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Anti-Corruption in Romania

The Way Forward

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Abbreviations and Acronyms

AADR	Agency for Digital Agenda in Romania
ANABI	National Agency for the Management of Seized Assets
ANI	National Integrity Agency
ARO	Assets Recovery Office
CC	Competition Council
CVM	Cooperation and Verification Mechanism
COA	Court of Accounts
CPI	Corruption Perception Index
CPM	Chancellery of the Prime Minister
DLAF	Department for Fight against Fraud
DGA	General Anti-Corruption Department
DNA	National Anti-Corruption Directorate
EBRD	European Bank for Reconstruction and Development
EC	European Commission
EEA	European Economic Area
EIB	European Investment Bank EM – Emergency Ordinance
EU	European Union
FOI	Freedom of Information
GD	Governmental Decision
GIFT	Global Initiative for Fiscal Transparency
GRECO	Group of States against Corruption
GSG	General Secretariat of the Government
HCCJ	High Court of Cassation and Justice
HRM	Human Resources Management
HR	Human Resources
IMF	International Monetary Fund
NIM	National Institute for Magistrates
MRDPAEF	Ministry of Regional Development, Public Administration and European Funds
MLFSPE	Ministry of Labour and Social Justice
MNESR	Ministry of National Education
MoE	Ministry of Economy
MoH	Ministry of Health
MoJ	Ministry of Justice
MoPF	Ministry of Public Finance
MoT	Ministry of Transport
MPCCD	Ministry of Public Consultations and Social Dialogue
NACS	National Agency for Civil Servants
NAFA	National Agency for Fiscal Administration
NALR	National Agency for Land Registry
NAPP	National Agency for Public Procurement
NAS	National Anti-Corruption Strategy
NIA	National Institute of Administration
NIHI	National Institute for Health Insurances
NIM	National Institute for Magistrates
ODRA	Open Data Readiness Assessment
OECD	Organisation for Economic Cooperation and Development
OGP	Open Government Partnership

PEA	Permanent Electoral Authority
PMCI	Prime Minister's Control Inspectorate
POHCC	Prosecution Office attached to the High Court of Cassation and Justice
PVS	Private Virtual Space
SCM	Superior Council of Magistracy
SEAP	Electronic Public Procurement System
SOE	State Owned Enterprise
STAR	Stolen Assets Recovery Initiative
ToT	Training of Trainers
UN	United Nations
WB GSG	World Bank Global Solutions Group
WDR	World Development Report

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Executive Summary

1. The World Bank defines corruption as the misuse or the abuse of public power by elected officials or civil servants for private gains¹.

What is the current situation regarding corruption in Romania?

2. Romania stands at a decisive crossroads regarding sustainable anti-corruption reforms. Over the past years, the country has made significant progress in terms of addressing corruption and implementing judicial and legislative reforms. In late 2016, Romania was praised by the EU for its progress. Yet, many of the anti-corruption accomplishments seem fragile and the progress of the past years cannot be taken for granted. At the beginning of 2017, just after the new government took office, the Ministry of Justice proposed two Emergency Ordinances that would weaken the anti-corruption efforts taken so far, resulting in hundreds of thousands of Romanians taking to the streets in protest. The protests forced the government to back down on their proposals. However, Romania has to make sure that the progress made so far remains irreversible and the pace of reforms remains consistent. Policy areas where corruption remains prevalent need to be continuously strengthened, especially those identified as priorities in the 2016-2020 National Anti-Corruption Strategy (NAS).

Why is the World Bank carrying out this study?

3. At present, the main challenges regarding the reduction of corruption are to be found in transparency of public institutions, institutional integrity, the limited understanding of integrity standards amongst civil servants and beneficiaries of public services. Further challenges are found in the need to build strong administrative control mechanisms to complement the work already done in the criminal justice area, as well as fine-tuning existing practices and consolidating the achievements of the National Anti-corruption Directorate (DNA) and the National Integrity Agency (ANI) in combatting corruption.
4. The World Bank devotes significant attention to governance and anti-corruption efforts as part of its general development strategy. The 2017 World Development Report² underlines the importance of addressing, inter alia, state capture, administrative corruption and clientelism that leads to failure in achieving social security, economic growth, and equity. The Bank believes that change is possible and that together with elites, citizens and international actors, governments can promote incentives that reduce corruption. Failing to act decisively and strengthen anti-corruption policies will have adverse effects for Romania's political and economic stability. This report is addressed to public policy makers, international partners and civic society active in the anti-corruption domain, and provides them with ideas, policy tools and an option menu for reform.
5. The World Bank undertook this study in order to examine Romania's national and international anti-corruption commitments. The goal of this study is to provide a framework of policies that if implemented could reduce corruption in the public sector. The study looks at the progress made in the past years in terms of legislative and institutional changes, as well as the current challenges that Romania is facing. The study provides a strong focus on anti-corruption policies, and

¹ The World Bank, 1997.

² World Development Report, Governance and the Law, 2017

highlights the policy areas where the Bank can assist. The study provides recommendations that are in accordance with the National Anti-Corruption Strategy (NAS), the Cooperation and Verification Mechanism (CVM) and other external commitments. Rather than focussing on enforcement of anti-corruption measures, this report shifts emphasis towards a focus on prevention, as this is a priority of the NAS.

What is the aim of this study?

6. Starting from the definition mentioned at the beginning of the report, the report proposes a framework and policy recommendations to reduce corruption in Romania. It focuses on building a citizen-centric government, where public officials use their mandate for public gain and the public administration is impartial. This type of government will lead to a more just society, a Romania for all Romanians, where no citizen is left behind.
7. The report builds on international best practices. While the research on anti-corruption remains young, the analyses of previous policy interventions provides evidence on what actually works. One finding is that piecemeal interventions generally fail, while integrated approaches are much more likely to succeed³. Another important finding is that these integrated approaches should aim to change the rules (alter the social norms) for sustainable and effective results⁴.

What is included in this study?

8. The central issue of this report is how to reduce corruption in the public sector. It proposes an integrated approach that should focus on four complementary areas of interventions.
 - (i) Reducing the incentives for corruption;
 - (ii) Improving oversight;
 - (iii) Enforcing sanctions; and
 - (iv) Changing the social norms.
9. Romanian institutions need to concomitantly reduce the incentives for corrupt acts in the public sector, increase the chances of identifying cases of corruption, and enforce credible sanctions. For instance, the rational bureaucrat will not be less corrupt if sanctions are not imposed, even with a change in the incentive structures in the public sector and improvement of monitoring. All these parameters should also aim to change the social norms for both demand and supply of corruption.
10. The National Anti-Corruption Strategy is the core instrument in Romania to prioritize anti-corruption measures. Compared with previous strategies, the strategic priorities have changed towards new measures that focus on prevention, actions to combat deeper causes of corruption, education and recovering of the damages resulting from corruption. The areas covered in this study strengthen the strategic priorities of the NAS and provide evidence based policy recommendations that enhance the priorities of the NAS. The European Commission stated in its 2017 CVM report that implementing the NAS may be a potential challenge for Romania. This study provides an overview of the policy areas where the Bank can provide assistance in implementing the NAS.

³ Organisation for Economic Cooperation and Development and Asian Development Bank, 2005

⁴ Hanna et al, 2011

Where can the World Bank offer assistance?

11. The World Bank has experience in reducing corruption in the following specific areas: (i) increasing the professionalism of the Romanian civil service, (ii) increasing the transparency of public institutions, (iii) reducing corruption in public procurement, (iv) improving service delivery, (v) improving asset recovery, (vi) promoting education regarding anti-corruption.
12. The report aims to present a stocktaking of the most relevant achievements in the fight against corruption since the transition to democracy. It proposes a comprehensive engagement framework with the Romanian Government on anti-corruption. The document includes analysis and proposals for policy options for all areas of intervention. The study was developed following comprehensive consultations with relevant Romanian public institutions, civil society, and the international community.
13. The study is limited to the areas where the World Bank has a mandate and in Romania and where the Bank can be a strong partner in delivering results. The World Bank team recognizes that this approach does leave gaps in analysis of corruption related to political parties and parliamentarians. As such the report does not address certain areas for example, the reform of political parties, clientelism around electoral cycles, and the accountability of parliamentarians all of which are key to effective anti-corruption efforts in Romania. Our research does not include any of these aspects, as this is a sensitive domestic agenda that should be driven internally to have impact and be sustainable. However should the government invite the World Bank to engage in these areas we stand ready to assist. Actions to improve the justice sector are already covered in great part by the EU's Cooperation and Verification Mechanism (CVM). The World Bank has no intention to overlap with these activities, but stands ready to support them if invited.

How is this report organized?

14. The report is organized as follows:
 - **Chapter 1 Country Context:** The first chapter presents the status quo and diagnoses the reasons for continued corruption in Romania. It examines the perception of corruption by citizens and business along with the consequences. The chapter also proposes a “theory of change” that can support Romania’s anti-corruption agenda in an integrated manner.
 - **Chapter 2 Legislative and Institutional Frameworks:** This chapter presents a brief analysis of the institutional and legislative framework for anti-corruption initiatives in Romania, highlighting the main achievements from the past years and remaining challenges ahead.
 - **Chapter 3 Policy Options:** Building on the framework proposed in the previous sections, this chapter proposes policy options to reduce the incentives for corruption, increase the chances of getting caught and enforce sanctions on the corrupt, while implementing measures to change social norms.
15. The first section on reducing corruption proposes the introduction of a meritocratic civil service to make a shift from nepotism and politicisation to performance and professionalization of the civil service. At the same time, increasing the transparency of government reduces the incentive for corruption because the decision-making and budget allocation is under scrutiny from citizens and civil society. A transparent government is also an enabling condition for accountable public institutions. Introducing a functioning feedback mechanisms and inviting public participation will

increase the chances that corrupt public servants, politicians and business people will be caught. At the same time, improving public procurement in accordance with the principles of competition, transparency and integrity, reduces the risks of corruption.

16. While reducing incentives and improving accountability mechanisms and public procurement can support the prevention of corruption, enforcing credible sanctions is critical to dissuade corrupt activities. At present, the role of the government is limited to sending complaints to the prosecutor, and it is up to the Prosecutors Office to investigate the respective cases. Administrative control mechanisms should be strengthened to address integrity breaches that are not suitable for criminal investigations, as well as other breaches of the law that would be more efficiently dealt with through administrative procedures.
17. Regarding asset recovery, the government needs to establish trustworthy and reliable mechanisms providing the justice sector assistance throughout the whole cycle of investigation, prosecution and trial. General trust in the rule of law and justice will not increase if those convicted of corruption are not stripped of their illegally acquired wealth.
18. The three areas above are complementary and need to be implemented together, but they will depend on the efforts of well-intentioned, high-level politicians to drive the reform. While these are important, concrete measures to improve the public administration overall by crowding out corrupt practices, and improving social norms remain critical. In societies with widespread corruption, addressing this issue as a collective action problem can support sustainable and effective interventions. As long as the moral, financial, personal, and social cost of corruption in Romania does not increase, the interventions to reduce corruption will not be sustainable. Public institutions and civil society need to continue investing in educational programs and social campaigns. These measures should aim to change the way citizens think about corruption at all levels, including petty corruption. They should change the social norm that currently accepts bribery as a widely-practised act that cannot be changed by individual action to it being seen as the individual's contribution to an unjust society, poor service delivery, the continued brain drain, lack of development and perpetuated inequality.

What are the next steps?

19. The authors intend to use the framework contained in this report for broader engagement and to develop more in-depth sectorial analysis with relevant sector representatives. This could also include some of the priority areas, as proposed in the NAS, such as public procurement, healthcare, education, or management of EU Funds. In each of these areas, the report outlines the next steps that the current administration could take to make progress on anti-corruption in the coming years. The authors intend to partner with interested government institutions and international partners interested in making progress on this agenda to implement the report's findings.

Chapter 1: Country Context

20. This chapter sets out the overall context for anti-corruption efforts in Romania starting with a definition of corruption. Secondly, this chapter examines the perception of corruption in Romania. Thirdly it describes the progress that has been made so far, as well as the current challenges that Romania is facing regarding reducing corruption in the public sector. A fourth topic is the costs of corruption, reflecting the damages to inclusive growth and how it affects human capital development. The report then shows how the perception of corruption differs at the regional level. Finally, it presents the international perception of corruption and the anti-corruption efforts that have been made at the international level.

Defining corruption

21. Corruption is a complex phenomenon and is deeply rooted in bureaucratic and political institutions as well as in human behaviour. There are many competing definitions for corruption as it covers a broad range of human actions. The definitions for corruption are ranging from public- office centred definitions⁵, to more market centred definitions⁶ or definitions capturing public interest. As this study aims to offer policy recommendations to reduce corruption in Romania's public sector, rather than providing a comprehensive literature review on the different definitions, this study builds on the definition used by the World Bank.
22. The World Bank defines corruption as the misuse or abuse of public office (by civil servants or elected officials) for private gain⁷. Public office is abused for private gain, when a civil servant, or elected official, accepts, solicits, or extorts a bribe. Moreover, abuse of public office occurs when private businesses actively offer bribes in order to circumvent public processes in order to obtain competitive advantages. This definition is used by organizations that work in the field of anti-corruption, and is also widely used in literature.
23. The tools of corruption as identified by the World Bank are: bribery, theft, political and bureaucratic corruption, isolated and systematic corruption as well as corruption in the private sector.
- Bribery can be used by private parties to acquire services and goods that are offered by public institutions or public officials. Bribes influence the following issues; government contracts, government benefits, licences, lowering taxes, time (reduced time to obtain permissions in order to carry out legal activities such as constructions), and legal outcomes.
 - Theft, corruption can be theft of state assets under the consent of public officials, as well as theft of financial resources of the government.
 - Political and bureaucratic corruption can happen at all levels either separately or simultaneously. It involves election campaigns and the financing thereof as well as conflicts of interest of parliamentarians and public servants.
 - Isolated and systemic corruption; corruption can either occur rarely, or it can be a widespread phenomenon in society. Systemic corruption is present when bribery happens on a large societal scale and is ingrained in the routine of affairs within the public sector. In the case of systemic corruption business that interact with the government are often nudged into bribing.⁸

⁵ Joseph Nye, *Corruption and Political Development: A Cost Benefit Analysis*, (1967).

⁶ Heidenheimer, *Political corruption*, 2002.

⁷ The World Bank, 1997

⁸ The World Bank, *helping countries combat corruption: The role of the World Bank*, 1997

The Perception of Corruption in Romania Remains High

24. Despite recent improvements, the perception of corruption in Romania remains high. In 2015, 93 percent of Romanians stated that corruption is widespread in Romania⁹ (as compared to 76 percent – the EU average), and 70 percent of Romanians believe that the Romanian society is unjust¹⁰. In addition, only 7.7 percent of Romanians believe that most people can be trusted¹¹ (compared to 60.1 percent in Sweden, 39 percent in Estonia or 22 percent in Poland). In the same year, 74 percent of business representatives stated that corruption is a problem for their company when doing business in Romania. Half the participants in a public procurement procedure in the past three years say that corruption prevented them from winning.
25. According to a World Bank study on the business environment and investment performance, 44% of Romanian businesses perceive corruption in public administration to be lower than 2 years ago. Romania scores 48 points, on a scale from 0 (very corrupt) to 100 (clean), and falls below the midpoint. Even though the score has improved from 46 points to 48 points compared with 2015, it means that Romania's citizens still feel the impact of corruption on a daily basis according to the Transparency International Corruption Perception Index of 2016. The corruption perception index shows how corrupt the public sector is seen to be¹². Romania's score relative to other EU 11 Member States is presented at the end of this chapter.
26. A diagnostic study regarding the perception of corruption was carried out by the World Bank in 2000. The study examined perceptions amongst citizens, civil servants and businesses. The data indicate the following: 38% of the public officials, 42% of the households and 28% of all enterprises encountered bribery when interacting with public institutions and services. Nearly all managers of enterprises that were asked the question on how many times they were supposed to pay a "fee" for interacting with governmental bodies answered this question positively. Moreover 42% of the firms were significantly affected by skewing parliamentary votes in favour of certain economic interests. In order to more extensively capture the situation in Romania with regards to corruption the implementation of a much smaller scale diagnostic using the same approach can be helpful.¹³
27. Corruption is one of the key issues in the public discourse in Romania. Even though anti-corruption rhetoric was present in the public discourse of the political parties before the 2016 elections, the position of the parties on implementing anti-corruption measures was often ambivalent as certain political parties stated that DNA and ANI were abusing their mandate while carrying out anti-corruption measures. The number of civil society organisations that focus on the fight against corruption has grown and the organisations have become increasingly vociferous over time. The Romanian media covers this topic extensively, especially high-level corruption cases¹⁴.

Romania Has Made Great Progress on Fighting Corruption in Recent Years

28. Romania has made great progress on the institutional and legislative framework for fighting corruption. The Romanian National Anti-Corruption Directorate (DNA), created in 2002 addresses medium and high-level corruption cases, and is one of the most trusted institutions in Romania. In

⁹ European Commission, 2015

¹⁰ Romanian Institute for Evaluation and Strategy, 2010

¹¹ World Values Survey, 2014

¹² Transparency International, 2016

¹³ World Bank, Romania-Diagnostic Surveys on Corruption, 2000

¹⁴ European Commission, CVM report, 2017

2016, 60 percent of Romanians said they have confidence or great confidence in DNA compared to less than 11 percent for Parliament.¹⁵ Yet, in 2016 there was a decline in public trust in the judiciary. This decline appears to be related to public statements of politicians in various media outlets regarding alleged mistakes made by judges and prosecutors.

29. DNA investigates high and medium level corruption. In 2016, 403 cases of corruption were sent to trial, including 161 high profile cases and more than 1,000 individuals. DNA accused of corruption the following high profile persons: one president of the Chamber of Deputies, twelve Deputies, six Senators, one Minister, one president of the Chamber of Commerce and Industry in Romania, one Secretary General of the Senate, two State Secretaries, The sitting president and vice-president of the County Council and one vice-president of the Electoral Authority. DNA reported that up to 90% of cases originate from citizens' complaints, less than 5% of the cases originate from notification are ex-officio complaints or complaints from other institutions and less than 55 cases came from notifications of the intelligence services¹⁶.
30. In 2015, DNA prosecuted 1,250 defendants for high and medium-level corruption, including one prime minister, five ministers, 16 Lower Chamber lawmakers, five Senators, more than 100 mayors and county council chairpersons; one third of the county council chairmen are on trial. Criminal courts have given final sentences to over 970 defendants prosecuted by the DNA.
31. The National Integrity Agency (ANI) was set up in 2007. Furthermore, on the administrative verifications of declarations of assets and interests put in place by the National Integrity Agency (ANI) have led to confiscations of unjustified wealth and dismissals of public officials, including at high-level, for conflicts of interests and incompatibilities. These sanctions, together with the transparency component of the assets and interest disclosures reduced the incentive for corruption. In 2016, ANI published almost 7 million asset declarations.
32. The General Anticorruption Directorate (GAD) in the Ministry of Interior also made progress in implementing prevention activities, training, and risk assessments in their subordinated institutions. Together with DNA and ANI these anti-graft institutions are international models of good practice which other countries are actively studying and replicating in the region¹⁷.
33. Despite the success in prosecuting anti-corruption cases, more work is still needed especially on the prevention side where progress has been piecemeal and identified with individuals rather than institutions.¹⁸ Similarly, although asset recovery has become a government priority the rate of recovery remains low at around 10 percent. This phenomenon is wide spread across all levels of the Romanian public sector, institutions that are having prevention policies are rather an exception than the norm.

¹⁵ INSCOOP Research, 2016

¹⁶ European Commission, technical report on Progress in Romania under the Co-operation and Verification Mechanism.

¹⁷ General Anti-Corruption Directorate; <http://www.mai-dga.ro/eng/about-us/mission>

¹⁸ An Evaluation of the Impact of the National Anti-Corruption Strategy 2012-2015 in Romania, carried out by a group of independent experts, 19th May 2016.

Table 1: Evolution of Legislative and Institutional Framework for Anti-Corruption

1996

Law 115: on the declaration of interests and control of assets for magistrates and public officials

1999

Law 188: on public service and conflict of interests, incompatibilities, recruitment, corruption

2000

Law 78: on prevention, detection and punishment of acts of corruption, and establishment of a specialized unit to prosecute cases of corruption

2001

Law 544: on access to public Information

2001

The national anti-corruption strategy for 2001-2004

2002

Emergency Ordinance 43: on the establishment of DNA

2002

Ratification of the 1999 Criminal Convention about Corruption

2003

Law 52: on transparency in decision-making

2003

International commitments: UN Convention Against Corruption – ratified by Romania in 2004

2003

Law 161 - regulations on incompatibilities and conflicts of interests

2004

Law 7: on the code of conduct for civil servants

2004

Law 477: on the code of conduct for contractual staff

2004

Law 571: on the protection of whistle blowers

2005

Law 261: on the establishment General Directorate of Anti-corruption

2005

NSA for 2005-2007

2006

Law 96: on the statute of senators and deputies

2006

Emergency Ordinance 34 on public procurement approved by Law 337

2007

Start of the Cooperation and Verification Mechanism

2007

Law 144: on the establishment of National Agency for Integrity

2008

NSA in the vulnerable sectors and local public administration (2008-2010)

2008

Decision 175: on the rules for assets and interests' declaration

2009

Law 286: The Penal Code

2010

Law 135: Procedural Code for the Penal Code

2010

Law 176: on integrity of public officials and additions to the law 144/2007

2011

Start of the Open Government Partnership

2012

The national anti-corruption strategy (2012-2015)

2012

Law 24: Judicial inspection becomes an autonomous organism in Supreme Court of the Magistracy

2015

New strategy for public procurement and new agency: National Agency for Public Procurement

2015

Establishment of the National Agency for Management of Seized Assets

2015

Establishment of Ministry of Civic Dialogue and Public Consultation

2016

NSA for 2016-2020

2016

London Summit on anti-corruption

2016

Law 184: on prevention of conflict of interests in public procurement
New legislation on public procurement (Laws 98, 99, 100, 101)

Source: Author's compilation

34. An evaluation of the previous National Anti-Corruption Strategy (NAS) revealed that the Romanian public procurement process remains one of the most vulnerable for corruption, as well as in SOE's. During an onsite mission an interviewed DNA employee stated that numerous cases of corruption and abuse of office take place in state-owned enterprises. Corruption affects decisions around if and what goods or services to produce in the first place. The study showed that only a quarter of the Romanian business people have taken part in public procurements, the main reasons for not participating are tailor made bids and a burdensome tendering process¹⁹. Reducing the risk for corruption in public procurement is proposed as one of the main areas for improvement and the relevant policy areas are presented later in this report.
35. Government approved a new National Anti-Corruption Strategy 2016-2020, designed with the participation of relevant social actors and institutions. However, commitment from politicians for the fight against corruption remains low. Despite public support and political declarations on zero-tolerance on corruption, Parliament does not exhibit a strong commitment to reducing corruption. Currently, in accordance with the Criminal Code, additional conditions are applied for a supplementary penalty such as the ban on the exercise of certain rights (e.g. right of being elected to the ranks of public authority) can be applied under certain conditions. A ban being elected for public office can only be exercised if the main penalty is imprisonment, or a fine, and is accompanied by a Court opinion that considers this ban appropriate. Parliamentarians may be subjected to criminal investigation for acts that are not related to their political beliefs. Yet, parliamentary immunity needs to be lifted in order to apply preventive measures. Ministers, on the other hand, enjoy immunity against criminal investigations. Before starting criminal investigations, the prosecutors have to request the lifting of immunity of ministers from the Chamber to which they belong, if they are also MPs or from the President of the country if they are not. One third of the requests to lift immunity were refused by Parliament in 2015²⁰. No reason was given as to why some requests are approved and others not, despite the constant requests in this regard included in the CVM reports.
36. Romania's progress and setbacks regarding legislative and institutional change in order to reduce the risk of corruption are discussed more extensively in Chapter 2 of this study.

Corruption Damages Inclusive Growth and Affects Human Capital Development

37. While it is difficult to accurately quantify the total cost of corruption in Romania, some estimates are possible. In 2015, the total value of money and goods acquired as result of criminal corruption was over Euro 431.6 million a figure comparable with the budget foreseen for the co-financing of Romania's motorways program in 2016, 2017 and 2018. The estimated damage caused by these criminal products, amounted to Euro 753 million, and doubled in value compared with 2014. These estimates do not include petty corruption and its social costs. Such first order evaluations also ignore the lost growth resulting from investors (both domestic and international) who are discouraged from starting ventures in Romania²¹.
38. International studies have shown that corruption affects growth and fuels inequality. On the one hand, corruption diverts resources from public goods to private interests to the detriment of the poor. Consequently, the services delivered are of low quality and costly because informal payments

¹⁹ Ministry of Justice, Organisation of Economic Cooperation and Development. Anti-Corruption Network for Eastern Europe and Central Asia, 2016

²⁰ European Commission, 2016

²¹ DNA Report, 2015

often work as a regressive tax that further impoverishes the poor. As a response, some citizens may opt for an exit strategy to avoid public services and rely exclusively on private healthcare or schooling. This option is not available to the poor and thus they become the main victim, fuelling the public system with informal payments.

39. Corruption affects not only service delivery, but also growth. Corruption undermines the overall capacity of the state to perform its main functions such as fiscal, market regulations, monetary policy, financial sector oversight and public order and enforcement²². When public policy is privatised and clientelism is widespread, the state loses its capacity to ensure macro-fiscal stability and to protect public and private physical capital.
40. Inevitably, all these elements damage human capital development and ultimately fuels the brain drain.²³ When the government chooses to spend public funds on satisfying the interests of certain individuals, not to serve the public, tax collection falls as trust in institutions is low. This correlates with Romania's tax collection rates that are the lowest in the EU at just 28 percent of GDP.²⁴ The low rate of taxes collected may lead to insufficient public spending on healthcare (Romania spends just 5 percent of GDP on health, the lowest in the EU) and education (Romania spends just 5 percent of GDP on education, the lowest in the EU)²⁵, which perpetuates inequality.
41. Given this context, it is not surprising that 70 percent of Romanians believe their society is unjust, lacking equality of opportunity, and that most of the people that acquired wealth did so illegally. The current perception in Romania is that WHO not WHAT one knows matters more. With these norms in place, many well-qualified professionals have more chance to succeed abroad than in their own country leading to the massive brain drain that Romania suffers from²⁶.

Variations in the Perception of Corruption are High in Romania

42. Some countries in Europe have significant disparities in the quality of government at the regional level. This measurement includes both citizens' perception and experiences with public service delivery in key areas: healthcare, education and law enforcement. Romania has the second largest regional variation at regional level, after Italy. While the perception of corruption in all regions in Romania is high compared to other EU countries, there are clear variations between regions. More specifically, the highest perception of corruption is in the Southeast, where there is also the highest perceived impartiality and quality of services. Romania's North West performs best in having a low level of corruption (see Figure 1), with the corresponding better quality of public services and perceived impartiality when accessing these services²⁷.

²² International Monetary Fund, 2016

²³ Tanner, Arno, "Risking Brain Drain", Harvard International Review, July 17th 2006

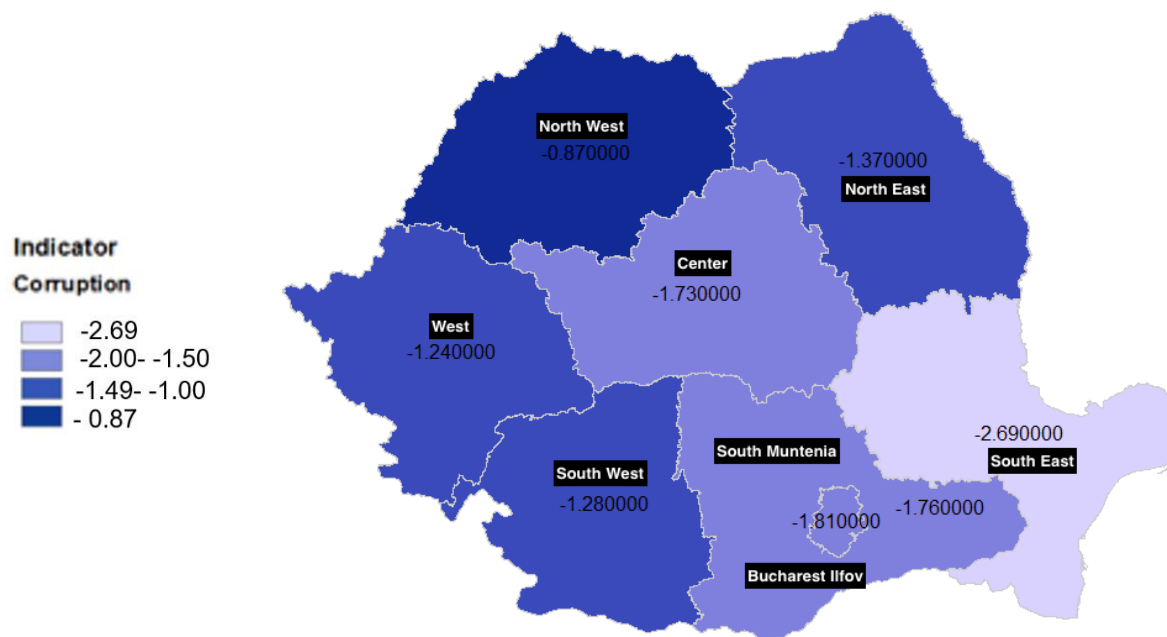
²⁴ http://ec.europa.eu/eurostat/statistics-explained/index.php/Tax_revenue_statistics

²⁵ [http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Total_general_government_expenditure_on_education,_2014_\(%25_of_GDP\).png](http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Total_general_government_expenditure_on_education,_2014_(%25_of_GDP).png)

²⁶ Romanian Institute for Evaluation and Strategy, 2010

²⁷ Charron et al, 2014

Figure 1: Perceived corruption is high in all regions in Romania, especially in the Southeast



Source: Charron et al (2013)

43. In societies where corruption is to be perceived as widespread, the social norm is to be corrupt. Hence, reciprocity explains the perpetuation of corruption. When most people expect others to avoid the rules and not suffer any consequences, they would most likely reciprocate this behaviour and not follow the rules themselves. In line with this, the social trust in Romania is low: only 7.7 percent of Romanians believe that most people can be trusted, while more than 90 percent believe that one needs to be “very careful of other people”²⁸. In the absence of an authoritative interpretation and enforcement of the rules, it is easy to find excuses for breaking them. Therefore, a well-balanced approach to the phenomenon should consider both active and passive corruption.
44. The Romanian Ministry of Justice in collaboration with the VU University of Amsterdam carried out a study on corruption in Romania, and analysed convicts motivations for engaging in acts of corruption. The outcome of this study shows that most offenders engaged in these activities in order to increase their personal satisfaction, and out of the desire to improve the living conditions of their families. Moreover, the convicted persons that encountered more opportunities for engaging in corrupt acts, felt less of a moral obligation in refraining from corruption. According to the study, effects in anti-corruption policy can be achieved by implementing and communicating strategies that not only aim at fighting corruption but also focus on the enforcement of integrity²⁹.

²⁸ World Values Survey, 2014

²⁹ Romania Ministry of Justice, Ministry of Foreign Affairs of the Netherlands, VU University of Amsterdam; Offenders on Causes and Consequences of Corruption; A study on corruption in Romania, 2015

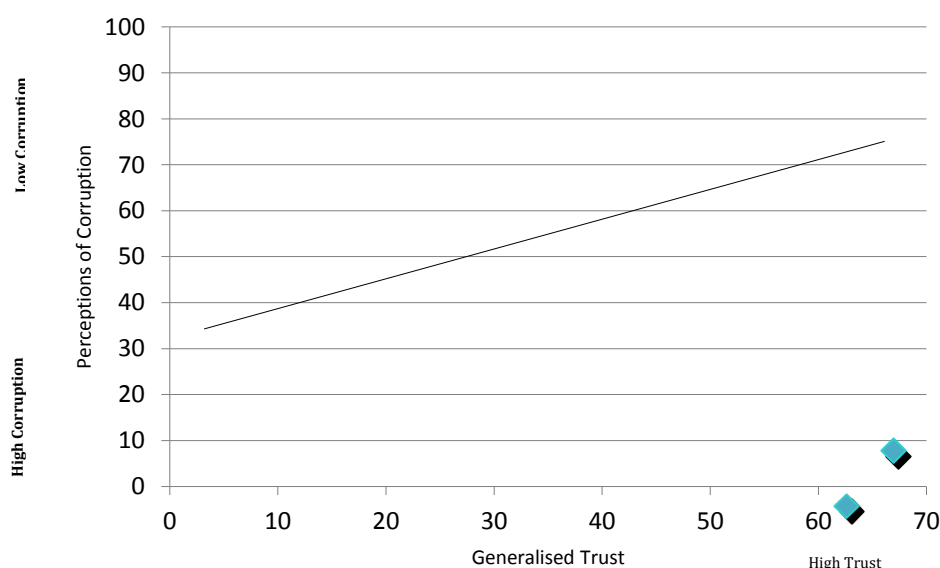
Table 2: Regional Disparities across Romania for Perceived Corruption

Region	Quality of Services	Impartiality	Perceived Corruption
Nord West	0,9	0,39	-0,87
South West	0,64	0,01	-1,28
Center	0,36	-0,24	-1,73
South Muntenia	0,66	-0,69	-1,76
North East	0,33	0,01	-1,37
South East	-0,09	-1,08	-2,69
West	0,87	-0,06	-1,24
Bucuresti Ilfov	0,34	-0,78	-1,81

Source: Quality of Government Institute

45. The low level of generalised trust correlates to high levels of perceived corruption. Figure 2 below plots countries' trust and corruption scores and shows a correlation of 0.5 between the two indicators. The Generalised Trust reflects the percentage of respondents that believe most people can be trusted in their society. The level of Generalised Trust is measured in the World Values Survey on a scale from 0 (low generalised trust) to 100 (high generalised trust). The Corruption Perception Index from Transparency International shows the expert perception of public sector corruption. The Index ranks countries on a scale from 0-100, where 0 is highly corrupt and 100 is very clean. As can be seen below there is a negative correlation between trust and corruption. In countries where there is high perception of corruption there is a low level of trust.

Figure 2: Correlation Between Generalized Trust and Corruption Perception Index



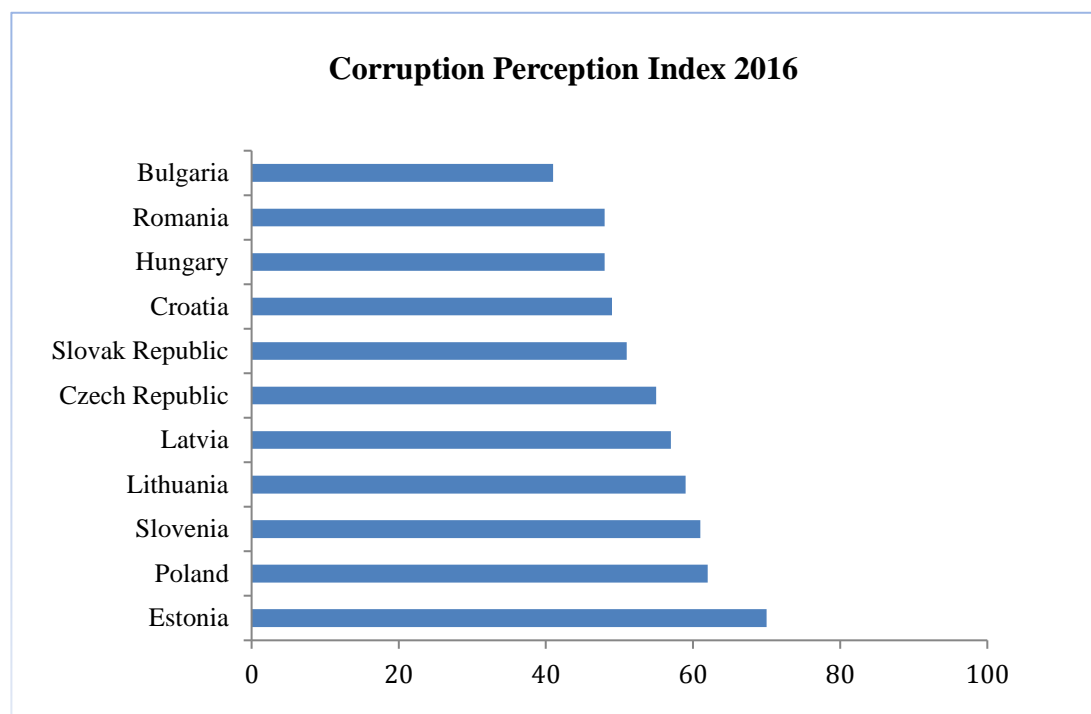
Source: Corruption Perception Index

Romania's corruption in the EU context

46. As previously stated in this chapter, the perception of corruption in Romania is higher than in other European Union countries. In Transparency's International's Corruption Perception Index 2016,

Romania has the second lowest rank compared with other countries in the EU 11³⁰ (see below). Transparency International ranks the perception of corruption in 176 countries on an annual basis. The score ranges from 0 (highly corrupt) to 100 (very clean). Romania has a score of 48 in 2016 and falls below the midpoint. Countries that fall below the midpoint indicate endemic corruption within the public sector³¹.

Figure 3: Perception of Corruption in EU 11 countries



Source: Transparency International 2016 data

47. A comparison between Romania and other EU Member States regarding corruption in the public sector is provided below, using both quantitative and qualitative indicators from Europam, see Box 1. Europam is a data collection initiative to improve the transparency of the public administration and to enhance the accountability of public officials. Europam is a continuation of the Public Accountability Mechanism of the World Bank, a data collection initiative on in-law and in-practice efforts to improve the transparency in the public sector. Europam uses five mechanisms, that are composed out of a set of indicators. Box 1 provides a comparison between the score of Romania, France and Spain on the five Europaan mechanisms, in order to contextualize Romania's situation against the score of 'old' EU Member States³².

³⁰ The newest Member States of the EU are referred to as EU 11.

³¹ Transparency International, 2017

³² Europam website: <http://europam.eu/?module=about>

Box 1: Administrative Transparency and Accountability

Europam measures the comprehensiveness of a country's legal framework by using the five mechanisms:

1. Political financing
2. Disclosure
3. Conflict of Interest Restriction
4. Freedom of Information
5. Public Procurement

The comprehensiveness of the legal framework of France, Romania and Spain is assessed against these five mechanisms to put the situation of Romania into context and to explain its administrative transparency as well as its accountability. The country scores are between 1 and 100. 1 meaning very limited comprehensiveness of regulation and 100 meaning high comprehensiveness of regulation.

France

1. **Political financing:** score 85/100 due to comprehensive legislation on financial transparency in the political spectrum. There are significant limits on private income of political parties and there are bans on donations from foreign entities. Public funding is available for political parties. Parties need to keep yearly accounts. France scores high on the indicators "bans and limits on private income", "public funding", "regulations on spending", and "report and oversight sanctions".
2. **Financial disclosure:** the score is 83/100, due to an updated legislative network on declaration of real estate, movable assets, cash, debts and gifts. There are disclosure requirements for both public officials as well as their close family members. Regulations on sanctions for fillings enhanced as well as there is a maximum score on monitoring and oversight of disclosures. Public access to declarations is in place but can be improved
3. **Conflict of interest:** score of 72/100 due to improved Regulation on prohibiting public officials from holding government contracts or having managerial functions in private enterprises. Sanctioning mechanisms on violating laws on conflict of interest improved and monitoring and oversight has a maximum score.
4. **Freedom of information:** score 41/100, lower than EU average. There is no public interest test whereby the exceptions for disclosure may be overridden. There is only a non-binding opinion of a commission on access to documents. No sanctions in place regarding violation on freedom of information and there are no oversight bodies.
5. **Public Procurement:** score of 77/100. There is comprehensive legislation in the field of public procurement, as regulated by Public Procurement Contracts Code. There are minimum thresholds for public procurement as well as there is a minimum number of bidders. In cases where preferential treatment for SME' is used, there is a minimum submission.

Romania

1. **Political financing:** score 89/100 due to laws regulating the financing of political parties in Romania. There are limits on the private income of political parties and bans on donations from foreign entities. Public funding is available for political parties based on the share of votes in elections. There are comprehensive regulations on spending and vote buying is specifically forbidden. Parties have to keep accounts and must publicly reveal information regarding the finances in relation to election campaigns and the identity of the donors.
2. **Financial Disclosure:** score 87/100. A high score due to disclosure requirements for all public officials including declaring real estate, cash, debts, gifts and moveable assets, spouse and children are included in disclosure regulation. Statement need to be made when taking and leaving office, and updated annually. There are sanctions in place for submitting false statements (prison/ fine). There are integrity inspectors that are responsible for verifying declarations accuracy and for law enforcement. Responsible for accuracy and law enforcement and there is an online public access to declarations.

3. **Conflict of Interest:** score 54/100, a score due to no regulation on conflicts of interest for head of state, and MP's are not prevented from the decision making process where they have a private interest. Only Civil Servants are restrained from helping family members to obtain employment in the public sector. There are sanctions in place on violating regulations on conflict of interest, and there is a dedicated enforcement body in place, yet not for MP's. ANI functions as monitoring body for the Head of State and Ministers.
4. **Freedom of Information:** score 64/100. There is a freedom on information law, specifying information, and access to information and the release of information. Appeals can be made with public authorities and courts but there is no specified process through an independent non-judicial mechanism. There is no sanction mechanism for non-compliance and little regulation on monitoring and oversight.
5. **Public Procurement:** score 71/100. The procurement system is regulated by government emergency ordinance 34/2006 and 71/2009. There are minimum thresholds in place for conducting public procurement tenders. Regulation on information availability is in place. Regarding bid evaluation there are conflict of interest restrictions but independence from the contacting authority is not mandatory and court decisions are not released in case of arbitration procedures.

Spain

1. **Political financing:** 58/100. There are laws in place regulating political financing. There are no bans on donations from foreign entities or trade unions and there is limited regulation on private income of political parties. Public funding is available for parties, but it is unconditional.
2. **Financial disclosure:** 42/100. Legislation on regulating conflict on interest of members of government and senior officers in Administration is in place. Only MP's and civil servants disclose income from outside employment. Filing frequency is regulated in a limited way as well as sanctioning. Score on monitoring and oversight decreased, as well as public access to declarations is very limited.
3. **Conflict of Interest:** score 22/100. Low score, laws governing conflicts of interest are in place but are inconsistent. MP's are banned from having executive roles in private companies but have no further restrictions. No sanctions in place for violation of conflict of interest rules, and there is no monitoring nor enforcement body regarding MP's. Head of State is exempted from conflict of interest law.
4. **Freedom of information:** score 57/100. The government is excluded from the freedom of information law, and specific exemptions to disclosure are in place but can be overridden when the public interest prevails. There are no sanctions for non-compliance and there is little monitoring and oversight.
5. **Public Procurement:** 54/100. Public procurement is regulated since 2011 by legislative decree and additional legislation. A minimum number of bidders exists but there is no case for preferential treatment. There are little institutional arrangements in bid evaluation and arbitration, e.g. there is no conflict of interest regulation on the composition of the tender evaluation committee.

Source: Europam.eu³³

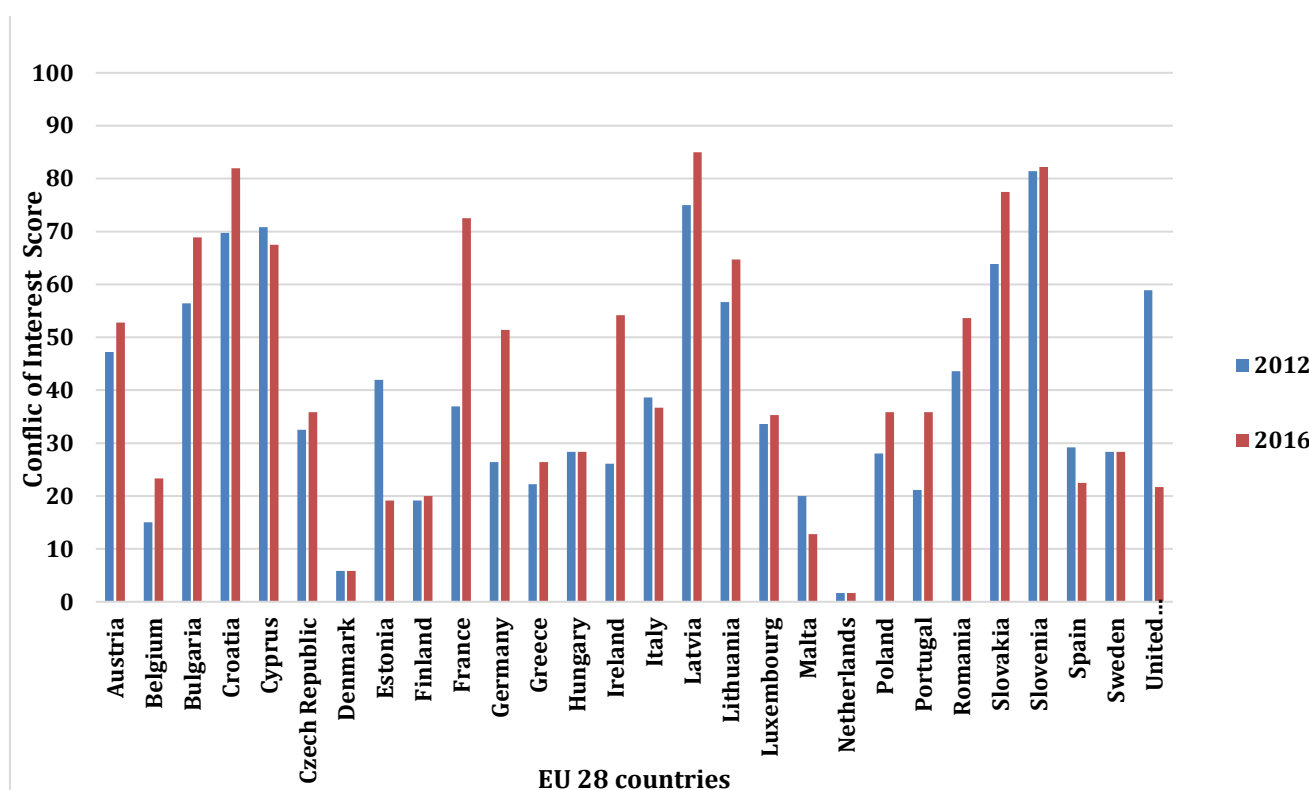
48. Romania's Europam score on Conflict of Interest is presented below along with other EU28 countries for the years 2012 and 2016. The score ranges from 0 to 100, a score of 0 indicating low comprehensiveness of conflict of interest regulations and a score of 100 representing high comprehensiveness. The underlying indicators are based on restriction indicators, indicators on sanctions, and indicators on monitoring and oversight, all applied to ministers, heads of state and civil servants. The indicators are quantified on a 0 to 1 scale, a binary category that reflects whether a provision exists within the law or not. Romania falls within the top ten countries that have a high

³³ *ibid*

score in comprehensiveness of conflict of interest regulations. The Monitoring and Oversight function is carried out by ANI.

49. Yet, such complex set of regulations may be also a hardship for the functioning of Romania's civil service. The complexity of regulations can result in reluctance to take decisions. Members of Parliament as well as civil servants should be aware of the ethical dimensions of their activities, so that their actions can efficiently and effectively provide public services without putting them in the position of breaching integrity regulations.

Figure 4: Conflict of Interest score EU 28 countries



Source: Europam.eu data

50. Romania has relatively high comprehensiveness of regulations with regard to transparency and accountability. Yet the public perception of corruption remains relatively low according to Transparency International data. Progress seems to be overshadowed by perceived level of corruption voiced by Romania's citizens and businesses. Reducing corruption is not only a matter of strong enforcement, but it also requires a change in social norms that change the incentives of public officials. Chapter 2 will outline the progress and setbacks of the legislative and institutional reforms over the past twenty years. By showing the progress and the challenges of the sector, this study will be able to propose policy options that reflect the needs of the sector and that may enhance the implementation of the NAS.

Chapter 2: Evolution of anti-corruption efforts in Romania since the transition

51. Romania has made significant progress over the past years in terms of addressing corruption and implementing judicial and legislative reforms. Yet, legislative actions of the government in early 2017 have jeopardized this pace of reform. The following chapter reflects the process of the legal and institutional anti-corruption framework over time as well as the role of international institutions and mechanisms in Romania in order to explain the progress, and the recent slowdown regarding anti-corruption efforts. The selected time-frame of this chapter is 1989- 2017, following Romania's transition to democracy after the fall of communism. The current anti-corruption framework is shown below in Figure 5.

The Anti-Corruption Framework Has Gradually Progressed Over Time

The Post Transition Period (1990-2000)

52. The fall of communism in 1989 marked a new chapter of political, economic and social transformation of Romania. Far-reaching legal, administrative and institutional reforms were needed to ensure Romania's transition and to build a sound private and public sector. Yet, in transition countries, corruption proved to be persistent and Romania faced problems in terms of administrative corruption³⁴ and state capture³⁵ according to a joint WB and EBRD study³⁶. In order to effectively fight corruption, the legal and institutional framework had to be updated.

53. National and international efforts remained almost absent during the early nineties. The Copenhagen European Council meetings of 1993 represented the historical promise of Countries of the European Community to Central and Eastern European countries, to become members of the Community, provided these countries could undertake the necessary political and economic reforms. But the EU did not officially address corruption in Romania until 1997³⁷.

54. Romania has a relatively young legislative and institutional framework to fight corruption. Some of the earliest legislation was passed in the late 90s', starting with Law no. 115/1996, on the declaration of interests and declaration of assets for magistrates and public officials. Legislation on integrity and administrative controls was further developed in the years that followed. However, during the transition years, the Romanian public came to believe that corruption had achieved a level of state normalcy, according to a WB study on the perceived level of corruption in Romania.³⁸

55. Only after the second part of the nineties, anti-corruption work moved into the arena of international development, as James Wolfensohn³⁹ stated that in order to achieve growth and reduce poverty, "We need to deal with the cancer of corruption". Corruption was a phenomenon that had long been ignored at the international level⁴⁰.

56. In 1997, in the light of Romania's future EU accession, the European Union made its first official statement regarding corruption and stated that Romania still needed to undertake considerable

³⁴ Corruption regarding the implementation of laws, rules and regulations

³⁵ Corruption affecting the actual design of these laws

³⁶ BEEPS World Bank and EBRD, 1999

³⁷ European Commission, Enlargement Strategy Paper, 2000

³⁸ World Bank, Romania-Diagnostic Surveys on Corruption, 2000

³⁹ President World Bank 1996,

⁴⁰ Vinay Bhargava, Curing the Cancer of Corruption, World Bank, 2006

efforts in order to improve the operations of the judicial system and to reduce corruption⁴¹. This message was reaffirmed in the EU communication “Agenda 2000” however clear anti-corruption measures were not yet initiated.

57. Romania’s first institution that exclusively focused on combatting corruption was also established in 1997, namely the National Council for Action Against Corruption (CNAICCO). CNAICCO fell under direct supervision of the executive, the President, and functioned without a clear jurisdiction or legal framework. The Council’s main activity was collecting complaints of corruption cases, but after one year, its existence came to halt due to political resistance⁴².
58. In the light of EU accessions Romania needed to fulfill certain conditions and implement the EU *acquis communautaire* before joining the Union. As part of this accession process the European Commission published regularly progress reports on Romania’s fulfillment of the imposed criteria. The first progress report was issued in 1998, and stated that there was still a considerable scope for improvement in the judicial sector and that the legal basis for effectively fighting corruption remained incomplete. The Commission specifically stated that the adoption of a Law on Prevention of Corruption would be critical as well as a clear definition of ‘corruption’ in the Penal Code. The Commission noted that CNAICCO’s efforts would not bear fruits as long as there was no legal basis for its operations. As the EU was expecting results, Romania had to continue its reforms under tight deadlines⁴³.

⁴¹ Commission’s opinion on Romania’s application for EU Membership, 1997

⁴² Adrian Stroe et al., *Coruptia in Administratia publica locala*. FDSC, 2002

⁴³ European Commission, *Romania’s Progress Towards Accession*, 1998

Figure 5: Institutional Cooperation on the National Anti-Corruption Strategy



Legend:

- Objective in the NAS
- Ministries
- Independent and anti-corruption institutions
- Other stakeholders

59. Romania showed international engagement on halting corruption in 1999 as the country was amongst the founding members of Group of States Against Corruption (GRECO). GRECO is an instrument of the Council of Europe, and it is entrusted with monitoring and compliance of the COE's multifaceted legal instruments that aim at enhancing state capacity to fight corruption domestically and at international level. The monitoring procedure of GRECO comprises a horizontal evaluation procedure during which members are evaluated. The recommendations from these rounds focus on improving the legislative, institutional and practical reforms. A compliance procedure that monitors the implementation of the recommendations⁴⁴. GRECO works with specific cycles, that each cover a particular theme. The first GRECO evaluation report on Romania was issued in 2002⁴⁵.

EU Accession (2000-2007)

First National anti-corruption strategy

60. National commitment against corruption became more consistent with the initiation of the first National Anti-Corruption Strategy covering the period 2001-2004, which the World Bank contributed to with a Diagnostic Survey. Within this framework, Romania developed international cooperation platforms for the exchange of best practices with other countries. The increased focus on anti-corruption had also encouraged the development of several civil society initiatives that contributed to the development of this area⁴⁶.

National Anti-Corruption Directorate

61. Consistent commitment against corruption was again shown by the establishment of the National Anti-Corruption Directorate in 2002⁴⁷. The DNA was set up as independent institution in order to discourage corruption at all levels by identifying, investigating and prosecuting medium and high-level corruption cases. DNA is tasked with preforming criminal investigations of corruption offences, offences assimilated with corruption as well as crimes that are committed against the financial interest of the European Union as well as financial crimes. The Chief prosecutor of the DNA is proposed by the Minister of Justice and appointed by the President, but only after the Superior Council of Magistracy provides an opinion. The chief prosecutor of DNA is directly subordinated to the Prosecutors General of Romania, and DNA is an autonomous body within the High Court of Cassation and Justice. DNA has a central structure based in Bucharest, as well as offices in the 14 cities where a Court of Appeal exists⁴⁸. Apart from prosecutors, DNA also employs police officers and specialists in order to fulfil its mandate – this is a unique feature in the Romanian prosecution system that is partly the reason why DNA managed to achieve success until now. The organized crime prosecution office is taking steps to mirror the institutional structure of DNA.

62. In the first years of its existence, the DNA focussed mostly on minor cases of corruption, and the results of its anti-corruption investigations were moderate. After 2005, the DNA limited its investigation of cases of petty corruption and shifted its focus to investigating high-level corruption

⁴⁴ GRECO website

⁴⁵ *ibid*

⁴⁶ The World Bank and Management System International, 2001

⁴⁷ Emergency Ordinance 43/2002 on the establishment of DNA

⁴⁸ DNA webiste, "About us", http://www.pna.ro/about_us.xhtml

cases. At present the DNA has become one of the most competent anti-corruption structures of the EU. The recent actions of DNA are reflected in Chapter 3.

National Legislation

63. With regard to legislative reforms, Romania showed improvement when in 2003 Law no 161/2003 was adopted regarding incompatibilities. In the subsequent year law 7/2004 on the Code of Conduct for Civil Servants was introduced to regulate the conduct of civil servants, reflecting and defining the ethical conflicts that are inherent to the civil servants' work. The code's objective is increasing the quality of the public services as well as reducing corruption in the public sector. However, the mere adoption of a code of conduct by law indicates little understanding of the value added of building consensus within the profession to be covered by the code with regard to its values and principles.

Group of States against Corruption (GRECO) - Council of Europe

64. Starting with 2002, GRECO issued four evaluation reports on Romania, covering various areas ranging from more broad judicial system reforms, to corruption prevention in parliament and courts of justice, and prosecution of corruption. The information of the evaluation reports is regularly updated during the compliance procedure, where the group assesses the level of compliance with GRECO's recommendations. The first evaluation round assessed the 2000-2002 reforms of corruption prevention in Romania. GRECO Report of March 2002 concluded that Romania showed political commitment to fight corruption, by developing a comprehensive legislative framework. However, corruption persists and it is reflected in low trust of the public in institutions. The main conclusions of the GRECO reports are provided in Box 2.

Box 2: Main conclusions of the GRECO report Romania

GRECO Report March 2002 concluded that Romania showed political commitment to fight corruption, by developing a comprehensive legislative framework. However, corruption persists and it is reflected in low trust in institutions.

GRECO Report October 2005 mentioned that significant process in legislative and institutional reform took place, but results are not visible. The Romanian authorities prepared promising measures to fight corruption, among which establishment of the National Integrity Agency, a new anti-corruption strategy, and a body to verify declaration of assets, interests and incompatibilities.

GRECO Report November -December 2010 comprises two reports that cover key areas of concern, one on incrimination and one on transparency of party financing. First concludes that court practice and legislation are inconsistent, limiting the power of the anti-corruption institutions to fight political and economic elite. Regarding incrimination GRECO concluded that the combination of the legislative provisions made resulted in an anti-corruption framework that reflected the requirements of the Criminal Law Convention on Corruption. The report noted that anti-corruption bodies have a hard time coping with preserving legal power when handling cases that involve political and economic elite. The second reports progress about legislation that ensures transparency and closes loopholes.

GRECO Report December 2015 praises the system in place for declaration of income, assets and interests that works under National Integrity Agency. This, however, needs to have a more pro-active approach and to improve its data processing capacities. Regarding the loopholes existent in the fight against corruption, the report mentions the lack of a code of conduct, as well as no sanctions correspondent to rules on gifts, and conflicts. According to the report, there is a perceived lack of effectiveness on rules on incompatibilities, in special concerning consistency and enforcement. Judges and prosecutors are subjected to procedural rules that limit a number of risks regarding integrity when it comes to incompatibilities and contact with third persons. However the conditions for appointment of high level prosecutorial functions exposes them in a large extent to possible influence from the executive. In addition to this, some areas are not subject to safeguards and limits, such as lobbyists.

GRECO Report April- March 2017 provides an addendum to the second compliance Report on Romania. This report expresses its concern regarding the usage of emergency ordinances in order to amend legislation in Romania by precluding the Parliament from the amendment process. GRECO cast its concern to the recourse of this emergency procedure as alternative to a proper parliamentary process of amending legislation, moreover GRECO considers that these legislative initiatives need to be carefully examined and scrutinized by Parliament. Further, GRECO concludes that to date Romania has satisfactorily implemented fifteen out of twenty recommendations following from the Third Round Evaluations report. Nevertheless, concerning incriminations GRECO found that the Romanian authorities need to take further steps on ensuring that acts committed during the exercise of public office are criminalized when there is the case of active or passive bribery or in the case of trading of public interest. Further, with regard to transparency of political party funding, GRECO pleads for Romania to take appropriate measure in making adequate financial information available to the Permanent Electoral Authority (PEA), e.g. registration of monetary donations and ensuring that donations are made through a banking system.

Source: GRECO progress reports

United Nations Convention against Corruption

65. In 2004, Romania ratified the United Nations Convention against Corruption, and developed the legislation on the code of conduct for civil servants and contractual staff and whistleblower protection. The UN convention is the only international mechanism that is legally binding on anti-corruption commitments. This mechanism aims to promote and strengthen anti-corruption measures on prevention, criminalization and law enforcement, as well as improving international cooperation, technical assistance and information sharing. Romania's contribution to the UN Working Group on Prevention of Corruption from August 2016 describes progress registered on

Articles 9 (on public procurement and management and public finances), on Article 10 on Public Reporting and on Article 13 on Participation of Society. Romania reports to UNODC on a yearly basis on the implementation of the Convention⁴⁹.

General Directorate for Anti-Corruption

66. In 2005 the General Directorate for Anti-Corruption (GAD) was established within the Ministry of Interior in order to prevent and combat corruption and promote integrity amongst its personnel, this was a step forward in meeting the EU membership requirements.
67. However, in the same year criticism was received from the European Union on Romania's progress of implementing the EU accession requirements. As such, laws were amended under the pretext of efficiency, while in fact they were constraining the power of created bodies to tackle corruption⁵⁰. *"Weaknesses in enforcing the current legislation are partly caused by a passive attitude on the part of prosecutors (i.e. a reluctance to conduct serious and thorough investigations) even when there are strong suspicions of corruption, in the frequency with which competence for cases is declined when the suspects are high-level figures, and in the lack of experience and training of those prosecuting complex financial cases"*⁵¹.
68. Overall, from 2000 to 2006, positive legislative changes took place in terms of transparency, integrity and ethics in the public sector. Law no. 544/2001 sets out the legislative framework for transparency, with details on access to public information and the Law no. 52/2003 regulates the transparency of decision-making. In 2006, the parliament passed a law on the principles and rules of parliamentary conduct⁵², which included rules on immunity and incompatibilities. This law has as objective increasing transparency of conduct of parliamentarians as well as promoting faithful behaviour. Also the Law on Political Party and Campaign Financing was adopted in 2006. This law brought obligations for political parties to declare their income, contributions from members and expenses. The law introduced a clearer mechanism to declare donations, inheritances, and campaign contributions.

EU Membership (2007-2017)

69. In 2007 Romania became member of the European Union after satisfactorily complying with the Copenhagen criteria and having participated in several negotiation rounds with the European Commission. However, the EU stated its concern regarding the lack of progress in judicial reforms and the continuous prevalence of eminent corruption. The EU feared that now the membership carrot had been given as the ultimate reward to reforms, it would lack a stick to further push for judicial reforms. Therefore, in order to provide for a continuous system of checks and balances on Romania's judicial reforms, the EU instituted a monitoring tool, the Cooperation and Verification Mechanism.

CVM mechanism

70. In January 2007, the European Commission established the CVM to monitor the commitments that Romania and Bulgaria make on judicial reform, corruption and organised crime. Under this mechanism, the European Commission issues regular reports on Romania's progress towards four complementary benchmarks, including judicial reform, establishment of an integrity agency,

⁴⁹ United Nations Convention About Corruption, 2004.

⁵⁰ EU progress report, 2005.

⁵¹ EU, Comprehensive Monitoring Report Romania, 2005.

⁵² Law no. 96/2006 on the statute of senators and deputies.

tackling high-level corruption, and fighting corruption within local government. The European Commission drafted these reports with inputs from the Romanian Government, the EC staff, and the Member States offices in Romania, civil society organisations and other experts. Since 2007, actors from the international community, civil society organisations and other stakeholders involved in the fight against corruption perceived the CVM as an instrument offering continuity in institutional reform and legislative changes and as a powerful lobbying tool.

71. The progress on the CVM was highly dependent on the political cycle, suffering stalling or even reversibility of reform in periods close to the electoral cycle. The progress on the CVM in the first years was timid, justified by the political instability during 2008 and 2012. Romania changed three governments during this time, and the discussions on justice and anti-corruption were highly politicized. The record of accomplishment of high performing institutions accelerated after this period. The results from the CVM monitoring reports are provided in Box 3.

Box 3: Progress Reported on the Implementation of The CVM

CVM 2007: The report concluded that progress is still insufficient overall, but authorities demonstrate good will and determination. Overall progress was considered insufficient and the political statements were not translated enough into results.

CVM 2008

- February: Still too soon to measure progress on most benchmarks; DNA starts building a good track record for investigations.
- July: Some progress on institutional and procedural changes in the justice sector, DNA established a good track record for investigations, but more is to be done in terms of sanctions.

CVM 2009

- February: The pace of reform is interrupted. Some positive changes on institutional and legislative reform, but no clear results. ANI starts to build a record of cases.
- July: Romania regained momentum of reform, but the justice system and the anti-corruption efforts are still highly politicized. Progress is slow.

CVM 2010

- March: Romania lost the reform momentum again due to recent electoral period. DNA continued its good track record; ANI consolidated its position and ensured stability. Some progress on local anti-corruption strategies, but delays on high-level corruption cases.
- July: Reform stalled again; not enough commitment on the judicial reform; DNA and ANI show good track record, but the DNA's processes are lengthy and decisions are delayed. A new law passed by the Parliament undermines ANI's mandate. The Constitutional Court declared this unconstitutional.

CVM 2011

- February: Good track record of DNA and ANI; high-level corruption cases still lengthy and the sentences delayed; Elections for SCM were annulled for four members; Significant progress of the Romanian authorities on the recommendations of the European Commission.
- July: DNA and ANI good record of accomplishments; DNA's high-level corruption investigation are credible, but the cases are stalled and under the threat of reaching the statute-barred periods. Recommendations of the commission on what could be the areas of key improvements.

CVM 2012

- February: Several developments on the recommendations from the EC. Improvements of the legislative framework for justice and anti-corruption; DNA continued its track record. A draft anti-corruption strategy was prepared. More clarity and rigor in the legislative frameworks for the high-level appointment in justice sector.
- July: Serious concerns about the respect for rule of law in Romania, and previous reforms seem reversible. The justice sector reform and anti-corruption efforts are politicized. This report was a review of the past five years of CVM. Progress seems to be insufficient to ensure the independence of the justice institutions and commitment on punishing anti-corruption acts is not enough.

CVM January 2013 Romania regained momentum and started additional measures to combat corruption at local level. The number of convictions doubled, but penalties remain low. A new framework on confiscation of assets is put in place, but no statistics are available to measure progress. The number of cases on conflict of interest increases.

CVM January 2014 Progress done by DNA on investigation and prosecution, by HCCJ on trial, and by the Magistracy to tackle corruption. The judges suspend many sentences, confiscation is still underdeveloped and parliament undermines the legislation on bribery, trading in influence and abuse in office; the strategy on anti-corruption does not have clear benchmarks and responsibilities for the public administration.

CVM January 2015 CVM January 2015: DNA, ANI and HCCJ make good progress in the fight against corruption; authorities start improving the available data on asset recovery. Slow progress on resolving suspended sentences, conflict of interest, favoritism, fraud and public procurement.

CVM January 2016 Commitment to measures to tackle high level corruption cases is strong; DNA receives increased number of signals from the public and the institution has significant public support; HCCJ maintains its track record to bringing cases to conclusion; proceedings are shorter; Parliament still blocks investigation on inconsistent criteria, by refusing to lift immunity (for 1/3 of cases). Draft law on anti-corruption.

CVM January 2017 Romania shows substantial progress within the judicial process, regarding institutional and legislative reform. The National Integrity Agency (ANI) is being considered as fully established after the institution of the PREVENT, a system for ex ante checks on conflicts of interest within public procurement.

National Integrity Agency

72. In 2007, the National Integrity Agency was having as main task the verification of declarations of assets and interests, as well as incompatibilities. Parts of the law were declared unconstitutional and a new text was adopted by the Parliament in 2010. and the Romanian law clarified the notion of the integrity of public officials (further clarified in 2010). The establishment of ANI as independent body was not an easy task given political pressure from the chamber of deputies to keep ANI dependent on the executive and having only limited powers⁵³. The establishment of ANI was needed in order to address the legislative deficit regarding conflict of interest, and to address the lack of a specialized institution with the capacity to verify cases in the area of accumulation of unjustified incomes, since at that time not all cases of misconduct could be handled in court. ANI is an administrative control institution that filled in a gap: though assets and interest disclosure existed, there was no institutional mechanism to ensure their comprehensive verification. The establishment of the National Integrity Agency in 2007 strengthened administrative controls in Romania. The organization became operational in 2008. The institutional continuity for of ANI was one of the benchmarks of the EU Cooperation and Verification Mechanism (CVM) for Romania. The institutional continuity for ANI was one of the benchmarks of the EU Cooperation and Verification Mechanism (CVM) for Romania.
73. The mandate of ANI is to control the wealth of public officials in regarding identifying unjustified wealth accumulation and to verify if public officials find themselves in conflicts of interests or incompatibilities. Its actions are subjected to judicial oversight, those verified have in all cases the option of challenging ANI's reports to the court. ANI also administers the web portal where all disclosure forms are published and provides upon request issues advisory opinions on how the legislation on integrity should be interpreted. As such, ANI brings together the function of combating corruption through administrative means and the preventive function. The organization is an independent body that aims at ensuring the integrity of civil servants, as well as elected and appointed public officials. In Romania there are around 300,000 persons that have the obligation to submit wealth disclosures⁵⁴.

Legislative changes

74. Romania made progress on legislative reforms in the years following its EU accession. DNA's investigations on high-level corruption demanded a clear legal framework to deal with cases

⁵³ Transparency International Global Corruption Report, 2008

⁵⁴ UNODC, 2012

regarding high profile persons. As such, the Penal Code was introduced in 2009, providing a legal basis regarding criminal investigations followed by law 135/2009 that adopted the procedures regarding the Penal Code. In 2010, law 176/2010 was passed and instituted a legal basis regarding the integrity of public officials. In 2012 law 24 was adopted and provided that Judicial inspections would become an autonomous organism in the supreme court of the Magistracy.

Open Government Partnership

75. In 2010 Romania signed the Open Government Partnership declaration and became member of this multilateral partnership that aims to enhance the commitment of governments to promote transparency, empowered the voice of citizens and fight corruption. Romania committed to the promotion of transparency and the use of new technologies in order to reduce corruption and enhance governance. The subsequent year Romania instituted the Action Plan 2012-2014 to implement these commitments by increasing access to open data and improving the delivery of e-governance services⁵⁵.

Public Institutions ANAP and ANABI

76. Further efforts to harmonize the institutional framework with clear effects on anti-corruption measures took place in 2015, with the establishment of ANAP, a new agency for public procurement, within the Ministry of Public Finance and ANABI, a new agency for the management of seized assets within the Ministry of Justice.

77. ANAP is Romania's main public procurement body. Before its existence a number of institutions fulfilled relevant roles and responsibilities regarding public procurement. Now ANAP is responsible for secondary acts, policy-making, executive and oversight functions. The oversight function entails preforming ex-ante controls of all tender documents before the publication on the country's E-procurement portal. ANAP in collaboration with the National Court of Accounts shares responsibilities for designing the public procurement policy in collaboration with Ministry of Regional Development and European Funds⁵⁶.

78. The establishment of ANAP positively addressed the concerns of the EU regarding public procurement. Already since 2010 the CVM reports mentioned the severe shortcomings of Romania in public procurement, in specific the capacity and the degree of expertise of the employees, at both national and local level. The structure of ANAP is less centralized than its predecessors and the organization has regional offices throughout the country in order to better meet the diverse regional needs. The institution employs mostly economic counsellors and legal advisors, however the capacity is still too low in order to face its responsibilities such as preparing tender documents. Human resources remain a key issue to be addressed⁵⁷.

79. The European Union also noticed that the administrative control mechanisms for public procurement did not function effectively, provided the low number of notifications on prosecution from the responsible institutions⁵⁸.

80. In 2016, to effectively address confiscation of criminal assets, the National Agency for Managing Seized and Confiscated Assets, ANABI was set-up. The establishment of ANABI marked a step

⁵⁵ Open Government Partnership, 2011

⁵⁶ ANAP website

⁵⁷ *ibid*

⁵⁸ CVM Report, 2017

forward in providing an integrated approach to asset recovery and to increase the execution rate of confiscation orders that are resulting from criminal cases. The organization took over the competences of the asset recovery office of the Ministry of Justice. ANABI is responsible for the management of frozen assets as well as the coordination of institutions in order to ensure that the State effectively recovers the assets. At the end of 2016, ANABI launched a project in order to actively support the National Anti- Corruption Strategy, by increasing the efficiency of the management of asset recovery⁵⁹.

Ministry of Public Consultation and Civic Dialogue

81. A new Ministry for Public Consultation and Civic Dialogue was established in 2015 in order to implement public policies in the area of open governance, transparency and access of public information. However, it was abolished in January 2017 and its main functions were subsumed by its successor the Ministry of Public Consultation and Social Dialogue, that was established in January 2017.

Romania's National Anti-Corruption Strategy

82. In August 2016, the Romanian government approved a new anti-corruption strategy for the period 2016-2020, by Government Decision no. 583/2016. This is the fifth anti-corruption strategy, built on the lessons learned from the previous strategic exercises. With a holistic approach to anti-corruption, the strategy places prevention at the centre of activities across the Romanian public sector. Evaluations of previous anti-corruption measures showed that prevention remains one of the lagging areas, and that it needs strengthening to reduce corruption. The strategy includes targets for 2020: Reaching the EU average in terms of perceptions of corruption, reducing by half the cases of fraud and corruption in public procurement and the number of integrity incidents in the vulnerable sectors, in accordance with the NAS objectives on Envisaged Impact⁶⁰.

Design of the National Anti-Corruption Strategy

83. **Political Ownership:** The strategy was designed with the support of the highest political decision-making level in Romania, and inputs from all institutions with an active role in addressing corruption. However, the strategy was designed during the technocratic government in 2016, and will have to be implemented by the new government that has been formed following the parliamentary elections in December 2016. Political leadership from the new government will be crucial for the successful implementation of the strategy. Furthermore, the level of engagement achieved during the design phase will also be critical to the successful implementation. NAS is characterized by stability, and over the years, despite the succession of a number of governments, none opposed or hampered the implementation of the strategy. There were no reservations regarding its adoption, nor political interference, representing today a credible instrument of public policy in Romanian anti-corruption architecture.

⁵⁹ ANABI website

⁶⁰ NAS 2016-2020

Figure 6: Romania's National Anti-Corruption Strategy has a Good Design and Envisaged Monitoring and Evaluation Mechanisms: Implementation is Key



Source: Author's Evaluation

84. **Participation of social actors:** Under the coordination of the Ministry of Justice, five platforms of coordination were put in place during the previous strategy 2012-2015 and were continued during the current strategy: independent and anti-corruption institutions, ministries, local public administration, civil society, and business environment. Moreover, before being adopted, the strategy was under public consultation and all comments received were addressed in the final matrix and some were included in the final document.
85. **Comprehensive diagnosis:** The substantiation note for the NAS is in line with the evaluation reports for the previous strategy. This prioritises vulnerable areas for Romanian anti-corruption efforts, including the institutional setup for integrity incidents seen as management failures; strengthening of prevention structures; anti-corruption education; focus on management of seized assets; prevention of political corruption; integrity standards in the business sector; implementation of anti-corruption measures at local level. At the same time, priority sectoral areas are healthcare, education, and public procurement, and the functioning of ethical councils in public institutions.

Implementation of the National Anti-Corruption Strategy

86. **Coordination mechanisms between institutions:** The Ministry of Justice, more specifically the NAS secretariat in the Department for Crime Prevention coordinates the strategy. However, a number of institutions have been included in the elaboration and will be included in the implementation of the strategy, along the platforms in place: independent and anti-corruption, ministries and local public administration. The Ministry of Regional Development, Public Administration and European Funds signed a protocol with the Ministry of Justice to extend the implementation to all 3,250 municipalities. Currently only around 700 municipalities are included.
87. **Participation and support from public institutions:** Public institutions with clear responsibilities for the implementation of the strategy are included in the strategic document together with sector representatives and territorial administrative units. Local public institutions will be implementing (together with MRDPAEF and MOJ) risk assessments in their institutions to identify the main vulnerabilities to corruption. In addition, each central and local public authority

and subordinated structures, as well as SOEs will develop mandatory integrity plans. Annex 2 shows all these entities and to which objective they are contributing.

88. **Resources and capabilities:** The NAS includes an estimated budget for each objective, and the NAS Secretariat has identified financial sources that may be used to finance most of the activities from internal and external sources. The Secretariat has negotiated the allocation of funds for some of the activities, including the development of mandatory e-learning courses for public officials, nation-wide anti-corruption campaign, capacity building in the unit. The strategy indicates that in order to implement the measures related to institutional transparency and corruption prevention, a public institution that employs an average of 50 employees is required to provide a budget of around 200.000 euro per year. Funding has to be ensured from the institutions own budget, with the possibility to resort to external sources such as the Operational Programme for Administrative Capacity. There are still significant differences between the central and local level in terms of technical and human resources capacity and infrastructure.

Monitoring and evaluation

89. **Strong monitoring agency:** During the implementation of the previous NAS, a secretariat was put in place in the Ministry of Justice, in the Department for Crime Prevention. The secretariat has a mandate for oversight, resources allocation, capacity building and it currently has effective political support. There is continuity of staff in the implementation of the new strategy, and this is why some of the drawbacks from the previous strategy were more adequately addressed during the design of this strategy. The secretariat has good management skills, but may enhance its data analysis capacities. At present in order to interpret data for recommendations a centralized platform with enforcement data from all stakeholders will be analyzed by the secretariat. Moreover the secretariat lacks the power to enforce measures at both central and local level as well as against SOEs. The secretariat is therefore a facilitator, and not yet a champion of anti-corruption reforms.
90. **Indicators:** The strategy outlines a list of indicators but does not provide clear benchmarks or baselines and targets for each objective proposed. This criticism was included in the evaluation of the previous strategy, but has yet to be fully addressed. For example, evaluation indicators such as the “number of complaints concerning breaches of rules” are listed in the annex of the strategy, but lack a clear baseline number of complaints as well as a target number of complaints for 2020.
91. **Participation of non-state actors:** For the monitoring and evaluation of the strategy, the Ministry will employ the best practices from the previous strategic exercise, including using peer reviewers from public institutions. The methodology of the monitoring and evaluation process includes collaboration across all the five sectors, thus also with the civil society and business sector representatives, which can support the enhancement of accountability of national authorities.
92. Box 4 shows the result of a study on the comprehensiveness and quality of 41 National Anti-Corruption Strategies. The study highlights the strengths and shortcomings of these strategies⁶¹.

⁶¹ Norton Rose Fulbright, Curbing Corruption, 2017

Box 4: Study on 41 National Anti-Corruption Strategies

A recent study of Norton Rose Fullbright compared 41 national anti-corruption strategies from countries that rank between 21 and 130 in the Transparency International Corruption Perception Index. The study intends to analyse the countries that face a significant impact of corruption, and that did not succeed to reduce corruption to a manageable size, but at the same time do not face deep, systemic corruption issues.

Positive areas:

Most national strategies have a desired impact that goes beyond controlling corruption only. These objectives are not explicit; most countries address one or two of the impacts that are listed below:

- Improving government and public service delivery
- Improve national reputation, improving the CPI score
- Strengthen democracy, transparency and integrity
- Improve economic prosperity and improve competitiveness
- Strengthen national security
- Aligning with international anti-corruption standards
- Membership to the European Union

Multi-pronged approach

Most strategies show a cross cutting approach to anti-corruption measures and entail a threefold of actions, namely prevention, education and persecution.

Building integrity and reducing corruption

The report assessed to what extent the strategies have a positive focus, e.g. building integrity. Most of the strategies focus on reducing corruption, followed by 11 strategies that have a dualistic approach by equally valuing integrity and reducing corruption, only one strategy focussed on integrity alone.

Areas for improvement

According to the analysis, half of the strategies reviewed show deficiencies in one or more crucial areas as listed below:

- Thoughtfulness of choices and reform measures
Many proposed strategies contain measures that do not seem realistic in terms of implementation. For instance, strategies promote measures in areas where evidence shows their ineffectiveness, as well as promote too generic measures.
- Weak in addressing change
Strategies need to engage better with private sector organisations and public and state-owned enterprises in anticorruption initiatives.
- Lack of Political ownership
Only few strategies address how political leadership will be engaged in order to support change. Statements are generic and do not show the political ownership of anti-corruption measures.
- Lack of separate sector strategies on anti-corruption:
None of the countries assessed have separate sector strategies even if they mention sector specific measures
- Absence of committed individuals
Committed individuals are key drivers for positive change, yet none of the strategies make reference to involvement of individuals.
- Absence of progress indicators and deadlines for reform
Less than half of the strategies provide quantitative criteria for monitoring and evaluation.

Source: Norton Rose Fulbright study⁶²

London Summit on Anti-Corruption

93. In May 2016, the UK Government hosted a global summit on anti-corruption, with the participation of national governments, international financial institutions, non-governmental actors, and academia. Romania made commitments on its fight against corruption regarding prevention,

⁶² ibid

including educational programmes, and public procurement, beneficial ownership, asset recovery, and international cooperation and sharing of best practices⁶³.

94. In the period between 2007-2016, Romania has been able to show consistent progress in legislative and institutional reforms, and has reached the point of sustainability. In specific, positive results are to be noticed in the area of transparency and the accessibility of information on the judicial system, as well as the results of institutions that addressed corruption. Yet underlying issues remained unsolved and by itself they could have a negative impact on the future reform process, especially in the field of judicial independence, low administrative capacity and attempts of a political nature to reverse reforms.

Present events 2017

95. In the wake of the 2017 visit of the EC Vice-President, Romania's Prime Minister stated that Romania will strive towards closing the CVM procedure by the beginning of its EU Council Presidency. The EU however stated that the CVM will be lifted only after all provisions are implemented. Presently, the debate in Romania revolves around whether to maintain the CVM beyond the 2017 progress report. Those in favour of maintaining the mechanism believe that judicial reforms and anti-corruption measures in Romania have not yet reached the stage of maturity and irreversibility. At the same time, they welcome the international support that can exercise political pressure to advance reforms in these areas.
96. Those in favour of removing the CVM, highlight the tremendous progress that Romania has made on all four pillars. They believe that Romania has differentiated itself from Bulgaria (which was also included in the CVM mechanism upon joining the EU) and that removing the CVM would recognize this progress. They claim that the apparent lack of progress in some areas is due to changing targets rather than lack of actual progress.
97. Beyond this discussion, the idea is that Romania needs to ensure a national drive to finalise judicial reform and reduce corruption. However, recent statements from key politicians have proven to be ambiguous towards this anti-corruption drive. Yet, the national anti-corruption strategy could be the leading platform, together with its regular reporting and peer evaluations.
98. Yet the progress that had been made over the past years was jeopardized when in January 2017, the government put forward a Governmental Emergency Ordinance (GEO), and a draft law. The GEO on the Law on Pardon and the second on the Criminal Code and the Criminal Procedure Code. The motivation presented by the government was to solve the situation with overcrowded jails, however no clear data on the situation in jails was presented, and the legislative changes seemed to pardon several corruption offences. The GEO 13 and the draft law were approved, and caused major protests within Bucharest and cities throughout the country. GEOs can enter in force without being scrutinized by the parliament and the law had to be subjected by a parliamentary debate. The protest resulted in the resignation of the minister of justice.
99. The Pardon law is controversial because it would provide a full pardon for jail sentences below 5 years of certain corruption offences and a pardon for certain categories of people. The first category applied to all corruption offences except of abuse of office, crimes related to elections and crimes directed towards the judiciary. The pardoned persons would have to pay for the damages caused

⁶³ Anti-Corruption Summit website, 2016

by their acts within one year after their release date. The second type of pardon applies to pregnant women and those who have children below the age of 14.

100. The proposed amendments to the criminal code and the procedural code are not all disputable, some only transposed EU directives into national law. The controversy however is to be found in the notion of abuse of office and in conflict of interest. With regard to abuse of office, this would introduce a threshold for crimes of RON 200,000 (US\$50,000) and the jail penalty was reduced as well as the time of an interdiction to hold public office was reduced to a shorter period or even just a fine. DNA indicated that all cases of abuse of public office will be impacted by these changes. With regards to conflict of interest, the definition was changed to decriminalize conflict of interest in labour relations and connections with companies from which the official received benefits in the past six months.

Why does reducing corruption remain difficult?

101. As analysed in this chapter, Romania has made numerous efforts over the past twenty years in order to reduce corruption. At the international level, Romania has been a front runner regarding anti-corruption reforms. Romania was amongst the founding states of GRECO, the group of states against corruption. Organisations such as ANI and the DNA serve as best practices examples at European and global level, e.g. when the DNA shifted from investigating petty crimes towards investigating high-level corruption cases, the organisation became one of the most competent anti-corruption structures of the EU.
102. ANI has taken the lead in building an international network for facilitating formal information exchange and increased cooperation among practitioners in Eastern Europe and around the world. ANI was praised for having a system in place for declaration of income, assets, and interests. ANI's experiences are of interest to other integrity agencies, as ANI has already handled a large volume of verifications, and a considerable part of its findings led to final judgements. ANI is continuously developing and improving its own practices, and it can provide different perspectives on specific cases that are handled by the organisation.
103. The World Bank collaborates with ANI in numerous venues. As such ANI serves as sounding board for the Bank in terms of good practices for asset recovery. ANI has provided support to the World Bank on advisory projects regarding asset declaration and conflict of interest across several regions including Europe and Central Asia, East Asia, and Latin America. Alongside the staff of the World Bank, ANI staff has participated in providing practical advice and innovative practices regarding the identification of unjustified variations of wealth, conflict of interest violations, and indications of corruption offenses. ANI has been meaningful resource to the Bank for providing feedback and expertise on analytical products produced by the Bank, e.g. ANI staff has been a formal peer reviewer of two WB publications: "Getting the full picture on Public Officials: A how-to guide for effective financial disclosure", and "Using Asset Disclosure for Identifying Politically Exposed Persons".
104. On the other hand, the political appetite to reduce corruption has been weak and this remains a challenge for anti-corruption work. The use of emergency ordinances to revoke already established regulations and the resistance to provide anti-corruption bodies with the necessary political independence can be noticed throughout the whole examined period. The first institution that focussed exclusively on anti-corruption CNAICCO, fell under direct supervision of the President and its dependence on the executive disabled the organisation to effectively carry out its tasks. As such when the General Anti-Corruption Directorate was instituted under the Ministry of Interior,

the directorate struggled carrying out its mandate since it was unable to become independent. The same tendency can be noticed with the establishment of ANI, when the chamber of deputies showed resistance to grant the organization independent power. The success of DNA and ANI, and the high number of successful prosecutions and convictions shows a positive trend in the establishment of judicial independence. Yet over the past two years the attacks of politicians and the media, on the independence of the judiciary and the work of the DNA have increased. The CVM report of 2017 explicitly notes that reducing corruption is conditional upon the political environment.

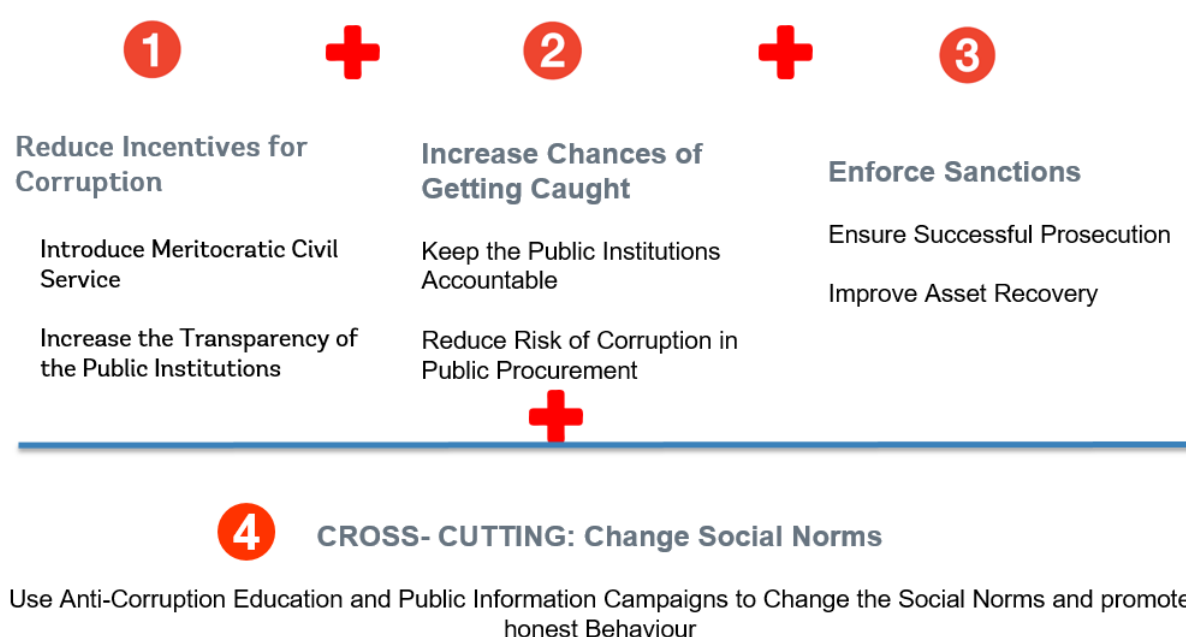
105. Reducing corruption remains demanding because it must challenge strong vested interests that are organized across groups that are benefiting from the status quo. There is need to address the incentive structures with an integrated approach so that individual civil servants and politicians can alter their behaviour. As society reduces corruption; the following phenomena can be observed:

- Public officials feel accountable for their actions, are scared of being caught, and receive rewards for being honest;
- Citizens expect that rules are observed and adjust their behaviour accordingly;
- People are confident enough to refuse to pay bribes, and know that sanctions will enforce their right to receive services without paying bribes.⁶⁴

106. The figure below presents the authors' proposal of a conceptual framework for an integrated approach of policies as well as change of social norms. The policy proposals on reducing the incentives for corruption, increasing the chances of getting caught, enforcing the sanctions and changing social norms are further discussed in Chapter 3.

Figure 7: Corruption Can Be Reduced Through Integrated Approach and Change of Social Norms

A Conceptual Framework to Building a Citizen-Centric Government in Romania



Source: Author's proposal

⁶⁴ Combatting Corruption in Indonesia, World Bank, 2003.

Chapter 3: Policy Options

A Framework for Tackling Corruption

107. As explained above, successfully tackling corruption requires an integrated effort that combines four key elements:

- (i) Reducing the incentives for corruption;
- (ii) Improving oversight;
- (iii) Enforcing sanctions; and
- (iv) Changing the social norms.

108. This chapter aims to present actionable policy recommendations to address each of these pillars. The policy recommendations are based on the needs of the sector and are aligned with the strategic objectives presented in the National Anti-Corruption Strategy 2016-2020, as this is the core national instrument that encourages the prioritisation of preventive actions by the public administration at both national and local level. Policy options are presented in each of the four key areas, addressing multiple public institutions, representing the executive, legislative and judicial authorities. A policy matrix presented in Annex 2 provides an overview and of the policy recommendations and their ease of implementation. The Bank stands ready to provide support where requested. In order to effectively implement the proposed policy options it is of importance that the progress is monitored and the results are evaluated. Upon implementing one of the recommendations the public institution in charge needs to establish clear benchmark and indicators to measure progress. Rather than proposing indicators, the report leaves this up to the respective institution so that ownership is assured.

3.1. Reducing the Incentives for Corruption

Introduce a Meritocratic Civil Service

Rationale

109. A meritocratic civil service reinforces the notion of equality and competence as it rejects patronage, nepotism, corruption and incompetence for entering the civil service. Rather than arbitrary appointments of individuals to civil service positions, in a meritocratic system the following principles are present: competition, open selection, careful evaluation of qualities and a well-defined recruitment process for the civil service. Research shows that meritocratic recruitment reduces corruption, since it creates a separation of interest between bureaucrats and politicians, however relatively high-levels of corruption can be expected in administrations that employ merit-based civil servants but lack control by agents with a different (political nature)⁶⁵.

110. A meritocratic and professional civil service is an essential element to reduce the incentives for corruption. The influence of political parties on the Romanian public administration needs to be reduced. Not only are many ministers political appointees but so too are many civil servants. The level of impartiality expected from high-level civil servants is very low, because they account only to the minister and not to a corpus of civil servants. While a political appointee derives his job security from the job security of the minister, they have no incentive to publicize cases of

⁶⁵ Dahlstrom et al, 2012.

corruption or criticize their principals in public. Therefore, a meritocratic civil service can change the incentive structure from acquiring power within the institution to delivering results.

111. The internal organization of a public body plays a major role with regards to reducing corruption. Three principles of the organization are largely associated with less corruption: having decisions regularly audited by either external or internal authors, having open and transparent internal procedures, and making personnel decisions that are based on merit and professional competence⁶⁶.
112. Introducing a meritocratic civil service will also alter social norms. It will promote impartiality as a rule and as a procedure. In Romania, the desired shift is from the current excessive political appointments and lack of a performance framework to meritocratic recruitment and professionalization of the civil service, and from current practices of nepotism to performance-based career development practices. As such, the implementation of a strategy to introduce a meritocratic civil service is a strong signal for change, if supported by the highest political levels. The signal to change can thus influence the "rules of the game" that govern the activity of the central and local public institutions, businesses, and citizens.

Context

113. The new Strategy to Develop the Civil Service in Romania adopted in 2016, aims to support the development of a comprehensive, stable, coherent and transparent institutional and human resources management framework. The strategy outlines a coherent, effective and merit-based system for recruitment, promotion, evaluation, motivation and training of civil servants. The law to enforce this civil service strategy is in place, however the results are yet to be expected. Moreover, the NAS proposed internal audit structures within public institutions so that institutional risk and vulnerabilities can be identified during an early stage⁶⁷.
114. At this point though, the human resources management (HRM) practices are inconsistent, inefficient and opaque. Romania does not have common practices on performance management across the public administration, the legislative framework is contradictory and HRM is thus subject to some general regulations and some specific to a particular public institution or authority. The main challenges are outlined below:
 - The public administration lacks strategic planning of the workforce and it functions based on reorganisations. In 2015, Government allowed 3,050 temporary jobs for management and high-level official positions for central and local public administration. According to a WB study from 2011, the selection and recruitment of public servants within the public administration needs to be improved. At present the recruitment process focusses on legal compliance and knowledge of regulations and procedures instead of focusing on relevant skills and competences that are needed with regards to the institutions mandate and functions.⁶⁸
 - The above-mentioned study identified that even though ministries have sufficient staff overall, this does not mean that the necessary staff sits in the right position. Career path management is needed in order for recruitment to be rewarded based on merit. At present, the career path development of many public officials remains unclear, and in some cases promotion depends

⁶⁶ Recanatini et al, "Why are some public agencies less corrupt than others", IMF, 2005.

⁶⁷ National Anti-Corruption Strategy 2016

⁶⁸ The World Bank, 2011

more on connections and luck, rather than performance. This is valid for both experience and perception-based measures⁶⁹. The career track is therefore unpredictable since it depends on political appointments, not a set of clear standards that the public servant needs to adhere to or up-front performance indicators to be achieved.

- Remuneration is inconsistent across public institutions. Civil servants with similar job descriptions, background and career levels have different salaries, depending on internal policies of their respective institutions, bonuses and compensations, and there is no unitary pay in accordance with the law 284/2010. Overall, salaries remain low although some increases have been granted for public servants in healthcare and education (see Box 7).
- The public sector has an ageing workforce. In 2015, only 3.81 percent of the public servants in Romania were below 30 years, and almost 75 percent were above 40⁷⁰. At a certain point in time the rule was that 7 persons had to leave office before a new person could be hired. This closed the door for access to civil service for young people.

Policy Options

- **Operationalise a Meritocratic Human Resources Management framework for the Romanian civil service.** Overall responsibility for the formulation and co-ordination of HR policy across the public service should rest with a single state institution to ensure consistency and common standards. The new strategy for civil service includes a strengthened role for the National Agency for Civil Servants (NACS) in the management of all categories of public servants. NACS's areas of policy responsibility should include pay and grading, recruitment, selection, career development, training and redeployment and the efficient and effective use of resources. Based on international experience regarding best practice frameworks, processes and institutional arrangements, the World Bank can support the clarification of the institutional framework and the development of clear guidelines for NACS in the implementation of measures of coherent approach to Human Resources Management⁷¹.
- **Improve remuneration levels for public servants.** There is a broad consensus that low salaries represent an effective incentive for corruption⁷². This also decreases the moral cost of corruption, since corruption is seen as a retribution action and informal payments as a coping strategy to make ends meet.⁷³ But it is not enough to simply increase salaries across the board. In administrations where the pay level was low, the increase of salaries implemented together with the other measures for meritocratic civil service has proven to be highly effective.⁷⁴ In Romania, salaries should be increased progressively within the budget resource envelope to be more comparable to the private sector. Performance related pay is increasingly used in the public sector around the world, at present 28 out of 32 OECD countries have introduced PRP in the public sector, and this trend can be observed in middle-income countries too⁷⁵. PRP is defined as a compensation where the salary of a civil servant is based upon its performance. Measurement of performance varies considerably. The World Bank evaluated existing studies on PRP and found evidence that PRP can increase the

⁶⁹ Charron et al, 2015

⁷⁰ Romanian Government, 2016

⁷¹ ANFP, Civil Service Positions and Civil Servants Management Report, 2007

⁷² Van Rijckeghem and Weder, 2001

⁷³ Abbink, 2002

⁷⁴ Hanna et al, 2011

⁷⁵ OECD, Government at a Glance, 2011

work effort in specific organizational contexts where outputs can be easily measured. Theories on PRP state that within the field of the public administration, PRP helps to recruit and retain highly skilled staff, and makes managers more committed to strategic objectives and core organisational goals of the agency⁷⁶. The most straightforward argument for merit based compensation is based on a simple macro-economic model, the principle agent model. In this case the employer (principal) incentivizes the employee (agent) to perform a certain task and provide the best result possible. However, the research states that increasing salaries is not a panacea for productivity, and these measures need to be taken with caution.

- **Increase capacity of the National Agency for Civil Service to coordinate the HR in the public sector and the National Institute for Administration to provide training for civil service.** The new strategies for professional training in the public administration and development of civil service provide a comprehensive framework for a more coherent approach to human resources management. The quality of the training needs to be improved for civil servants and public officials. It also requires enhanced responsibilities and roles for NACS and the newly re-established National Institute of Administration (Romania's defunct civil service training organization). As such, steps to build necessary capacity are vital in both institutions. First, a centralised database should include all employees of the public sector, not just the 10 percent that are currently under the management of NACS. This database should have information on strategic human resources planning for each public institution, recruitment and the selection process, learning and development plans and activities implemented or under implementation, remuneration levels as well as bonuses and compensation, and retention policy plans. The World Bank can help in developing this platform to support the integrated and especially transparent human resources management of the public sectors. Moreover, it can help develop a modular training program for NACS's and NIA's employees, based on a comprehensive needs assessment.
- **Develop adequate programs to attract young professionals in the public administration.** The new strategy for professional training in the public administration 2016-2020 includes activities on two streams: one for those who are preparing for a career in public service and one for those who are already in public service but need further training⁷⁷. However, the focus is on the latter group. Since the public sector is characterised by an ageing workforce, around 35 percent of the civil servants will be retiring in the next 15 years. Many of these positions will have to be filled. As such, there is an opportunity to support the specialisation of young professionals who would be interested to join the Romanian civil service. Improved versions of the former programs for Public Manager⁷⁸ or Governmental Scholarship for public sector could support this process. Best practices worldwide include supporting young professionals to do their studies abroad in Schools of Government that offer professional programs for public servants and mandatory tenure in the public administration after specialisation. There is need for a comprehensive needs assessment with regard to how many positions are indeed needed in public administration.

⁷⁶ Hasnanian et al, The promise of performance Pay? Reasons for Caution in Policy prescriptions in the Core Civil Service, 2014

⁷⁷ Strategy for Professional Training in the Public Service, 2016

⁷⁸ In the pre-accession period, starting in 2001, Romania established a Public Manager program with EU funds. The program aimed to fast track the creation of a core of young professional public managers within the civil service. Higher salaries were offered to well-qualified individuals who were recent graduates or early career professionals. Although the program was successful in attracting talented individuals into the civil service, the elite nature of the scheme created a backlash within the remainder of the civil service that eventually led to the program being scrapped.

Increase the Transparency of Public Institutions

Rationale

115. A transparent government reduces the incentives for corruption as it reduces the discretionary power of decision-makers. This includes information on the data informing the policy, the decision-making process, the allocation of public funds and the performance of policy implementation.
116. The transparency of public institutions is an enabling factor for an open and accountable government. The World Bank proposed a framework to stimulate good governance, which starts with a more transparent government. According to this framework, the demand for good governance starts with information disclosure (including demystification and dissemination) continuing with beneficiary consultation, complaints handling, and independent and/or participatory monitoring. This framework has been used in many countries where the Bank is active and anecdotal data show that it has increased citizen's demand for good governance and the civil society's capacity to influence the government⁷⁹.
117. A EU funded digital whistle blowing project DIGIWHIST; instituted a European Public Accountability Mechanism and database, providing evidence and analysis on increasing transparency in public spending and accountability of public institutions.

Figure 8: Citizens Need to Keep Their Governments Accountable

World Bank proposal for Demand of Good Governance



Source: The World Bank (2010)

Context

118. The development of a culture of transparency for open governance at central and local level is one of the core objectives of the NAS. Two key pieces of legislation form the basis of this objective, Law no. 544/2001 and Law no. 5/2003. At the international level, these laws were considered to be a milestone for Romania in the area of access to public interest information and transparency of decision making. The implementation of these law remained relatively low, as

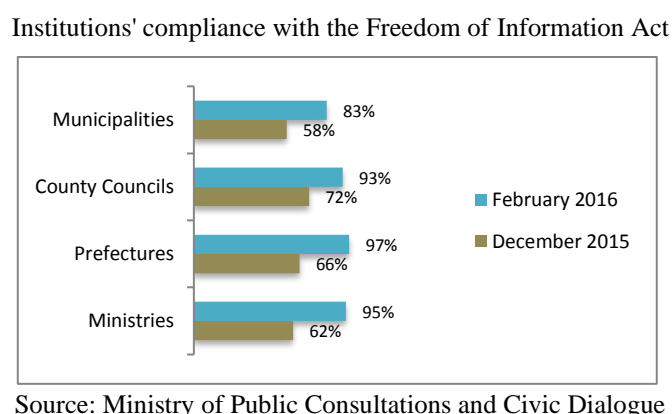
⁷⁹ World Bank, Demand for Good Governance in the World Bank,; conceptual evolutions, framework and evolutions, 2010

concluded by the evaluation of the previous NAS. The reasons of this low implementation was the absence of a clear coordinating agency in this field, a too formal approach to the application of the laws, and the insufficient allocation of resources.

119. The establishment of the Ministry of Public Consultation and Civic Dialogue (MPCCD) indicated Romania's commitment to building a more transparent government, and stronger commitment to applying existing transparency legislation. During the MPCCD's mandate, the institution championed several initiatives to increase access to public information and to improve public consultations including:

- The compliance level to the Freedom of Information Act increased on average by 27.5 percent;
- The publication of information on public interest in Ministries, subordinated institutions, Prefectures and state-owned enterprises was standardized;
- Public information was available on all Memoranda adopted by Government, the agenda and summaries of the governmental meetings, and records of meetings between high-level officials and specialised groups;
- Assistance was offered to improve public consultation at central and local level;
- Some activities were monitored by the Ministry, including budget allocations from reserve funds, use of emergency executive orders and of impact evaluations, and the composition of boards for state-owned enterprises;
- Following a London Summit, a Unique Registry for Transparency of Interests was developed and quickly became operational⁸⁰. It aims to increase the transparency of interaction between public officials and interest groups. However, it is based only on voluntary registration at this point.
- A new draft law to improve the functioning of the Economics and Social Council was proposed, it will be the main institution for consultations of social actors with the Romanian Parliament and Government.

Figure 9: Compliance with Freedom of Information Act Increased



⁸⁰ London Summit, first UK-led global summit on anti-corruption that took place in London on the 12th of May 2016.

120. Despite significant progress made under the mandate of this newly established institution, there remains room for additional capacity building and strategic planning. First, there is currently no coherent vision on transparency in Romania, given the focus on clear but limited priorities in the short-timeframe that the ministry had at its disposal. Moreover, many public employees, especially at the local level, are not familiar with the concepts of open data and transparency and those that are often claim that they are too understaffed to implement it. To address this, the MPCCD developed guidelines for central and local public institutions and have provided training to support the standardised implementation of these guidelines. These efforts could be further scaled-up within the public administration with systematic support and further training⁸¹.
121. Romania has opened data from central and local public institutions. Currently, the website data.gov.ro comprises data from 50 institutions although there are 76 institutions registered on the website. Around 875 sets of publicly available data on European funds management (including the contracts, the public procurement results, and reimbursements); debt to state budget; and public procurement data for 2007-2016 are now available. Some institutions have advanced procedures to maintain transparency moving forward. For example, the institutions subordinated to the Ministry of Health (public hospitals, ambulatory services at county level and all other institutions under the MOH) are obliged to publish all public procurement contracts above RON 20,000 (approximately US\$4,800).
122. Romania has made progress with reference to publishing the data on the allocation of the national budget. The platform openbudget.ro includes data with regards to the 2016 national budget, budgets for social assistance, health insurance, unemployment benefits, external non-reimbursable funds, and activities funded through own funds. Furthermore, as of April 2016, the Romanian Government has made public 7/8 budget documents monitored by Open Budget Survey.
123. Despite the significant progress, some challenges remain. Among the cross-sectorial challenges are institutional red tape and inertia and the inconsistent demand for public data. Making datasets or information publicly available or updating them often requires multiple signatures from various departments within the institution, which slows down the process and introduces the fear of personal liability if datasets are inaccurate, faulty or otherwise defective. Also, stakeholders who should be the most interested in pushing the government to share more of its data in open formats only use the existing data sporadically and offer little feedback about its quality or consistency, which in turn makes public employees consider open data as a low priority. Recently news came out regarding the government's intention to amend the law 544/2001⁸². It is important that the legal framework regarding transparency will not be weakened.

Policy Options

- **Develop a national strategy to increase transparency in public institutions, including those at the local level, as well as SOE's.** Government should work on a long-term and comprehensive strategy, which can provide continuity for transparency initiatives even through governmental changes. Such a strategy would be able to clarify a framework for cooperation between the various institutions currently dealing with these issues. Moreover, such strategy could assist SOE's in making information publicly available. It could also include activities to create easier and uniform access to public data as raw material for the private sector in the development of innovative digital products. This strategy should develop based on an in-depth understanding of the framework of

⁸¹ Open Government Partnership, Romania National Action Plan 2016-2018

⁸² <https://pressone.ro/guvernul-se-pregateste-sa-modifice-legea-accesului-la-informatiile-publice/>

institutional cooperation of all relevant stakeholders. The World Bank can support this by undertaking an Open Data Readiness Assessment to evaluate the level of preparedness of key individual agencies to evaluate, design, and implement an open data initiative. Main actions as identified in the NAS aim at increasing the number of transparent interactions between the government and external actors.

Given limited resources, it is desirable that available resources go to the projects with the largest potential impact, a selection model needs to be used. The NAS highlights as one of the main actions that in order to achieve transparency, all procedures of allocation of public resources should be reviewed and published in an open data format, including all the amounts that are allocated through the State Reserve and the National Program for Local Development (PNDL). Research carried out by a Romanian NGO has shown that the spending of PNDL funds are often impossible to trace. According to research carried out by Expertforum, there is no control mechanism for the PNDL funds, and these funds show a high risk for clientelism at the local authority level, particularly during election time. Often reserve funds that are eligible for emergency spending only (flooding, etc.), are used for entirely different causes than they are supposed to be. The budget of these funds is increased numerous times throughout the year. In 2014, their budget was increased 15 times⁸³. The World Bank has assisted the government of Romania to support the harmonization of the public investments financed by the EU funds and the State Budget, and has assisted to the coordination of strategies related to investments through PNDL. The way that public funds are managed through state-budget-funded programs has to improve dramatically along the entire cycle. The Bank proposes better implementation and design measures for the investment programs. There is need for clear coordination criteria for the funds and a more transparent methodology for the profile of state investment programs. The current design of the PNDL leaves room for improvement, since there is a lack of strategic direction in allocating funds and the continued rise in the number of projects that do not have assigned feasible deadlines for their completion⁸⁴.

- **Build administrative capacity in coordinating and implementing institutions.** To implement this sector-wide strategy, government needs to invest in learning and development to ensure the knowledge, skills, and attitudes for supervising and implementing transparency and open data legislation. Moreover, to support this change, the ministry should encourage a culture of openness across the public administration. The World Bank can support capacity building at ministry level and complement it with assistance to prefectures so they can interact with local municipalities, request information legally required under law 544/2001, filter the information to correspond with open standards and communicate this information to the transparenta.gov.ro national portal, as has been highlighted in the NAS. The World Bank can also support government to develop an easy to use e-learning platform, which would be able to offer tailored support for public sector employees who wish to embrace the new transparency, open data, and open government practices.
- **Implement Open Contracting.** In the current action plan for Open Government Partnership, Romania is supposed to introduce Open Contracting by 2018. Led by ANAP and AADR, this initiative aims to use the platform "elicitatie.ro" to publish information about planning, awarding, implementation, performance, and completion of public contracts. The advantage of this measure is that it can expose corrupt practices by involving citizens or civil society organisations in the monitoring of contract awarding from public funds. Increased transparency on public finances can reduce incentives for inefficient spending or fraud, and it can encourage competition and

⁸³ Expertforum, Harta clientelismului 2014-2016.

⁸⁴ World Bank, Coordination of strategies and programs for EU and state-funded investments in Romania's infrastructure, 2015.

innovation. The National Anticorruption Strategy 2016-2020 also contains a measure aiming at implementing the open contracting data standard in public sectors such as infrastructure, energy and health care, with the subsequent extension of its application at national level. Romania should introduce mandatory procedure to publish information on all contracts, including subsequent contracts following the signature of a framework contract, not just above a particular value. Moreover there is need to improve the publishing of public procurement data in SICAP/SEAP before contracting starts⁸⁵.

Open Contracting enhances the openness of government contracting as it is an approach that promotes public disclosure of timely information throughout the whole public procurement cycle, i.e, from planning to contract awards to payment and delivery. Data should be presented in open data format. Lessons can be learned from Slovakia's contracting transparency regime. After the freedom of information act was amended in 2010 in Slovakia, regarding all contract dealings with public money, from central and local government bodies to SOE's. The aim was to reach more transparency. Government had to publish its contracts, receipts and orders automatically online. Moreover, no government contract would start unless it was published online.

The effects were clear, from 2011 to 2014 780 contracts were published online by the central authorities. In the first year, 11% of the Slovak population accessed at least one public contract that was published online. The media coverage on tenders increased by 25% and journalists believed that the reforms were hugely beneficial for the ability of media to perform its watchdog role. As such the media in collaboration with Transparency International reported four suspicious contracts for hospital catering services worth for up to 80 million euro. Tenders led to interconnected bidders, a shell company in Luxemburg and measures were taken to halt corruption. Open contracting measures led to a significant drop in tenders that ended with a single bidder. While in 2010 over half of all Slovak tenders ended with a single bidder, in 2014 this share fell to 34% in 2014. The average numbers of bidders rose from 1,6 to 3,7 in three years' time. Moreover, since 2011 Slovakia jumped 12 places in the Transparency International Anti-Corruption rankings⁸⁶.

The World Bank has experience in implementing open contracting in Moldova. The Public Procurement Agency of Moldova, in collaboration with the World Bank has launched a website that includes data on more than 16.000 government contacts. The Open Contracting Data Portal allows citizens access to data on all procurement activities that have been registered in the government e-tender system since 2012. The procurement activities are recorded in the government e-tender system, and data is simultaneously uploaded in the portal. The portal is part of a larger set of e-government applications that the government of Moldova has developed⁸⁷.

- **Improve Open Budgeting.** Romania has made progress on the Open Budget Survey ranking. In 2016, it has made available all information listed as essential to Open Budgeting albeit with some delays⁸⁸. Romania needs to continue this reform and gradually publish information on the performance of budget execution. The World Bank supports the Ministry of Public Finance in the implementation of performance-based budgeting with the support of a trust fund to increase financial accountability of the public sector. Currently, Romania has a new methodology to elaborate budgets based on performance, in line with the Institutional Strategic Plans. The follow-

⁸⁵ National Action Plan for Open Government 2016-2018

⁸⁶ Transparency International, 'Not in force until Published Online: What the Radical Transparency Regime of Public Contracts achieved in Slovakia', 2015.

⁸⁷ World Bank, press release Moldova Open Government, 2016

⁸⁸ Open Budget Survey, 2016

up needs to include a sustained piloting phase and the adaptation of the methodology based on the findings in the 3-year pilot phase.

Figure 10: Romania Improved its Performance in Open Budgeting

Romania	Open Budget Survey 2015	April 2016 Update
Pre-Budget Statement	Available to the Public	Published Late
Executive's Budget Proposal	Available to the Public	Available to the Public
Enacted Budget	Available to the Public	Available to the Public
Citizens Budget	Not produced	Available to the Public
In-Year Reports	Available to the Public	Available to the Public
Mid-Year Review	Available to the Public	Available to the Public
Year-End Report	Available to the Public	Available to the Public
Audit Report	Available to the Public	Available to the Public

Source: International Budget Partnership, 2016

- Improve E-Government tools.** E-government tools can limit the interaction between the service provider and the client and thus lead to less corruption⁸⁹. The automation of public services can support anti-corruption by removing individual discretion in providing a particular service. This can prove especially useful for paying taxes, issuing official documents or any other services that do not require the direct interaction with the public servants. E-government tools can also promote the unification of jurisprudence. As such final court decisions could be regularly updated and provided to the persons in charge of their public distribution. Nevertheless, the limits of e-government is that it cannot serve properly the most vulnerable population, although they are those who would benefit the most from avoiding bribes. In some cases, those who are the poorest are also those who do not have access to internet or do not have technical literacy to use a computer for accessing services. E-government also has limits insofar as it provides results only if the administrative processes is clear and streamlined.

Lessons learned from e-governance projects in South Korea show positive effects in reducing corruption. In Korea e-government is part of a broader anti-corruption Strategy through the Civil Applications Initiative (OPEN) that was established in the municipality of Seoul and opened up government services to the public. As such a team of analysts reviewed the entire set of civil applications (building permits, changes in urban development plans, etc) for permits and approvals and identified 26 categories of civil applications that frequently caused inconveniences to its citizens. These 26 categories were prioritized and they were made public on the web portal. This portal contains information on the application procedures and additional information that enabled the citizen to monitor their applications and to raise questions if irregularities would arise. Civil servants of the various city departments were trained to operate the system. One year after the launch, OPEN showed very positive results. The number of visitors of the platform reached 1,257,000 visitors and the categories of applications increased from 26 to 54. OPEN enabled the reporting on 83 cases of corrupt practices by civil servants. The success of OPEN is the simplification of regulations and procedures, effective communication with citizens and more transparent procedures⁹⁰.

⁸⁹ Mungiu-Pippidi, 2013

⁹⁰ UNDP, Fighting corruption with e-Government applications, 2006.

3.2. Improving Oversight

Reduce Risk of Corruption in Public Procurement

Rationale

124. Public procurement is one of the most vulnerable activities for fraud and corruption. Governments need competitive bidding in public procurement in order to obtain the best services for the best available price. However, the fewer the bids, the higher the chances are for bid-rigging⁹¹. A drop in the number of bidders per tender is a red flag for corruption. Improvements in the public procurement process to prevent bid-rigging can reduce the incentives for corruption. Public institutions should spend public funds in accordance with the principles of transparency, competition, and integrity in decision-making⁹². Violating these principles can encourage opacity in all stages of public procurement, and it allows conflict of interest, and unjustified discretionary power.
125. Corruption in the public procurement is defined as steering the contract to a favored bidder. This can be done in various ways, for example avoiding competition through unjustified sole sourcing, direct contracting awards, by favoring a selected bidder by tailor made specifications, or sharing inside information regarding the tender. In this case, four key elements are present: the awarded contract, specific ties between groups, the awarding body, and the winning bidder. Institutionalized, well established corruption in the public sector can be seen as bypassing fair and open competition in order to allocate contracts to preferred groups⁹³.
126. Winning bids represent the main instrument for extracting and distributing corrupt rents. Single bidding is used by various anti-corruption experts as red flag for objective measurement of corruption in public procurement. Single bids are a straight forward indicator of restricted competition. A recent study has shown that single bids correlate with the generally used perception based indicator of for example the World Governance Indicators on Control of Corruption (WGI-CoC) of the World Bank. The figure below shows a strong negative correlation between the single-bid indicator and the WGI-CoC. As such, Romania is facing an increasing number of single bids over the past years. This will be explained later in this chapter⁹⁴.

Context

127. Increasing integrity, reduction of vulnerabilities and corruption risks in public procurement is a specific objective of the NAS by a number of main actions that are addressed by the policy options provided below.
128. Public procurement accounts for approximately 11 percent of GDP in Romania⁹⁵. Its improvement is instrumental in unlocking sustainable growth through the efficient use of public funds in social infrastructure, public service provision and business development.

⁹¹ OECD, Guidelines for Bid Rigging in Public Procurement, 2012

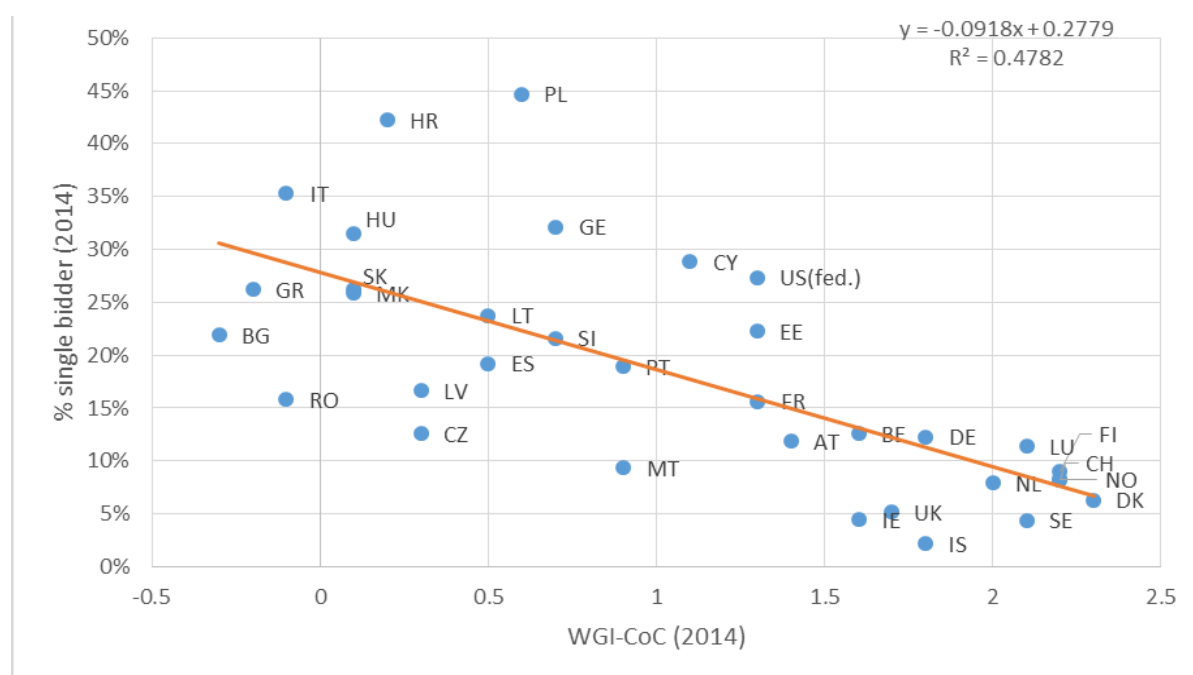
⁹² United Nations Office on Drug and Crime, 2013

⁹³ Fazekas et al., "A Comprehensive Review of Objective Corruption Proxies in Public Procurement: Risky Actors, Transactions and Vehicles of Rent Extraction", Government Transaction Institute, 2016.

⁹⁴ Ibid

⁹⁵ ANAP, Monitoring Indicators Report, 2016

Figure 11: The Negative correlation of single bids and the control of corruption



Source: Fazekas M., Kocsis, “Uncovering high-level corruption” Government Transparency Institute (2015)

129. At the same time, public procurement is a vulnerable area for corruption. National documents include targets to lower the level of corruption. The national strategy for public procurement and the national strategy on anti-corruption refer to the use of e-procurement systems to identify potential conflicts of interest in the pre-tender phases, a central database of companies’ final convictions, piloting of integrity plans, ex-ante control of awarding documentation, transparency in the post-tender phase, and capacity building⁹⁶. However, electronic procurement is not a silver bullet to eliminate corruption, especially on markets that are highly cartelized.

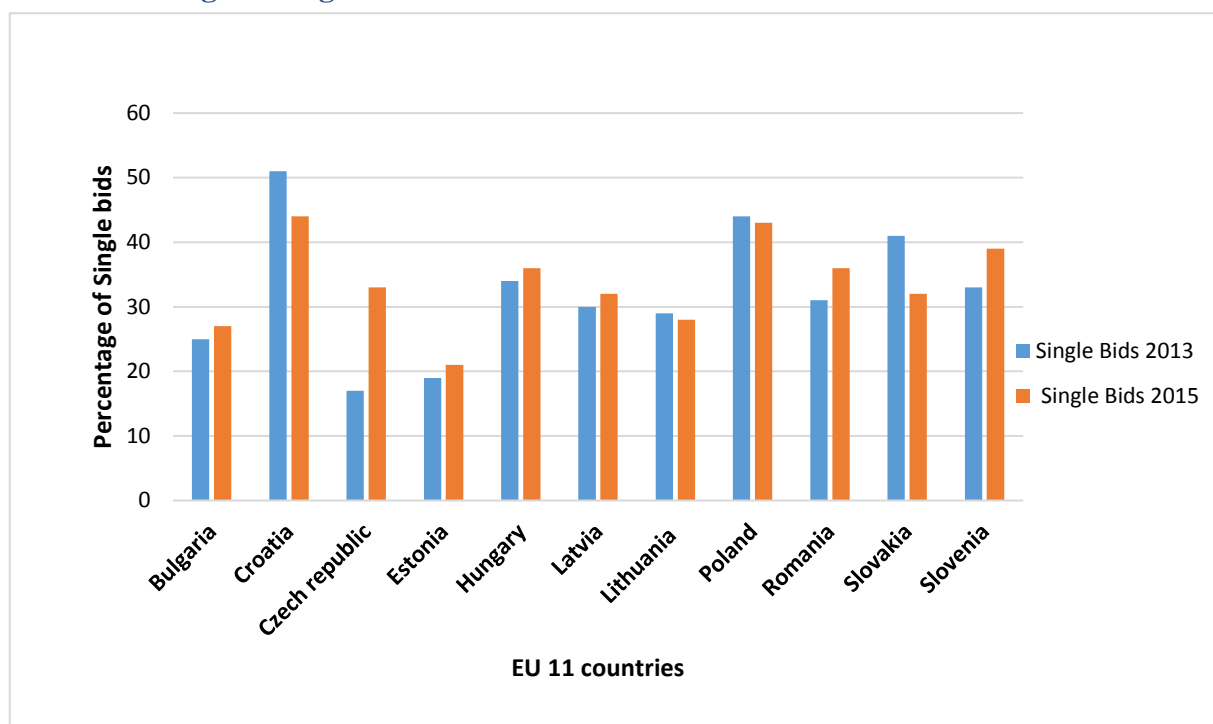
130. Single bids are red flags for corruption in public procurement. Compared with EU11 countries Romania finds itself in a red zone, provided the relative high percentage of single bids. The EU collects data on six public procurement indicators, data is available on Tenders Electronic Daily. The indicators are, (1) single bidders, (2) no call for bids, (3) aggregation criteria, (4) award criteria, (5) decision speed, (6) resorting problems. Romania has an unsatisfactory score on the first 4 indicators⁹⁷. Figure 12 below shows that Romania is amongst the countries with an increasing number of single bids in the public tendering processes.

⁹⁶ National Strategy for Public Procurement, 2016

⁹⁷ European Scoreboard Public Procurement:

http://ec.europa.eu/internal_market/scoreboard/performance_per_policy_area/public_procurement/index_en.htm

Figure 12: Percentage of Single bids



Source: TED data 2013, 2015⁹⁸

131. In 2015, public procurement in Romania was weak. The least performing areas are single bids (their number increasing from 31 to 36 percent) and contract awarding based exclusively on price not quality (92 percent of contracts, increasing from 88 percent in 2013). At the same time, Romania is performing slightly better on improving transparency post-tender (all contracts awarded included information about their value), and on the number of procedures negotiated with the company without a call or tender (decreased from 19 percent in 2013 to 12 percent in 2015).
132. In 2016, the European Commission reported that over half of the companies that participated in a public procurement procedure in the years 2014 until 2016 reported corruption related constraints. The results of a survey conducted amongst businesses in Romania shows the following results: 59% of the companies stated that the contracts of public institutions were tailor made, 54% of the companies stated that the contracts had unclear specifications and made it hard for companies to participate in the tender process, and 53% of the participating companies stated that the evaluations of bids showed a conflict of interest. In addition, the governance and business environment collusive bids are said to be the most widespread corrupt practices in public procurement, according to 57% of the participants' bids were related to corruption. Further, 58% of the companies stated that paying bribes in exchange of public contracts is a widespread phenomenon⁹⁹. The table below shows the key data regarding Public Procurement in Romania.

⁹⁸ Tenders Europe Daily website, 2017

⁹⁹ Business attitudes towards corruption, Eurobarometer, 2015.

Table 3: Facts and Figures on Public Procurement in Romania 2016

Key Public Procurement Figures Romania 2016							
Overview ¹⁰⁰	Total value procurement 13,195,900,00 euro		Procurement % GDP 2015 11.6%		2015 GDP 160 billion Euro	Contracting Authorities that used the electronic system for public procurement in 2016 2342	
Procedures Applied ¹⁰¹	Open 75%	Restricted 1.75%	Negotiation with Call 2.5%	No call ¹⁰² 16.5%	Competitive dialogue 0.01%	Direct award no data	Other Simplified procedure 18%
Contract type ¹⁰³	Services ¹⁰⁴ 24%		Works 20%		Supplies 56%	Framework agreement ¹⁰⁵ Signed FWC: 75% of total contracts signed in 2016	
Ex ante conditionality criteria as of 2014	EU rules EC Directives transposed into national legislation in April 2016						
E-procurement adoption	E-notification Mandatory		E-access Mandatory		E-submission Mandatory as of April 2016	Uptake rate 75.88% for all stages	
Perceived corruption ¹⁰⁶	Corruption widespread in society				Corruption widespread in procurement		
	Business 74%		Individuals 93%		National level ¹⁰⁷ 59%		
TED indicators ¹⁰⁸	Value of tenders 13.517.029.408,90 euro		Of total procurement 18.52% of total number of procedures 80% of total estimated value of procurement		Nr. of contract notices 3.533 contract notices sent to JOUE out of total 19.079		
Other indicators ¹⁰⁹	Received single bid 9.86%		Days of decisions 69		Price only criteria 95%		
	Won by foreign firm 82 contracts out of 16804 signed contracts (without framework agreements and without considering the consortia)		Related to EU funds 13.87%				

Source: Authors compilation of ANAP and EU data on procurement

¹⁰⁰ ANAP monitoring indicators report, 2016: <http://anap.gov.ro/web/indicatorii-de-monitorizare-ai-eficientei-procedurilor-de-achizitie-publica-pentru-anul-2016/>

¹⁰¹ As per point 5 ANAP report on monitoring indicators, 2016

¹⁰² As per point 11 ANAP report on monitoring indicators 2016

¹⁰³ ANAP February 2017 report: <http://anap.gov.ro/web/wp-content/uploads/2017/02/Raport-februarie-2017.pdf>

¹⁰⁴ Based on launched procedures, see ANAP 2017 report

¹⁰⁵ ANAP monitoring indicators report, 2016

¹⁰⁶ World value Survey 2015

¹⁰⁷ Eurobarometer, Business Attitudes towards Corruption, 2015

¹⁰⁸ ANAP Report, February 2017

¹⁰⁹ ibid

133. While a new legislative framework is in place, there remains insufficient capacity to implement it. The Romanian government adopted the National Strategy for Public Procurement in 2015, and aligned the public procurement legislation with the relevant EU Directives in 2016. Despite this progress on legislative and institutional frameworks, Romanian institutions still lack the capacity to implement the new framework. In this respect, the World Bank and the European Investment Bank are providing technical assistance support. Specifically, the World Bank is developing a web-based guide outlining the operational aspects of the public procurement in the context of Law no. 98/2016. It also supports ANAP to complete a functional review assessment and provide training and capacity building on the new operational approach to the main institutions of the public procurement system¹¹⁰.

Box 5: New Legislative Framework for Public Procurement in Romania

The Parliament approved four laws in 2016 on the public procurement framework (Law 98/2016), sectorial public procurement (Law 99/2016), concessions (Law 100/2016), remedies and appeals (Law 101/2016). Government Decision adopted implementation rules: GD 395/2016 for classic sector, GD 394/2016 for utilities, GD 867/2016 for concessions.

134. The new legislation includes provision on the planning of the procurement portfolio. The public procurement unit in each contracting authority (CA) is responsible for the elaboration of the annual procurement strategy, based on the identified needs within the institution. ANAP has developed the methodology for this, and, with the World Bank support, the implementation mechanism¹¹¹. Until recently, the needs assessment did not include budget estimations, and this could affect the predictability of the contract awarding process, increasing the risk of corruption. However, it is expected that this risk will be reduced with the application of the new legal provisions related to planning of the procurement portfolio.
135. The European Investment Bank is providing support to ANAP in accomplishing specific measures of the National Strategy for Public Procurement in the following main areas: a) development of internal control systems; b) reform and streamline ex-ante control system; c) enhance capacity of the contracting authorities, with a focus on aggregation of demand and cooperation of contracting authorities; d) overcome recurrent implementation shortcomings to smooth project preparation and contract implementation, mainly through support in development of mapping of utilities in specific procurement works i.e. infrastructure works.
136. In the preparation of tender documents, the CAs are responsible for the identification and prevention of conflicts of interest at this stage. Further provisions on conflicts of interest included in the public procurement legislation, are applicable during the evaluation process, and contract implementation.
137. ANI has developed the PREVENT system for ex-ante verifications of conflicts of interest. Using intelligent data analysis prior to the contract award it can identify potential conflicts of interest, and is scheduled to start operating in mid-2017 and will initially focus on procurement from EU funds. Under the exercise of ANI, the Prevent system analyses data submitted by members in the public procurement commissions (Integrity Forms in SEAP/SICAP) and data regarding participants to the procurement process. By cross-checking them with the Population Records as

¹¹⁰ National Strategy for Public Procurement, 2016

¹¹¹ World bank presentation, ANAP, The Romanian Public Procurement System, 2016

well as Database Management as well as the data from the National Trade Registry Office the system will seek to identify potential conflicts. When this happens, the system will generate a warning about the respective potential conflict of interest and send it to the head of the CA in question. Hereafter it is up to the contracting authority to take the necessary measures in order to prevent conflict of interest, e.g. replacing the member on the assessment committee who is in potential conflict of interests. ANI financed the development of this system with EU funds from the 2007-2013 programmatic period. The mechanism of this prevent system is established by law no. 184/2016 of 17 October 2016¹¹².

138. The public procurement law includes specific provisions concerning the transparency and integrity of the bidding process. In addition, the legislation currently in place provides guidelines on the development of selection criteria. The main shift is that the selection criteria no longer revolve around the concept of the lowest price. Instead, a combination of qualitative and cost factors should be taken into account to make sure that money are spent efficiently for good quality products. The level of compliance by the CAs is assessed by the ex-ante control performed by ANAP. This institution is currently reviewing tender documents uploaded by all CAs in the national e-procurement system, based on a sampling methodology published on ANAP website. In the post-tender stage, according to the law, the contracting authority needs to publish in SEAP all contract amendments if it involves more than 5 percent increase in the contract price, and the final contract prices (the contract price at the end of the execution period)¹¹³.
139. In sensitive or high budget contracts, some bidders submit requests for clarifications either to delay the process or to question the correctness of the procedure. However, the majority of the cases reflect the fact that the terms of reference / technical specifications were poorly drafted suggesting either that the CAs have a low capacity to draft or to assess the quality of the documents in case these were drafted by consultancy companies. On the other hand, CAs did not benefit from clear guidance on how to draft terms of reference / technical specifications either especially in the light of the new legal framework. Nevertheless, the web-based guide will address this issue as well, by making available standard terms of reference, guidance, templates and best practices on the subject.
140. In the post-tender stage, there is currently no information published on the contract administration and contract performance, nor is there any coherent and consistent mechanism to follow up on the actual performance of the contract, apart of those scarcely present in some CAs. According to the law, the contracting authority needs to publish in SEAP all contract amendments if it involves more than 5 percent increase in the contract price, and the final contract prices (the contract price at the end of the execution period).
141. The World Bank is engaged in assisting ANAP to develop a web-based guide that includes guidelines, templates and standardized tender instruments for each type of contract. In December 2016 ANAP issued an online guide that provides a methodology for the identification and prioritization of contracting agencies as well as a research methodology for market analysis. In addition to this, the guide assists in identifying elements that can potentially affect different cycles of the procurement process. This guide covers all stages of the procurement process in order to assist both contracting agencies with the necessary tools to comply with the existing regulations in the field of public procurement. The guide comprises the following categories: (i) a description of the activities of the contacting agency related to public procurement, (ii) the supporting instruments

¹¹² Law 184/2016

¹¹³ Law 98/2016

that specify the terminology, and provide examples of good practices, (iii) templates for procurement, (iv) verification list to assess the capacities of the contracting agency, (v) instruments for the public procurement process. At present the online application is being developed to provide an interactive online platform for legal assistance on public procurement in Romania¹¹⁴.

Policy Options:

- **Allocate contracts also based on quality of technical proposal not just price.** The practice of allocation of contracts show that evaluators decide in favor of those who offer the lowest price, in 92 percent of the cases. In some cases, this is due to the objectivity of these criteria in comparison with performance criteria that need to be justified. This procedure affects the quality of the work implemented by the winning bidder, but it also lowers competition because of dumping prices proposed by some companies¹¹⁵. The new public procurement legislation provides the basis for the shift from lowest price to quality assessment; however, the way the evaluation mechanism will be defined and implemented by the CAs is still to be seen. Namely, the capacity of CAs in order to implement such legislation is low, provided the limited in-house skills to formulate TOR's that encourage quality. At present, these conditions are not well reflected given the fear for formulating subjective criteria and fear for conflict of interest. At present, these conditions are not well reflected given the fear for formulating subjective criteria that could lead to criminal or administrative investigations. Development of suggested standard TORs for frequent procurement that could be slightly amended to fit the needs of CAs could be of great help
- **Build capacity to implement the new public procurement framework.** Currently, the World Bank and the European Investment Bank support the Romanian Ministry of Public Finance and its subordinated National Public Procurement Agency to reform the public procurement system in line with the public procurement strategy. The technical assistance provided by the World Bank aims to support ANAP to transform the procurement policy and practice into a strategic management function with focus on value for money and integrity in the whole project cycle. This component aims to develop a web-based guide that would provide operational guidance to the CAs in the performance of public procurement processes. Such public procurement framework will reduce the number of contracts awarded through non-competitive means. The World Bank stands ready to further support in capacity development for ANAP and CAs.
- **Build capacity for budget estimations for planned procurements.** E-procurement tool is the main tool to estimate budgets for future public procurements. Information on previous contract awarded, which may already be available in SEAP, can inform the development of a forecasting model. The advantage of this measure is that it increases the predictability of public procurement process and thus reduce risk of corruption. In accordance with the action proposed by the NAS, any changes of contractual relations in SEAP (Electronic System for Public Procurement) and SICAP (Collaborative IT System for Competitive Environment for Public Procurement) should be published on the open data portal, data.gov.ro. Moreover, regular multidisciplinary professional trainings activities can be organized in order to promote national and international best practices in public procurement. Moreover, the design and implementation of red flags into the SEAP e-Procurement system should be taken into consideration in order to adequately prevent cases of

¹¹⁴ ANAP, Public Procurement Web Guide, <http://anap.gov.ro/web/anap-lanseaza-aplicatia-online-ghidul-achizitiilor-publice/>

¹¹⁵ Partnership for Social Development and Expert Forum, 2014

corruption. The World Bank can support the development of forecasting models and of the training of public servants to be in charge with this responsibility¹¹⁶.

- **Develop standards to publish information from the post-tender phase, on the contract administration and contract performance.** ANAP aims to develop a value for money system of public procurement, but it does not currently publicize information on performance of contracts. With transparent information on contracts performance, ANAP can incentivize quality contract execution.
- **Introduce mandatory procedure to publish information on all contracts**, including subsequent contracts following the signature of a framework contract, not just those above a particular value. Currently, as part of the transparency efforts made by the Romanian Government, some contracts awarded for public procurement are public. However, in some areas only contracts above a certain value are public. For example, in health, only contracts above RON 20,000 are publicly available. For transparency purposes, we believe all contracts should be public.
- **Ensure cooperation of all institutions whose databases are necessary for identification of conflict of interest in PREVENT.** PREVENT system, managed by ANI, has great potential in identification and avoidance of conflict of interest, at the early stages of the bidding process for public procurement. However, the success of this system depends on the availability of data from additional databases. Moreover, in order to improve the performance of PREVENT and reduce the number of procurement cases that are annulled by the court, jurisprudence needs to be unified. Cooperation with the institutions that manage those databases and ensuring a high-percentage of completion of records is critical to the data analysis.

¹¹⁶ NAS 2016-2020

Box 6: World Bank engagement in Public Procurement: Georgia

The World Bank perceives corruption in public procurement as directing a contract favor a bidder without detection in order to avoid competition and favor certain bidders. The World Bank has engaged in a study on public procurement performance of Georgia, in specific the performance in the contracting process throughout the period 2013-2015. Performance can be measured as the “failure rate”, the percentage of tenders that fail to result into signed contracts, and “saving rate”, the price of contracts compared with estimated prices. Factors that are influencing performance are the procuring entity, size of contracts and the number of bidders.

Overview public procurement system of Georgia

- The level of procurement spending increased over time due to higher spending on work contracts
- The majority of contracts are assigned through simplified procurement, but over time e-tendering increased in value with regard to the total value of contracts
- The competition in public procurement was low between 2013-2015
- 30% of e-tendered contracts failed to assign a winner in a bid
- Public procurement amounted to 9,9% of the Georgian GDP and entailed 31.15 of the total public spending

What measures proved successful in Georgia?

- Reducing the number of small contracts and contracting failure rate, mostly contracts for goods and services; which have fewer bidders and higher failure rate, namely around 30%. This significantly improved performance in procurement and generated savings.
- Improving procurement through improving policies and practices within procurement entities, by focusing on 10 entities that produce the highest value of works contracts. E.g. top 10 organizations procuring works are accounting for 50% of the total value generated. Focusing on 10 organizations only means involving a small number of contracts but includes a large portion of public spending and improves overall performance of the procurement system
- Improving policies and practices of procuring entities through a focus on municipalities, focusing on the competencies and capacities of the worst performing municipalities
- Improving procurement performance by increasing SME participation, since these firms proved to be as successful as large firms in competition.

Source: World Bank (2016)

Keep Public Institutions Accountable

Rationale

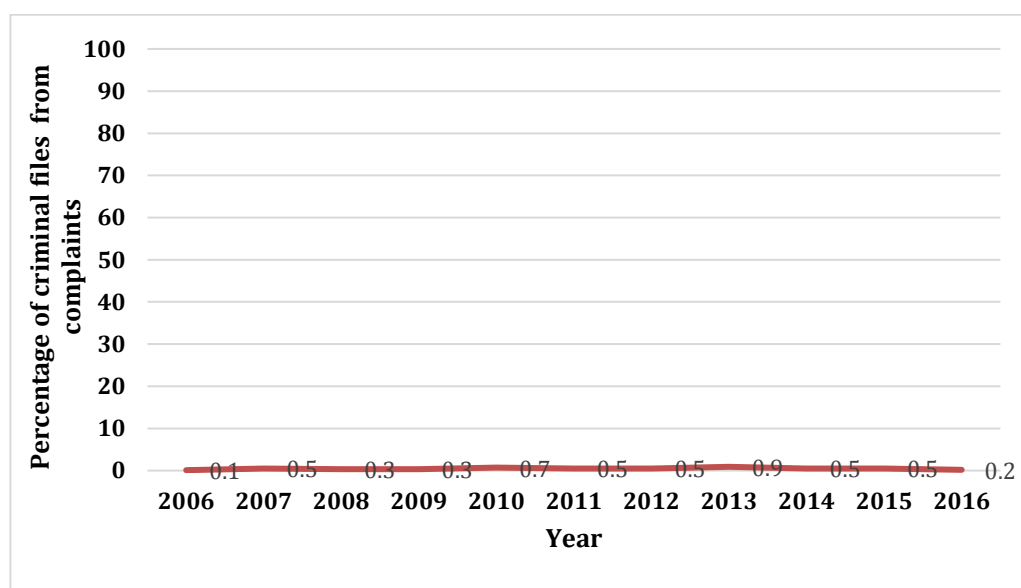
142. Accountability increases the chances for the corrupt politician to be caught. Thus, it contributes to increasing the financial and moral costs of corruption. The desired objective is to make corruption less attractive. As per the model to demand good governance, complaints handling is a critical step to shaping citizen-centric institutions. To be credible, the state institutions should be able to register the complaint, solve it and communicate the results.

Context

143. The General Anti-Corruption Department from the Ministry of Interior manages a hotline to report corruption. According to official data, the DGA received 101,790 calls between 2006 and 2016, out of which 501 led to criminal files. In addition to this line, the DGA also gathers complaints at their headquarters, via mail, through their website that has an option of online petitions, and via email. The drawback is that the current legislation (article 7 of the GD no. 27/2002) states that the institution should not consider anonymous petitions, but close them. Furthermore, approximately half of the Romanians are not aware of the available instruments to report the corruption.

Figure 13: Number of Criminal Files as a Result of Reporting Corruption Remains Low

Percent of Criminal Files from the Total Number of Complaints at the DGA's Anti-Corruption Hotline



Source: Author's analysis of data provided by Romania- UN Convention Report on Anti-Corruption. Report (February 2016)

144. Several public institutions have their own feedback mechanisms. These include feedback on service delivery and reports of corruption or solely reports of cases of corruption. For instance, NAFA has an online platform where citizens can make complaints, and the Ministry of Public Finance has a hotline for complaints on refusal by the businesses to offer receipt and corruption cases from institutions subordinated to the Ministry. In 2014, NAFA – supported by the World Bank- implemented citizen feedback mechanisms using SMS in order to improve tax collection

services¹¹⁷. Other Line Ministries, such as Ministry of Health, have anti-corruption hotlines, developed in partnership with DGA. Some municipalities have their own hotline for reporting corruption.

145. During 2000-2016, civil society organisations have developed a great number of initiatives to increase accountability of public institutions. Some of these include:
 - Centres for assistance on anti-corruption matters (e.g. *Centre for Assistance on Anti-Corruption*, established by Transparency)
 - Platforms to report corruption (e.g. *Romania Curata*, established by Romanian Academic Society) or bribery in public service delivery (website *piatadespaga*)
 - Interactive maps that show the allocation of funds at local level (developed by Expert Forum) or availability of local budgets (Funky Citizens).
146. Romania has strong legislation in place for whistleblowing, but it covers only the public sector. Law 571/2004 is about the protection of personnel within public authorities, public institutions, and other establishments that report infringements. This comprises a wide set of potential offences to be reported and a generous number of institutions to report to, while mainlining anonymity. However, the current legislation does not regulate the private sector and this area remains at the discretion of each company. Many companies are interested though to introduce whistleblowing protection as part of the agenda of improving corporate governance in Romania¹¹⁸. At the same time, in some sectors - such as banking- Romanian regulations and the industry level rules imposes obligations to have company level whistleblowing protections.
147. The legislation in place includes references to the protection and confidentiality of the whistleblowers, but the implementation is haphazard. However, there are no clear penalties for retaliation and such cases have been reported in the past. This is still a concern especially in the context in which fear of the consequences is the most often mentioned disincentive to reporting corruption¹¹⁹.
148. One area where accountability is essential is the provision of public services. This is especially important because citizens' relationships with street-level bureaucrats determines the level of trust in institutions (OECD, 2015). As such, addressing bribery in public service delivery will not only improve the service itself, and increase access to it, but it can also increase the level of trust and contribute to solving the more complex collective action problem.
149. Forty-four percent of Romanians reports that they have always been/they are usually requested for bribe when accessing healthcare services (Figure 14). This is much higher than the Western Europe average, where only three percent have been asked for bribes in public health care.

Policy Options

- **Improve the operationalization of legislation and the implementation of whistleblowing protection.** Whistle-blower protection is essential in order to encourage and ensure protection towards persons that report corruption, misconduct and fraud. In environments where reporting of misconduct is not protected or is not promoted, there is a higher risk for corruption. There are international instruments for combatting corruption that recognize the importance of laws that protect whistle-blowers as part of a larger anti-corruption framework. As such The United Nations

¹¹⁷ <http://blogs.worldbank.org/governance/prime-minister-s-delivery-unit-romania-saving-taxpayers-their-time>

¹¹⁸ Transparency International, not dated

¹¹⁹ Transparency International, 2016

Convention against Corruption and the Council of Europe Civil and Criminal Law Conventions on Corruption include provisions to strengthen whistle-blower protection. A study of the OECD based on public available data on G20 countries provides various provisions for both public and private sector whistle-blower protection mechanisms. These provisions can be used to strengthen the Romanian legislation on whistle-blower protection and the implementation thereof.¹²⁰ Legislation on whistle-blower protection in Romania appeared as result of an advocacy campaign initiated by Transparency International.

The Romanian government should extend nation-wide regulation to the private sector. This will limit the discretionary power for each public company manager and make them accountable. At the same time, the Romanian government should invest in better promoting this type of policy in public and private companies and should build capacity in the public institutions to deal with this type of complaints. For example, at this point, there is no dedicated hotline for whistleblowing and no clear data available on the functioning of this mechanism. Additional capacity building should also be invested in better protecting whistle-blowers and encouraging them to continue to report acts of corruption. Retaliation takes many forms from harassment at the workplace to dismissal, sanction, or physical harm¹²¹. This is crucial because the main reasons why people in Romania are reluctant to report cases of corruption is the fear of consequences¹²². The main problem is the lack of implementation of such a mechanism in the public sector.

Whistleblowing mechanism

A good mechanism for whistleblowing protection includes a definition and scope of the notion of whistle-blower, a mechanism for protection against retaliation, ensures reporting procedures and mechanisms, includes an enforcement mechanism, and awareness rising mechanisms. In Romania, the legislation defines a whistle-blower as following: “a person, who, in good faith, makes notice of a fact that involves violation of a law, or of principles of good administration, of economic efficiency and transparency and which is employed in one of the public authorities and institutions within the central public administration. Protection needs to be provided to a person who reports misconduct and does so, based upon the belief that the information is related to misconduct and corruption. This has to be ensured even if the belief of the individual proves later to be incorrect. As such, an individual that on purpose makes a false disclosure should not be granted protection. In the Romanian whistleblower legislation only the notion ‘good faith’ is present. A discipline committee shall ensure the protection and the secret identity of the whistle-blower. The scope of coverage of persons that deserve protection needs to include also protection of private sector employees, which is not the case in Romania. The Romanian law only protects a whistleblower that is a civil servant, and does not guarantee protection for persons from the private sector.

In Romania whistleblowing disclosure can be done via internal and external channels, and the reporting procedures need to be strengthened. In the UK, a ‘tiered’ approach is used whereby disclosure can be made to a line of tiers, persons. Tier 1 implies internal disclosure to employers, Tier 2 is a regulatory disclosure to prescribed bodies and Tier 3 implies a wider disclosure to the police, media, and MP’s. Every tier requires a higher threshold of conditions to ensure whistleblower protection. Another example for strengthening the reporting procedures is the use of incentives to encourage reporting.

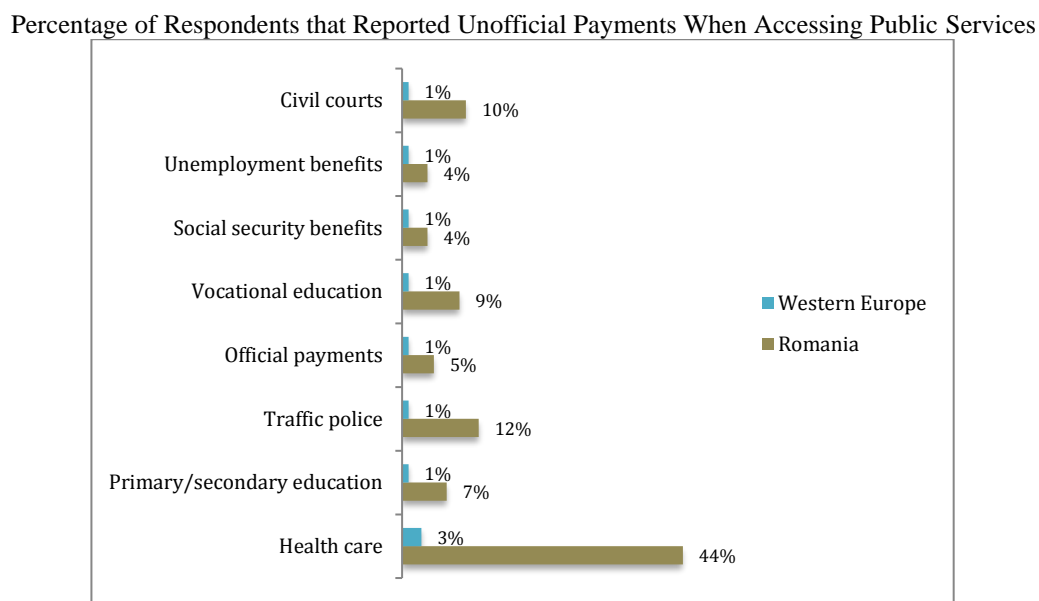
¹²⁰ G20 Anti-Corruption Action Plan Protection of Whistleblower, OECD, 2012.

¹²¹ Transparency International, not dated

¹²² Transparency International, 2016

Some countries use rewarding systems, that include monetary awards. In the U.S there is the False Claim Act, where the whistle-blower can receive up to 30% of the recovered amount of damages. Indonesian law includes a provision for granting ‘tokens of appreciation’ to whistle-blowers that helped preventing corruption. Indonesia also provides for an example of an awareness raising mechanisms that has been instituted by the KPK, the Corruption Eradication Commission. The KPK has actively promoted whistleblowing programs in Government Agencies and SOE’s and this showed clear result in reducing corruption.¹²³

Figure 14: Corruption in Romania is High Compared to Western Europe, Especially in Healthcare



Data source: European Bank for Reconstruction and Development, 2010

- **Encourage public participation in participatory budgeting.** The budgeting process should be more inclusive and engage citizen in budget formulation and auditing at local level, using formal mechanisms. Cluj Napoca had the initiative to adopt participatory processes in city development processes. In 2013, the Municipality commenced a Participatory Budgeting effort, with a working group of people composed of civil society representatives, city hall staff, and private sector representatives. The groups organised several meetings in two of the city’s largest neighbourhoods, with the participation of the mayor. The World Bank provided support to this effort by organizing a workshop on Participatory Budgeting with experts and practitioners in the field from a variety of countries (Brazil, Italy, US, Portugal). Unfortunately, the Participatory Budgeting working group has ceased to function after two years, but the municipality has continued to organize neighbourhood meetings and gather citizen’s ideas for projects.
- **Improve Oversight.** The practices in the Control Bodies for Ministries and GSG are not uniform. For instance, some of them have competences to apply sanctions, others just to make recommendations to the leaders of the institutions to correct the faults identified. Many see the control functions as an appendix to criminal investigation and the temptation to send everything to the criminal justice system is high. This puts pressure on investigators to deal with all breaches of laws and regulations and to transform them into criminal charges. The task is impossible to handle and it brings upon the risk of stretching to their limits crimes with a generous wording such as

¹²³ Ibid.

abuse in office. The reverse is that the scope of the crime becomes vague, challenges follow with the possible effect of elimination of the crime from the criminal code, but more importantly public sector employees no longer understand what is expected of them and become hesitant in making decisions. A far more preferable solution would be to deal with the minor breaches as misdemeanour and focus on the recuperation of the damages caused – non-criminal procedures being preferable and shorter in comparison with criminal procedures. Last but not least oversight functions should also be used to the maximum to ensure that those that breached the law do not stay in public office once the breach was ascertained, irrespective of the outcome of a possible criminal investigation. In addition, almost all control bodies are understaffed. For example, an analysis from 2011 showed that 82 employees in the Control bodies from the ministries and GSG had to verify 44,053 employees across the public administration, and to propose anti-corruption measures¹²⁴. As part of the new anti-corruption strategy, the control bodies should develop a unitary legal framework and practices, receive additional resources, and publish data on their activities. In line with this, the new legislation should ensure the limits to discretionary power of the inspectors and the impartiality in applying the law.

- **Reduce the red tape.** Excessive bureaucracy is an opportunity for corruption, and in the Romanian public administration it has been used as a way to diffuse responsibility and thus the chances of getting caught. For example, tax compliance is low in Romania, due to tax avoidance, the complexity of tax system and the high bureaucracy for paying taxes. Romania's tax administration needs to take several reforms to increase tax compliance, reduce the cost of collection and the complexity of tax system. In 2014, the total tax revenues to GDP were 27.7 percent. A company had to pay 14 taxes in total, while spending 159 hours per years. Moreover, the companies can pay the corporate income tax online in approximatively 25 hours. Until recently, the online payment system required a physical presence at NAFA before using the virtual space, and the payment information available was incomplete and confusing¹²⁵. The World Bank is currently supporting NAFA with improving its services through a lending project of USD 100 million, and hence supports the streamlining of services for citizens and business.
- **Widen scope and coverage of the existing feedback mechanisms.** The current system is reactive, by default. However, since the proposed anti-corruption framework focuses on prevention, proactive citizen feedback mechanisms would be more adequate. The standard model for this type of mechanisms involves the public institution (usually a public service provider) and the beneficiaries. As in the model below (**Figure 15**), the process starts when the beneficiaries access public services and upon their departure from hospital, school etc. they receive questions on the services they accessed. Some of these questions are about the quality of services delivered, but some to petty corruption. The institution uses these answers to improve the service delivery and– if it is the case– sanction the public servants. Nevertheless, the effectiveness of this instrument depends on the follow-up done by the institutions, including communicating the outcome of the complaint and publishing the results. This leads to increasing the trust in institutions and in the number of reports received from citizens. For instance, many institutions that we have consulted with mentioned that once they started to publicize their results, the number of reports from citizens increased.

The revamped patient feedback mechanism promoted by Ministry of Health is probably the closest to this model. Nevertheless, the Ministry of Health should first extend the coverage of this instrument in Romanian hospitals and then develop it further. At this point, the power of the

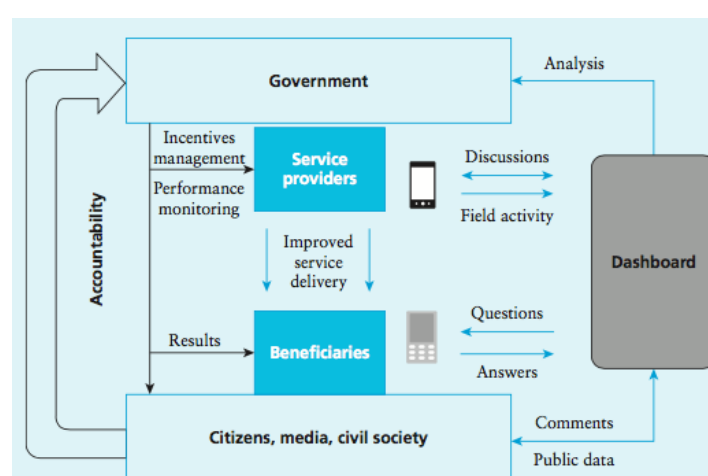
¹²⁴ Popescu, 2011

¹²⁵ The World Bank, 2011

instruments ends at the stage where the patient reports a case of corruption. The follow-up should comprise activities such as following the complaint and communicate the results to the public.

Romania can take example of the citizen's feedback monitoring programme that has been introduced in Pakistan in order to reduce corruption in the public sector. This mobile feedback programme has been implemented with assistance of the World Bank. This Citizen Feedback Mechanism was implemented by the Punjab government to seek feedback of the citizens on public services related to employee attitudes, in order to increase performance of public institutions and to increase the trust of citizens in the state. Common cell phones were used so that the government could seek feedback of its citizens by issuing automated calls and SMS messages. The first roll-out of this programme took place within a district administration where there was suspected corruption, namely bribes for health, education, and income services were believed to be frequent. This experiment proved to be successful given the rate of reporting and feedback and it soon became the basis of a social audit system that covered all Punjab districts. A call centre was opened and data from this centre was used by district coordinators to identify poor performing employees and improve the public services delivery. A survey showed that over 55% of the citizens stated that overall service delivery had improved, and 63% of the responding citizens said that timelines had improved. In addition, 30% of the respondents stated that the programme had reduced corruption, and 76% of the respondents believes that this feedback mechanism will help in reducing corruption in the future. The innovative aspect of this feedback mechanism is that rather than waiting for citizen feedback, the state actively reaches out to its citizens¹²⁶.

Figure 15: Citizen Feedback Mechanisms Can Improve Service Delivery



The Smart Proactive Government Model
Source: Bhatti et al, 2015

Box 7: Patient Feedback Mechanism in the Romanian Ministry of Health

In 2016, the Ministry of Health implemented a pilot project aimed to improve the patient feedback mechanisms. The pilot project included five hospitals in Romania and four types of interventions, varying on the type of medium of communication (via SMS or/and WEB) and number of questions (5 or 9).

¹²⁶ World Bank Group, forum on citizens' engagement.

This new patient feedback tool addresses some of the deficiencies of the previous instrument. The patient feedback mechanism implemented previously showed satisfaction level with healthcare services of 95 percent in some hospitals. This was inconsistent with the data gathered by any other entity. Previously, the feedback was gathered with a long questionnaire, filled in, in the presence of a medical staff (no anonymity), and an employee of the hospital was responsible for the input data in the monitoring system (no control over what was actually reported).

The pilot phase was successful with 11.4 percent response rate (compared to an international average of 10-12 percent). This has also indicated areas of improvement for the stage when the feedback mechanisms will be scaled-up and implemented in 350 hospitals starting with December 2016. The mechanism will have the support of STS in data collection and management. The Ministry of Health will centralize the data and publish it every three months on the portal transparenta.ms.ro. The complaint reports will be analysed and follow-up by the Ethics Committees in the hospitals.

The revamped patient feedback mechanism has 10 questions about satisfaction with service delivery, quality of the health outcomes and bribery. The last question can direct the patient to the anti-corruption responsible in the Ministry of Health, who has the obligation to report the case to the competent authorities.

- How satisfied you are with the healthcare services offered by this hospital?
- How satisfied you are with the activity and the involvement of the medical doctor?
- How satisfied you are with the cleanliness in the hospital?
- Did you need to buy drugs or any other sanitary materials?
- How satisfied you are with the activity and the involvement of the nurses?
- Did you receive clear explanations about your diagnostic?
- Was your health status better after discharge?
- Were you solicited bribe by the medical doctors or nurses?
- If yes, do you want to report this to the anti-corruption responsible in the Ministry of Health?

3.3. Enforcing Sanctions on the Corrupt

Continue Prosecution

Rationale

150. Any anti-corruption measure depends on credible sanctions. If there is no consequence for being corrupt, some may incline to see corruption as profitable. As such, prosecuting cases of corruption increases the cost of corrupt acts and may act as a disincentive to continue these behaviours. In this section, we will address prosecution of high-level corruption cases, which has been one of Romania's strongest areas in the fight against corruption in past years.

Context

151. Romania has made great progress in prosecuting high-level corruption. In 2015 alone, the National Anti-Corruption Directorate has managed to indict 1,250 defendants, and requested the interim asset seizing of around 493.46 million EURO, while the amount of the proceeds generated by criminal activities was 431.6 million euro. The HCCJ followed the same trend, with a successful record of bringing cases to conclusion and clearing the backlog of cases. In January 2016, the oldest case was from 2011, and many of those completed this year were from 2014 and 2016. With regard to the DNA, the organization accused 1270 persons, including 426 public functionaries who were fulfilling function of power. Out of these 1270 cases 341 were related to

abuse of public office. In the same year 879 persons were convicted and the cases were closed by the courts¹²⁷.

152. DNA has strong public support, which makes it a target for attacks from politicians. DNA has been one of the highest performing institutions and it has consequently gained the support of the people. Nevertheless, the unintended consequence of this support has led to various attacks from the media controlled by politicians or directly from the politicians themselves. In the past, this took several shapes, from attempting to cut the funds of the agency, trying to reduce its independence or trying to curb the work of high-level employees in the office. In more recent months a concerted campaign to discredit the DNA has moved to the international press.
153. DNA needs additional resources to be able to achieve their objectives and to maintain its independence. In 2016, the Constitutional Court has declared unconstitutional the use of SRI for surveillance infrastructure and human resources for the cases under investigation by DNA. This implied a shift in DNA's practices. Currently, police officers use SRI's equipment for DNA cases for wire tapping in criminal cases. This is a temporary practice though and the independence of the agency depends on the appropriate allocation of resources for DNA to develop its own infrastructure and allocate human resources for investigations and prosecution. At present, there is an ongoing debate regarding the composition of the DNA. Either a split between intelligence and criminal investigations can be considered, or only one infrastructure used by both police and intelligence. There are little chances for the DNA to get its own inception center.
154. Other challenges to the conclusion of high-level corruption cases are the use of immunity by parliamentarians and by current and ex-ministers. In 2015, Parliament refused one third of the requests to lift immunity. Ministers and ex-ministers have immunity against criminal investigations, while parliamentarians have immunity against temporary arrest, arrest and search. It is not clear though what are the criteria for making a decision on which requests are denied or accepted because these decisions are never reasoned. There have been constant suggestions made in the CVM reports to institute a clear procedure and provide more clarity on how and on what grounds the Parliament decides to accept or refuse a request to lift immunity. Besides being unpredictable, the practice on this matter also affects the investigation itself because the agency needs to share the entire file with the Parliament and this may reveal important information that should stay confidential such as who are other suspects involved¹²⁸. Furthermore, in the case of ministers and ex-ministers a rejection of the request to lift immunity effectively halts the investigation.

Policy Options

- **Develop a unit of analysis to identify risks of corruption in the public sector.** The analysis of previous successful prosecutions in DNA could help identify precise patterns of behavior or vulnerabilities of the current system that lead to corruption in the public sector. Such an analysis could support the improvement of the design of prevention strategies. Presently, DNA and the MoJ do not have the resources and expertise to develop such an analysis. First, they do not have the necessary human resources they can allocate for such an activity. Second, the infrastructure at hand will be difficult to navigate since most of the files are still in hard copy and the institution does not have a centralised database online. The World Bank could support the design of a methodology

¹²⁷ DNA, Activity Report 2016

¹²⁸ Group of States against Corruption, 2016

and the implementation of such a study, with support from international consultants who have worked on similar projects in other countries. This activity may complement the NAS ex-post assessment. Subsequently the Ministry of Justice needs to internalize the knowledge offered by the World Bank and implement the methodology. It is preferred to keep the unit within the Ministry of Justice given the policy promotion and drafting competences the ministry has.

- **Allocate adequate resources for DNA to be able to continue its successful activity.** Given the high number of cases under investigation and prosecution, DNA needs additional resources. Some of their needs have already been included in the NAS, such as human resources for investigation (police officers) and prosecution, infrastructure for investigation. As already mentioned, DNA and prosecutors' offices in general still relies on the SRI's infrastructure for wiretapping and other investigative measures, and on the Police for investigation officers. However, to avoid any situation in which their impartiality and independence would be at risk, the criminal justice system, including the DNA should have its own infrastructure and human resources. For instance, the collaboration with the SRI may be reduced, while the collaboration with the police maybe enhanced.
- **Capacity building for forensic accounting and financial investigations.** Financial investigations are a great part of DNA's activity, which needs to identify and track assets related to cases under investigation. DNA plans to develop further its capacity to undergo forensic accounting and financial investigations with support from international partners such as the US Embassy. The main areas for development are training for investigators, uniform internal procedures and technical infrastructure especially for those in that support the territorial services.

Improve Asset Recovery

Rationale

155. Enforcing sanctions is critical to a well-functioning framework to reduce corruption. This ensures that people perceive justice institutions as efficient thereby increasing trust in the system. For the rational actor, effective asset recovery measures may act as an incentive to avoid corruption since it increases the costs that outweigh the benefits of corruption. At the same time, the normative feedback sent to the citizens is referring to changing the rules and thus the social norm. The latter approach proved to be more effective and sustainable than simple monitoring mechanisms¹²⁹.

Context

156. Romania has made progress on identification, investigation, and prosecution of corruption, but still needs to improve its asset recovery measures. The 2016 CVM notes that while there has been an increase in high-level corruption conviction, asset recovery remains a challenge. In 2016 only 10% of the value of the confiscation order was actually collected¹³⁰. This is in fact hindering the assuasive effect of the sanction. To effectively recover the assets, an enforced court decision is needed.

¹²⁹ Hanna et al, 2011

¹³⁰ CVM report, 2016

157. There are various mechanisms for assets recovery in Romania. Damages caused through criminal offences should be covered by the convicted based on the final decision of the court that orders recovery of these damages. Confiscation is ordered by the court also through a final decision and regards ill-gotten goods. There are several types of confiscation, but for our purposes the most important are special confiscation and extended confiscation. The special confiscation focuses on depriving criminals of proceeds of crimes – for example the bribe in a bribe taking case – irrespective of whether the crime has generated a damage or not (if the crime has also generated a damage, the court will also order the recuperation of this damage). Extended confiscation goes beyond the ill-gotten goods obtained during the criminal activity for which a final conviction is issued by the court and allows the judge to ascertain if the wealth of the convicted person obtained during the previous 5 years is likely to have been obtained through criminal activities of the same nature as those for which the conviction was ordered. Extended confiscation only applies if the conviction regards a serious crime. All these mechanisms are dependent on a criminal conviction. Romania only knows one type of non-conviction based confiscation in the situation of unjustified wealth proved by ANI before an administrative court.
158. For an efficient assets recovery system criminal and criminal procedure laws are not enough. Early in the process financial investigations should be undertaken to identify assets that the suspect holds which could be later used to cover for damages or to serve as basis for confiscation. In a world where bank transfers are done in a blink of an eye it is crucial that these financial investigations are done before defendants find out about the investigation. Otherwise the risk of losing the assets is rather high. Once assets have been identified and the financial impact of the alleged criminal activity evaluated seizures should be put in place to make sure that assets are blocked. These seizures need to be proportional with the assessed financial impact of the crimes. Administration and management of seized assets is an important activity because without it most assets depreciate throughout the duration of the trial and at the moment of the final decision their value is way beyond what would be needed to eliminate the detrimental effects of the criminal activity. During the trial the judges may keep the seizure or decide to lift it. At the end of the trial, if the judge decides to issue a final conviction confiscation – special or extended – or recuperation of damages may also be ordered. The final decision serves as a basis to the ANAF to bring the assets back to the state budget (in case of confiscation and in case the damage caused by the crime was directed to the state budget) or to the damaged party other than the state of Romania – public or private, legal or natural person. An important part of the damages caused through corruption related offences are caused to local budgets or to SOEs – national or local – therefore the recovery process is even more fable there.
159. A strategic framework does not guide the measures implemented in asset recovery in Romania. The sector is fragmented; the link between central and local levels is weak as well as between some agencies and the law enforcement institutions. There is no centralised database available, the ANCPI's database does not cover all properties, many real estate properties that are subject to be confiscated are actually not registered, which complicates the process. The government holds the confiscated amounts in separate accounts, which makes it difficult to have an overall view of the total amount confiscated at a particular moment.
160. The coordination between public bodies at central level and local public administration need serious improvements. The development of a comprehensive database and adequate protocols of collaboration should complement these. For example, the municipalities have the database of individuals' assets and the prosecution requests the data on a needs-basis. At the same time, the prosecutor needs a mandate from a judge to do a financial investigation. In consequence, the process is slow and poses several risks such as the losing of confidentiality of the investigation i.e.

the investigated individual finds out from municipality staff that they are being investigated, which can encourage him to hide his properties.

161. The National Agency for Management of seized assets was set-up in order to ease this process in several aspects. It serves as a management unit for seized assets, it operates as a contact point for foreign jurisdictions seeking assets in Romania and for Romanian investigators seeking assets abroad, and last but not least it attempts to consolidate a database allowing to track in real time the status of seizure and confiscation/recuperation of damages orders. This will facilitate the work of ANAF as information is now scattered and often out-dated. In order to improve the recovery rate and to reduce the risk of depreciation, ANABI may, with the approval of the defendant, sell assets during the procedure. The price obtained will be put in a bank account and if the defendant is acquitted s/he will be able to use this money.
162. The asset recovery legislation does not entirely support an increase in the rate of recovery. The insolvency law no. 85/2014 provides that the start of insolvency procedures mark the end of the process for confiscation of assets and recovery of damages. In many cases, this leads to suspension of confiscation. However, the implementation is not unitary across judicial courts. There is also a tension between respect for individual rights and enforcement of sanctions in the Fiscal Procedural Code. As such, the person convicted with corruption can avoid sanctions by taking advantage of some legislative gaps that do not limit their rights after conviction¹³¹.
163. A new asset management framework has been developed - but is not yet fully utilized. The National Agency for the Management of Seized Assets (ANABI) will facilitate cooperation between the asset recovery mechanisms in Romania. More specifically, it will manage the seized assets and will coordinate across the institutions with responsibilities in this area (Ministry of Justice, NAFA, Ministry of Internal Affairs, DIICOT, SCM, and DNA). The agency works under the co-ordination of a council, representing the following institutions: The Ministry of Justice Superior Council of Magistracy, General Prosecutors office, National Anti-Corruption Directorate for the investigation of Organized Crime and Terrorism, General Public Office Inspectorate, Ministry of Public Finance and National Agency for Fiscal Administration.
164. The new asset management framework contains provisions concerning the social use of the recovered assets. The ANABI can choose to donate the seized assets for social re-use by municipalities or private parties. Confiscated assets that are immovable may be transmitted free of charge to the private sector or to administrative territorial units. In addition, these assets may be given for free to be used by associations and foundations. Furthermore, after a confiscation decision becomes final, the amounts that result out of selling the movable and immovable confiscated assets shall be redistributed to the following institutions: Ministry of Education (20%), Ministry of Health (20%), Ministry of Interior (15%), the Public Ministry (15%), The Ministry of Justice, General Prosecutor's Office (15%), as well as associations and foundations having their scope of activity in the social area and to socialized academies created under a special law. . The civil society recommends improvement of communication on the assets available, the beneficiaries, and the actual use¹³².
165. However, this institution and other that have asset recovery responsibilities do not have enough administrative capacity on forensic and financial investigations. This is necessary to collect

¹³¹ Freedom House, 2016

¹³² Center for Judicial Resources, 2016

intelligence and evidence and to trace the assets that would support areas that now pose serious challenges to the effectiveness of asset recovery:

- Generally, the seizure of assets that belong to private companies can compromise the value of the private company and both the state and the convicted lose. An analysis of the devaluation of the company because of the seizure could prevent the loss and could support the state in recovering the damages. At the same time, it is also in the state's interest that the company does not enter insolvency. Therefore, the role of ANABI is important by ensuring an increasing execution rate through efficiently managing the seized assets that are distributed to the agency by prosecutors and judges.
- Perishable goods are usually lost. Since the process of asset recovery is slow, the perishable goods are usually already damaged by the time they are ready to be sold. ANABI has the mandate to facilitate tracing, and identifying of proceeds and property that is related to crime and that can be subjected to seizure and confiscation orders that are issued by the judicial authority. Doing so early in the process, can ensure that the state recovers a greater part of the assets that would otherwise be damaged or destroyed.

Box 8: Role of the National Agency for Management of Seized Assets

The National Agency for Management of Seized Assets was established in accordance with the Law 318/2015, adopted by the Romanian Parliament.

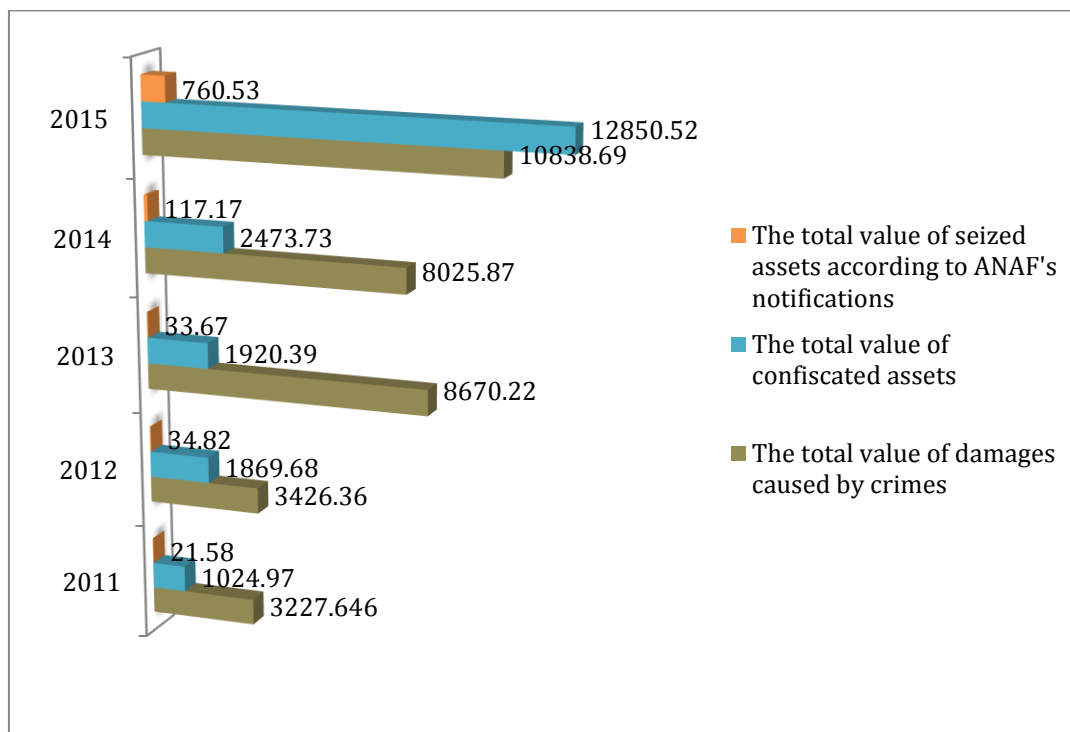
Its main responsibilities are:

- Facilitation of the tracing and identification of proceeds of crime and other assets that could be the object of freezing, seizure or confiscation
- Temporary store and manage seized movable assets whose value exceeds, at the moment that the measures is ordered, 15.000 Euro
- The immediate sale of movable seized assets in criminal proceedings
- Management of the information system that tracks the assets
- Support to the judicial bodies for the use of best practices in identifying and managing assets that may be subject to seizure and confiscation measures in criminal proceedings;
- Coordination, monitoring and evaluation of national implementation and enforcement of legal proceedings to recover debts from crime.

Source: ANI website

Figure 16: Estimated Total Value of Recovered Assets Increased

Estimated Evolution of Recovery of Stolen Assets by the Prosecution Offices and Courts in Romania (in RON mil.)



Source: Ministry of Justice, 2016

166. One of the most common ways to avoid sanctions is hiding assets acquired as the proceeds of crime abroad. This could take the shape of investments in offshore companies, foreign bank accounts etc. The DNA and DIICOT have developed a good collaboration with similar structures abroad, and the Asset Recovery Office, whose responsibilities have been taken over by the ANABI. The agency was appointed as national office for the recovery of assets, and has the responsibility of cooperation between Asset Recovery Offices between Member States in the field of tracing and identification of proceeds from, or related to crime. In this sense, no protocols of collaboration with other ARO's are needed.

Policy Options

- **Develop a strategic framework for asset recovery in Romania that allows better coordination among several actors and levels of action.** This strategy can help improve the legal framework by identifying gaps for action at the policy level. At the same time, such a strategic vision can help develop a centralized and coherent framework for infrastructure to deposit the seized assets, the bank accounts to deposit the seized assets, to strengthen the dialogue and cooperation at national level. In addition, it can include the finalization of the central repository for data on the management of seized assets. Romania needs a centralized data system and enhanced domestic coordination of the responsible agencies. However, starting from 2017 the MoJ in collaboration with ANABI is implementing a project "Supporting for Achieving the National Anti-Corruption Strategy objectives by increasing the efficiency of assets recovery and management". This project has as goal the setting-up of the national integrated electronic system of criminal assets, in order to centralize data.

- **Enhance international cooperation.** Design joint/parallel investigations strategies both at domestic level to foster domestic cooperation and with counterparts in foreign jurisdiction. The World Bank's Stolen Assets Recovery team (StAR) can help since it brings together the counterparts from third party jurisdiction for round table discussions on most efficient ways to obtain evidence and trace assets located outside of Romania. StAR could also support inter-agency cooperation. The ARO jointly with StAR organized a high-level meeting that brought together the law enforcement agencies and donor partners in Romania in October 2013, where they launched the Inter Agency Forum. The high-level meeting conducted an in depth training program for Romanian Professionals in the field of asset recovery – police, judges and prosecutors.
- **Build capacity for asset recovery across the Romanian investigative and support institutions.** Romanian authorities need to invest in forensic and financial investigation skills. These would be necessary in tracing and identification of assets, and gathering information and evidence. This will be particularly useful to improve the recovery in areas of third party ownership, assets of private companies, extended confiscation, and perishable goods. The World Bank is ready to provide training and training materials for the use of 'Follow the money' tools. This would improve investigation skills in Romanian institutions. In particular, this type of training would be helpful for the newly established National Agency for the Management of Seized Assets.
- **Develop expertise in evaluating and management of the seized assets.** Currently, the police officer evaluates assets when carrying out the seizure, but does not have the adequate expertise to do it. StAR is specialised in capacity building for prosecutors and police on case preparation and presentation to court and to the judiciary. Furthermore, StAR can support cases where prosecutors make such orders on appreciation and interpretation of freezing or seizure within their domestic legislations as well as international/regional framework including challenges that arise from such orders. Moreover, StAR would bring in lessons from countries that addressed such issues. Since 2012, StAR has implemented a capacity-building program for Training of Trainers (TOT) for investigators, judges, and prosecutors. The government counterpart for this was the National Institute for Magistrates (NIM) and the Asset Recovery Office (ARO). The training curriculum and the materials were translated into Romanian for incorporation into their curriculum for continued training in the Institute's program.

3.4. Anti-Corruption Education to Change the Social Norms

Rationale

167. When corruption is widespread it may become a social norm. On average, Romanians pay bribes because they are expected to. Part of the explanation, is that the bribe helps them to have things done quicker¹³³. As such, this combination between bribery for need and for greed¹³⁴ reflects the norms in the citizens' interaction with the public service provision. Currently, only 57 percent of Romanians find offering bribe unacceptable compared to the EU average of 76 percent¹³⁵.
168. The problem is that addressing corruption in the above three areas of intervention (reduce incentives for corruption, increase chances of getting caught, and enforce sanctions) depend on a well-intentioned champion of reform. This leader needs to be committed to fight corruption at all

¹³³ European Bank for Reconstruction and Development, 2010

¹³⁴ Bauhr and Nasiritousi, 2011

¹³⁵ European Commission, 2015

levels and to support all the above initiatives. Independent of these champion/ champions for a clean public service, the necessary condition is to have a unified collective action against corruption. Law enforcement itself depends on social norms because identifying cases of corruption often rely on private cooperation and whistle blowing¹³⁶.

169. Research from behavioral economics shows that feedback can change social norms. In theory, social norms represent the signal for the appropriate behaviour, and include behaviour expectations or rules within a group¹³⁷. To change a social norm, one can use descriptive feedback, which helps the individual to adjust to the dominant behaviour in the group and/or injunctive feedback, which communicates the rules of behaviour¹³⁸.
170. Education on anti-corruption and public information campaigns can play a role in sending injunctive feedback. Public institutions need to communicate clearly the formal rules of behavior and the consequences of corruption on the individual citizens, especially the poorest. Also citizens do not know enough about how to report corruption and not enough emphasis is put on the culpability of those that supply the bribery for example in the perpetuation of corruption.

Context

171. The new Anti-Corruption Strategy has a great emphasis on educational campaigns addressed to citizens and the public administration. One of the general objectives of the NAS is to increase the level of knowledge and understanding of integrity standards by employees and beneficiaries of the public sector. As such, the strategy includes activities on e-learning and training programs for central and local public administration, and extensive educational campaigns run by the Ministry of Justice.
172. For the public, other institutions run educational campaigns at local level as well. For example, the Anti-Corruption General Department has an educational project organized in partnership with two civil society organizations, Pro Democratia and the Hans Siedel Foundation. In 2016, they implemented this campaign in eight cities in Romania. This included a roundtable with interested groups and an interactive game in one of public spaces in the city. However, the numerous educational campaigns for the public usually run in parallel, without coordination and without promoting the same approach to how to tackle corruption.
173. Public institutions have organized educational programs that include anti-corruption in schools and high schools. In the past three years, the CSM together with the Ministry of Justice, Ministry of Education have undergone a program of non-formal education in schools and high schools. As part of the NAS, a program on judicial education will be mandatory in schools, and this will have an anti-corruption component.
174. ANI and the Babes Bolyai University launched a postgraduate course on anti-corruption for civil servants. “Public Integrity and Anti-Corruption Public Policies” aims to support capacity development for prevention of administrative corruption. It focuses on training to prevent conflicts of interest in the public administration. The students are public servants especially from around the Cluj area. Moreover, several NGOs are organizing summer schools on anti-corruption, democracy and civil society in the Cluj area.

¹³⁶ Acemoglu and Jackson, 2014

¹³⁷ Dolan et al., 2010

¹³⁸ Cialdini, 2008

Policy Options

- **Implement social information and educational campaigns for the public.** Romanian institutions need to do more to emphasize the role of the individual in curbing corruption. While there is a demand for bribery, there will also be a supply of it. Insights from behavioural economics can be instrumental in addressing corruption, i.e. by appealing to a proven aversion to inequity. Corruption especially affects the poor, and having to pay bribes for healthcare and education can act as an inequitable regressive tax that affects the poor disproportionately. Highlighting the consequences of every act of corruption and portraying a negative image of those who are offering bribes can be starting points in effective social campaigns. These campaigns need to be effective in the sense that they show people the alternative options to resolve legislative problems instead of resorting to bribes. Several NGO's are organizing summer schools on corruption and democracy.

Public support in reducing anti-corruption can be generated by anti-corruption campaigns that frame the problem in moral terms and demonstrate the impact of corruption on human life. The key messages from a campaign should aim at framing corrupt behavior as unacceptable. Critical factors that lead to successful education campaigns are the following: Understanding the target audience, generating a sense of community, increasing the sense of agency.

- Understanding the target audience. A campaign has to be adapted to the specific culture, and look at the target's audience point of view.
- Generating sense of community responsibility. A successful campaign creates responsibility by making an issue of corruption socially unacceptable, and shows the impact that an individual action can have on the whole society. Campaigns that demonstrate impact of corruption on society and economy are a successful factor for community action. Anti-Corruption campaigns can be strengthened by shaming the corrupt agent.
- Increasing agency can be achieved by increasing people's sense of self-control so that people can take action against corruption themselves, and have the feeling that their individual actions do matter. Responsibilities can be shifted to the individual level so that a sense of powerlessness can be reduced.

Factors that have negative impacts on behavioral campaigns are the following: fear-based messaging, lack of authentic experience and voice, and unclear messages¹³⁹.

- Fear based campaigns can cause that individuals dismiss the message because it seems to distant or too unrealistic.
- The lack of authentic experiences in a campaign can again cause that the public dismisses the message because individuals cannot relate to the presented events. Unclear messages can have adverse effects, as shown by an US case where a campaign that in fact addressed-drink driving was interpreted as an advert for alcohol consumption.

There is a distinction between public awareness programmes and public education programmes. Awareness campaigns are necessary to provoke public interest and action, but these are campaigns do not provide sufficient triggers on their own.

Several countries have introduced media campaigns in order to raise awareness amongst its citizens. Several techniques used in the videos can be used as general training courses for raising awareness

¹³⁹ Anti-corruption resource centre, case studies on behaviour changing campaigns. Success and failure factors.

amongst civil servants and managers in public institutions or SOE's. Corruption Watch in South Africa has produced videos that show the generational impact of corruption within societies. Images of children are shown, these children are engaging in corrupt behaviour, based on the example behaviour of their parents. The message of the video is that corruption hurts future generations. A parent is shown as exemplary role model in the fight against corruption.

In Peru, the Anti-Corruption High-level Commission launched a video campaign explaining the economic costs and impacts of corruption, on society overall and on citizens individually. It links corruption to tangible and touching examples such as the loss of medicines in the healthcare system due to bribes and economic losses of corruption, and the loss of money that otherwise could have been used to construct a high number of schools. Extensive data on corruption is shown to underline the message of the video. The video ends with a message from the citizens that collectively state that fighting corruption is a duty for all participants of society and that citizens together can build an integer society.

- **Develop an e-learning course to promote anti-corruption measures across the public administration.** Existing best practices could inform the e-learning module. In this respect, MRDPAEF has developed a map of best practices in public administration in Romania that includes anti-corruption education, among other themes. The World Bank has developed some experience on this type of projects in Europe. In Italy, the World Bank will help the National School of Administration (Scuola Nazionale dell'Amministrazione) to develop a curriculum for civil servants, to pilot Trainer of Trainers modules and to design a framework to evaluate the training programs delivered. This program also supports the sharing of best practices across the public administration with the support of an "innovation laboratory" for public servants in office. This is a program that the World Bank could easily replicate in Romania.
- **Continue judicial education and active citizenship in schools and high schools promoting ways to report corruption.** The new anti-corruption strategy includes activities to promote elements of the rule of law and anti-corruption in the curriculum. In the past three years, the Supreme Council of the Magistracy, the Ministry of Justice, Ministry of National Education, Prosecutor's Office attached to the High Court of Cassation and Justice, and universities implemented a similar activity in schools and high schools, as well as organizations that are already involved in promoting ways to reduce corruption. A public education programme has to include specific concrete and measureable goals. Lesson plans for teenagers are comprised of several units that explore questions such as: (i) what is corruption (ii), moral dimensions of corruption such as the victims, (iii) corruption and human rights, (iv) fighting corruption, (v), corruption and the impact on market economy, and (vi) corruption and the law.

Box 9: Behavioural Economics for Education and Information on Anti-Corruption

As public policy aims to support behaviours conducive to human welfare, behavioural economics is a useful instrument to understand human behaviour and decision-making process. It works to identify the insights that influence thoughts, decisions, and actions. By controlling those factors influencing the road from thinking – decision-making - acting, policy makers can design policies tailored to their beneficiaries. Behavioural informed policies can help overcome the biases and heuristics that impede the individual to make decisions in accordance with their thoughts and to take action in accordance with their decisions.

Furthermore, in societies with systemic corruption, the corrupt behaviour becomes part of the automatic thinking for bureaucrats. In these cases, behavioural economics can be useful to help change social norms, push citizens to make decisions about corrupt actions by eliminating any possible automatic reaction instead of deliberative thinking. As shown in the previous section, behavioural economics can help people who think about being honest to make decisions in accordance with their thoughts and to act in accordance with their decisions.

There are different frameworks to guide policy design using behavioural economics. These vary depending on their complexity, adaptability, or objectives of the intervention. The Behavioural Insights Team in the UK, EASY, developed one of the most facile frameworks with four pillars:

- **Easy:** It builds on some insights used to harness the power of defaults, to reduce the “hassle factor” of taking up a service, or to simplify messages.
- **Attractive:** In the same type of situations, when corruption appeals to our automatic thinking, making anti-corruption behaviour “attractive” can help trigger reflective thinking with the objective to break the norm. Saliency attract attention to incentives and sanctions.
- **Social:** Some previous interventions proved to be useful in changing the social norm or, at least, the perception about the social norm: show that most people perform the desired behaviour, use the power of networks, and encourage people to make a commitment to others.
- **Timely:** When corruption becomes a social norm, people may not know how to respond differently than peers when faced with corrupt practices. As such, behaviour-based interventions can help people respond to these situations, by preparing them before this might take place or just after it took place. Timely interventions refer to prompting people when they are likely the most receptive, consider the immediate costs and benefits, and help people plan their response to events.

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Annex 1: World Bank Support to Romania in Public Sector Management

Activity Name	Description	Type of Activity (Status)	Amount (mil. €)
First Fiscal Effectiveness and Growth Development Policy Loan (2014)	It supports expenditure and debt management reforms through: (i) the gradual introduction of results-informed budgeting, where line ministries present budgets by programs linked to results indicators, (ii) the development of the public investment management framework, with focus on significant projects (larger than Ron 100 million), and (iii) the improvement of the effectiveness and targeting of pro-poor budget spending.	Lending to budget (Active)	750
Second Fiscal Effectiveness and Growth Development Policy Loan		Lending to budget (Under preparation)	750
Revenue Administration Modernization Project	It aims to: (i) increase effectiveness and efficiency in the collection of taxes and social contributions; (ii) increase tax compliance; and (iii) reduce the burden on taxpayers to comply.	Investment lending (Active)	70
Grant for Monitoring and Evaluation of Policy-Making	It aimed to develop an IT-based solution to monitor the implementation of the strategic plans of the ministries. The solution was piloted in the ministries of health and education and the monitoring of performance is done by the Chancellery of the PM upon an agreed calendar (for example quarterly). The expectation is that the system will be rolled out to all ministries.	Trust Fund (Completed)	0.4
Functional Reviews in: Agriculture, Education, Transport, Finance, Competition, Center of Government, Regional Development, Labor and Social Protection, Economy/Energy, Health, Environment and Forestry, Research and Development, Higher Education, and Cross-Cutting Issues	The FR process provided a comprehensive blueprint for improving the public administration. In each area, the FR highlighted the major challenges to improve the administration and meet EU standards and norms. They also outlined the strategy to address the challenges and improve service delivery and the required institutional, Human Resource and IT systems changes required to make it happen. The scale and ambition of the Romanian FRs, taking a “big bang” approach to the whole of government have rarely been replicated in public administration reform programs anywhere in the world.	Advisory services (Completed)	3.3
Establishment of a Performance Appraisal System for Government Officials Managing European Union Funds	It supports the Ministry of European Funds in Romania to develop a performance appraisal system for officials involved in EU fund management.	Advisory services (Completed)	0.5
Analysis of Capacity Building Activities in the Public Administration	It aimed to increase the effectiveness of administrative capacity development programs in Romania so that central, and increasingly local administrations, can deliver better public services.	Advisory services (Completed)	0.3
Improvement of HR Management Instruments and Mechanism to Strengthen the Institutional Capacity of the Ministry of Public Finance	It assisted in improving the management of public finances by supporting more strategic management of human resources through the development of a medium term HR strategy covering both the core ministry and subordinated agencies.	Advisory services (Completed)	0.3
Providing Support to the Establishment of a Delivery Unit.	It supports the Romanian Prime Minister’s office in embedding results-oriented practices in the public sector through the strengthening of the government’s delivery system by establishing a	Advisory services (Active) <i>End date</i> 4-Dec -2015	5.0

Activity Name	Description	Type of Activity (Status)	Amount (mil. €)
	central Delivery Unit to help achieve selected priority policy outcomes.		
Assistance to Delivery Unit	Phase II- Continuation of the ongoing assistance	Advisory services (Under preparation)	TBD
Support to Strengthening Public Investment Management	It improves the policy alignment, quality, implementation and fiscal performance of public investment. Achievement of these objectives will contribute to development outcomes including an increase in the economic and social returns on investment, improvements in the absorption of EU funds and help manage fiscal risks stemming from public investments.	Advisory services (Active) <i>End date</i> 15-Dec -2015	2.4
Strengthening the Regulatory Impact Assessment Framework in Romania	It outlines the concept to strengthen the Regulatory Impact Assessment (RIA) framework in Romania. The main objectives of this project are threefold: create technical capacity, streamline the RIA system, and raise awareness at the political level regarding the relevance of RIA.	Advisory services (Completed)	1.5
Enhanced Competitiveness through effective R&D and Innovation public intervention	The TA contributed to assisting the Ministry of European Funds' efforts to coordinate the implementations of the programs as committed in the Partnership Agreement with EU and to strengthen its coordination and monitoring capacity and of its coordination committees. The specific project objective of the assistance was to estimate, from a qualitative and quantitative point of view, the potential for support for the Romanian innovation.	Advisory services (Completed)	
Assistance to the Center of Government on policy planning and coordination	It provided assistance to the General Secretariat of the Government on policy planning and coordination with a focus on developing the annual government work plan process.	Advisory services (Completed)	0.2
Strategy Unit	It supports the establishment of a Strategy Unit in the PM's Office that will focus on strategic planning and monitoring the performance on the high-level sector priorities. As such, it will create the basis for developing a clear set of long-term priorities for Romania, and it will aim to help link the sectoral strategies with the budget.	Advisory services (Under implementation)	1.0
Planning and budgeting capacity	The objective is to strengthen the strategic and monitoring processes in the Center of Government (CoG), Ministry of Public Finance (MoPF) and line ministries with the purpose of enhancing the efficiency of public spending.	Advisory services (Under implementation)	TBD
Development of the capacity of the central public administration to carry out impact studies	It will increase administrative capacity required to undertake an evidence –based policy making process, by enhancing relevant knowledge and skills, develop comprehensive impact studies following best practice methodologies, and raise awareness across the political and civil society spectrum regarding the need for evidence-based regulation.	Advisory services (Under implementation)	TBD

Activity Name	Description	Type of Activity (Status)	Amount (mil. €)
Assistance to the Romanian Competition Council II	It will develop studies, systems and methodologies for assessing the competition policies impact and the optimization of decision making and functional processes of the Competition Council.	Advisory services (Under preparation)	TBD
Assistance to MESR for Capacity Development for M&E the Implementation of Education Strategies	It builds capacity of the Ministry of Education and Scientific Research to (i) monitor and evaluate the implementation of strategies for reducing early school leaving, and improving tertiary education, life-long learning and vocational education and training, and (ii) apply an evidence-based tool--the Systems Approach for Better Education Results (SABER) --to key policy areas with the purpose of fostering a structured policy dialogue with decision makers and stakeholders.	Advisory services (Under preparation)	TBD
Assistance on Public Procurement	It supports the National Agency for Public Procurement to reform the public procurement system in line with the National Strategy for Public Procurement by transforming the procurement policy and practice into a strategic management function with focus on value for money in the whole project cycle.	Advisory services (Under implementation)	2.37
Strengthening Financial Accountability of the Public Sector	It provides direct support for the implementation of the measures under the first FEG-DPL to strengthen the fiscal management by improving the quality of public spending and financial performance of the SOEs.	Trust fund (Completed)	0.5

Annex 2: Matrix of policy recommendations

Policy reference	Policy Actions	Responsible	Relative ease of implementation -Substantial effort (high) -Moderate effort (moderate) -Reduced effort (low)	Budget identified in NAS Yes/ No
Reducing the incentives of corruption				
Introduce a meritocratic civil service				
3.1.1	Operationalize a Meritocratic Human Resources Management Framework for the Romanian civil service.	National Agency for Civil Servants, General Secretariat of the Government	High	No
3.1.2	Develop adequate programs to attract young professionals in the public administration	General Secretariat of the Government	High	No
Increase the Transparency of Public institutions				
3.1.3	Develop a national strategy to increase transparency in public institutions, including those at the local level, as well as SOE's	The Government of Romania, the General Secretariat of the Government and Ministry of Public Consultation and Social Dialogue	High	Yes
3.1.4	Build Administrative capacity in coordinating and implementing institutions	The Government of Romania as it is a sector wide strategy	High	Yes ¹⁴⁰
3.1.5	Implement Open Contracting	ANAP, AADR	Low	Yes
3.1.6	Improve Open Budgeting	Ministry of Public Finance	Low	Yes
3.1.7	Improve e-government tools	The government of Romania	Moderate	Yes
Improving oversight				
Rescue the risk of corruption in public procurement¹⁴¹				
3.2.1	Allocate contracts based on quality of technical proposal not just price	ANAP, Ministry of Public Finance	Low	Yes
3.2.2	Build capacity to implement the new public procurement framework	ANAP, Ministry of Public Finance	Moderate	Yes
3.2.3	Build capacity for budget estimations for planned procurements	ANAP, Ministry of Public Finance	Moderate	Yes

¹⁴⁰ There is allocated budget for the general objective of increasing transparency in the public sector

¹⁴¹ Budget foreseen for the specific objective of reducing vulnerabilities in the public procurement system, budget for specific actions is not identified, this applies to all measures under 3.2

3.2.4	Develop standards to publish information for the post-tender stage	ANAP	Low	Yes
3.2.5	Introduce a procedure to publish information on all contracts	ANAP	Low	No
3.2.6	Ensure cooperation including subsequent contracts following a signature of a framework contract	ANAP	Moderate	Yes
3.2.7	Ensure cooperation of all institutions of conflict of interest in PREVENT	ANI, DNA, MoJ	Moderate	Yes
Keep institutions accountable				
3.2.8	Improve the opalization of the legislation and the implementation of the Romanian whistleblowing protection	The Romanian Government, MoJ	Moderate	Yes
3.2.9	Encourage public participation on participatory budgeting	Local authorities	High	No
3.2.10	Improve Oversight	General Secretariat of the Government and line Ministries	High	Yes
3.2.11	Reduce the red tape	NAFA	Moderate	Yes
3.2.12	Widen the scope and coverage of the existing feedback mechanisms	General Secretariat of the Government and line ministries (Health and Education)	High	Yes
Enforcing sanctions on the corrupt				
Continue prosecution				
3.3.1	Develop a unit of analysis to identify the opportunities for corruption in the public sector	DNA and MoJ	High	Yes ¹⁴²
3.3.2	Allocate adequate resources for DNA to be able to continue its successful activity	Government of Romania	Low	
3.3.3	Capacity building for forensic accounting and financial investigations	DNA	Low	
Improve asset recovery				
3.3.4	Develop a strategic framework for asset recovery in Romania that allows better coordination among several actors and levels of action	ANABI	Moderate	No
3.3.5	Build capacity for asset recovery across the Romanian public administration	ANABI	Moderate	Yes

¹⁴² In accordance with specific objective 3.7 of the NAS, however this a general budget, no breakdown for specific actions provided

3.3.6	Develop expertise in evaluating and management of the seize assets	ANABI and MoJ	Moderate	Yes
Anti-corruption education to change the social norm				
3.4.1	Implement social information and education campaigns for the public	MoJ, MoE, General Secretariat of the Government	Low	Yes
3.4.2	Develop an e-learning course to promote anti-corruption measures across the public administrations	General Secretariat of the Government and MoE	Low	Yes
3.4.3	Continue judicial education and active citizenship in schools and high schools promoting ways to reduce corruption	MoJ and MoE	Low	Yes

Annex 3: Various Initiatives of the Civil Society on Anti-Corruption

This list is not comprehensive, but it aims to portray some of the main civil society initiatives in the fight against corruption. The list is presented in alphabetical order and makes no judgement about the size or efficacy of the programs.

- **Centre for Judicial Resources:**
 - Mobile app to report corruption - InfoCoruptie - which is still available in the app store but does not work;
 - Transparency and Integrity in Managing Local budgets
 - Re-using the stolen assets for social purposes
 - Training and capacity building for administrative integrity
- **CRPE:** studies and educational programmes on good governance
- **DomnulePrimar.ro:** this is an online platform where people can report problems in their community. It has been used especially effectively in Cluj, where the mayor has received 27 k reports in 10 years and has responded to 25.35%. As a comparison, the highest percentage of reports is in Piatra Neamt, where the mayor has received 4927 reports and responded to 97.5 percent and in Bucharest, 1300 reports and no response.
- **Expert forum:** the map of clientelistic mayors describes how much money mayors have been received in eight years (2004-2011) from the six main sources of national funds for investment: the Government's reserve fund, deducted funds for county and communal roads, environment, environment, funds for schools, government decision 577/1997, government ordinance 7/2006.
- **Funky citizens:**
 - maricorupti.ro: interactive platform with information on high-level corruption;
 - bani publici.ro: data about local budgets from 2007 to 2014;
 - nuvasuparati: helps citizens to request access to public information
 - factual: factchecking on proposed policies and public speeches
- **Hotnews:** <http://anticoruptie.hotnews.ro>
- **Initiativa Romania:**
 - the list of condemned politicians including 128 high-level officials;
 - map of public funds, referring to a mobile application that shows information on the public procurement contracts in Bucharest.
- **IPP:** monitoring and assistance on public procurement
- **Piata de spaga:** Total value of the bribery reported on the website was of 357.222, out of which almost 1/3 is in the healthcare sector and 1/3 in urbanism. Out of the total number of 1308 reports during 2010-2016, only around 380 were reports of not receiving bribe. This means that for almost 70 percent, this platform was only used to report the value of bribery.
- **ProDemocratia:** educational campaigns on anti-corruption at local level together with DGA and Hans Siedel Foundation

- **Ratiu Center for Democracy:** Cineceapromis is an online platform aiming to track the electoral promises and their achievement during a politician's mandate. The platform is supposed to receive input from citizens but it does not have too many comments.
- **Romanian Academic Society:** Romania Curata- portal for good governance;
 - interactive map of corruption at county level with data from DNA;
 - interactive map of transparency in decision-making, including information on a set of criteria such as the number of public meetings, the documents publicly available, the public consultations and number of recommendations included in the final law etc.;
 - interactive map of transparency of public information on Ministries, counties and municipalities;
 - coalition for clean universities, which deals with governance in universities and offers advisory services for those who report cases of corruption through EduLeaks;
 - ask the state- application to file requests for public information to the national institutions.
- **SynergEtica:** eruptieanticoruptie, which provides educational programmes on anti-corruption through community organising
- **Transparency International:**
 - Research, Education, Monitoring of implementation of legislation
 - Centre for Anti-Corruption Assistance, established in 2003. This supports the citizens in reporting and pursuing anti-corruption cases. These cases can be reported online or via telephone, and the Centre can offer information, assistance and advice on how to proceed. Under a confidentiality cause, it can assist in front of competent authorities and it can monitor the development of the filled cases. From 2003, around 6000 cases were reported via this centre.

Annex 4: High-level roundtable discussion on anti-corruption

As part of the consultations around this report, the World Bank office in Romania organized a high-level roundtable discussion with key anti-corruption stakeholders. The event took place within the rubric of the 25th year anniversary celebrations of the partnership between Romania and the World Bank. The discussion was intended to: (i) highlight the work that the team had completed to date, (ii) gather feedback and guidance from the audience on the main anti-corruption challenges in Romania, (iii) allow the stakeholders to raise other issues and coordinate efforts in the fight against corruption.

The event included representatives of all sectors: academia, NGOs, public institutions, and the business sector. It started with short interventions from the following speakers representing their particular institutions: Elena Tanasescu (Presidential Counselor), Cristina Guseth (Freedom House), Radu Puchiu (Prime Minister's Chancellery), Anca Harasim (Amcham), and Adrian Baboi-Stroe (Ministry of Justice).

Main Findings:

- There was strong agreement that Romania had made great progress in the fight against corruption and is now being seen as a regional leader with delegations from various countries coming to study the Romanian model especially the DNA and ANI.
- The CVM was seen as a positive mechanism although there were still some calls to phase it out. The Ministry of Justice pointed out that Romania has signed other international declarations e.g. the UN convention against corruption and made pledges at the London anti-corruption summit in May 2016. They were of the view that the national anti-corruption strategy was strong enough to anchor all stakeholder interventions.
- The need to institutionalize Romania's progress was made and to depersonalize the fight against corruption.
- Romania also needs to make more progress in civics lessons starting at the primary school level and mobilize the demand for anti-corruption through public media.
- The need for credible sanctions was brought up several times and the meeting endorsed the idea that the government needed to make more progress on asset recovery.
- The parliamentarians were the only stakeholder that was not represented. Peer-to-peer study visits to Western European countries was suggested as a good practice to share experiences.
- ANI management made a short presentation on their recent efforts to fight corruption and the PREVENT IT system that will soon be operational to identify potential conflicts of interest.

Attendance

#	Name	Institution	Title
Speakers			
1	Elena Tanasescu	Presidency/ Academia	Presidential Counselor
2	Cristina Guseth	Freedom House	Director
3	Radu Puchiu	PM Chancellery	State Secretary
4	Anca Harasim	Amcham	President
5	Adrian Baboi- Stroe	Ministry of Justice	State Secretary
National institutions			

#	Name	Institution	Title
6	Silviu Popa	ANI	Secretary General
7	Bogdan Stan	ANI	President
8	Marius Cătălin Vartic	Anti-fraud department DLAF [on Eu funds]	Head of the Fight Against Fraud Department
9	Raluca Simbotin	Ministry of Public Dialogue and Civic Consultation	Advisor to the Minister
10	Madalina Argesanu	Anticorruption General Directorate- MAI	Director Prevention
11	Andrei Furdui	Ministry of Justice - Department of Crime and Prevention	Deputy Director
12	Adelina Brad	Ministry of Justice	Counselor to the Minister
13	Marta Pelea	Court of Accounts	Counselor
14	Valentin Popescu	Ministry of Education	Director, Directorate for Strategic Management and Public Policies
NGOs			
15	Codru Vrabie	Funky citizens	Expert
16	Cezara Grama	Expert Forum	Expert
Embassies			
17	Kåre Eltervåg	Norway Embassy	Counsellor
18	Diana Sacarea	Norway Embassy	EEA and Norway Grants Officer
19	Laura Andersen	Denmark Embassy	Deputy Head of Mission
20	Felicia Alexandru	UK Embassy	Senior Political Officer
21	Preston Savarese	US Embassy	Rule of Law Officer
22	Cristinel Buzatu	Netherlands Embassy	expert
23	Cristinel Buzatu	Swiss Embassy [invited by the presidency]	coordinator
Business sector			
24	Cristian Parvan	Romanian Investors Patronate	General Secretary
General Public			
25	Adina Hulea		
26	Stefan Frangulea		
27	Thomas Paulovici		
28	Andreea Capatana		
29	Alin Popescu		
30	Claudia Turcoveanu		
31	Cesar Craciunica		
32	Horia Tapai		
33	Raluca Neghimis		