



MUNICIPALITIES AGAINST CORRUPTION

Summary of the research conducted within
the project *Decreasing the Perception of Corruption
in the Local Government (SPEKULAS)*

S · P · E · K · U · L · A · S

Zagreb, August 2010.

Impressum

Published by: Association of Municipalities
in the Republic of Croatia
Hrgovići 59, 10000 Zagreb
www.udruga-opcina.hr

Authors: Mr.sc. Teodor Antić
Ivica Malatestinić

Editor: Mladen Ivanović

Graphic design: Vjeko Sumić

Printed by: Printera grupa d.o.o.

Translator Sofija Babić

ISBN: 978-953-55612-5-5



This publication is written within project *Decreasing the Perception of Corruption in the Local Government (SPEKULAS)*, financially supported by the Finnish Government.

Copyright © 2010 Association of Municipalities in the Republic of Croatia, Zagreb. The views expressed in this publication are solely the views of the authors and do not necessarily reflect the opinion of the Association of Municipalities in the Republic of Croatia or the Finnish Government.

Content

Introduction	05
Municipality as a Local Government Unit	07
Corruption at the Local Level	09
Conclusion	14

S · P · E · K · U · L · A · S

The whole text of the research conducted within the project *Decreasing the Perception of Corruption in the Local Government* is available (in Croatian only) at the web page of the Association of Municipalities: www.udruga-opcina.hr.



Introduction

Corruption as an extremely harmful social phenomenon undoubtedly undermines fundamental social values. One of the most important and most dangerous consequences of corruption is the loss of public trust in the state institutions, in the first place, as well as in the institutions of other levels of government. Subsequently, it has a negative impact on the entire economic development of the society. At the same time, the credibility of every government is not brought into question only by corruptive activities, but by a mere doubt in the corruption as well as a pure impression of corruption taking place.

In modern democratic states based on the principals of constitutionality, legitimacy and rule of law, the governments are aware of the sternness of the problem of corruption and invest huge effort in its suppression. They pay special attention to strengthening legislative and institutional framework, prevention, prosecution and sanctioning of corruption; international cooperation; and raising the general public awareness about the importance to prevent and suppress corruption.

Preventing corruption at all levels is the key to a successful anti-corruption policy, but also the obligation of the Republic of Croatia, pursuant to the United Nations Convention against Corruption and relevant documents of the Council of Europe and the European Union.

In the Republic of Croatia, priority areas in the fight against corruption are preventing conflict of interests when performing public functions; the implementation of the legislation related to the financing

of political parties; the exercise of the right of access to information; strengthening the integrity in the public service; the regulation of public procurement; and the protection of injured parties, as well as persons who, in good faith, report on corruptive activities.

Although public opinion polls about the perception of corruption in the Republic of Croatia have shown that relatively large number of citizens thinks that the corruption in the local government is spread or largely spread, which has ranked the local government third on the scale of corrupted institutions, none of the state government measures against corruption is directed strictly to the local government. However, local government units spend yearly significant amounts of public money on public procurement. Besides, some of the authorities of the local government are managing property, which sometimes amounts to a great value, as well as a variety of other procedures that may expose the local government to the spread of corruption, due to close and regular interaction of private individuals with local government employees and officials. Further, the possibilities and forms of corruptive behaviour can appear in wide spectre, from offering smaller presents, services and bribe to usurpation of public property, nepotism and patronage, which cannot be easily noticed nor efficiently prevented.

However, all this does not prove that the mentioned perception of the citizens is justified

and does not show to which level the corruption in the local government is really present.

Taking that into consideration, the Association of Municipalities in the Republic of Croatia has conducted the project *Decreasing the Perception of Corruption in the Local Government* (SPEKULAS), whose aim is to determine disputable and potentially corruptive areas in the legislation which regulates the functions and authorities of administrative bodies in Croatian municipalities.

This is the first systematic research in the Republic of Croatia related to this topic. Beside collecting data necessary to determine disputable and potentially corruptive areas in legislation which regulates the functions and authorities of administrative bodies in Croatian municipalities, the purpose of this project is to draft recommendations of anti-corruption measures to the local government, as a complementary and logical sequence of the present efforts of the Croatian Government and so far conducted activities in the area of the fight against corruption. Implementation of this project enables setting criteria and standards for decreasing the possibility of corruptive activities at the local level and to some extent can be used by local government units as a guide in their performing of public duties in a way that leads to decreasing perception of corruption at the local level. These are key areas which are a precondition to the whole and comprehensive institutional policy of preventing corruption.

Municipality as a LOCAL GOVERNMENT UNIT

Municipalities in Croatia form 77% of the total number of local government units, inhabiting 31% of Croatian population. An average number of inhabitants in a municipality is 3,243.

Out of total number of Croatian municipalities, the most numerous are those with 1,000 - 3,000 inhabitants (210, i.e. 47.5%), whereas the least numerous are those with more than 9,000 inhabitants (7, i.e. 1.6%). In almost 84% of municipalities there are less than 5,000 inhabitants.

Within their self-governmental scope of activities, municipalities perform the tasks of local importance which directly address the needs of their citizens, and which are not assigned to the state administrative bodies by the Constitution or by law, in particular the tasks referring to:

- organization of settlements and housing;
- spatial and urban planning;
- communal affairs management;
- child care;
- social welfare;
- primary health care;
- preschool and primary school education;
- culture, physical culture and sports;
- consumer protection;
- environment protection and improvement of natural environment;
- fire protection and civil defence;
- traffic management;
- and other tasks in accordance with the law
(Article 19 of the Law on Local and Regional Government (LLRG)).



Representative body of a municipality is the municipality council. Municipality council members are elected directly by the proportional election system. The number of members in the municipality council depends on the number of inhabitants, and varies from 7 the least to 19 the most.

The representative body:

- adopts the statute of the municipality;
- adopts decisions and other general acts, regulating issues from the municipality scope of activities;
- establishes and appoints members of the council working bodies; and appoints and dismisses other persons, stipulated by the law, general act or statute;
- regulates the organization and scope of work of the municipality administrative departments;
- founds public institutions and other legal entities to perform economic, social, communal and other activities of the interest for the municipality;
- decides about acquisition and alienation of movable and immovable property whose individual price amounts to more than 0.5% of the revenues without financial receipts achieved in the year that precedes the year of the decision about the acquisition and alienation of movable and immovable property, i.e. whose individual value is bigger than 1,000,000.00 (one million) kuna;
- performs other tasks within the scope of activities of the representative body in accordance with the law or general acts (Articles 35 and 48 of the LLRG).

Executive body of a municipality is the municipality mayor, elected directly by the citizens, by the majority two-round system, together with his/her deputy. Mayor of the municipality:

- prepares the proposals of general acts;
- executes or ensures the execution of the general acts of the representative body;
- directs the activities and work of the municipality administrative departments and supervises their work;
- manages immovable and movable property of the municipality, as well as its revenues and expenditures, in accordance with the law and the statute;

- decides about acquisition and alienation of movable and immovable property whose individual price does not amount to more than 0.5% of the revenues without financial receipts achieved in the year that precedes the year of the decision about the acquisition and alienation of movable and immovable property, in the maximum amount to 1,000,000.00 (one million) kuna; as well as if acquisition and alienation of movable and immovable property are planned by the budget and performed in accordance with the legislative regulations;
- performs other tasks, in accordance with the statute (Article 48 of the LLRG).

Corruption at the LOCAL LEVEL

From the beginning of the democratic transition, corruption has become one of the key problems of the Croatian society. The process of establishment of the new political and legal system took place in the war times, which caused delay in the development of all necessary protection mechanisms for prevention of the corruptive activities in various segments of the society.

In 2005, Transparency International Croatia conducted research about the perception of corruption, where 75% of the examinees thought that the corruption in local governments was spread or even wide spread. The local government was ranked third on the scale of corrupted institutions in Croatia.

The research conducted by Gallup Croatia has also shown that the local government administration is perceived as widely corrupted. Corrupted politicians and officials are thought of as the largest threat to the society.

However, the information by the State Attorney of the Republic of Croatia does not confirm this perception, at least when it comes to the criminal responsibility. In the report for 2007, persons reported for corruptive criminal activities were, among others, heads of municipality administrative departments; council members; members of the city government; communal services management employees; and deputy mayors (page 48). The overview of the accused persons in the 2008 report (page 45) does not mention a single employee or official from the local government.

In the past several years, the state authority has conducted some considerable activities with the purpose to suppress corruption. Anti-Corruption Strategy adopted by the Croatian Parliament on June 19, 2008 (*Official Gazette*, 75/08) and Action Plan adopted by the Croatian Government on June 25, 2008 are the basic documents of the Republic of Croatia to define its anti-corruption policies. These documents and the number of preventive measures they prescribe (195 measures) constitute the legal framework to ensure efficient suppression of corruption in the following areas: the building-up of institutions in charge for prevention and suppression of corruption; the prevention of a conflict of interests; financing political parties; the right of access to information; integrity and code of performing public duties; public finances; public procurement; and protection of „whistlers“. However, despite certain progress in this area, present efforts

have not been entirely fruitful; therefore in its Croatia 2009 Progress Report, the European Commission again emphasized corruption as one of the important problems facing the Croatian society.

Although the mentioned documents do not prescribe a single anti-corruption measure directed exclusively to the local government, certain measures should undoubtedly be conducted at the local level, too. This derives from the following facts:

- local government units spend yearly significant amounts of public money on public procurement;
- local government units own and manage their property, which in some local governments amounts to a great value;
- local governments and administration conduct a variety of other procedures, where they directly decide on rights, obligations and interests of a wide circle of subjects or indirectly influence them;
- thereto, being the level of authority closest to the citizens, due to close and regular interaction of private individuals with local government employees and officials, local government units are largely exposed to the spread of corruption.

Consequently, at the local government level, potentially corruptive activities can be related to managing and disposing budget resources, or unrelated to the local government budget.

In that sense, we can distinguish potentially corruptive activities:

- 1) on the revenue side of the budget**, which means discrimination in favour of a particular subject and consequently causing decrease in the budget revenue that would be generated without the corruptive activity;
- 2) on the expenditure side of the budget**, which means providing the budget resources for paying for goods, services or activities that are not acquired or performed, which decreases the budget groundlessly;
- 3) unrelated to the budget**, which are not directly related to the budget itself, but effect rights and interests of the local government unit or third party.

1) On the revenue side of the budget, a corruptive activity can be performed as:

- exemption from payment obligation (of communal taxes and contributions, rent, concession fees);
- agreeing on a lower amount of a tax or contribution than the one prescribed or that can be objectively earned;
- failing to collect fees and/or taking measures for an involuntary collection of debt;
- agreeing on a lower income rate for loans and incentives than as regulated;
- depositing budget resources in a bank that offers a lower interest rate than the one that can be objectively earned;
- ...

2) On the expenditure side of the budget, a corruptive activity can be performed as:

- financing subjects without a concrete programme;

- financing programme with a larger amount of money than the real costs of its implementation;
- voluntary lack of monitoring the implementation of financial programme and used resources;
- financing works and activities that are not within adopted programme (such as: road construction or installing street-lights);
- paying for works and services which are not performed or agreeing on a bigger price than the market price;
- granting subsidies, incentives and loans without or past adopted criteria;
- unjustified disposal of the budget reserve;
- unjustified spending of the representation resources;
- approving unjustified or unrealized travel expenses;
- taking loans with a bigger interest rate than the one that can be objectively imposed;
- ...

3) Potential corruptive activities which are not and do not have to be related to the budget itself are:

- employment – in the municipality administration or legal entities founded by the municipality (public company or public institution);
- giving an ungrounded privilege to certain individuals (e.g. when enrolling children to kindergarten);
- spatial planning (e.g. giving privilege to certain subjects in the process of defining construction zones);
- property management (e.g. sale or rent without or past standards and criteria);
- procurement of goods and services without public procurement procedures;
- ...

The conclusion can be brought that some duties and tasks in local administration bodies are potentially exposed to corruptive activities. By the nature of things, the level of the exposure to corruption increases proportionally to held powers and real opportunity to influence making decisions. In this respect, the duty of a mayor is undoubtedly the most exposed to corruptive behaviour. Certain factors, which place municipality mayors to the first place when it comes to the exposure to corruption, derive from the nature of the duty of a mayor. These factors are, for example:

- authority to bring numerous important decisions;
- authority to manage significant financial resources;
- proximity to direct sources of information and possibility to manipulate with information;
- individual decision-making;
- concentration of information, authorities and control in one person;
- difficult-to-achieve suspension of a mayor from the duty.

Other factors depend on specific circumstances of each local government unit. They are present in “poor” local governments, as well as in “richer” ones. In “poor” municipalities, for instance, these factors can be related to poor material status of the mayor (low salary) or municipality’s financial dependence on grants and subsidies by higher levels of authority or activities of other state-owned organizations such as Hrvatske vode (legal entity for water management) or Hrvatske ceste (state-owned company for managing roads). On the other hand, in “richer” municipalities the exposure to corruptive behaviour can be related to a particular interest of more subjects in competition, caused by the local government unit’s geographic position or natural resources which it possesses. It is difficult to determine who comes to the second place – other local officials (in the first place, members of the representative body and its committees) or employees of the administrative departments of local government units. We think administrative employees come to the second place.

Local employees in the administrative departments of local government units collect data and information and prepare materials for a decision-making process. During this procedure, employees can filter



information, as well as adapt and distribute them, and in that way influence on reaching decisions and favour certain subjects. Beside all mentioned, employees can significantly influence on the duration of the entire procedure. Naturally, the level of employees’ exposure to corruption depends on their possibility to influence on decision-making. However, they do not make decisions themselves, whereas their work is subject to the direct monitoring which certainly decreases their exposure to being involved in corrupted behaviour.

Members of the representative body adopt general acts regulating certain relations, which can largely influence on interests of specific parties (e.g. spatial plans). Additionally, they make decisions in some specific cases, as well (for instance, on acquisition and alienation of movable and immovable property of a bigger value, granting concession, etc.). In that respect, discussion, lobbying and voting of an individual council member can be important, and even crucial for reaching decision on a specific matter. However, the fact that the representative body reaches decisions by a majority of votes of its members, which means that the decision-making process is collective and not individual, decreases the exposure of a council member to corruptive activities. External members of representative body’s committees are the least exposed to corruption. However, a possibility of their personal indirect influence in some specific cases should not be neglected.

A special problem, particularly in smaller local government units without a lot of economic activities, thus less companies and competition, is setting a boundary to the conflict of interests. Establishing legal or business relationship between a local government unit and a legal entity or an individual directly or indirectly related to a person performing specific duty or task in the local government administration (e.g. private trade or company owned by a council member or parties related to him/her provides certain services to the local government) is a commonly possible situation. Although such a situation would by definition represent the conflict of interests, we think that it does not necessarily implicate corruption and that the judgement should be brought after objective and detailed analysis of conditions in which this business relationship was established and reasons for making such a decision.

CONCLUSION

The Croatian public is continuously informed that the local government is highly ranked at the corruption scale. References to such information are results of various researches conducted by specialized organizations which are a priori and unquestioningly taken as trustworthy and reliable.

However, what is neglected at the same time is that these researches do not deal with the presence but the perception of corruption; that their methods and results are not completely accepted from the scientific point of view; and that certain parts of the researches point out (mildly said) to their imprecision and partiality, which makes results questionable.

This research, conducted in 15 selected municipalities within the project SPEKULAS shows that there are not many reasons to perceive larger presence of corruption in the municipality government.

Such a conclusion is supported to some extent by the results of the direct election of municipality mayors, held in May 2009. Namely, these results can serve as one of indicators of the perception of corruption in municipalities, since, in practice, the work of municipality administration is mostly identified with the work of the municipality mayor. In that respect, a fact that a new mayor was elected at the last year's direct election does not necessarily mean that the former mayor was not re-elected because of the perception of corruption in the municipality administration. However, a new term of the same

person, confirmed at the direct election, undoubtedly means that the voters perceive that corruption is not present in the municipality, or that they see the problem of corruption as insignificant; otherwise, they would most likely not elect the same person to the position of the municipality mayor.

In reference to that fact, voters in 13 municipalities where this research was conducted elected the same person for the position of the municipality mayor; whereas only one mayor was elected for the first time (information is not known for only one municipality). In most cases, the mayor is elected to a second term (six municipalities), a third and fourth term in two municipalities, and a fifth term in three municipalities. If we take into consideration that this criterion was not taken into account when the municipalities were selected for the research and that the municipalities were selected entirely based on different criteria, mentioned facts undoubtedly point that in these municipalities there is no high level of the perception of corruption.

Although this research has included relatively small sample of municipalities, the results can to a certain extent be generalized when related to other criteria used in the selection of municipalities (size, geographic position, financial capacity...). The conclusion can be reached that in the entire Republic of Croatia there are objectively not many nor such reasons which would lead to the percep-

tion of a high level of corruption in the municipalities and that if such a perception really exists, that it is not justified. This however does not mean that municipalities should not take up activities in that respect. On the contrary, there is a whole range of activities which can influence on the prevention of corruption or on decreasing potential perception of corruption, as well as improve the conditions and situation in municipalities and at the same time perception of the whole local government system in the eyes of the citizens.

The most efficient general directives to prevent and decrease the perception of corruption are by all means the principles of good governance. The term refers to governance which has the following characteristics:

- 1. participation – direct or indirect involvement of all members of the society in decision-making;**
- 2. rule of law – just and unbiased legal framework;**
- 3. transparency – timely, complete, correct and clear informing on all decisions and their implementation;**
- 4. responsiveness – reaction and response to all needs and requirements in a reasonable deadline;**
- 5. consensus oriented – agreement and unified reaching of decisions;**
- 6. equity and inclusiveness – inclusion of all levels of society, in particular minorities, on an equal basis;**
- 7. effectiveness and efficiency – accomplishing expected results by using available resources in the best possible manner, and respecting principles of environment protection and sustainable development;**
- 8. accountability – general mutual responsibility of all elements of society.**

Respecting the principles of good governance is a guarantee of diminishing the perception of corruption. In order to prevent corruption and decrease the perception of corruption, pursuant to these principles and taking into consideration the results of the research, there are certain recommendations to the selected municipalities (in the first place), other municipalities in the Republic of Croatia and the Association of Municipalities:

1. encourage political parties to organize trainings and qualification programs for their members on how to perform duties in local authorities;
2. include the public in the process of defining and adopting the budget and initiate via the Association of Municipalities drafting of a manual on the inclusion of the public in the budget making and adopting process;
3. inform regularly and appropriately citizens about the budget and budget reports, as well as about all other relevant information about collecting and spending financial resources;
4. undertake all prescribed activities in order to collect outstanding claims and hold regular discussions at the municipality bodies about the claimed payments;
5. define clear criteria to approach budget resources and inform potential users as well as the public in an appropriate manner;
6. initiate within the Association of Municipalities drafting of a manual about successful project management;
7. undertake political and other activities to position the Association of Municipalities (together with the Association of Cities within the Union of the Association of Cities and the Association of Municipalities) as an

active participant in determining criteria and amount of resources to be distributed in a form of capital grants from the State Budget, during the process of adopting the State Budget;

8. at any time and in a suitable way, enable the access to the spatial planning documentation to all interested parties;
9. determine clearly and in advance objective criteria and methods to make a selection of all applied candidates during each new employment and practice joint testing of candidates by several qualified individuals;
10. inform the public and all interested parties regularly and in due time about the sessions of the representative body and make possible for the citizens to directly observe the sessions in an appropriate way and within the objective possibilities and conditions;
11. according to specific conditions and needs of a particular municipality, inform citizens about the work of the municipality administration via local assemblies of citizens;
12. adopt ethic code for the officials and employees of a municipality (as a general act) and establish the consultative committee for evaluation and reaching decisions about the conflict of interests, as well as inform the public transparently on (non)existence of the potential conflict of interests;
13. use municipality web page to a larger (maximum) extent to communicate to citizens all information they might be of use to them (about property management, spatial planning, public procurement, employment, conflict of interests...).