

Corruption of Public Officials and Conflict of Interests in Albania

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Abstract : *This paper aims to make an analysis of the Albanian legislation on issues relating measures against corruption among public officials, identifying some of the most effective legal instruments to combat this phenomenon. How is corruption or cases of abuse in exercising a public function related with private interests or that of the third parties, and to what extent the application of measures against conflicts of interest may help prevent corruption? For this purpose, are analyzed some of the offenses against the state activity committed by public officials that are linked to conflict of interest, as an element that accompanies, precedes or follows the criminal acts committed by public officials. Finally, the paper concludes on some instruments that have been proven successful in the fight against corruption and relevant assessments for possible legal changes or improvements, as measures that a state should take to respond to different forms of corruption.*

Keywords – *Conflict of interest, Corruption, Public official, Albania*

I. Introduction

Wealth and private interests of public officials, corruption problems, illicit enrichment and abuse of power in the exercise of public function, are one of the most discussed and problematic issues in many countries. This has led to several international conventions, foreseeable rules and standards that states parties should follow in the frame of the fight against corruption. One of the conventions that Albania has ratified earlier is the United Nations Convention against Corruption, by Law No. 9492, dated 13.03.2006.

Albanian legislation has improved and has undertaken fundamental changes, enabling alignment with the “*acquis communautaire*”. In this frame also has been the adoption of the law no.9049, dated 10.04.2003 “On the declaration and audit of assets, financial obligations of elected officials and certain public officials” and after this, the adoption of the Law No.9367, dated 7.4. 2005 “On the prevention of conflicts of interest in the exercise of public functions”.

With the approval by parliament of these two laws, the Albanian legislation is equipped with two important and effective tools in the fight against corruption, implementation of which has given noticeable results. Currently, in the Criminal Code of the Republic of Albania there are seventeen criminal provisions that provide sanctions for the phenomenon of corruption as a punishable crime. What is common in all the articles of corruption is the expression “irregular benefit”. The concept of irregular benefit includes material and nonmaterial benefits.

But in what extent are corruptions or abuse of duty cases in the exercise of public function connected with personal interests or that of the third parties?

In the exercise of official duties and functions, the person elected or public official should not be influenced by narrow personal interests. In this sense, through the actions or inactions of his decision, he must not create benefits or advantages for himself, his family members, relatives or other persons and legal entities with which shares economic or political interests. In Albania, Law on prevention of conflict of interest provides, special restrictions and prohibitions to private interests for public officials, depending on their function, responsibilities and concrete powers in public decision makings. These prohibitions in a certain extend are provided even for the related persons of the official (husband / wife, adult children; parents of the official and parents of the husband / wife). In principle, the law obliges officials not to participate in those decisions, where they or their family members have a direct or indirect interest in a certain matter.

Also, the law on prevention of conflict of interests has provided some prohibitions and restrictions for officials who enter in contract with a public party, restrictions in income insurance due to a specific function, as well as restrictions on receiving gifts, favors, and preferential treatments. These restrictions are intended primarily to protect the public interests from any influence of the officials who, in view of their interests or relatives, in an administrative process, can harm the interests of the state, citizens or legal persons.

It should be emphasized that almost in every field of state activity there are rules and norms on issues related to conflict of interest. However, there are many discussions about the officials decisions influenced by the situation of conflict of interest and personal illicit gain in considerable values, or initiation of criminal proceedings which in many cases are dismissed by the prosecution or the courts, because of the insufficiency of elements which qualify these violations as a crime.

For this reason, we can highlight some of the offenses against state activity committed by public officials in the Albanian Criminal Code, linked to the conflict of interest, as an element that accompanies, precedes or follows the criminal acts committed by public officials, considering that the main element that dominates in these offenses is the “personal illicit gain”, due to the special function.

Abuse of office (Article 248); Denying equality of the citizens (Article 253); Illegal benefiting from interests (Article 257); Breaching the equality of participants in public bids or auctions (Article 258); Passive corruption of public officials (article 259); Passive corruption of high state or local elected officials (Article 260), etc., are some of the offenses that could potentially be linked to cases of conflict of interest which, accompany, follow or precedes criminal acts committed by public officials.

Albanian legislation has been improved over the years and has undergone fundamental changes, enabling and aligning with international standards, mainly in order to increase the accountability structures in the fight against corruption, strengthening work capacities in law enforcement, improvement of existing mechanisms in terms of avoiding the elements that favor corruption or abuse of power.

II. The concept of Conflict of Interest

In Albania, Law nr.9367, dated 07.04.2005 "On prevention of conflicts of interest in the exercise of public functions", was adopted at a time when domestic legislation had begun to adapt and align with European standards and has taken the best practices implemented in recent years in different European countries for the same purpose.

The definition of the concept of conflict of interest is given by law:

“Conflict of interest” is a situation of conflict between the public duty and the private interests of an official, in which he has direct or indirect private interests that affect, might affect or seem to affect the performance, in an incorrect way, of his public responsibilities and duties”.

Conflict of interest is defined by law, according to the same definition of standard document provided by the recommendation of the OECD . The definition contains general concepts of conflict of interest and is detailed into several sub-definitions, respectively actual conflict of interest, apparent and potential conflict of interest. While exercising a public function, an official may face various issues of conflict of interest, in the form of a) continuing conflict of interest or what we call otherwise Incompatibilities with the public function and b) case-by-case conflict of interest that has direct connection with the exercise of a public function when it has a particular role in decision making. To prevent or avoid in time the cases of conflicts of interest, among other articles, law defines in detail:

- Prohibitions and restrictions on officials' private interests to prevent specific cases of conflict of interest , in entering into contracts between state institutions and private persons, generating income and benefits because of the official function, gifts or promises preferential treatment.
- Prohibitions and restrictions on officials' private interests in order to prevent the involving in constant conflict of interest for certain categories of officials. Prohibitions and restrictions are differentiated between the categories of officials, keeping in mind the importance of the function and the risk of involving into a conflict of interest in each case.
- Tools and suitable alternative methods, applicable in any situation and by any institution, for resolving a conflict of interest case. These methods create opportunities settlement, either for the official, as for the superior or the institution where he carries the official functions.
- Determines what happens to an act taken in a conflict of interest, while remaining essentially the same principle that such an act loses legitimacy in full compliance with the provisions of the Civil Code, the Civil Procedure Code and the Administrative Procedures Code.

Such restrictions are made by considering the need to ensure a fair and impartial decision in the best interest of the public, as well as the current state of low level of public confidence in the integrity of public administration institutions.

The scope of conflict of interest law is very broad and as such potentially includes all public officials ranging from the highest level to executive level specialist, who are obliged to take the necessary legal measures to avoid any conflict of interest which may appear during exercise of their functions.

Depending on the public position and the role in certain decision-making are defined by law also the levels of limitations for the officials' private interests. This potentially associated with the risk that these positions carry for illegal benefits or abuse of power.

The law nr.9367,dated 7.4.2005 “On the prevention of conflicts of interest in the exercise of public functions” defines the private interest that can be considered a cause for the emergence of a conflict of interest, these are as follows:

- a) property rights and obligations of any kind of nature;
- b) every other juridical civil relationship;
- c) gifts, promises, favors, preferential treatment;
- d) possible negotiations for employment in the future by the official during the exercise of his function or negotiations for any other kind of form of relationships with a private interest for the official after leaving the duty performed by him during the exercise of duty;
- e) engagements in private activity for the purpose of profit or any kind of activity that creates income, as well as engagements in profit-making and non-profit organizations, syndicates or professional, political or state organizations and every other organization;
- dh) relationships:
 - i) of family or living together;
 - ii) of the community;
 - iii) ethnic;
 - iv) religious;
 - v) recognized [relationships] of friendship or enmity;
 - f) prior engagements from which the interests mentioned in the above letters of this article have arisen or arise.

Conflict of interest is treated and understood as a situation, not an action. An official may find himself in a conflict of interest situation, without becoming part of any corruption act. Referring to what "Speck" mentions in his publication, "The concept of conflict of interest does not refer to an actual wrong-doing scenario, but rather to the potential risk to be involved in such action".

Presuming the fact that an official in the exercise of public duties will face situations of conflict between private interest and public duty, states should proceed through legal instruments, limiting some rights of the officials as may be: double employment, exercise of private activities, being the head in some profit organizations etc. Such limitations in the case of Albanian legislation are made by considering the need to ensure a fair and impartial decision in the best interest of the public, as well as considering the general situation with a low level of public confidence in the integrity of the public administration institutions.

III. Legal Instruments to Prevent Corruption.

The ways a state chooses to face corruption and risks posed by this phenomenon, firstly depend on the nature and different forms of its appearance and of course require the involvement of a number of coordinated measures at the institutional level. Albania, like many other candidate countries to the EU, has been in periodic monitoring from the European Commission, but also received ongoing assistance to this end. But despite the fact that there is not a direct reference to the "acquis communautaire", the prevention of conflict of interest and asset declaration system has become "de facto" a standard to be met by all countries that aim to integrate in the European Union.

In the frame of improvements of the legislation to strengthen the fight against the phenomenon of corruption in public administration, at the end of 2004 a legislative package was adapted to the Criminal Code and Criminal Procedure Code. These changes mainly affect the phenomenon of corruption in terms of clearing the definition of the offense, as well as in terms of determining the means and methods of special investigation support in help to collecting proves for this offense.

Part of this package was the approval of the law no.9049, dated 10.04.2003 "On the declaration and audit of assets, financial obligations of elected officials and certain public officials" and Law 9367 dated 07.04.2005 "On prevention of conflicts of interest in the exercise of public functions".

These legal instruments are part of a country's prevention strategy, as the legal regulations on conflict of interest, codes of ethics, regulations on inconsistencies with the function, control and transparency of assets and income, constitute an effective approach for the prevention of corruption. Also, these instruments can be used effectively in the investigation cases of corruption.

3.1 Declaration of the assets

The system for the Declaration of the assets and financial obligations of the public officials in the Republic of Albania established since 1995 and reformed in 2003, has been one of the most important legislative steps that reflect the key requirements of the UN Convention against Corruption in this regard.

The main purpose for the adoption of the Law no.9049, dated 10.04.2003 "On the declaration and audit of assets, financial obligations of elected officials and certain public officials" as amended, has been taking more effective measures in the fight against corruption, increasing confidence in state institutions, especially through public transparency and the prevention of abuse cases with the state and illegal enrichment of persons elected or those who perform certain state functions.

The scope of the declaration of assets law is to verify and control the wealth, legitimacy of its creation, financial obligations for elected officials, for their families and persons related with them. The entity that has the obligation of this declaration, has the burden of proof in the administrative process control, to prove the legality of the assets and income generated during the declaration. Despite the active role that the administrative body has in collecting data, information, documents, etc., it's the official that has the duty to argue and justify the legal documents stating that his wealth is created by legitimate sources. Hiding or making a false declaration constitutes a criminal offense punishable by Albanian legislation with a fine and imprisonment of up to three years.

In Article 3 of the Law no.9049, dated 10.04.2003 "On the declaration and audit of assets to liabilities of elected officials and certain public officials" are defined the categories of officials who are required to make periodic disclosure of private interests to the High Inspectorate of Declaration and Audit of Assets (HIDAA), ranging from:

- a) the President of the Republic, deputies of the Assembly, the Prime Minister, the Deputy Prime Minister, the ministers and deputy ministers;
- b) judges of the Constitutional Court, judges of the High Court, the Chairman of High State Control, the General Prosecutor, the People's Advocate, members of the Central Election Commission, members of the High Council of Justice and the Inspector General of the High Inspectorate of the Declaration and Audit of Assets
- c) civil servants of the high and middle management level, according to the definition of article 11 of law nr. 8549 dated 11 November 1999 "Status of the Civil Servant";
- d) prefects, chairman of the regional councils, mayors of municipalities, of municipal units and of communes;
- e) directors of directorates and commanders of the Armed Forces in the Ministry of Defense and in the State Information Service;
- f) prosecutors, judges and enforcement officers [bailiffs] of all levels;
- g) dh) directors of independent public institutions;
- h) general directors, the directors of directorates and the chiefs of sectors (commissariats) in the center, districts and regions, of the General Directorate of the Police, the General Directorate of Taxation and that of Customs;
- i) directors of all levels of structures for return of and compensation for property, of privatization and the registration of property;
- j) directors of all levels of the CRTs [Commissions for the Regulation of the Territory];
- k) officials who are elected and appointed by the Assembly, the President of the Republic, the Prime Minister, the ministers or persons equivalent to them;
- l) directors of joint stock companies with the participation of state capital of more than 50 per cent and on the average more than 50 workers.

By law, it is foreseen that husband/wife and adult children of the officer are obliged to declare also their assets. Also, declaration of other persons related with the official may be required by the responsible institution (HIDAA) whenever verifications conducted shows that these people are connected with private property interests subject to the official declaration of assets.

However, practice has shown that more and more noticeable as a growing phenomenon was that of declaring income in informal way (borrowing and lending or gifts in significant value), through family members or persons associated with them in other civil-legal relationships. Verifying the source of these incomes, require not only to administer this asset declaration, but also exercise direct control over them too. While failure to include a restrictive measure and a sanction in the Criminal Code in case of refusal to declare persons connected with the official, had created conditions for these subjects to use them as a resource, and gives these persons the possibility not to declare.

This has led in 2012 to pre-empt a legal initiative to amend the Criminal Code, including as subject of the specific offense of refusal or false declaration of assets, even the persons that are related with the public official and are obliged by law to declare their assets.

3.2 Prevention of Conflict of Interest

Law on prevention of conflict of interest (PCI) provides special restrictions and prohibitions of private interests to public officials who exercise public functions, depending on their position, responsibilities and powers in public decision-making.

These prohibitions in a certain way are extended even to the related persons of the official (husband /wife, cohabitant /wife, adult children, parents and officer husband/wife). In principle, the law obliges officials to not take part in those decisions, where they or their family members have an interest directly or indirectly in the matter.

Also, the law PCI and especially organic laws predict incompatibilities with the function of different officials and other private interests as may be, double employment, free exercise of professions licensed as experts, consultants, etc., ownership of shares or parts of capital private companies, or participation in the governing bodies of commercial or profit-making organizations, etc.

Asset declaration system and the prevention of conflicts of interest are two systems that function to help each other in achieving a key goal, prevention of illegal benefits from officials because of their public function. Results derived from the implementation of assets declaration process or administrative investigation of a conflict of interest, are a very important element in the investigation of cases of corruption or other criminal offenses committed by public officials.

IV. How do some of the criminal offenses committed by public officials get connected with conflicts of interest

Considering that a conflict of interest situation may be a potential violation of the criminal law, and can be considered corruption or abuse of public office with serious consequences for the government and society, it is necessary to perform legal analysis in order to determine whether the current legislation in force and its sanctions in case of conflict of interest is sufficient. In light of the EU Council recommendations, particularly GRECO II Evaluation for Albania, which emphasizes the conflict of interest problem with regards to High Public Officials and considering that in some places the conflict of interest issues is considered to be a violation of the Criminal Code, it is necessary to determine whether the sanctions referring to the violations of the prevention of the conflict of interest law should be now considered a case of criminal law.

As mentioned above, in the Albanian legislation there are some offenses which are potentially associated with interest and potential conflict of interest situations.

Abuse of office (Article 248); Denying equality of the citizens (Article 253); Illegal benefiting from interests (Article 257); Breaching the equality of participants in public bids or auctions (Article 258); Passive corruption of public officials (article 259); Passive corruption of high state or local elected officials (Article 260), etc., are some of the offenses that could potentially be linked to cases of conflict of interest which, accompany, follow or precede criminal acts committed by public officials.

4.1 Abuse of office (Article 248 of Criminal Code)

“Deliberate accomplishment or non-accomplishment of actions or failures to act, in violation to the law and constituting the failure of a person, who carries out public functions, to do his duties regularly, in cases when it has led to bringing him or other persons unjust material or non-material benefits or when it has brought damages to the legitimate interests of the state, citizens, and other legal entities, when it does not constitute another criminal offence, is punished with imprisonment up to seven years”.

In this criminal offence are included as subjects all officers and public officials, so it is very extensive. The object of this offense is “the legal relationship established by law or by-laws to ensure normal operation of the state apparatus and the protection of the rights of legitimate interests of citizens or the state”. This offense is normally carried out through active actions of public officials in violation of the law or bylaws and the fulfillment of his duty, but does not exclude forms of performing its negligence or by omission.

Abuse of office is a criminal matter, which may be the consequence of a conflict of interest issue, and it is similar to certain criminal violations, such as abuses regarding public procurements or auctions, passive corruption matters where the public official benefits monetarily or is receiving favors in exchange of granting favorable results to a party when making a decision. Private interests that can affect a particular decision could vary in kind and extent, including being legally biased (hence one sided) in a legal case that involves family members, community, ethnic, religion, or friendship affiliations. An element connecting such criminal code violations with a conflict of interest case is illegal profit, steaming from personal profits as aforementioned. An example of which can be hiring or recruiting a public employee that does not fulfill the required criteria, or does not have the required work experience for the position in which he or she is competing, because the candidate is related to the spouse of the public official.

Law Nr.9637 dated 10.04.2003 "On prevention of conflicts of interest in the exercise of public functions" provides some prohibitions and restrictions of officials entering in public contracts. These restrictions are intended primarily to protect the interests of citizens from any influence of public officials, who in an administrative process, for their interests or their relatives, undermines the interests of the state, citizens or legal persons.

In principle, any official in any position, even if that has an interest in the aforementioned type associated with a particular decision, leading to the signing of a contract with a public or party issuing a specific act, according law has only one option:

"To declare private interests and to avoid, not taking part in decision-making. In contrary, contract or act that he produces will be null".

In the particular case that the officer involved in a specific decision has a private interest, as it is defined in Article 5 of the Law on Conflict of Interest (above) and does not declare that, regardless that they are known consequences, constitutes an omission that is punishable administratively under the law by a fine and has legal consequences. The act will be announced or found invalid depending on the type and extent of the violation.

If this omission has produced some harmful consequences (for unfair material profits, damage the legitimate interests of the state, the citizens and other legal persons) and is related to other actions related to a stable cause-effect link, are sufficient elements to consider consumed the offense of duty abuse.

Thus, identification of private interest, leading official in violation of the law would be a major component to prove the existence of the crime of abuse or illegal profit interests.

This is why by law on prevention of conflict of interest in article 40/1, is provided the responsibility of the institution, to send the case in the prosecution office in the cases when the official has acted unfaithfully by consuming elements of a criminal offense.

4.2 Breaching the equality of participants in public bids or auctions (Art. 258 Criminal Code)

“Committing actions in breach of the laws which regulate the freedom of participants and the equality of citizens in bids and public auctions, by a person holding state functions or public service in order to create illegal advantage or benefits for third parties, is punishable up to three years imprisonment”.

Subjects of this offense can be potentially all officials involved in the procurement decision-making procedures or public auction, as to define the terms of reference, to fund the connection limit and execution of the contract etc. These officials in order to create advantages for certain subjects can create facilities that would enable an operator awarding of economic benefits. This can be accomplished by voting in the bid evaluation committee, setting criteria to favor a certain operator, evasive definition of evaluation criteria, etc.

Public procurement is the most sensitive area in risk of corruption and conflict of interest. This is due to the fact that public procurement contracts, because of the importance and value of public property are at risk at any time to be harmed by the action of the private interests of officials included in these procedures.

From the subjective side, the crime is committed intentionally and directly in order to create unfair advantages or privileges to third parties, given the motives that has relative, friend, or has other materials or moral interests. So, those private interests ranked in the law on conflict of interests, are mostly the cause of which the official must in any case avoid decision-making.

The existence of a conflict of interest in such decision making, obliges the institution or the superior institution for further checking and evaluation procedures followed, to verify if the officer/s have consumed any offense elements of acting improperly to come to concrete consequences. In the case of conflict of interest is an element that mostly may precedes criminal acts committed by public officials.

On the other hand, unfair benefits from public officials in public contracts, funds or government assets in many cases are due to their function and position, using "intruding" and competences of subordinate officials. For this reason, aiming the prevention of abuse regarding the public position, the law has intended some specific prohibitions authorized in Article 21 of Law on conflict of interest, according to which high level officials could not benefit from contracts with a public institution, although they may not have been all part of the decision to link that contract. So, limiting the benefit from public funds or property, is connected only because of the concrete official position and not related to concrete decision.

Prohibitions determined in Article 21 paragraph 1 of Law 9367, dated 04.07.2005, as amended, (bearing in mind the exceptions that the law itself has set in prohibition cases of contracting), are applied in the same extent to related persons above mentioned. According to the concept of law for preventing conflict of interest, the circle of related persons with the officer are husband / wife, cohabitant, mature children and parents of the official and husband / wife.

Meantime another problem for public procurements and especially with the contracts in considerable monetary value like those of road building etc, has been subcontracting. Despite the fact that the law prohibits the benefits from public funds for high rank officials (or persons related to them) and also prohibits their participation in public procurements, one of the ways of avoiding these prohibitions was subcontracting. Also subcontracting because of the law deficiency has been considered as one of the ways of illicit benefits from public funds of companies where high rank officials or their relatives hold private interests.

With the changes in the law of prevention of conflict of interest approved by the law nr. 86/2012 date 18.9.2012, the official is also prohibited to benefit from public contracts done by subcontracting. By sanction of this prohibition in law are prevented the chances and cases of finding ways to avoid law restrictions, by doing so there is no way to make a fictive participation in public tenders or administrative contracts, which evidently are realized by subcontracting from those people/companies which as a cause of these law restrictions cannot benefit from public funds. On the other side, the application and implementation of the electronic procurement

system has been one of the most efficient ways in the fight against corruption in this field. This system adjusted one of biggest problems in the system of procurements in Albania, that of transparency.

4.3 Passive corruption of the persons holding public functions / passive corruption of the high rank officials of state (Article 259 and 250 of Criminal Code)

“Asking or taking directly or indirectly of every kind of illicit benefit, or promising for such thing for himself or other people, or acceptance of an offer or the promises that comes from a illicit benefit from the person that exercise public functions/ or high rank state official, to do or not to do an action that involves his work or function is punished with a prison term from two up to eight years for the persons holding public functions and is punished with a prison term from four up to twelve years for a high rank official”.

The difference between these two provisions consists in the fact that Article 260 of Penal Code refers only to the high rank state officials and local elected, where there is a higher sentence for them up to 12 year imprisonment, as the meaning and the content of the provision are the same.

Usually this offense is identified with bribery and is shown in form of money taking, gifts, or other valuable things, in exchange of favoring these subjects in their decision making. These elements are subject of investigation from special structures of the criminal police, of the prosecution etc, and as a rule they cannot be concluded only in the frame of an administrative investigation. But, passive corruption of an official may leave traces and indications that can be stated by these administrative procedures of declaration of private interests of the official, because the officer will try in any case to find ways for introducing the illegal benefits by corruption into regular circulation.

According to the Albanian legislation, in the qualification of this offense, is to be considering that not every gift or favor taken by these officials must be considered as a passive corruption, but only those that helped to influence in illicit decision making favoring a certain subject. Here is necessary, to be linked in time and expanse, the public official, the decision making, the favor earned, the beneficiary from this decision making, the benefit, end the damage done. Without having a stable link cause-effect between these elements we couldn't qualify a certain action as an offense.

4.4 The illicit benefit of interests (Art 257 of Criminal Code)

Keeping, retaining , or directly or indirectly taking any kind of interest from persons holding state functions or in public service in any enterprise or operation in which in the moment of doing his duty has had the task of surveillance, administration, or liquidation, is sentenced by fine or with imprisonment up to 3 years.

Potential subjects of this offense are all the public officials, weather those in public service, or who are involved in public institutions either the political positions such as, ministers, deputy ministers, advisers etc. The criteria that needs the provision about the subject of the offense is that he must have a determining role in the decision making that made possible the realization of this interests, by being in the role of the supervisor, administrator or receiver. Article 257 refers to a closer judicial relation in comparison with that of articles 259-260 of the Criminal Code.

The term “any kind of interest” in article 257 of the Criminal Code refers only to those interests that comes from an enterprise or operation and that this subject must be a particular one in the position of supervisor, administrator or receiver.

So article 257 is applied only in those cases of illicit benefit of interests which come from:

- enterprise or operation
- the subject that has made the offense must have been in the position of supervisor, administrator or receiver.

Meanwhile that provision of passive corruption, article 259-260 of the Criminal Code refers to a wider judicial relation, as the subjects that consume the offense could be any official who exercises a public function or is a high rank state official or local elected, functions which are very wide and cannot be limited as in article 257. The forecast of the limited elements of this offense has made a low number of proceedings registered in the prosecution. Practice have shown that this offense as time goes it become more unenforceable. According to the purpose that this provision had by approving it in 1995, and in accordance with the priorities that Albania has taken for integrating in the EU, seems that is necessary to be foreseen as a offense the “illicit enrichment of the public officials” without limitation the objective way or realizing it. This suggestion has even been mentioned in the Progress Report of 2014 for Albania where is stated that; Albania is encouraged the implement the offense of “illicit enrichment” as a positive signal.

The Organization for Security and Co-operation in Europe considers the existence of such an offence to be one of the best practices for combating corruption (OSCE 2004). The UNODC (2006) has also cited the offence as a useful deterrent to corruption among public officials.

This would be a challenge for Albania as long as sanctioning as a criminal offence the illicit enrichment according to article 20 of the UN Convention against Corruption is seen with concern from many countries because it may conflict with the fundamental rights of the accused person.

V. Conclusion

In a legal analysis, from theoretical and practical point of view, some of the offenses committed against state activity by state employees and public officials, often may result from situations of conflict of interest in the exercise of public functions. The need to clarify how the administrative investigation of the cases of conflict of interest, should be related with the investigation of corruption offenses or criminal offences and how to coordinate these two procedural moments to achieve effective outcomes.

At this point would be helpful an assessment of the legislation in force and the need to become more repressive toward the phenomenon of conflict of interest (by increasing the severity of the punishment of a crime levels), as the root of corruption or other criminal offenses among state employees or public officials.

On the other hand, the fulfillment of the suggestion of European Commission in the 2014 Progress Report in Albania, where its quoted: "Albania to be encouraged to introduce the offence of illegal enrichment as a positive signal" accompanying by other actions from the government of the illegal properties unjustified their legal sources would be another important legal instrument for the prevention of corruption, abuse of office and money laundering.

Also, liability for asset declaration of all citizens who have legal capacity to act would be an important tool that can be effective and successful in Albania. This will minimize cases of concealing of assets acquired illegally by officials to relatives who are not subject to disclosure in HIDAA and equip law enforcement institutions with legal instruments giving them specific powers to control and investigate these subjects. Actually, the ones that declare their incomes are the citizens who have an annual income of 2 million lek and up (EUR 14000 approx.).

Declaration of assets, liquidity, income and liabilities of all citizens can be a helpful legal instrument in the prevention of corruption among public officials or private sector corruption, but especially in the prevention and punishment of money laundering cases.

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