

Annex 1 [Note verbale reference: CU 2023/225/DTA/CEB/CSS]

“Links between corruption and other forms of crime”

States parties are invited to provide relevant information in line with paragraph 22 of resolution 9/1¹, in which the Conference:

*Encourage[d] States parties to further explore and enhance their knowledge of the **links between corruption and other forms of crime, in particular organized crime and economic crime, including money-laundering, including during times of emergencies and crisis response and recovery, to better strengthen integrity, transparency and accountability, and invite[d] the secretariat, within existing resources, to compile a report in this regard on the voluntary information provided by States parties and submit it to the Conference at its tenth session [emphasis added].***

States parties may wish to take a broad view of “other forms of crime” when responding to this questionnaire, which may include all forms of organized crime and economic crime, as well as other crime, among others.

Contact Information

Please provide contact details for potential follow-up questions. Contact details will be treated confidentially.

Country: Romania

Government Agency: The Prosecutor’s Office attached to the High Court of Cassation and Justice of Romania, Directorate for Investigating Organized Crime and Terrorism (DIICOT) and National Anticorruption Directorate

Department: International Cooperation Service

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¹ In July 2022, the secretariat sent out note verbale CU 2022/264(A)/DTA/CEB/CSS inviting States parties to provide information on good practices and challenges concerning international cooperation to further prevent, identify, investigate and prosecute corruption during times of emergencies and crisis response and recovery, in line with paragraphs 22 and 23 of resolution 9/1 entitled “Sharm el-Sheikh declaration on strengthening international cooperation in the prevention of and fight against corruption during times of emergencies and crisis response and recovery”. As at 11 October 2022, the secretariat had received responses from 23 States parties, which were analysed in a note prepared by the secretariat, entitled “Best practices and challenges concerning international cooperation in combating corruption during times of emergencies and crisis response and recovery, and efforts to further explore and enhance knowledge of the links between corruption and other forms of crime” [CAC/COSP/EG. 1/2022/CRP. 1], Responses were received from the following States parties: Australia, Bahrain, Belarus, Brazil, Bulgaria, Chad, Chile, Egypt, El Salvador, European Union, France, Georgia, Italy, Mexico, Myanmar, Panama, Portugal, Romania, Saudi Arabia, Spain, Tlirkiye and the United States of America.

Questionnaire

Corruption may contribute to impunity for other types of crime by providing the leverage to facilitate and execute them, and to make them invisible, and often exacerbates those crimes through the involvement of powerful elites and individuals. Corrupt behaviour (such as violating duties, accepting or transferring bribes, and facilitating transactions, as well as ignoring or failing to follow-up on information that a crime may be taking place) may serve as an enabler of other crimes by allowing for the enrichment of criminals and incentivizing individuals in the public and private sector to facilitate their operation. Other crimes can therefore flourish and in turn provide a basis for a wide range of corrupt behaviour.

This questionnaire is structured into two parts: Part 1 considers steps taken to understand the links between corruption and other forms of crime, while Part 2 focuses on the measures aimed at responding to corruption linked with other forms of crime.

At the outset, it should be highlighted that DIICOT is the specialized prosecution unit within the General Prosecutor's Office in Romania responsible mainly with investigating and combating organized crime, drug trafficking, THB, migrant smuggling, cybercrime, terrorism as well as other crimes within our competence when they are linked with the former.

Against this background, investigating and combating corruption by DIICOT is not performed systematically, but mainly when the commission of such a crime is revealed during the investigations of the specific crimes mentioned expressly in the law as pertaining to the competence of DIICOT. Moreover, these emerging corruption crimes need to be closely connected with the already investigated facts so as to lead to an expansion of the investigation, otherwise there is a notification ex officio of the DIICOT prosecutor followed by a sending of the corruption crime to the specialized bodies, such as when during wiretappings of a target the telecommunication reveals corruption crimes unrelated to the existing case.

1. Understanding the links between corruption and other forms of crime

1. Has your country undertaken any analyses or assessments to better understand the interlinkages between corruption and other forms of crime, including typologies of crime and how corruption may be used to facilitate and enable organized crime, economic and other crime, and vice versa?

YES

While our country has not engaged in assessments aimed at understanding the interlinkages between corruption and other forms of crime, prevention and combating corruption and organised crime are important objectives at national level and for this reason all the actors with relevance are involved in performing specific tasks which are regulated within the National strategy against organised crime 2021-2024 and National Anti-Corruption Strategy 2021-2025.

Moreover, the National Anticorruption Directorate (DNA) is carrying out a *study on the typology of corruption offenses associated to organized crime*, as it results from the final court decisions issued in the DNA cases sent to trial. The study will be finalized by the end of the year 2023.

- a. If YES, was such analysis carried out through formal risk assessments or other methods?
Please describe. **No.**

2. Please list the main typologies of other crime that have interlinkages with corruption in your country.

- ✓ Drug trafficking
- ✓ Money-laundering
- ✓ Human trafficking
- ✓ Migrant smuggling
- ✓ Firearms trafficking
- Crimes that affect the environment
- Trafficking in cultural property
- ✓ Cybercrime
- Terrorism
- Other forms of economic crime, organized crime or other crime with links to corruption
(please list) *abuse of office*

3. Please provide examples of corruption linked to these other crimes.

1. Migrant smuggling facilitated by border police – case no. 3990/D/P/2018, indictment of 29.07.2022 - In view of the evidence in the case, which showed that the organised criminal group initiated and set up for the purpose of committing migrant smuggling offences is supported by police officers from the General Inspectorate of Border Police - Nadlac Border Crossing Point who, on the basis of a previous agreement with the leaders of the organised criminal group, allowed the passage of the fraudulent crossing of Romania's state border to Hungary of vehicles/cars (containing persons - foreign citizens - who wanted to enter the Schengen area illegally), the acceptance by the police officers of the General Inspectorate of Border Police - Border Crossing Point Nadlac from the leaders of the organised criminal group of the promise of receiving sums of money/receiving sums of money, in connection with the failure to carry out certain acts falling within their official duties.

2. Non execution of judicial sentences by intentional failure of the fiscal representatives to perform their duties:

952/D/P/2019 - On 15.03.2019 police officers were informed ex officio about the fact that between 2009 and 2011, civil servants from the directorate of general public finances Dâmbovia, joined a group organized criminal group, and through defective exercise of their duties of their duties, did not lead to the fulfilment the duties under criminal decision no. 90/12.06.2008 of Ploiesti court of appeal causing damage to the Romanian state by that the property representing a building located at the address Târgoviste str. Sârbilor nr. 31, confiscated by the court, did not passed into the property of the Romanian state.

3. Failure to exercise police duties and receiving bribe

1624/D/P/2019, indictment of 13.11.2019 - On 08.04.2019, two police agents went to the working point of OZO INTER DISTRIBUTION SRL where they found 3.5 tons of counterfeit Ariel detergent. They demanded and received the amount of 1000 USD from the owner through two other persons.

4. Bailiff corruption – case pending

Complaint by the director of a sports federation and that he requested two loans with real estate guarantee, with the value of 57.000 lei and 6000 lei, from IFN top credit finance, in order to the purchase of plane tickets for the travel of sportsmen to the world championship. after paying for 1 year the instalments on the loans, he entered in default after the authorities suspended the payments for sporting activity. in the month July 2018 he was foreclosed for the amount of 137,000 lei, which he contested it in court because the actual amount outstanding would be 47,000 lei. in this regard he claims that he has received several requests

from the director general of IFN top credit finance and from the bailiff to pay the amount of 10.000 euro in cash, but without an invoice.

5 . Disclosure of classified information – case no. 1928/D/P/2019 - In the fall of 2016 the policeman was approached by the defendant who asked him to use his password to check a woman's database, on the grounds that she had sold him a car and he needed to find it in order to recover something from her.

6. Disclosure of classified information – Policeman who, in return for money ranging from 200 to 2000 euros, he would have helped several the defendant with the verification in the databases of the Ministry of the Interior if he had warrants for detention warrants in his name or if he could leave the country.

7. Customs bribe – case pending - Between May 2020 and January 2021 the customs official would have supported the organised criminal group to bring into the country, repeatedly, by evading customs control, a total of about 585620 counterfeit perfumes with an estimated value of over 25 million euro.

8. Leaders of union corruption - The defendant used his influence as vice-president of the National Technical Union of Tarom to obtain money from TAROM employees

9. Penitentiary staff - The defendant, a penitentiary police agent, was detected at the anti-terrorist control as having a quantity of approximately 60 grams of suspected psychotropic substance, which he took from an unidentified person in order to hand it over to an inmate in Arad Penitentiary, receiving from that person the sum of 1000 lei.

10. Buying influence - In May 2018 the defendant paid 600 lei to another defendant who allegedly had influence over an official of the Service for registering vehicles in Dâmbovița so as he could obtain a faster registration of his vehicle without having an appointment at the counter.

11. Police agents offered and received bribe for not sanctioning traffic violations

12. Corruption, cybercrime and forgery of official documents - In fact, it was held that since the second half of 2019, the named persons have formed an organized criminal group, supported by Congolese citizens, focused on committing crimes in the field of cybercrime in order to facilitate the fraudulent obtaining of driving licenses for several Romanian citizens, unfit or unworthy to legally acquire, on Romanian territory, the right to drive vehicles on public roads.

Please elaborate if you have or had any cases of the following in your country:

A. Corruption as an enabler of crime

- a. Cases of public officials abusing their office to facilitate criminal activity or to protect certain criminal individuals and entities - or to gain support from them - for example, by providing funding or protection or to gain and control public resources? **Yes**

Examples no. 1-3 indicated above

Example:

In 2022, The National Anticorruption Directorate (DNA) investigated and indicted a police officer with a

senior position in a special surveillance unit for, among other things, committing two offences of using, in any way, directly or indirectly, information that is not intended for the public or allowing unauthorised persons access to such information.

The police officer in question allegedly disclosed to a person non-public information from two criminal cases (one of which was a DNA case) in which he was assigned to carry out investigative activities. More specifically, he informed a suspect that he was the subject of technical surveillance measures and that he was to be searched. The same police officer told a businessperson that DNA would initiate a corruption investigation against him.

b. Cases of corruption being used to facilitate other types of crime, such as trafficking in persons, illicit trade or smuggling of drugs across borders? For example, have any cases involved the following:

- the issuance of permits, licenses, visas or documents for border crossings
- the purchasing of firearms
- bribery of border agents
- falsification of data in public registries
- other

Example no.1 indicated above and others with a similar modus operandi

c. Cases of corruption being used to facilitate other types of crime, such as trafficking in persons, illicit trade or smuggling of drugs across borders? For example, have any cases involved the following:

- the issuance of permits, licenses, visas or documents for border crossings
- the purchasing of firearms
- bribery of border agents
- falsification of data in public registries
- other

d. Cases of corruption in public procurement to advance the interests of public officials and their associates? Cases of officials giving preferred access to contracts and tenders to their associates in cases involving other crimes? **Yes**

Example:

In 2021, DNA sent a high official to trial for the crime of influence peddling and bribery. The corruption offences were committed in connection with his official capacity as Minister of Youth and Sports, and later Minister of Health. During the period in which the defendant held these two positions, he received from two businessmen, representatives of two companies that had contracts with public hospitals, sums of money totalling approximately 600,000 EUR.

In exchange for these sums, in his capacity as Minister of Youth and Sports, the defendant promised to exert his influence on the Minister of Health at the time, so as to induce the latter to maintain in management positions the managers of five public hospitals, with which the companies controlled by the businessmen had profitable commercial relations. Subsequently, during his time as Minister of Health, he also received bribes to timely approve the allocation of funding to public hospitals under the Ministry of Health for procurement procedures that the firms controlled by businessmen had won or intended to win.

e. Cases of the protection of victims of crime and corruption being impeded by corruption involving public officials or persons in the private sector?

B. Corruption and crime linked to political patronage

a. Criminal individuals and entities attempting to use corruption to obtain access to political leadership or to gain power and influence, such as through:

- political party financing **Yes**
- trading in influence
- other

Example:

In 2015, DNA prosecutors indicted several persons, including the former Minister of Regional Development and Tourism (at the time of the offenses), in connection with the administration of public funds by the aforementioned ministry. The trial was finalized in 2022, with the former minister being sentenced to 6 years imprisonment.

The former Minister of Regional Development and Tourism, coordinated a system whereby the persons closest to her received sums of money from representatives of several companies in order to secure them timely payment for the works financed by the Ministry. The defendant received the amounts either directly or through persons indicated by her, including through the Bucharest branch of a political party. More specifically, part of the bribe consisted of the payment of advertising and online monitoring services, which benefited both the minister and the political party in question.

- b. Cases of crime and corruption being used to attempt to influence or disrupt elections? **Yes**

Example:

In another DNA case, prosecutors have indicted two former members of the Romanian Parliament who were also leading members of a political party, for corruption and money laundering offences.

During 2008, a former president of the county council demanded approximately one million euros in bribes from a person, in order to put the latter in possession of a piece of land, in violation of the law. The county councillor gave € 420,000 of the sum to the two MPs, in order to finance the elections of the candidates of the prior mentioned political party.

- c. Cases of criminal involvement, including through the use of corruption, to attempt to influence appointments of public officials to build dependency? **Yes**

Example:

In 2021, DNA investigated the president of a county organization of a political party, who was also an MP, for committing eight offences of using influence or authority by a person holding a leading position in a party for the purpose of obtaining for himself or for another person undue advantage.

The defendant used his influence and authority over the leadership of several public institutions to appoint or maintain in management positions certain persons agreed upon by the political party.

C. Corruption to make organized and other crime invisible

- a. Cases of criminals and their associates using proceeds of crime and corruption for personal enrichment and to conceal the origin of the crimes and for moneylaundering? In particular, cases of concealment of ownership being used to facilitate corruption and other forms of crime? **Yes**

In the latter thesis, there are cases in which suspects use off-shore companies to conceal ownership and the illicit origin.

Example:

In 2019, DNA indicted several high officials, including a finance minister, a secretary of state, a senator and the vice-president of a political party - for corruption offences committed between 2005 and 2017, in connection with a major public tender on the rehabilitation of a railway. During this timeframe, an Austrian construction company paid 20 million euro in bribes to Romanian high officials in exchange for

facilitating the closing and signing of contracts and the timely payment of invoices.

In order to have a „legal cover” for the bribery, they created a fictitious mechanism in which they used appr. 43 off shore companies located in countries such as the Seychelles, the Cayman Islands, Gibraltar. The money was transferred through fictitious consultancy contracts, real estate rental contracts, sponsorships or donations, loan contracts or financing of companies.

- b. Cases of corruption being used to impede investigations, prosecutions and adjudications of organized and other crime, such as through bribery or allocation of political and other favors to law enforcement and judicial officers? Are there cases of corruption linked to organized and other crime not being pursued by the authorities ('blind eye')?

There are pending cases related to policemen suspected of disclosure of classified information related to judicial activities to be performed so as to protect perpetrators and impede investigations – the fact they would be wiretapped or that their house would be searched.

Example:

DNA investigated in 2020 a judicial police officer for bribery, and influence peddling. The officer demanded €1,100,000 for himself and the case prosecutor from a businessperson targeted in a case in which the officer had been delegated by the prosecutor to carry out investigative activities. The money was asked in exchange for the promise that the businessperson would escape charges.

- c. Cases of individuals and entities using corruption and other crimes to generate the funds needed to buy protection from the police? Cases of corruption in law enforcement authorities used to shield organized crime?
 - d. Cases of law enforcement being impeded due to a lack of information and data, as well as reporting of crimes related to corruption?
4. Has your country collected data or statistics to track and/or analyze trends related to the links between corruption and the types of crime outlined in Question 2 above?
YES/NO

Since 2014, the Prosecutor General of the Public Prosecutor's Office of the High Court of Cassation and Justice issued Order no. 213/15.07.2014 on the organization and functioning of the information system of the Public Prosecutor's Office (with subsequent amendments and additions), on the basis of which our institution, together with all other prosecution structures, transmits monthly to the office of the Prosecutor General of the Public Prosecutor's Office of the High Court of Cassation and Justice:

- "a) The situation of cases involving tax evasion offences, according to Annex no. 6;
- b) The situation of cases concerning smuggling offences, according to Annex No 7;
- c) Situation of cases concerning offences of corruption and conflict of interest, according to Annexes 8 to 11.
- d) Situation of cases concerning money laundering offences, according to Annexes 12 to 14.

These situations shall be entered into the application available on the Public Prosecutor's INTRANET at <http://intranet.wan.mpr/aplicatii/> by each prosecutor's office by the 5th of the following month for which the report is made".

- a. Are these data analysed and used systematically, such as in prevention and investigations or prosecutions? YES/NO.

In this respect, several aspects related to the National Anti-Corruption Strategy are of relevance: - The SNA 2021 - 2025 was developed following an extensive consultation process with the public sector, but also with civil society and the business environment in Romania. The new strategic document aims to respond to the real needs of Romanian society and reflects the consultation of all stakeholders, as well as the conclusions of the scientific background sources (a criminological study and a sociological research carried out by the Ministry of Justice and the General Anti-Corruption Directorate, as partners).

The preventive policies promoted by the strategy cover a wide variety of issues, aiming at building a culture of integrity, and the strategy is linked to the international anti-corruption instruments to which Romania is party (CVM, GRECO, UNCAC, IAR). In this respect, we recall the regulatory framework concerning: declaration of assets; declaration of interests; conflicts of interest; ethics counsellor; incompatibilities; transparency in the decision-making process; access to information of public interest; protection of whistleblowers; prohibitions after termination of employment in public institutions; sensitive functions; assessment of corruption risks in central and local public authorities and institutions; assessment of integrity incidents in central and local public authorities and institutions.

- b. Please describe any methodologies used for strengthening measurement and terminological clarity, and achieving a deeper understanding of the different contexts (e.g. in times of peace or in emergencies or conflict situations) and sectors (e.g. law enforcement, border crossing, immigration, intelligence and security, procurement), as well as any corruption or organized crime threat assessments that take into account the interlinkages between corruption and other forms of crime.
5. Has your country collected data or statistics to track and/or analyse trends concerning international cooperation in this regard? YES/NO.

Most likely these activities are performed by the National Anticorruption Department.

- a. Please elaborate and share any findings with regard to the good practices and challenges in international cooperation with regard to countering corruption as it relates to other forms of crime
6. Has your country taken any steps at national, regional or local levels to better understand and study the linkages between corruption and other crimes, such as criminological research, training or awareness raising? YES/NO.
 - a. If YES, please elaborate, providing examples.

The National strategy against organised crime 2021-2024 and National Anti-Corruption Strategy 2021-2025 are issued on the basis of such findings of the national context.

7. Which aspects of corruption as it relates to other forms of crime do you consider require further research, and what are the gaps in knowledge or understanding that, if addressed, could facilitate countering these crimes?

II. Measures aimed at responding to corruption linked with other forms of crime

8. Has your government adopted or utilized any measures at national, regional or local levels aimed at **preventing** corruption linked with other forms of crime? YES/NO.

a. If YES, please elaborate. *Measures may include:*

- safeguards in specific sectors (e.g. law enforcement, border crossing, immigration, intelligence and security, procurement, local officials)
- development of targeted strategies, policies, action plans at national or sectoral level specifically addressing the links between corruption and other crime
- establishment of dedicated institutional frameworks
- specific rules, codes of conduct, or standards of transparency and integrity for public officials who are most exposed to the risk of being involved in crime and corruption
- systems for the disclosure of assets and private interests
- control mechanisms, such as internal approval systems to avoid having one-to-one meetings
- controls on issuances of visas, work permits, firearms licenses
- the use of information and communication technology (ICT) based tools to prevent (or detect) such crimes
- awareness raising and prevention measures for public officials that are vulnerable to corruption and other forms of crime
- other

Since 22 December 2022 Law no. 361/2022 on the protection of whistleblowers in the public interest is in force.

In addition, there are anti-bribe policies and management systems implemented with European Projects – POCA, 37001 Standard against Corruption.

9. Has your government adopted or utilized any measures aimed at **detecting, investigating and prosecuting** corruption linked with other forms of crime? YES/NO.

a. If YES, please elaborate. *Measures may include:*

- legislation criminalizing all forms of corruption related to other types of crime
- legislation providing for the liability of legal persons for their role in corruption linked to other forms of crime
- measures to identify beneficial owners of legal persons
- specialized investigative techniques
- strengthened institutional frameworks, including the establishment of dedicated bodies (such as those mandated to identify links between corruption and other crime), task forces or coordination mechanisms between authorities responsible for corruption and other crime
- capacity-building, including targeted training and peer-learning for relevant authorities
- measures to enable the identification, confiscation, tracing or seizure (and, where relevant, return) of assets that are proceeds of corruption-related crimes
- mechanisms to address the role of professional gatekeepers (z.e. financial, legal, accounting or other relevant professionals) in the transfer of proceeds of corruption and other crime
- measures aimed at encouraging the protection or participation of actors outside the public sector, including:
 - V reporting mechanisms, legal protections and incentives aimed at encouraging

persons to report corruption and other crimes

V measures to protect victims, witnesses, and cooperating offenders

V measures aimed at ensuring the investigation and prosecution of acts of violence committed against journalists and civil society actors whose professional activity relates to corruption linked with other crimes

other

10. Has your government adopted or utilized any measures aimed at facilitating **international cooperation** and the rapid exchange of information for cases that have interlinkages between corruption and other forms of crime? **YES/NO**.

a. If **YES**, please elaborate. *Measures may include:*

- ✓ the implementation of mutual legal assistance through digital means
- ✓ measures aimed at enhancing the efficiency of extradition mechanisms
- ✓ the use of electronic communication channels or networks
- ✓ the use of joint or parallel investigations or the bilateral sharing of capacity and expertise on investigating and prosecuting corruption offences linked with other forms of crime
- ✓ cooperation with other countries or multilateral, international or regional bodies to address corruption linked with other forms of crime
- ✓ accession to bilateral, regional or multilateral treaties and agreements.
- ✓ other

Romania has implemented most instruments available for capacity building and enhancing of international cooperation in criminal matters.

In addition, within the prosecution units specialized for combating organized crime (DIICOT) and corruption (NAD) there are services of international cooperation comprised of prosecutors, law enforcement and experts which facilitate the use of the available international cooperation tools (freezing orders, mutual legal assistance requests, European investigation orders, preservation orders, joint investigation teams) by all practitioners exercising their functions in these units.

According to the electronic records of DIICOT, in the period July 2018 – July 2023 there have been 766 registered cases corruption linked with other forms of crime, from which a number of 86 cases were sent to court, while the others have been closed, or sent to the specialized anticorruption bodies or are currently ongoing.

From the analysis of the cases that are already sent to court by indictment (68), it emerged that international judicial cooperation instruments were successfully used 34 times in 14 of these investigations.