

Civil Signals – A Major Democratic Method against Corruption Practices in Contemporary Society

Chief Assist. Prof. Margarita Cheshmedzhieva¹

Abstract

The article examines the civil signals as one of the main methods to combat corruption as a form of civic participation in country government. The right of citizens to report to public authorities and thus to participate themselves in the management of the state can be defined as one of the main means by which the relations between the state and the civil society are established. The signals sent by citizens appear to be a major mechanism against corrupt practices in the modern democratic society.

Keywords: corruption, signals, civilian control, democratic institutions

Corrupt practices in contemporary democratic society are some of the social plagues that are hard to be seen and fall into a real legal monitoring. Participants in the process are interested in it being realized, legalized and leading to financial gain as the leading motive is the mutual benefit. This specificity of the offense requires that the society and its citizens hold its leading position through active signaling to the competent institutions to realize this basic democratic method.

Corruption and creating the necessary tools and mechanisms for its countermeasures are key criteria for the establishment of democratic institutions as well as the establishment of standards of transparency and control over the governance of society. Efforts of civil society are directed against those forms of corruption that are typical of the activity of civil servants and public administration in general. The civilian control over the public administration is an important factor in the establishment and development of the Bulgarian society as a European one.

¹ PhD, Law and History Faculty, Public Law and Public Management Department, South-West University "Neofit Rilski", Blagoevgrad, Bulgaria. Email: margo4@abv.bg

In recent years, Bulgaria has made a significant step towards establishing democratic institutions, towards promoting the rule of law and active civil society. The new democratic state requires new realities that contribute to the development of a system of guarantees necessary to combat corruption practices and improve the functioning of the administration.

The development of civil society in the country is closely linked to the expansion of the ability of citizens to participate in governing the state and public processes. In this respect, an important role is the right of citizens to lodge complaints, suggestions and signals they send to the state authorities, to various organizations, etc.

The establishment of legal mechanisms for security and protection of citizens' rights and limiting the arbitrariness on behalf of the state, its bodies and officials, is one of the most important tasks of any democratic society. Human rights in a democratic society are the highest fundamental value that underlies its legislative, law-enforcement and social activities.

The control in the field of governance is one of the important regulators of administrative activities, called to ensure legality, efficiency and consistency of important public purposes. Through funds provided by the law to control administration, the individual citizen is protected by the dominant authority of the state administration and its corrupt activities. It leads to abuse, illegal and improper actions that affect legitimate interests and rights of citizens.

The institute of proposals, reports and complaints is a specific extrajudicial form that establishes civil control over the activities of state bodies and protects the rights of citizens from illegal, unlawful acts of the administration. The institute of proposals and signals can be viewed as a unique form of dialogue between the state and citizens. Above all, the right of citizens of proposals, reports and complaints filed to the state institutions is personal, subjective law, expressing the relationship between authoritarian bodies and citizens.

Proposals and signals are a means of improving and democratizing the administration work. They are used to carry out public control over its activities. They are a manifestation of citizen participation in governance.

This right can be used to activate all control mechanisms in order to ensure a lawful and properly functioning administration [4, p. 317].

In exercising their right to submit proposals and alerts, citizens, on one hand, signaling for the shortcomings in the work of the state bodies, organizations and officials, are involved in solving social problems while they are satisfying their own interests and rights.

That is why, the consideration of any proposal or signal does not only have an individual character, but it also has a national importance. It is a kind of indicator that allows drawing conclusions related to the situation in the country. They are a source of information that is useful in solving issues related to the state, economic, social and cultural development.

Citizens, submitting their applications aim at protecting their rights and interests. Realizing their individual right citizens with their actions contribute to the elimination of such violations in the future, which generally has the effect of strengthening the rule of law. Thus, the actions of the individual citizen, undertaken to protect their personal rights, simultaneously satisfy both their personal and public interests. The right to proposals, signals and complaints is an expression of direct civil control, which is one of the characteristic features of democracy.

A legal definition of the concept of signal is given in the Administrative Code. [1]. Provision of Art. 107, Para. 4 of APC states that "Reports can be filed regarding abuse of power and corruption, mismanagement of state or municipal property or any other illegal or inappropriate acts or omissions of acts of public authorities and officials in of public authorities and officials in relative administrations that affect state or public interests, rights or legitimate interests of other persons".

From this definition follows that the nature of the signals is outlined in the following aspects: firstly, the signals are reported when there is abuse of power; secondly, they are filed in cases of corruption; next, the signals are reported when there is poor management, no matter if it is government or municipal property and finally, signals are reported when there are any other illegal or inappropriate acts or omissions of acts of public authorities and officials. In the latter case, these acts or omissions may affect state or public interests and the rights and legitimate interests of others. Irrespective of the nature of the signal, it always has critical content.

Signals are a means of control, which is directly aimed against abuse of power and corruption, mismanagement of state or municipal property or any other illegal or inappropriate acts or omissions of acts of public authorities and officials in the administrations that affect state or public interests, rights and lawful interests of other persons. The essence of the signal determines the competent authorities to which they are submitted.

Bodies to which the signals are reported are those that have powers granted to directly manage and control bodies and officials whose illegal or inappropriate actions or inactions are reported, i.e. they shall be submitted to the immediate higher authority not skipping instances. This is natural, considering that the signals are not of critical nature, which requires a control intervention.

Specifically, these bodies are determined by the Administration Act [3] and the rules of procedure of the respective administration.

The Rules regulate and designate the competent authorities and officials, as well as the overall organization of the work of accepting and processing the signals indicating the particular reception days and hours. The administrative authority is obliged to disclose the criteria, internal rules and practices in the exercise of their activities.

The author of the signal does not need to prove personal and direct legal interest. To initiate proceedings on the basis of the signal, it is necessary to comply with the following requirements: the signal should be sent to the competent authority, be in the form prescribed, not anonymous, i.e. the author should be pointed out or an authorized representative, if any, should meet certain requirements, which are explained by the official, should not apply to offenses committed more than two years ago and not be reintroduced on an issue to which there is a solution.

If the signal is reported to an incompetent body, there is the liability of the recipient to forward it competently within 7 days, for the sender must be informed about the referral.

The rule for direct submission is normatively regulated, but the author of the signal, if they consider it, may do so by the authority against whose act or non-act it is directed.

This authority is not competent to decide, unless it finds that the signal is justified and upheld. In this case, they must take the necessary measures to remedy the situation. It uses self-control as a means of improving the work of the administration.

If the authority whose illegal or inappropriate actions or inactions are reported does not recognize the signal as founded, it shall within a period of one month running from the date of submission, to send it to the competent higher authority. To the signal the body must enclose its explanations and for all these actions it must notify its sender.

Before ruling on the signal, the competent authority clarifies the case. It must establish all the facts and circumstances relevant to establishing the truth. To clarify the case, the competent authority may use all means provided by law. These actions of the body must be made within the statutory deadline for issuing a decision. The period in which the competent body should hear and determine the signal is two months since its entry. The term is instructive as non-compliance does not relieve the body from the obligation to rule. Non-compliance could take administrative liability for the guilty officials.

Based on the collected materials, documents, explanations, observations, opinions and any other evidence, the competent authority clarifies the case and states its decision. The decision shall be written and it must be motivated.

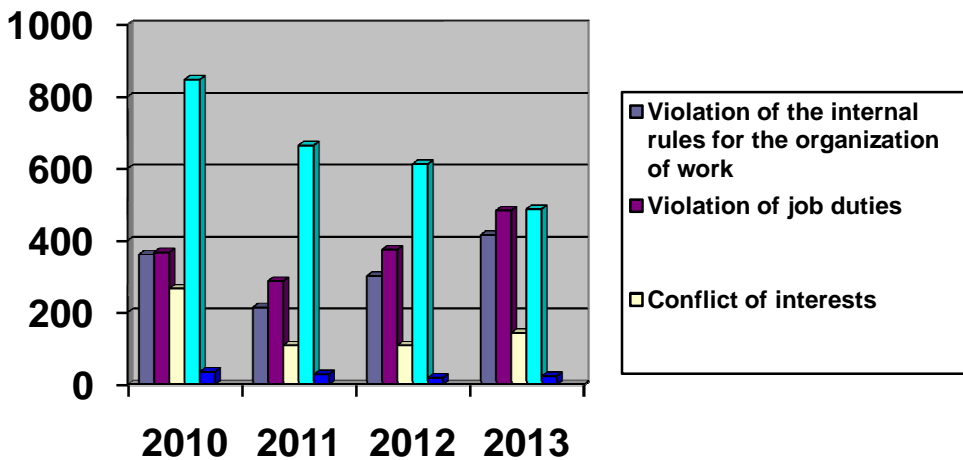
When the body assumes that the signal is justified and upheld, it shall have the obligation to take measures to remedy the infringement committed or inexpedient. What kind the measures will be depends on the nature and the essence of the violation. A guarantee to achieve the intended effect is the immediate enforcement of measures. The authority must notify the sender and other stakeholders.

The judgment of the competent authority shall be enforceable. For each case the ways and means to implement the decision taken need to be such as to ensure the effective implementation and lead to achieving the desired objective, namely preventing and stopping abuse of power and corruption and other unlawful or inappropriate acts or omission of acts of administrative bodies and officials.

In the implementation of the performance according to the signal, the adverse effects on those affected caused by the illegal or inappropriate actions, are removed. If this is not possible, the persons affected are satisfied in another legal way, recovering their violated rights.

With the execution of the judgment the proceedings under the specific signal finally end. Thus, the goal of the signal as a means of supervising the activity of the administration and citizens' participation in governance is achieved.

The institute of proposals and signals is being increasingly recognized in our country as an effective mechanism to combat corruption as well as protect the rights and interests of citizens, which is confirmed by the fact that the number of alerts is progressively increasing. Citizens are increasingly reporting cases of corruption and violation of their rights, which is evident from the graph below.



Citizens have become very sensitive towards the activities of the administration. Therefore, the increased civic activity should be seen as a stable progressive trend. The latter one is definitely due to the active democratic processes in the country as well as the developing civil society. This makes the people involved in the management processes developing the state.

In conclusion, one can say that the signals reported by citizens have been approved as a major mechanism against corruption in the modern, democratic society.

References

- Administrative Procedural Code, in force since 12.07.2006, prom. SG, issue 30 since 11 April 2006, amended and supplemented, SG issue 27 since 25 March 2014.
- Report on the State of Administration, CM, 2011, 2012, 2013.
- Administration Act, prom. SG, issue 130 since 5 November 1998, amended and supplemented SG, issue 27 since 25 March 2014.
- Kandeva, Em, Foundations of Public Administration, Ciela, Sofia, 2003.