UNCAC Chapter II on Preventive Measures

Art. 5, 7, 8, 10, 12, and 13 (as of May 2011)

Romania

Art. 5 Preventive anti-corruption policies and practices

- *Develop & implement or maintain effective coordinated anti-corruption policies that promote the participation of civil society*
- *Establish and promote effective practices aimed at prevention of corruption*
- *Periodically evaluate relevant legal instruments and administrative measures*
- *Collaborate with other States and with relevant international and regional organizations in promoting and developing the above measures*

Romania adopted its first anti-corruption strategy in 2001. Ever since, two other Strategies have succeeded, in 2005 and 2008 respectively.

The first anticorruption strategy was a three-year long national programme which was titled The National Corruption Prevention Programme 2001-2004 (PNPC 2001-2004). Elaborated on the basis of a Diagnosis Report of the World Bank released in 2000, the PNPC focused on four grand areas, identified in the Study as the most affected by corruption: the public administration, the judiciary, the private sector and the political arena. For each of these, objectives of limiting this phenomenon and preventing it were established.

At the same time, PNPC 2001-2004 was structured on three directions for action: research and assessment of corruption, limitation and building a prevention system. Two separate types of cooperation were envisaged: internal cooperation with the civil society and the media, and international cooperation.

Considering the cooperation with civil society, the authorities run several awareness campaigns regarding the causes and consequences of corruption. The later assessment report on the implementation of PNPC 2001-2004 will highlight that the collaboration of the Romanian authorities with civil society organizations were not numerous and fruitful enough so as to be a successfully implemented objective.

Regarding the international cooperation, during the period covered by the PNPC, Romania was already a member of the GRECO (starting with 1999) and also among the signatory States of the Stability Pact Anticorruption Initiative (2000). Romania took part as well to the Council of Europe's Programme of Action against Corruption and signed within the OECD's cooperation framework on the fight against corruption, the Common Declaration of Romania and OECD regarding cooperation on the fight against corruption (2003), followed by a Memorandum of Understanding considering the "Pilot Anticorruption Project OECD-Romania (2004).

As regards the evaluation of the PNPC 2001-2004, the international organization Freedom House audited its implementation. According to the Assessment Report (2005), Romania had created an impressive arsenal of legal instruments of transparency, accountability and anticorruption, some of them seeming to have brought positive effects and some still having to prove their usefulness. The two most successful instruments identified in the Report were the Freedom of Information Act and the decision to make transparent the public declaration of assets and conflict of interest for dignitaries and civil servants, on the one hand, and the creation of an autonomous anti-corruption body (the National Anticorruption Prosecutor Office, set up in 2002, and reorganized in 2005 as the National Anticorruption Directorate).

The second National Anticorruption Strategy (SNA) for the subsequent three years was adopted in 2005 and had to be implemented up to 2007. SNA 2005-2007 was elaborated around ten objectives, structured on three priority domains, which were: a. prevention, transparency and education; b. combating corruption; and c. internal cooperation and international coordination.

In what may concern the first domain, increasing transparency and integrity in the public administration, preventing corruption in the private sector and raising awareness among the public were established as objectives.

As for the last domain, the Romanian authorities set up two objectives: coordinating and monitoring the implementation of the SNA 2005-2007; and fully putting into practice the international anticorruption instruments of EU, UN, Council of Europe and OECD.

The third anticorruption strategy was established for the following three years and was titled Strategy on Fighting Corruption in Vulnerable Sectors and Local Public Administration 2008 – 2010. SNA 2008-2010 set up ten strategic objectives, split up on several domains for action: a. information, awareness and accountability; b. simplification of administrative procedures; c. corruption assessment through research; d. transparency and efficiency in the public sector; and e. preventing and combating corruption through communication and collaboration.

Apart from the research cluster, all the other domains contained, explicitly or implicitly, the prevention component of fighting corruption. Two of these domains supposed the involvement of civil society. Enhancing the dialogue with civil society organizations through promoting their involvement in projects and programmes of raising awareness on the costs of corruption was part of the framework for action under the first domain: information, awareness and accountability. Efforts for improving the information flow from public authorities and institutions towards the media and the public were also foreseen. Developing partnerships with civil society on the fight against corruption was embraced under the last domain for action as a means for preventing this phenomenon.

The last two anti-corruption strategies (2005-2007 and 2008-2010) were submitted to an overall implementation assessment by a team of independent experts at the end of 2010. According to their Report, published in April 2011, the strategies were implemented to a large extent, undertaking large number of anti-corruption measures in a short period of time.

Art. 7 Public Sector

- *Adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion, and retirement of civil servants and other non-elected public officials*

➢ **Civil servants**

A Government Decision from 2003 improved the system of recruitment of the civil servants, introducing two forms of career advancement: promotion to higher public offices and progress in pay grades. The respective act provided for the evaluation criteria of the individual performances of the civil servants, amongst which their proper conduct while carrying out their duties. This Decision followed a similar normative act that had established, in 2001, the evaluation methodology of the civil servants' performances.

In addition, in 2004, a new form of promotion in the public office was introduced through the establishment of the position of public manager, which was meant to speed up the process of career advancement for the civil servants who had that position.

Considering the Act on the statute of civil servants itself, it was amended several times since its adoption in 1999. For instance, in 2006 and 2007 the recruiting system for the high civil servants was changed: recruitment would take place on the basis of a national competition and would fall in the responsibility of a permanent independent commission, composed of seven members appointed by the Prime Minister.

In the current form (as of 2011), the Act provides for a system of recruiting of civil servants based on competition. The underlying principles are the free competition, transparency, professional merits and competency and the equal access to public office for every citizen who fulfils the legal requirements. As well, the Act contains a system of promotion and evaluation of civil servants' performances.

A civil servant can develop his/her career in three ways: by being promoted to a higher class among the three existing classes of civil servants, by being advanced to a higher professional degree in the same class and by progressing on the pay scale. The advancement to a higher professional degree is to be done following an annual exam of promotion. In order to advance in a superior category of civil servants, meaning from that of execution to the one of management, the candidate has to fulfill a determined number of conditions. There is also a fourth way of promotion provided for in the Act: the system of rapid promotion in a public office is based on competitive examination and is open to those who previously obtained the status of public manager.

As for the evaluation of civil servants' performances, this is undertaken on an annual basis and serves for the advancement in pay scale, for the promotion in a superior public office and for removal from office.

The retirement of civil servants intervenes when attaining the standard age of retirement and the minimal stage of contribution to the retirement fund (cumulatively).

As well, a civil servant can retire, completely or partially, before the standard age limit.

- **Other categories of public officials**

In addition to the civil servants, other categories of non-elected public officials are provided under the Romanian legislation.

The rules on the recruitment and promotion of the magistrates (judges and prosecutors) are provided by a Law from 2004, on the statute of the judges and prosecutors, republished, with the subsequent amendments and completions.

The admission and promotion of ***judges and prosecutors*** shall take place through examination, with the observance of principles of equality and transparency. The law contains similar rules to the Law on civil servants in what concerns the necessary requirements for admission and the role of the assessment of activity in order to promote and also similar rules regarding disciplinary sanctions, suspension and cessation of office.

Admission of judges and prosecutors to the judicial career shall take place through a competitive examination, based on professional competence, aptitudes and good reputation. The admission to National Institute of Magistracy (NIM) is made exclusively on the basis of a competitive examination.

The admission to NIM is organized on an annual basis, upon the approval of the Superior Council of Magistracy (SCM). The date, the location and manner of holding the admission examination, as well as the number of vacancies shall be published in the Official Journal of Romania, part III, on the web page of SCM and of NIM and on three central daily newspapers, at least 60 days before the date of the examination.

The initial professional training within the Institute is both theoretical and practical and lasts 2 years. After another 1 year of practice after graduating, a final exam is taken. The date, the location and the manner of holding the exam shall be published in the Official Journal of Romania, part III, on the website of SCM and NIM and it shall be communicated to the courts and prosecutor's offices, at least 90 days before the exam.

Judges and prosecutors shall be promoted only by means of a competitive examination held at a national level, within the limits of vacancies existing in tribunals and courts of appeal or, as the case may be, in prosecutor's offices attached to them. The competitive examination for the promotion of judges shall be held annually or any time is necessary, by SCM, through NIM.

The Law no. 360/2002 on the statute of the ***police*** stipulates that the police staff is mainly selected from the graduates of the training institutions of the Ministry of Administration and Interior (MAI). The admission to the training institutions shall be made through a contest or exam, if the requirements provided by the law are met, including the ones related to not having a criminal record, not being the subject of an ongoing criminal investigation or of an ongoing procedure before courts for an offence.

The police officers can also be police agents or graduates of educational institutions within MAI or from other higher education institutions with adequate profile for the necessary specializations for the police, established by order of the minister of Administration and Interior.

For some positions, specialists with adequate qualifications for the job description and who fulfil the legal conditions can be employed directly or transferred from defence public institutions. The employment of experts within police forces shall be made by means of a contest or exam.

For acquiring the next professional rank, the police officer has to fulfil certain conditions related to the probation period and to have exceptional or very good on the professional evaluation.

- *Adopt legislative and administrative measures to prescribe criteria concerning candidature for and election to public office*

Apart from the conditions set up in the Constitution[1] (conditions of age, citizenship and residence), the electoral legislation contains a number of candidature criteria that serve to preserving integrity in the public office. For instance, all the candidates for the election to a public office have to submit, along with their candidacy, a declaration of assets and interest. As well, candidates for election, their spouse, relatives and in-laws to the second kinship included cannot be members of electoral bureaus.

- *Take appropriate legislative and administrative measures to enhance transparency in the funding of candidatures for elected public office and the funding of political parties*

Revisiting political parties financing and electoral campaigns funding legal framework were first set up as preventive measures in the PNPC 2001-2004. Thus, a new Act was adopted in 2003 introduced a system of public funding with a mechanism for monitoring political funding, under the responsibility of the Court of Accounts, with the competence of controlling the correct use of public subsidies by the beneficiary parties. Introducing transparency in the funding of political parties and candidates to elections kept representing a fundamental objective under SNA 2005-2007. It is during this time that a new law introduced important changes to the legal framework

[1] Art. 37 - Right to be elected
(1) Eligibility is granted to all citizens having the right to vote, who meet the requirements in Article 16 (3), unless they are forbidden to join a political party, in accordance with Article 40 (3).
(2) Candidates must have turned, up to or on the election day, at least twenty-three in order to be elected to the Chamber of Deputies or the bodies of local public administration, at least thirty-three in order to be elected to the Senate, and at least thirty-five in order to be elected to the office of President of Romania.
Art. 16 - Equality of rights
(3) Access to public, civil, or military positions or dignities may be granted, according to the law, to persons whose citizenship is Romanian and whose domicile is in Romania. The Romanian State shall guarantee equal opportunities for men and women to occupy such positions and dignities.
Art. 40 - Right of association
(3) Judges of the Constitutional Court, the advocates of the people, magistrates, active members of the Armed Forces, policemen and other categories of civil servants, established by an organic law, shall not join political parties.

of that time. This Act from 2006 covered the various aspects of political financing and its supervision, from the accepted forms of funding of political parties (membership fees, donations, other sources of income) to public financing, financing during election campaigns of parties and candidates (contributions for election campaigns, appointment of a financial manager, limits on expenditure etc.). As well, it established the Permanent Electoral Authority as an independent administrative institution ensuring the application of the electoral legislation and with competence of control of political parties and election campaigns financing.

The same law introduced transparency requirements. Political parties are required to publish in the Official Journal, by the 31st of March of every year, the following information: the total amount of income from membership fees and the list of members who paid in one year fees whose total value exceeds 10 MGS (EUR 1400), including personal identification details; the list of natural and legal persons who made within one year donations whose total value exceeds 10 MGS (EUR 1400), including identification information, as well as the total amount of confidential donations; donations from abroad, which are authorized as far as they are material used for political activities; the total amount of income from other sources and the total amounts of financial contributions deriving from associations with non-political formations. Parties are further required to send the above information to the Permanent Electoral Authority and the latter to subsequently publish it on its own website.

In terms of election campaigns, the Permanent Electoral Authority is required to publish in the Official Journal, within 30 days following the proclamation of election results, the financial reports pertaining to election campaigns after they have been received in electronic format from the financial managers of the political parties; besides, the Permanent Electoral Authority also publishes on-line the lists of all donors who must be reported (within 5 days of the donation) to the PEA after the opening of the official election campaign[2].

The above mechanism on the transparency of political life in Romania is complemented by a system of declaration of assets and interests of elected candidates, currently provided under a law adopted in 2010 and amending the 2007 Act regulating the system of declaring interests and assets.

- *Adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest*

Considering the requirement of transparency in the public sector, Romania has built a system comprising a set of legal and institutional instruments aiming at safeguarding and promoting this principle. The Law on free access to public interest information (2001) introduced the obligation of public institutions and authorities to ensure the access of the public, from office and upon request, to (solicited) information of public interest. Second, the Law on transparency of decision-making in the public administration (2003) provided for transparent procedures of elaboration of normative acts both at the central and local levels, introducing as well the rule of citizen

[2] For further and in-depth information regarding transparency of party and elections funding, see GRECO Evaluation Report on Romania on Transparency of Party Funding, Strasbourg, 29 November – 3 December 2010.

participation to the decision-making process itself. Third, another Law regarding certain measures for ensuring transparency in the exercise of public dignities, public offices and in the private sector (2003) improved the existing transparency framework by conferring the status of public interest information to all the welfare statements and requiring their publishing on the internet page of public institutions.

The public procurement and political party financing systems contain further transparency provisions themselves. The legal framework on acquisitions, for instance, provides for the obligation of the contracting authorities to ensure the access of every interested physical or moral person to their respective procurement contracts. As for the political funding, there are reporting requirements that have to be met by political parties both on an regular basis (situation of received donations, half-yearly situation of income resulting from membership fees, Monthly situation of the subsidy and expenses incurred) and in election campaigns, as well as publishing requirements in the Official Journal and on the website of the institution responsible with control of political and elections financing (total amount of income from membership fees and the list of members who paid in one year fees whose total value exceeds 10 MGS, list of natural and legal persons who made within one year donations whose total value exceeds 10 MGS, as well as the total amount of confidential donations, donations from abroad, total amount of income from other sources and total amounts of financial contributions deriving from associations with non-political formations).

In what may concern the aspect of preventing conflicts of interest in the public sector, the system of declaring and monitoring assets and conflicts of interests for dignitaries and civil servants (already in place since 1996, but not open to the public until 2003) was improved through several legal acts. The Law on the local public administration from 2001 provided for a set of rules regarding conflicts of interests involving mayors, deputy mayors and local councilors. Later on, new incompatibilities applicable to all elected public officials and to civil servants were introduced (2003). Situations of incompatibilities involving members of Parliament were also defined. Furthermore, an autonomous administrative authority responsible for verifying assets, incompatibilities and conflicts of interest was created in 2007 (National Integrity Agency).

Art. 8 Codes of Conduct for Public Officials

- *Promote integrity, honesty and responsibility among public officials*
- *Apply codes or standards of conduct for the performance of public functions*
- *Take note of the relevant initiatives of regional, interregional and multilateral organizations (e.g. International Code of Conduct for Public Officials)*
- *Establish measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities*
- *Establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials*

- *Take disciplinary or measures other measures against public officials who violate the codes or standards*

➢ **Codes of conduct of civil servants and contractual staff**

In Romania, the current general legal framework with regard to the conduct of public officials is represented by two laws adopted in 2004: Act on the Code of Conduct of public servants and the Act regarding the Code of Conduct of the contractual staff. Specific Codes of Conduct were introduced for the personnel of the Police, the Customs and the National Office for Preventing and Combating Money Laundering.

According to the 2004 Acts, integrity, honesty and responsibility, as well as transparency are among the guiding and founding principles of the Codes. Moral integrity is defined as a principle according to which civil servants are forbidden to solicit or accept, directly or indirectly, for themselves or for others, any advantage or benefit in consideration of the public office they hold, or to abuse in any way of this office. The Code on the conduct of public servants contains a series of interdictions as for instance the involvement in political activities. As well, public servants are not allowed to ask for or accept presents, services, favors, invitations or any other advantages for themselves, their families, parents, friends or people they have business or political relations with, which might influence their impartiality in exerting their public duties or which might stand for rewards related to their position. Furthermore, the public servants have to abide by a series of restrictions regarding the use of public resources (only for undertaking their official duties) and the participation to procurement, concessions and rentals of public property.

➢ **Codes of conduct of other categories of personnel employed in the public sector**

In addition to the coded of conduct of civil servants and contractual staff, other categories of personnel employed in the public sector have their own codes of conduct:

- The Ethical code of the fiscal control inspector was approved by order of the minister of Public Finances from 2003,
- The Code on ethical conduct of the internal auditor was approved by order of the minister of Public Finances in 2004,
- The Deontological Code of the members of the National Commission for the Evaluation and Accreditation of Pre-university Education, of the county and Bucharest commissions for the evaluation and accreditation of pre-university education was approved by order of the minister of Education, Research and Youth in 2004,
- The Code of conduct of the military and civil personnel from the Ministry of Defence was approved by order of the minister of Defence in 2004,
- The Ethical code of the profession of delegated controller was approved by order of the minister of Public Finances in 2004,
- The Deontological code of physicians was adopted in 2005, by a decision of the Physicians College,
- The Code of conduct for clerks within courts and prosecutor's offices attached to the courts was approved by decision of the Plenum of the Superior Council of Magistracy in 2005,

- The Deontological code for judges and prosecutors was approved by decision of the Superior Council of Magistracy in 2005,
- The Code of ethics and deontology for the policemen was approved by Government Decision in 2005.

➢ **Whistleblowing policy**

Law no. 571/2004 on the protection of the personnel within public authorities, public institutions and other budgetary units who notify law's infringements. This normative act aims to ensure the protection of persons reporting in good faith any deed that constitutes infringement of law, professional deontology or good administration and transparency principles, when such acts come to their attention in the performance of their functions. Employees who are victimized and subject to harm for blowing the whistle on improper behaviour are now protected against any disciplinary or jurisdictional action if they act in good faith.

The law applies to:

- public authorities and institutions within the public central administration,
- local public administration,
- Parliament staff,
- Presidential Administration staff,
- Government staff,
- autonomous administrative authorities,
- public institutions in the field of culture, education, health and social assistance,
- national companies,
- autonomous regies of national and local administration,
- persons appointed in scientific and consultative councils, specialized committees and other collegial bodies, organized within or attached to public authorities and institutions.

Definitions under the law:

- Whistleblowing for public interest – the notification made with *bona fides* regarding the deed assumed to be an infringement of the law, of the professional deontology or of the principles of good administration, efficiency, effectiveness and transparency;
- Whistleblower – the person making a notification as aforementioned and working for one of the public authorities, public institutions or other units;
- Disciplinary Commission – any body having disciplinary investigation prerogatives, provided by law or by the regulations for organizing and functioning of the mentioned public authorities, institutions or other groups.

Whistleblowing for public interest regards:

- corruption offences, offences assimilated to corruption, offences connected to corruption, forgery offences and abuse in office or related to office;
- offences against financial interests of the European Communities;
- infringements of the provisions on the incompatibilities and the conflict of interests;
- the abusive use of material and human resources;

- political support in exercising the prerogatives of the office, except for the persons politically selected or appointed;
- infringements of the legal provisions regarding the public procurement and non-reimbursable financing contracts;
- infringements of the law on the access to information and decisional transparency;
- incompetence or negligence in office;
- non-objective assessments of the personnel, during the process of recruitment, selection, promotion, changing to a lower position and release from office;
- infringements of administrative procedures or establishing internal procedures without observing the law;
- issuing administrative or other types of documents serving group interests;
- the defective or fraudulent management of public and private patrimony of public authorities, public institutions and other units;
- infringements of other legal provisions imposing the observance of the principle of good administration and protecting public interest.

The notifications regarding infringements of the law or of deontological and professional norms can be sent to:

- the superior of the person who infringed the legal provisions,
- the person having the highest leading position within the respective public authority, public institution or budgetary unit where the person infringing the law performs his/her activity or where an illegal practice is reported, even if the perpetrator cannot be identified,
- disciplinary commissions or other similar organisms within the public authority, public institution or unit where the person infringing the law performs his/her activity,
- judicial bodies,
- the bodies with competencies in ascertaining and investigating conflicts of interests and incompatibilities,
- parliamentary commissions,
- mass-media,
- NGO's.

Public servants and other categories of public personnel are protected in their relations with the disciplinary commissions or other similar bodies and they benefit of the *bona fides* presumption, until the contrary is proven.

If the person denounced through the whistleblowing for public interest is the direct or indirect superior or that person has prerogatives to control, inspect or evaluate the whistleblower, the disciplinary commission or other similar body shall ensure the protection of the whistleblower, by hiding his/her identity.

- **Declarations of assets and interests**

As mentioned under art. 7 (see above), the National Integrity Agency was created in 2007, as an autonomous administrative authority responsible for verifying assets,

incompatibilities and conflicts of interest. According to the Law, assets declarations and declarations of interests shall be submitted within 30 days from date of appointment or election in the respective position or from the date of commencement of work. The persons covered by the law[3] have the obligation to submit or update their assets declarations and declarations of interests annually, no later than June 15. The persons suspended from exercising their positions or dignity of public office for a period covering the full fiscal year will update their statements within 30 days after termination of the suspension. No later than 30 days from the date of termination or cessation of office, the persons covered by the law are required to submit further representations of assets and interest declarations.

The declaration of assets contains information on: fixed assets (lands, buildings); movables (vehicles/cars, tractors, farm machinery, boats, yachts; precious metals, jewelry, art and workshop, art collections exceeding 5.000 euro); movable assets over 3.000 euro and immovable assets sold in the last 12 months; financial assets (accounts and bank deposits exceeding 5.000 euro, investments and loans granted if their market value summed exceeds 5.000 EURO); debts exceeding 5.000 euro; gifts, services or benefits received free or subsidized to market value from persons, organizations, businesses, public corporations, companies/public institutions, national companies either Romanian or foreign, including scholarships, loans, guarantees, payments for expenses other than those of the employer if all their value summed exceeds 500 EURO; income of the declaring person and family members (spouse and children), for the last fiscal year (salary, income from independent activities, income from disposal of property use, investment income, pension income, income from prizes and gambling).

The declaration of interests contains information on:

- associated or shareholder in commercial companies/national companies, loan institutions, groups of economic interest, member in associations, foundations or other non-governmental institutions;
- member in the management, administration and control bodies, commercial companies/national companies, loan institutions, groups of economic interest, member in associations, foundations or other non-governmental institutions;
- member in the professional associations and/or unions;
- member in the management, administration and control bodies, paid or unpaid, held in political parties, position hold and name of the political party;
- contracts including those of legal and civil assistance, consultancy, obtained or running during the time of the respective person holding the position, mandates, public dignities financed by the state budget, local or from external funds or closed with companies with state capital where the state is majority or minority shareholder.

[3] The president of Romania; the members of the Parliament; ministers; judges and prosecutors; persons having leading and execution positions in local and central public authorities or public institutions; civil servants; prefects; the Board Members, Board of Management or Board of Supervisors and persons holding management positions in the autonomous regies of national or local interest, national companies, or, as appropriate companies in which the State or an local governmental authority is the main or a significant shareholder; the candidates for the position of the President of Romania, deputy, senator, local counselor, president of the county council or mayor etc.

- **Monitoring the observance of ethics and integrity rules**

The overall coordination, the monitoring and the control of the application of the norms prescribed by the Code of conduct for public servants and the contracted personnel belongs to the National Agency of Public Servants. At the level of the institutions and authorities, a civil servant, usually coming from the human resources department, is responsible with ethical counseling and monitoring the application of the norms of conduct.

In case of infringement of the norms of conduct provided for by the above Acts, disciplinary measures and sanctions apply, as they are defined in the Act on the Statute of public servants. They are proposed by disciplinary commissions and applied by the public official who is entitled to make appointments in the respective public institution or authority.

Sanctions applied to civil servants in the first two quarters of 2010										
	Number and type of sanction ordered by the competent person									
	No. of written reprimands		No. of wage reductions		Number of suspensions of the right to advancement / promotion		No. of relegations		No. of dismissals	
	M	E	M	E	M	E	M	E	M	E
TOTAL	***19***	***79***	***11***	***38***	***1***	***3***	***4***	***10***	***1***	***12***

M – Leading position
E – Execution position

The reasons for notifying the disciplinary commissions:

- failure to perform or improper performance of duties,
- refuse to perform the duties,
- truants or repeated delays in carrying out the work;
- misconduct, use of offensive words and phrases;
- breach of the incompatibilities and conflicts of interest;
- reporting to work intoxicated;
- neglect in asset management.

In the first two quarters of 2010, the criminal investigation bodies were notified with regard to 20 civil servants: 7 having leading positions and 13 having execution positions.

Art. 10 Public Reporting

- *Enhance transparency in the public administration, including with regard to its organization, functioning and decision-making process*
    - *Adopting procedures or regulations allowing members of the general public to obtain information on the organization, functioning and decision-making process and on decisions and legal acts that concern members of the public (privacy and personal data respected)*
    - *Simplifying administrative procedures*

- *Publishing information*

The Romanian legal framework with regard to public reporting was defined and refined in 2001 and 2003 respectively. The Act on Free Access to Information of Public Interest (2001) allows for all persons to have access to information of public interest - meaning information in the possession of, regarding or generated by public institutions (entities using public money and being active in Romania). The law states the obligations of the public authorities and institutions concerning the release - ex officio or by request - of the information, as well as the procedures and the deadlines for releasing the information. The public authorities and institutions are required to create special departments for public information. An information request can be submitted in writing, orally or in electronic format. Those who consider that their rights to freely access the information have been breached - either by denial of the information or by failure of meeting the deadlines - can appeal the decision, first by administrative way (to the superior of the employee who has denied the information), then to the court. The court can rule in favor of the disclosure of the information and can also sentence the public authority. The Act lists the exceptions from the free access and it states that no information regarding a wrongdoing of a public authority or institution can be classified as "secret".

The Act on Transparency of decision-making in the Public Administration (2003) introduced the legal framework regarding the minimal procedural rules applicable to ensure decisional transparency within central and local public administration authorities and institutions. This law first sets the obligation of the authorities to provide beforehand and ex-officio information on the matters of public interest to be debated by central and local public administration and the draft legislative acts. Second, the Act guarantees the entitlement of the citizens and of the legally established associations to be consulted, at the initiative of public authorities, in the process of elaborating draft legislative acts. Third, the Law promotes the active participation of citizens in administrative decision-making and in the elaboration process of draft legislative acts by providing for the following prerequisites: the public character of the meetings of the authorities and public institutions that are subject to this law; the recording and publishing of the debates, as well as the minutes thereof, which are to be archived. Those who consider themselves harmed in the rights set forth by this Act may lodge a complaint within the terms established by the Administrative Contentious Law. The complaint and the appeal shall be judged following the emergency procedure and shall be exempt from stamp duty.

Considering the simplification of administrative procedures, this aspect was conceived as a matter of interest in the prevention cluster of all the past anti-corruption strategies. Cutting bureaucracy was among the objectives established in the National Action Plan for implementing the PNPC 2001-2004. This supposed streamlining the flow of documents, simplifying the procedures of issuing permits, authorizations or licenses by the public authorities and establishing a single office for receiving citizens' requests in every institution. The National Action Plan for the SNA 2005-2007 aimed at increasing transparency and integrity in the public administration through measures like revising the legislation on public funding, public contracting and politic parties funding, but also implementing the practice of the single office in the public administration (whose legal framework was determined in 2001). The latter aspect was the subject of a subsequent strategy that had to be put into practice in

the same period by the Central Unit for the Public Administration Reform (the specialized structure of the Ministry of Administration and Interior which is responsible for the reform of the public administration). In the SNA 2008-2010, the aspect of simplifying the administrative procedures was given further attention, being turned into a separate domain for action. Two objectives were assigned to it: removing administrative barriers (through reviewing internal procedures in order to eliminate overlaps and through introducing instruments and standards for improving the public administration activity) and using information technology in the public services. It is in this context that the Government approved the Better Regulation Strategy at the central level of the Public Administration 2008-2013. The top directions for action are the reduction of the administrative burden for companies, citizens and associations, the simplification of the relevant national legislation and of the administrative procedures, and the improvement of the institutional framework and activities of the regulation and control agencies and authorities.

Art. 12 Private Sector

- *Take measures to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector, and provide effective, proportionate and dissuasive penalties for failure to comply with such measures.*
    - *Promoting cooperation between law enforcement agencies and relevant private entities*
    - *Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities*
    - *Promoting transparency among private entities*
    - *Preventing the misuse of procedures regulating private entities*
    - *Preventing conflicts of interest by imposing restrictions on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement*
    - *Ensuring that private sector enterprises have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements are subject to appropriate auditing and certification procedures*
- *Take measures regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards to prohibit:*
    - *The establishment of off-the-book accounts*
    - *The making of off-the-book or inadequately identified transactions*

The private sector first appeared as a distinct domain for action against corruption in the PNPC 2001-2004. The strategy spoke of the creation of a competitive private sector as a prerequisite for avoiding state capture. Thus, the Programme put forward four objectives: reforming the commercial legislation, revising the regime of state-owned companies, promoting economic competitiveness, cooperating with employers' associations. It is during this time that the Act on Certain Measures to Ensure Transparency in the Exercise of Public Dignity, of Public Office and in the Business Environment (2003), which provided for a series of amendments to the existing legislation on Trade Register for ensuring transparency and stability in the private sector. It is also during this time that the Act on preventing and sanctioning money-laundering had been passed (2002).

Following the recommendations formulated in the Assessment Report of the Strategy for 2001-2004, where were still highlighted legislative ambiguities and inconsistencies affecting the business environment, the SNA 2005-2007 introduced the prevention of corruption in the private sector among the ten strategic objectives. Thus, several amendments to the legislation on bankruptcy, tax evasion and money laundering were made. The new regulations repealed the provisions concerning the granting of incentives or reliefs from the public debt (2005) and introduced simplified insolvency procedures (2006). A new law on preventing and combating tax evasion was adopted (2005); this Act re-affirmed the criminal liability for such practices, which had been introduced in 2003, when the Tax Procedure Code was amended. In what may concern preventing and combating money-laundering, the legislation regarding trading companies was amended according to the new regulations.

In the SNA 2008-2010, fighting corruption in the private sector was not directly addressed, but the Government's Programme for 2009-2012 took over this aspect. More specifically, the first direction for actions mentioned in the Programme with respect to the private sector was "to simplify and amend the legal and administrative framework, to diminish bureaucracy and corruption, administrative and fiscal burden and overtaxing; [the Government] aims at reducing the number of administrative procedures, the time for obtaining authorizations, approvals, licenses and permits, as well as the costs of these procedures, and implicitly limiting corruption". It is in this context that a Strategy for Improving and Developing the Business Environment (DMA) 2010-2014 was adopted. Among the four specific objectives set forth in the Strategy there was that of increasing decision-making and policy transparency by stimulating and promoting corporate responsibility and integrity. In this regard, the Government first aims at regulating lobby in Romania by creating a Register of Interest Representatives. It also aims at defining the communication relationship between lobbyists and representatives of public authorities, reporting activities and taxation, conflicts of interest and incompatibilities, accountability and sanctions. Second, it intends to amend the legislation on public contracting (by accelerating the process of evaluation of offers and avoiding blocking the acquisition) and to introduce mechanisms of whitelisting bidders that adopted business ethics and integrity principles. Third, the Government will endeavor to reduce the number of contributions and taxes, to simplify the fiscal and payment procedures, while eliminating all exceptions and privileged treatments, and strengthening discipline in contract fulfillment and in the payment of liabilities. The periodical evaluation of administrative barriers to business is also provisioned for the 2010-2014 period.

Art. 13 Participation of Society

- *Promote active participation of individuals and groups outside the public sector in the prevention of and the fight against corruption*
- *Raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption*
- *Strengthen participation by:*
    - *Enhancing the transparency of and promoting the contribution of the public to decision-making processes*
    - *Ensuring that the public has effective access to information*

- *Undertaking public information activities that contribute to the non-tolerance of corruption, as well as public education programmes, including school and university curricula*
- *Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption.*

Cooperation with civil society considering the prevention and the fight against corruption was among the objectives of the first anti-corruption strategy 2001-2004. In this regard, the Government committed to run awareness campaigns, to work together with civil society organizations and mass-media, to make public the results of the actions against corruption and to include civic education aspects in the school curricula. However, results were modest: awareness campaigns were limited in number and in scope and had little impact. CSO-s were insufficiently supported financially in this sense. The dialogue with non-governmental organizations proved to be rather weak, but improving. For instance, some of their representatives were invited to take part to a governmental group that had to analyze and coordinate corruption prevention activities from the PNPC 2001-2004 (the majority of them withdrew soon after as the consultation became a formality). As well, CSO-s were involved in the elaboration of the 2001-2004 Strategy. As for their involvement in the implementation assessment, this was rather difficult due to the reluctance of the authorities. Considering the introduction in the school and university curricula of civic education programmes, this measure was undertaken for the primary (years I-IV) and secondary (years V-VIII) levels of education. In high school (IX-XII), this discipline was introduced as optional.

In line with the previous strategy, SNA 2005-2007 established awareness campaigns and educative measures in partnership with civil society organizations. As well, NGO-s were to be consulted during the implementation of other measures from the Action Plan of SNA 2005-2007, as for instance: the amendment of the legal frameworks on public contracting, public funding, access to/ restricting access to information; the application of the Act on decision-making transparency and access to information; revisiting legislation regarding public officials.

The SNA 2008-2010 continued this approach by provisioning for the next three years the following directions for action: promoting dialogue with civil society actors by enhancing their involvement in projects of raising awareness with regard to risks associated to corruption; improving the information flow towards the media and the public regarding prevention activities; continuing information campaigns of the public with regard to their rights and obligations in relation with public authorities so as to stimulate a civic anti-corruption attitude.

According to the assessment Report of the last two anti-corruption strategies (2005-2010), civil society organizations played an important role in assisting policymaking by commenting regulations, exerting pressure towards policy makers and providing expertise. NGOs focused on providing information, awareness raising and training to citizens and civil servants and contributed much more to the implementation of the strategies than, for instance, the legislative and the judiciary.