

# **Prevention and Combating Corruption in the States of the World. Republic of China**

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**ABSTRACT:** In China, one of the world's largest powers, anti-corruption legislation is well defined. In this sense, a number of normative acts contain provisions regarding the fight against this harmful phenomenon, capable of shaking the economy and the rule of law at world level. Provisions related to the prevention and combating of corruption in the People's Republic of China are also found in other secondary legislation, judicial practice and the Code of Criminal Procedure of that state. In order to repress corruption, the Supreme Court of China and the Prosecutor General's Office in China have published a series of prior recommendations on the prevention, detection and sanctioning of these reprehensible acts committed by civil servants or by senior officials high. Also, such collaborations have also been carried out to prevent and combat corruption in the private sector. In order to meet this goal, China has ratified the provisions of several conventions on corruption. This paper aims to highlight the legislative framework on preventing and combating corruption in the People's Republic of China and the steps taken or to be taken by Beijing leaders for this purpose. Also, in the present paper will be listed the main normative acts related to the prevention and fight against corruption, existing at present in this state.

**KEYWORDS:** bribery, corruption, fight, measures, prevention

## **Introduction**

Since ancient times, corruption has been one of the most harmful antisocial behaviors conveyed by man, alongside economic and trafficking and illicit drug use crimes. Corruption represents, in fact, the use of power in bad faith, a power that benefits a certain person who occupies a public position. It is widely known that the phenomenon of corruption affects the standard of living of the citizens of the world, democracy, the rule of law and the entire world economy, their trust in civil servants, politicians and justice.

In order to prevent and combat this extremely damaging phenomenon for mankind, world leaders and leaders of various inter-state structures, such as the European Union, adopt action plans and strategies in various fields that are able to reduce to the maximum the effects of corruption. In this sense, in many countries around the world, anticorruption strategies and normative acts have been adopted that align at international standard the legislation in the field of public procurement, the financing of political parties, conflict of interest regulation, the establishment of specialized structures of the prosecutor's office, the reduction of bureaucracy, a transparent process of obtaining certificates, authorizations or endorsements, the wealth declaration of high officials.

## **The notion of bribery in the sense of criminal law in People's Republic of China. Legislative provisions forbidding the commission of corruption offenses**

The Chinese Criminal Law defines bribery as the illegal and immoral behavior of public servants or high dignitaries of the state who violate their work duties in order to obtain for themselves or for another undue advantage such as, deleting some debts, providing services, offering trips, or even receiving money in cash.

Under the Unfair Competition Law of China (1993), a law that has been amended several times, bribe can be offered as cash, movable and immovable assets, consulting or sponsorship contracts, commissions, or excursions abroad. However, it is important to note that not every gift or benefit is a bribe, but the nature and value of the benefit, the moment at which that gift was offered and the purpose for which it was offered, must be analyzed. Exceptionally, the Chinese criminal law does not consider it to be illegal to obtain potential benefits in the sense of commercial advertising, but totally forbids corruption by promoting and offering price reductions. In the latter case, the Chinese Criminal Code or other special laws do not contain provisions to remove the criminal liability of the authors of

these reprehensible acts. Receiving or accepting a bribe represents a serious violation of the provisions of the Chinese Criminal Code and the Unfair Competition Law.

The acts of corruption committed by individuals operating in the private system are forbidden by the Chinese criminal law stating that it is a criminal offense, "the act of a person exercising a position which does not involve the exercise of the state authority to receive or accept money or other benefits in order to create benefits or legitimate benefits for themselves or others". Moreover, the Chinese Criminal Code establishes in Art. 164 that it is a criminal offense, "the act of a person exercising a position which does not involve the exercise of the state authority to receive or accept money or other benefits for the purpose of creating advantages or benefits for other persons."

Criminal liability is not removed when a person, civil servant or natural or legal person under private law receives, accepts or requests a bribe by intermediary. Moreover, even the intermediary is to be condemned for doing so because it is considered a criminal offense the act of a person who facilitates the receipt of a bribe or mediates it.

When identifying the punishment established for the person who committed the act of corruption, it is necessary to consider whether that person sought to obtain illegal benefits or whether he/she requested the remittance of such benefits to violate the rules protected by the criminal legal norm. However, even if the criminal law drastically sanctions the acts of corruption by civil servants and dignitaries, they can be prescribed. Article 87 of the Chinese Criminal Code provides for the following deadlines for corruption offenses:

- 5 years for acts for which the criminal law provides punishment by imprisonment for a maximum of 5 years;
- 10 years for acts for which the criminal law provides punishment by imprisonment between 5 and 10 years;
- 15 years, for the acts for which the criminal law provides punishment by imprisonment from 10 to 15 years;
- 20 years for acts for which the criminal law provides punishment by imprisonment for life or capital punishment.

### **Aspects on how to investigate serious corruption acts in the People's Republic of China. Condemnation of high-ranking dignitaries**

The first aspect concerns the non-public mode of investigation, retention, and the whole conglomerate of actions against serious corruption. Completely opposite compared to what we see in Romania or Europe, in China, all these actions are made without rumor, without being brought to the knowledge of the general public, as the targeted persons will be detained, judged and condemned without the knowledge of the Chinese people.

The country's population finds out about these corruption cases only after those officials or dignitaries of the state have been convicted or even at an early stage of the criminal trial, when they have already recognized their guilt.

Another aspect specific to the way in which the investigation processes on corruption acts are conducted is the fact that when the offender and the deed he/she has committed are publicly announced, a clear and concrete assessment of the damage is also announced.

The ruling in that file contains provisions relating to the coverage of the damage in that case. Although many corruption acts committed by civil servants in China are reported annually, the population is only presented with those serious facts with major social impact and demonstrating the high social danger of the act committed precisely by the capacity of the person who committed that crime. Chinese President Xi Jinping supported, since the moment when he took over the state leadership, the fight against the phenomenon of corruption, and many politicians with important positions in the state have been sentenced to imprisonment sentences for committing deeds through which they have embezzled public funds (Ziare.com. 2016).

The institution responsible for recording major corruption cases in China is the Central Committee for Disciplinary Investigation. The largest corruption cases investigated by Chinese prosecutors in recent years have led to the condemnation of important state decision-makers, members

of the Chinese Communist Party. These include General Xu Caihou, the former vice president of the Central Military Commission, who was expelled from the party for taking the bribe in return for giving military promotions. Another political leader condemned as a result of the intensification of the fight against corruption in China is Bo Xilai, an important Communist Party dignitary who was sentenced to life imprisonment in a corruption scandal caused by the killing of a British businessman and his wife.

### **The punishments applicable to persons committing corruption offenses, their discovery and sanction**

In the People's Republic of China, committing a corruption offense is considered a very serious deed, with the sanctioning regime being very hard. Punishments that may be imposed on a person committing a corruption offense are provided both in the Criminal Code and in the Unfair Competition Law and can be:

- For corruption offenses committed by civil servants, dignitaries or state institutions, life imprisonment or death penalty, seizure of the entire wealth or seizure of assets acquired by committing that offense of corruption;
- For offenses of corruption committed by persons other than those listed under letter (a), the sentence will be imprisonment for more than 10 years or life imprisonment;
- The fine from 10,000 to 200,000 yuan.

The discovery and sanctioning of the serious crimes of corruption provided for in the Criminal Code are the responsibility of the Prosecutor's Office and the Public Security Bureaus, and the discovery and sanctioning of the corruption offenses provided by the Law on unfair competition is the responsibility of some local services called SAIC. The Chinese Criminal Code regulates the corruption offenses that can be committed by civil servants and senior state officials, and the Law on unfair competition provides for corruption offenses that can be committed in the private sector.

In the case when investigations carried out by SAIC for the investigation of a corruption offense set out in the Law on unfair competition reveal the commission of an offense provided for in the Criminal Code, this entity will decline jurisdiction and send the case files to the competent prosecutor's office. Both the General Prosecutor's Office and its subordinate prosecution offices apply the procedural rules existing in the Chinese Criminal Procedure Code as well as the rules of judicial impact provided by other special laws.

### **Conclusions**

From my point of view, the prevention and fight against corruption in the People's Republic of China should be treated more carefully in the sense that more emphasis should be placed on the prevention of this phenomenon than on the repression. Why? First, because corruption prevention involves fewer costs for the state. If this harsh line of repression of corruption offenses were to be maintained, Chinese citizens could not get involved in the fight against corruption because at this moment Beijing leaders emphasized the condemnation of those who did these acts, and not on public awareness of the effects of corruption. I believe that the drastic punishment of these crimes will not reduce their number, the fear that those who commit such acts feel makes the perpetrators aware of the danger they are exposed to, and they act with much more care.

I also believe that it is necessary to amend the legislation regarding the financing of political parties and the wealth declaration of civil servants and dignitaries. Better supervision of these incomes would lead to a much faster and more effective discovery of serious corruption.

In my opinion, the capital penalty for committing corruption offenses should be abolished because, first and foremost, it violates the right to life of every human being provided in many international conventions and, moreover, there is the possibility of convictions that might then prove to be true legal errors.

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