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& Culture

Crime as a Cultural Problem

The Relevance of Perceptions of Corruption to Crime Prevention. A Comparative Cultural Study in the EU-Accession States Bulgaria and Romania, the EU-Candidate States Turkey and Croatia and the EU-States Germany, Greece and United Kingdom

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Corruption as a Metaphor



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Abstract

The essay reflects on the initial findings and experiences from a current comparative cultural research project on the perception of corruption in Europe. Starting with the assumption that corruption is a value judgment on certain social phenomena, an empirically substantiated concept of corruption will be identified using the example of Romania as a purported “clear case” in the context of the post-socialist transformation. In Romania ‘corruption’ functions as a metaphor of the transformation and as a societal interpretative framework for the transformation crisis. Conversely to the conventional method, this result is taken as an interpretative template for a modern western case. The general opinion on Germany being supposedly “clean” (not structurally corrupt), which is also supported by the corruption perception index of Transparency International, subsequently appears to be a partial truth, when structural corruption in the political and economic sphere are blended out. In both cases the specific perception and interpretation of corruption proves to be an ideological embellishment of a social practice.

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Facts, Perceptions, Patterns of Interpretation

In the past few years corruption has advanced to become a fashionable theme. This cannot be attributed to the facts on corruption, as there have not been any striking changes in quantitative or qualitative terms during this period. What is instead striking and in need of explanation in retrospect is the obvious change in the societal perception and assessment of corrupt behaviour. The public debate has changed to the extent that individual and spectacular scandals involving a few black sheep are no longer addressed. Instead such situations are quickly interpreted as triggers of societal self-cleansing processes, which are supposed to demonstrate that Germany is not a banana republic, rather a functioning democracy. In contrast to such conservative, and essentially appeasing interpretations, as can be found for example in articles in the *Frankfurter Allgemeine Zeitung* on the Kohl Affair, (left-wing) liberal (cp. *Süddeutsche Zeitung*) and economically neo-liberal circles are more concerned with combating in unison structurally motivated warps in society.¹

The public is also no longer only sporadically shaken up by the media. The scandalization of individual events has become part of a systematic anti-corruption campaign, which now has been institutionalized on a broad, international front after initially having started as a civil society initiative. Non-government organizations such as *Transparency International* have risen to become the “fifth power” in the state and successfully participate in national political agenda-setting. Fighting corruption has evolved into an effective policy-making instrument. New offices have been founded at the UN, the EU (e.g. OLAF), the Council of Europe (e.g. GRECO), but also in individual states, which have taken up the cause of fighting corruption. In the era of the *Audit Society*² the Corruption Perception Index³ published yearly by *Transparency International* has triggered processes of cross-national *benchmarking*, which continues within national organizations and serves as an indicator of modernization, i.e. a litmus test for democracy and market economy, upon whose level international cooperation, e.g. military and economic assistance, is made dependent. Nowadays, not only the critics, but even the functionaries of this campaign as well (which include the author as a researcher in the area funded by EU third-party funds as well as his journalist colleagues) now more or less speak avowedly of a powerful anti-corruption industry with increasing profits.

What explains this development? As already stated, there are no indicators whatsoever for an increase in or a new quality of such offences and such a trend cannot be proven scientifically or statistically; in fact it is very unlikely that corruption has become more prevalent.

¹ See the results of our content analysis at www.crimeandculture.de

² See Michael Power: *The Audit Society. Rituals of Verification*. Oxford: Oxford University Press 1997

³ Transparency International 2006: Corruption Perception Index (CPI)
download: http://www.transparency.org/policy_research/surveys_indices/cpi

Patronage, nepotism, favouritism as well as prostitution have been part of the history of mankind since the banishment from paradise. The typical attitude towards these shady sides of human life has also tended to be “it was always that way...” However, in the decade before the new millennium a change in attitude came about, triggered by primarily North American *think tanks*.

The anti-corruption campaign – which was born as the “child” of functional elites of the World Bank and the International Monetary Funds – is part of a reform process which began at the end of the Cold War, which does not herald the end of history⁴ as forecasted by *Francis Fukuyama*, but at least the end of the social democratic era according to *Ralf Dahrendorf*⁵. The disbandment of the post-war order decided on in Yalta and the “Empire of Freedom” already dawned in the 1980s under *Thatcher*, *Reagan* und *Kohl*. The existence of state socialism in Eastern Europe led to the disappearance of the challenge of the workers’ movement in Eastern Europe, on which Bismarck’s social reforms already had a channelling impact. This continental European anti-modern separate path of a paternalistic welfare state has come under pressure due to globalization. The fall of the Berlin Wall also brought down the walls behind which left- and right-wing Rhineland capitalism could hide. The victory of Anglo-Saxon liberalism over all shades of socialism appears to be irrevocable. After all, with his orthodox interpretation of neo-liberal economic theory and the simple slogan “market economy without any adjectives”, Václav Klaus showed the direction not only for the post-socialist transformation.

My considerations will also take the “Eastern European experience” of current attempts at modernization as their basis. Nevertheless, I do not offer a repeated narration of purportedly historical inevitabilities indebted to socialist realism, but rather a constructivist interpretation of events – and how could one do differently nowadays, unless one wanted to philosophically disgrace oneself? Upon closer examination it becomes apparent that reality itself provides the model for this, which however raises the post-modern paradoxes to an extreme.

The post-socialist transformation is a really radical (i.e. ignoring all preconditions) constructivism. For a decade and a half the countries of the former eastern block have been a playground for market economy reform experiments. The post-socialist transformation was the sometimes more and sometimes less radical attempt to create a so-called *ready made* capitalism, which was not only to correct the aberrations of the socialist path of development by means of “catch-up modernization”, but also simultaneously to open up for globalization. From this double perspective, phenomena such as corruption at the same time appear to be a

4 Francis Fukuyama: (1992): *The End of History and the Last Man*. New York: Free Press

5 Ralf Dahrendorf: *Die Chancen der Krise. Über die Zukunft des Liberalismus*. Stuttgart: Deutsche Verlagsanstalt 1983, p. 17 et passim



socialist legacy and side-effect of a coercive adaptation to a new global economic order. It appears to me to be instructive to shed light on the interplay between these two attempts at correcting the world.

Returning from a workshop at which the members of an international research consortium dealing with the different perceptions (in the double sense of the meaning) of corruption met in Bucharest, I have recognised that I have undergone an astonishing change of heart: the reports of my eastern European colleagues began to have an after-effect on me and agitate my perception of corruption in Germany. This alone was already disquieting, because this change of perception threatened to disavow the topic of research and hence the entire research project. Having departed to research cultural differences of corruption in eastern and western Europe and thus make a contribution to optimizing corruption prevention, several common features initially and suddenly dawned on me.

He/she who undertakes a cultural comparison, automatically exposes him/herself to a double irritation, if he/she does so in order to absorb and ‘understand’ the standpoint of others. This is how the French politician and political writer *Alexis de Tocqueville* felt during his studies of America. While what the Americans regarded as normal initially appeared barbaric to him as a Frenchman with his natural attitude, this narrow-minded naiveté ultimately gave way for his comprehension of the relativity of all ‘normality’ and things taken for granted. Experiencing the reality of others leads to the alienation of one’s own reality and thus opens the opportunity to see one’s own reality in a different light and perhaps the reason for it as well.⁶ What is defined as normal frequently obscures its abnormal aspects, which one projects towards things entirely different and foreign. By identifying things foreign as evil, one conceives him/herself as the personification of things good.

But things can be different. Even Tacitus showed the decadent Romans the nobly simple and undepraved Germanic tribes as a utopia and warning. If one abstains from the rhetorical stylization of things nobly wild, the virtually cathartic reversal remains, with which things that are all too much taken for granted become highly problematic. This is what one also experiences with regard to corruption, which one always assumes others to be prone to, but not oneself. Yet before I address morality, I will first tell the story from which it is derived.

⁶ See the systematic analysis applied to the legal comparison by Ralf Rogowski: *The Art of Mirroring – Comparative Law and Social Theory*. In: Geoffrey Wilson/Ralf Rogowski (Eds.): *Challenges of European Legal Scholarship*. Anglo-German Legal Essays. Blackstone Press Limited. Bristol 1996, p. 215-232.



Corruption as a Doxa of the Transformation Crisis. The Example of Romania

At the already mentioned project meeting at the University of Bucharest in late Autumn of 2006 the Romanian colleagues surprised us with the finding that corruption is not only the dominating issue in Romanian public life – thus confirming current perceptions –, but also something of an unofficial myth on the foundation of the post-socialist society, which like any myth does not thrive without victims. According to opinion polls, 80 % of the surveyed Romanians know a relative, friend or acquaintance that has been bribed at least once, 60 % regard all holders of public office as corrupt, and over 50 % view the payment of “palm grease” to be a conventional everyday practice and only 8 % refute this.

The figures reveal that corruption is by no means experienced only passively as a “syndrome” and as a “plague”, but actively as a “national pastime” as well. This form of everyday corruption, in which everyone participates, e.g. when doctors, judges, officials or an mediator is paid for health services, justice, a business or construction permit, is known in colloquial Romanian as *spaga*. This form of everyday and omnipresent corruption is distinguished from ‘actual’, i.e. structural corruption which is described with the official expression *mita* and is practiced by the old and new elites, primarily members of the former nomenklatura and nowadays at a transnational and global level.

Like all things evil, corruption is always something others do – a well-known pattern of interpretation from opinion research. The corruption that one practices him or herself is trivialized and “normalized” as a “favour” or “peccadillo”. However, if one is caught, one is him/herself a victim of the corruption which is structurally motivated or caused by others and thus inevitable. Everyday corruption known as *spaga* is thus no longer perceived as such anymore.

Conversely, when corruption is discussed, then it is almost always addressed with the term *mita*, the systematic structural corruption – of shady figures which one does not belong to – which takes place in the socialist redistribution networks, which however were transformed and shut down in society after the regime change. Unlike common people, the nomenklatura (in particular the no longer politically tolerated employees of the notorious *securitate*) was able to transform its social capital into economic capital. Allied with their close friends from the political sphere, they further looted the state at the expense of the population. The privatization of the state pursued within the socialist networks of redistribution is now reserved exclusively to the privileged economic and political elites, which have formed as a new class and differentiate and distance themselves from the common people in terms of their lifestyle as well. In the perception of the common people who are excluded from structural

corruption, the new “social climbers” appear as *nouveaux riches*, who copy western lifestyle and are viewed as the root of all evil. It is evident how corruption is perceived by the losers of modernization not only as a form of criminal misconduct, rather as a general pattern of interpretation for the social conditions.

In an official statement the Romanian Prime Minister warns against a ubiquitous use of the term, which results in corruption becoming a customary label for all problems in Romanian society and its meaning blurred.⁷ Contrary to the discreet practice of corruption, in which everyone actively participates, the term “corruption” plays the role of a *catch all term* in public discourse – the ‘talkative’ social observation and control institution – to define the source of all evil and suffering in the form of a conspiracy theory. Corruption then turns out to be a metaphor for the post-socialist transformation crisis, as an everyday explanation for the experience of increasing social differentiation, social inequality and redistribution of national wealth.

As a metaphor, corruption does not define a circumstance, but rather evokes a pattern of interpretation of a magical-religious nature based on a conspiracy theory, which enables us to explain and ban the inconceivable by defining the causes and the culprits of one’s own misery. The conspiracy of the shady powers serves the purpose of rationalization and mastering the invisible relations.

The French ethnologist Marcel Mauss provided a sustainable explanation for this in his theory of magic. With regard to the process of opinion formation he speaks of “a priori inductions” – thus pseudo-empirical prejudices –, which are of sociological interest, because they “are carried out under the pressure of the needs of groups and individuals”⁸. In other words, the analysis of these ‘phantasms’ allows insights into the problems of individuals, groups and societies, if they pertain to their pragmatic contexts, because they represent problem solutions for the actors or at least tools to solve everyday life-world problems, regardless whether they are target-oriented from an objective standpoint or not. On the quiet our cultural analysis turned into a study of religious sociology. We no longer investigate the facts as such, but rather what people regard as facts, that is social knowledge or simply belief systems, but also associated fears and hopes as well. What are the consequences of believing that society is corrupt?

⁷ For the data see 6th Framework Programme of the European Commission, Research Project Crime and Culture. State of the Art Report, Brussels 2007

download at www.uni-konstanz.de/crimeandculture/index.htm

⁸ Marcel Mauss (1972): A General Theory of Magic. London: Routledge & Kegan Paul



Unlike in the consciousness of the actors that differentiate between *spaga* and *mita*, there is a more or less hidden relationship between everyday, spontaneous favours or bribes and structural corruption. If the core problem of corruption is indeed social equality and its reproduction, i.e. the division into winners and losers, then the habitualized realism of the common people – the belief that it has always been that way and cannot be changed and that everybody has to provide for his or her survival – proves to be the *modus operandi* of everyday petty corruption and thus a form of legitimacy for large-scale structural corruption. Due to their “realism” the common people partake in the reproduction of corruption and the social inequality created and increased by it. As losers they thus contribute to their having become losers, their being losers and their remaining losers. The corruption of which they partake undermines the trust in the state institutions, which are alone able to break the power of the privileged and guarantee legal equality and social opportunities. This vicious circle is closed here, in the everyday life of the common people. Corruption as a metaphor, as a social pattern of interpretation for the conduct of others on the one hand and as an incorporated self-conception or habit on the other hand, generates a social practice, which gives rise to the new eastern European capitalism.

Corruption as a Consequence of Modernization. The Case of Germany

Comparing Germany with Romania one might think that the differences could not be greater. In the corruption perception index Romania comes in place 87 (of 142 out of 163 listed countries), and thus is in the company of the poorer countries, while Germany is ranked in place 14 among the wealthy countries behind Scandinavia, the Netherlands, the Asian tiger countries and England, but clearly ahead of the USA.⁹ Does that mean that corruption hardly occurs or only that it is not noticed? The media offers us the following picture: a great many representatives of distinction in business and politics in Germany are involved in dirty businesses.

People like to view corruption as an expression of social underdevelopment. For economists and sociological modernization theorists it is a relict of socialism– even with regard to the “creeping socialism” in the modern welfare state according to *Friedrich August von Hajek*. From a functionalist perspective, corruption is a necessary consequence of bureaucracy, a valve for state overregulation and a reaction to the strangling of market forces. The proper remedy is obvious: liberalization of the market and state, i.e. more privatization. However, the example of Romania shows that corruption can also be a consequence of privatization. If we

⁹ Transparency International: Corruption Perception Index 2006



follow the famous doctrine of *Samuel Huntington*¹⁰ from the 1960s, corruption is a by-product in transitional societies, which are still controlled by traditional powers such as clans, guilds, corporations or other anti-modern interest groups, which are nowadays frequently downplayed as networks, in particular in the social sciences. Their objective is namely *rent seeking* by using social capital (“privileges”) at the expense of third-parties, and not the maximization of profits as a prize for risky investments of private economic capital. *Rent seeking* is a reward for setting up (pseudo) markets¹¹, and thus a sign of a market failure, which in turn points to the failure of the state and the insufficient institutional embeddedness of economic activity. The illegal social networks offer a replacement for lacking organization and lacking trust in institutions.

If we do not – as usual – judge the situation in the East in terms of that in the West, but instead consider the western countries from the perspective of the eastern European transformation countries, how do we perceive corruption in the West?

Occasional or *petty corruption*, which in south and south-eastern European countries is according to experts the typical manifestation of a concept of a vanishing “culture of corruption”¹² is frowned upon and untypical in Germany due to its protestant ethics. If any corruption exists at all, it is *grand corruption*, and purportedly only in exceptional cases such as in the construction branch, where it was and still is tolerated as a conventional practice. Like *petty corruption* in Romania *grand corruption* in Germany as such is not perceived as ‘really’ criminal, and if it is carried out by members of the honourable society it is regarded as a ‘peccadillo’. Corruption, as an expert from a State Office of Criminal Investigation explained to us, is only noticed when we ourselves are victims, for example when a construction company did not get the contract due to a manipulation of the invitation to tender or when we no longer tolerate the privileges of doctors who cling to welfare state benefits and are additionally coddled up by the pharmaceutical industry and their gifts financed by price surcharges.

This shows that corruption as a social fact is always bound to a perception and subjective judgement – namely according to the meaning of the Latin expression *corrumpere* (to break something) as a breach of the social contract. Thus when economics and the sociological

¹⁰ Samuel P. Huntington: *Political Order in Changing Societies*. New Haven (Connecticut): Yale University Press 1968

¹¹ Birger P. Priddat: *Schwarze Löcher der Verantwortung. Korruption – die negative Variante von Public-Private-Partnership*. In: Stephan A. Jansen/Birger P. Priddat (Eds.): *Korruption. Unaufgeklärter Kapitalismus – Multidisziplinäre Perspektiven zu Funktion und Folgen der Korruption*, Wiesbaden, VS-Verlag 2005, p. 85-101

¹² Miklos Marschall: *The Changing Face of Post-Communism Corruption, Democracy at Large*, 2004, Vol. 1, No.1

modernization theory interpret corruption as a relict of pre-modern times or as a deviation from the path of virtues, or in the best case as a self-correction of a malfunction, they are doubtlessly arguing normatively. This objection provoked *Niklas Luhmann* to add an interesting twist to economic explanations based on modernization theories and to interpret corruption as the semantics of an effect resulting from the interpenetration of systems, thus when the logic of the market economy influences the practices of politics.¹³ The current public administration reforms provide a nice example of this.

Among political scientists there is a broad international discussion on the unintended side-effects of so-called *New Public Management*.¹⁴ The introduction of company management principles into public administration was designed to be a measure for breaking down bureaucratic obstacles and preventing the waste of tax money and of course corruption as well. Due to empty public coffers and the endemic lack of ideas and inspiration, the responsible political actors were happy about the scientifically legitimated rationalization programs. Administrative activities were subject to a permanent process of performance evaluation in order to “trim down the state” of unreasonable equality or redistribution costs caused by welfare state bureaucracy. The new practice of agreements on objectives and benchmarks has, however, also had the impact that – as frequently lamented e.g. by judges – procedures involving investigational authorities (police and public prosecution office) are split up into hundreds of cases beyond any logic in order to conceal true performance and protect the department by means of “staged professionalism”. However, it does not stop at these and similar classic cases of shifting objectives within the organization. The managerial style deployed by the nomenklatura in the “late” state socialism of the 1980s as a means to sustain its grip on power is nowadays also wide spread in the public administration. This leads to the privatization of the western states. In the face of this the loss of professional honour (*sine ira et studio*) and the blurring of private and public matters cannot be confronted except with imposing bans (“no gifts”).

Corruption does not occur exclusively, but indeed primarily at the interface between public administrations and firms from the private sector and above all anywhere where public funds are distributed. While people from the private sector generally used to make attempts at bribery, e.g. in the construction branch, they are increasingly subject to blackmail from representatives of public administrators, whose demands keep rising so that they can match their lifestyles with those of managers who help themselves to company assets. While firms

¹³ Niklas Luhmann: *Die Gesellschaft der Gesellschaft*. Frankfurt a.M.: Suhrkamp 1997, p. 837, 929

¹⁴ A critical summary and poignant continuation of the discussion as well as literature references can be found in: Patrick von Maravic: *Public Management Reform und Korruption – Unbeabsichtigte Folgen*. *Verwaltungs-Archiv. Zeitschrift für Verwaltungslehre, Verwaltungsrecht und Verwaltungspolitik*, Bd. 97, Heft 1, January 2006.

create cartels to loot the state, public sector actors concoct clientele relations which they dominate in order to siphon private money sources, which in turn are fed by public assets, i.e. tax money.

Corruption, thus the judgement of a social practice as criminal behaviour, is dependent on the criteria and patterns of perception in a society. These perception patterns and judgement schemes are not simply an expression of a social reality, but they are rather structures that generate it. Social reality is increasingly perceived within the framework of neo-liberal patterns of interpretation, which are then in turn propagated and enforced by political and economic actors, who are in turn seconded by academics, but also representatives of modern “moral” institutions such as *Transparency International*. These ideas are put into practice and thus become social reality by means of political reform measures such as *New Public Management*. The corruption rhetoric since the nineties of the last century, which has been presented with eschatological verve, must be seen within the context of this neo-liberal revolution. Not only is the message of *Transparency International* “of the same spirit” as the doxa of *New Public Management*¹⁵, they also feed into one another, as will be shown with a short example.

New Public Management and Public Private Partnership

The background behind the corruption case, which became notorious and the subject of a multitude of journalistic and scientific explanations, was the public invitation to tender for the construction of a waste incineration plant. In order to carry out the project according to the *Public Private Partnership* model a so-called waste utilization association (*Abfallverwertungsgesellschaft* - AVG) was established of which 50.1 per cent belonged to the City of Cologne, 24.8 to the City Utilities Company of Cologne and 25.1 per cent to a private shareholder. In order to achieve high quality for a reasonable price in the interest of the city and taxpayers, the managing director of the AVG – an administrative specialist who had retired from his civil service status – developed an elaborate concept of tendering and carrying out the project. He divided the construction plans into several lots with separate catalogues of services and prices, so that in each case the technologically optimum and least expensive solution could be selected. The provider with the largest construction sum was supposed to be appointed as prime contractor for all construction services. After the drawing the managing director in his function as a public contracting body thus still has the possibility of influencing the assignments by means of a combination of selections by lot according to

¹⁵ See Christoph Maeder: *New Public Management in der Schweiz. Zur Dramaturgie und Pragmatik eines moralischen Kreuzzugs*. In: Hans-Georg Soeffner und Dirk Tänzler (Eds.): *Figurative Politik. Zur Performanz der Macht in der modernen Gesellschaft*, Opladen: Leske + Budrich 2002, pp. 211-224

price and service aspects. From an entrepreneurial standpoint as well, the system offered him substantial possibilities for intervention. There was a large political interest in the matter for reasons of “regional business development”, “location promotion” and “securing jobs in the region”, and in particular for the sake of giving a plant manufacturer from the region a chance during a critical period for the branch. The managing director of the AVG was personally interested in finding a partner “with the right chemistry”, because complications were expected in view of the magnitude of the project, the success of which could only be assured by means of a more or less trustful relationship between the contracting body and the contractor. Moreover, negotiations with a firm that wanted to secure its entry into a new and promising business area and thus long-term survival by taking over the “reference and prestige object”, appeared to be easier than with firms already established in this area.

AVG operated much more than is usual in the public sector as a project developer with entrepreneurial intentions and not exclusively as the contracting entity for the construction project. Managerialism at the interface between administration and the private sector evoked a conflict between the different rationales for action, which the managing director of AVG had to solve. The public tender procedure, which is mandatory for projects of this size in order to protect the public interest, stood in conflict with the entrepreneurial intentions and management objectives. The corrupt conduct of the previously “spotless” administrative specialist must thus be viewed within the context of the risks, which result for the executive manager from the contradictory logics of action of a *Public Private Partnership*.

In subjective terms, his criminal conduct was also a consequence of privatization. The top public official’s switch from public administration to the management of a privately run municipal firm with private shareholding automatically led also to the privatization of services of public interest. The life-long security of a public official was traded for the employment in the private sector, which is by principle uncertain as future events cannot be predicted. This risks of private pension schemes, which were initially subjectively hidden by the money fetish associated with the high salaries, subsequently also became a gateway for the susceptibility to criminal acts. The private shareholder of AVG functioned as an “intervening variable”. He was an entrepreneur active in the region, who – according to the President of the Administrative District –, was striving to build a “little monopoly” in the regional waste management sector, which was seconded by a social democrat from North-Rhine-Westphalia, who was well-known for his “mediation services”. They approached the managing director with the bribe idea. Bribes amounting to three percent of the construction sum¹⁶ were purportedly standard practice in the branch and people had to “think about their

¹⁶ In the case of the waste incineration plant the bribes amounted to more than 24 million German Marks, 1 per cent for the managing director of AVG and the plant construction company respectively as well as ½ per cent for the mediators from the political sphere and the participating private AVG shareholders who make the



future”. Above all, the latter point caught on with the managing director, who suddenly seemed to realize that his future would not be entirely certain after the end of the project. Here the co-shareholder from the private sector pinpointed the soft point at which the previously “spotless” state official could be seduced.

However, what is more important in structural terms is the fact that the managing director did not partake in corruption to enrich himself, but also to implement and optimize the management system he had designed. This ultimately led to the blending of economic and political corruption. The managing director not only secured substantial material advantages, but also a significant degree of power. By manipulating the invitation to tender he enabled the regional plant constructor to become the main contractor and thus his willing accomplice. Not only did he coerce the main contractor to minimize the subcontractors’ charges in order to secure and increase his own profit, but also for the sake of coming up with the bribes through fake invoices, by which the participants to the complot were to be rewarded. On the one hand, the managing director certainly had his fun with the elaborate construction of the project sequence (which only he really understood) and the resulting power. On the other hand he created at the same time a set of lies with his construction plan, with which he was able to legitimate and justify his own conduct to himself.

The managing director may have been introduced to the practices of the construction branch by a private businessman (who took charge of transferring the bribes to Switzerland), but he came up with the management system himself, which cleverly used briberies as a regulatory instrument. In the eyes of the managing director it must have been a stroke of genius that he was not only able to reconcile the state official’s commitment to the common good with the entrepreneurial logic of private economic conduct as well as his private interests, but at the same time achieve seemingly optimum results. The delicate building deal then collapsed when a politically responsible party indicted himself and the managing director was exposed as a small relay man in the large network of the notorious Cologne clique.

The illustrated case of corruption is not only the best example of a misguided almost ingenious person, but also an expression of a general social trend, the neo-liberal revolution, here in the concrete manifestation of *New Public Managements* in public administration and a structural problem inherent to it. However, the special feature of this case was how the managing director of AVG used corruption as an instrument of management, and in concrete terms as a means of cost control and quality assurance.

Swiss accounts available. The amount of the bribe payments is demonstrated by a comparison with the calculated profit, which is estimated at 5 per cent before taxes.



Metaphor and Reflection. A Cultural Comparison of Corruption

Historical and intercultural comparisons always have the reputation of unduly neglecting distinctions. In the following we shall attempt to make ourselves aware of what we are by stressing differences and their significance. The analysis of corruption in Romania as a purported *clear case* teaches us a lesson which makes the phenomenon in Germany more comprehensible to us and ultimately even reveals some generally applicable facts about corruption. Within living memory (at least since the ancient Greeks) corruption is conceived to be the privatization of public offices or resources, but it emerges in new historical constellations and configurations. Corruption thrives not only in its shadow existence and is therefore not very tangible; as a communicative construction of social relationships it is also perceived and defined differently depending on historical and social contexts. It will be demonstrated that the Romanian and German circumstances – in all their differences – have something in common, which is only manifested in a different manner in both cases on the basis of the historical, social and cultural pre-conditions. We will look at the German case in the mirror of the empirical findings from the transformation country Romania – Corruption as a Metaphor – and also recognize modern Germany as a country in a phase of corruption-generating transformation.

Corruption does not define a structural relationship, but is rather an assessment of social conduct. The term corrupt pertains to an action, which does not coincide with the social contract and thrives on special rights and privileges. Thus, one must reconstruct the historically applicable social contract, in order to understand the social and cultural meaning of corrupt behaviour in a concrete historical context. The analysis of the “cultures of corruption” thus does not target the genetic causes of the omnipresent phenomenon of “corruption”, i.e. generally normative aspects e.g. in anthropological terms as an expression of sinfulness and greediness of humans or in evolutionary terms as a developmental deficit or as a *cultural lag* with regard to “the” modern age, but aims at the social meaning of corrupt practices in a concrete historical situation. By these means, the socialist redistribution networks and the “culture of corruption” in Romania dating back to the Ottoman era can be viewed as the historical roots of the current corrupt practices, but do not explain them. Their current functional cause must instead be viewed within the context of the post-socialist reform process, which did not lead to the abolishment, but rather to the transformation of the previous socialist redistribution networks.

Only in the context of the societal transformation process does the social meaning of modern-day corruption become understandable. Taking this as a basis, we can now ask what corruption in the current reform process in Germany means. The comparison – the mirroring



of the contrasting cases – illustrates a relationship between the culture of corruption, i.e. the everyday understanding of the legitimacy (Romania) or illegitimacy (Germany) of (favour-based) corruption and the “not everyday” structural corruption in business and politics.

A positive attitude on and an active participation in everyday favour-based corruption goes hand in hand with the demonization of structural corruption, as practiced by a Romanian elite that is regarded as criminal and seals itself off. On the other hand, a negative attitude which rejects corruption proves to be compatible with structural corruption in the honourable society of the leading German elite. In a society with a traditionally affirmative “culture of corruption” such as Romania everyday opportunity-based corruption is downplayed and structural corruption scandalized as the real corruption of the elites collaborating with “foreign powers” at the expense of the people. In a society with an indoctrinated “protestant ethic” and trust in the institutions, corruption is rejected, but structural corruption downplayed, although it can undermine trust in institutions. In both cases, corruption appears to go hand in hand with double moral standards. How do we explain this?

Corruption is based on a contract and a barter transaction. If the mutuality constituted according to the law of donations (*Gesetz der Gabe*)¹⁷ in the awareness of the one party in contract does not appear to be infringed upon by unaccepted social inequality, the exclusion from the networks of social redistribution, which took place in post-socialist Romania in the course of privatization, automatically leads to criticism of the exclusive practice of the new upper class, whose “altruistic” conduct (referring to the members of the network) is made responsible for one’s own hardships. Corruption becomes a conspiracy theory metaphor for the historical situation. Conversely, the conservation of the protestant ethic and the rejection of everyday corruption can lead to the participation in structural corruption, when – like in Germany – the managerialism of the new regulatory models in public administration lead to blurring the distinction between the spheres of action and the behavioural logics, which interferes with the actors’ understanding of their roles and justice and compensate for this by participating in structural corruption, which they justify as righteous compensation for the negative impact of the institutional changes. The demonization of structural corruption, which becomes “visible” for the common people at least indirectly through the increase of social differentiation, serves to conceal everyday petty corruption and thus cultural consent spanning across all social strata.

17 Basic literature: Richard Thurnwald: *Die Gemeinde der Banaro*. Stuttgart: F. Enke 1921; Marcel Mauss (1967): *The Gift. Forms and Functions of Exchange in Archaic Societies*. New York: Norton; Bronislaw Malinowski (1922): *Argonauts of the Western Pacific. An Account of Native Enterprise and Adventure in the Archipelagoes of Melanesian New Guinea*. London: Routledge & Kegan Paul; Claude Lévi-Strauss: (1969): *The Elementary Structures of Kinship*. London: Eyre & Spottiswoode

Thus in Romania corruption is the metaphor and epitome of a mythological system, which much alike a conspiracy theory defines and banishes the root of all human evil by introducing a clear distinction between perpetrators and victims. In Romania the metaphor is an everyday theory for the exclusion of the “people” from social wealth and social changes, which the old and new elites have secured “exclusively” for themselves and legitimated with neo-liberal rhetoric. Corruption is regarded in Romania as an expression of the deterioration of society and culture.

In Germany corruption is equally a metaphor and conspiracy theory, albeit less obvious. With the exception of representatives of *Transparency International* and individual journalists dealing with corruption, the German functional elite (including political actors and the police, but not the judiciary branch)¹⁸ tends to downplay the corruption problem in their own country as a nuisance or deviation and to externalize corruption as normality (Italy, Turkey, Balkan...).¹⁹ In Germany the metaphor of “corruption” serves to deny a reality and to stigmatize a depraved culture imported by others, which does not fit into German culture. According to this pattern of interpretation there is no “immanent” social crisis, but only the seduction by “others”, that is either “foreigners” or “superior forces”, by means of structural coercion: this is conventional practice in the branch which one must succumb to, if one does not want to hurt oneself. In the German case as well, “corruption” as a metaphor identifies “others” as the root of the evil. If one were to ask these “pre-modern barbarians”, e.g. in South America or Eastern Europe, they themselves are not the corrupt and corrupting seducers, but rather various German business representatives. The German ideology promulgates that the Germans are by nature not corrupt and do not bribe others, but rather view themselves as forced to do so against their will because of the cultural customs of the “Third World”. Within Germany the argument then prevails that this is standard practice in the branch, thus a German subculture.

As the current scandals show in Germany it is mainly the functional elites that profit from corruption, but corruption is not exclusive, but rather an expression of inclusion: broader and broader circles are being integrated into the corrupt networks, so that we, in a certain way, can almost speak of a trend towards the democratization of corruption. However, democratization does not mean the expansion of everyday opportunity-based corruption at the interface between citizens and public authorities, but rather the spread of structural corruption among functional officials from the private sphere, public administration and politics.

¹⁸ Results of our survey of representatives from the political sphere, the policies, the judiciary system and business, civil society NGOs and media during our ongoing research project.

¹⁹ The *Corruption Perception Index* seems to support this crude everyday theory.



The background of the currently observable form of corruption in Romania as well as Germany is the transformation of societies, which is indeed very similar to what Huntington claimed in the 1960s, only for the “developing countries” though. But corruption can also be an accompanying phenomenon of the modernization of modern societies, and indeed even the result of liberal market reforms.

While in Romania the “traditional network relationships” between the political and economic elite are blocking a functional differentiation by using liberal rhetoric for the sake of legitimacy, the liberal (administrative) reforms in Germany have resulted in a de-differentiation and blurring of behavioural rationales. Here, instead of their containment as originally intended, new incentives for the formation of networks and corruption has been created. The politicians and administrative managers previously partaking in corruption were subject to tightened control and observation, while corruption at a lower level spreads due to the uncertainties triggered by the administrative reforms. Corruption is the consequence of a structural conflict of objectives between administrative action and entrepreneurial action under private economic conditions from which a role and identity problem emerged for the state servants. This role and identity problem is all the more present, the less the public administration employees are familiar with economic processes. The permanent evaluation constraints implemented within the context of *New Public Management* do not appear to be a result of the rationale of administrative behaviour and cannot be understood as a consequence of market laws as in the private sector, but rather as a kind of structural mistrust towards the qualification and achievements of the employees. The key data system undergoes a shift of objectives for the sake of self-protection and leads to an increase in bureaucracy and not the intended decrease. The demanded entrepreneurial customer orientation was reinterpreted by means of the shift of objectives. This was conceived as the abolishment of the civil servant ethos for personal advantages from the official at the immigration office to the university professor, and not necessarily with bad intentions (although this also occurs), but even worse – due to structural constraints to protect the department, for example by fending off senseless pseudo-market economy performance evaluations, or to protect personal interests and to fend off the so-called “precarization” of social status by the privatization of pension systems.



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**SIXTH FRAMEWORK PROGRAMME OF THE EUROPEAN COMMISSION
PRIORITY 7, FP6-2004-CITIZENS-5**



SPECIFIC TARGETED RESEARCH PROJECT: CRIME AND CULTURE

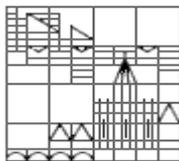
**Crime as a Cultural Problem. The Relevance of Perceptions of Corruption to Crime Prevention.
A Comparative Cultural Study in the EU-Accession States Bulgaria and Romania, the EU-
Candidate States Turkey and Croatia and the EU-States Germany, Greece and United Kingdom**

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