

Corruption Risks in the Organisation and Operation of Tax Administration in Hungary

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Abstract

The corruption of the tax authority from the practice of large taxation.

I described the specific tax authority corruption that is inseparable from the successful budgetary fraud patterns, on the basis of realised risks and true corruption cases. As long as based on the underlying principle of legal equality, legal aid and supportive expertise can be bought, we do not feel the effect of corruption. As in this system the social contract is secretly overruled and superiorly damaged by personal interest, even disguised as group interest, all kinds of justice – and here I mean the ‘existing justice’ of the tax-levying government – falls prey to individual interest. Then the objective justice becomes the justice of those who paid for their place in this protected zone, for this immunity, and compared to them, everyone else becomes deprived, or at least robbed of their justice.

Key-words: *corruption, deviancies in taxation, budgetary fraud, reproductive budgetary fraud, productive budgetary fraud.*

‘For how long and how can one stay aside – for how long is it possible, that stories are about anybody but the one, who is talking?’¹

I collected and processed my primary observations on the corruption of the tax authority from the practice of large taxation. I was compelled to do this work by someone who has had high level observations of corruption since the foundation of the organisation. In November 1999 we assumed that our observations are essential in order to improve the organisation and operation of the tax administration. Its thoroughness has been strengthened by a data collection in the second part of 2002. Former managers and tax inspectors gave contribution to my systematising work. The next noteworthy data collection has been carried out, as an observing participant, during 2006. Since 2010 I have been continuously collecting and analysing the corruption observations that occurred during my forensic and contribution expert job. I designed my longitudinal research plan in 2013 to monitor the corruption risks of tax authority and the realised risks.

‘The corruption risk does not show the existence of corruption, but it calls attention to the organisational situation in which the probability of corruption is high, however, the chance of its surfacing, uncovering, provability is little, perhaps it converges to zero.’ – said István Jávör about organisational corruption, analysing the

¹ Barak László: A halálnepper. Kalligram, Pozsony, 2010. – in: Balázs Imre József recenziója: Tízmondatosok a félelem helyeiről, Korunk 2011/9.

operation of the tax authority as well.² He also states here that ‘if the risk of organisational corruption is high, then the risk of the realisation of this corruption is also quite high, which increases by time’.

I described the specific tax authority corruption that is inseparable from the successful budgetary fraud patterns, on the basis of realised risks and true corruption cases. Due to the exact knowledge of the chronological facts of the case, subjects and behaviours, my conclusions are focused and assured.

I tried to shed light on a fast spreading local sociopathy that infects without immune response and has never been described before in Hungary, so it is hard to proceed on a road that is paved by international literature. Maybe the result of this work can be that it connects me with the research of other criminologists, sociologists.

I designed a longitudinal research plan that can help in the scientific verification. Until the reliable assessment of the research on corruption risks, I rely on the results of the research on the realised corruption risks. On such results of which conclusive power, frequency, sufficient redundancy, proven coherency, as a forensic expert I have gained certainty.

When Sutherland terminologically captured white-collar crime, he described the criminological character of a well-known phenomenon – in the time and place of its definition – in a valid manner, but looked way beyond it, that is why I refer to the impactful criminological observation from 1940.³

When I quote Mérei, I do not want to draw, by any chance, any comparison between his pedagogical-sociological research findings, still I borrowed this great terminology: ‘the hidden network of communities’. It will be discussed in the sense of criminology. Neither the non-internalized, non-corrupted criminal authority, nor the national sociology and criminology has defined profoundly the peculiar network, the relations of this network, and the harmful consequences of these relations, due to which the national tax authority has gotten into the situation where it is now in Hungary. This is a hidden network, which is entrenched by internal sympathy (many converging interests) into the observed tax authority organisation, into the more broadly defined “system”, and also into the social relations that are ‘made risk free’ because of the hidden network of communities, and finally – though in a restricted manner – it sustains a ‘feudal tax exemption’.

There are two paths ahead of us: we can either suppress the distress signals or observe why they are here, what we do not know about them – and what it is that we can learn about them. The scientific verification of my conclusions are partly based on sociometric foundations, partly on document-analysing, partly on documented half-structured interviews, moreover, as an in-depth observer I could exclude the assumptions from this hypothetical work.

The risks and traps of corruption perception – deviancies in taxation

We pay tax in a risk conscious – risk avoiding environment. It is expected from the tax-levying government by the taxpayers, and the institutional system of taxpaying-taxation returns this with its demands. In contrast to that, task risk is not only bad, but

² Jávor István: *Korrupció az állam csapdájában. Felelőtlen szervezetek – korrupciós mechanizmusok*, 2014, Akadémiai Kiadó, Budapest.

³ Edwin H. Sutherland: *White-Collar Criminality*, 1940.

also good. Tax risk is multi-layered. The voluntarily law-abiding legal entity has to pay attention to every taxable facts of the case in their legal statement during their self-assessment, first and foremost in their tax declaration. They have to act in accordance with the procedural and material law norms. Tax risk includes the incorrect legal interpretation, other error in law and the legal consequences that fall on the legal subject, with all of its economic consequences as well. Furthermore, it also includes the legal and economic consequences that stem from purposefully illegal law bending. The component of risk taking that is associated with norm-following and the individual consideration of the compliance to tax law, is the beneficial risk part that economically can be taken into the norm-following dues, and in doing so, it is a rational cost. In a colloquial sense it means that it is worth complying, it is useful to conform to the norm.

The tax-levying government, apart from taxes, expects – even if it does not declare – this rational cost from every single taxable entity.

If the corruption of the tax authority is an atypical behaviour pattern and a rare practice, the taxpayer's tax law compliance is indeed a rational cost, because the task risk, in case of a norm violating tax practice generates extra cost for the taxpayer which does not pay off, so it is not a rational cost anymore. It is a simple rule, it is easy to understand it.

On the other hand, if the tax authority corruption becomes a noticeable behavioural pattern, if it is reproduced steadily and becomes a successful way of adaptation, then for the morally fragile subjects its cost becomes rational. If this practice can be experienced as a culture of high society, if this means the correct avoidance of vulnerability, if the subject's morality is not resilient, he will use it, when he can. And he is indeed using it. My statement cannot offend anybody, because this illegal taxing practice is not demanded by prescriptive legislation, so this possibility definitely must be sought after and chosen. The problem is that this possibility does exist.

And still, deep down there is the possibility of getting caught, which this weird and amoral elite culture wants to hide. Is it not the risk that those who pay for the remission of sins want to avoid, buying immunity against norm-violation, instead of paying the rational cost of following the norm?

As if the strongest currency would be common sin. You can be relieved. You cannot. This is the DNA of corruption. And it plays for high stakes.

Nowadays the economic aspect of the following and adaption of law should come to the front as well. It should be discovered by now that mutual and voluntarily norm-following makes us able to – besides the minimisation of the costs of abiding by the law – force our interests legally and effectively. At the same time, we have a fundamental need for the balanced and non-biased audit of norm-following by the tax authority; irrespective of the fact that we live in the adolescent years of the elite deviances, the control of the organisational criminality cannot ruin institutions, and taking these into account, it is not enticing, because every organisation is responsive, especially the tax authority which is the most exposed to economical relationships. It is not inconsequential that during its learning to what requirements does the tax authority adapts openly and secretly. It is also not inconsequential, whether the hidden organisational operation and adaptations are realised in legitimate or illegitimate zones, and finally it is not inconsequential whether the legitimate adaptation happens in controlled or self-verifying spaces.

So tax risk applies to everyone. It is large-scale. The means of risk aversion cannot be bought immunity. The additional costs of taxpaying have to be included into the cost

of abiding by the law. Besides the payment of abiding by the law, compliance to the tax law and the correct practice of the dispensation of justice have to become mainstream. The collateral branches have to be cut off. Those nodes that have different agendas than the mainstream have to be eliminated.

So tax risk is necessary in order to keep up the legitimate operation. Its level has to be limited and rational. And above everything else it has to be legitimate and controlled.

There can be no place for intimate spaces in taxation. However, spaces and cases that are sensitive and secret, but are under the control of the legitimate institutional system, can still remain. This is in the interest of the government. In this case, and in this case only it is in the interest of the citizen.

Nevertheless, the mass tax risk needs to be handled by proper measures. According to the status quo, the intimate spaces of the tax authority and the little and big nodes of immunity are on opposite sites of this. They are quite forcefully so. The ending is inestimable.

However, the Credit-World-Stadium Foundation carried out a survey in 2010 May-June⁴, looking for the answer to the following question: whether it is possible to manage the tax-risks in a benevolent and correct way in an insurance framework, and if it is, in what form. The survey was online and voluntary. 302 companies completed it. The scope of the research included the discovery of the patterns of the countries having developed insurance culture and also the Hungarian taxpaying culture.

While conducting of the research, the 2009 annual account of the tax authority has also been analysed. After the analysis of the data of the survey from the 300 companies, Szalai came to the conclusion that in Hungary, in 2009-2010, the companies of 10-49 people are the ones who feel the most that tax-risk is serious. He gathered that decision makers only slightly sense the administrative risk differences between the tax categories, and it is rather governed by emotional factors (general fear).

He states that tax-paying related risks, on a great scale, occur mostly in cases of small companies, micro and small enterprises. The extent of risk is high here, as the usual operational risk is also higher, than in the case of large companies, and this is also heightened by the network of partners. Some of them can afford their own financial, accounting staff, who have at least partial financial, accounting experience; and their clients are much more sensitive to the reputation and usefulness (price, quality) of their goods and services, or perhaps to the stability of their partner network. There are only few reputation-sensitive companies, some of them are the ones for whom the brand is an active part of pricing (brand sensitivity).

The fact that a tax declaration is incorrect or misleading, apart from self-audit, could be discovered by the tax authority, that can assess the amount of tax, moreover, if the damage was caused by criminal offence, legal action can also lead to the assessment of the damage caused to the budget, until the correction of the missing tax assessment or tax damage. Though its frequency is not substantial.

According to Szalai's calculations, the controls in 2009 predicted 5% chance audit probability – once in every 20 years – for a taxpayer. The generally stated goal is to audit every enterprise at least once in every five years. This aim lacks any foundation, still, the system of goals and ways of the tax audit is mostly efficient among the enterprises of 10-49 people. Among the individual taxpayers the fear of stigmatising and deprivation is common.

⁴ Szalai Péter: *Kockázat, adó, biztosítás*, 2010. július Hitel-Világ-Stádium Alapítvány

Szalai highlights that according to the literature of risks and their management, the root of the definition of risk should be found at uncertainty. The definition of risk is mainly associated with the decisions leading to the exemption of uncertainty, so it is no coincidence that the general presumptions of risks and risk taking are related to decision-making theories. According to this, a general definition of risk is: risk is the description of the negatively evaluated consequences of a possible version of activity (not certainly happening), including the weight of the consequences and the probability of the occurrence.

In our mathematised world we use the definition of risk naturally. Since 1986, this definition has become part of the scientific discourse in a new, peculiar way⁵; since 2003 in the Hungarian literature: to confront the individual and the community with the incalculableness of the external effects lurking out there and steer them into the direction of the risks and their management.⁶ According to Szalai, active risk taking is the foundation of a dynamic economy and innovative society.

Speaking of taxpaying-taxation from a risk management aspect, it is crucial that risk is not the same as danger or sheer luck. We also cannot speak about risk if the possibility of an event is 100% sure. So the definition of risk is inseparable from factors of possibility and uncertainty. The other dimension of risk is the seriousness of the consequences.

In cases of risks of great significance and with high probability, mostly prevention, and in a lesser extent, correction is the behaviour to be followed. This is expressed by the formula of quantified risk-management based on the risk potential:

$$R(x)=P(x)*M(x),$$

where R is risk, P is the probability of occurrence, M is the magnitude of the consequences.

In the field of taxpaying, risk and risk management occur in different terms of meaning, distinguishing the different risks of the significant parties.

The group of taxpayers is far from homogeneous, group formation can happen in various ways. Obviously, the tax system is dissimilar, so the task risk is different for those employees, who live on salaries, and do not or only slightly apply for reductions, whose tax declaration is done by the tax authority or their employer, and it is different for those companies – the employers - who think about the tax system as an inevitable trouble and employ professionals as ‘tools’ of the tax system. While the first group – the employees - is less sensitive to the complexity of the system, rather to the amount of tax; in case of the second group (the employers), besides the amount of tax, the price of the transactional cost of taxpaying and the cost of the management of the risk that stem from abiding by the law also add in to the expenses of the enterprise, creating real competitive disadvantage if it produces for export as well.

Still this range of risk, this ‘soft’ or ‘hardcore’ risk of norm-violation is part of the social coexistence. The sub sequential tax assessment, with all of its extra costs, or the budgetary fraud with its legal and economic consequences, is standard tax risks that we

⁵ Beck, Ulrich 1986: *Risikogesellschaft. Auf dem Weg in eine andere Moderne*. Frankfurt/Main: Suhrkamp Verlag.

⁶ Beck, Ulrich 2003: *A kockázattársadalom. Út egy másik modernitásba*. Budapest: Andorka Rudolf Társadalomtudományi Társaság – Századvég Kiadó.

consider normal. Compared to this, the risk exemption of the norm-violation that is different from the standard is uncontrolled, and happens in intimate spaces.

In the matter of tax-levying one must be open and honest, as taxpaying and taxation have to be about common duties and legal claims, that are given to everybody, so they are given to the whole legal community. The question of the serious violation of the public trust occurred in this context, according to which it has been the topic of the international public discourse for quite some time now that there are uncontrolled subcultural, deviant phenomena in the Hungarian taxation and they are not sporadic. Although the professional common knowledge is infused with the fact that the tax shortening behaviours violate the taxpayers' legally guaranteed right for the equal sharing of the tax burdens, still, the organised corruption of the tax authority strikes the heaviest blow at the proportional sharing of public burdens.⁷

As people and enterprises living with their own interests, their subjective approach to defence and survival can turn into the opposite and after that, it breaks the tolerance threshold of the community not as protection, but as majority, as supremacy. The criminological observational points of view of the discussed topic resemble white-collar and organized crime, because white-collar and organised crime show their most stealthy and viable mutations in situations of superiority.

In my work I am trying to come up with an answer to the question of where is the fault line in taxation between the enforcement of one's rights and legal abuse. Moreover, at what contact points can the shaken faith of the public be mended. What kind of atypical, complicated and useful - from the perspective of fraud - norm-violation should be the target of the peculiar legal claim of the government, of the criminal claim of the enforcement of taxpaying, besides the consistent pursuing of the reproductive tax avoidance and fraud formations.

The introduction of the definition of reproductive and productive budgetary fraud

We have to think about the fact that if the criminal law knows a certain budgetary fraud form, then those economical participants, who are able to enforce their interests efficiently, will avoid it. The known and prosecuted behaviours are repeated cyclically, what is more, István Jávör, Zsolt Bognár and Dávid Jancsics sociologists point out its widespread and daily practice.⁸

It can be seen how strongly individuals and groups are attached to the known forms of tax-avoiding and budgetary fraud behaviours. The 'easy preys' emerge from them, the ones who can be 'hunted'. It is also obvious that there is a long lasting revival of the love of the supremely and illegally gained economic benefits. Here are also some known winners and sometimes we hear from the losers from criminal cases.

The results of my research point to a territorial-like formation that sells taxpaying-taxation on a commercial basis. From the perspective of more than ten years, the serious connections of economic interests, reproductive cycles of the successful and

⁷ Angyal Pál: *A magyar büntetőjog kézikönyve 8. Adócsalás*, Athenaeum 1930

⁸ Jávör István: *Ezt hívják happy korrupciónak*, hvg.hu 2013. január 15.; Bognár Zsolt – Jancsics Dávid: *Joszip Tottól Taxis*

Gyusziig: Ilyenek a strómanok, hvg.hu 2013. szeptember 19.

undiscovered organisation have become visible characteristically and with proof. Just like that, the self-defensive mechanisms of the organisation also take shape properly.

The study of Semlyén-Szántó-Tóth was written in 2001, which slightly mentions the characteristic of the organisation that emerges despite the hiding, and they pointed out even then, that there is something illegal and immoral about their topic, but there are also the keywords: one commits tax fraud, has a mole in the NTCA, nobody pressed the issue, he got away, he got a car, auditor. I am quoting hereby an interview as a part of the study for second-analysis:

'The CEO-owner of an enterprise that offers tax consulting as well:

Corruption obviously does exist. It can be understood from a human perspective. I have met a client – I refused him eventually – who bragged about the fact that he has a mole in the NTCA. I was introduced to him back then when it was probable that our company would do the accounting of the client. He got a car for his services and interestingly no one noticed at the NTCA, no one pressed how he could afford a car like that from his salary. The (corrupt) company, while it obviously commits tax fraud, is still flourishing.

I have heard about another case in which during the tax audit, the NTCA found a huge tax arrears at a company, which was reported by the tax inspector to his superior. Then a long bargaining, law interpretation-wrangling began between the company and the NTCA, and then the NTCA directed the company to an auditor company... Then with suitable tricks, this company hid the most parts of the originally questioned tax arrears then got a payment that was larger than the half of the originally discovered arrears. And the company got away with the assessment of a little tax arrears that only caused a small penalty... It is without doubt that one can read only a little about exposed corruption cases. Still perhaps the written media is not likely to distort this sort of news.' (Semlyén-Szántó-Tóth, 2001)⁹

The subject of the interview seemed to be resigned to the fact that the auditor made something disappear with tricks, and that it was useful. What can an auditor make disappear? Nothing can be concealed. Those who read between the lines can see that it is only wishful thinking/temptation and hiding. But what does hide here? A community does. The hidden network of communities does. Those who pass on the baton to each other at the right point of the clerical work and the related social network. This goes on in those interstitial spaces where the public thinks that nothing happens. Because nothing should happen. These are the most incredible places. These are the places of active relaxation, having fun and sometimes even recovery. And there are many more unimaginable, but recognisable places, where one can ask for, give or get something. It can be anything, where two or more people can imagine the exchange, violating the rights of someone else.

And what about the auditor who makes something disappear? This can also happen, but the auditor alone is not enough. The network is also necessary. And in the network those very strong nodes are also required, without whom it is impossible, but with whose knowledge and acceptance immunity can be accomplished in a certain case or for a lifetime. Little by little generations have been socialized in this network. Taking part in this illegal operation actively or passively, gaining some primary advantage or secondary benefit of it.

⁹ Semjén A.–Szántó Z.–Tóth I. J.: *Adócsalás és adóigazgatás*, 120. o., 2001.

So the auditors can handle it? There is always someone, not necessarily an auditor who knows how to get into the network. But then the most solid parts of the network do not have obvious entrances. To get into is a serious matter of trust. To be in it is a way of life. The auditor sector naturally, necessarily and in an encoded manner protects itself from fraud. The continuous regulation of auditing gives a framework for the goals of the independent auditor and for the execution of the audit that is in accordance with the international standards. The national standard on auditing that comprises 200 items is effective since April 2009, and in theory it excludes the possibility that an independent auditor could be 'mistaken' by agreeing with the decision makers who are laypersons compared to him, and the screening of fraud is regulated by the 240th standard.¹⁰ The cited part of the interview from the study of Semlyén-Szántó-Tóth demonstrates the fear mixed with awe that was typical of the outsiders before and even after the study. Those fragile outsiders who want to belong to this sphere of immunity that is known by everyone.

No one can be a successful budgetary fraud, only an immune white-collar. To be immune is not only about behaviour. But it is only the behaviour that can be copied, if we observe the network from the outside.

On the other hand, the behavioural patterns, as they are well known, can be learnt easily, and they change only if they are related to new taxable facts of the case or now to the new criminal material legal facts of the case, but in a sense of law, criminal psychology or sociology, the same behavioural patterns are repeated and copied. I call this phenomenal reproductive budgetary fraud.

Apart from codified, moderated and canalised reproductive budgetary fraud, there are productive forms as well. Every productive form is a set of heterogeneous deviances, where the legal authority does not notice it or it cannot or do not want to respond to the detected behaviours or results, so these norm-violations remain latent, and in this way, the behaviour reaches its goal. When we talk about productive budgetary fraud, we have to examine the deviant behaviours of those who enjoy the illegal benefits that have been gained by long lasting (sometimes in terms of decades) successful corruption strategy.

Reproductive budgetary fraud

All those memorisable budgetary fraud patterns, methods and behaviours, that can be used to rob the protected budgets by those individuals and communities that remain outside of the organised corruption network of the tax authority, come with the risk of discovery and punishment.

'According to the explanation of the Act C of 2012 that is effective from 1st July 2013., the facts of the case on budgetary fraud has been created by the merger of eight different acts (ACC. 396 §). As Barna Miskolczi pointed out correctly, the crimes that offend the income part of the budget of the EC can also be listed here, so actually nine facts of the case have been merged into one facts of the case in the new act. On the income side there is tax fraud, tax fraud in connection with employment, excise violation, smuggling, value-added tax fraud, the violation of the financial interest of the European Community, and any other form of fraud that is related to the violation of the budget. On the expense side there are the illegal gain of economic advantage, the

¹⁰ http://www.mkvk.hu/tudastar/standardok/standardok_2012

violation of the financial interest of the European Community, and any other form of fraud that is related to the violation of the budget.’. (Háger, 2004)¹¹

Productive budgetary fraud

I call those crimes productive budgetary fraud, that besides or instead of the known patterns, methods and behaviours of budgetary fraud that exhaust the facts of case of budgetary fraud, use corruption strategies and mainly remain stay latent, because with the aid of the organised corruption network certain individuals and communities rob the protected budgets in a way that it does not come with the risk of discovery or punishment.

In 2001, the researchers of the Economic Research Centre of the Hungarian Scientific Academy, looking for the ultimate connections of the behaviours and phenomena that I discuss here, pointed out the possibility of the entwining of the government and the hidden economy:

‘It is in the best interest of every government – irrespective of its political orientation – to fight the hidden economy for purely financial reasons: the greater the hidden economy, the greater the loss from the missing tax incomes. This loss can be so huge that it can be hardly compensated by the advantage that stems from the possibility that perhaps the members of the hidden economy will vote for the government in power. – Here we disregard the chance of corruption. Of course in case of the entwining of the government and the hidden economy, the mentioned benefits – at least for a short period of time, until the downfall of the system – can exceed the disadvantages that stem from the loss of tax incomes.’ (Semlyén-Szántó-Tóth, 2001)¹²

The researchers add here, that ‘It is in the best interest of the government to use those political means that can decrease the chance of the expansion of the non-taxpaying economy.’ (Semlyén-Szántó-Tóth, 2001). Placing the problem into a government political context does not change the nature of the entwining which aims at government-spanning superiority and exclusion, gaining unjustified advantages illegal. It must be recognised, and if for nothing else then at least for the reason that since the publication of the study not only one government has been established, and the network of corruption has been reproduced, but it has also remained mainly unharmed.

In my opinion, it cannot be in the best interest of any government that has the control of legislation and criminal power up to their sleeve to entwine itself with the hidden economy in corruption. On the contrary, as this interlacing leads to the downfall of the system.¹³ I think the truth instead is that there is a network of interest in the institutional system, “the hidden network of communities”¹⁴ that is able to stay alive across legislative periods and finds its short and long term interests in corruption. According to this, in real life, a collaborating group that is mutually interested in defence, hiding, adaptation, imitation, growth, embedding into other systems and the reproduction of profit that is gained by corruption, has to entwine with the hidden economy and certain politicians also use this particularly vital corruption network for

¹¹ Háger Tamás: *A költségvetési csalás pénzügyi, anyagi jogi és bizonyítási alapjai, különös tekintettel a terhelt vallomására*, Jogelméleti Szemle 2014/1. szám

¹² Semjén A.–Szántó Z.–Tóth I. J.: *Adócsalás és adóigazgatás*, 26. o., 2001.

¹³ Semjén A.–Szántó Z.–Tóth I. J.: *Adócsalás és adóigazgatás*, 26. o., 2001.

¹⁴ Mérei Ferenc: *Közösségek rejtett hálózata*. Budapest [1971] (2006)

their hidden, unacceptable goals. My own observations and data gathering confirm this latter explanation.

Those who are involved in the practice of the productive budgetary fraud are not individual perpetrators. This is a heterogeneous group whose members are efficient in enforcing their interests; moreover they pretend efficiently that they abide by the tax and accounting law. Against them, the institutional system that protects the proportional sharing of public dues formally carries out the administrative and criminal law prevention entirely. Those productive budgetary frauds, who are seemingly norm-following, willing to take part in the proportional sharing of public burdens, still – with their illegal law-bending – stealthily, continuously and extremely, rob the protected budget.

This phenomenon can be described in a framework of financial control, administrative and criminal procedure system of legal remedy, where the embodiments of the norm-violators point to usually implicitly mentioned state capture.¹⁵ The organized corruption of the tax authority is one of the clearly describable segments of state capture that is operated by a corruption network of efficient and heterogeneous composition, a corruption hierarchy, in which private interests prevail instead of the public interest.

This tax authority segment of the corruption hierarchy is the discrete imprint of the organisational system of the national tax authority. It is not at all about that the organisation of the tax authority is usually an accomplice in the organized corruption. Opposed to that, there are exactly as many number of public servants in as many positions, who are part of the organized corruption of the tax authority, as many number of public servants with as many levels of competencies could reach the goal, that is accomplishing the demanded or agreed law-bending or direct breaches of the law. Usually the top of the hierarchy shows the way, but at least has a theoretical knowledge and understanding of the goals and methods, for reasons that could be defined precisely.

The operation of this corruption hierarchy points way beyond taxation, beyond the known and overseen system of control mechanisms and the protection of criminal law. It is in the service of heterogeneous deviances, every one of them providing illegal advantages for the embedded members.¹⁶ The internalised social group, which is the greatest winner of the illegal advantages gained by corruption, works with the segment of the tax authority that is involved in corruption in an undividable manner.

The locally valid criminological theory and corporation of the organized corruption of the tax authority versus the breaking of silence

Pure interest organises every corruption crime. The object of desire can be any kind of hardly obtainable advantage or riskily obtainable, valuable thing or service. The easiest way to define the incident of crime can be that the toughened accessibility or the restrictive condition or the risk of attainment can be compensated or avoided by paying the price of the illegally given financial or other advantages. For the incident of crime the

¹⁵ http://transparency.hu/NIS_2011: Nemzeti Integritás Tanulmány, 2011.

¹⁶ A korrupciós bűncselekmények hatályos szabályozásával kapcsolatban, lásd: *Gál István László: A korrupciós bűncselekmények* In: *Polt Péter* (szerk.) *Új Btk. kommentár 5. kötet Különös rész Nemzeti Közszerkesztési és Tankönyvkiadó Zrt., 2013. pp. 183–10.*

followings are necessary: a perpetrator that can be passively paid off, the offender who is willing to commit the crime, the actively bribing other perpetrator who wants to gain the illegal advantage, and the realistic chance that the illegal advantage can be obtained in a criminal way. Given the fact that the kind of organized corruption of the tax authority that comes with serious social costs and reverberating effects usually happens between parties who are quite capable of enforcing their interest, it is particularly interesting that despite the legal consciousness that can be required from the offenders, they primarily believe in the absence of legal consequences. During the commitment of the socially quite dangerous corruption crimes the perception of corruption, otherwise known as the subjective perception of the crime against legal consciousness, does not occur in the proper intensity, because the environment of influence that can be bought with money or something else, the dramaturgy of influence gaining, overrides the legal consciousness of the subjects. This happens when the crime has to be committed or can be committed without predictable consequences by the group of subjects that are part of the crime, or at least they perceive it that way, and expressively or unspeakably an illegal 'contract' forms between them, aimed at the commitment of the crime.

This is exactly the kind of script that applies to the most dangerous organized corruption of the tax authority that exists, whose incidents of crime happen in the isolated spaces of the central institution of NTCA, with its board members; in the spaces of large taxation, mentioning the administrative branch of the Special Competence department of the Directorate of Special Cases as a prominent example, with all of its particular (not all of them) privileged connections, moreover, the spaces of the strategic and operative leaders of the apparatus that deals with taxation related crime-control and law enforcement.

In theory, everything is given in these spaces for the success of organized crime, as even the appearance of the fact can be dispelled, that by exploiting the background of the given bureau and the public trust, certain people and groups would join forces to commit a crime whose social responsibility, societal cost, and eventually whose ecological footprint would be equal to the gravest damaging of the environment, the damaging of the public trust.

The critical part of the tax authority control and the related law enforcement corruption is how the traces of the complicated and multiplayer crimes can be covered up. Solely paying off the accomplices and offenders has its risks, because as a bank robbery could not end with a reassuring, fair distribution for everyone, neither can the corruption hierarchy work efficiently in the long run, because the sense of justice of the loser or the pursued is no less than that of the winner's or pursuer's, and the breaking of silence can happen anytime.

The corruption hierarchy that was mentioned in relation to the organized corruption of the tax authority is still infused with long-lasting, traditional, many-sided interests. Significant position can only be held on mutual basis. It is a shadow-organisation above the illusion hierarchy of the tax authority, with interests that span across legislative cycles, unwritten rules of distribution, stable human force. Their professionals know everything about the way rules can be violated with the slightest risk of legal consequences, how to avoid the control-mechanisms, and make the control that is able to oversee, interested in the maintenance of the status quo.

In Hungary, the regulation of the breaking of silence, that would have made multitudes interested in the exposure of the guilty group collaborations, did not develop in connection with the tax-procedure, still it was one step away from that the morally

and financially conditioned muckraker view could be taught to those resilient circles, groups and individuals who are sensitive to the public good. The social consensus, that can add effective civil control to organisational and procedural system of the general and proportionate sharing of taxation by the breaking of silence, needs to be made attractive. This would make possible that not only the flood of the evil-minded reports would give tasks to the tax authority, but the actually budget-protective, responsible attitude would also succeed. The competition law regulations, created for the treatment of cases of superiority, can be the basis for that. After all, however, the up-to-date and community-protective regulation idea - despite the existing guideline - has been lost for the kibitzers in a tactic and intelligent way. The misinterpretation of the market-protective economic policy, the cartel-protective competition and law enforcement policy, the limitless advancing of state capture at the head of tax administration and law enforcement specialised on budgetary fraud.

The legitimate communities need to be protected. But the reproduction of illegal communities needs to be stopped.

There is nothing new under the Sun; Sutherland's¹⁷ white-collars were also born from the economic-policy way seeking that was created by social needs after the global economic crisis. They are not firstborns.¹⁸ The privileged social groups and certain privileged social participants are the actual winners of history. For that reason their history scarcely receives criminological explanation. But here and now the problem is big. Maybe morally it is bigger than what is noticeable today. Nonetheless the concentration and centralization of capital do not necessarily come with the proneness to crime, as it is proven by so many prominent examples here and across the world. Our white-collars can be tough because of the same thing that gives character to every other white-collar individual around the world. And this is the legal and basically moral interpretation of interests. On the other hand, the moral gap that enforces the organised corruption of the tax authority, weakens even the existing moral bindings and degrades the legal consciousness to a complicated mimicry.

The connection of interests of the organised corruption of the tax authority and the possibility to step out of the reproductive cycle of committing crime

The tax authority is a quite large organisation. The number of its employees equals the number of inhabitants of a Hungarian town. Basically its operation is built on the following pillars: information technology, paper usage, specialist publishing activity, dispensation of justice, facility management and transport-logistics. There are two other great organisations that have particularly significant effect on the relationship of the tax authority with the economy, and also on the moral inside and around the organisation. The most important economically significant operation is the heavy influence on the enforcement and liquidation proceedings. And the moral engine can be any kind of educational activity that is related to the tax authority. The organisation of the tax authority can be vulnerable and corrupted through these channels, but especially at

¹⁷ Edwin H. Sutherland, *White-Collar Criminality*, American Sociological Review, February, 1940

¹⁸ Irk Ferenc: *Fehérgalléros bűnözés, elitbűnözés, menedzserdeviancia*, Jog, Állam, Politika, 2014/1., 49–67. o.

those points, where the cash flow and the connection with the operational economy is the most significant. I consider information technology- and paper-procurement extremely important. Facility management, which makes use of the rented properties, also opens up opportunities for interests that are oblivious to taxation, especially in case of rented properties that are connected to the operation of criminal organisations.

While the educational and specialist publishing activity do not come with huge cash-flow, still it is a really effective way of gaining influence and illegally setting up sources of influence. Certain information technology (back then the APEH SZTADI) and paper-procuring connection systems infiltrate the organisation of the tax authority so deeply that their harmfully internalised interests could accomplish the embedding of certain managers for decades on the most sensitive levels of the organisation. These connections are able to fully supervise the control activities and they can trade that skill for extra corruption income. They operate much more powerful, inbred 'financial relationships' than the former receipt factories and they decide on the basis of the general principals of organised crimes about the to-be protected interests, and about those participants whom they cannot get under their power and can be sacrificed. They are immune; they are free from the claim of the criminal power until the inbred group does not single them out. The outsider participant can be discredited by forged evidence, criminal procedure, because the boundaries of the circle are established in a way that makes it possible to serve the illegal (though disguised as legal) interests sufficiently and safely. This occurs in emergency situations, because the supervision of the formed discrete connection is multifaceted and strong, and if the connection in or outside of the network is appropriately embedded, then the chance of leaving the reproductive cycle of crime-commitment is negligible. If the cooperation turns out to be long-lasting, basically they can even supplement liquidity for the certain connection, where the true economic and tax law agreement is not necessary, by unlimited operational freedom, illegitimately, even with illegal VAT refund application. If it is necessary, they produce forged documents under the direction of the institutional connection.

The inbred group imitates legitimacy, using its influence and tools in a 'sufficient amount' if the internalised connections or the inbred network are in need of them: the forging of private and public documents, especially during the operation of the criminal branch, is a common tool of the inbred presentation of evidence, when the false evidence is inevitable due to the demands of repression. There were some cases where the leadership of the administration hysterically demanded 'evidence' from the investigation branch and it would have (predicted) negative outcome, if it did not turn out to be 'successful'. In these cases, those personal and group purposes standing above the legal operation of the tax authority succeeded, that reached their financial or personal benefits by a suppressive measure over a tax subject accomplished by the tax authority. It was able to enforce it illegally in a way that the network of the criminal power that cooperates with the tax authority did not detect it or particularly supported it, perhaps it was also involved in the 'presentation' of the evidence. The mutually beneficial interest was at least the opportunity of position.

If any of the serious secrets of the organised corruption hierarchy becomes threatened, this network of interest interferes with any economic relation, and it does not spare the individual or group that becomes dangerous, or even their family relations.

In case of another authority it had happened that they had a pressing investigation action, and though they kept it behind closed doors until the very last minute, by the time they carried it out (the search warrant), the detectives of the NATC had covered up the evidence that pointed to the 'organisation cemetery' from the spaces of the subject who was 'protected' by them.

There seems to be a strong connection between the well-known VAT fraud cases that flamed up in relation to corn trade and the elitist, biased and negligence-motivated trespassing of the criminal leadership of the NATC that are connected to its certain social, hunting and political relationships.

I wanted to point out by my sampling type list, focused on certain emphasised phenomena, that breakage regularly happens even in the inbred corruption network, related to taxation. As the mere existence of the hidden network is a dysfunction, their accomplishments that resemble a crime organisation, also cannot be kept alive forever. In every case, beyond the actual gain, the unwanted deposit of the illegal activity is preserved: the bodies that were left behind, and the breaking of silence of those who were left out in the cold or the morally ascending ones.

The organisation of the tax authority is really young, not traditional and only seemingly transparent, so its extremely sensitive operation also cannot be sufficiently transparent. As those criminological factors that vastly influence the operation of the organisation are reproduced almost unscathedly in interaction with the organisation, I think it is unavoidable to apply the philosophy of the RNR (Risk – Need – Responsivity) model to the monitoring of the organisational operation, at least in case of the particularly exposed leaders. According to Judit Szabó,¹⁹ the first version of the RNR model was created by Andrews Bonta and Hoge, and has been found to be a theoretically firmly supported, pragmatic and efficient model to assess the risk factors that increase the probability of recidivism, the criminal needs and the receptiveness, responsiveness of the individual, if they use it to aid the rehabilitation of criminals, as the theory and model has been created for this.

In my opinion, the application of the three main principals that serve as the core of the RNR model: risk, need and responsivity could also improve the control of the criminal needs of the leaders of the tax authority.

Szabó points out that empirical evidence verifies the efficiency of the RNR model, and the principals that serve as its foundation are also well-grounded. She highlights that due to the standardised tests that are based on quantitative results, the application of the RNR model is relatively easy compared to the qualitative diagnostic procedures, and the results are comparable as well. Szabo also calls attention to the fact that the RNR model has several weak points from theoretical and practical aspects as well, criticising the legal validity and reliability of the methods of risk assessment. It is true, nonetheless, that the pros and cons of the RNR model supports the fact that it exposes the criminal needs.

Desistence and restorative practice for bridging the moral gap

Taxation is one of the most important and sensitive public duties. No matter what deficit hides in Pandora's Box, after opening it up, hope also cannot stay inside. Many

¹⁹ A bűnelkövetők rehabilitációjának meghatározó irányzatai a nemzetközi szakirodalom tükrében, Szabó Judit, Országos Kriminológiai Intézet, Alkalmazott pszichológia 2012/2, 73–88.

dispensers of justice still remain stuck in the cycle of committing crime, in the several sticky relations of interest, in hopelessness, in the pit of individual or group crimes.

I draw a parallel between Judit Szabó's explanation and for the benefit of the reintegration of the group that I studied, I shift the stress from the treatment of the deficits of the now latent criminals to their skills and capabilities that could be used for reintegration. Here I also agree with the idea that (Ward and Maruna, 2007, cited by Szabó) 'the strengths (capabilities) should be mapped out in the same way as the risks and needs (Workman, 2009).'

As in case of the classical rehabilitation of criminals, by approaching the disturbances of the moral works of the tax authority on the basis of risk and need, a new direction of reintegration should also be developed, because due to its special maintainer public duty, it is one of the most important pillars of society. The permanently and currently existing organisational and operational deficits of the tax authority should be replaced with only those kinds of activities which are useful for society as a community of law, with sense of responsibility, with future-orientation, and with the development of prosocial identity.

Choosing resiliency

The new way of access to the law is that the market of law services has expanded, and in taxation it has been extended to the access of 'justice'. It is a terrible mistake if an unspoken and extremely distorted feudal tax-free principal crawls under the floor of declared proportional sharing of public burdens, into the public law and financial relationship of the individuals and groups with the government. Should not those pay entirely the public burdens that bribe the illegal tax collector and fail to break the silence? Can tax authority be used as a tool for suppression, for personal or group interests if this is what the privileged segment wants?

As long as based on the underlying principle of legal equality, legal aid and supportive expertise can be bought, we do not feel the effect of corruption. As in this system the social contract is secretly overruled and superiorly damaged by personal interest, even disguised as group interest, all kinds of justice – and here I mean the 'existing justice' of the tax-levying government – falls prey to individual interest. Then the objective justice becomes the justice of those who paid for their place in this protected zone, for this immunity, and compared to them, everyone else becomes deprived, or at least robbed of their justice.

Gaetano Mosca developed the definition²⁰ of political class in the late 1800s: 'In the government, everything that is connected to decision making, the practice of power, order and taking responsibility, is always the role of a certain class; though the members of this class can vary across countries and historical periods, whatever should be the composition of this class, it is always in infinitesimal minority compared to the masses it governs, that is submitted to its will.'

Both the definition of political class, developed by Mosca and theory of governing elites by Vilfredo Pareto assumes that no society can exist without the necessary duality of those who rule and those who are ruled, but there is no social consensus, no theory

²⁰ Gyáni Gábor: *Az elit fogalma és történelmi változékonysága*, Korunk 2009. március

that explains the legitimacy of the benefits that are gained by corruption, so the self-preserving and reproduced 'elite' that is created in this way cannot exist permanently.

Both the community and the authority, every legal subject and dispenser of justice who is interested in the sharing of public burdens have to develop the ability of flexible resistance in order to not allow the influence of wealth to damage the proportional sharing of public burdens, no matter how strong the desire, how frequent or shocking the enticing effect is, how easily reachable the rewards seem to be at the expense of the proportional sharing of public dues.

As soon as possible, the good condition of public trust should be won back or most likely be won, because our burdens are definitely shared.