Ph.D. THESIS

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Corruption – with or without a white collar.
The changing meaning and forms of the white collar crime.

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I. Introduction and the summary of the research task

The main objective of the present research is the deeper understanding of two interrelated, negative social phenomena: the corruption and the white collar crime. These offences are usually punished by the law, however, certain forms such as the gratuity in the area of the healthcare system is allowed by the law in a regulated way. The Hungarian Criminal Code (Act C of 2012, Chapter 27) contains a chapter entitled as „Corruption offenses” which deals with the different forms of bribery, the purchase of influence and trading in influence. The corruption crime is usually associated with other felonies. In the majority of cases the investigation starts under the title of reasonable suspicion of bribery and other delinquencies. A substantial part of the corruption crime committed by respectable persons in the course of legal occupation belongs to the category of white collar crime\textsuperscript{1}, however, there is no complete overlapping, petty corruption cases should not be listed in this category. On the other hand, the white collar crime involves several other felonies, e.g., environmental crime, embezzlement, fraud, larceny.

It evident that the trading in influence plays an important role in the area of the corruption crime since the offenders are such members of the society who have high prestige and influence in the government, public administration or in the world of economy and finance. In order to categorize any kind of crime in criminology, the first task to agree in an exact definition. I devote a large part of my dissertation to this question because there is no general view concerning the type of offences belonging to white collar crime among the criminologists. While this problem more or less also prevails regarding corruption, the literature of white collar crime is modest in comparison with the myriad publications dealing with the problem of corruption. Furthermore, the term corruption is much more older than the white collar crime since the latter has only a 75 years past, and its widespread use started only in the last two decades. Therefore, I devote more space to the nature and types of white collar crime, the problem of its adequate definition, even it causes certain disparity in the dissertation. Nevertheless, the definition of corruption is also analyzed. It is easy to realize that it is necessary despite the fact that everybody from the ordinary people to criminologists seemingly knows the meaning of corruption. It is useful to investigate whether the corruption can be restricted just to bribery and trading in influence or what is the difference between the criminal and non-criminal corruptions. Albeit for centuries corruption has been an accepted act in the majority of the societies, and still it is in many countries, nowadays the common perception is that the corruption is wrong for the societies. Corruption is among the most serious problems of the societies because it destroys the democratic progress, enhances the inequalities in the society, it leads to an alienation of the citizens from the politics, distorts the market which results in the decrease of the investments and the production rate of the economy.\textsuperscript{2}

In the case of corruption the exact definition of the term is of importance especially because it is used in the Penal Code.

In respect of the moral and economic effects the most dangerous corruption cases are committed by persons of high social status in the politics or in the economic-financial sphere.

They are called by a suggestive expression as white collar criminals. It is the inherent link between corruption and the white collar crime.

In my dissertation, I deal with mainly criminal corruption which belongs to the category of white collar crime. Because of that fact, I pay attention both corruption and white collar crime, however, not losing the main, aforementioned theme of my dissertation.

Edwin H. Sutherland\textsuperscript{3} gave the definition for the \textit{white collar crime} as follows: "May be defined approximately as a crime committed by a person of respectability and high social status in the course of his occupation".

In fact, Sutherland’s theory has become accepted and used in the last decades. The renaissance of his views is related to the changes occurred in the societies, i.e., after several decades of prosperity the frequent financial-economic crises staggered the trust in the financial-economic system and its representatives. Many people lost their savings, home, pension funds, became bankrupt, therefore it is understandable that naming of the responsible persons and punish them appeared as a widespread demand from the part of the society. Sutherland has mostly dealt with the area which are called as \textit{corporate crime}\textsuperscript{4} and \textit{state-corporate crime}\textsuperscript{5}, respectively, in the literature. The majority of these cases falls into the category of economic crime or occupational crime or abuse of power. Sutherland showed many examples for economic and public corruption, bribery, insider trading, abuse of power, fraud, tax fraud, economic crimes, anti trust violations, high finance crime, embezzlement, bankruptcy, violations of embargo, patent crime, consumer and advertising crimes etc. He paid less attention for corruption or other non-violent crimes committed by individuals independently from their occupation. The term "white collar crime” became so popular that authors of publications and official bodies have started to broaden the meaning of this notion.\textsuperscript{6}


It is often neglected that Sutherland did not want to collect all non-violent crimes under this category, only those which are committed by persons holding high positions in the society, notably businesspeople and politicians. Furthermore, he made also the restriction, i.e., these crimes are committed in the course of their occupation. A petty tax or insurance fraud certainly does not belong to the category of white collar crime, the essential perception of this notion would be questioned by including such types of crimes. It should also be mentioned that in the cases of the certain tax evasion (illegal reclaim of VAT) or the removal of the dye from the subsidised oil or money laundering the white-collar type crime was associated with organised, maffia-type criminal activity. There are such crimes than credit card fraud or counterfeiting which are seldom executed by persons of high social status. An extreme example can be found in Friedrichs book\textsuperscript{7}, who considered the cheating in schools as a white collar crime.

The punishment of powerful persons has always been a critical issue during centuries. Anacharsis, Plutarch and centuries later Honoré de Balzac described it in a rather vivid way: „Laws are spiders’ webs through which the big flies pass and the little ones get caught”.

It would be desirable that persons of high social status, the top players in the economy and politics, who committed crimes on the expense of other members of the community and destroy the moral of the society, get caught in the web of the justice. The interlocking the political and economic elites, i.e., the state capture and the state-corporate crime\textsuperscript{8} when the actors of the economy influence the activity of the legislature and state organizations or when the government – expanding beyond its regulatory function – wants to determine the functioning of the economy and the legitimate competition has been getting a major problem.

It is obligatory to deal with the problem of white collar crime, to gain a deeper understanding of its characteristics, to elaborate effective prevention and law enforcement systems because the harm in the morals of the society or organization is even higher, and it staggers the public confidence. As well as it causes a substantial financial loss which is orders of magnitude larger than that of the ordinary types of crime. The same can be said about corruption which constitutes an overlapping set with white collar crime. The expression overlapping means that corruption is not a subset of white collar crime since not all kind of corruption belong to the white collar crime, especially those committed by persons who do not have a high social prestige or position. However, the types of corruption belonging to the white collar crimes are the most dangerous forms, therefore it is the very reason why special attention of the experts

\textsuperscript{7} FRIEDRICH im. (2009) p. 111.


of criminology, as well as the international and national organizations has been directed to these cases.

I.1. The structure of the dissertation

In the first part of the dissertation the essential characteristics of the corruption and its historical and local variability are investigated. It is followed by the different approaches to the meaning of this term, and the actual views of the Hungarian literature on it are discussed. The emergence and the development of the notion of white collar crime comes next, in which the problems concerning its definition are reviewed on the basis of the international specialized literature. The works of Hungarian authors in this respect are also presented. It is succeeded by the theories of criminology relevant in the field of white collar crimes. A substantial part of the thesis deals with the methods of recognition of corruption and white collar crime, the opportunities of the empirical studies, as well as the results of the domestic and international researches. Having realized that the actual situation in Hungary can be revealed by using empirical studies, two large scale researches are planned and executed by the author. The first is based on the interviews with Finnish investors in Hungary which is related to corruption and economic crime experienced by them. The second one is directed to the corruption cases in Hungary which were revealed by the criminal justice system. This research also contains an evaluation of the functioning and effectiveness of the law enforcement bodies against corruption. The international and Hungarian case studies, which constitute an important part of the present work, shed light on the dimension and variability of white collar crime. The role of the media forming the public opinion and transparency is also emphasized.

The methods regarding the fight against corruption and white collar crime are recapitulated, which include the international and domestic actions: laws, strategies, and international agreements. At the end of the thesis the most important elements of the theme are summarized, and the conclusions are expounded. The questionnaires and the guidelines of the interview used in the empirical research are given in the Appendix.

I.2. The aim of the dissertation and the questions investigated

The main goal of my dissertation is as follows: the exploration and elucidation of the complex interrelationships related to the phenomena of white collar crime and corruption as well as the expansion of the knowledge concerning these issues. One of the important objectives is the clarification of the meaning of the terms which can help to carrying out criminological research, and to elaborate adequate criminal statistics since without those it cannot establish suitable prevention strategies and action plan outlines. A knowledge of the types, offenders, the crime situation, the reason of perpetration of corruption and white collar crimes may
provide an assistance for the policy decisions of the penal policy, criminal policy and crime prevention. My research involves the distinction between the criminal and non-criminal corruptions, as well. I investigate the corruption cases revealed by the law enforcement and the court decisions are available in order to gain a deeper understanding of the phenomenon. A further question to be answered was how the white collar criminals can or cannot avoid the jurisdiction. In this context the problems of the detection, the experiences of the investigation, the difficulties of proof and the mechanism of the functioning of the jurisdiction were analysed. It was also studied that what kind of tools can be used in respect of detection and inquiry by the investigative authorities. An important question was why only the fight against small-scale corruption is more or less effective in Hungary, and whether it is similar or not in other modern societies. It is also one of the aims of this work to find an answer to the question what are the difficulties of the combat with white collar crimes and what are the main reasons behind. The effects of the social, political and economic system and the regulatory environments on the evolvement and booming of the corruption and white collar crime are also treated. The special case of the societies in transition is also analysed. It is hoped that my studies will contribute to the more effective prevention and exploration of the corruption and white collar crimes.

II. The tasks completed and the methods of the elaboration

The international and domestic definitions of the notions of corruption and white collar crime are investigated by historical and comparative methods.

The latency of both the corruption and the white collar crime is very high, therefore the traditional techniques of criminology are not capable to reveal the real magnitude of these types of crime. To obtain reliable information a combination of qualitative and quantitative methods are needed.

In my study the Unified Criminal Statistics of the Police and Prosecution Services was used. Another type of information was the survey of the citizens’ perception of corruption which can be found in different sources such as Transparency International Corruption Perception Index. A useful material is the reports of empirical investigations, e.g., that of the Gallup Institute and Tárki. The analysis of the cases appeared in the media also supply informations of importance. Finally, the integrity studies on the transparency and accountability of the state organizations are proven being relevant issues. The previous results of qualitative researches are elaborated by secondary analysis.

It is of importance to know about the experiences and opinion of foreign investors on the corruption situation in Hungary, especially when they came from countries where the corrupt behaviour in both the business and the state administration is very unusual. In this way, they can give advices how corruption could be decreased in Hungary. Because of this I decided to carry out a research which dealing with the Finnish investors’ situation in Hungary. During my research, I interviewed the representatives of the Finnish companies which have
investments in Hungary and the representatives of the Hungarian daughter-companies. The aim of the research is to get information about the problems caused by crime to Finnish companies in Hungary, in order to assist businesses in preventing crime and corruption. It is of interest to investigate that whether do the Finnish investors play according to the local rules or do they have to play according to the local rules? The interviews were qualitative, semi-structured, thematic, in-depth interviews, face-to-face one. The outline of the semi-structured thematic interview was developed by the author. The interview outline is divided into four main parts. The first part is the personal data of the interviewee, the second part is devoted to the company unit with questions related to facts and figures of the company. This part contains the questions on the opinion of the investment climate in Hungary. The third part is ‘crime experiences in Hungary’, and the last part deals with the perception and experiences related to the corruption.

The aim of the research on the corruption cases in Hungary is to get a deeper knowledge on this criminal phenomenon. The fundamental questions to be answered are as follows: What kind of corruption cases can the Criminal Justice System handle? How does it happen and why those are mostly limited to certain type of offences? First, in the course of this research the 2010’s legally binding court files of bribery and trading in influence have been analyzed. It consisted of 272 documents. The structured questionnaire and code instructions for the digitalization and elaboration were developed by the author. Second, interviews were conducted with police officers, prosecutors and judges who were involved in the cases of 2010. These were qualitative, semi-structured, thematic, in-depth, face-to-face interviews. The semi-structured thematic interview outline was developed by the author. The goals of the interviews were to get information about the difficulties of the evaluation of the evidences, the problems to prove this type of crime, the police officers’, the prosecutors’ and the judges’ opinion of Hungarian corruption situation and the elements of an effective anti-corruption plan. Third, a focus group meeting with police officers, prosecutors and judges was organized in order to find out their thoughts and opinion on the difficulties during prosecution.

The case studies have been completed by elaboration many media sources; different journal issues, internet sources. It is easy to realize the utmost importance of the mass media and the investigative journalism on revealing the criminal acts (notably white collar cases), informing the public and also influencing people.

The international and the Hungarian legal arrangements concerning the fight against corruption and white collar crime are surveyed by a historical method. For the analysis of the bribery, trading in influence and purchase of influence within the framework of the substantive law, as well as the essential paragraphs of the procedural penal law, the dogmatic method of penal law science was applied.
III. Summary of the scientific results and their utilization

The better or more useful definition of white collar crime is of utmost importance in respect of the criminological research on this phenomenon as well as for the law enforcement agencies to establish a relevant handling of it e.g., via reliable statistics.

It can be concluded on the basis the scientific suggestions that have made in this area so far and also concerning the practical needs that an adequate definition should involve two notional conditions and the types of the respective crimes in a conjunctive manner.

The two notional conditions are as follows:

1.) The perpetrator is a trusted member of the economic, political or social sphere of the society, and the prestige and power originating from this social position is misused during the perpetration of the crime

2.) The person of high social status commits the non-violent, intellectual type crime in the course of his/her occupation, however, surpassing the definition of Sutherland – due to the high moral harm – those crimes committed by these persons also belong to this category which are not in direct connection with his/her occupation.

The main types of crimes that belong to the notional scope of the white collar crime are presented in Figure 1.

Figure 1 The main types of crimes associated with the white collar crimes
The participants and their relationship form a rather complicated network which is illustrated in Figure 2.

Figure 2 The network of corruption. The participants and their relationships

This is still a simplified scheme regarding the multiple connections and actors. This scheme basically relates to a single state, however, the participants can be the citizens, the government or administration or firms of a foreign state. We may think of the corruption scandal associated with the trading of arms or building of power plants, or recently in the case of acquiring Hungarian citizenship in that foreign private persons, transmitting firms, the members of the local Hungarian state administration took part.

The connecting lines refer to the relationships. For instance, the line between private individuals and professionals involves such crimes as the gratitude payment in the health care system and other medical crimes, e.g., false statements on disability, illness (health insurance

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12 http://index.hu/gazdasag/2014/09/16/magyar_nyelven_szavaltak_szep_magyar_szoveget/
fraud), bribery of official experts in the cases of traffic accidents. In the above mentioned citizenship cases private persons – municipalities – state institutions – enterprises (lawyers) were involved. In the orders of the organization belonging to the state or a municipality economic/business sphere – enterprises politicians – organizations of the state or municipalities form the apparent corruption network. A corrupt connections may exist between large firms and other enterprises, consequently the participation of the employees of the state institutions is not necessary. The private individual – law enforcement organization may mean the police corruption. All the corruption cases where the participants are the members of the government or its institutions, politicians, members of the law enforcement organizations, or the administration of justice and/or the leading actors of the economic and financial world certainly belong to the cases of white collar crime.

III.1. Conclusions

1. The appearance and the permanent existence of corruption have several different reasons which could not be separated from the historical and social traditions, the general economic and moral level of the society and the existing regulatory environment. Among the actual reasons of the corruption one may consider the following ones: acquiring economic competitive edge (between companies or between people), the acquisition and maintenance of political competitive advantage (party financing), the so-called cost-of-living corruption (shortage of apartments, permits, loans, health care service such as gratitude payment), to avoid punishment or to obtain preference (e.g., traffic offenses).

2. The regulatory environment e.g., the Bankruptcy Act, the Tax regulations and the Public Procurement Act particularly in some areas has a fundamental effect concerning the evolvement of corruption.

3. Corruption offenses defined by the law are bribery and trading in influence, however there are other hidden forms, as well. The vast majority of corruption cases are accompanied with other crimes too.

4. In the case of bribery the briber gives money to the bribed, however, nepotism, clientelism and the system of mutual favors also belong to the corruption. These mechanisms are more perilous for the society than the traditional form of corruption which is based on money exchange.

5. The participants and the acts of corruption jointly arranged in a grid where the grid points show the type of the participants – those involved in corruption offenses – according to their position or job in the society. The grid lines are indicating the nature of the offense. A crime can involve several participants and connections.
6. There is an overlapping between corruption and white-collar crime, in so far as one of the offenders of the corruption case is a high status governmental or public official, a member of the justice system, a professional, and economic or business leader. This phenomenon can be called white-collar corruption. Under the notion of white-collar crime we understand other forms of crimes as well, thus it is only a subset of corruption. The number of cases of white-collar corruption is low, however the sum of money involved is much higher than in petty corruption cases.

7. The latency of corruption is high, the latency of white-collar corruption is tremendous. Based on the empirical research results the vast majority of cases going to court is petty corruption, since low amount of the unlawful advantage (money) was involved. Taking into account the occupations of the offenders it became evident that the corruption appears almost in every segment of the society. Therefore, the conclusion can be drawn that the acts of small-scale corruption are interwoven of the daily life of the population. Consequently, the corrupt practices become an integral part of doing every activities for many people. The motives of the perpetrators are mostly a financial gain and avoiding punishment or administrative procedures. Petty corruption’s feature is that the unlawful advantage is mostly cash.

8. It is important to note that the current regulation and the institutional operation helps to create such a situation in which only the everyday bribery can be seen, therefore the truly serious cases, the large-scale corruption remains invisible.

9. The detection and investigation of white-collar corruption is complicated by the fact that the public or private institutions’ organizational functions, rules of procedure, the division of responsibilities and the regulations of the audit system are inappropriate. For instance, the employees have independent decision-making power, and they do not have direct reporting obligations. Because of that fact, they could easily maintain corrupt transactions for a long time without being caught or without consequences.

10. In the cases of white-collar corruption, the person of high social status who is involved in the case, for the purpose of disguising him/herself, provides and pays attorney for the strawman, therefore the real offender remains hidden during the procedure.

11. Petty corruption acts of low-level public officials or employees can be a separate act within an organization. However, if the high-level officials or employees are corrupt it affects all the employees of the institution. It may cause that corruption becomes an integral part of everyday life rather than an individual case both lower and higher levels.

12. It is difficult to fight against white-collar corruption by the law enforcement and judiciary because of the civic apathy and the lack of political will.
13. The authorities have numerous tools to explore wrongdoings, e.g., investigation of accumulation of wealth but they do not use these tools intensively.

14. It can be shown that plotting of the frequency of the cases vs. the amount of the money involved in the corruption results in a log-normal distribution function. This is an important recognition because knowing the distribution function less data is enough to draw reliable conclusions.

15. Transparency and mass media play a great role to detect corruption and white-collar crime. The existence of freedom of press is essential to the fight against these crimes. It is important to have appropriate laws, administrative and corporate regulations, but their implementation depends on the society permissive or condemning attitude.

16. Basically ineffective and hopeless to combat against corruption and white collar crime in a society where nepotism and client system flourish.

17. The excessive broadening of the definition of white collar crime is inefficient and makes the utilization of this term meaningless. Such type of crime can be committed – as Sutherland formulated – only persons of respectability and high social status in the course of his occupation. It follows that nor all non-violent crimes neither intellectual crimes committed by organized criminals or a single individual, e.g., a computer crime, belong to this category. The situation may be somewhat more complicated when the white collar crime is associated with a violent crime, however, generally it is not characteristic. Albeit Sutherland emphasized that the persons in a high position of the economy or society commit this kind of crime in context with their occupation, it is not entirely correct. While violent crimes are obviously excluded, the restriction to the occupational crime is questionable because these persons can commit other type of white collar crime whose moral and social harm may be also enormous. Trusted persons or as Schäfer wrote persons whom others “look up” commit tax evasion, trading internal information (nothing to do with the occupation but the social relationships are of importance), or other wrongdoings, e.g., plagiarism (a diploma or a doctoral degree acquired in this way has lead to scandals in different countries which eventually lead to the resignation from the high position). Sutherland and Schäfer are right in that respect that these people commit crimes as frequently as other individuals, however, they are less often punished because the high position and prestige help to hide the substantial part of white-collar crimes. They have enough money to hire the best lawyers and they can influence the machine of the administration of justice. That is the very reason why the latency of this type of crime is very high. However, in the last decades several white collar criminals got serious penalties in different countries of the world which indicates the change in this respect. It is also a

14 SUTHLERLAND im. (1940) p. 8.
characteristic feature of white collar crime that the money involved and the financial loss are orders of magnitude higher than that in ordinary crime cases.\textsuperscript{15} There are several reasons behind the white collar crime. There is psychological one, citing Schäfer „the extension of the desires is infinite”.\textsuperscript{16} In another formulation\textsuperscript{17} three basic points can be enlisted: personal desire for more money and wealth (it depends the state and the moral of the given society), opportunities to achieve this goal (where are more money or wealth involved, more money can be stolen), the stability of the society (the mutual dependence of the people, the solidarity within the society). It is also an important point that while the ordinary criminals are condemned by the people, in the case of white collar criminals the opinion is diverse, they are not considered as criminals for respect of authority or other reasons. However, more and more people understand the dangerous nature of white collar crime, and feel the effect of demoralization and insecurity. It is of importance to cite Kránitz’s view.\textsuperscript{18} According to it the white collar crime is rooted in the economic sphere, and it is in close connection with the goal to increase of the social and political power.

18. From the point of view of criminology the following crimes belong to the category of the white collar crime:
   i) Corporate crime committed by the heads of organizations, top managers and employees of companies in order to enhance their own or the company’s interest. The forms are organization larceny, organization financial manipulation, organization political corruption.
   ii) Occupational crime are unlawful, financially motivated actions which are committed by using lawful poisons of high prestige.
   iii) Governmental crime which are crimes committed by the government or its offices or bodies associated with the government which are demonstrably illegal and harmful, examples are state crime and political white collar crime.
   iv) State-corporate crime which are executed by direct cooperation one or more governmental bodies and economic players in order to achieve their mutual goal.

In respect of criminal law and criminology the following crimes should be considered:
   i) bribery, economic and public corruption; ii) insider trading, abuse of power; iii) fraud, tax fraud, budget fraud; iv) economic crime, anti trust violation; v) high finance crime, embezzlement; vi) bankruptcy; vii) consumer fraud, advertising fraud, counterfeiting of food and medicine; viii) expropriation of patents, plagiarism; ix) computer crime; credit card fraud, data appropriation etc.; x) environmental crime; xi) forgery; xii) violation of safety standards causing health damage to the workers.

19. There are aggrieved parties and victims of white collar crime even if at the first glance it is not always obvious. The illegal advantage is always realized on the expense of a firm or the members of the society. In a wider sense, it decreases of the state budget which sum of money otherwise would be needed to execute necessary and good goals.

\textsuperscript{15} SCHÄFER im. (1948) p. 20.
\textsuperscript{16} SCHÄFER im. (1948) p. 12.
\textsuperscript{17} FELTES im. (1998)
\textsuperscript{18} KRÁNITZ, M.: A „fehérgalléros bűnözés”, Főiskolai Figyelő (Rendőrtisztő Főiskola) 1995/2. pp. 139-143.
Such examples are a state investment or purchase which are overcharged or would be even unnecessary, the poor quality of the investment which causes problems and cost later on, purchase of poor quality arms which reduces the capability of defense of the country, tax evasions and environmental pollution. In the economic and business spheres the corrupt behaviour may diminish the competitiveness and ruin the companies which do not participate in it. It is accompanied with further damages, e.g., the loss of the jobs. In the case of clientelism such harms are the inherent consequence of the system. Financial irresponsibilities can shake the financial situation of a single country but due to the globalization those can cause an epidemy, affect many countries, people lost their savings, investments, pension funds, banks and enterprises go into bankruptcy. It follows that the lending decreases, the rate of the industrial and trade activities will be slow down. The health and life of many people are endangered by the environmental pollution and catastrophes which in the majority of cases are due to the neglected regulations concerning the constructions or during the operation of a plant. Similarly, in several cases of the counterfeiting of food products or the violation of the regulations related to the food production there are suspicious actions, mostly bribery to have the permission from the state or local administration, or for oversight obvious violation of the regulations by the responsible person. The petty corruption usually also decreases the state budget, e.g., the police corruption where the fine is replaced by bribe. Not only the receipt factories can cause enormous loss to the state but small-scale tax evasion, VAT or duty frauds by many people can cause substantial reduce of the state income. The local actions such as poisoning of paprika by lead or tainted meat supply to schools also endanger the health of many people and causing expenses to the health care. In some countries the corruption (baksheesh, fakelaki) is a part of the system, and those mean an additional income for the underpaid civil servants. In our country it is a felonious act, however, the gratitude payment is an exception. (There are several other medical corruption cases which are naturally punishable.) The low salary of doctors is compensated by the gratitude payment. It is allowed posteriorly, if it is not forced, by the present regulations. In fact, the situation is more complicated, inasmuch as the better service or the future advantage is secured by this way.

20. The borders of the corruption and the white collar crime are not well defined and plastic. Several Hungarian authors have expounded that setting the limits are of utmost importance. Usually they consider the low limit. They are right because a small favour not necessarily means corruption. For instance, a clerk, a physician, a teacher can (and should) help in cases of minor mistakes, e.g., a slightly missed deadline, arriving somewhat later etc. Of course, in this cases no compensation of any sort should occur, even to accept flower, vine or other minor gift is a borderline. However, there are even more interesting cases. The state administration offers such possibilities that accelerated arrangement in the case of passport, land register programme, waiting list etc. In the strict sense, not the clerk but the state administration gets the money for the favour. Especially, if the state runs narrow capacity on purpose, it can also considered as a certain form of corruption.
21. White-collar crime including white-collar corruption is a very complex phenomenon. Because of that fact, a single criminological theory could not explain all aspects of this crime. On the one hand, theories focus on the occupation of the perpetrators, the operation of the existing formal and informal control mechanisms at their workplace. Furthermore, those focus on the individuals’ psychological attitudes and decision-making processes. Usually third factor which is considered is the socio-economic and regulatory environments, which are strongly affected both the offender and the type of the offense committed by the perpetrator. The studied phenomena are explained mostly by the following theories. Ronald Clarke and Derek Cornish’s\(^{19}\) rational choice theory, because the offender in order to meet his/her needs, takes into account the possible risks, efforts and benefits of offence. The white-collar perpetrators demean this conscious behavior and also make a cost-benefit analysis. In respect of the sinful behaviour, I apply the differential association theory which was developed by Sutherland.\(^{20}\) The criminal behaviour is learned in interaction with other persons. The theory comprises a series of nine propositions that interpret how individuals learn criminal behaviour. I adopt Sykes and Matza’s\(^{21}\) theory which describes the way how offenders neutralize and rationalize their misconducts. They deny the fact that their act causes injury for a victim, appeal of higher loyalties, and deny the responsibility. They put the blame on the Criminal Justice System and refuse the fact of causing harms. Last but not least I apply Richard Quinney’s\(^{22}\) conflict theory because this approach could answer how white-collar criminals could disguise their acts. The laws represent the interests of specific groups, which have the power to adopt laws. Persons belonging to the higher social class have the power and the ability to determine criminal acts, as well as the main course of the law enforcement agencies.

III.2. The present situation in Hungary and the conclusion based on it

The economic-political transition opened up new opportunities to acquire enormous amount of money, wealth, mostly during the privatisation of industrial and trade companies, banks, mines, chains of shops etc. both in legal and illegal manners. The so-called social capital became a very important value. The opportunities were indeed exploited, the corruption and the white collar crime were blooming. The interwoven of the economic and political spheres has been of importance which is related to the inadequately regulated party financing. Especially from the huge amount money involved in the highway construction a substantial amount of money landed at the parties. The legislation and the judicial system could only follow the changing forms of economic and white-collar crimes. The poor regulations paved the way for new forms of white collar crimes. The subsequent governments elaborated strategies and laws against corruption, however, their impact was minimal, mostly because it


was against the interest of powerful political and economic players. In some case delinquents were punished, usually mildly, the procedures were extremely long, in many cases those were not started or finished because of the time lapse. The public was informed by the newspapers and media, books dealt with the most interesting cases. Furthermore the biggest scandals were too complicated to understand for ordinary people.

What to do? – De lege ferenda proposals

It would be appropriate if the white collar perpetration would be included in the interpretative provisions of the Penal Code. In this way, at the certain Sections of the Special Part of the Penal Code dealing with crimes belong to the category of the white collar crime, e.g., fraud, a reference could be given concerning the aspect of white collar perpetration, with a collateral increased sanction. Obviously, the introduction of a new term and the raise of the penalty are little worth if the offense remains hidden or if the criminal procedure lasts for years and the confiscated property is not proportional to the amount of money involved in the crime. In the latter case as Mihály Tóth concerning the white collar economic crimes wrote “it is worth trying”.

It can be stated that The Hungarian Criminal Code (Act C of 2012) contains an adequate legal background. On the other hand, further regulations will be needed, and in this respect the professional control of the legislation work of the Parliament will be inevitable. One of the basic task is solving the problem of party financing because all previous attempts in this direction proved to be unsuccessful. Without the transparency, especially concerning the utilization of the public procurement procedures and the public funds, all efforts are useless. The functioning of the judicial system and the law enforcement organizations should be strengthened professionally. At the state authorities and organizations it would be advisable to analyze the decision-making process, in some case changing it, and to establish an efficient control mechanism. The independence media, the freedom of the press, the existence of strong civil organizations are fundamental requirements in maintaining democracy, the exploration of the corruption and white collar crime cases, the information of the society about those, protesting against those if necessary, and enforcing the equality before the law. By this way, the above-mentioned bodies and their activities embody a retentiveness by themselves.

The number and the harm of corruption cases and economic crime can be reduced if companies introduce appropriate Code of Ethics, improve the integrity of the company and if they apply unwritten ethical standards. Foreign firms in Hungary may improve the Hungarian situation with their developed ethical standards, business policy and moral impact of the market.

Criminal law has limited effect to combat small-scale corruption. Although criminal regulations are essential to stipulate the final border between criminal and non-criminal

corruption, as long as there is a social consensus behind such acts, the effective way to fight against corruption is not the criminal law alone but the use of other means. Such practices are e.g., informative crime prevention lectures in primary and secondary schools in which the students learn the harmful effects of this type of crime, and the awareness of tax paying can be enhanced in the future generation.

In the case of white-collar corruption it is necessary to increase the internal and external control mechanisms in public and private institutions by the help of e.g., State Audit Office, the Hungarian Competition Authority, the former Financial Supervisory Authority, currently the Hungarian National Bank, the Government Accountability Office, and the Council of Public Procurement. It may increase the effectiveness of the law enforcement agencies.

The formulation of new laws and regulations are necessary which provide defence to the whistle-blowers and other citizens who report corruption and white collar crime cases to the authorities.

In order to introduce and implement an effective prevention mechanism against corruption and white-collar crime, all segments of the society should be involved. The system has to be comprehensive, the strategy has to be at the same time top-down and bottom-up, transparent and deeply committed to reach their aims.
IV. List of publications of the author in the area of the theme of the doctoral dissertation


7.) Inzelt Éva: Foreign investors in Hungary and the typology of crimes committed against them. (in Hungarian) in.: Jogi Tanulmányok (ed. Fazekas Mariann), ELTE ÁJK Doktori Iskoláinak III. Konferenciája, II. kötet, Budapest, pp. 53-64. o. (2012)


11.) Kerezsi Klára – Inzelt Éva – Lévay Miklós: Corruption as a Crime from the viewpoint of the Criminal Justice System: What kind of cases we can see in the legally binding court files?