbitrarily favours some businesses and results in hundreds of billions of forint losses of revenue each year.

Fanny Hidvegi, TASZ (Society for the Civil Rights)

The current regulation doesn't protect the whistleblowers, so our civil organisation suggests to people who seek help to not submit a report because currently there isn't any institute in practice which would protect them from retaliation. In theory retaliation of any kind should not happen, but in practice, if it happens there are no negative effects for the retaliator. The law also doesn't protect the whistleblowers if they want publicity, for example talking with the press, and also they don't get exemption from the obligation of confidentiality.

Author's note / Analysis

It is important to emphasise the differences between the national legislation of whistleblowing in EU countries and the concepts and tools employed by Transparency International. The national chapters of the TI have been involved in shaping the new law in many EU countries including Hungary. The British whistleblowing legislation (the Public Interest Disclosure Act, 1998) is the first and best act of this kind in the EU (EU Anti-Corruption Report, 2014) and it serves as an example of good practice for other member states. Therefore a comparison between the Hungarian and British national legislation can highlight the difficulties. In Hungary the new law on whistleblowing was adopted in October 2013. It aims to ensure safeguards of confidentiality of reporting and the protection of whistleblowers from any negative consequences of their action. The British act contains a prohibition on penalising workers who make protected disclosures and a wide definition of 'worker' to include employees, contractors, agency workers and work experience students. Hungarian law doesn't define who can submit a report, and it clearly doesn't define whistleblowers as workers. It can be seen as a positive thing - because in this way the protection is not limited to a certain group - but in practise it makes the legislation vague and results in the misunderstanding of the institutes' function that I will describe later. The British act also lists a broad range of 'relevant wrongdoings' which can be reported including criminal offences, breaches of legal obligations, threats to health and safety or the environment, miscarriages of justice, improper use of public funds or

any attempt to conceal information in relation to such wrongdoings. The Hungarian legislation only provides a vague definition about what can be reported, and the same act also regulates another legal instrument – complaints – which can cause confusion. The biggest shortcoming of the Hungarian legislation is that whistleblowers are not protected from procedures against them in case they reveal professional or commercial secrets. Finally, the British act employs a ‘stepped disclosure system’ which encourages workers to report to employers in the first instance. According to the Hungarian legislation, the whistleblower should submit the reports to the Ombudsman, which once again provides another confusing situation as the Ombudsman already has a similar role dealing with complains. For an average citizen it is difficult to decide, without exact definitions, whether he should submit a report or a complaint. Before the ratification of the act, the Hungarian TI submitted a critique which consisted of 21 objections and a detailed suggestion of how the legislation could approximate the EU standard whistleblowing laws. The act was ratified without changes. According to the law, the Ombudsman’s homepage should contain a short summary of whistleblowers reports and the decisions made. Since the set up of the system, only two hundred and fifteen cases have been published, and only a few would be labelled as whistleblowing according to EU standards. Half of the cases were rejected because the report wasn’t whistleblowing, or because the whistleblower wasn’t identified.

9. Conclusion

In this paper I addressed questions about the persistency of low-level corruption in post-communist Hungary. I was interested in the reasons why people continue to pay bribes. I wanted to explore the reasons behind the low frequency of formally reported petty corruption cases, and also under what circumstance people do report wrongdoings. I made an attempt to find the difference between the legal definition and informal definition of corruption (as it is perceived by members of

society). And finally, to ensure the completeness of the thesis I addressed questions about how the problem of wide-spread petty corruption and the low level of officially reported petty corruption cases is perceived by external actors (such as anti-corruption organisations and the government / relevant ministries), and to what extent this perception is reflected in their policies.

General perception of corruption after the system transition and EU accession

The perception of corruption during communism is dependent on whether the interviewee actually lived during that period, or just learnt about it at school, or heard about it from their parents and grandparents. It is also dependant on the informant current political view. A typical view of communism of the younger generation with political influences is the following: *“It is hard to change in such a short period after 47-years of communism, which built on the corruption. The people who were born after the system transition are only 25 years old, but I think that when they grow up, and they will be in a position where they can make decisions then there will be some changes. But maybe the changes will appear only after one more generation. Communism destroyed the middle-class and civil intellectuals and it is hard to build it up.”* (26-year old female doctor). However, all generations and people with different political views agree that after the EU accession the situation worsened, especially because of the EU funds and the inadequate application system, implementation and control of those. There are difficulties with the implementation of the EU anti-corruption policy as well. Even where anti-corruption institutions and legislation are in place, the enforcement is often insufficient in practice. This reflects a lack of firm political commitment on the part of leaders and decision-makers to combat corruption in all its forms, including petty corruption (Dimitrova, 2010). My findings support the idea that after the fall of the communist system, the phenomenon of petty corruption persisted and even proliferated in these societies (Holmes, 1997), and it is possible to argue that after the EU accession this proliferation continued. Most of the interviewees thought that although democratisation is in process, Hungary needs a much longer time and a generational change to forget communism and

build up a democratic state and society. It seems that people are open for the change. There was an open vote about the EU accession and people had high hopes after 2004. The democratisation is still in process.

The reasons to take part in informal transactions

Based on the interviews I could identify four main reasons to take part in informal transactions. The interviewees referred to these practices sometimes as excuses or reasons depending on the person's perception of the coercive grade of the situation (for example when they could identify a legal, but inefficient or more difficult, way to act they referred to the informal transaction as an excuse). It is necessary to emphasise that in this thesis I am not suggesting that these are the only reasons, rather I try to complement the literature and the previous research's findings in the same areas. The reasons differ at a systemic level. By making a distinction between systemic levels I try to achieve a more operational way of understanding the problem. Before explaining the systemic levels I have to note that there is always a subjective element: for example as the interviews revealed it is relative that the interviewee considers a low salary enough of a reason or excuse for corruption. It is possible to distinguish two types of reasons: structural and individualistic. Structural reasons occur when the state's shortcomings in one or more areas (legal or economical) generate a situation for corruption (the interviews revealed low salaries and inadequate legislation as examples of shortcomings). Although, when there is a political will (and resources) these problems could be solved at a structural level. The second type are the perceptive or individualistic reasons - when the interviewees do not consider their act with regards to a legal/illegal perspective (according to state law), they follow their own or the institute's moral codes.

Structural reasons

1. Low salary: Every interviewee mentioned that their salary is too low and that they have to complement it, which they achieve through informal economic practices, often using the institute's or state's resources. Polese's (2008) findings in post-Soviet Ukraine revealed similarities between the Ukrainian and Hungarian

education and police sectors and Rivkin-Fish's (2005) research highlighted similarities between the health-care sectors in Hungary and Russia. However, there wasn't agreement between the interviewees about whether a pay rise would result in less frequent engagement in corrupt practices, or whether it would result only in higher living standards and bigger demands. Hungary has the second lowest minimal salary in the EU¹³.

2. 'I have no choice, because the regulations are wrong': Most of the interviewees mentioned problems with the regulations, either in connection with the state law or even the formal norms of the institute. Some laws don't follow the rationality of economics, or make the situation complicated or even impossible. In these situations it is easier and more profitable to follow the informal norms of the institute or the best economical solution. The inadequate regulation can be explained by the shortcomings of the transition legislation, and also by the legally plural situation which is the result of the EU accession (Barber, 2006).

Perceptive or individualistic reasons

3. 'I am pressured by my superior or the institute': It was mentioned by several interviewees that because their superior was involved, they didn't have much choice other than to collaborate if they wanted to keep their job, or if they wanted to be successful in the job. Jancsics (2014) identified a similar imperative for engaging corruption, which is 'ordered to be corrupt'. This imperative differs from my findings, because many of the interviewees realised that their superior engaged in informal transactions either to support the institute, or to guarantee working places and financial resources - this made them consider the corrupt practices to be at best acceptable, or at least made them looking away when it was happening. The superior's behaviour provides a reference point to the individual member of the social association and tells them not only what conduct is expected of them, but that also tells them, in relative terms, what they can expect from

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http://ec.europa.eu/eurostat/statistics-explained/index.php/Minimum_wage_statistics/hu

others. Ziegert (2013) describes this as a 'reflexive web of normative expectations' - which constitutes the domain of law.

4. Just go with the flow: People mostly just don't think about whether their transaction is corrupt or not. In the interview I asked the participants to think about the transactions and the terms 'corrupt', 'illegal', 'informal' and 'immoral'. It was interesting that some of them realised in front of me that what he or she had done might be against the state laws, because most of their transactions were on such a small scale that they couldn't hurt anyone. This is congruent with Rumyantseva's (2005) findings in Uzbekistan where some of interviewees believed that a little corruption does not hurt anyone. The interviewees noted that some small-scale corruption wouldn't cause damage for anyone, only for the state and the EU. But as I learnt: *"If you steal from the state, it is not stealing really - cheating with taxes and public and private procurement "mutyi" is a national sport in Hungary"* (32-year old, PhD student).

I have to mention the survival tactic (as it is presented in the literature of post-communist societies (Ledeneva, 1989, Karklins, 2002)) as a reason. I think there is no need to define this as a separate reason if we look the four listed above - each of these describes a situation and a society where people can't live without engaging and initiating informal practices - because they will 'lose the game'. I found that the 'uram-bátyám' or 'blat' system still functions as an alternative to when the legal way does not work.

The reasons behind why people don't report formally:

1. 'Where to report?': This was the question that they asked the most. There was no institution where they could report and feel safe. Also, when they report they should provide evidence such as documents, videos or audio footages.

2. 'Even if I would report something, nothing would happen': There is very little trust in the authorities and police. Sadly, the Ombudsman appears to be a 'political person' (i.e. he is influenced by political considerations rather than being truly independent as he should be).

3. They fear the consequences: They don't only fear the direct or personal consequences, but also that their report might damage the reputation of the institute - and even that indirectly they might lose their job. It is better to have a low salary and a safe job where they can complement their salary in an informal way, rather than to have no job.

The low frequency of formal reporting doesn't mean that the people do not try to complain or solve their problem in an informal way. Every interviewee described which methods they used to be heard or how they tried to control other people's informal practices to keep the corruption under control. The form of the informal report or interference depends on the unwritten rules of the organisation, the social group or the local moral codes. The existence of the informal way show similarities to Ehrlich's 'opinion necessitatis', where he suggests that the norms of living law are unique in that the emotive reaction it evoked in people for its violation is revolt (Tervino, 2013). The following is a good example from a university teacher (32-year old) - *“If you confront the leaders directly it is not a very good idea and we don't really dare to do it. I am using informal channels, for example there is an opinion box or you can make some well directed comments or hints to the department administrator, who knows all the gossip.”*

However, people would report. It depends on their position, because if they are higher up in the organisational hierarchy, it is easier to report. They wouldn't report after they left the organisation, because they wouldn't be interested or affected by the wrong-doing any more. The reported case should be something which (1) includes a big amount of money or is extremely immoral, or (2) would affect the organisation's reputation, or the people inside the organisation's reputation, very badly, and (3) they have enough evidence to prove the wrong-doing, and (4) they would feel protected. It definitely doesn't include any personal reasons. This description of what they would report is promising, because it is mostly covered by the TI's definition of whistleblowing. Most of them stated that they think there will be a time when they will have enough evidence and they will speak up.

The informal definition of corruption

The legal definition of corruption in the Hungarian context is situated in the Code of Punishment (2012:C). The Penal Code does not provide a general definition of corruption, instead it lists a statutory definition of activities which are considered as corruption such as bribery, state official bribery, bribery in judicial or administrative procedure and profiteering with influence (2012:C 290-300§). Every offence has an active and a passive form, such as initiating bribery and accepting bribery. The National Anti-Corruption Strategy (2015-2018) also refers to the definition of corruption as it is defined in the Penal Code as a collection of illegal activities. The rules of penal codes are only fully interpretable by looking into the court practice and judgements, which are a crucial part of the legal system. The so-called justifications of the Penal Code and the commentary which is based on the judicial practice also help to understand the concept. Providing an example, the judicial decisions and the commentary address questions such as if the money was given after the service, is that considered as corruption? (BH 2004. 6) (This is congruent with the debate about the legality of ‘thank-you money’ which was described earlier). The Code of Punishment (1978: IV) was re-written in 2012 and in the case of corruption some of the statutory definitions were modified, meaning that some of the old judicial decisions are invalid. The commentary suggests that some of the corrupt practices do not comply with the strict statutory definition - these are considered as not strictly corruption cases, however they contains relevant elements.

A detailed description of all statutory definitions and judicial law would exceed the limitation of this research. Therefore firstly the informal definition of corruption will be presented as it was revealed by the interviewees. Secondly, I will compare the legal definition to the key elements of the informal definition.

Based on the interviews the definition of corruption should include the following:

1. The abuse of property of the state or the institution, or of EU funds.

2. Corruption as an act is by definition unnecessary. This means that it is not part of 'survival tactics' - it is more to complement low salary levels.

3. Corrupt acts are voluntary - they come from a free-will decision. The actor is not forced by circumstances, superiors or the organisation.

4. A significant amount of money is involved.

5. The act could damage the institute's reputation or affect other people in the organisation.

The legal definition in relation to the formal definition:

(1) It is congruent with the legal definition, which also includes international organisations, treaties.

(2) The legal definition does not consider situations when corruption is necessary, however the judicial practice would consider the motive of the act. This might result in limiting the sentence, which is in general 3-5 years imprisonment.

(3) The coercive power which comes from the organisation or superior would nullify the fact of law, but in the informal definition it is only based on perception not real coercivity.

(4) The law considers not only significant amounts, but any amount of money, and also inexpensive objects, favours or even food which are not customary gifts if given with the purpose of initiating a corrupt act.

From the interviews it became clear what the interviewees regarded as 'real' or 'proper' corruption, and what they regarded as only 'tricks', 'survival tactics' or 'must do'. The distinction between the different types of corruption - necessary or pure greed - indicates the existence of a dual morality in bribery and reveals the multi-faceted meaning and morality of informal transactions. The distinction, and the interviewees emotional reasoning, reminds us of Ehrlich's 'Opinio necessitatis', where he suggest that the legal norm of living law was unique in that

the emotive reaction it evoked in people for its violation is revolt (Trevino, 2013:8.).

The external actors' opinion and their policy:

The quote from the Ombudsman clearly shows that he does not (or rather does not want to) understand the function of whistleblowing. His statements and reasoning are also contradictory as the reason for the low number of reports might be the fear of the retaliation. The whistleblowing doesn't encourage 'informers', only people who act for the public interest. The state agency is also satisfied with the low number of reports, when the target should be achieving a high number. The state agency's opinion and approach appears clearly in their policy and functioning: as long as the institute exists and in some functional aspects satisfies EU conformity, their job was successful. As we learned, the TI won't give up on the fight for the protection of whistleblowers - they try to adapt their policies to the normative and legal orders and the needs of society. Realising that they can't trust the state institute and legislation to achieve the protection for whistleblowers, they try to guarantee publicity for the whistleblowers and legal protection supported by legal experts. They also maintain a conversation with the ministries and state offices, because the full protection for whistleblowers can only be achieved if it is supported and guaranteed by state law.

Contribution to the categorisation of petty corruption in Hungary

Karklins (2002) suggests that post-communist corruption has many sub-types, some of which are institutionalised: corruption is rooted in systemic features of the communist system and the transition from them. David Jancsics, Hungarian organisation sociologist, conducted extensive research on the subject of low-level corruption in Hungary (between December 2009 and May 2011). Based on the fieldwork, which comprised around fifty in-depth interviews, he presented his findings in three research papers (2013, 2014) in which he explored different aspects of the same phenomenon.

After the data analysis I recognised the importance of the categorisation of corrupt acts in order to understand the reasons behind the persistency of low-level corruption in Hungary. I also recognised that instead of making new categories, I could contribute to the existing categories. I now present the categories established by Jancsics along with my contribution to the categorisation. Firstly, Jancsics (2014) identified imperatives in informal resource exchanges. He established two main categories: the macro-level imperatives and the organisational-level imperatives. He argued that the organisational-level imperatives can be found in all society, while the macro-level imperatives are special in post-communist countries' social settings. Within the macro-level imperatives he made two sub-categories: universalistic norms - which can be seen as norms in the whole society - and material structural imperatives - which are more individualistic. Inside the universalistic norms, there are two more distinctions, which Jancsics calls: 'consume more' - referring to the situation after the fall of communism when it became possible to buy more goods - and the 'Robin Hood attitude' - which legitimises stealing from the state or the abuse of the state property. The material structural imperatives are: 'I cannot afford to violate the rules' - which can refer to low salaries - and the dysfunctional post-socialist institutions - which represents the problem with the regulations, and also with the institutions. The organisational-level imperatives can be pluralistic norms - such as the rule 'do not turn on an in-group mate' - or material hierarchical imperatives. The latter can be the imperatives of gatekeepers¹⁴ or 'ordered to be corrupt'. During the analysis I could identify these categories in my collected data. However, my approach differs to that of Jancsics - I used living law theory and legal pluralism as the driving theories. I considered the organisations (primary school, sport organisation, local government) as 'social associations' as described

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The literature tends to distinguish between two types of corrupt practices: collusion and extortion (Mishra, 2006) In case of extortion the agent uses his or her authority to force the client to pay a bribe.

by Ehrlich (2002) as a plurality of human beings who, in their relationships with one another, recognise certain rules of conduct as binding, and, generally at least, actually regulate their conduct according to them. I found living law imperatives beside the two main groups listed by Jancsics (macro-level and organisational-level). Therefore I suggest adding so-called living law imperatives (horizontally) next to macro-level and organisational-level imperatives. These living law imperatives are based on the causes of taking part in informal transactions that I have described above. I would not identify 'low salaries' as a living law imperative, but 'wrong regulations' as a structural factor provide a possibility for living law imperatives to emerge alongside individualistic factors:

1. Wrong regulations - contradictory regulations, laws without precedents or institutional background and laws which don't consider the rationality of economics generate rules which are not ratified by the state law, but which actually work as a tool to overcome impossible legal situations. In this case the facts of living law have a greater impact on the situation than the law posited by the state (Ehrlich, 2002).

2. 'Just go with the flow' - In this case the person doesn't recognise the act as illicit, because it is so ingrained as an everyday informal transaction. These suggest on the one hand a dual morality regarding informal transactions, and on the other hand rules which could be said to have evolved spontaneously out of social life, and that there is an inner ordering of the associations (Ehrlich, 2002).

3. 'I do it because I am pressured by the institute or by my superior' - This differs from Jancsics's organisational-level category in that there is no direct order from the superior, but the superior sets the rules which differ from the state's and the organisation's formal rules. Ziegert (2013) describes this as a 'reflexive web of normative expectations' - which constitutes the domain of law.

I found that none of the corrupt situations can be described by only one of the imperatives - they are always the combination of two or more. However, it is possible to identify the main driving forces.

In another research paper Jancsics (2013) explored the relationship between the client and the corrupt actor. He separated two different types of cases: when the client and actor do not have a prior relationship - i.e. external factors dominate - and cases with stronger social ties between actors and client - here there is more freedom to structure the relationship. He also analysed the exchange structure of low-level corruption, and found that often a third actor is involved. He calls it brokerage, and identified five types: representative, entrepreneur, gatekeeper, extra services and multiple inside brokerage. Jancsics (2014) also differentiates by the participant's social status (based on their education and occupation): elite, middle class, entrepreneur, working class (no college degree, manual workers, low-level administrative) and lower working class. Every interviewee who took part in my research was middle class.

Based on the collected data and the analysis I would suggest adding the following categories vertically:

1. The actors' perception of the corrupt act, which can be negative, positive or necessary, or a combination of two of these.
2. The main reasons why people remain silent when they notice wrong-doing (in this case a corrupt act). This can be divided into: inadequate legislation, fear of retaliation, 'I don't know where to report' and lack of trust in the institutions and in the legal system.
3. If people do report or speak up against corruption, in what form are they doing that? In an official way or an informal way?

These categories are important if we try to understand the complexity and the reasons behind low-level corruption in post-communist countries. Also, in future research we can trace and use these patterns.

The table in Appendix IV contains Jancsics' categorisation of low-level corruption as it appears in the different research papers complemented by my suggested categories.

10. Final Remarks

The democratic transition after 1990 triggered political fights for power. As a result of these campaigns, different political parties gained power at each subsequent election. When one government initiated laws the next government almost immediately overwrote them. This resulted in legal instability and created financial losses. The current government's intention to create new laws in every segment of the state - including the constitution - does not help the democratic transition (even if the intention is good). The new laws have many shortcomings, and the government party, which controls more than two-thirds of the parliament's seats, can easily initiate changes. The civil organisations, including the TI, are only formally involved in the democratisation process. There were unfortunate examples recently when the government attacked NGOs and stopped them functioning legally (e.g. the case of the Norwegian Fund¹⁵). There are continually attempts from the civil sphere to make things better. For example the Hungarian Resident Association suggested that doctors who promise not to accept gratitude payments, and wear a green badge to signal this to patients, should get higher salaries (Népszabadság, 7 January 2011) - without result. Citizens are getting more and more conscious about the fact that the democratic transition should come from the society, and not be pressured by the law. The wide-spread demonstration against some new laws and taxes, the popularity of political blogs, TV channels and radio programs are sign that the people are thinking democratically. There is a whole blog-culture, where people debate current political issues, corruption cases and civil rights. The leaders of civil social organisations believe - as Miklos Ligeti pointed out - that the Hungarian people are not morally inferior to the western EU citizens. The democratic transition is still happening - it did not end with the EU accession.

¹⁵ <http://hungarianspectrum.org/2015/05/30/the-war-between-the-hungarian-government-and-the-ngos-continues/>

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Appendix

Appendix I

The forms of governments

arrival to the Carpathian Basin - 895- tribal confederation

895-1000 Principality

1000-1438 Patrimonial Monarchy- Kingdom

1438-1848 Feudal Monarchy

(1541-1699 Ottoman Hungary)

1848-1918 Constitutional Monarchy

1918-1919 I. Hungarian (People's) Republic

1919 Proletarian Dictatorship

1920-1946 Kingdom (without a king)

1946-1949 II. Hungarian Republic

1949-1989 Communist Dictatorship (People's Republic)

1989- III. Hungarian Republic

Appendix II



LUND UNIVERSITY

Faculty of Social Science
Sociology of Law
Department

Participant Information Sheet

Study title and Researcher Details:

Title: *Exploring the reasons behind the persistent low-level corruption in Hungary through the practice of the European Union-wide regulated institution of whistleblowing*

Researcher: Fanni Gyurko

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Master Thesis in SELA (Master of Science Programme in Sociology of European Law (120 credits))

<http://www.soclaw.lu.se/en/education/masters-programme/about-the-masters-programme-sela>

Invitation paragraph

You are being invited to take part in a research study. Before you decide it is important for you to understand why the research is being done and what it will involve. Please take time to read the following information carefully and discuss it with others if you wish. Please ask if there is anything that is not clear or if you would like more information. Take time to decide whether or not you wish to take part.

Thank you for reading this.

What is the purpose of the study

The low-level or everyday corruption is a form of corruption which appears between the citizens and low-level official, and during which sometimes is difficult to decide that the motivation of the informal transaction is friendship or private gain. In most cases the two comes together and it is difficult to distinguish. This dual situation was widespread in the post-communist countries, and it didn't stop after the system transition and he EU accession. This informal economic transaction is part of everyday life. The actors don't think about that what they do is illegal, they refer to it as a part of the survival strategy. Sometimes the complexity of the laws and inadequate legislation provide a situation when the logical step is initiating an informal transaction. In this research I will examine the possible explanation of the persistency of low-level corruption from the view point of those citizens who can abuse state property or power for their private gain, because of their position in the organisation. These employees are everyday relationship with citizens and from their position it is difficult to separate the corruption from private informal transactions.

What will happen if I take part?

It depends on you and only you that you want to take part in the research or not. Even if you decide that you take part, you can resign anytime without stating any reason. It will be an informal interview, which can take between 30 minutes or 1 hour 30 minutes. During the talk I won't use any audio or picture recording.

I attached the guiding questions, what you can expect.

Will my taking part in this study be kept confidential?

Please note that assurances on confidentiality will be strictly adhered. You will get a number to register, I won't use your name, address or any personal data, you won't be recognisable.

What will happen to the results of the research study?

The result of the study will be my master thesis, which will be approximately 60 pages/ 20.000 words. It is possible that shorter article will be produced from the collected material and the results of the master thesis, which will be published. I will use the collected material for my PhD thesis as well.

Ethical Statement:

I, Fanni Gyurko state that I won't use and abuse any personal data. The collected material will be handled in a secured way, the participants won't be recognisable in any ways.

Fanni Gyurko

Appendix III

Unstructured interview questions and the process of the interview:

1. In the beginning of the interview:

I explain my research topic and make sure that the interviewee understands that we will talk about corruption, which includes questions about illegal and immoral practices. I will explain the ethical issues around the interview and I will also give them a written copy of the ethics, which they can examine before the interview.

2. General questions:

1. What do you think generally about the corruption in Hungary?

1 a Do you think that is there any change in the situation of petty corruption since the democratic transition (1987)?

1 b Do you think that there is any change in the situation of petty corruption since the EU accession (2004)?

2. How common or widespread is corruption in your opinion? why do you use informal means?

3. What are the typical excuses or explanations for corruption?

4. How does corruption influence your life?

5. Who could initiate a corrupt transaction in your organisation and in what situation?

5 a Are there rules, codes rituals or routines in this transactions?

3. Specific questions:

6 Have you ever participated in corruption, illegal means, coping strategies?

7 Have you ever used the organisation's resources or your power (which comes from your position) for private gain or resources exchange?

8 Do you know someone else in your organisation who have used the organisation's resources or his /her power for private gain or resources exchange?

8 a How did you regard this act? (positive-negative- necessary)

8 b Did you consider this act as corrupt?

8 c How would you define corruption with your own words?

8 d Could you define the border-line between an informal transaction and an illegal corrupt act?

Boundary between gift and bribes? in which case do you think it became? gray zone? voluntary and mandatory

9 Do you know about any wrong-doings in your organisation, which could be reported under the protection of the whistle blowing act?

9 a Have you reported it in any official forum or ways?

9 b Have you considered any informal way to stand against the wrong-doing?

9 c Why do you remain silent about it?

10. When would you report a corrupt act?

10 a Is there any situation why you would report a corrupt act?

10 b Is there any time when you would report a corrupt act?

10 c Does your decision about reporting depend on you position and the corrupt actor position in the organisation?

11 Do you feel secure and protected in case you would report a wrong-doing?

Appendix IV

categories (post - communist Hungary)	Petty corruption							
1. imperatives in informal resource exchange (Jancsics, 2014)	macro-level imperatives				organisational-level imperatives			<i>'Living law' imperatives</i>
	universalistic norms		material structural imperatives		pluralistic norms	material hierarchical imperatives		<i>1. wrong regulations 2. 'just go with the flow' 3. 'I do it because I am pressured by the institute or by my superior'</i>
	consume more	'Robin Hood attitude'	'I cannot afford to not violate rules'	dysfunctional post socialist institutions	Don't turn on an in- group mate	gatekeepers	ordered to be corrupt	
2. relationship between the client and the corrupt actor (Jancsics, 2013)	the client and actor do not have a prior relationship - external factors dominate				cases with stronger social ties between actors and client - more freedom to structure the relationship			
4. brokerage in low-level corruption, 3 rd actor (Jancsics, 2013)	1. representative 2. entrepreneur 3. gatekeeper 4. extra service 5. multiple inside brokerage							
5. The participants' social status (based on their education and occupation)	1. elite 2. middle class 3. entrepreneur 4. working class (no-college degree, manual workers, low-level administrative) 5. lower working class							

(Jancsics, 2014)			
<i>The actor's perception of the corrupt act:</i>	<i>positive</i>	<i>negative</i>	<i>necessary</i>
<i>If people do report or speak up against corruption, in what form are they doing that?</i>	<i>formally</i>	<i>informally</i>	