

Does corruption and its investigation by the police affect sustainable development goals?

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ENG Abstract. Corruption is a human action that may occur in any context in which a citizen is involved, and which must be observed from a broad, not narrow, perspective, as it is often interrelated with other criminal activities. The existence of corruption detracts from state resources, poses a serious threat to socio-political stability and undermines the credibility of the state in the eyes of the citizens, as well as hindering the effectiveness of planned national strategies to achieve their Sustainable Development Goals. Therefore, police investigation of corruption and related crimes is essential for the state and its citizens, enabling a secure and sustainable economic, environmental and social development, within the framework of the goals set out in the 2030 Agenda.

Keywords: Corruption, GDP, money laundering, organized crime, social alarm, specialization, training, international.

Summary: 1. Introduction, 2. The definition of corruption, 3. The cost of corruption, 4. How does the police fight this criminal typology? 4.1. Complex investigations 4.2. Investigations that require specialization 4.3. Investigations that require formation 4.4. The international side, Conclusions. Bibliography.

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1. Introduction

It is impossible to establish a starting point, a date or historical event that can be spoken of as the birth of corruption, it is an activity inherent to human beings and their social organization that “transgresses the legal norms and ethical principles” (López González, 2018) of the historical moment it belongs to and which, being a human action, can therefore occur in any context it partakes in: social, labor, sports, criminal, administrative, political...

Corruption, “understood as the abuse of public power to obtain an illegitimate advantage for private benefit has been a constant in all societies in order to access favorable decisions from those in power” (Rasillo, 2016); this private benefit it refers to could take different forms, patrimonial or otherwise, but generally it will always be converted, in some way, into economic benefit.

The history of mankind provides us with numerous examples of corruption: pre-Columbian Mexico punished with death any corruption executed by tax collectors who overcharged in order to enrich themselves; in Egypt, at the time of the New Kingdom (1550 B.C.E. - 1070 B.C.E.) there was corruption too, in fact documentation has been found inside the tomb of emperor Ramesses IX which informs of the facts linked to the corruption of public officials; and even in Ancient Greece, in the figure of Demosthenes, who in the IV century, according to the account attributed to the Greek philosopher Crisostomus “History of Miletus’ ambassadors and of the orator Demosthenes”, would have received money from diplomats from the city of Miletus in exchange of his not speaking negatively about the Milesians.

But corruption cannot be analyzed from a watertight point of view, because of its own nature, it is not an event or an activity that is based on one-off, unique or independent criminal actions, since corruption is usually closely related to economic crime in general and organized crime in particular.

The very nature of corruption and akin criminal behavior makes it one of the main barriers that prevent the achievement of the goals adopted by the UN for the year 2030 from a threefold perspective:

1. Corruption causes a lack of efficacy in the national strategies to achieve the Sustainable Development Goals.
2. Corruption leads to the lack of resources distributed to the Sustainable Development Goals, a circumstance related to the redistribution of government budgetary activity, that is, to the Government’s budgetary activity, which would be significantly counteracted.
3. Corruption prevents the consolidation of democracy, it threatens political stability and leads citizens to lose their trust in the government and public institutions, which means that the Objectives and goals set by the UN to a Sustainable Development are seen by society from a distance and without real involvement, constituting a true utopia.

2. The definition of corruption

Finding an unambiguous concept of corruption is not easy, as an example of this it should be noted that the Resolution 58/14 of the UN’s General Assembly, 31st of October 2003, in which the United Nations’ Convention against Corruption is adopted, does not even include a definition of corruption, it does include a list of conducts that the States ought to typify as a crime understanding that they are included within the concept of corruption, this list includes felonies such as bribery, extortion, embezzlement, misappropriation, influence peddling, abuse of functions or illicit enrichment, among others.

A common characteristic of all behaviors mentioned above is the “deviation of a power to act in a particular interest to achieve an undue advantage, patrimonial or otherwise, in their own favor or someone else’s” (Rasillo, 2015), regardless of it being public or private.

It should be noted that Spain signed the United Nations Convention against Corruption on the 16 September of 2005, ratifying it the 19 June of 2006; it was not until 2008, with Council Decision 2008/801/EC, that the European Union was authorized to sign the Convention, that is to say, it has not been until the 21st century that the States have started to become aware of the importance of the phenomenon of corruption and its relation with the rest of criminal activities, despite the fact that, as we have already pointed out, corruption has gone hand in hand with human beings since the beginning of the first civilizations.

This growing global concern about corruption has been reflected in our criminal legislation, mainly in the last decade, in which several modifications have been made to the Penal Code that are closely related to corruption and the criminal felonies that relate directly to it since our legislation contains a broad range of criminal felonies that are in some way related to corruption and which could help to define and identify it; these criminal felonies to which we refer are, fundamentally and at a minimum, those included in the following Titles of the Criminal Code:

- Title XVIII: extortion, usurpation, fraud, frustration of execution, punishable insolvency, alteration of

prices at contests and auctions, damage felonies, felonies relating to intellectual property, the market and consumers, corporate felonies and felonies of handling stolen goods and money laundering.

- Title XIII: bis, by definition: of the felonies of illegal financing of political parties.
- Tittles XIV, XV, XV bis and XVI, respectively: felonies against the IRS and Social Security, felonies against workers' rights, felonies against the rights of foreign nations, felonies relating to town and country planning, the protection of historical heritage and the environment.
- Title XVIII: felonies against forgery.
- Title XIX: felonies against public administration.

Therefore despite not being able to specify clearly and concisely what corruption is from a criminal point of view, it is clear that the prosecution of this crime and those closely related to it is absolutely necessary and a priority, as it will have direct and immediate impact on the community's perception of social institutions, and will allow the State to have greater resources to meet its obligations in relation to the problem of the distribution of expenditure, which is fundamental to meeting the goals adopted by the UN for 2030.

3.The cost of corruption

Logically, there are no official national accounting figures that certify the cost of corruption and of the felonies linked to it in any State, however, there are macroeconomic estimates which try to set up certain links between these criminal activities and their effects on the national economy of a country or a plurality of states.

When estimating amounts, we will focus on the benefits directly obtained from corruption, although we cannot ignore its relation, whether direct or indirect, with organized crime or tax fraud, money laundering being a cross-cutting element to all of them.

For the calculation we will use what was pointed out by the German professor Friedrich Schenider¹ who estimated the cost of corruption in the OECD countries to be at around 1% of their GDP; in fact, the European Commission calculated in 2014 that corruption cost the European Union approximately 120 billion euros a year, which would be equivalent to 1% of the Union's GDP in that year. This 1%, at 2019 prices, would be approximately 12,500 billion euros in Spain².

But there are numerous studies that considerably increase this quantity for Spain, in the year 2013, Las Palmas University estimated the cost of corruption to be more than 40,000 million euros when taking into consideration its social cost regarding the quality of life and its negative effect in foreign inversion.

In the same vein, in the year 2015 the Spanish National Markets and Competition Commission (CNMC) estimated that the lack of competition as a by-product of corruption would generate a cost overrun equivalent to 4.5% of the country's GDP, that at 2019 prices would round 56,000 million euros.

In the year 2018, the Greens/EFA, made up of 52 members of the European Parliament, published the study "The Cost of corruption across the EU" about the social impact of corruption in the European Union, estimating that it would cost 90,000 million euros in Spain, almost 7.5% of the country's GDP.

If we add to these amounts the impact of organized crime and tax fraud on the national economy, we are faced with a difficult situation to solve, not only to be able to give an adequate response to the aims and goals adopted by the UN for 2030, but also for the survival of our own country. For example, the UNDOC³ estimated on its annual report for 2014 that the profits obtained by organized crime at the global level were approximately 870,000 million us dollars, almost 2% of the world's GDP. This circumstance, transferred to Spanish economy, would translate in approximately 25,000 million euros by 2019.

Regarding tax fraud, considering the report issued on June 2017 by the General Council of Economists⁴, this phenomenon would generate in Spain losses equivalent to the 2.5% of the national GDP, meaning, 31,000 million euros. All of this without assessing other issues from the same study, which estimates that the sunken economy in Spain would round a 16% of the national GDP.

The common apex between the previously mentioned felonies would be money laundering, which constitutes a transversal element to corruption, organized crime and tax fraud, since its ultimate purpose is to

¹ Professor at the Johannes Kepler University in Linz (Austria), author of numerous reports and studies on the shadow economy and corruption.

² According to data from the National Institute of Statistics, in 2019 Spain's GDP at current prices will stand at 1,244.757 million euros; to facilitate calculations made in this article, the author has rounded off the figure and used the amount of 1,250,000 million euros to refer to Spain's GDP in 2019.

³ United Nations Office on Drugs and Crime.

⁴ The General Council of Economists of Spain is the corporation that brings together, coordinates and represents the professional associations at national, European and international levels and, through them, the professional members, and organizes, defends and protects the professional practice of the members, as well as protecting the interest of consumers and users of the services provided by the members.

introduce into the real economy the profits obtained from illicit activities, simulating a legal provenance.

Thus, by way of glossary, the estimated cost of corruption to the Spanish GDP would be between 12,500 million euros (1% of GDP) and 90,000 million euros (7.5% of GDP); if we add the cost of organized crime to the sum, it would be 25,000 million euros (2% of GDP) and tax fraud, around 31,000 euros (2.5% of GDP), we would obtain an amount closer to 110,000⁵ million euros, that is, almost 9% of the national GDP.

The aforementioned numbers are unacceptable from any point of view and to any State, but the situation gets even more complicated when comparing them with the 8,879 million euros budget, 0.7% of GDP, that the Spanish Government has appointed to the Ministry of Interior⁶ for 2019, and with the 1,869 million euros, 0.15% of GDP, allocated to the Ministry of Justice. Even if we focus exclusively on corruption, without associated activities, we can observe that it cost 12,500 million euros, which is much higher than the joined budgets of the two ministries tasked with fighting against it.

It can therefore be stated that criminal activity in general and corruption in particular are a good business for any criminal and that the basic instruments that the State has at its disposal, through the Ministries of Interior and Justice, are not sufficient in budgetary terms, in volume, to the alleged benefit that the corrupt person gets from their despicable activity.

Hence, these criminal activities' influence in the State budget is not trivial, quite the contrary, it is quite significant, and this importance turns it into a determinant factor if we keep in mind the acquired compromise to comply to the Sustainable Development Goals contained in the 2030 Agenda, even more so if we focus on the actions carried out by the public sector, which are being inexorably reduced because of the economic weight of the criminal activities formerly described.

In addition to the above circumstances, the resources dedicated to the achievement of the Sustainable Development in Spain still lack a classification and monitoring system that would allow us to measure them correctly. It is true that the budgetary effort that the public administrations are making regarding this topic is growing, but there is still a lack of a system which, for example, would enable a method to be established which would facilitate comparisons between the different Autonomous Communities.

4. How does the police fight this criminal typology?

As we have seen, based on the arguments set out above, police investigation of corruption and the set of crimes to which it is related becomes a fundamental tool for the State and therefore for the citizenry, among other reasons because it would prevent, at least in part, the detour of the enormous amounts of money referred to previously and would facilitate the seizure of the fruits of crime, whatever their format may be (cash, in bank accounts or transformed into any tangible fixed asset), to be returned to the State so that it can be effectively redistributed.

When dealing with any investigation related to corruption, those in charge of the police services know that investigators will have to face complex situations that require the specialization of the officers involved, police officers who must have a minimum of experience and training to be able to confront them with certain guarantees, without forgetting that in these investigations there is usually an international aspect, which is more and more prevalent, and therefore should not be forgotten.

4.1 Complex investigations

Any investigation related to corruption is deemed complex due to, among others, these determinants:

1st. In most of corruption investigations there is not only one type of crime involved, but rather several types of criminal offenses that might be related to not only corruption, but also organized crime, tax fraud and the cross-cutting issue that is involved with all of them, money laundering.

2nd. The object of the research is extremely broad since it will investigate:

- a. The use of public powers for a private interest, or in other words, the abuse of a public control position to obtain private benefits, which is a difficult situation to prove without certain technical means, without conducting asset investigations and without the collaboration of those who have admitted to or are witnesses to the facts.

It is important to point out that the illegal activities carried out by the public official or by the administration in general, in many occasions has saved internal audits or has even counted with participation of the same.

⁵ The calculation was based on the average of 12,5 billion euros of the 1% Schenider study and the 90 billion euros of the 2018 study, which is the highest figure.

⁶ The Spanish Ministry of the Interior is responsible for proposing and executing the Government's policy on citizen security; promoting the conditions for the exercise of fundamental rights, in particular personal freedom and security, under the terms established by the Spanish Constitution.

In relation to illegal activities that could have been carried out by a public official, it is worth to remember the Sustainable Development Goal 16: “Promote peaceful and inclusive societies for sustainable development, facilitate access to justice for all and build effective and inclusive accountable institutions at all levels”, highlighting that in Spain, the percentage of people who have had contact with a public official at least once, paid a bribe to a public official, or had the experience of being asked to pay a bribe by a public official is only 0.0003%⁷, a tiny figure that as we will see below, is faced with the result obtained by Spain in the Corruption Perceptions Index developed by Transparency International.

- b. Private corruption, also known as corruption between individuals, which was introduced into our Penal Code in 2010 and which in 2015 was analyzed in a broader way with the Organic Law 1/2015, punishing the manager, administrator, employee or collaborator of any company that receives, request or accepts a benefit or advantage in exchange for favoring another in commercial relations, or on the contrary, that promises, offers or grants a benefit or advantage as consideration, in order to achieve an undue favorable treatment against others in commercial relations.

In regulating this activity we mean to protect the good functioning of the market, attempting to prevent certain actions from taking place that are very deep-rooted in business relationships, which favor advantageous positions in economic relations and which affect the just and honest competition.

These activities are very difficult to investigate since they are rarely audited and even today, they are still assumed to be part of commercial or business skills, as a common way of doing business.

In this area of private corruption, we would also find the predetermination or alteration of a sports competition of special relevance; on most occasions it is known that corruption exists in a sport competition only after it has been corrupted, so the means available to prove it are very scarce.

- c. The set of assets and rights belonging to a person (physical or juridical) susceptible of economic estimation, that is to say, the patrimony, which in most cases wants to remain hidden in the name of third parties, directly or indirectly linked to those under investigation, in Spain or abroad and also through fiduciary contracts.

- d. The illicit enrichment experience that by the person under investigation who lacks economic means to support their declared and recognized personal or corporate enrichment, which the person under investigation tries to justify fraudulently and which could be related to criminal activities, including, for example, abuse in public service.

These circumstances largely define the criminal typology of money laundering, and it is sometimes extremely complex to prove that the enrichment is indeed illegal in nature.

It should be recalled that in Spain there is no crime of illicit enrichment, although unjustified enrichment has been used as evidence to prove money laundering, this criminal offense does not exist in Spain, even though Article 20 of the United Nations Convention against Corruption recommends its criminalization.

- e. Economic activities in general to carry out certain statements related to the real patrimony of a natural or legal person. It is necessary to analyze numerous and different economic activities used by those investigated that will make the investigative work difficult, activities linked to the fields of business, commerce, finance, bank, credit, stock market, mortgage, tax, accounting, etc.

- f. Urban development activities: investigating urban development activities, linked to land planning and/or the environment, is so complex that on many occasions not even the professionals in charge of controlling these activities (IGAE⁸, municipal architects, auditors, etc.) identify possible irregularities that may be taking place.

In connection with any illegal activities that may be carried out in relation to the urban planning it is worth recalling objective number 15 of Sustainable Development: "Protect, restore and promote the sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, halt and reverse land degradation and halt biodiversity loss" and in this sense, in Spain, especially in the last quarter of the twentieth century and the first quarter of the twenty-first century, the urban drift took precedence over the protection of the life of terrestrial ecosystems, even so, and contrary to expectations, the area of forest as a proportion of the total surface area is 36.47%⁹, but it is quite another matter if we enter into the field of urbanization of the Spanish coast, since 13% of it would be constructed compared to 2% of the interior of the national territory, finding that 80% of the environmental resources of the coast would be degraded after 30 years of massive urbanization¹⁰.

At 2017 prices the state budgets allocated just over 2 million euros¹¹ for the conservation and sustainable use of biological diversity and eco-systems, an amount that in view of the information set out above seems entirely insufficient.

- g. Forged or manipulated documents intended to deceive trained, specialized and technical people, such

⁷ Source: National Institute of Statistics.

⁸ Spanish acronym for the General Intervention of the State Administration (Intervención General de la Administración del Estado).

⁹ Source: National Institute of Statistics.

¹⁰Source: “At All Cost” report prepared by Greenpeace and the Observatory for Sustainability dated 24-07-2018.

¹¹ Source: National Institute of Statistics.

as tax advisors, labor advisors, bank branch employees, lawyers or even notaries who, much to their regret, succumb to these skillfully prepared or modified documents.

h. And of course, criminal activities related to traditional and organized crime as well.

3rd. The natural or legal person being investigated. In crimes directly or indirectly related to corruption, there are different physical or juridical persons that may be of interest to the facts under investigation and that represent an added complexity to them:

- a. In many cases it is a physical person who is the alleged perpetrator of the investigated facts, thus involving the same complications as in any other crime investigated by the police.
- b. On other occasions, the interest of the investigation falls on a juridical person, whatever its legal denomination, which is also criminally liable, but with, by its very nature, characteristics that make it opaquer.
- c. Whether the person under investigation is a juridical or physical person, in most cases it is a question of interposed personalities, front men or straw men who try to hide the true identity of the real person responsible for the acts under investigation.
- d. Sometimes those investigated are businessmen with hired workers, who depend economically, in a direct way, on the fate of this businessman; on other occasions these same businessmen are known by the public opinion and all these circumstances accumulate difficulties in the development of the investigation.
- e. Public companies are also investigated, with all the difficulties that this entails, especially in terms of information gathering and leaking.
- f. In certain operations, bank branches are investigated first and then it is determined which employees and/or managers will be investigated.
- g. Other objects of investigation may be legal, labor and financial consultancies, since they may sometimes overstep the mark in their "advice" and actively collaborate in the commission of a criminal act.
- h. Insurance brokers, for the same reasons as stated above and also because they may have been used to make it difficult to trace money or criminal activity, may be subject to investigation.
- i. Notaries, given their important role as intermediaries in many of the legal transactions under investigation and their responsibility in reporting to the relevant authorities certain suspicious activities related to money laundering or terrorist financing.
- j. Law firms: thanks to the activity they carry out, they can provide "advice" related to criminal activities, they can provide tools to make it difficult to follow the money, they can participate as intermediaries in different legal transactions, and they are also obliged to report those operations that could be linked to money laundering.
- k. Corruption-related investigations may also target publicly known persons such as entertainers, elite sportsmen or soccer clubs as well as legal persons.
- l. Other figures that are particularly complex to identify in the world of corruption are political parties or trade unions and the members of both known as PEP¹² who on many occasions perform public or institutional representative work.
- m. And finally, as it could not be otherwise, criminal organizations and their members are also under investigation.

4th. The social alarm generated.

Crimes related to corruption, generically known as white collar crimes or, as Edwin H. Sutherland labeled them in 1949, "White Collar Crime", seemed at first to bear less social and criminal reproach than other criminal activities. Sutherland in 1949, "White Collar Crime", seemed at first to bear less social and criminal reproach than other criminal activities, however, this situation has been changing, an evolution linked to a greater social awareness of "the public", of what is "of all", has been evidenced, largely because the citizens have suffered firsthand the social cuts of previous crises, which has led to that initial compromise enjoyed by many of the

¹² Politically Exposed People.

corrupt to be transformed into a clear social and consequently criminal reproach.

The public expects a rapid and forceful response from the State through the State Security Forces and Corps, which is why this social alarm takes the form of greater pressure on the investigation, mainly through the media. The social alarm generated by crimes related to corruption and money laundering is undeniable.

On the one hand, corruption generates distrust among citizens, in addition to the fact that it hinders development, let alone its sustainability, discourages foreign investment and detracts public resources that could be used by the State to satisfy other needs and priorities of the population. On the other hand, money laundering is part of organized crime and has favored the emergence of new forms of crime that have also caused great repercussions and social alarm, clearly contributing to the destabilization of economic systems. Evidently, measuring social alarm is a very complicated exercise, since it is an abstract term with a high level of subjectivity; in fact, social alarm is an element that is not controlled by the person accused of causing it, but is actually deployed by the person who spreads it, giving it the force that the media propagation gives it. In other words, social alarm is caused by the dissemination of a fact, and its effects are felt by the individual who has caused it, even though they may never have intended the slightest social repercussion. Therefore, measuring the social alarm generated by a given criminal act is an almost impossible task.

Despite the above, there is a tool that is generally used to help visualize the perception that the citizens of a certain country have regarding corruption in that country. This is the Corruption Perception Index (IPC) of the non-governmental organization Transparency International, which “aims to fight corruption by bringing together civil society, the private sector and governments in a broad global coalition¹³”.

Since 1995, the non-governmental organization Transparency International has published the Corruption Perceptions Index, which measures, on a scale from zero (perception of very corrupt) to one hundred (perception of absence of corruption), the perceived levels of corruption in the public sector in a given country, and which consists on an index based on 13 surveys and evaluations elaborated by experts that later unify in a single punctuation.

According to Transparency International, 2019 IPC results show that corruption continues to be a global phenomenon across the board, and it looks at the perception of corruption in the public sector of 180 countries, of which more than two-thirds scored below 50 points.

Denmark and New Zealand have been in first place for several years in a row, while Somalia and South Sudan show the worst results.

The countries in the top positions share key common characteristics: high levels of press freedom; access to budget information that allows the public to know where the money comes from and how it is spent; high levels of integrity among those in public office; and a judiciary power that does not distinguish between rich and poor and is truly independent from other sectors of government.

With regard exclusively to Spain, it should be noted that it has improved significantly in recent years, ranking 30th out of 180 countries and 13th out of 27 EU countries¹⁴, showing that although corruption continues to be a serious problem in Spain, it is not systemic and, to a large extent, the explanation for such a high index in relation to other countries in the region is due to the following:

- The control systems have proven to be effective and have succeeded in uncovering numerous cases of corruption.
- Media reports and the significant attention paid to the cases that have come to light have had a strong influence on public perception, generating a general state of indignation.
- The recent economic crises have increased the level of social demands.

Although the cooling of the economy, especially in the urban development sector, suggests that corruption cases have been reduced in this area, the slowness of criminal sanctions, the low intensity of penalties in cases of relevant corruption, the expansion of scandals to key state institutions and the feeling of impunity, explain the negative social perception that remains in this Index. To continue its improvement, according to Transparency International, Spain should guarantee political integrity and the proper functioning of public institutions and have a holistic strategy to prevent and fight corruption with mechanisms to highlight the specific causes that in Spain have led to corruption scandals in democracy.

5th. Another reason that highlights the complexity of this type of investigation is the difficulty or impossibility of obtaining direct inculpatory evidence in corruption and money laundering; in fact, the Supreme Court, in numerous rulings, points out the crime of money laundering as a crime based on circumstantial evidence, being the three basic pillars that prove it:

- a. Unusual increase in the net worth.
- b. Lack of lawful business justifying the increase in net worth.

¹³ On <https://transparencia.org.es/>

¹⁴ It should be recalled that between 2012 and 2018, Spain's rating fell by 7 points, being the country that had fallen the most in score in Europe and, therefore, where the perception rose the most.

c. Linkage with criminal activities.

The crime of laundering is a type independent of the pre-existence of other crimes that give rise to the assets. It does not require direct proof, but rather circumstantial evidence, also called circumstantial or presumptions, requiring as a subjective element only the "knowledge of the illicit origin" of the goods that are then introduced into the legal economy, however, this knowledge of the illicit origin that could lead one to think that it facilitates the investigation, sometimes shows itself as an insurmountable border, as an added difficulty, as may be the case of money laundering in Spain whose origin are acts of corruption in a corrupt country that will deny that illicit origin.

Therefore, the investigation of assets is of particular importance as part of the investigation itself, not only to intervene in property and assets, but also as a means of detecting the crime. It is essential to ascertain the assets owned by the person under investigation or those that can be indirectly attributed to them through their entourage in order to return them to the State, improving its spending and redistribution capacity.

6th. It should also be noted that many of the investigations related to criminal activities linked to corruption are often initiated six months or even years after the events being investigated, which obviously hampers the collection of proof and evidence necessary to prove responsibility for the commission of a criminal act.

7th. Another complexity is the location, maintenance and management of the effects that may arise from the crime. Royal Decree 873/2014, of October 10, amending Royal Decree 400/2012, of February 17, develops the basic organizational structure of the Ministry of the Interior, integrating the CICO¹⁵ (Intelligence Center Against Organized Crime) and the CNCA¹⁶ (National AntiTerrorism Coordination Center) into a single body.

The link between terrorism and organized crime is an objective fact. In order to improve the exchange of information between specialized agencies in charge of analyzing the terrorist threat and the threat related to organized crime and violent extremism, the creation of a new body, called the Intelligence Center against Terrorism and Organized Crime (CITCO), under the Secretary of State for Security of the Ministry of Interior, is considered necessary. CITCO will promote and coordinate the integration and assessment of all information and operational analysis available to the State Security Forces and Corps on the subject of terrorism, organized crime and violent radicalism for the development of strategic criminal intelligence, the establishment of criteria for action and operational coordination between competent bodies and the design of global strategies to combat these phenomena.

CITCO, with the operational support of the State Security Forces and Corps, has been carrying out the function of locating criminal assets. However, in the absence of specialized agencies for their management, once seized, these assets are at the disposal of the courts, which generally order their recovery at the end of the proceedings, through the traditional mechanisms of sale by a specialized person or public auction. This mechanism has proved ineffective in more complex proceedings, insofar as the needs of asset management generally exceed the material possibilities of the courts.

These circumstances led to reaffirm the need to implement the Asset Recovery and Management Office, whose regulation was established through RD 948/2015, of October 23.

The Assets Recovery and Management Office is part of the Ministry of Justice and it is attached to the Secretary of State for Justice, with the rank of General Directorate and, according to Article 2 of the aforementioned RD, will have the following purposes:

- "a) Support for programs to assist victims of crime, (...).
- b) The promotion and provision of resources to the Victim Assistance Offices.
- c) Support for social programs aimed at crime prevention and the treatment of offenders.
- d) The intensification and improvement of actions for the prevention, investigation, prosecution and repression of crimes, including:
 - 1st . The expenses necessary for the collection of evidence in the investigation (...)
 - 2nd. The acquisition of material means for the competent bodies in the repression, investigation and implementation of expert evidence.
 - 3rd. Specialized training and qualification of the bodies in charge of the prevention and repression of organized crime.
 - 4th. The reimbursement of expenses that may have been lawfully incurred by individuals or the services

¹⁵ Spanish acronym for the Centro de Inteligencia Contra el Crimen Organizado.

¹⁶ Spanish acronym for Centro de Inteligencia contra el Terrorismo y Crimen Organizado.

of the Public Administrations that have collaborated with the competent bodies in the investigation.

e) International cooperation in the fight against serious crime.

f) The satisfaction of the office's own operating and management expenses (...).

As can be seen, ORGA's objectives are perfectly in line with the objectives and goals of Sustainable Development, since their development does not draw any assets from the public coffers, thus facilitating that the funds that were previously used for the aforementioned purposes can be used to meet the objectives and goals foreseen for the year 2030.

Consequently, corruption investigations are extremely complex since they must consider a wide range of criminal offenses, physical and juridical persons, analysis of commercial, labor, banking, tax and stock market operations, amongst others; it will also be necessary to resort to numerous sources of information, both public and private, some of which are court-ordered, looking for operations that show signs of laundering and indicate the location of the material assets obtained thanks to the criminal action, and in addition, the investigators will act under the pressure of the time limit that the fiscal investigations have in Investigation Diligences and the judicial investigations in Preliminary Diligences.

4.2. Investigations that require specialization

This type of research, which we have identified as complex, must be carried out by the staff of the company, since they must have extensive technical-legal knowledge related to the criminal activity under investigation and must have developed sufficient skills to be able to use technical means to assist in the resolution of the investigation.

In the vast majority of the investigations carried out, the acting police officers must have an important technical-legal knowledge based on:

a. The regulations you should be aware of:

- The regulations governing public sector contracts, with all that this entails, is therefore a facet that is difficult to assume given its own characteristics.
- Regulations related to urban planning, taking into account that in certain situations these regulations differ between localities, provinces and autonomous communities.
- Regulations related to taxation regimes and with the General Treasury of the Social Security or the National Social Security Institute in order to be able to assess presumed commissions.
- Regulations related to the prevention of money laundering and to the criminal activity itself.

b. Knowledge of the criminal activity carried out, not only by the alleged corrupt, but also by criminal groups and organizations, since, as we have already mentioned, corruption is closely related to organized crime and, as a crosscutting element, to money laundering.

It should be noted that the Strategic Plan of the National Police for the period 2017-2021 contemplates as a strategic objective in relation to organized crime in particular and economic crime in particular, *"to reduce the capacity of action of organized crime"* by *"boosting the operational capabilities of the National Police in the field of asset investigation with the purpose of neutralizing the economic resources of organized crime"*. And the fact is that the criminal, the corrupt, needs to launder money, this circumstance is a necessity for them and sometimes, a serious added complexity for the Police, however, taken in time and using the appropriate methodology, it can be turned around and used in favor of the investigation since it generates new investigative avenues. In addition, it must be taken into account that in many criminal modalities the penalty is aggravated when committed within a criminal organization or group, hence the environment in which the alleged crime is committed must be perfectly known in order to demonstrate the existence of a criminal organization or group that supports the alleged commission of the crime.

The police officers in charge of these investigations must also have knowledge of the technical means necessary to carry out this type of investigation; the officers responsible for these investigations must know from whom, when and how to request the information necessary to prove the alleged commission of the criminal act; likewise, they must know how to handle the hardware and software necessary to analyze the abundant information they will handle in this type of investigation and thus be able to reach a series of objective conclusions that will be transferred to the Judicial Authority or the Public Prosecutor's Office.

Based on the recent amendment to the Criminal Procedure Act, having sufficient operational capacity to become an undercover computer agent¹⁷, requiring judicial authorization to act on closed communication

¹⁷ Organic Law 13/2015, of October 5, amending the Criminal Procedure Law for the strengthening of procedural guarantees and the regulation of technological investigation measures.

channels or to exchange or send illegal files by reason of their content in the course of an investigation, has become a practice that is increasingly used, among other reasons, because of the successes achieved.

This need to use technical means will not be developed exclusively within an office, it will also be necessary to apply technical means outside the office, exactly as in any other investigation (surveillance, tracking devices, identification of means of communication, ...), but always taking into account the special characteristics of the objective pursued and/or the investigated, as has been reflected in previous points.

4.3. Investigations that require formation

Based on the set of characteristics described above, it is evident that the officers who carry out these investigations must combine two complementary aspects: training and experience.

From any point of view, also from the police's point of view, experience too is a key factor in solving the different problems that a police investigator may encounter in this specific type of crime. This factor obtains absolute prominence if it is taken into account that not only corrupt conduct will be investigated, but also all those additional activities, criminal or not, directly or indirectly linked to the corruption under investigation.

Similarly, pure training occupies a preeminent position given the nature of the research that researchers will be confronted with. It is a logical consequence of specialization and it is strictly necessary to:

- Follow the scientific method to carry out their research, in accordance with the information cycle: collection - evaluation - processing - analysis - dissemination.
- Obtain information: sources that should and/or can be consulted and the ways to obtain such information.
- Know how to use information: knowing what information can be used and at what time, as well as what information should be considered only as intelligence.
- Analyze the information: this is perhaps the most delicate part since the information obtained will have to be interpreted correctly and objectively, in most cases with the help of computer programs or applications.
- Establish conclusions in accordance with the information obtained, in order to clarify the circumstances under investigation and, if necessary, request new complementary information.

Within the strictly economic field, although linked to any criminal activity, with the aim of "setting the basic lines of any asset investigation, making all police investigators aware of the need to conduct asset investigations simultaneously with any other criminal investigation and establishing a unified working method", the General Commissariat of the Judicial Police, in February 2020, published a Manual of Asset Investigations which, given its importance, should be part of the training of all police investigators. In this sense, the fulfillment of Development Goal number 4: "Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all" will not only make it possible to achieve quality and sustainable education, but also becomes the best prevention and, in turn, a very powerful working tool to fight against corruption.

4.4. The international side

The ease with which capital can move from one country to another, from one continent to another, is the result of economic globalization, and given the interest that criminals have in camouflaging the fruits of their criminal activities, that is, in laundering their money, it is absolutely necessary to carry out investigations of an international nature that help to reveal the assets of those investigated beyond our borders.

These circumstances must be reflected in police specialization, not only with respect to purely criminal matters, but also in terms of international cooperation and coordination, since one of the characteristics of these criminal groups is transnationality.

In the fight against corruption, which is so closely linked to organized crime, as we have already mentioned, one of the fundamental objectives is focused on the dismantling of the structure of money laundering, promoting the confiscation of its profits¹⁸ and rationalizing the investigating police's structure, which no longer has a purely national dimension, but also an international one.

In their criminal activity, organized groups have made the most of the use and exploitation of new technologies, so that criminal networks can operate from places where they feel safe from criminal proceeding or prosecution, obtaining huge economic benefits that they try to launder and, thanks to a global financial system, channel to wherever they want, be it tax havens, countries with more lax anti-money laundering regulations, or even countries with a supposedly perfectly established anti-money laundering structure.

In order to assume this international dimension, the Police has different tools at its disposal, such as:

¹⁸ Article 127 bis of the Penal Code.

a. The Joint Research Teams and EUROJUST¹⁹

This need to improve the effectiveness of international cooperation is not a recent development. In 1999, the Member States of the European Union (EU) met in Tampere (Finland) and undertook to establish the necessary means for the creation of joint investigation teams (JITs) to combat drug trafficking, human trafficking and terrorism, thus making the JITs the ideal legal instrument to effectively address criminal investigations of an international nature, primarily within the European Union.

A JIT could be defined as an investigation team set up by agreement between the competent authorities of two or more EU Member States to carry out criminal investigations on the territory of any or all of them, requiring coordinated action, for a specific purpose and for a limited period of time.

In 2005, the JITs Network was created within EUROJUST, and in 2011 this Network was provided with its own Secretariat, through which support is provided for the promotion of the use of JITs in the Member States, with the Council of the European Union publishing on 14-02-2017 a Practical Guide for Joint Investigation Teams²⁰, prepared by the JIT Network in cooperation with EUROJUST, EUROPOL and OLAF²¹.

With regards to the financial support that EURO- JUST can provide to JITs, it should be noted that this funding has become a valuable tool to try to ensure that economic constraints do not cause the use of JITs to decline in the fight against organized criminal groups.

b. EUROPOL, INTERPOL and SIRENE

In Royal Decree 952/2018, of July 30, which develops the basic structure of the Ministry of the Interior, reference is made to the fact that the Secretariat of State for Security will have, among other functions, those reflected in paragraph d), section 1 of Article 2: *"The direction and coordination of international police cooperation, especially with EUROPOL, INTERPOL, SIRENE and the Schengen Information Systems and the Police and Customs Cooperation Centers."*

Taking as a basis Royal Decree 400/2012, which was amended by the aforementioned 952/2018, the National Police the Division of International Cooperation was created within the National Police, whose content is developed in Article 11 of Order INT/28/2013 and which is composed, among others, of:

- The INTERPOL National Central Bureau: which provides technical and operational cooperation with the police of other countries and cooperates in judicial assistance, in accordance with the provisions of international treaties and agreements.

INTERPOL's objectives are the coordination and mutual assistance between law enforcement authorities, within the limits set by national laws, and the establishment and development of institutions that contribute effectively to the prevention and suppression of common law.

For the purposes at hand, the tasks of INTERPOL that could help us in our endeavor would be: the exchange of crime information using an international reporting system; the exchange of information and training assistance through international meetings; analysis of the information provided to the databases; and the processing of information requests.

- The EUROPOL National Unit: channels and coordinates technical and operational cooperation with EUROPOL within the framework of EU provisions. To achieve its mission EUROPOL divides its activity into three areas:
 1. EU's criminal intelligence information exchange clearing house.
 2. EURO-POL's unique capabilities enable it to serve as an information exchange platform capable of facilitating an effective operational response to European security threats.
 3. Main EU criminal intelligence center, maximizing the available information and its analysis, as well as cooperating with other agencies such as EUROJUST and INTERPOL.

To further develop its police expertise by using new investigative techniques and forensic methods, developing new analytical and operational practices, advising member states, facilitating the exchange of information and intelligence, and developing new analytical, operational practices and highly specialized training, making it the European center of police

¹⁹ Law 11/2003, of May 21, 2003, regulating JITs in the European Union and Organic Law 3/2003, of May 21, 2003, supplementing the Law regulating JITs, which establishes the criminal liability regime for members of such teams when they act in Spain.

²⁰ Council of the European Union 618/1/17 REV 1

²¹ European Anti-Fraud Office of the European Commission.

excellence.

In the context of EUROPOL, we should not forget the so-called EMPACT policy cycle²². In 2010 the European Union established the first multi-annual policy cycle in the fight against international organized and serious crime, seeking to develop instruments for the effective cooperation between the law enforcement agencies of the Member States, EU institutions, other EU agencies and third countries and thus achieve a coherent, operational and robust response to the most urgent criminal threats facing the EU.

The current policy cycle covers the years 2017 to 2021²³, with the following having been identified as the main criminal threats to the European Union:

1. Cybercrime.
2. Drug distribution and trafficking.
3. Smuggling of migrants.
4. Organized crime against property.
5. Human trafficking.

But he also pointed out 3 criminal activities transversal to all of them, identifying them as "organized crime engines" that enable and facilitate most, if not all, forms of serious and organized crime:

1. On-line trade of illicit goods and services.
2. Documentary fraud.
3. And money laundering.

- The SIRENE Office: facilitates the technical and operational cooperation established in the EU provisions in the field of Schengen cooperation.

Due to the abolition of internal border controls and with the aim of strengthening and regulating, among other aspects, police and judicial cooperation, the Schengen Information System (SIS) was created, which is a computerized system common to all member countries containing data on persons and objects of police and/or judicial interest, allowing this information to be made available and exchanged by the competent authorities of the SIS member states. On April 09, 2013, the new generation SIS, SIS II, came into operation, which improves and complements the original SIS and includes the following data of interest:

- Regarding persons, it contains information on: persons wanted for their arrest for extradition purposes; missing or threatened persons; persons to be protected and those to be subject to surveillance or search; witnesses to be brought before the judicial authorities in the context of criminal proceedings; and foreigners included in the list of inadmissible persons due to a ban on entry into Schengen territory, or due to any other measure of removal, refoulement or expulsion. Biometric data (fingerprints and photography) can be entered, different alerts on persons and vehicles can be linked, and European Arrest Warrants can be directly linked to alerts on persons wanted for arrest, surrender or extradition, making it easier for the competent authorities to ensure the necessary follow-up.
- With respect to objects, information is provided on: those marked for seizure, motor vehicles with a cylinder capacity greater than 50 cc, trailers, caravans, firearms, blank documents, identity documents and banknotes that have been stolen or misappropriated. Also included are stolen aircraft, vessels, containers and means of payment.

c. The network of Counselors, Interior Attachés and Liaison Officers

The Departments of the Interior are the technical bodies of the Permanent Diplomatic Missions of the Kingdom of Spain, under the direction and coordination of the Head of the same, for the development of the functions that, within the framework of the competencies of the Ministry of the Interior, are entrusted to it by RD 1300/2006²⁴ of November 10, on the organization and functions of the Departments of the Interior in the Diplomatic Missions of Spain.

In general, the Departments of the Interior will support the exercise of the functions corresponding to the Ministry of the Interior, within the scope of their competencies and, among other functions, will perform the following:

²² EMPACT: European Multidisciplinary Platform against Criminal Threats.

²³ At: <https://www.europol.europa.eu/socta-report>.

²⁴ This Royal Decree has been partially modified, in the article 5 paragraph 6, through the Royal Decree 1894/2008 on November 14.

- a. Collaborate with and provide support to members of the Security Forces and Corps of other countries.
- b. To provide information to the superior and managerial bodies of the Ministry of the Interior and to CITCO (Intelligence Center against Terrorism and Organized Crime) on the activities they develop in the fight against terrorism, drug trafficking and other expressions of organized crime that affect the internal security of Spain.
- c. Liaise with INTERPOL, EUROPOL and other international police cooperation bodies, providing the necessary assistance to the axis of the execution of international letters rogatory, arrest warrants, extraditions and any other activity proper to such organizations, without prejudice to those reserved to other departments of the Administration through international agreements and treaties.
The Head of the Departments will be exercised by the Councilor of the Interior without prejudice to the coordination functions that correspond to the Head of the Diplomatic Mission. The Interior Attaches report to the Counselor of the Interior, whom they will assist in the functions attributed to them by the latter. As for Liaison Officers, we must distinguish between Spanish Liaison Officers assigned to foreign police forces or other international organizations or forums (INTERPOL, EUROPOL, OLAF, UN...) and Liaison Officers belonging to police forces of other countries and international police bodies assigned to Spain before the State Security Forces and Corps.

d. Other tools:

- FATF: the Financial Action Task Force²⁵ (FATF) is the global watchdog for money laundering and terrorist financing, it sets international standards aimed at preventing these illegal activities and consequently the damage they cause to society. It is made up of more than 200 countries and helps authorities to pursue criminal money, reviewing laundering techniques and strengthening their standards to address new threats that may spread.
- CARIN NETWORK²⁶: is an informal contact and cooperation group composed of professionals from 53 jurisdictions and 9 international organizations, which aims to deal with all aspects of confiscation of proceeds of crime and is linked to similar asset recovery networks in Southern Africa and Latin America.
- EGMONT FI-INTELLIGENCE GROUP NANCIERA: its objective is to collaborate and cooperate with the more than 150 Financial Intelligence Units that compose it, stimulating the international fight against money laundering and the financing of terrorism, especially in the areas of information exchange, training and knowledge.
- European Union ARO offices²⁷: central national contact points facilitating the tracing of criminal assets throughout the EU. Council Decision 2007/845/JHA obliged member states to establish such offices and to exchange information, either upon request or spontaneously, under the conditions set forth in Framework Decision 2006/906/JHA, known as the "Swedish Initiative".

In 2014, the European Parliament and the Council adopted Directive 2014/42/EU, which sets minimum standards for the freezing, management and confiscation of criminal assets, but in addition, the adoption of Regulation (EU) 2018/1805 on the mutual recognition of freezing and confiscation orders has been a milestone in the area of asset recovery, facilitating cross-border realization and making it faster and simpler.

It seems evident that the motivation of States to try to recover the effects of crime, wherever it is transferred, occupies a preferential place in international cooperation and coordination policies. However, despite all the tools described above, the fact is that the diversity of jurisdictions, even within the European Union itself, and the political will or strategies at certain times, hinder, if not prevent, the success of the initiatives taken in relation to the tools listed above.

Conclusions

Based on the information presented in this article, we can draw the following conclusions:

1st. It is impossible to establish a starting point, a date or historical event from which to speak of the birth of corruption, it is an activity inherent to human beings and their social organization and could be defined as a deviation of a power of action, public or private, in a particular interest to obtain a patrimonial or other type of advantage, in one's own favor or in favor of a third party.

2nd. Corruption cannot be observed from a stagnant point of view, it is not an independent fact or activity, it is intimately related to economic crime in general and organized crime in particular.

3rd. Corruption and related criminal behavior is one of the main barriers to the achievement of the goals and

²⁵ At: <https://www.fatf-gafi.org/>

²⁶ Camden Asset Recovery Interagency Network. At: <https://www.carin.network/>

²⁷ Asset Recovery Assets.

targets adopted by the UN for 2030.

4th. If we add the estimated cost of organized crime, tax fraud and corruption in Spain to the Spanish GDP, we would obtain an amount close to 10% of GDP.

5th. Criminal activity in general and corruption in particular is good business to the delinquent, and the basic instruments available to the State to combat corruption are not sufficient in terms of budget, in terms of volume, to cover the alleged benefit that the corrupt person obtains from their activity, reducing the State's capacity to generate budgets and, moreover, hindering the commitment acquired in the fulfillment of the Sustainable Development Goals contained in the 2030 Agenda.

6th. The police investigation of corruption and the set of crimes to which it is related becomes a fundamental element for the State and citizens.

7th. Corruption-related investigations are complex, based on: the infinity of crimes that come into play, the object of the investigation, the natural or legal person being investigated, the general social alarm, the difficulty of obtaining direct inculpatory evidence, the temporal circumstances surrounding the investigation itself, and the location, maintenance and management of the effects that may be involved.

8th. Corruption-related investigations require a high degree of specialization on the part of the officials involved: extensive technical-legal knowledge and the use of technical devices and means.

9th. Corruption-related investigations require investigators to have a high level of training that must be combined with a certain amount of operational experience.

10th. In most investigations related to corruption, the international aspect plays a decisive role, which requires knowledge of how it works.

Police work is therefore a fundamental activity in the fight against corruption and related crimes, providing the State with funds that will enable it to generate budgets that facilitate the achievement of the Sustainable Development Goals set out in the 2030 Agenda.

Despite all the difficulties mentioned above, police successes in this field are occurring daily, the specialization and training of the police officers in charge of these investigations is extremely high, but the threat is unceasing. We are suffering the most harmful effects of globalization which affect the security and stability of Spain, the European Union and the international community as a whole, hence the need for an effective response from the State Security Forces and Corps, which are firmly committed to the fight against corruption, an unavoidable commitment to the security of all Spaniards, to the national economy and to the Sustainable Development Goals which will allow for safe and sustainable economic, environmental and social development.

Documents and regulations

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