DISTINGUISHING CRITERIA BETWEEN PETTY AND HIGH-RANKING CORRUPTION

Experience-Sharing Training based on case-studies of different states

TRAINING MATERIAL

Editor: Krisztina Farkas

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Krisztina Farkas (ed.)

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National Institute of Criminology,
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CONTENT

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We would like to express our gratitude and thanks to the Hungarian experts – Dr. Richárd Szoboszlai-Szász, Chief Prosecutor General; Dr. János Homonnai, Chief Prosecutor; Dr. Adrienn Laczó, Judge; Dr. Zita Veprik, Police Lieutenant Colonel – as well as the foreign partners – Professor Lucia Parlato, Professor; Annalisa Mangiaracina, Professor; Dr. Andra-Roxana Trandafir, Associate Dean; Associates of the Central Anti-Corruption Bureau; and Dr. Regina Szepcsik and Costanza de Caro PhD students – *for their contribution to the preparation and delivery of the training, for the development of the case studies and for their professional assistance and support.*

Presentation by the experts and organisation involved

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Head of Research Department at the National Institute of Criminology, University Lecturer at the Faculty of Police Sciences of the University of Public Service (NKE) (https://wwww.okri.hu)

TÜNDE ANDREA BARABÁS is Head of Department at the National Institute of Criminology (2000). She graduated from the Faculty of Law and Political Sciences of Eötvös Loránd University (ELTE ÁJK) in 1988. In 1989, she was awarded the Hungarian Academy of Sciences (MTA) fellowship for further education and worked for three years as a fellow at the Department of Criminology of ELTE ÁJK. From 1990, she spent one year as a postgraduate fellow of the Swiss Confederation at the Department of Criminal Law of the University of Fribourg. Her research interests were alternative sanctions and mediation, and she successfully defended her PhD thesis in 1995. In 2008, she was awarded the MTA Bolyai János Research Fellowship and in 2011 she was awarded the Outstanding Professional Award for her research work in the field of prison mediation. Since 2012, she has been Head of the Department of Criminology at the Faculty of Police Sciences at the NKE (University of Public Service).

She is a founding member and Vice-Chair of the Restorative Justice Section of the Hungarian Society of Criminology (MKT) and Chair of the Victimology Section of the MKT.

She has participated in and led several national and European Union-funded international research projects. She has been involved in the domestic research in the EU FALCONE-funded research project *The Identification and Prevention of Opportunities that Facilitate Organised Crime*; the EU FP5-funded *Insecurities in European Cities* (INSEC) project; the AGIS-funded *Crime Prevention Carousel* (CPC) project; the EU Criminal Justice-funded *Restorative Justice in Prison Settings* (MEREPS) project and the EU *Horizon 2020-funded* MARGIN *(Tackle Insecurity in Marginalized Areas)* project. She also participated in the EU COST A/21 programme on the development of restorative justice in Europe and was a member of the international Management Committee. She has published 149 research papers, edited and co-edited 14 volumes (6 in English) and published two monographs.

Dr. Éva Inzelt PhD, lawyer, criminologist

Assistant Professor at the Faculty of Law and Political Sciences, Eötvös Loránd University (https://www.elte.hu)

ÉVA INZELT obtained her PhD in 2015 in Law and Political Sciences, focusing on white-collar crime and corruption. She has conducted a number of empirical studies. Between 2012 and 2014, she conducted her research on *Crimes of corruption sin the light of criminal justice* with the support of the National Scientific Research Fund Programme (OTKA K106011.2012.).

In 2016-2017, she participated in the Internal Security Fund 5.2.2. project supported by the Ministry of Interior *Research into the investigation of international organised crime from an information flow perspective*, which also focused on investigative experience in economic and corruption crime. Between 2018 and 2021 as the leader of the National Research, Development and Innovation Office (FK124968) research project entitled *Understanding the characteristics of corporate crime: based on theoretical considerations and empirical research findings*, she researched the criminological characteristics of corporate crime using empirical tools not previously used in Hungary.

She is the project coordinator for the CRITCOR project. She is responsible for the professional coordination of the project, liaising with national and international experts, preparing technical material (questionnaires, articles and summaries) and contributing to the project tasks through her research.

Dr. Krisztina Farkas PhD, lawyer

Prosecutor on secondment to the National Institute of Criminology (https://wwww.okri.hu)

KRISZTINA FARKAS graduated in law from the Faculty of Law and Political Sciences of the University of Miskolc. She has been working in the prosecution service since 2006. In 2016 she defended her PhD thesis on the *"Acceleration of proceedings in the German, Swiss and Italian criminal justice systems"*. She has been working at the National Institute of Criminology as a Prosecutor on secondment and a researcher since 2017.

Her main research interests are criminal procedure and comparative law. She has held an LLM degree in European law with a specialisation in English language since 2018. In addition to criminal procedural law, her research focuses on European criminal law, corruption, criminal law

protection of cultural property and budget fraud against the European Union. She teaches several courses at the Pázmány Péter Catholic University in the English language course *'Lawyers against Cybercrime, Corruption and Money Laundering'*. She contributes to the overall objectives and concrete results of the project: she conducts research and publishes.

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ESZTER SÁRIK studied law at the University of Pécs. Since 1999 she has been working at the National Institute of Criminology (OKRI), where she has been working on juvenile delinquency and crime prevention. She has conducted research on the processes and causes of child and juvenile delinquency, participated in ISRD-2 and investigated homicide cases. In 2018 she defended her PhD thesis on *'Religion, values and youth in the context of criminology'*. Since 2016, she has broadened her research field and participated in the international project PoMigra, which aimed to gain knowledge on politically motivated crime in the context of migration.

She has taught criminology at ELTE Budapest, the University of Pécs and the University of Győr. For one year she was the national representative of the European Crime Prevention Network and she has been a member of the Max Planck Balkan Criminology Network since its inception.

Currently, she also serves as Deputy Spokesperson of OKRI, leading the communication and public relations of the CRITCOR Project, participating in its technical preparation and contributing to the realisation of the objectives of the tasks undertaken in the project.

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SZANDRA WINDT graduated in 2002 from the Faculty of Humanities of Pázmány Péter Catholic University, Faculty of Hungarian Language and Literature and Sociology. In 2005, she obtained her diploma as an EU expert at the same university.

In 2009, she obtained her PhD in criminology from the Deák Ferenc Doctoral School of the University of Miskolc. Since 2002 she has been a researcher at the National Institute of Criminology, and since 2012 she has been a senior research fellow at the Institute. Between 2021 and 2024, she was awarded an MTA Bolyai János Research Fellowship.

She has management responsibilities in the CRITCOR project and participates in the evaluation of the research.

Dr. Regina Szepcsik, lawyer

PhD student at the Faculty of Law and Political Sciences,
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REGINA SZEPCSIK graduated at the Faculty of Social Sciences, Eötvös Loránd University. She obtained MA in Criminology with distinction. In her thesis she explored the relationship between possible measurement of corruption and public trust in government.

In 2020–2021 she was a PhD student at the Faculty of Law and Political Sciences, Eötvös Loránd University.

In CRITCOR Project, she participates in its technical preparation and contributes to the realisation of the objectives of the tasks undertaken in the project.

Prof. Annalisa Mangiaracina PhD, lawyer

University Lecturer at the Faculty of Law, University of Palermo
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ANNALISA MANGIARACINA obtained her PhD in criminal procedure in 2002. She is also a lawyer. At the University of Palermo she teaches courses in criminal procedural law (2014– present), and European, international and comparative criminal procedural law. At the University of Palermo, she coordinated an European project (EUROCOORD) on the European Investigation Order; she taught in the EU module *'Jean Monnet'*, on the LL.M. course *'International Organizations, International Criminal Law and Crime Prevention'*, in the *'International Criminal Law Specialisation Course for Young Criminal Lawyers'* and in the course *'Organised Crime'* for Brazilian judges.

Author of two books and several articles and collected works on various topics related to national criminal procedural law, European and international criminal procedural law, both in English and Spanish.

Prof. Lucia Parlato PhD, lawyer

University Lecturer at the Faculty of Law, University of Palermo (https://www.unipa.it)

LUCIA PARLATO's research interests include victim protection; the right of defence; diversion; and digital evidence. She has been awarded several scholarships (DAAD, MPI, etc.) and since 2001 she has spent several research periods at the Max Planck Institute in Freiburg. Thanks to her international scientific upbringing, she has a rich comparative perspective and a special interest in supranational resources.

Author of two books. Among her many publications, the most recent ones focus on online investigations; the particular delict in the criminal act; probation; the vulnerability of victims; and migrants' rights and the rights of migrants in criminal proceedings.

Since 2020, she has taught international online courses organised by the University of California, Berkeley. She also collaborates with other universities abroad, including the University of West Bohemia, and the Universities of Vienna, Passau and Bremen.

Costanza de Caro, lawyer

PhD student at the Faculty of Law, University of Palermo (https://www.unipa.it)

COSTANZA DE CARO is an early career researcher in law, she is graduated from the University of Palermo. She is specialized in international and European criminal procedural law, at the same times she is training to become a judge at the General Public Prosecutor's Office of Bologna.

In CRITCOR Project, she participates in its preparation and contributes to the realisation of the objectives of the tasks undertaken in the project.

Andra-Roxana Trandafir PhD, lawyer, jurist

Associate Dean, Faculty of Law, University of Bucharest
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ANDRA-ROXANA TRANDAFIR worked at STOICA & Asociaţii Law Firm from 2009–2017, since 2021 working as an independent lawyer. She obtained a bachelor's degree at the Faculty of Law of the University of Bucharest in 2007 and a master's degree at the Faculty of Law and Political Sciences of the University of Montpellier in 2008. In 2011, she obtained a doctorate in criminal liability of legal entities at the Faculty of Law of the University of Bucharest. In 2014–2015, she was awarded a postdoctoral fellowship at the Faculty of Law, University of Bucharest, on the topic *'Protection of fundamental rights of legal persons in the case law of the European Court of Human Rights'*.

She is involved in several international projects as a national expert. As a result, since 2018, she is currently the national expert in the project *'LINCS – Linking prison statistics and criminal justice'*, led by the Council of Europe. As of 2017, she is currently working on the Balkan Criminology project Balkan Homicide Research at the Max Planck Institute for Foreign and International Criminal Law. In 2017–2020: national expert for the project on illicit trafficking led by the International Institute of Criminal Law and Human Rights (Siracusa). Since 2014, currently co-chair of the Balkan Criminology Working Group of the European Society of Criminology. In 2014–2015, co-author of the study *'Causes and Consequences of Corruption'*, a study on corruption in Romania, conducted by the Romanian Ministry of Justice and the Dutch Ministry of Foreign Affairs. From 2013 to date, Secretary General of the Romanian chapter of the Henri Capitant Friendship Society. Author and co-author of several volumes, published in Romanian, English, French or Spanish.

CENTRAL ANTI-CORRUPTION BUREAU (CBA)
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The Central Anti-Corruption Bureau is a specialised body for combating corruption in public and economic life, in particular in state and local government institutions, and for combating activities that harm the economic interests of the state. The Bureau is a professional and modern institution that promotes compliance with the law and integrity. Its mission is not only to detect and combat corruption and economic crime, but also to prevent irregularities and support state institutions against possible harm. As part of its activities, the CBA also performs preventive and educational activities. In this respect, it cooperates with other institutions and NGOs dealing with corruption issues. The CBA publishes publications, which are also available as e-books and audio books.

Moderators

Group 1 (22–23 November)	**Dr. Éva Inzelt, assistant professor** Faculty of Law and Political Sciences, Eötvös Loránd University
Group 2 (22 November)	**Dr. Krisztina Farkas, seconded prosecutor** National Institute of Criminology
Group 2–3 (22–23 November)	**Dr. Adrienn Laczó, judge** Metropolitan Court
Group 3–4 (22–23 November)	**Dr. Richárd Szoboszlai-Szász, prosecutor, Head of Division;** **Dr. János Homonnai, prosecutor, Head of Department,** Department for Priority, Corruption and Organized Crime Cases, Office of the Prosecutor General of Hungary

Foreword

The Hungarian National Institute of Criminology is a member of the European Union HERCULE III programme *'Corruption risk, risk of corruption? Distinguishing criteria between petty and high-ranking corruption'* (101014783 – CRITCOR). This is an international research project from 1 January 2021 to 31 March 2022.

The aim of the project is to answer the question of the relationship between the social concept of corruption and the range of crimes defined as corruption in criminal law, and the relevant indicators for describing corruption. It is important to know where the boundary lies between corruption, as defined by law and prosecuted, and corruption as accepted by society.

The project aims to identify factors that enable the formulation, measurement, analysis and differentiation of levels of corruption to be carried out. The delimitation of corruption levels focuses on the distinction between low-level and high-level corruption, as the fight against the latter is gaining importance at EU level. The project aims to use this approach to develop the possibilities for reducing corruption in the EU Member States further.

The project is based on four pillars:

1) A *kick-off meeting* (the first meeting) where participants analyse the concept, forms, measurement, actors and language of corruption.
2) In the second meeting, a workshop, experts elaborate on the themes of the first meeting through an in-depth and joint analysis of the presentations. This time, corruption is discussed in more detail, giving a deeper insight into the topic.
3) The third pillar of the project will be a training session for practitioners, which aims to explore aspects of relevance to the criminal justice system through legal cases.
4) The final conference will summarise the results of the project.

This handbook is intended for practitioners dealing with crimes of corruption, as the third phase of the project approaches. During the training, participants exchanged experiences through a case study to help them in their future work. The cases were presented in parts, and any questions that arose were discussed during and at the end of the cases. This book contains these questions in relation to the cases.

The training is based on a methodology developed by Dr. Judit Hegedűs, a trainer with specific experience in the field under study.

Due to the pandemic situation caused by the coronavirus, the training was conducted online, where it was not possible to process foreign legal cases and to have foreign experts participate in person, so the Hungarian law cases were the material for the online training. However, the training booklet also contains the foreign cases of the training originally planned with in-person participation. All cases were anonymised. The foreign cases were prepared and elaborated by partners, native of the country of the particular case.

The discussion of the foreign law cases will take place at the final conference and workshop with the participation of foreign experts. The views of foreign partners, their scientific position, their own country's situation will add value and answer the questions raised.

Editor

1 Aim of the training

The training, as the third pillar of the project, is aimed at law enforcement practitioners and will be led by practical and theoretical experts from the investigating authority, the prosecution and the judiciary. The general purpose of the training was to enable practitioners to share their experiences, discuss problems encountered in practice, bring their positions closer together and exchange good practices. The participants will also learn about the regulations and theoretical and practical issues in other countries, which will provide them with useful experience, broaden their horizons and shape their perspectives. The knowledge of other countries' solutions can also be an effective tool in the field of criminal cooperation.

The legal definition and regulation of crimes of corruption varies from country to country. The starting point is to distinguish between genuine crimes of corruption and corruption-related crimes. The problem of corruption raises a number of issues of criminal tactics, procedural law and substantive law. Clarification of the scope of crimes of corruption implies the need to distinguish between low-level and high-level crimes of corruption. Substantive legal issues include the distinction between official and economic corruption and the definition of corruption in the public and private sectors. There is a general tendency to focus on the bribery of public officials and bureaucrats, but corruption committed by economic actors should not be overlooked. A fundamental qualification issue is the classification of a decision taken by a public official in the course of an economic activity, i.e. whether the act constitutes economic or official bribery.

A further problem is the relationship between competition law and criminal law. In particular, the question arises as to which conduct falls within the scope of criminal law and which conduct falls within the scope of competition law. In this area, Member States have different rules. Within this topic, aspects of the criminalisation of vertical and horizontal competition will be addressed.

Among the individual offences of corruption, the different regulation of the offences of influence peddling and influence buying and their distinction from bribery should be highlighted. These two crimes are punishable in different ways in different countries, and the different rules can be explored as a lesson.

Corruption is one of the most difficult crimes to detect and prove. In order to increase the effectiveness of the fight against these offences, there is a need to strengthen criminal detection, investigation and prevention mechanisms. To this end, the experience of the investigating authorities should be included in the training. Good practices and shortcomings can be found in the final judgments and other final decisions closing cases, which can be used to reflect on what should/should be emphasised in, inter alia,

investigation, supervision of investigations, evaluation of evidence, and the legal challenges encountered by legal doctrine.

An increasingly wide range of possible measures to combat corruption is emerging in the states. The last decade has also seen a shift in attitudes in this area, since the traditional, repressive, rule-based approach has been replaced by an integrity-based approach, which is a value-based approach. The two perspectives and solutions together offer the optimal good outcome, with a balanced approach being the desirable goal.

The integrity-based approach, the need to prevent corruption and to detect individuals who are prone to corruption, has given rise to integrity testing. Integrity testing is linked to the problem of incitement to official misconduct. The fundamental question arises as to how far an undercover detective can go, what conduct that he or she can engage in does not constitute provocation, and whether the evidence obtained can be used in criminal proceedings.

The two-day training aimed to enhance participants' knowledge and attitudes through case studies prepared on the basis of pre-defined criteria. Participants were given introductory lectures to help them work through the legal cases.

The training was attended by representatives of the national professional orders – investigating authorities, prosecution offices and courts – about 30 people divided into four groups. Each group was mixed, i.e. all three professions were presented, allowing for a direct exchange of different aspects and points of view. The original programme of the training was to analyse corruption cases that had been finally concluded or were pending in four different countries, using the *world café method*, under the guidance of the Hungarian and foreign experts who prepared the legal case. With the help of the world café method, the participants did not only work on one case in their group, but also deal with all the cases that are the subject of the training, thus allowing for a very wide range of opinions and exchange of experiences. Participants learned about the cases in parts, with the facilitators 'drip-feeding' the information. Issues that arose were discussed during and at the end of cases. These questions are also included in this volume in relation to the cases.

The legal cases will be worked through on both days of the training, with a discussion session to discuss the key lessons learned. The intended outcome of the training is to answer the questions and problems raised in the legal cases and to explore the differentiation between low and high level corruption.

2 Training Programme

Day 1 22 November 2021 (Monday)	
09:30–10:00	**Joining**
10:00–10:15	**Welcoming participants and introduction to the programme** PROF. DR. TÜNDE A. BARABÁS, *Head of Department, Senior Research Fellow, Chief Counselor,* National Institute of Criminology
	Chair: DR. ÉVA INZELT PHD, *assistant professor,* Eötvös Loránd University, Faculty of Law and Political Sciences
10:15–11:00	**The real purpose of criminal law protection of the financial interests of the European Union** DR. BARNA MISKOLCZI PHD, *prosecutor, Head of Division,* Department for International and European Affairs, Office of the Prosecutor General of Hungary
11:00–11:45	**Current issues related to corruption offences and investigative tools in Italy** PROF. LUCIA PARLATO, *University Lecturer,* University of Palermo, Faculty of Law
11:45–12:10	***Coffee break***
12:10–13:00	**Corruption prevention in Poland** ZUZANNA MROZOWSKA MA, *Head of Department,* Central Anti-Corruption Bureau ARTUR KOŁDYS JD (PHD), *Head of Department,* Central Anti-Corruption Bureau AGNIESZKA REICHER MA, *Associate,* Central Anti-Corruption Bureau
13:00–14:00	***Lunch break***
14:00–16:00	**Case work I**
	Group 1 Moderator: DR. ÉVA INZELT PHD, *assistant professor,* Eötvös Loránd University, Faculty of Law and Political Sciences
	Group 2 Moderator: DR. KRISZTINA FARKAS PHD, *seconded prosecutor,* National Institute of Criminology
	Group 3 Moderator: DR. ADRIENN LACZÓ, *judge,* Metropolitan Court
	Group 4 Moderators: DR. RICHÁRD SZOBOSZLAI-SZÁSZ, *prosecutor, Head of Division;* DR. JÁNOS HOMONNAI, *Head of Department,* Department for Priority, Corruption and Organized Crime Cases, Office of the Prosecutor General of Hungary
16:00–16:15	***Closing the First day***

Day 2
23 November 2021 (Tuesday)

09:30–10:00	**Joining**
	Chair: DR. KRISZTINA FARKAS PHD, *seconded prosecutor,* National Institute of Criminology
10:00–10:50	**Issues related to the authorization of integrity testing** DR. ANDREA ZSOLNAI, *prosecutor, Head of Department,* Department of Public Interest Protection, Offences and Law Enforcement Unit, Office of the Prosecutor General of Hungary
10:50–11:30	**Analyzing integrity testing from a police perspective** DR. ZITA VEPRIK, *Police Lieutenant Colonel, Headquater,* Csongrád-Csanád County Police; *PhD student,* University of Public Service
11:30–11:50	***Coffee break***
11:50–12:50	**Case work II**
	Group 1 Moderator: DR. ÉVA INZELT PHD, *assistant professor,* Eötvös Loránd University, Faculty of Law and Political Sciences
	Group 2 Moderator: DR. ADRIENN LACZÓ, *judge,* Metropolitan Court
	Group 3 Moderators: DR. RICHÁRD SZOBOSZLAI-SZÁSZ, *prosecutor, Head of Division;* DR. JÁNOS HOMONNAI, *Head of Department,* Department for Priority, Corruption and Organized Crime Cases, Office of the Prosecutor General of Hungary
12:50–13:50	***Lunch break***
13:50–15:00	**Case work III**
	Group 1 Moderator: DR. ÉVA INZELT PHD, *assistant professor,* Eötvös Loránd University, Faculty of Law and Political Sciences
	Group 2 Moderator: DR. ADRIENN LACZÓ, *judge,* Metropolitan Court
	Group 3 Moderátorok: DR. RICHÁRD SZOBOSZLAI-SZÁSZ, *prosecutor, Head of Division;* DR. JÁNOS HOMONNAI, *Head of Department,* Department for Priority, Corruption and Organized Crime Cases, Office of the Prosecutor General of Hungary

15:00–15:35	**Summary of legal case studies – Panel Discussion** Feedback from case moderators and evaluation Moderator: DR. ÉVA INZELT PHD, *assistant professor,* Eötvös Loránd University, Faculty of Law and Political Sciences
	On the work of Group 3 DR. RICHÁRD SZOBOSZLAI-SZÁSZ, *prosecutor, Head of Division;* DR. JÁNOS HOMONNAI, *Head of Department,* Department for Priority, Corruption and Organized Crime Cases, Office of the Prosecutor General of Hungary
	On the work of Group 2 DR. ADRIENN LACZÓ, *judge,* Metropolitan Court
	On the work of Group 1 DR. KRISZTINA FARKAS PHD, *seconded prosecutor,* National Institute of Criminology
15:35–16:00	***Closing remarks, summary of Hungarian and international experience***

3 Methodological guide for training

Prepared by: DR. JUDIT HEGEDŰS, University of Public Service, Faculty of Police Sciences

The guide is related to the parallel training in person and online training, due to the fact that the training had to be held online, compared to the originally planned training in person, due to the COVID situation.

3.1 The concept of training

Training as a learning platform is becoming increasingly important in education. Clearly, it is the form of learning for competence development that can best be supported.

Training is an action-oriented method. The main feature of the training is that participants acquire new knowledge and competences in an interactive way; therefore, the role of group dynamics on the one hand and guided experiential learning on the other are crucial. It is very important that the training enables participants to work in groups, to cooperate, to compromise and to use problem-solving tools.

3.2 About trainers in general

Training is not an easy task, as it requires deeper psychological and pedagogical knowledge and skills and special methodological training to lead certain groups and certain exercises. It is essential for trainers to be able to reflect on their work, to manage processes consciously and to take responsibility for their groups. In a fortunate situation, trainers will have their own experience, not only of training in general, but also of the specific training designed for that particular purpose. We believe that the impressions gained from their own experience can greatly help their later work.

The trainers are expected to be essentially educational personalities with pedagogical, psychological and andragogical knowledge. In addition, high standards of communication skills, self-awareness, the ability to recognise and react quickly, and the ability to identify and solve problems are also high expectations. Moreover, of course, it is good if the trainer has creativity and good organisational skills.

The trainer's task is to lead a group. To ensure good management, it is very important

- as a leader, how the trainer communicates and what concepts they use, because points of view, etc. also orient the participants' thoughts and have an evocative effect;
- they must know the limits of their competence and, in certain exercises, without any psychological training, the trainer should not engage in interpretation, but rather encourage the identification of phenomena and the members' own search for meaning, reflection and reflection on experience;
- before leading the training exercises in groups, reflect on their own group-images, i.e. the images of the group that the trainer has from his/her lived and concrete experiences and imagination. These assumptions and possible prejudices have a great influence on the trainer's attitude towards the group and on what he or she thinks will happen (because they may be guided in thinking about it according to what they have experienced).

In leading groups, if the conditions allow, dual leadership is recommended, as it not only allows participants to see more trainer role-models, but it also provides them with examples of cooperation. Cooperation between trainers also provides an opportunity for a more nuanced interpretation and analysis of what is going on in the group.

It is very important that training-like elements can be added to any training.

3.3 Tasks before the start of training

Before starting training, there are a few things to think about. First of all, preparation means providing the technical background. It is very important to test the camera, the speakers and the microphone before the meeting to make sure that it all works. An important aspect is whether the lighting is good enough, what the environment is like and how visible the personal environment is to others. If this is distracting then it is always recommended to set the background image to a neutral one and not to include too many stimulating images.

It is also worth dealing with the noise that can make communication difficult; choosing a quiet place is recommended.

Although there are many funny pictures of just the upper clothing being neat, it is worth making sure that the trainer is neat beyond the camera view, so that they are not embarrassed if they have to stand up, away from the camera, and their full figure is visible.

The tidiness of the environment also means that documents and notes that may be needed during the conversation are easily accessible. It is a good idea to keep them close to

the computer and to open the documents and pages that will be shared in advance. It is a good idea to close any correspondence and Messenger in advance so that voice messages do not affect the training. There should be coffee and water next to the trainer so that they don't have to worry about it during the training session.

It is recommended that the trainer should always check in before the training and be the first one to do so. Participants may be late or have technical difficulties, so it is a good idea to prepare for some *small talk*.

It is advisable to look into the camera during the conversation, as facial features are much more visible at close range, so this is also worth paying attention to. Feel free to gesticulate to make the conversation a little friendlier.

3.4 Conditions and framework for the group

During the training, the trainer will be in close contact with a group. In order to work together well, it is essential to define a common framework. After the introductory exercises, the training sessions must always be followed by a 'contracting phase', i.e. setting the terms and conditions, during which the objectives, the limits and the rules of cooperation within the group must be defined. Among the group rules, it is recommended that trainers should, in all cases, include the following:

- Volunteering: the training is essentially based on the principle of volunteering, but this should not be abused. Use the right to pass, but do not abuse it.
- Confidentiality: what is said in the group must remain there. This is particularly important in the context of this training.
- Avoid qualification and personalities: even if the trainer gives feedback, try to avoid qualifying the other person's opinion; you can disagree with it, but do so in a civilised way. Do not insult others.
- If the trainer is offended, report it back. Take responsibility if you see a threat to the functioning of the group.
- Do not abuse others' time; be punctual.
- Avoid generalisations, phrase what you say in the first person singular and address your thoughts to the whole group.
- Don't interrupt each other's speech; don't talk in parallel.
- Use of mobile phones: there is a mobile phone silence in the classroom, but if it is absolutely necessary to use the phone then leave the room. Phones should be set to Silent.
- Shared responsibility for the training.
- The trainer moderates themselves, so that no one else has to.

Given that this is an online training course, it is also worth clarifying the rules of the online world:

- Cameras must be switched on. If the situation does not allow it, at least turn it on when you are talking.
- Everyone should mute the sound, use it only when you want to comment.
- If you want to comment, you can do so by using the hand signal.

At the beginning of the training, it is important to talk about the factors that can pull the group back and make participants feel insecure. In the interests of safety, it is worth thinking not only about the timeframe, but also about not letting the participant 'accidentally' share more than they are comfortable with, so there may be limits to their self-disclosure. Continuously monitoring this and shaping boundaries, subtly 'shutting down' is one of the most difficult leadership tasks.

3.5 Learning paths in training

Different learning paths occur through training and exercises. These are as follows:

- Expressing feelings and self-discovery, reflecting on and sharing one's own experiences. It is important to be specific and personal. The trainer can ask for feedback from the role played, can ask for feedback by observing the events, happenings, play, role-taking etc. from the outside, among the 'spectators'; ask what emotions have been activated and can talk about who has had what old memory, what experience can be told, shared, emerged or formulated.
- Feedback on how others see it, how they react to it; validation.
- Realisation, awareness, summary.
- Community experience (e.g. spectator experience), observation, reflection, analysis of an example, possibility of rehearsal in a non-emergent situation."

In addition, there is room to focus not only on social competence and personal development, but also on intellectual skills, even through the transmission of new information. It is important that the exercises are progressively deepened, and a variety of methodological elements can be incorporated into the training, with the aim of diversity.

3.6 Group dynamics phenomena during training

Training is expressly a group learning form, so the trainer must constantly monitor the processes of group dynamics. Almost inevitably, one encounters many forms of resistance in the training sessions, such as silence, distancing, verbal aggression, sub-grouping (cliquishness), 'rescue', and 'comedy'. These phenomena can affect the trainer, but care must be taken not to be distracted by these games, to try to overcome them by other methods and tasks, and not to feel them to be a personal insult or failure.

(Resistance may even be more pronounced in law enforcement groups, as this form of learning is completely unfamiliar to many of them; they may not know what to do with the situation, or it may even set in motion a process in which the individual can be injured.)

If we are talking about the training group, it is also true that the aim is to achieve that the trainer's participants can really work as a group, as a team, i.e.,

- be able to communicate with each other;
- feel part of the group;
- accept that they influence each other;
- be motivated by the group.

Of course, this is not an easy task to achieve, especially in a few days, but it is important to strive for it. The quality of a group is very much reflected in, for example, the extent to which it cooperates, or the extent to which it is able to follow the rules of constructive discussion:

- I am not criticising the person, but their opinion or idea.
- It's not about winning; it's about consensus-based decision-making.
- I listen to everyone's ideas, even if I disagree with them.
- I ask questions and rephrase them if I don't understand what my interlocutor is saying.
- I listen first, then I react.
- I strive to accept diverse points of view!
- I am able to change my opinion.

The discussion can be spontaneous, but the trainer can also prepare specific, targeted exercises for it.

3.7 Grouping of training exercises

The training-exercises can be grouped according to their genre as follows:

- Warm-up, ice-breaker exercises: to start group work;
- interactive exercises for interaction between members;
- self-awareness questionnaires, which are self-assessed by the respondent;
- aquarium exercises, where a small group of the group observes what is happening;
- combined exercises (combining individual and group work);
- role-plays (mostly with pre-defined roles);
- closing exercises, to raise awareness of the group's experience of closure.

Thematically, one can distinguish between self-discovery exercises, exercises aimed at strengthening group cohesion, cooperation exercises, exercises focusing on inter-group communication, exercises based around group decision-making, exercises dealing with roles in the group, exercises aimed at deepening personal relationships, exercises aimed at developing interpersonal skills and, for example, exercises supporting the expression of feelings toward each other.

3.8 Specific suggestions and exercises for training

3.8.1 Structure of the training

In general, each training session has a specific structure and mandatory elements. These have been taken into account in structuring the training. These compulsory elements are the following:

1. Introduction by the trainer, start of the training, technical information
2. Introduction by the participants
3. Start of the second day
4. Setting expectations, specifying the framework for cooperation
5. Tuning in to the topic
6. Activation exercises for in-persontraining
7. Closing the day, the training

3.8.2 Introduction by the trainer, start of the training

First of all, the trainer must introduce themselves, providing all the information about the trainer and the training day that may help colleagues.

Features of the exercise	
Purpose of the exercise: to facilitate familiarisation, develop empathy and active attention. **Competences and factor(s) to be developed:** ➢ Self-awareness, self-esteem, self-evaluation. ➢ Relationship building. **Time requirement:** 15 minutes	
Step in the exercise	
1. The trainer introduces themselves briefly, explaining what they do and how it relates to this topic.	5 minutes
2. Share the main information about the two training days. Explain how long the training days will last, how they will be held and how they will be broken up. Answer any questions that arise.	10 minutes
Information for the trainer	
• The trainer needs to decide whether to use a familiar or formal mode of expression. In training sessions, it is usually uniformly accepted to use the familiar form, as everyone is an equal participant in a training session. • It is necessary to find out beforehand how the other groups will work. • The use of the Teams programme and, in the case of in-person training, the characteristics of the location must be explained.	

⇒ Introductory exercises

The introduction of the participants is an essential element of the training; it is not recommended to introduce only names and positions; more playful elements can be included. The following exercises are specifically designed to provide opportunities for playful introductions.

It's worth making sure that names are written on business cards, and in the case of online training, that they write the name by which they want to be called. Care must also be taken not to take too long with the introduction.

"What's my Line"

Features of the exercise	
Purpose of the exercise: to facilitate familiarisation, develop empathy and active attention. **Competences and factor(s) to be developed:** ➢ Self-awareness, self-esteem, self-evaluation. ➢ Relationship building. **Time requirement:** 15–20 minutes	
Step in the exercise	
1. The trainer explains the exercise: *Think about what you would say about yourself if you had to introduce yourself in the game* 'What's my Line'. Questions may be asked to help processing: • What I would like to say about myself... • The biggest challenge for me lately has been... • What I haven't tried yet, but would like to try... • What else I think is important to say about myself...	2 minutes
2. The participants introduce themselves one by one.	7 minutes
3. The trainer initiates a discussion on what the group has in common.	8 minutes

"My motto at work"

Features of the exercise	
Purpose of the exercise: to facilitate familiarisation, develop empathy and active attention. **Competences and factor(s) to be developed:** ➢ Self-awareness, self-esteem, self-evaluation. ➢ Relationship building. **Time requirement:** 15–20 minutes	
Step in the exercise	
1. The trainer explains the exercise: *I'll ask you to introduce yourselves by your favourite workplace motto, where you come from and what experiences you've had.*	2 minutes
2. The participants introduce themselves one by one.	7 minutes
3. The trainer initiates a discussion on what the group has in common.	8 minutes

"Instructions for using me"

Features of the exercise	
Purpose of the exercise: to facilitate familiarisation, develop empathy and active attention. **Competences and factor(s) to be developed:** ➢ Self-awareness, self-esteem, self-evaluation. ➢ Relationship building. **Time requirement:** 15–20 minutes	
Step in the exercise	
1. The trainer explains the exercise: *I'd like you to think about what advice you would give to the group members about yourself. What would be the instructions for using you?*	2 minutes
2. The participants introduce themselves one by one.	7 minutes
3. The trainer initiates a discussion on what the group has in common.	8 minutes

⇒ Day starter exercises

When opening the second day of the training, it is worth taking care to allow time for tuning in. It is also worth reflecting on the morning presentations; ask if they still have any questions they would like answered, even about the previous day. Two of the exercises to start the day are given below.

"Day starter"

Features of the exercise
Purpose of the exercise: to start the day, to explore views and opinions on any conflict. **Competences and factor(s) to be developed:** ➢ emotional intelligentsia ➢ communication skills **Time requirement:** 30 minutes **Tools:** photos, qutoes **Source:** author's own practice **General description of the exercise:** participants choose a picture or photos they like, which they talk about for one minute to start the day.

Step in the exercise	
1. The trainer welcomes the participants. If it is in person, the trainer can even search for photos, posting them before the opening (it can be a Dixit card). Then the following instructions are given: *Choose a picture that expresses your mood. Why did you choose this one?* If it's online, participants should choose a picture that expresses their mood. During the presentation, the trainer should feel free to ask why this picture was chosen.	5 minutes
2. One by one, participants share their thoughts on the picture for 1 minute each.	15 minutes
3. The trainer introduces the topic, highlights what will be discussed and reflects on the previous day and morning.	10 minutes

"Weather report on my mood"

Features of the exercise

Purpose of the exercise: to start the day.

Competences and factor(s) to be developed:

- emotional intelligentsia
- communication skills

Time requirement: 30 minutes

Tools: drawing pad, coloured pencils, markers

Source: author's own practice

General description of the exercise:
the participants make a weather report on their current mood.

Step in the exercise	
1. The trainer welcomes the participants. If the training is attendance-based, drawing pads, pencils and markers are distributed. If online, the trainer asks the participants to take a drawing pad and pencils and markers (but even a pen is sufficient) and gives the following instructions: *If you had to compare your current mood to the weather, what would you say? Is it raining? Is it sunny? How many degrees is it? Why do you describe your mood like this? What would it take for the sun to come out?*	5 minutes
2. One by one, the participants tell their own weather report for 1 minute each.	15 minutes
3. The trainer introduces the topic, highlights what will be discussed and reflects on the previous day and morning.	10 minutes

⇒ Name learning exercises

If the training is in person, it is always recommended to use a name tag with the name of the person to be addressed clearly written on it. This can also be requested in the online space. In addition to these, we can also use playful exercises to help with name-learning. For example, with the following exercise.

"Alliterative names"

Features of the exercise	
Purpose of the exercise: to get to know the participants of the training in a deeper way, to connect names and people and to create a good atmosphere. **Competences and factor(s) to be developed:** Personality traits: sense of duty, friendliness. **Time requirement:** 15 minutes **Tools:** no tools are needed to perform the exercise. **General description of the exercise:** participants in the training add an alliterative adjective to their first name to help them remember their name.	
Step in the exercise	
1. The trainer will explain that, *during the exercise, each person will choose an adjective alliterating his/her first name, which is also one of his/her characteristics, and that this will be used to learn each other's names.*	2 minutes
2. If we attend, we pick someone in the circle, who will give their name. Then the participant sitting to the right (left) of them will be asked to say the alliterative name of the person before them, followed by their own. The next person has to say the previous two and their own, and so on. If you play the exercise online, the trainer controls the order, but you can also try learning the sequence here.	13 minutes
Information for the trainer	
It may be that some people don't know what alliteration is, so it is worth giving an example: Alina the Achiever, Sylvia the Smiling, etc.	

3.8.3 Formulating expectations, clarifying the framework for cooperation

It is very important to formulate the expectations of the participants, to find out what kind of attitude they have, what they want to get from the training, or whether there are any external/internal factors that hinder their full attention and participation. These can have a great impact on the motivation of the participants and can also help the trainer to shape the training. These can be explored through the expectations tree exercise.

The development of a smooth cooperation can be strongly facilitated by the establishment of commonly agreed rules, which can also be a 'contract'.

⇒ Conclusion of a cooperation contract

Features of the exercise	
Purpose of the exercise: to clarify the rules of cooperation, to show individual expectations, to practice working in a group and to clarify the framework of the training. **Competences and factor(s) to be developed:** ➢ Organisational norm: personal and public conformity. ➢ The subjective norm. **Time requirement:** 15 minutes **Tools:** flipchart board, flipchart paper, markers. **General description of the exercise:** the group members collect the rules of conduct that are necessary for achieving the objective of the training and that promote cooperation and a good working atmosphere.	
Step in the exercise	
1. The trainer asks the group members to think about the rules of behaviour that need to be observed in order for the group to learn and cooperate effectively and in a good atmosphere. The trainer explains that these rules will set the framework for the group's activities for the rest of the training. The trainer points out that any sub-rule can only be adopted if all members of the group agree to it and it is acceptable to them. If someone disagrees with a sub-rule, it cannot be included in the group norms. The trainer notes that the rules can be amended continuously during the training process if there is agreement.	3 minutes

2.	The trainer asks the group members to propose rules and asks them to indicate with a show of hands whether they all agree with the proposed rule. If there is disagreement on the introduction of the rules, the trainer asks the group members to justify their opinion, followed by a collective decision. After clarification, participants sign and initial the list to indicate their acceptance of the rules. The trainer writes the agreed rules on a flipchart paper and, after signing them, they are posted in the room in a visible place until the end of the course. If all this is done in an online space, it is written on a whiteboard, or in a google drive document, or perhaps on the chat wall. Participants can agree to the contract by raising the *small hand*.	12 minutes

Information for the trainer

Discussion points, questions:

- *Does everyone really agree to the rules that have been agreed?*
- *Do you feel you can abide by them?*

3.8.4 "Tuning" exercises

It is worthwhile to tune the participants into the mood for the topic, and the following options can be used:

1. **Dr. Bubó** (Hungarian cartoon series) – episode name: *Corruption* (11:52 min.): https://videa.hu/videok/film-animacio/dr.bubo-korrupcio.mp4-WtfO1JKajoFC7suE
2. **The Simpson Family** (American cartoon series) – episode-scene: *The Corrupt Mayor* (0:39 sec.) https://www.youtube.com/watch?v=F5RV_uLbb_Q

Information for the trainer

A related question can be asked:

- *How real is the situation portrayed in this film scene?*
- *How does the film scene interpret corruption?*

3.8.5 Closing exercises

An important part of any training is closing it, whether it is the end of a day or, in the case of multi-day training, the end of a process. The closing exercises have several functions: on the one hand, to give the trainer feedback to reflect on the needs of the group for the following day and, on the other hand, to reflect on the participants' own activities and experiences of the training.

It is very important to go back to the *expectations tree* at the end of the training in any case, to see how far expectations have been met.

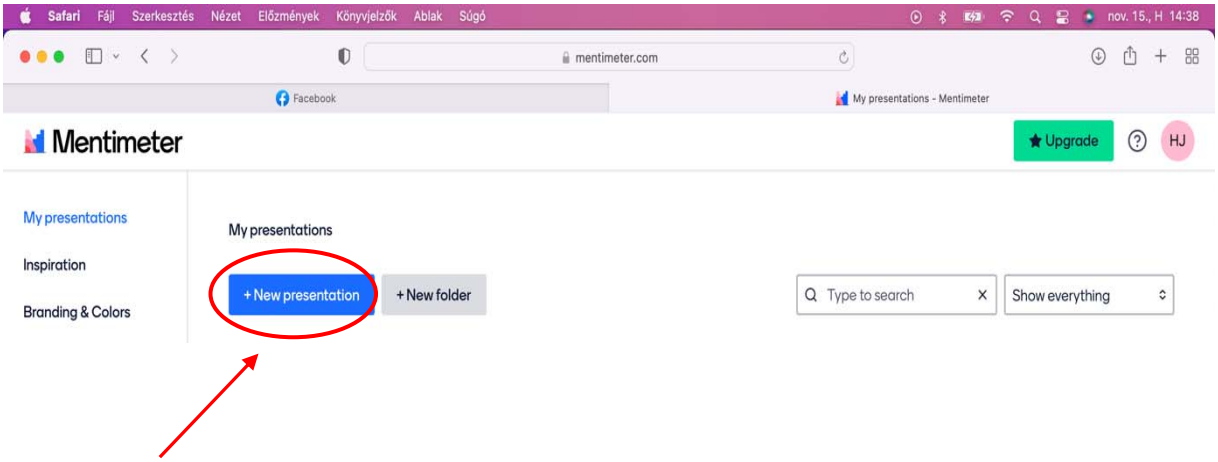
3.9 Online help tools

3.9.1 Creating a word cloud with Mentimeter

The *Mentimeter* is a web-based interactive presentation tool for creating interactive exercises:

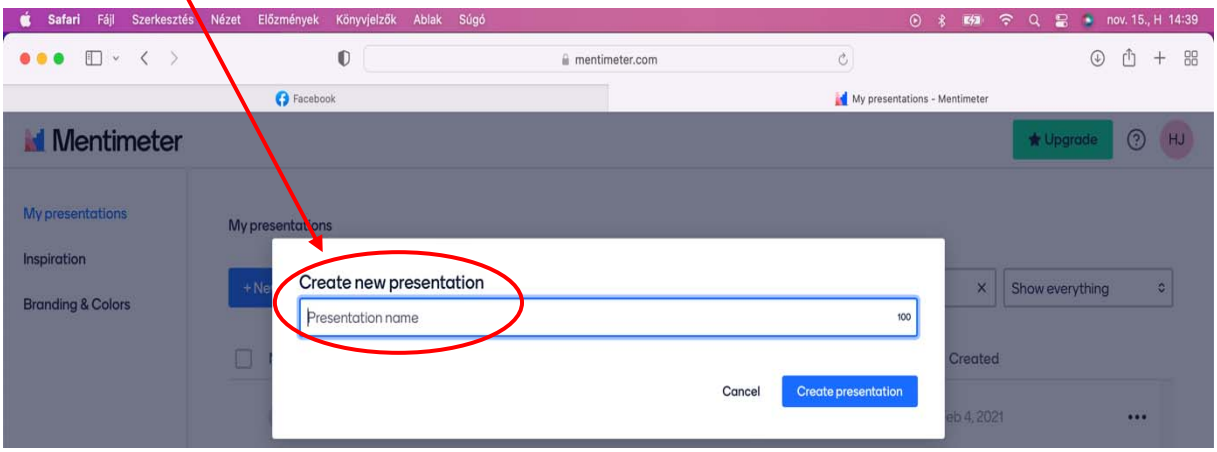
https://www.mentimeter.com

1. Register: sign up
2. The following page will then pop up:

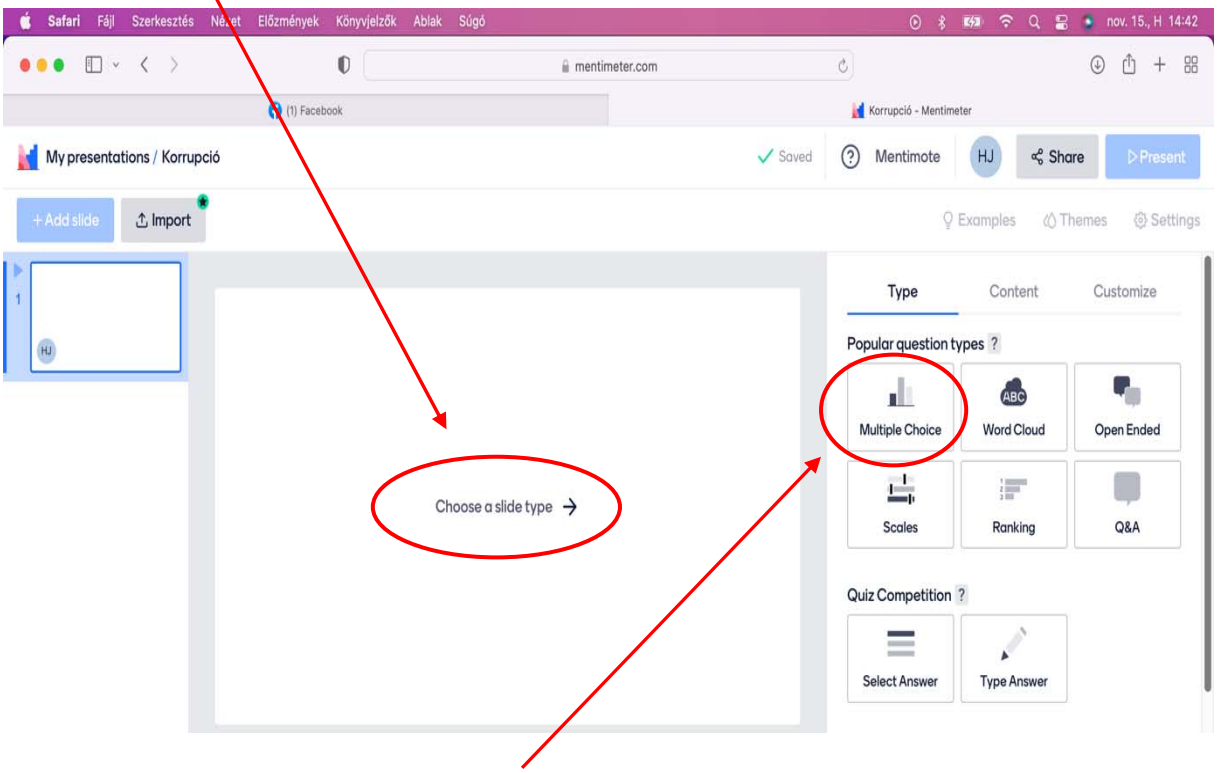


Click on the *New presentation* button to create interactive exercises.

a) *Create new presentation* – enter the name of the presentation



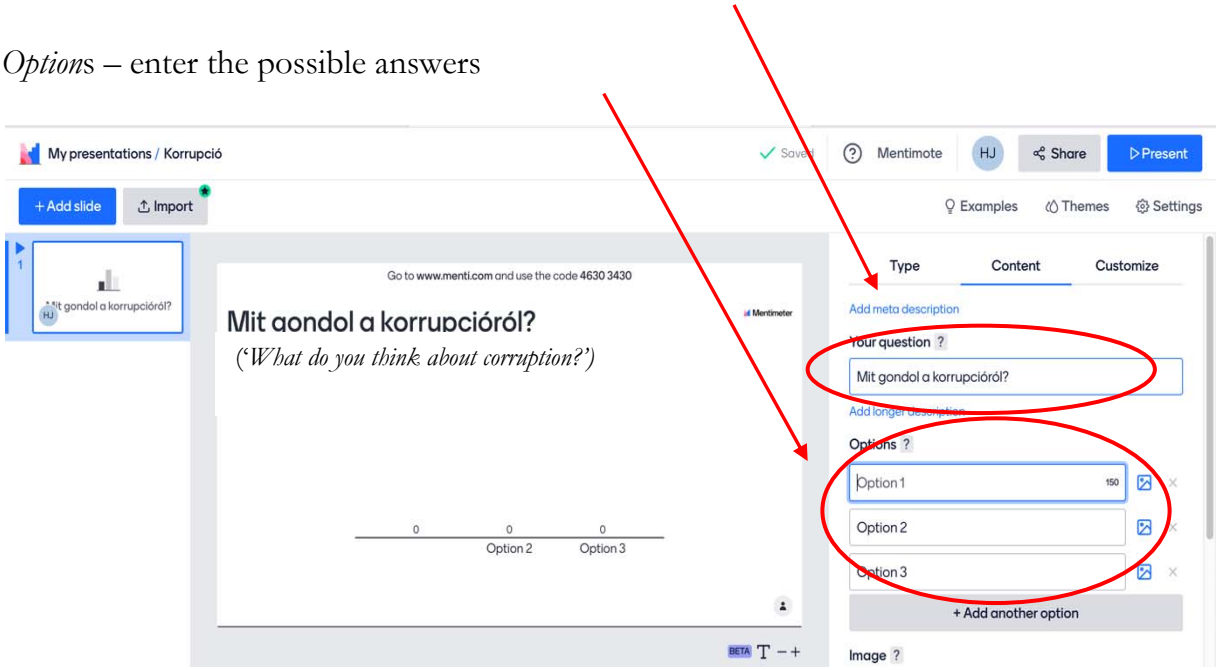
b) *Choose a slide type* – select the type of interactive exercise



Multiple Choice – select the type of interactive exercise

Your question – enter your own question here (for example: '*What do you think about corruption?'*

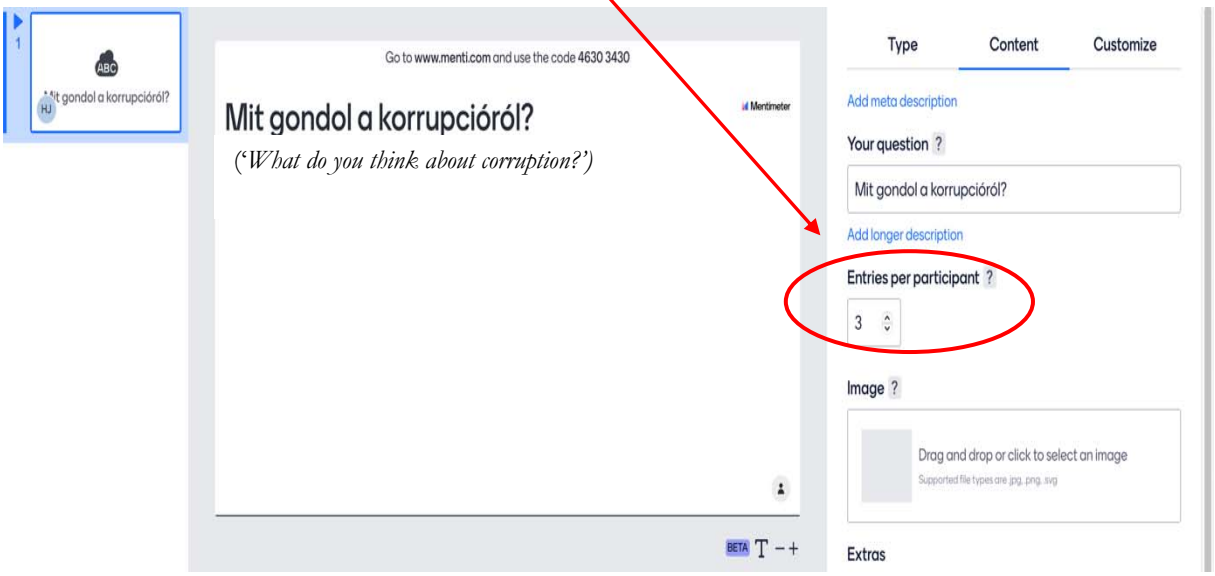
*Option*s – enter the possible answers



Word Cloud **(Create a Word Cloud)**

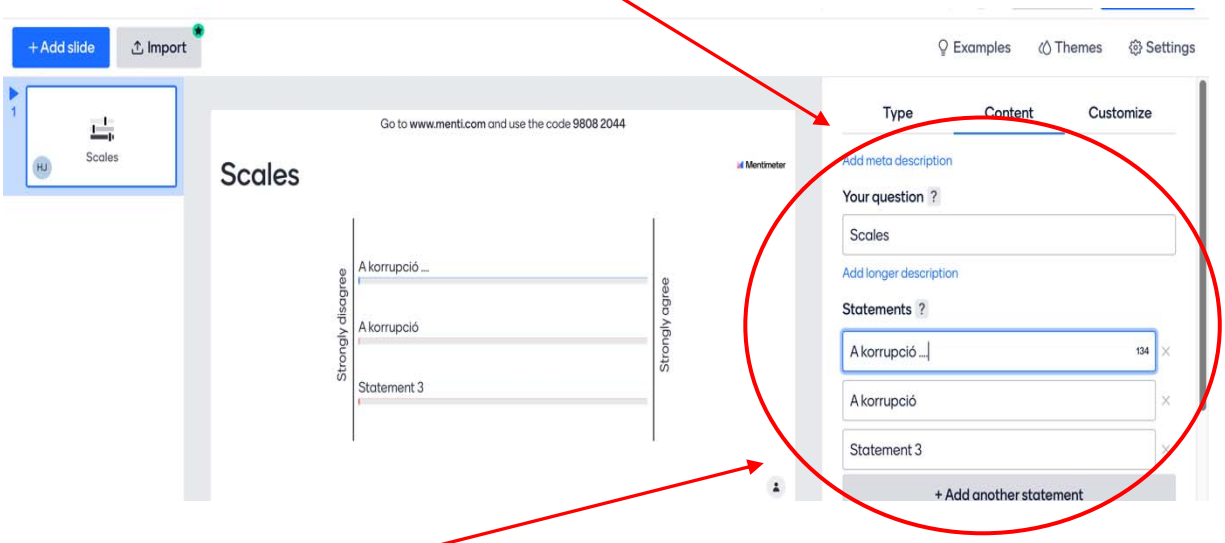
Question – question, instruction

Entries per participant? – here you can set the number of words you expect from respondents

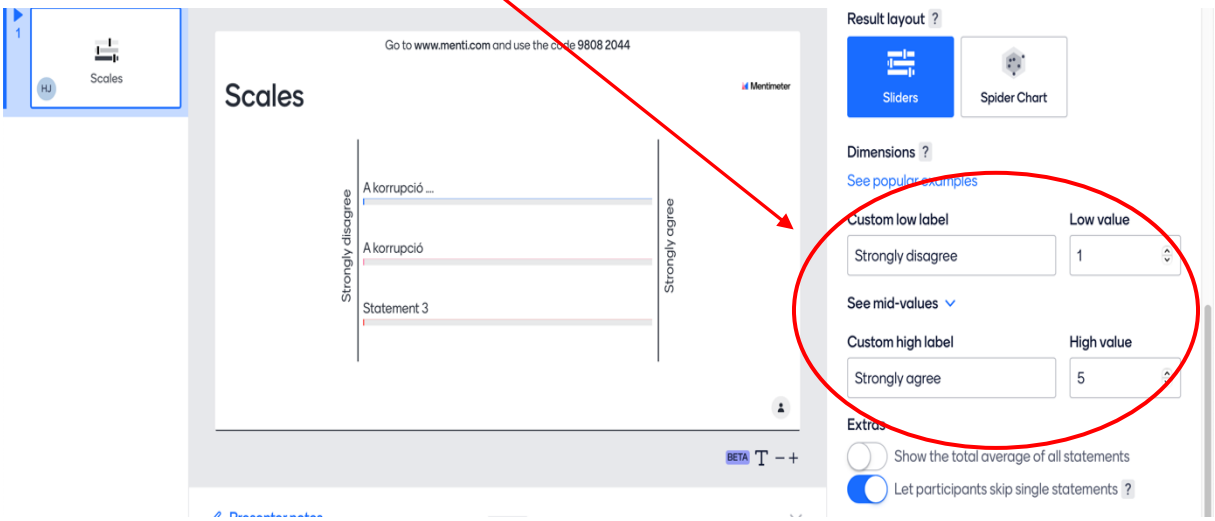


Scales

In a scale question type, participants answer the question asked by choosing between the given extremes. The question, and even questions and scale extremes, can be given in text or numeric form.

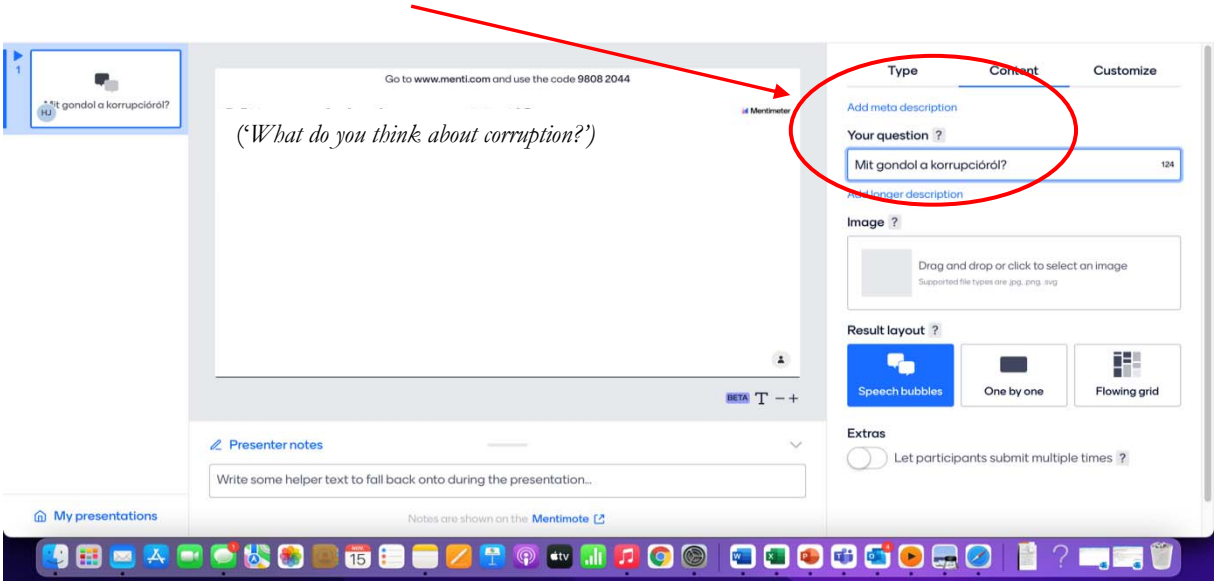


For the *Statements* part, we write the statements. Moving down, we can set the scale values (*Custom low label – Custom high label*)

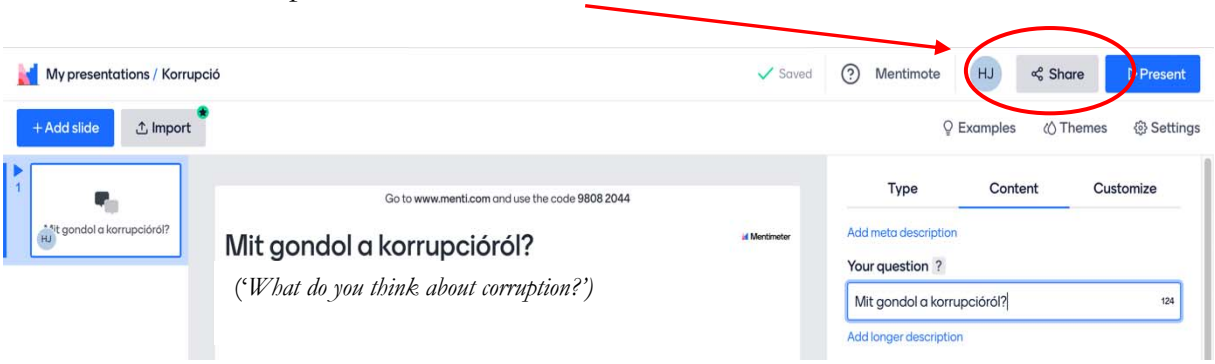


Open ended **(Open ended question)**

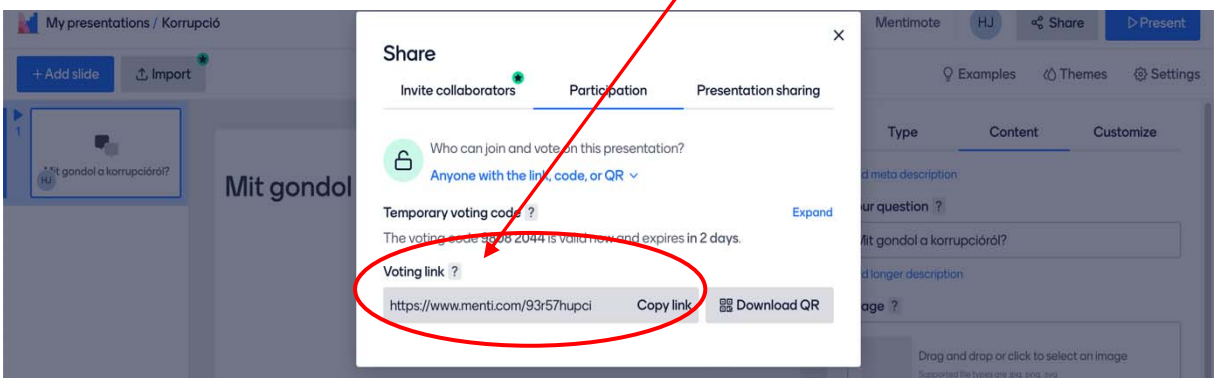
Open ended questions allow the listener to type in a text response freely. The question must be written for *your question*.



When the task is complete, click on the *share* button.



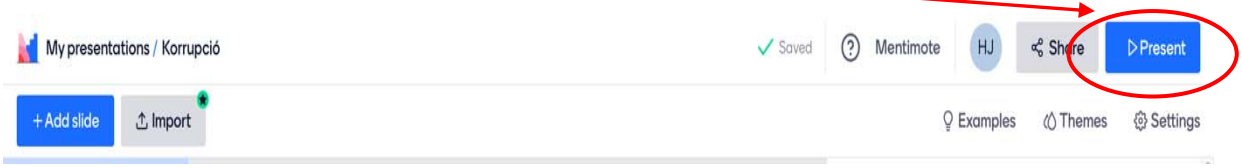
The following page will then pop up: copy the *voting* link and then share it with the participants.



Once this is done, you have finished editing the task and can exit.

When we give the link to the group, we need to do the following:
We enter the interface and click on *My presentations*. Then we can see the materials we have created; select the one we have shared with the participants and open it. (If participants do not open it through the link, they may be asked for a code, so it is better to share the link.)

Then click on *Present*.

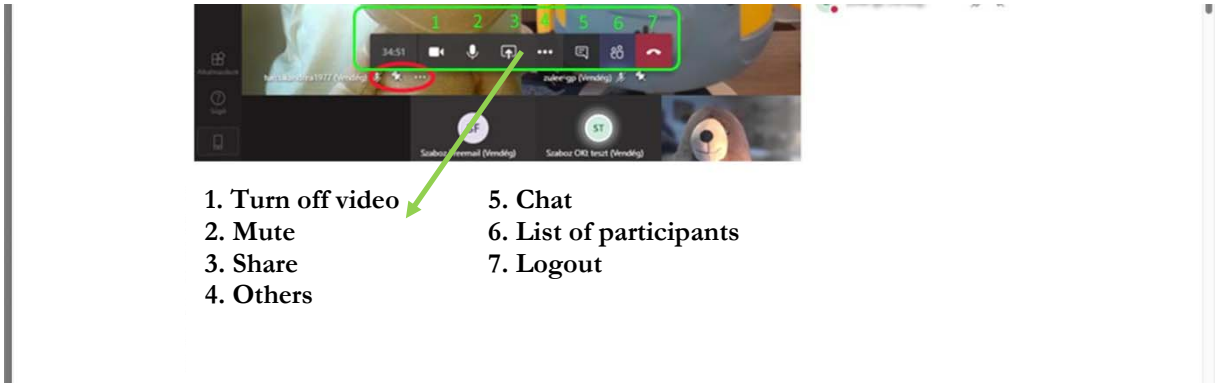


And the resulting picture can be shared with the participants.

3.9.2 Use of Teams

The program has Windows, Linux, Mac, Android and IOS clients, but can also be used from a web interface. The desktop version can be downloaded from the Microsoft site:
https://products.office.com/hu-hu/microsoft-teams/download-app
(it is more convenient to use the app)

You can join *Teams* as an invitee without a Microsoft account but it is important that the moderator has full access rights.
Below are the most important buttons.



Share

Shareable: the desktop, a window, documents, presentations, whiteboard, etc.
If a Group has already been created (see below), then files can be selected from it to be used during the meeting. The applications on the right (e.g. Drawing Board) are not visible to users who are connected as guests.

4 Case studies

A. Foreign law cases

ITALY

Case-study 1 – Corruption in judicial acts

1) Problem raising

- Admissibility (or not) of the application of a penalty upon request of the parties; so-called "plea bargaining" (Art. 444 Criminal Procedure Code)[1], without restitution of the profit of the bribery.

2) Related national laws

- Art. 319 *ter* Criminal Code[2] ♦ Corruption in judicial acts
  The conduct as provided for by the Articles 318 and 319 (namely "improper" and "proper" bribery) is undertaken in order to favour or damage a party in civil, criminal or administrative proceedings."
- Art. 318 CC ♦ Bribery for the performance of the function
  When the public official, in connection with the performance of his or her functions or powers, unduly receives personally or collects for a third party money or other benefits, or accepts the promise of them.
- Art. 319 CC ♦ Bribery for actions contrary to official duties
  The public official, in exchange for performing (or having performed) an act conflicting with the duties of their office, or in exchange for omitting or delaying (or having omitted or delayed) an act of their office, receives money or other benefits, or accepts a promise of such things.
- Art. 444 CPC ♦ Application of a penalty upon request of the parties
  The defendant and the public prosecutor may ask the judge to apply, in the type and to the extent indicated, an alternative sanction or a pecuniary penalty, reduced by up to a third, or a custodial penalty when this, taking account of the circumstances and reduced by up to a third, does not exceed five years alone or combined with a pecuniary penalty.

[1] Italian Criminal Procedure Code (Codice Penale Regio Decreto 19 ottobre 1930, n. 1398) hereinafter: CPC
[2] Italian Criminal Code (Codice di Procedura Penale D.P.R. settembre 1988, n.477) hereinafter: CC

– Art. 444 1-*ter* CPC
In the event of prosecution of any of the crimes provided for in art. 314, 317, 318, 319 *ter*, 319 *quater* and 322 *bis* CC, the admissibility of the request referred to in paragraph I is subject to the full restitution of either the price of the offence or any profit made thereof.

3) Details of the case

The case emerged through wiretapping and audio surveillance carried out in the context of investigation of other corruption conducts (always in the frame of the Salerno Tax Commission).

- What information pointed to a crime of corruption?
- What crime of corruption was suspected?

The case concerns so-called "guided" decisions, namely the phenomenon of corruption in judicial acts. The proceedings concern an entrepreneur, Mr Dante, who, acting in the interests of some enterprises, played the role of corrupter of a public official, namely a tax judge working in Perugia. As a benefit, Mr Dante received a favourable judgment at the end of the trial concerning the amount of unpaid taxes for the years 2011 and 2012. The main advantage offered to the judge consisted of hiring his son (for a period of three months).

The accused proposed a plea bargain to the public prosecutor.

- What was the reason for the accused to initiate the plea bargain?
- What was the prosecution's reason for entering into the plea bargain?

In light of art. 444 § 1 *ter* CPC, for these kinds of crimes, plea bargaining can only be admitted upon payment of a fee. To access the plea bargain, the defence proposed to pay a sum of 10.000, Euros as the price of the crime, in relation to the advantage received by the judge for his son.

According to the reasoning of the decision, the payment pursuant to art. 444 CPC has a restorative and not a sanctioning function, because it simply allows access to plea bargaining. From this perspective, the role of this payment differs from that provided by art. 322 CC. Indeed, the latter concerns the sentence, where the payment has a sanctioning value.

The Court of Perugia – section of the judges for preliminary investigations – decided in relation to the plea bargain request proposed by the defendants in the preliminary hearing. The Court stated that, in this case, the plea agreement can be admitted even without the payment of the fee.

The case was closed through the plea bargaining (art. 444 CPC). Regarding the judge and his son, the case was heard through another special procedure, the "summary trial" (art. 438 CPC). The punishment of imprisonment applied to the entrepreneur Mr. Dante (one year, nine months and ten days) was suspended. The judge Mr. Bramante was convicted: the penalty (six years, three months and three days imprisonment) was reduced, due to the special procedure (the summary trial pursuant to art. 438 CPC.). The judge's son was acquitted.

- What was the reason for the acquittal?
- How are the acts of Mr. Dante, Mr. Bramante and Mr. Bramante's son classified?

Evidence based on the results of wiretappings and banking investigations. Plea bargaining (art. 444 CPC) and Summary trial (art. 438 CPC): they both result in a reduction of the sanction. The crime was classified as corruption in judiciary acts, in light of art. 319 *ter* CC.

- What are the conditions under which wiretapping may be conducted? What was the reason for the wiretapping?

The proceedings started in October 2019 (when precautionary measures were applied), and they were concluded in May 2021 through plea bargaining and summary trial decisions.

- To what extent does the use of plea bargaining or summary procedure speed up proceedings?

4) Issue related to the case

A specific issue regarding the difference between the "price" and "profit" of the corruption.

- What is included in the "price" of corruption?

Case-study 2 – Corruption in the context of State monopolies management

1) Problem raising

- It was relevant that the "Omertosa" mafia organisation were responsible for all criminal activities, offering peculiar services and tools: for the most part, about the activities did not involve money or more conventional benefits.
- Relationship between high ranking corruption – economic corruption.
- Relationship between competition law and criminal law.

2) Related national laws

- Art. 318 CC ♦ Bribery in judicial acts
  (See in Case-study 1)
- Art. 319 CC ♦ "Bribery" or "Bribery for the performance of an act contrary to the duties" (See in Case-study 1)
- Art. 416 *bis* CC ♦ Mafia-type associations, including foreign ones
  (1) Anyone who is part of a mafia-type association formed by three or more persons.
  (2) Anyone who promotes, directs or organises the association

3) Details of the case

The case emerged through wiretapping carried out for other corrupt conducts in the same criminal context, namely the "Grande Sicilia" operation, which led to the seizure of a "Bella" bingo betting hall. From these initial elements, an investigation was carried out by the Anti-Mafia Investigation Department (office responsible for carrying out investigations of organised crime offences).

- What information pointed to a crime of corruption?
- What crime of corruption was suspected?

The mafia bosses' front men received licences and other permits from State monopoly officials, to open and operate betting shops and bingo halls. A similar conduct was related to the resale of items of State monopoly (tobacco products). The "Omertosa" criminal association offered money, dinners and travel involving prostitutes in exchange for the abovementioned permits.

In particular, in view of the advantages offered to them by the mafia, Mr. Allegri (the former director of the Sicilian monopoly agency), Mr. Mantovani (the deputy director of the Sicilian office) and an employee, Mr. Petrocchi accelerated the procedure requested to open new betting shops. In addition, they warned the managers of these shops, in advance, before carrying out any scheduled checks.

- How is the conduct of each of the accused classified?

Among the other advantages offered by the mafia, the investigators considered the mafia's hire of a person upon the explicit request of public officials. Twenty days after that hiring, the authorisation for the resale of tobacco inside the betting hall was issued.

The accused were convicted through a "summary trial" (art. 438 CPC) (with a reduction of the sanction, due to the special proceeding). The Court of Appeal confirmed the convictions.

In 2016 the Court of Cassation ruled on the case. For some of the accused, it cancelled their convictions due to time-barring the prosecution of offences; for other convicted people, the Court annulled the decision, returning their cases to the judge of second instance for a modification of the sanction only; for the remaining accused, on the other hand, the Court rejected their appeal, so that the sentence became final.

- What led to the statute of limitations for the crimes of each of the accused?

The classification of the conduct was for some, corruption aggravated by facilitation of the mafia; for others, corruption for an act contrary to official duties (art. 319 CC). This last offence was degraded to "corruption for the exercise of the function" (318 CC) in favour of one of the accused.

- What facts / circumstances led to the statute of limitations for the crimes of each of the accused?

The results of the wiretappings and of the banking investigations were the core evidence.

4) Issue related to the case

A peculiar aspect concerned the nature of the services and the benefits offered to public officials. It made it more difficult to ascertain the facts.

- How can these services and benefits be detected and proved?

Case-study 3 – Corruption in the health sector, with regard to ambulance services

1) Problem raising

– The core of the case concerns the ambulance service of the "Policlinico Hospital" in Pisa. It was difficult to detect the existence of an illicit deal between Mr. Capriccioso, the head of the cooperative which managed the ambulance service in the said hospital, and the public official (Mr. D'Angelo). The latter failed to monitor the service after having received money.

2) Related national laws

– Art. 319 CC ♦ "Bribery" or "Bribery for the performance of an act contrary to the duties" (See in Case-study 1)

3) Details of the case

Mr. D'Angelo had already been accused by the Regional Prosecutor of the Court of Auditors, but the first instance trial ended with an acquittal. The accounting judges acknowledged the administrative disorganisation, but denied that the responsibility should lay on an employee. The investigation was initiated by the "Carabinieri", after a report from the hospital, and it was later carried out by the "Guardia di finanza", coordinated by the prosecutor.

- What were the grounds for the acquittal?
- What information was necessary to initiate the investigation?
- What was the suspected crime?

The case is recent and concerns the service of ambulance transport of patients to, from and within a large hospital complex (Policlinico di Siracusa), which is composed of various separate departments, distant from each other. The service was managed from 2012 to 2018 by a cooperative, named "Assistenza Siciliana". According to the prosecution, the cooperative fictitiously declared that it had carried out additional activities (actually not carried out or carried out without authorisation). On his part, the public official, who was in charge of monitoring the activities performed by the cooperative, failed to report the irregularities, after receiving a large sum of money (130,000 euros).

The conduct qualified as corruption in light of art. 319 *ter* CC. Evidence based on results of wiretappings, banking investigations.

- Who was intercepted and on what ground?

The Policlinico Hospital had paid out more than 3,000,000 euros. The financial police discovered the ploys that Mr. D'Angelo and Mr. Capriccioso allegedly used in their attempt to shield the illicit agreement.

- What were these "tricks"?

First, it emerged that the "Assistenza Siciliana" cooperative transferred 8,000 euros to a joint bank account they had together with Ms. Italy stepdaughter of the civil servant, and her husband, Mr. Laggio. They justified the transfer of the sum as aimed at resolving an alleged job dispute. However, according to the prosecutor, the dispute did not exist because Ms. Italy never worked for the cooperative.

In another circumstance, a real estate company, legally represented by Ms. Fonti, and considered connected to "Assistenza Siciliana", transferred another 50,000 euros to an old woman's account, purporting to purchase of a very damaged property. The same property would have been simultaneously rented to the cooperative itself, which paid 50,000 euros in advance for the following six years. Eventually the money, according to the suspicions, would have been received by Mr. D'Angelo.

- How was each defendant's conduct classified?

The case emerged in April 2021. Preliminary investigations are ongoing. Seizure of 260,000 euros was carried out and Mr. D'Angelo is under house arrest.

4) Issue related to the case

A specific issue is the relationship between the criminal proceedings and the proceedings before the administrative Court (where the main accused was acquitted).

- What are these specific issues?

Case-study 4 – Statute of limitation for some crimes and the mitigating factor ex art. 323 bis CC

1) Problem raising

– The main problem is to establish whether, in the assessment of mitigating circumstances pursuant to art. 323 *bis* CC, all the alleged crimes should be considered, including those that have been time-barred.

2) Related national laws

– Art. 319 *quater* CC ♦ Undue inducement to give or promise benefits
Unless the act constitutes a more serious offence, the public official or the person in charge of a public service are punished with imprisonment from six years to ten years and six months, if, by abusing their position or powers, they induce someone to give or promise to them or to a third party, money or anything of value unlawfully.
In these cases, anyone who gives or promises money or other benefits is punished with imprisonment for up to three years or with imprisonment for up to four years, if the crime offends the financial interests of the European Union and if the damage or the profit exceeds 100,000 euros.

– Art. 323 *bis* CC ♦ Mitigating circumstances
If the conducts provided for in art. 314, 316, 316 *bis*, 316 ter, 317, 318, 319, 319 *quater*, 320, 322, 322 *bis* and 323 are particularly tenuous, the penalties shall be reduced.
For the offences referred to in art. 318, 319, 319 *ter*, 319 *quater,* 320, 321, 322 and 322 *bis*, the penalty is reduced by one third to two thirds for those who have effectively taken steps to prevent the criminal activity from having further consequences, to safeguard the evidence of the offences and the identification of the other people involved in the crime, or to seize the sums of money or other benefits transferred in committing the crime.

3) Details of the case

Presumably the criminal conduct emerged through reports. The case involved an official of the Revenue Agency of Trieste, Mr. Le Villari. The charge against him concerned several episodes of undue inducement to give or promise a benefit to the detriment of some business owners.

- What conduct constituted the unauthorized imposition?
- What were the undue advantages?

The Court of Cassation acknowledged time-barring for all the charges, with the exception of the activity involving Mr. Mantovani as victim. This case concerns the undue payment of the sum of 200 euros, which took place in November 2006. Considering the particular tenuity of the offence, the Supreme Court annulled the decision, referring it back to the second instance judge, to assess the existence of mitigating circumstances pursuant to art. 323 *bis* CC and to decide on the form of sanction.

- Why has the statute of limitations expired?
- What is the time limit for the expiry of criminal liability under Italian law?

After a second decision by the Court of Appeal, the Court of Cassation stated again that – in order to recognise the special mitigating circumstance envisaged for particularly tenuous events pursuant to art. 323 *bis* CC – it is necessary to consider all the constitutive elements of the crimes originally contested, even if partially time-barried. In this frame, the Supreme Court affirmed that the time-barred crime still stands as an expression of the overall conduct of the offender and their personality.

The act qualified as "undue inducement to give or promise a benefit" *ex* art. 319 *quater* CC. Evidence was based on reports and the results of wiretappings.

- Who made the report and what information did it contain? What was the suspected crime?
- Who was interrogated and on what grounds?

The case emerged in 2015 (at that time, house and office searches were carried out and house arrest measures were applied). The last decision of the Supreme Court was adopted in 2019.

4) Issue related to the case

A specific issue concerns the "progressive formation" of a final decision. In particular, it concerns the relationship between the decision of the Supreme Court and the role of the appeal court judge: in the referral following annulment, due to the lack of reasoning by the Court of Cassation: the judge was not bound or conditioned by any factual assessments made that court, even in assessing the existence of the mitigating circumstances pursuant to art. 323 *bis* CC.

- In Italian law, in which circumstances are acts of corruption (as defined in Articles 314, 316, 316-bis, 316-ter, 317, 318, 319, 319-quater, 320, 322, 322-bis and 323) considered to be of a particularly minor nature?
- In practice, how often is the crime of corruption considered to be of a particularly minor nature?

In order to assess whether a fact should be considered "particularly tenuous", it is necessary to take into consideration, not only the extent of the damage or advantage achieved, but also "every characteristic of the conduct", as well as the subjective attitude of the agent and the event determined by them. The Court of Cassation affirmed this principle, in particular, in the frame of the judgment No. 40928, 7th September 2017. In that case, a man had been accused of "instigation to corruption" because, during a check by the Guardia di Finanza at his business, he approached a brigadier, "trying to put the sum of Euro 350,000 inside the back pocket of his pants, pronouncing the phrase »these to offer you a coffee«".

Other questions relevant to each of the Italian cases

- **Approximately how long does it take to investigate a case of this size?**
- **How common are admissions in similar cases?**
- **In the event of denial, is it typical for suspects to defend themselves?**
- **Who is the typical whistleblower in such cases?**
- **At what point would there be sufficient information to prosecute?**
- **Would you categorise this particular case as low-level or high-level corruption? Why?**

ROMANIA

Case-study 1 – *Zurda* case: conviction of a former Romanian prime minister

1) Problem raising

- High level corruption: bribe taking.
- Immunity of members of the Parliament/Government.

2) Related national laws

- Romanian Constitution Art. 289 of the Criminal Code[3] ♦ Receiving bribe
  (former art. 254 of the Criminal Code of 1969)
  "The action of the public servant who, directly or indirectly, for themselves or on behalf of others, solicits or receives money or other undue benefits or accepts a promise of money or benefits, in exchange for performing, not performing, speeding up or delaying the performance of an action which falls under purview of their professional duties or with respect to the performance of an action contrary to their professional duties constitutes a violation of the law and shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban from exercising the right to hold a public office or to exercise the profession or the activity in relation to which they committed the violation."

3) Details of the case

The case started from a press investigation published in 2004 followed by a complaint filed by a politician from the opposition regarding suspicions that the Prime Minister, Mr. Negirescu, bought land in Berest for below its market value. Later on, in January 2006, a company reported to the National Anticorruption Directorate (DNA) that it had been used by the Prime Minister's family to bring, by infringing the customs regulations, valuable goods for refurbishing one of their houses. One of the houses was located on *Zurda Street*, hence the name of the case. The investigation was carried out by the DNA.

- What information was included in the report?
- What are the relevant facts from a criminal law point of view?

[3] Penal Code of July 17, 2009 (Law no. 286/2009) (Codul penal al României, Legea nr. 286/2009) hereinafter: CC

Briefly, the facts were the following. Mr. Negirescu and his wife Ms. Negirescu bought, in the period 2002 and 2004, during their official and private visits, valuable goods from Korea (construction materials, sanitary items, furniture, electrical and household items, and decorative items) that were used to equip two buildings owned by Mr. Negirescu. These goods, valued at approximately 600,000 USD, were paid by the Negirescu couple. Under the management of Ms. Joraki, a close collaborator of the Prime Minister and owner or controller of several construction companies in Romania, these goods were introduced to Romania as a fictitious import undertaken by one of the companies controlled by her, company Valenciaga. It paid the expenses related to the customs taxes, excises, and the transport from the ship to the buildings of the Negirescu couple. The money spent by company Valenciaga for this purpose was approximately 300,000 USD.

- Was there reasonable suspicion of a crime against Ms. Joraki?
- What was the role of the Valenciaga company?
- What investigative steps need to be taken?

In the same period, construction, renovation and refurbishment was performed at two of Mr. Negirescu's houses. They were performed by three companies, all of them being controlled by Ms. Joraki. The largest part of the works was either not invoiced or the invoices remained unpaid and the link with the Negirescu family was thoroughly hidden. In this way, approx. 400,000 USD was added to the undue benefit obtained by Mr. Negirescu.

In return for all the benefits that Ms. Joraki brought to Mr. Negirescu and his family, he took care of her career. Thus, during this period, she was appointed the General Inspector of the State Inspectorate in Constructions (SIC), subordinated to the National Control Authority. When the relations between Ms. Joraki. and the head of NCA became tense, the Prime Minister sponsored a Government Decision, in which the SIC was brought under his direct subordination, as Prime Minister, her authority and competences were increased and she remained under his protection.

- Were secret investigative measures necessary?

The charges against Mr. Negirescu were bribe-taking and blackmail (because during the investigation, he threatened a witness, a public official, who helped him to conceal the link between his name and the goods and services received from Korea, not to speak with the prosecutors). His wife was accused of participation in bribe-taking; and the use of false documents in customs procedure; money laundering. Ms. Joraki was accused of bribe giving, participation in forging accounting books; misusing company assets; using false documents in customs procedures; and in money laundering. They were convicted of all those offences.

4) Issue related to the case

When the investigation started, Mr. Negirescu was no longer Prime Minister; his mandate ended in 2004. He was a Member of Parliament and, in 2004-2006, President of the Chamber of Deputies. As an MP with no ministerial functions, according to the law applicable in 2006, he did not enjoy any immunity from investigation or prosecution. The only immunity a Member of the Parliament enjoys is related to pretrial arrest or detention and to the search measures. During the investigation, the prosecutors requested the Chamber of Deputies to waive the Mr. Negirescu's immunity in order to enforce a search order in his apartment in the house on Zurda Street. The Chamber of Deputies, whose president was Mr. Negirescu refused to comply. Hence, the prosecutors searched the apartment of his son, situated in the same house.

In 2006, the case was sent to trial. The High Court of Cassation and Justice, competent due to the position of the defendant, started the trial, but after one year a decision by the Constitutional Court ruled that former ministers enjoy the same level of immunity as acting ministers, which, according to the law, means that they enjoy full immunity of investigation. They could not be investigated unless the Parliament (if the ministers and former ministers were at the same time Members of the Parliament) or the President of Romania (if the ministers or former ministers were not at the same time Ps) lift the immunity. Therefore, the High Court of Cassation and Justice sent the case back to the prosecutors reconfigure the criminal investigation by observing the new rules on immunity.

In March 2009, the Chamber of Deputies lifted the immunity of Mr. Negirescu, the investigation was repeated and a new indictment was issued; the accused were sent to trial in 2010. In the court of first instance, the defendants were acquitted of bribery and money laundering, but convicted for blackmail (Mr. Negirescu), use of false documents in a customs procedure (Mr. Negirescu and Ms. Joraki) and misuse of company assets (Ms. Joraki). In January 2014, the appeal panel of the High Court of Cassation and Justice convicted all the defendants for all the offences with which they were charged. Mr. Negirescu was to serve four years' imprisonment; his wife received a three 3-year suspended sentence and Ms. Joraki was sentenced to four 4 years' imprisonment. The court also ruled to prohibit some civil rights and confiscate items of equivalent value to approx. 600,000 USD.

Case-study 2 – Trafficking in influence for the appointment of the Governor of the Administration of the Samos Delta

1) Problem raising

- Trafficking in influence and influence peddling. Is influence peddling considered as a high-level corruption? In these cases, the perpetrator is claiming to be a person of high influence, which has no basis. In some EU countries, buying influence and using influence are not criminalised (e.g. the Netherlands). It is therefore necessary to examine how this conduct is classified and punished in some Member States.

2) Related national laws

- Art. 291 CC
  "Influence peddling refers to soliciting, receiving or accepting the promise of money or other benefits, directly or indirectly, for oneself or for another, committed by a person who has influence or who alleges that they have influence over a public servant and who promises they will persuade the latter perform, fail to perform, speed up or delay the performance of an act that falls under the latter's professional duties or to perform an act contrary to such duties […]."

3) Details of the case

In Romania, the name Mr. Saizescu – a businessman, owner of an important media trust, a so-called "media mogul", influential in the political environment in the early 2000s, who was investigated, prosecuted and convicted in several cases of economic fraud, money laundering, corruption – is very well-known. Information from one of these cases has been the starting point for the DNA to open the case in which the former President of the Chamber of Deputies, Mr. Beont has been investigated for trafficking influence.

- What information pointed to a crime of corruption?

Mr. Saizesu, who had some businesses in the Samos-Delta, was interested in gaining leeway to develop these businesses and therefore arranged that one of the employees in his media trust, a journalist also known for his activism in the field of environment protection, be appointed as the Governor of the Administration of the Samos-Delta.

For that purpose, in the summer of 2008, he approached Mr. Beont, the President of the Chamber of Deputies at that time.

Mr. Beont was very concern involved at that time with the preparations for the coming parliamentary elections that took place in November 2008. According to the rules of the party he belonged to, all the expenses for the electoral campaigns of the candidates to the positions of MPs had to be borne by the candidates. Therefore, Mr. Beont was interested in obtaining the necessary funds for his electoral campaign and more. With the help of an intermediary, Mr. Beont was brought by a helicopter to the holiday house of Mr. Saizescu, in the Samos Delta, and the corrupt deal occurred there. Mr. Beont requested a million euro and electoral support, meaning the provision, free of charge, by the companies controlled by Mr. Saizescu, of marketing and consultancy services in the electoral campaign.

- What investigative steps were taken?
- Was it necessary to use a secret investigative measure?

The position of Governor of the Administration of the Samos Delta is a political position; the appointment is made by Government Decision. Mr. Beont used his position as President of the Chamber of Deputies and belonged to the same political party as the Prime Minister, and also had personal family ties with the PM (he was the witness at the Prime Minister's wedding – which, in the Romanian culture, is an important bond) and Mr. Beont persuaded him to promote this Government Decision and appoint Mr. Saizescu's protégé as Governor of the Administration of the Samos Delta. Moreover, even if he did not have any official role in the appointment in this position, he called in the current Governor, asked him to resign and informed him that the new Governor would be the journalist but the Governor refused to comply.

- What was the role of the protégé?
- Was there a reasonable suspicion of a crime regarding the protégé?

The appointment nevertheless took place as promised. In October 2008, Mr. Saizescu respected his promises and instructed a collaborator to transfer the sum of 1,000,000 euro from one of his offshore companies to a company controlled by the intermediary and to pay the President of the Chamber of Deputies the promised money. The money was transferred from a bank account opened in Chile to a bank account opened in Belgium. After a few days, the intermediary went with the cash to the office of the President of the Chamber of Deputies at the premises of the political party and paid the money.

- Was there reasonable suspicion of a crime regarding the intermediary?

Later on, the investigation showed that the marketing and consultancy services for the electoral campaign of Mr. Beont were delivered by a public opinion polling company controlled by Mr. Saizescu (at least 3 opinion polls, analyses and monitoring of the media, political analysis reports, statistic data regarding the profile of the electors, simulations of the vote, etc.) free of charge. Mr. Beont won his seat in the Parliament at the elections in November 2008.

The financial investigation carried out in the case with regard to the revenues and expenses of the defendant Mr. Beont and his family showed very clearly that his expenses in the following period were excessive, including his electoral expenses as well as family and personal expenses that could not have been justified by him or his family's legal income. The prosecutors took interim seizure measures taken against his assets in order to secure the future confiscation of the undue benefits received.

The charge against Mr. Beont was trafficking in influence.

The evidence was based on documents and testimonies.

Mr. Beont was indicted in 2016, accused of trafficking in influence. As a member of Parliament, he did not enjoy immunity for the investigation or prosecution. The first instance court, the Bucharest Tribunal, convicted him in 2019 and sentenced him to seven years imprisonment. The Court of Appeal reduced his sentence and 2020 made a final decision that he should serve five years in prison, as well as the confiscation of the 1,000,000 euro received for his trafficking in influence. He is currently serving his sentence.

- How was Mr Saizescu's act classified?
- Was he prosecuted; if so, for what crime and what was the decision?

Case-study 3 – Bribe taking by judges who established an organized group

1) Problem raising

- Bribe offering;
- bribe taking;
- organised group;
- influence peddling;
- buying influence;
- use of an undercover agent;
- surveillance.

2) Related national laws

- Art. 289 CC ♦ Receiving bribe (See in Case-study 1)
- Art. 290 CC ♦ Giving bribe
  "Promising, offering or giving money or other benefits in terms shown in art. 289."
- Art. 291 CC ♦ Influence peddling (See in Case-study 2)
- Art. 292 CC ♦ Buying influence
  "Promising, offering or giving money or other benefit for himself or for another person, directly or indirectly, a person who has influence or to believe that he has influence over a public official to induce him to perform, not meet to expedite or delay the performance of an act falling within the duties of his office or perform an act contrary to these duties."

3) Details of the case

The case started on 16 August 2012 following a report[4] made by a natural person who stated that, starting in 2010, he had performed several actions in order to obtain favourable decisions in certain criminal cases, by means of offering a bribe to a judge via a proxy. Other reports were filed in 2013.

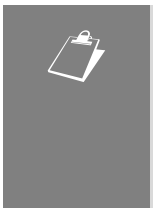
- On what grounds did the active briber make a report?

[4] Under Romanian law, the bribe giver shall not be punished if he/she files a report on the bribe before the investigation for such facts starts.

Several individuals established an organised group which enabled two judges of the Brasov Tribunal to receive a bribe if they would issue favourable decisions to some defendants who were being sent to court. The group included a clerk, a lawyer and others persons who were intermediaries. Twenty-three defendants were sent to trial in this case.

The two judges performed several actions to make sure that they would be judging the respective cases, in order to tamper with the informatics system of case allocation which was meant to ensure a random distribution of new cases. While their accomplices identified the "clients", the judges received several amounts of money in order to issue favourable decisions in the cases they were judging.

Evidence was based on documents, testimonies, surveillance of phone calls, and polygraph tests. The defendants argued the inadmissibility of the surveillance because it was allegedly performed by the Romanian Intelligence Agency (which was not a criminal investigation body) and that the content of the tapes was altered. An expert report was provided on this matter during the trial. The defendants also said that the undercover agents provoked them but the court rejected such allegations.



- What is the evidential value of polygraph examination in Romanian criminal proceedings?
- What were the grounds for invoking provocation?
- On what grounds did the court reject these claims?

Undercover agents and surveillance were used in this case. The agents had to establish the precise functioning of the organised group following the reports already made by some of those involved. Surveillance concerned several phone calls by the defendants.

- What are the rules for the use of undercover detectives and surveillance in Romanian criminal proceedings?
- How often are they used?

The case proceeded according to the regular procedure for the two judges. Eighteen out of 23 defendants used the abbreviated procedure following admission of guilt in front of the first court; the appellate court decided that the same procedure had to be used for other two defendants who did not contest the facts.

- What is the summary procedure in Romanian criminal proceedings?
- Is it common to use a summary procedure for crimes of corruptions?

Following the first report in 2012, the case was sent to court in July 2013. The first court issued its decision in June 2016. The defendants' appeal was partially admitted by the High Court of Cassation and Justice in May 2018. The court decided that the procedure exceeded a reasonable duration, especially taking into account the abbreviated procedure following admission of guilt by 20 out of 23 defendants. This aspect was taken into consideration in order to reduce the penalties applied by the first court.

- What were the reasons given by the court for exceeding a reasonable time?
- Is the prolongation of proceedings in corruption cases typical?

Case-study 4 – EU's financial interests

1) Problem raising

- Frauds against EU interest

2) Related national laws

- Art. 18 of Law no. 78/2000 on preventing, discovering and sanctioning corruption offences
  "Using or presenting in bad faith false, inaccurate or incomplete documents or statements, which has as result the illegal obtaining of funds from the general budget of the European Union or from the budgets administrated by it or on its behalf. The court also stated that par. 3 (particularly serious consequences) is applicable, due to the value of the fraud."

3) Details of the case

In august 2017, the National Directorate Against corruption in Suceava started the criminal investigation *ex officio*.

The facts in this case date from 2011–2013. Ms. Antoniu, the administrator of a limited liability company, was accused of filing several false documents with a national agency in order to attest that the company complied with the requirements for obtaining non-refundable EU funds. The limited liability company (beneficiary of the funds) was also accused of the same criminal offence. Ms. Antoniu's husband, also an administrator of

the company, then filed other documents falsely confirming the performance of works and payment of invoices.

What crime is suspected and on the basis of what information?

Ms. Antoniu was acquitted, while the legal person and the other natural person were convicted. The court noted that Ms. Antoniu was not aware that the documents were false, trusting her husband to whom she had given a seal containing her signature that the latter applied to the documents.

- Did the suspects confess to the crime?

The case qualified under art. 18 par. 1 of Law no. 78/2000 on preventing, discovering and sanctioning corruption offences. The court qualified the case under § 3 (particularly serious consequences) because of the value of the fraud.

- What is the value of particularly serious consequences?

Evidence was based on documents and testimonies.

All defendants refused to use the abbreviated procedure. The file was sent to trial in December 2017. The first court issued the decision in November 2019. The appellate court partially admitted the appeal in March 2021 on the grounds that the suspended sentence for one of the defendants was not correctly applied (i.e. the measures accompanying this sentence were not correct), taking into account the more favourable law.

- On what grounds did the defendants oppose a summary procedure?

The case is typical of such criminal offences.

- What are the characteristics of these cases?
- Are there difficulties of proof?
- Are there problems with documentary evidence?
- How frequent are confessions?

Other questions relevant to each of the Romanian cases

- **Approximately how long does it take to investigate a case of this size?**
- **How common are admissions in similar cases?**
- **In the event of denial, is it typical for suspects to defend themselves?**
- **Who is the typical whistleblower in such cases?**
- **At what point would there be sufficient information to prosecute?**
- **Would you categorise this particular case as low-level or high-level corruption? Why?**

POLAND

Case-study 1 – Protecting the financial interests of the European Union

1) Problem raising

- The investigation was conducted into organised crime groups causing VAT revenue losses to EU Member States. During the investigation, it was disclosed that organised and international nature of the crime could have been possible, among others, due to the corruption of individuals managing the companies related to the main recipient of goods delivered by the criminal group**.** In the case concerned, on VAT extortion in the trade of rapeseed oil, the intra-Community VAT system was abused by so-called missing trader intra-Community fraud (MTIC). As the result of the activity of the group in the period from 2017 to 2019, the State Treasury of the Republic of Poland lost approx. PLN 80 million (approx. 17,400,622 euro)

2) Related national laws

- Art. 258 Criminal Code[5] ♦ Participation in an organised group or association "Whoever participates in an organised group or association having for its purpose the commission of offences"
- Art. 296a CC ♦ Corruption of managers
- Art. 299 CC ♦ Money laundering
- Art. 271a CC ♦ so-called Attestation of false information in the content of a VAT invoice
- Art. 277a CC ♦ Graded types of offences under art. 270a CC
- Art. 56, 61 and 62 Fiscal Criminal Code[6]
- Art. 18 Law of 1 March 2018 on combating money laundering and terrorist financing[7]

[5] Act of 6 June 1997 on Penal Code Journal of Laws of 2020, items 1444 and 1517; and of 2021, item 1023. (Ustawa z dnia 6 czerwca 1997 r. Kodeks karny) hereinafter CC
[6] Ustawa z dnia 10 września 1999 r. Kodeks karny skarbowy, hereinafter FCC
[7] Ustawa z dnia 1 marca 2018 r. o przeciwdziałaniu praniu pieniędzy oraz finansowaniu terroryzmu

3) Details of the case

The basis for initiating the investigation were several notifications by the General Inspector of Financial Information to the public prosecutor's office of the suspicion of money laundering committed by companies creating chains of fictitious transactions with the participation of "missing traders", exposing the tax to the threat of underpayment. In the course of investigative procedures, within its area of competence, the General Inspector of Financial Information blocked more than one account of those companies suspected of being involved in criminal activity.

- Who made the reports; what information did they contain?
- What information is required to order an investigation?

The officers of the Regional Office of the Central Anti-Corruption Bureau (hereinafter CBA) in Bydgoszcz conducted preparatory proceedings in a case of abuse according to so-called missing trader intra-Community fraud (MTIC).

A supplier established in Germany (German company Albrecht) – the so-called conduit company, supplies vegetable oil (VAT exempted) to companies in Poland, the so-called missing traders. The latter take advantage of the VAT- exempted intra-Community supply of goods and resell the same goods in the domestic market (of Poland), offering very competitive prices. They can do this because although the traders charge VAT to their customers, they do not remit this to the tax authorities, thereby increasing their profit margins. Subsequently, the missing traders disappear without trace, which makes the tax collection impossible in the state in which the goods were consumed.

- Why was a preparatory proceeding conducted?
- What is a preparatory procedure in Polish criminal proceedings?

The process under which the activities were carried out caused reasonable suspicion that at least some of the goods concerned were the subject of the same transactions, which could have been repeated in a circular manner, and is thus known as carousel fraud (goods supplied to German company Albrecht, then sold to the missing traders and buffer traders in a circular flow, completing the fraudulent chain by being sold back to the conduit company – German company Albrecht– via Polish entrepreneurs).

Under a variant of this scheme, the vegetable oils acquired in Poland from the territory of Germany were transported to biofuel producers. This mechanism based on the

carousel circulation required criminals to be able to supply their goods to one of the biggest producers of biocomponents in the EU. Therefore, in exchange for access to this producer – which was a way to increase profits from criminal activity – the Organised Crime Group (OCG) offered a person appointed by the board of directors in one of the friendly companies a financial advantage in the form of reducing the costs of his business by issuing "empty" VAT invoices.

It qualifies as Participation in an organised group or association (art. 258 CC), Corruption of managers (art. 296a CC), the crime of money laundering (art. 299 CC); and so-called Attestation of false information in the content of a VAT invoice (art. 271a CC), graded types of offences under art. 270a of the Criminal Code (art. 277a CC), and art. 56, 61 and 62 FCC.

- Was it necessary to use secret investigative means in relation to the crime of corruption?
- What constitutes corruption committed by managers?

As a result of the findings of the investigation based on the materials derived from the operational activities of the CBA, the vegetable oil sold into the Republic of Poland by German company Albrecht, originally came from Poland and another Member State (Czech Republic or Slovak Republic). As it was determined, the acquisition of that oil in the territory of Germany was declared by German companies but the activities of those companies were associated with two Polish citizens. Those entrepreneurs were suspected of being behind the missing trader intra-Community fraud described above. Other identified Polish citizens named in the commercial registers and associated with the suspected entrepreneurs – as it turned out – had no knowledge of or experience in the trade of rapeseed oil.

The corrupt managers of friendly companies allowed the criminals easy access to the biggest entrepreneurs procuring in a carousel fraud. In return, they accepted material benefits in the form of "empty" invoices. In order to achieve it, the criminals used falsified (altered) invoices of Polish companies registered to random individuals, so-called "cut-outs" or "straw men". They had no idea about the company that acquired them – other than signing an agreement, a resolution to appoint a management board president and the forms at the bank. As such, the criminal group gained full authority to manage such a company.

To determine all the circumstances of prosecuted crimes of large-scale tax fraud, corruption and money laundering, the multilateral cooperation measures in the investigation involving EUROPOL (via the CBA's Liaison Officer there) and the German authorities (including the German Federal Finance Administration) were required.

- What specific measures were necessary?

Consequently, the preparatory procedure under which the activities were carried out led to the detention on the territory of Poland and Germany of 13 suspects behind the missing trader intra-Community fraud (one on the basis of a European Arrest Warrant) and over 60 places where they lived and worked were searched (several under a European Investigation Order). By the court order, 9 suspects were remanded in custody.

The measures evidence found in the course of the investigations included the CBA's classified materials, invoices, bank accounts, documents related to trade of rapeseed oil and company registers as VAT payers. To commit the crime using accounting documents, OCG also manipulated them using graphics software. They used e-mails to send the falsified (altered) documents. The newest IT helped the criminals, as did social media, enabling them to encrypt the communication systems, mobile phone applications and modern banking systems to transfer the money worldwide. As it was disclosed, professional assistance to the criminal groups (provided by attorneys and notaries) taught them how tax authorities, law enforcement and courts operate.

It has also been determined that criminal money was successfully laundered with the assistance of the financial sector. Using the banking system, the group transferred money between different bank accounts opened on behalf of the Polish and foreign companies.

The investigation started in February 2018 and is still ongoing.

4) Issue related to the case

Until now, the model of the VAT system for setting intra-community goods transactions seems to be particularly important for the financial interests of the EU. As the case shows, such trade is extremely vulnerable to corruption. Transactions based on the scheme described above are more extensive than ever today. Moreover, it has been revealed that there has been a constant increase in corruption spread over business the area concerning intra-community transactions aiming gain an unjustified refund of tax or risking the underpayment of tax. Dishonest entrepreneurs in cooperation with criminals noticed that the structure of VAT in the trade of goods and services between EU countries made it a source of fast, relatively safe and constantly growing income. The development of the economy and growth in demand for certain goods meant that OCGs compete with each other to find ways to access the significant recipients of delivered goods – to "close" the chain of carousel transactions. To obtain a competitive position, they contact those

performing managerial functions in a company accepting personal advantage in exchange for negligence or omission causing financial damage to the company. What draws attention is the new form of material benefits – lowing the costs of their own business by issuing "empty" invoices. In this way the honest entrepreneur becomes a part of the fraudulent chain. Managing corruption risk is therefore essential at the EU level.

Criminals use outlaw regulations intended to protect the financial interests of the State Treasury to avoid their liability very efficiently. The criminal group carries out a whole scope of legal activities intended to increase profits as well as legitimate transfers of money. They also conduct illegal activities, such as attempts at bribery – and they do it successfully. Coordination between law enforcement, the authorities in the EU and legal solutions has made prosecution of tax crimes and corruption offences on a European scale more effective and places greater stress on uncovering assets ("proceeds of crime").

Today we can hear statements, both from criminal suspects and from ordinary people who represent a cross-section of society that "the state is cheating me", and "money given to the state is money wasted". People who are able to gain so-called "easy money" are seen as resourceful and enterprising. lf the crime rates consistently grow, additional more decisive measures are needed, which are underway or planned to be implemented (e.g. the so-called increasing penalties and more professional analytical work), starting with well-considered changes in laws – including the repeal of the Penal Code or changes to it which recognise that the social harm caused by offences against business transactions (inter alia managerial corruption) is often much greater than that of common crime.

The European Commission undoubtedly faces challenges –and must calm emotions so that radical and short-term solutions do not destroy the intra-community EU system. On the other hand, it must guarantee effective solutions for combatting dishonest practices in business such as corruption that are acceptable for all member states. It is of fundamental significance to carry out actions to tighten up the EU system without limiting other protected values, including especially the free movement of goods and services.

Case-study 2 – Corruption in public procurement procedures

1) Problem raising

- The investigation against an employee of the military hospital in Bytom, fulfilling a public function, who, inter alia, accepted some material benefits in the amount of PLN 20 thousand (4350 euro), in exchange for actions considered criminal behaviour with regard to public procurement.

2) Related national laws

- Art. 228 CC ♦ Passive bribery
  Whoever, in connection with the performance of a public function accepts a material or personal benefit or a promise thereof, or demands such a benefit.
- Art. 305 CC ♦ Frustration or obstruction of public procurements
  § 1. Whoever, in order to gain a material profit, prevents or obstructs a public tender or enters into cooperation with another person, to the detriment of the owner of property or a person or institution for which the tender is to be held.

3) Details of the case

The basis for initiating the investigation was information on possible corruption in one of the military hospitals obtained by the officers of the Regional Office of the CBA in a joint operation with the Military Gendarmerie.

In the course of activities, the officers of the Regional Office of the CBA obtained information on corrupt practices taking place in one of the military hospitals. The investigators' swift and effective actions resulted in detaining an employee of the hospital who was demanding specific assets or an equivalent sum of money, in agreement with the representative of the medical company participating in a tender announced by the hospital.

- What information gave rise to the suspicion of a crime of corruption?
- What crime of corruption was suspected?

The employee was detained red-handed at the front of the shopping mall in the city centre, a moment after he was given PLN 20 thousand. Money was the medical company's material benefit if it won the tender. In exchange for the bribe, the employee willingly assured the representative of the medical company that it would win the tenders in future.

At the same time, the detainee's place of residence and work were searched. The evidence gathered by the officers was handed over to the District Prosecutor's Office in B. where the detainee heard corruption charges. According to the court order, the detained employee was remanded in custody for 6 months. After he was released from custody, the prosecutor applied for him not to be granted non-custodial measures, including bail.

In the course of investigation, the prosecutor added materials and documents obtained from Military Gendarmerie to the investigation, including classified information on activities conducted by the Military Gendarmerie. According to the findings of the investigation, the representative of the medical company was charged with entering into an agreement with the employee of the military hospital in the course of public procurements.

It qualified as a Crime of passive bribery (art. 228 CC) Frustration or obstruction of public procurements (art. 305 CC).

The resources used when conducting the investigations were included CBA and Military Gendarmerie classified materials, fingerprints and fibres. The CSI officer, after detaining the criminal red-handed, retrieved and recorded the evidence by taking photos. The evidence was then sent to the crime lab. As a result of the searches, the officers secured a safety deposit box hidden in the employee's residence containing gold, money and other valuables.

- What classified documents were involved?

The CBA has carried out a preparatory proceeding. The investigation started in April 2019 and it is still ongoing.

4) Issue related to the case

Corruption prevention instruments autonomous from entitle authorities: Monitoring of Public Procurement.

Public procurement is a high-risk area for corruption because of the volume of transactions and the financial interests at stake. Corruption risks are additionally exacerbated by the complexity of the process occurring in the close interaction between public sector and business. The managers of institutions vulnerable to corruption should therefore take measures to recognise, prevent and counteract criminal behaviour effectively. The entrepreneurs' role is to eliminate "greater opportunities" and "fewer

obstacles", strengthen governance capacities (e.g. developing auditing functions, providing access to legal expertise and earmarking funds for IT investments). The crucial issue seems to be enhanced surveillance of community contacts between employees performing public functions and business representatives.

The direct costs of corruption in public procurement include the loss of public funds, poor quality of goods, service or work and higher costs. Indirectly, it leads to a distortion of competition and limited market access to profitable work or services. Considering this, companies demand improved fairness of public tenders. There are many integrity risks in this process: lack of adequate assessments, poor planning, selective criteria and technical specifications tailored for a specific company, conflicts of interest, cost estimating failures and substantial changes in contracts.

Companies and institutions that care about their image, reputation and trust should take a zero-tolerance approach to corruption and bribery in all aspects of the above-mentioned activities. Creating an anti-corruption policy is one of the most effective methods. There should be a set of rules for managing the risk of corruption and, both in internal relationships and their dealing with third parties, bribery in any company or institution.

Assessments of the risk as regards anti-corruption efforts must be indicated for each criterion, among others through training programmes, information activities and internal control mechanisms (integrity, transparency, accessibility, oversight and control). Public officials acting on behalf of their institution are obliged to comply with the established rules, especially in regard to giving and accepting gifts or in their relations with participants in public procurements. The employer must clearly communicate that it is forbidden to accept gifts in the form of cash or equivalent, as well as to go beyond the generally accepted customs and practices in the relationship with representatives of companies and entrepreneurs applying for public tenders.

The institution's anti-corruption policy must be widely communicated and promoted to employees and cooperating companies through training and guidelines. Preventing, detecting and reporting corruption and bribery is therefore the responsibility of every employee. Simultaneously, any possible actions which violate anti-corruption policy must be avoided. Breaching this policy is considered misconduct resulting disciplinary action against the employee in the workplace and they can be held criminally liable as well.

It must be obvious for everybody that having an anti-corruption policy in an institution is no evidence that corruption might have occurred there. Supporting awareness-raising among all employees and public officials shapes the structural frameworks of their place of work.

Case-study 3 – Corruption related to the reprivatisation of real estate

3/A. Reprivatisation of real estate

1) Problem raising

- The investigation relates to irregularities in Valesnia's property reprivatisation process and a number of prohibited acts committed by the employees of the former Valesnia Municipality Property Department, entrepreneurs gaining rights and claims regarding properties under a special legal act (called Dekret Bieruta), persons representing professions of public trust (including notaries, solicitors and legal advisors). Through their actions, the accused caused undue property returns or compensation payments to non-entitled persons.

2) Related national laws

- Art. 228 CC ♦ Accepting bribes (See in Case-study 2)
- Art. 229 CC ♦ Offering bribes
  § 1. Whoever gives a material or personal benefit or promises to provide it to a person performing public functions.
- Art. 231 CC ♦ Exceeding authority
  § 1. A public official who, exceeding his authority, or not performing his duty, acts to the detriment of a public or individual interest.
- Art. 286 CC ♦ Fraud
- Art. 299 CC ♦ Money laundering

3) Details of the case

The preparatory procedure was commenced based on the Bureau's operational information.

The investigation is ongoing; however, based on the evidence gathered, three indictments have been issued against 23 persons. Now it is focused on revealing offences committed by Mr. Sawicki, who represents a number of individuals from former aristocratic families. On their behalf, he took over properties that had been seized and nationalised by Poland's communist authorities after World War II using unlawful means (for example by forging documents). The direction of grants granted to restore recovered properties will be a subject of this investigation as well. So far, several former aristocratic family members have been charged.

- What information gave rise to the suspicion of a crime of corruption?
- What crime of corruption was suspected?

So far within the proceedings, mandatory real estate mortgages have been created on 129 properties with a value exceeding 47 million Polish zlotys (i.e. 10,4 million euros).

Evidence collected included emails, materials from archives in Poland and abroad, documents from Poland and abroad (USA, UK, Switzerland, Portugal, France, etc.) and expert witness evidence (forensic document examiner).

Procedural measures were applied under the provisions of the Act on the CBA and the Code of Polish Penal Procedure.

- Were witness interrogations conducted?
- Which corruption offence is suspected to have been committed against each person?

The Regional Public Prosecutor's Office has been conducting the investigation and has entrusted the Warsaw Regional Office of the CBA with the activities in the legal proceedings.

The investigation was entrusted to the CBA in February 2014. Three indictments were issued in October 2018, September 2019 and April 2021. The proceedings in court are ongoing.

4) Issue related to the case

The accused, Mr. Sawicki, belongs to one of the former aristocratic families that constitute a hermetically closed circle of people Sawicki was trusted by his peers given trust, also due to family ties with this environment. For this reason, some of the beneficiaries decided to follow Sawicki's advice and present false documents or false statements.

It is worth mentioning the amendment to articles 156 and 158 of the Polish Code of Administrative Procedure that entered in force on 16 September 2021. In practice, it makes pending recovery claims from former owners or their legal successors impossible because it provides a term for submitting such claims – the recovery procedure shall not be commenced if 30 years have passed since the public authority decision.

3/B. Use of false documents in judicial and enforcement proceedings

1) Problem raising

- The case refers to causing persons to dispose of their property unfavourably by using forged documents with premeditated intent to make these disposals a number of times within the court and executive proceedings, in order to mislead court and executive bodies and in consequence, aiming at getting district courts to withdraw funds from their deposit accounts.

2) Related national laws

- Art. 286 (1) CC ♦ Fraud
- Art. 294 (1) CC ♦ Significant value of fraud
- Art. 270 (1) CC ♦ Forgery of documents, using forged documents
- Art. 65 (1) CC ♦ Permanent source of income

3) Details of the case

The *modus operandi* of the case was revealed during procedures within another reprivatisation investigation regarding Valesnia properties. During the procedure to dissolve the co-ownership of properties and sell them, a problem appeared regarding establishing a place of residence of one of beneficiaries. The amount due was paid temporarily to the deposit account of the locally competent district court. As was discovered later, the beneficiary of due amount had been dead for more than 30 years. Several months after putting the amount due into the deposit account another beneficiary of the reprivatisation of the same property received information that some executive actions were conducted against this deposit account and funds had been withdrawn in favour of a creditor of the late person who was unknown to him. The competent Properties Reprivatisation Committee (Ministry of Justice) and the CBA were notified of this situation.

As the investigation revealed, a number of withdrawals and withdrawal attempts from deposit accounts of district courts all over the country took place and all of them were linked with one legal advisor, a group of his co-workers and companies connected with them. These findings were collected based on information from the courts and an analysis of bank accounts of these persons and companies. It was found that 24 incidents like these had occurred and their value was more than 2,2 million PLN (nearly 489,000 euros)

and there were withdrawal attempts amounting to a f further 1,4 million PLN(more than 311,000 euros).

A well-organised group of legal advisors and attorneys was gaining information about money deposited on the accounts of various courts that seemed to be beyond the scope of interest of any person. It was quite easy to get such information. Even the courts published it while searching for the beneficiaries. The perpetrators were then preparing documentation showing the debt of the person or entity in favour of whom money was deposited. Additionally, the power of attorney mandates of alleged clients of the legal advisors commissioning the debt recovery were forged. Such documentation was submitted to the court that started the proceedings and it conducted actions based only on these documents, then issued payment order without notifying the debtor. Moreover, since there was no objection from the debtor (who was obviously unable to do so), the court appended an enforcement clause. In this way, the perpetrators received a legal title to start an executive procedure. It was very simple because a bailiff was shown a direct source for satisfying the claim. The assets were sent to the bank accounts of the legal advisors and attorneys. It needs to be emphasised that they were acting as alleged representatives of creditors or were using so-called "mules", on behalf of whom they were conducting the proceedings. Sometimes when they wanted to avoid suspicion, they asked other unsuspecting lawyers to help them in their work and provided them with the documents. The commissioned lawyers agreed to do that and without verification (they knew each other) were starting actions to execute money and were passing alleged debt to the commissioning law office or its alleged client. The persons interrogated in the investigation and representatives of legal entities entitled to withdraw money from deposit accounts were only informed during the interrogation that they had participated in committing an offence. European Investigation Orders were issued a number of times because the actions were detrimental to foreign persons as well. Ultimately, 10 persons were presented with 47 charges. Preliminary detention was applied for three persons and the rest of them were subjected to non-detention preventive measures.

Evidence collected: viewing numerous court and enforcement files (data on proceedings and persons involved) and collecting original copies to be examined by expert witnesses (forensic document examiners); after lifting bank secrecy, analysis of bank accounts appearing in this case (information on money flow from deposit accounts to the suspects' accounts and beyond).

The investigation is still open. An indictment is planned.

The investigation was commenced in July 2019 and is ongoing.

4) Issue related to the case

- The perpetrators' actions were possible because of simplifying the procedure for writs of payment, letting the court act only on some documents submitted by an alleged creditor and append a payment order, in practice also omitting the other party of proceedings. Legal advisors and attorneys were familiar with this procedure and they were able to use this knowledge and commit fraud for many years.
- Az The case was based on the mutual trust and close cooperation of the lawyers involved. All of them are now suspects.

Case-study 4 – Corruption and related offences committed in an organised criminal group

1) Problem raising

- A criminal investigation conducted by the Operational and Criminal Investigation Unit of the Regional Office of the CBA. The investigation concerns the activities of an organized criminal group; VAT carousel, VAT fraud, the use of false/unreliable VAT invoices and, at the end, the crime laundering the money from this crime.

2) Related national laws

- Art. 239 CC
  § 1. Whoever obstructs or frustrates criminal proceedings by assisting a perpetrator of a crime or a fiscal crime in evading criminal liability, especially by harbouring the perpetrator, obliterating evidence of the crime or by serving a penalty instead of a sentenced person, is subject to the penalty of deprivation of liberty for between 3 months and 5 years.
- Art. 258 CC
  § 1. Whoever participates in an organised criminal group or association having as its purpose the commission of crimes or fiscal crimes is subject to the penalty of deprivation of liberty for between 3 months and 5 years.
  § 3. Whoever sets up or leads the group or association referred to in § 1, including the one of armed character, is subject to the penalty of deprivation of liberty for between one year and 10 years.

- Art. 271 CC

  § 1. A public officer, or another person authorised to issue a document, who certifies an untruth therein as to the circumstances having legal significance, is subject to the penalty of deprivation of liberty for between 3 months and 5 years.

  § 3. If the perpetrator commits the act referred to in § 1 with the purpose of gaining a material or personal benefit, he is subject to the penalty of deprivation of liberty for between 6 months and 8 years.

- Art. 299 CC

  § 1. Whoever receives, possesses, uses, conveys or transports abroad, conceals, transfers or converts legal tenders, financial instruments, securities, foreign exchange, property rights or other movable or immovable property, that have been obtained from the benefits derived from a committed prohibited act, or assists in transferring their ownership or possession, or undertakes other actions that may frustrate or substantially obstruct the determination of their criminal origin or location, or their detection, seizure or forfeiture, is subject to the penalty of deprivation of liberty for between 6 months and 8 years.

- Art. 62 FCC

  § 1. Who, contrary to the obligation to not issue an invoice or receipt for performance benefits, issues them in a defective or refuses to issue them, shall be fined up to 180 daily rates.

- Art. 76. FCC

  § 1. Who, by the provision of data which do not comply with a condition or concealment of the actual state of things is misleading, the competent authority for tax refund of public duties which exposing, in particular input tax within the meaning of the provisions of goods and services tax, excise tax, refund or credit against the tax arrears or current or future tax obligations, shall be fined up to 720 daily rates or imprisonment, or both penalties.

3) Details of the case

The criminal investigation was open as a result of operational activities conducted by the CBA in cooperation with the National Tax Administration.

The criminal investigation showed that the suspects, based on only three false invoices for over PLN 500 million (over 110 million euros) for over 180,000 mobile phones wanted to claim over PLN 100 million (over 24 million euros) in VAT. The mode of operation was extremely simple, because one of the people cooperating with the criminal

group was an employee of the tax administration, who was bribed to legalise the criminal activities of the group.

- How are the activities of persons cooperating with the criminal group classified in Polish criminal proceedings?
- Why was its application necessary?
- How can evidence from their activities be used as evidence?

Evidence was based on witness testimony, interrogation of a suspect, confrontation and document analysis.

- What information was obtained from other cases?
- Who was questioned as a witness?

The investigation was initiated on April 18 2017: it is still ongoing.

Other questions relevant to each of the Polish cases

- **Approximately how long does it take to investigate a case of this size?**
- **How common are admissions in similar cases?**
- **In the event of denial, is it typical for suspects to defend themselves?**
- **Who is the typical whistle-blower in such cases?**
- **At what point would there be sufficient information to prosecute?**
- **Would you categorise this particular case as low-level or high-level corruption? Why?**

B. Hungarian law cases

Case-study 1 – Corruption of influence by a high-ranking officer

1) Problem raising

- 'Assistance' of a high-ranking officer for sale, abuse of influence.
- Preparatory procedure, covert means (wiretapping).

2) Related national laws

- Criminal Code, Section 299 ♦ Abuse of influence
- Criminal Code, Section 293 ♦ Bribery in public office

3) Details of the case

The Budapest District 5 Police Station received an anonymous report of a person claiming to be Zsombor Nagy acting as a lobbyist and spreading the word among his circle of acquaintances, who mainly comprise building contractors, that he is able to influence ministry officials in order to obtain tender funds for the implementation of various state/municipal construction projects. The anonymous complainant is calling for an end to the blatant favouritism, the influence peddling of 'kissers' and the punishment of corrupt officials.

- Is there any suspicion of crime? What crimes can we think of?
- How can legal lobbying be separated from corrupt behaviour?
- What will be the fate of the report?
- Is there room for a preparatory procedure? What measures should be used in the preparatory procedure?

During the preparatory procedure, the investigating authorities will establish the following.

Zsombor Nagy spoke by telephone to a contractor called István Kovács, who arranged a meeting with a certain 'General Süle', who has influence over the decision-making process in the Ministry.

Police and public databases provide the following information.

István Kovács is part-owner of Wall Kft., a civil engineering company. The Kft. was awarded the contract for the construction of the supporting wall on the Baja section of highway No. 6.

From 2013 to 01 November 2016, Police Brigadier General Dr. Lajos Süle was seconded by his superiors to a ministry's state secretariat, where he served as a senior adviser, and from 27 April 2014 he was involved in public employment programmes.

Zsombor Nagy organised a meeting with the above two persons at the Hotel Aquincum in the 3rd district of Budapest, in order to establish a 'mutually beneficial relationship', according to the information available so far in the preparatory procedure.

- Other covert measures?

During the meeting, Zsombor Nagy introduced István Kovács to Lajos Süle as a person working in the Ministry who had been informed about the business profile of Wall Ltd., the supporting wall construction work previously completed by the company in Baja, and also about the justification for continuing the work, in which Wall Ltd. would also participate, and asked him to look into the possibility of financing the project. Police Brigadier General Lajos Süle promised to look into the possibilities.

According to the records, a few days later Süle and Kovács met at the Aquincum Hotel, where Lajos Süle told István Kovács that the supporting wall work could be financed from the state 'force majeure' fund if the mayor of Hajós concerned wrote to the Secretary of State for Municipalities of the Ministry, who would decide on the funding of the project, on the basis of which the Hungarian State Treasury would make the payment. He also said that he would draft the decision.

István Kovács informed the owner and his partner, János Szekfű, who, on behalf of Wall Kft., approached the Mayor of Hajós, who said that the supporting wall works could go ahead and that the company would work out the details of the project and help with financing the works. On 12 February 2016, the Mayor of Hajós wrote to the Secretary of State for Municipalities of the Ministry requesting financial assistance to remedy the emergency caused by the slipped trench in the area of Hajós.

- What are the relevant facts from a criminal law point of view?
- Can an element of corruption be detected in the facts so far?
- In the light of these facts, is an investigation necessary?
- Is Lajos Süle entitled to promise payment from the Treasury?
- Is the Mayor's role in the case relevant?

Lajos Süle, István Kovács and János Szekfű met again in March 2016 at the Aquincum Hotel, where Süle told István Kovács and his business partner that the supporting wall project could be solved, that HUF 2,4 billion could be used from the state "force majeure" fund for its implementation, but that 1% of the amount (HUF 24 million) would have to be given to him in advance and that he would forward it to a person who had influence on the administration of the project. István Kovács and János Szekfű rejected the offer, and then Igor Cseh told István Kovács that Süle had said that, instead of HUF 24 million, HUF 12 million would be enough, but Kovács rejected this too.

- What role does Igor Cseh play in the case?
- Is there any obligation to take action at this point?

At the end of March 2016, but no later than 06 April 2016, Igor Cseh – who had a financial interest in the successful operation of Wall Kft. and knew that Lajos Süle was asking for the money to bribe an official who could influence the decision on the financing of the project – offered to István Kovács that the HUF 12 million requested by Lajos Süle could be raised by István Kovács by taking out a HUF 12 million member's loan, which he would lend him, secured by a high-value Mercedes-Benz car owned by his former mother-in-law, and then deliver this money to Lajos Süle.

István Kovács accepted the offer and on 6 April 2016 he took out a HUF 12 million member's loan from Wall Kft., of which he handed over at least 10 million HUF to Igor Cseh to deliver to Lajos Süle to arrange the financing of the planned project from the 'force majeure' fund. Igor Cseh asked Ferenc Pozsgai to hand over the money, who handed over at least HUF 10 million of it to Lajos Süle on 6 April 2016 between 14:00 and 15:00 at the Aquincum Hotel.

- In relation to which person(s) can a well-founded suspicion of a crime be established at this point in the case?
- What crimes are involved in the case?
- When can the crime be considered to have been completed?

Lajos Süle did not engage in any activity in preparation for the construction of the supporting wall of the trench in the area of the Municipality of Hajós and did not transfer the money to another person, but used it for the construction of a residential building at 6 Petőfi Sándor Square, Pomáz, in the Pomáz urban zone, topographic lot number 5432, which was actually Pomáz.

Other issues relating to the case

- **Approximately how long does it take to investigate a case of this size?**
- **How common are admissions in similar cases?**
- **In the event of denial, is it typical for suspects to defend themselves?**
- **Who is the typical whistleblower in such cases?**
- **Who would you question first?**
- **Would you categorise this particular case as low-level or high-level corruption? Why?**
- **At what point would there be sufficient information to prosecute?**
- **How would you prepare for an interrogation in such a case? (The accused is of high rank)**

Case-study 2 – Bribery in connection with preferential naturalisation

1) Problem raising

– With Act XLI of 2010, the National Assembly of Hungary amended Act LV of 1993 on Hungarian Citizenship and introduced the institution of preferential naturalisation from 20 August 2010.
The introduction of preferential naturalisation has generated considerable interest among residents of neighbouring non-EU countries, mainly those living close to the border, who, by acquiring Hungarian citizenship in a few months, have not only acquired the rights of Hungarian citizens in Hungary, but also have unlimited travel, employment and other opportunities within the European Union. In the light of these opportunities, persons who did not meet the conditions, in particular the lack of knowledge of the Hungarian language, also applied for preferential naturalisation. Recognising this opportunity, persons who had already obtained

Hungarian citizenship acted as intermediaries between the non-Hungarian speaking applicants and the authorities, contacting the persons in the authorities who had certified their Hungarian language skills, thereby accepting the applications. Once the administrator who received the application signed the form to prove Hungarian language proficiency, it did not go through any further screening; sometimes it was up to the vigilance of the oath-takers to detect the lack of language proficiency and therefore refuse to take the oath.

Section 2 (1) of Government Decree 125/1993 (IX. 22) on the implementation of the Citizenship Act states, that, upon receipt of the citizenship application, the head of the district (Budapest district) office of the Budapest and County Government Office, the consular officer, the head of the integrated customer service office, and the body responsible for citizenship matters shall verify the identity of the applicant and, in the case of applications for preferential naturalisation, his/her knowledge of Hungarian and certify this and the authenticity of the applicant's signature by signing the application. On the form, the person who receives the application certifies by their signature that the applicant is of legal age and has the capacity to act, and that they understand and speak Hungarian/ do not understand and speak Hungarian, and certifies this by crossing the appropriate box.

- Covert means (avoiding the prospect of criminal prosecution), settlement.

2) Related national laws

- Criminal Code, Section 294 ♦ Acceptance of bribery in office
- Criminal Code, Section 305 ♦ Abuse of office

3) Details of the case

The head of the District 13 Office of the Government Office of the Capital of Budapest filed a complaint at the District 13 Police Station of the BRFK (Budapest Police Department) concerning the following: an administrator of the department informed him that two naturalized Hungarian citizens of Ukrainian origin, Inostranny Odin and Inostranny Dva, had applied for private passports to be issued but, during the administrative procedure, it turned out that neither of them spoke Hungarian. The head of the Government Office suspected a criminal act during the naturalisation process.

- What are the possible crimes?
- What action can the investigating authority take? (ordering an investigation, obtaining documents for naturalisation proceedings)

During the procedure, it was established that Innostranny Odin and Dva were naturalised by Emese Balogh, the administrator.

Emese Balogh is a Hungarian citizen; she was appointed on 13 December 2009 to the Customer Service Office No IV of the Budapest and Pest County Regional Directorate of the Office for Immigration and Nationality, Department for Permits and Registration, in the position of Administrator II, to perform customer service tasks. From 2013, she worked as a government official in the position of Administrator I, and was then transferred to Branch V.

Her general duties, as described in her job description, were to monitor and study the relevant legislation and internal regulations on aliens and other matters within the scope of the department's duties and responsibilities and to comply with them in the course of her work. The job description stipulates that she is responsible for the professional preparation and management of cases in accordance with the legislation, other legal instruments and internal regulations of the state administration. The job description specified among her specific duties that she receives and records in the registration system applications for naturalisation, re-naturalisation and other citizenship, provides clients with the forms necessary for the administration of the case, provides clients with information and clarification, checks the authenticity and accuracy of the documents submitted by the client, and compares photographs with the client in all cases.

- What should be the focus of further investigation? (Administrator identified, check whether she has done this before and whether there is an ongoing naturalisation procedure where there is also a suspicion of crime.)
- What means can the investigating authority use? (Is there a place for a covert imeasure subject to judicial authorisation? [depends on what the crime is!], is there a place for a covert measure subject to prosecutorial authorisation?)
- Can the investigating authority wait for further offences to be committed or must it intervene?

The investigating authority has discovered the following.

Emese Balogh arranged the preferential naturalisation application of Alina Andreyevna, a Ukrainian citizen, and thus a friendship was established between them. Alina Andreyevna took advantage of this acquaintance to act as an intermediary in several cases when Ukrainian citizens applied for preferential naturalisation.

- What should be the focus of further investigation?
- What means can the investigating authority use? (Signalling? Law enforcement measures?)

During the investigation, further information or events were uncovered.

1.

Alina Andreyevna's son, Zoltan Vadas, knew Akakiy Olexandrovich, a non-Hungarian speaking Ukrainian citizen, from his place of birth, and both defendants promised to arrange Hungarian citizenship for him.

On 16 December 2014, Alina Andreyevna and Zoltán Vadas appeared with Akakiy Olexandrovich at Branch V of the Budapest and Pest County Regional Directorate of the Office for Immigration and Nationality, where, with their interpretation, Akakiy Olexandrovich submitted the application for preferential naturalisation, which Emese Balogh received with the knowledge that he did not understand and speak Hungarian, and signed a certificate of his knowledge of Hungarian.

On 28 January 2015, Akakiy Olexandrovich was summoned to the Hungarian Consulate in Berehovo to verify his knowledge of Hungarian, but he did not appear there, and instead, on 28 January 2015, he was summoned to the Hungarian Consulate in Berehovo to verify his knowledge of Hungarian. However, on 24 February 2015, Akakiy Olexandrovich, accompanied by Alina Andreyevna and Zoltan Vadas, appeared again at the Branch V of the Budapest and Pest County Regional Directorate of the Office for Immigration and Nationality, where he wrote a statement with the help of Zoltan Vadas, stating that his personal data had not changed since the application was submitted. On this declaration, Emese Balogh certified in her own handwriting that the applicant understands and speaks Hungarian.

Alina Andreyevna and Zoltán Vadas agreed to pay Emese Balogh money for the administration of the case.

2.

During 2014, several Ukrainian citizens who do not speak Hungarian submitted applications for preferential naturalisation at Branch No. V of the Budapest and Pest County Regional Directorate of the Office for Immigration and Nationality. The applications were received by Emese Balogh, who signed them to certify their knowledge

of Hungarian, despite the fact that she was aware that the applicants did not speak Hungarian. These Ukrainian citizens were naturalised by the President of the Republic in early 2015. In a total of seven cases, it was found during the procedures of other bodies (Hungarian language proficiency check, public area check) that the naturalised Hungarian citizens did not speak Hungarian.

3.

Anastasia Miroslav and Elemér Markó agreed to pay Emese Balogh for the administration of the case.

- Is police action justified? (Organising being caught in the act)

On 18 March 2015, after Elemér Markó had handed over HUF 60,000, equivalent to 200 euros, to his mother, Anastasia Miroslav appeared at 13:00 in front of Emese Balogh's workplace, where she met her, then walked to the gatehouse at 21 József körut, Budapest District 8, where Anastasia Miroslav, hiding behind a billboard in the inner courtyard of the building, handed over a bottle of drink to Emese Balogh in a nylon bag and the HUF 60,000 wrapped in an advertising magazine.

Both were then arrested and both the HUF 60,000 and the drink were seized from Emese Balogh, the latter subsequently released to Anastasia Miroslav.

- How would you classify the case so far?
- In particular, how might such a case come to the knowledge of the authorities?
- Who can be the complainant in this case, when both parties have a common interest in committing the act?
- Is the use of covert means appropriate? Is it possible to break the identity of interest between the parties to the corruption?
- Have similar acts already been detected in the context of reliability investigations?
- What witnesses would you hear in this case?
- Can some form of settlement be reached in relation to the active briber?

Emese Balogh has denied having committed the crime she is accused of but has partially admitted her guilt. In her defence, she said that when the institution of preferential naturalisation was introduced, she had not received any training on the level of language proficiency required by the law or on how to ascertain the Hungarian language skills of applicants. According to her, in many cases the applicants could not write, only speak, and knowledge of Latin letters was not a prerequisite. According to her, she was always satisfied with the applicant's knowledge of Hungarian, the depth of which largely depended on client traffic, i.e. the length of time they were able to deal with each client.

- Approximately how long does it take to investigate a case of this size?
- How common are admissions in similar cases?
- In the event of denials, is it typical for the accused to defend themselves?
- *Judges may be asked* about the weight given to the multiplicity and frequency of cases – Is this considered relevant as an aggravating circumstance in corruption cases?

Other issues relating to the case

- **Would you categorise this particular case as low-level or high-level corruption? Why?**
- **At what point would there be sufficient information to prosecute?**

Case-study 3 – Bribery of a senior public official

1) Problem raising

- Bribery of a senior public official and abuse of influence.
- Covert means (prosecutor's warrant, undercover detective – converting his activities into evidence).

2) Related national laws

- Criminal Code, Section 294 ♦ Acceptance of bribery in office
- Criminal Code, Section 299 ♦ Abuse of influence

3) Details of the case

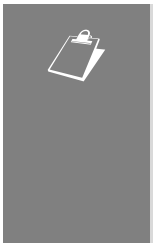
István Pontos, senior prosecutor of the KNYF (Office of the Central Investigating Prosecutor), while sipping his coffee at home one morning and browsing the Internet news portals, read a story based on a letter from a reader about suspicious characters appearing in the vicinity of the property management company of the Budapest District 10 Municipality.

One of them is Imre Baló, who has connections to the municipality and is involved in the transfer of real estate owned by the municipality to investors who are not ungrateful for the service. The letter specifically mentions the lease of the premises at 99 Szép Street, District 10, Budapest, formerly known as Rizspinty, which can be obtained for HUF 15 million, which is an undue advantage to be paid to the person involved in the administration. The reader was informed of all this by Imre Baló himself, as well as of the fact that the lease of the premises was also being attempted to be sold by Dénes Hívő, Deputy Mayor of the District 10 Municipality of Budapest, whose responsibilities included the management of the district's business premises and apartments.

- Is it necessary and, if so, what steps should István Pontos take? (Is there any suspicion of crime?) Can it be considered as an ex officio observation? What action could be taken? What action can the investigating authority/prosecutor's office take?

In the course of the procedure, it was established that the owning municipality did not advertise the possibility of acquiring the lease or ownership of the business premises.

Following the article, which also attracted the attention of István Pontos, Imre Baló himself reported to the Office of the Budapest Investigating Prosecutor, where he provided the prosecutor's office with information that was virtually identical to that in the article. Imre Baló showed himself willing to cooperate with the prosecutor's office in order to expose the corrupt representatives of the municipality.



- What is Imre Baló's procedural status? How can his willingness to cooperate be transformed into a procedural act? How can his cooperation lead to evidence that can be used in court? What covert means can be used? (undercover detective, covert collaborator, undercover purchase, wiretapping)

On 20 January 2013, Imre Baló, without any real intention of acquiring the rental property or of paying an undue advantage for this purpose, contacted his acquaintance Samu Szegedi, who was well connected to Dénes Hívő, in order to obtain information on the possibility of acquiring the rental right to the commercial premises at 99 Szép Street, District 10, Budapest, by the above means by identifying a potential interested party. Samu Szegedi promised to speak to Dénes Hívő and ask what the price of obtaining the lease would be. Samu Szegedi and Imre Baló agreed to keep and share part of the HUF 15 million to be paid by the investor. Imre Baló pretended to agree to this arrangement.

Samu Szegedi then informed Dénes Hívő of the intention of the investor proposed by Imre Baló. With this in mind, on 24 January 2013, Dénes Hívő, with the assistance of Samu Szegedi, requested HUF 5 million to arrange for his 'acquaintance' Imre Baló to obtain the lease of the premises at 99 Szép Street, District 10, Budapest, for a further five years, with the right to a five-year lease in advance.

- In the case of a undercover detective/secret collaborator, how can what they see be converted into evidence in criminal proceedings?

On 30 January 2013, Dénes Hívő presented the premises at 99 Szép Street, District 10, Budapest to an undercover detective posing as an investor under the name of Levente Méhes. During the inspection of the premises, the undercover detective raised the possibility of purchasing the premises, which Hívő Dénes ruled out. He also promised that the lease of the premises would not be put out to tender.

On 6 February 2013, Levente Méhes appeared at the offices of Dénes Hívő at 100 Baljós Square, District 10, Budapest, to negotiate the acquisition of the lease of the premises for five years. During the meeting, Dénes Hívő said that he would try to arrange for the purchase of the premises. Levente Méhes replied that he was aware that the 'down payment was 5 rolls' but that he was not willing to pay a further 10. Dénes Hívő, on the one hand, agreed with what Levente Méhes had said and, on the other hand, verbally expressed his disagreement with Levente Méhes' words and stated that no deposit was required and that nothing should be paid in advance. They concluded the meeting by saying that they would return to the deal later.

On 27 February 2013, Dénes Hívő met again with Levente Méhes in the Apokalipszis Restaurant at 72 Szapora Street, District 10, Budapest, and informed the undercover detective that he could buy the premises for less than HUF 30 million at auction and agreed to be the winner of the auction in the absence of a bid significantly exceeding the

offer. The undercover detective informed Dénes Hívő of his intention to buy and then began to talk about the total cost of the transaction, asking if the 30 million included everything that would be included in the sales contract. In response to the question, Dénes Hívő stated that this was the case and showed 5 with his left hand. In the rest of the discussion, Levente Méhes again pointed out that it makes a difference whether there are 5 or 15 dumplings, to which Dénes Hívő did not respond and left the restaurant. After Dénes Hívő had left, Samu Szegedi, who was also present, stated that there was no risk, "it's not a question of in advance, but when". Subsequently, Dénes Hívő made arrangements with the District 10 Közszolgáltató Kft. for the trustee to make a sales proposal for the property. On the basis of the proposal supported by the Ownership District Development and Housing Committee of the Municipality, the owner, the Municipality of Budapest Capital City District 10, put the premises up for sale by auction on 14 March 2013.

- How can the denials of Dénes Hívő be countered with substantive evidence?
- Is a crime being committed by assuring the undercover detective that he will be the winner of the auction? (in the absence of a bid significantly higher than the offer)
- *Question for judges:* evaluation of the undercover detective's file (report and audio recording) in the judiciary?

Other issues relating to the case

- **Approximately how long does it take to investigate a case of this size?**
- **Would you categorise this particular case as low-level or high-level corruption?**

Case-study 4 – Abuse of influence, influence buying, bribery in the criminal justice system

1) Problem raising

- Abuse of influence, influence buying, bribery in the criminal justice system.
- Unlimited mitigation and non-imposition of punishment.

2) Related national laws

- Criminal Code, Section 293 ♦ Bribery in public office
- Criminal Code, Section 298 ♦ Buying influence
- Criminal Code, Section 299 ♦ Abuse of influence

3) Details of the case

From 2 November 2010, Tihamér Vári was prosecuted for the crime of tax fraud. Due to his personality, he found the charges against him difficult to bear, expected help from outside and, although he defended himself, convinced of his innocence, he was nevertheless expressly afraid and fearful of the proceedings and the threat of imprisonment.

He tended to take too much responsibility for what was happening around him, to perceive it subjectively and to explain it in terms that supported his convictions and fears. He was afraid and fearful of the authorities, and of the criminal council that was acting against him, the chairman of which was the judge Dr. József Csank.

He reported his criminal case to Sámuel Kedélyes who, in the autumn of 2010, recommended the lawyer Dr. Gyula Pöpec, who was appointed by Tihamér Vári to defend him from 30 November 2010 until 15 August 2012.

During the investigation, Tihamér Vári did not make a statement, but prepared a self-incrimination statement, which he did not submit to the court and, instead of a substantive defence, his defence lawyer referred to his pathological state of mind, mental illness and hospitalisation, thus calling into question both his capacity to be competent and his suitability to appear and defend himself.

Sámuel Kedélyes recommended Dr. Zsófia Kedves, a psychiatrist at the hospital, whom he had been seeing, and told Tihamér Vári that she was willing to help him with false medical documents for money.

In the criminal case against him, Sámuel Kedélyes was confronted with the criminal law concept of capacity to sue, partly in relation to himself and partly in relation to his co-defendants, with the advantages of incriminating him because of the exclusion or limitation of this capacity, but also with the fact that, in this area, the opinions of psychiatrists are of decisive importance, that private expert opinions may also be used and that the medical documents available on the person under investigation are evaluated.

In the light of all this, Tihamér Vári decided to defend himself and his medical condition by painting an untrue picture of himself and not to present a substantive defence.

He missed several days of court and documents were submitted showing that he was in hospital as an in-patient receiving continuous hospital care, when in fact he was not in hospital and did not need treatment, but continued to work and manage his business, which had an annual turnover amounting to billions. In the evidentiary proceedings before the court, private expert opinions spoke of the exclusion or limitation of his capacity to be competent, therefore Dr. József Csank, the chairman of the council, also ordered a forensic psychiatrist's expert opinion to be obtained.

The need to supplement the expert opinion made it necessary for the forensic expert to initiate a mental examination of the defendant, which the court ordered. Tihamér Vári appeared at the examination, but left and, partly for that reason, the court ordered his pre-trial detention on 6 September 2012.

Tihamér Vári and his lawyer appealed against the decision, but he did not voluntarily submit to the prior coercive measure and instead went into hiding and became inaccessible to the court.

He did not look for and see fault with himself, but blamed Dr. József Csank, the chairman of the judicial council, as having acted in a biased manner towards him and as having erred in his case.

Sámuel Kedélyes had previously spoken to Tihamér Vári in the parking lot of the hospital in the summer of 2012 about the 'Club of the Unpunishable', claiming that its members were judicial leaders and public figures, influential people who could shape criminal proceedings in a favourable way and that 'a judgment could be bought'.

The plight of Tihamér Vári became clear to Sámuel Kedélyes, and he decided to turn it to his own advantage.

After his pre-trial detention was ordered, Tihamér Vári, in hiding and fearing the judge, again looked outside for help – help that could be bought – and contacted Sámuel Kedélyes shortly after 6 September 2012. He informed him that he was prepared to make significant financial sacrifices to avoid detention and asked him to use his contacts to his advantage. Sámuel Kedélyes agreed to do so.

In fact, the 'Club of the Unpunishable' did not exist. Sámuel Kedélyes turned to Szabolcs Olvasó and told him that Tihamér Vári was a rich haulier who could help with

transport and sponsorship for the joint film, but that he had been innocently accused and his life was being made impossible by the biased and 'inhuman' judicial action against him. He asked the artist to help him with this.

The film in which he was to play a leading role was important to Szabolcs Olvasó, so he promised to try to help Tihamér Vári, even if he did not know him, and asked Sámuel Kedélyes for documents that he could use as a basis for action.

Sámuel Kedélyes relayed this to Tihamér Vári that his influential contact was sending the message that if he did not pay, no one would care about his innocence, but if he did, the arrest warrant issued for the execution of the pre-trial detention would be revoked, meaning he would be free to defend himself.

- Is a crime committed when Sámuel Kedélyes forges the message to Tihamér Vári?

On 4 October 2012, Tihamér Vári, who was in hiding abroad, sent HUF 10 million to Sámuel Kedélyes through his wife, Mrs. Tihamér Vári, in order to influence the decision of the judge in his case, Dr. József Csank, by someone else or others, so that the judicial council would revoke its previous decision and Tihamér Vári could defend himself freely in the criminal proceedings, and some documents relating to the ongoing proceedings against him, such as the indictment, medical documents, and the tax authority's certificate that the company has no tax debts in relation to the company under review.

Mrs. Tihamér Vári complied with her husband's instructions; her spouse did not give her any details, but she knew that the HUF 10 million was the price of her husband's defence, which he would pay for his freedom, and that Sámuel Kedélyes would solve things within a few days through his contacts.

The money and the documents were handed over in the car park of a supermarket, where Mrs Tihamér Vári, in order not to be alone, arrived with Aranka Lett, the foster mother of Kázmér János.

It is unclear whether she received this money, whether she knew about it at the time, whether she actually asked for it, and if so, when Szabolcs Olvasó got it, but he reviewed the documents sent and heard Sámuel Kedélyes, and then, no later than 13 October 2012, offered to help her by filing a motion for exclusion, a so-called bias objection, against Tihamér Vári.

- Is there a criminal offence when Szabolcs Olvasó offered his assistance in obtaining a disqualification motion?

Adding to this, Sámuel Kedélyes had already told Tihamér Vári by telephone that, for another HUF 10 million, his influential contact could arrange for the 'replacement' of the judge and will agree with the 'superior' judge who will decide on the disqualification.

Tihamér Vári believed this, and, in order to ensure that Judge Dr. József Csank would be disqualified from the proceedings as a result of the disqualification motion filed against him, and to influence the decision-maker in this in another or other unauthorised way, using their connections, he promised to pay the HUF 10 million, which he paid to Sámuel Kedélyes through his wife, Mrs. Tihamér Vári.

The money was handed over on 13 October 2012, to which Aranka Lett accompanied Mrs. Tihamér Vári again.

- What is the role of Aranka Lett, who was present when the money was handed over? Does her conduct constitute a crime?

At the time, Mrs. Tihamér Vári knew nothing about the purpose of the money other than that it was the price of her husband's defence at large.

- What is the role of Mrs. Tihamér Vári, who 'only' hands over the money to Sámuel Kedélyes?
- What can be considered relevant from a criminal law point of view? How would her conduct be assessed?

Sámuel Kedélyes accepted the money, its further fate is unknown, so it cannot be established whether Szabolcs Olvasó benefited from it, nor whether he had prior knowledge of the request for money and its reasons.

- Would it be necessary to use covert means?

Back in late October or early November 2012, before 2 November, but at an unspecified time, Sámuel Kedélyes asked Tihamér Vári for a further HUF 4 million, claiming that his influential contacts had incurred costs in preparing the disqualification motion and obtaining a favourable ruling on it, which should be reimbursed.

Tihamér Vári did not object, informed his wife and paid the requested amount through her.

The transfer of the money took place on 2 November 2012, to which Mrs. Tihamér Vári was accompanied this time by Kázmér János, so that she would not meet Sámuel Kedélyes alone. In exchange for the money, he handed over the requested disqualification motion dated that day.

Mrs. Tihamér Vári counted the money in front of János Kázmér, so that he could testify not only to the fact of the meeting but also to the amount of money handed over, and told him that the money had to be paid to Sámuel Kedélyes because her husband, Tihamér Vári, was in contact with judges through him, who were asking for money to bring the case in his favour. If they did not pay, the judge would impose a 4 or 5 year prison sentence.

- What is János Kázmér's role in the case? (he is almost always there when the money is handed over)
- Is he committing a crime by his actions?

Mrs. Tihamér Vári sent the disqualification motion to her husband, who signed it and Mrs. Tihamér Vári posted it. Ruling on the application lodged with the court on 5 November 2012, the disqualification of the judicial council was refused on 7 December 2012.

Szabolcs Olvasó contributed to the preparation of the disqualification motion, or at least gave his advice, but it has not been established that he guaranteed in advance to Sámuel Kedélyes that the disqualification motion, which was submitted in accordance with due process, would be dealt with favourably, or that he undertook to influence the judicial council deciding on the disqualification motion through his social contacts.

- What role does Szabolcs Olvasó play in the case?
- Does his conduct constitute a crime?

He wanted to help Tihamér Vári, and it is a fact that at least HUF 2 million of the HUF 24 million taken over by Sámuel Kedélyes was added to his assets, but it is not the case that he sought to provide assistance by unauthorised and illegal means in return.

Following the unsuccessful disqualification motion, he returned the HUF 2 million to Sámuel Kedélyes, telling him to take it to the lawyer who would help Tihamér Vári with his proceedings. This took place in December 2012, when Szabolcs Olvasó provided

Sámuel Kedélyes with the telephone number of the lawyer, Dr. Benedek Boldog, who was not known personally but had been recommended to him by a mutual acquaintance.

In December 2012, Sámuel Kedélyes contacted Dr. Benedek Boldog by telephone, and in January 2013 he contacted him in person. They talked about the film and Szabolcs Olvasó's role in it, but he also shared with him the problem of Tihamér Vári. Sámuel Kedélyes spoke about the criminal case against his friend, the price of his arrest pending enforcement and his opinion that Tihamér Vári's sanity was at least in doubt.

Sámuel Kedélyes was in trouble because Tihamér Vári was outraged that the disqualification motion he had bought had not been successful and he had threatened to lodge a report. In order to avoid criminal proceedings and to gain further financial benefits, he changed tactics and claimed to Tihamér Vári that he had been in personal contact with the judge of the trial, Dr. József Csank, the chairman of the council. He won him over to their case and persuaded him that, for money, the pre-trial detention would not be executed or would be terminated after 30 days of detention. He would not rule impartially, but the final decision would be an acquittal, but if not, he would be satisfied with a suspended prison sentence if found guilty, with reimbursement of the criminal costs.

He was alreadyable to tell Tihamér Vári this in person, because he was in Hungary from December 2012 to spring 2013, and to avoid possible roadside checks, Sámuel Kedélyes repeatedly transported him in his car with distinctive signs.

Sámuel Kedélyes had to make Tihamér Vári and Mrs. Tihamér Vári believe that he was indeed able to influence the judge, and therefore, referring to an internet news portal, he did indeed visit and interview Judge József Csank, accompanied by a journalist, before 16 January 2013, which was published on this portal on 19 January 2013.

During their meeting, Sámuel Kedélyes asked for the telephone number of Judge Józzsef Csank and called him several times at his place of work, at the court, trying to get close to him.

He also showed the report to Tihamér Vári, and then falsely portrayed a situation of trust, as if he was aware of the judge' private habits, went out with him for entertainment and lunch, knew his plans, and thus his bribery could be discussed with him.

In the presence of Tihamér Vári and Mrs. Tihamér Vári, he called Dr. József Csank's mobile phone number and put the phone on speakerphone to arrange a meeting. Tihamér Vári recognised the voice of Judge Dr. József Csank from the hearing, and this made Sámuel Kedélyes' actions convincing for him and his wife, Mrs. Tihamér Vári, and they

believed him that he had managed to approach Judge Dr. József Csank, as well as that the judge was of the opinion that Tihamér Vári was guilty, that he had already decided this, and that if he did not pay, he would be sentenced to 4-5 years imprisonment.

In order for the judge to breach his duty and not to make his decision impartially, Tihamér Vári was willing to pay and did pay, on four occasions, a total of HUF 25 million between December 2012 and 6 January 2013.

In all four cases, Tihamér Vári gave the money to Sámuel Kedélyes in the presence of Mrs. Tihamér Vári.

Sámuel Kedélyes used all the information obtained during the interview and the personal contact, twisted them, and added fictitious data in order to dispel the doubts of Tihamér Vári and Mrs. Tihamér Vári.

Subsequently, he referred to Szabolcs Olvasó as his influential contact, as indicated earlier, but without any result, while he linked the preparation of the disqualification motion to the former President of the Supreme Court, Dr. Zoltán Lomnici, a judge of the Curia.

In front of Tihamér Vári, once he listed Judge József Csank and at other times Dr. Zoltán Lomnici as the ones asking for bribe money, although at that time he was already exclusively in contact with Dr. Benedek Boldog in the case of Tihamér Vári.

In order to facilitate the telephone conversations during their face-to-face meetings, Sámuel Kedélyes gave the individuals he referred to derogatory names and used coded language for money ('styrofoam'), arrest warrants ('bulletin board'), bribery ('insulation, roof insulation') and certain acts of judicial procedure ('matyi club').

Dr. Benedek Boldog agreed with Sámuel Kedélyes that he was willing to participate in the case of Tihamér Vári, but not in a regular way, with a power of attorney, but in secret, by agreeing to solve the case in exchange for HUF 10 million within six months through his contacts in a legally binding manner and in favour of Tihamér Vári, otherwise he would pay back the HUF 10 million.

- Is there an element of corruption in these historical facts?
- What is the role of Dr. Benedek Boldog?
- Does he have the authority to do this?

Dr. Benedek Boldog explained that this would require a new private expert opinion and that a favourable judicial decision would be reached by means of a new motion in the light of the opinion.

Sámuel Kedélyes passed this on to Tihamér Vári so that, following the rejection of the disqualification motion, Dr. Zoltán Lomnici, who continued to represent him before Judge Dr. József Csak, also 'has to make a living', for which he was asking for HUF 10 million: in exchange, the criminal case of Tihamér Vári would end with a final acquittal within six months. The idea of Judge József Csank and Dr. Zoltán Lomnici was that a new investigation and a private expert opinion would lead to success, in the meantime Dr. Zoltán Lomnici would keep the money as a deposit with his lawyer. In order to make his claim more credible, he presented several telephone conversations to Tihamér Vári as being with Dr. Zoltán Lomnici, when in fact he was communicating with Dr. Benedek Boldog.

- Is misleading Tihamér Vári a mitigating circumstance?

Dr Benedek Boldog received a further HUF 10 million from Sámuel Kedélyes from the additional money given to the experts and the money given to bribe Judge József Csank to pay the experts, to use his influence and to make his pleadings count.

He had the private expert's opinion prepared according to his plan. On 4 April 2013, Tihamér Vári appeared before two forensic experts, where he was transported by Sámuel Kedélyes in his car with distinctive signs. Tihamér Vári did not pay the experts directly, and the price of the private expert's opinion is uncertain, but it was arranged by Dr. Benedek Boldog.

- What is the role of the forensic experts, who of course produced the 'expected results'?
- What elements of corruption can be detected?

Tihamér Vári's deception with the favourable and biased court of appeal and the support of the prosecutor had become untenable. Dr. Benedek Boldog and Sámuel Kedélyes feared that Tihamér Vári, fulfilling his promise, would lodge a report in the case. Dr. Benedek Boldog therefore also claimed on 27 November 2013 by telephone to Sámuel Kedélyes that he had arranged an internal investigation by the court and the prosecution, partly in order to remove Judge József Csank, while he knew that on another telephone call Sámuel Kedélyes was talking to Tihamér Vári and heard him give what he said as a message from 'the Judge'. He must have been aware at that time that Sámuel Kedélyes was claiming to be Dr. Zoltán Lomnici, the judge of the Curia.

In fact, already on 4 October 2013, Mrs. Tihamér Vári made a report to the National Defence Service (NVSZ) and thus the cooperation between the authorities and Tihamér Vári, Mrs. Tihamér Vári and Kázmér János began. Mrs. Tihamér Vári and János Kázmér handed over to the NVSZ the audio recordings of their telephone conversations with Samuel Kedélyes, made with their own tape recorders.

- Can the telephone conversations recorded by Mrs. Tihamér Vári and Mr. János Kázmér be used in the proceedings?
- How can Mrs. Tihamér Vári's statement be assessed from the point of view of her criminal liability?

However, neither Sámuel Kedélyes, nor Dr Benedek Boldog knew about this so, in order to avoid a report, on 6 December 2013, Dr Benedek Boldog paid back the HUF 20 million he had previously received to Sámuel Kedélyes, so that he could return it to Tihamér Vári.

- Is it a mitigating circumstance that Dr Benedek Boldog repaid the HUF 20 million to Samuel Kedélyes with a view to returning it to Tihamér Vári?

Other issues relating to the case

- **Dr. Benedek Boldog is a lawyer and university lecturer; how would you prepare for his interrogation?**
- **In what order would you hear the people involved in the case?**

A magyar jogesetekre vonatkozó általános kérdések

- **Approximately how long does it take to investigate a case of this size?**
- **How common are admissions in similar cases?**
- **In the event of denial, is it typical for suspects to defend themselves?**
- **Who is the typical whistle-blower in such cases?**
- **At what point would there be sufficient information to prosecute?**
- **Would you categorise this particular case as low-level or high-level corruption? Why?**

Notes

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