

**NATIONAL INTEGRITY
SYSTEM ASSESSMENT
ROMANIA**



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EXECUTIVE SUMMARY

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The National Integrity System assessment approach provides a framework to analyse the robustness and effectiveness of a country's institutions in preventing and fighting corruption. The concept has been developed and promoted by Transparency International (TI) as part of its holistic approach to countering corruption. A well-functioning national integrity system provides effective safeguards against corruption as part of the larger struggle against abuse of power, malfeasance, and misappropriation. The European NIS brings together the findings of 25 National Integrity System (NIS) assessments carried out across Europe in 2011.¹

The Romanian National Integrity System assessment offers an evaluation of the legal basis and functioning of the national institutions (pillars) and their role in fighting corruption. They are assessed in the context of the political, social, economic, and cultural foundations of the country and take into account the corruption profile and anti-corruption activities in the last two years.

The assessment does not seek to offer an in-depth evaluation of each pillar, but rather puts an emphasis on the relevant pillars and assesses their contribution to integrity at the national level and their inter-linkages in this respect. The study, based on the methodology provided by the TI-Secretariat, reviews the period from 2008 to 2011.² The implementation of the NIS assessment project included a number of steps: desk research, key informant interviews and verification of the findings by the reviewers from the advisory group, the TI-Secretariat, and an external reviewer.

Romania is, along with Bulgaria, the most recent member state of the European Union. During the negotiation process before accession, some of the chapters and files under discussion remained only promises, giving rise to a unique situation without precedent in the EU. Romania and Bulgaria became member states of the European Union under a safeguard clause. As a result, the performance of the country's judiciary, and its main corruption related institutions and mechanisms are monitored by the European Commission through the Mechanism of Cooperation and Verification (MCV).

The MCV established four benchmarks for Romania: the transparency, efficiency, independence and accountability of the judiciary; the effectiveness of an independent anti-corruption agency to verify assets, incompatibilities and conflicts of interest; professional and impartial prosecution of

¹ In Belgium, Bulgaria, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland and the UK.

² The study refers sometimes to previous changes in the system, when these changes are important and generate an important long-term impact.

grand corruption cases; and progress in preventing and fighting corruption, mainly in local administrations.

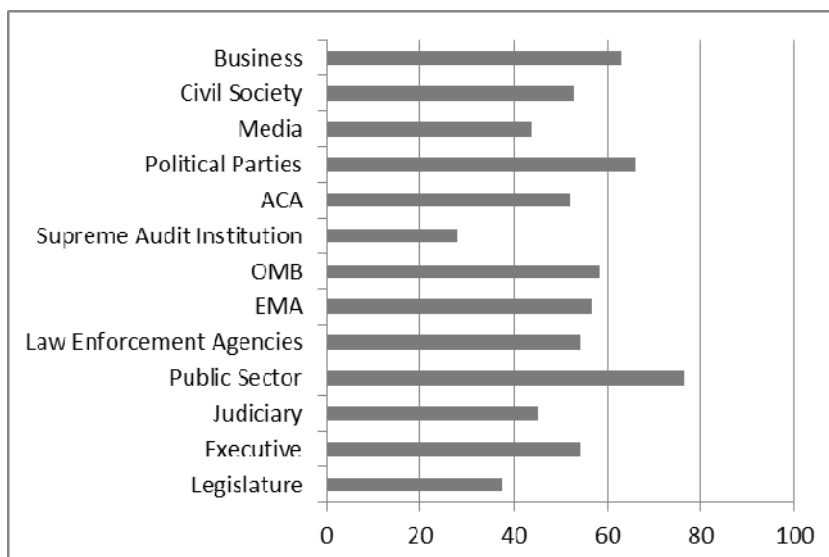
Most of the anti-corruption activities in the last three years are shaped by these benchmarks. However, the EC reports under the MCV focus on the formal progress of public policy rather than the actual results and impact of these policies. Moreover, the financial and economic crisis generated further vulnerabilities in a country constantly found among the last two or three European countries in TI's Corruption Perception Index, with fewer than 4 points until 2010 on a scale from 1 to 10, where 1 is a captive state and 10 is a state entirely free of corruption.

Key findings

The foundations of the NIS

The diagram below illustrates the relevant key findings in terms of the pillars' relative strengths and weaknesses in building an integrity system at the national level. The graph shows the pillars' strengths and weaknesses in relation to preventing, fighting and sanctioning corruption within the institutions composing the pillar. It focuses on capacity and governance variables: the power of the pillar to prevent, fight and sanction corruption within the broader system.

The diagram below illustrates that key institutions still have progress to make in order for Romania to achieve a strong integrity system.



(ACA = Anti-corruption Agencies, OMB = Ombudsman, EMA = Electoral Management Authority)

The foundations of the integrity system – the political, social, economic and cultural profile – are shaped by the communist heritage and moreover by the difficult and slow transition to democracy. Political activities are formally democratic, but important attention must be given to the patronage networks developed within the parties, as the most respected political theorists and analysts of the country show in their work and research. The socio-cultural tradition and low involvement of the people in civic movements is a vulnerability in this context. Moreover, the economic transition and the privatisation process exposed some sectors of the economy to high corruption risks. From a social point of view, the discrimination against some social and national groups can generate abuses and breaches of the rule of law.

Key strengths and weaknesses

In 1991, the Constitution was adopted and the constitutional regime since then has ensured a relatively strong rule of law, including limiting the vulnerabilities, risks and exposure to corruption in politics and the economy. However, the formal limits are not enough to ensure the actual effectiveness of the integrity system and the risks remain high.

The dominance of the executive over the legislature, the extensive use of Emergency Ordinances, the procedure of assuming the responsibility of the cabinet for passing certain bills,³ the inefficiency of the motion of censorship,⁴ and the avoidance or misuse of parliamentary debate put the parliamentary regime and democratic foundations of the country in danger. To all these we should add the low trust of people in the parliament and MPs, generated by the low level of accountability and mainly by the endless investigations or trials involving MPs under corruption charges.

The same low levels of accountability and lack of effectiveness of integrity mechanisms constitute the most important vulnerability in the executive. Bearing in mind that the executive limits the independence of the legislature and also other pillars of governance, weaknesses in the executive generate huge vulnerabilities across the system at large; in other words, systematic vulnerabilities to corruption.

In direct connection with the vulnerabilities of the legislature and the executive, the study identified serious corruption risks for political parties. Parliamentary parties are imposing conditions that limit the establishment of new parties. At the same time, the internal regulations of parties in terms of transparency, accountability and integrity mechanisms leave room for abuses

³ Constitutional procedure that allows the Cabinet to pass a bill without debate in parliament if a motion of censorship is not voted.

⁴ As it will be described under the Legislature pillar, chapter 6.1 of the full report.

of power with impunity. Most importantly there is a lack of transparency and integrity surrounding the financing of political parties, and lack of control of the candidates of the parties for public offices.

The electoral management bodies' capacity to control political parties and electoral processes is limited. Electoral management is carried out by two types of institution: the Permanent Electoral Authority (PEA) and the electoral bureaus, which are active only during elections. As a general observation, following its first years of operation (2006–2008) when it was affected by internal conflicts, the PEA is performing better from the transparency and integrity point of view than the electoral bureaus. Still, its resources and independence are limited as is its effectiveness in regulating and controlling party financing. The electoral bureaus register problems related to the training of their members, the independence of the appointments, the accountability of the members and the transparency of their work, resulting in poor surveillance of the electoral process.

The institution found to be most affected by corruption, and also least independent, is the public sector. Its level of resources and independence are decisive for ensuring its integrity: both in law and practice these are assessed as low and create a huge vulnerability of the whole system. The public procurement system is also at risk, as practice shows there are constant and often undiscovered breaches of law.

The judiciary, the anti-corruption agencies and the law enforcement agencies are being monitored under the MCV. While there has been some formal progress in terms of their independence, transparency and accountability, their resources have been negatively affected by the economic crisis and rash public policies.

Moreover, and perhaps of most concern, in the context of the MCV raising the issue of impunity, is that the judiciary, anti-corruption agencies and police have shown little progress in the investigation and prosecution of corruption.

The ombudsman and supreme audit institution exhibit relatively strong governance, but they are neither visible nor effective in the system. Their quasi absence is due to their lack of efficiency in tracking their results and the parliament's lack of interest in ensuring their accountability.

The non-state pillars of the integrity system – media, civil society and business – face a common vulnerability: both lack resources and have limits on their independence. Each is self-regulated in terms of accountability practices, leading to incoherent and diversified approaches within each

pillar. In this group, the media is the most successful in meeting its role in fighting corruption, exhibiting good performance in investigating corruption and informing the public about it.

A 2011 evaluation of business freedom in Romania, showed a decrease since the previous year, scoring just 72.0 out of 100.⁵ Although there are no important obstacles to starting a business, the private sector has had difficulty operating their businesses in recent years, as the legislation is unclear, incoherent and unstable.

The breaches of the rule of law and parliamentary standards by the executive is coupled with the worsening budget situation that has generated austerity measures without adequate public and civil society consultation. This indicates a lack of political will to cooperate with civil society in these troubled times and a corresponding increase in the risk of corruption.

Recommendations

Overall the Romanian National Integrity System is assessed as 'average'. Joining the European Union helped to strengthen the integrity system, but the economic crisis that has affected resources and the independence of the institutions has increased vulnerabilities at all levels. Two main recommendations should cover all the pillars:

- The rules of the game, including laws and other bills should be adopted in a transparent manner, respecting the normal legislative process, without rush and procedures designed to avoid debate. All rules should be adopted after public debate and a participatory process, and only after analysing the impact through proper parliamentary examination.
- The fight against corruption needs the adoption, implementation and miniaturisation of the National Anticorruption Strategy, under the coordination of the Ministry of Justice but with the participation of all public sector and civil society actors.

⁵ The 2011 Index of Economic Freedom, The Heritage Foundation & The Wall Street Journal. There was a loss of 0.5 points since last year.