

Fraud and Corruption Classification, Originated From Execution Processes of Management, Control and Expenditure from European Funds and Programmes

Kiril Anguelov¹

Efforts of the Republic of Bulgaria Government in corruption prevention and anti-fraud activity, connected to management, control and expenditure financial resources from European Funds and Programmes have to be consider in the context of International acts [1] as well as European legal Framework [2, 3, 4].

Significance of this problem aria is affected in numerous European Regulations [5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17]. Our national legislation is entirely in accordance with these regulations.

Council of Ministers Decrees regarding national rules for eligible expenditure through Operational Programmes [18] as well as the order of the executor determination on the part of the beneficiary [19] have directly attitude to the anti-fraud activities, because they are on the base of the organization and management of process of financial grant giving from European Funds and Programmes.

Irregularities, connected to the fraud and corruption, can be qualified according to the four following basic indications:

1. According phases of interaction between public bodies with beneficiaries. The concrete analysis of corruption appearance in the defined phases of interaction as well as the prevention mechanism will be subject of another publication.

2. According their characters, irregularities are technical, contractual, financial and administrative. In this paper the identification of critical points, connected with potential frauds and corruption is based on the phases, which have direct effect on the beneficiaries from the general process of management, control and financial exchange from the European Funds and Programmes: planning process of Operational Programme execution and timetable for activities; communication and information measures; call for proposals, their assessment and decision making for financing concrete projects, public procurement and monitoring of approved projects implementation.

3. According the type of guilt, irregularities can be determined as premeditated and unpremeditated. Premeditated irregularities are directly connected to the corruption practice. In their character they are activities of juridical and physical persons, participating in the process of management, control and financial exchange of sources from European Funds and Programmes, aiming profiteering / acquisition benefits for persons in breaking the contract clauses.

Unpremeditated irregularities are activities of physical or juridical persons, participating in the process of management, control and financial expenditures from European Funds and Programmes, caused from neglect or breaking the accepted procedures. These procedures create opportunities for corruption expansion. Mainly these types of irregularities are: casual mistakes, negligence, unintentional breaking of going procedures.

4. According the level of its negative impact, irregularities are: without financial consequences; with small, medium or big financial damages. Irregularities without financial consequences are those, found before payment execution of non-eligible expenditures of the beneficiary, namely before the final realization of the corruption schema. Irregularities caused financial damages are those, where the payment of non-eligible expenditure is done. They can be classified in the given three groups, where the concrete parameters of each of them are fixed in the legal practice, according the Chapter III (Misappropriations) from the Penal Code of the Republic of Bulgaria [20]. According the European Regulations, after ascertaining of irregularity with financial damages, the beneficiary is obliged to reimburse sum in time, shown from administration.

5. According to the frequency of irregularities. The frequency shows in which intervals of time, during the limit period, the analogical regularities is made in the process of management, control and financial exchange from European Funds and Programmes. The frequency of irregularities can serve as an indicator for level of organization and management of whole activities of Intermediate Bodies, Management Authorities, Monitoring Comities of Operational Programme, Certified and Audit Bodies.

We can define three cases according to this:

1. Irregularity is not repeated or if it is repeated, is accidentally. These are single cases of one project and not for the system as a whole. They are corruption or mistake results of a concrete officer or officers and should not appear in other cases, where the procedures of management and control are observed. The presence of single cases up to concrete level can be consider as a non-endanger element for the control system. The consequences of this single cases can be easy avoidable after revealing. The repetition of analogical cases is impossible in working internal control system. If the control system non function normally, accidental irregularities can reinforce its intensity of appearance and can assume periodical character.

¹ Kiril Anguelov is with the Technical University of Sofia, Bulgaria

2. Periodical repeated irregularities. This type of irregularities is characterized with high risk of repetition in concrete type of projects, in which exist gaps in the systems of management and control. The frequency depends on the repetition of concrete direction of grants. They can be as unpremeditated, as created for serving corruption practice. Periodical irregularities repetition from the same type is a mark for:

- weak control system in Intermediate Body and Managing Authority, with insufficient defined sphere of control;
- existence of sustainable potential for corruption practice development;
- impossibility of Intermediate Body and Managing Authority to cope without support of superior institution.

3. Continuous irregularities repetition. For those irregularities is characteristically that they can participate horizontally in all direction types for financial allocation as well as in many projects. This type irregularities repetition, besides the weak control in Intermediate Body and Managing Authority, shows the impossibility of superior institution for positive influence on the processes of management, control and financial exchange from European Funds and Programmes. As a result of this the accreditations of Intermediate Bodies as well as the Management Authorities can be withdrawn, the financial resources can be frozen, and the programmes - suspended.

Quantitative irregularity assessment can be determined through the following indicators:

1. Intensity of irregularities from the same type. This indicator characterizes the number of irregularities from the same type in a unit of time in defined calendar interval, in which the analysis is made and it is calculate through formula:

$$N = \frac{Q_{n1}}{T_1} \quad (1)$$

Where:

Q_{n1} – number of ascertain irregularities from the same type in defined calendar interval timing;

T_1 – timing for the same calendar interval, present in months.

This indicator allows assessing activities of concrete department on the system of management, control and financial exchange from European funds and programmes.

2. Intensity of irregularities in concrete direction of grant schemas giving – characterizes number of irregularities in concrete direction of grant schemas giving for in a unit of time in defined calendar interval, in which the analysis is made and it is calculate through formula:

$$M = \frac{Q_{n2}}{T_2} \quad (2)$$

Where:

Q_{n2} – number of ascertain irregularities in concrete direction of grant schemas giving in defined calendar interval timing;

T_2 - timing for the same calendar interval, present in months.

3. Efficacy of control process – characterizes the relative share of projects with irregularities regarding all projects in concrete direction of grant schemas giving:

$$V = \frac{P_n}{P + P_n} \quad (3)$$

Where:

P_n – number of projects with ascertain irregularities for defined calendar interval timing.

P – number of projects without ascertain irregularities for defined calendar interval timing.

Last tow indicators allow assessing the activities of concrete Intermediate Body and Management Authority in reference to the organization and management of processes in concrete direction of grant giving schemas.

Level of capacity for corruption prevention depends on the percentages of irregularities, identified before payment execution of non-eligible expenditure from the part of beneficiary. This determines to a great extend the effectiveness of a Control System in Intermediate Bodies and Managing Authorities.

4. Effectiveness of control process – characterizes the level of negative influence of irregularities in concrete direction of grant giving schemas:

$$E = \frac{C_n}{C + C_n} \quad (4)$$

Where:

C_n – total sum of executed non-eligible payments from beneficiaries in concrete timing in define direction of grant giving schemas.

C – total sum of executed eligible payments from beneficiaries in concrete timing in define direction of grant giving schemas.

Corruption and frauds classification, arising in execution processes of management, control and financial expenditures from European Funds and Programmes is shown on figure 1.

This classification through general indicators creates a possibility for analysis of different corruption activities, aiming effective corruption prevention.

CONCLUSION

For corruption, aroused in execution process of management, control and financial exchange from European Funds and Programmes, the financial misappropriation is typical. This abuse can cause serious consequences for The Republic of Bulgaria, expressed in image loss and direct financial damages for the Republic budget. This is possible because of Programme co-financing from national sources, and in cases where the financial resources, objects of ascertain frauds can not be reimburse. Thus predetermines the paper topic as a priority sphere in corruption prevention.

Quantitative irregularity assessment can be determined through the following indicators:

- a. Intensity of irregularities from the same type.
- b. Intensity of irregularities in concrete direction of grant schemas giving.
- c. Efficacy of control process.
- d. Effectiveness of control process.

LITERATURE:

1. Ангелов, Кирил, Международни усилия по превенция и противодействие на корупцията, Scientific proceedings of NTSM, ISSN 1310-3946, Jan XII, Vol. 2, №2, 2005
2. Ангелов, Кирил, Механизми за противодействие на корупцията в Европейския съюз, Scientific proceedings of NTSM, ISSN 1310-3946, Jan XIV, Vol. 3, №2, 2007
3. Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests, Official Journal C 316 , 27/11/1995 P. 0049 - 0057, (26 July 1995)
4. Council Regulation №2988/95 of 18 December 1995 on the protection of the European Communities' financial interests, Official Journal, L 312, 23/12/1995
5. Council Regulation № 1080/2006 на Европейския парламент и на Съвета от 5 юли 2006 година относно Европейския фонд за регионално развитие и за отмяна на Регламент (ЕО) 1783/1999
6. Council Regulation № 1828/2006 на Комисията от 8 декември 2006 година относно реда и начина на изпълнение на Регламент (ЕО) №1083/2006 на Съвета за определянето на общи разпоредби за Европейския фонд за регионално развитие, Европейския социален фонд и Кохезионния фонд и на Регламент 1080/2006 на Европейския парламент и на Съвета относно Европейския фонд за регионално развитие
7. Council Regulation № 1605/2002 на Съвета от 25 юни 2002 година относно Финансовия регламент, приложим за общия бюджет на Европейските общности
8. Commission regulation № 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of

Council Regulation № 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities

9. Council Regulation № 1995/2006 на Съвета от 13 декември 2006 година за изменение на Регламент (ЕО, Евратом) № 1605/2002 относно Финансовия регламент, приложим към общия бюджет на Европейските общности

10. Council Regulation №1084/2006 на Съвета от 11 юли 2006 година за създаване на Кохезионен фонд и за отмяна на Регламент (ЕО) 1164/94

11. Council Regulation № 1260/1999 от 21 юли 1999 г. за общите разпоредби върху Структурните фондове

12. Council Regulation № 1150/2000 на Съвета от 22 май 2000 г. за изпълнение на Решение 94/728/ЕО, Евратом относно системата за собствените средства на Общностите

13. Council Regulation № 438/2001 от 2 март 2001г. за определяне на подробни правила за прилагане на Регламент на Съвета (ЕО) № 1260/1999 относно системите за управление и контрол на помощта, отпускана по структурните фондове

14. Council Regulation №2988/95 от 18 декември 1995 г. за закрилата на финансовите интереси на Европейските общности

15. Council Regulation № 595/91 от 4 март 1991 г.относно финансовите нередности и възстановяването на неправилно изплатени суми във връзка с финансирането на общата селскостопанска политика и организацията на обслужваща информационна система, отменящ регламент (ЕИО) № 283/72

16. Council Regulation № 1831/94 от 26 юли 1994 г. относно нарушения и възстановяване на неправомерно изплатени суми във връзка с финансиране от фонда за сближаване и относно организирането на информационна система в тази сфера

17. Council Regulation № 2185/96 от 11 ноември 1996 г. относно контрола и проверките на място, извършвани от Комисията за защита на финансовите интереси на Европейските общности срещу измами и други нередности

18. ПМС № 62 от 21.03.2007 г. за приемане на национални правила за допустимост на разходите по Оперативните програми, съфинансирани от Структурните фондове и Кохезионния фонд на Европейския съюз, за финансовата рамка 2007-2013 г.

19. ПМС № 55 от 12.03.2007 г. за условията и реда за определяне на изпълнител от страна на бенефициенти на договорена безвъзмездна финансова помощ от Структурните фондове на Европейския съюз и от Програма ФАР на Европейския съюз

20. Наказателен кодекс, ДВ. бр.26 от 2 Април 1968г., ... изм. ДВ. бр.89 от 6 Ноември 2007г., изм. ДВ. бр.94 от 16 Ноември 2007г.

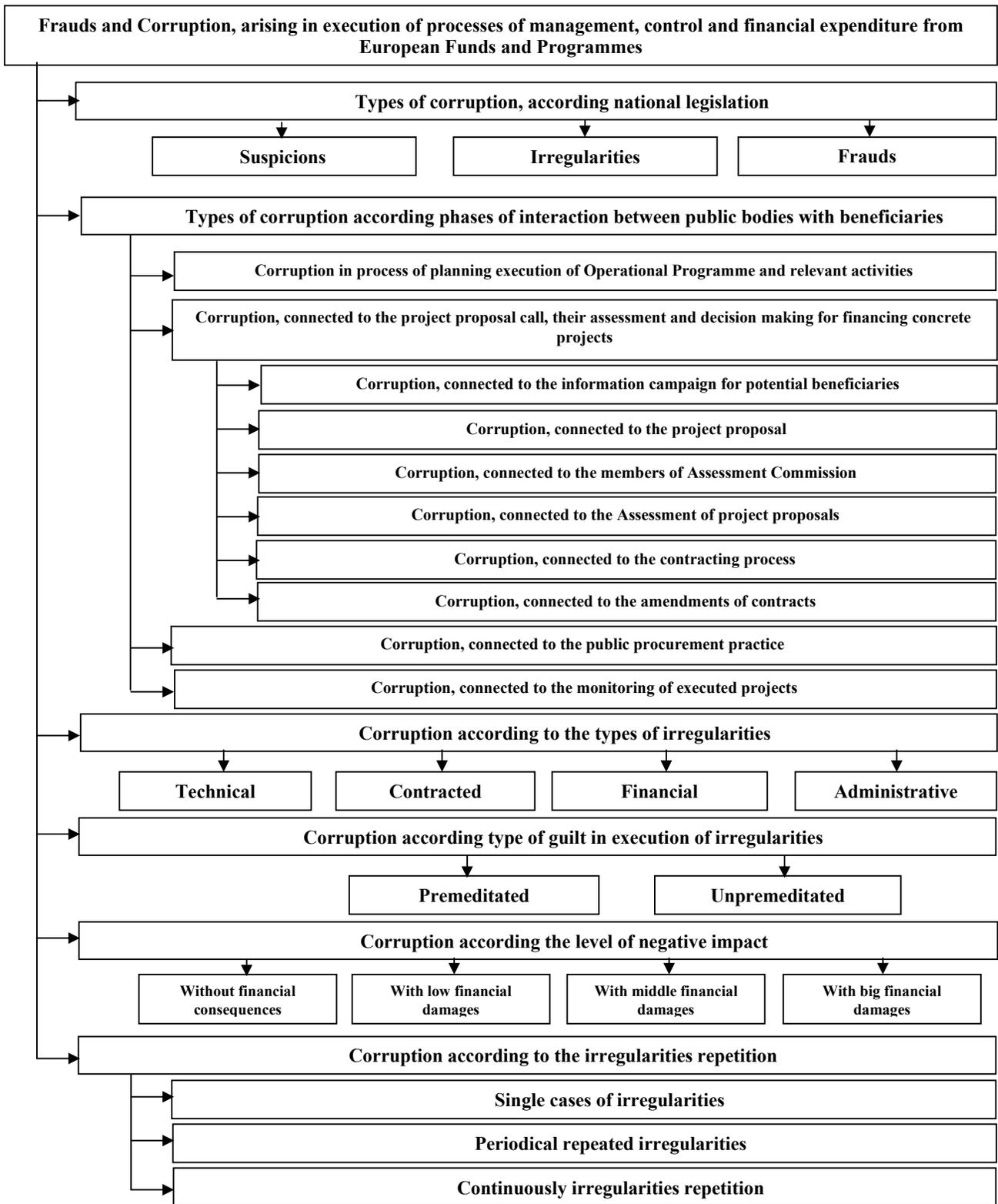


Figure 1, Frauds and Corruption classification, arising in execution processes of management, control and financial expenditures from European Funds and Programmes