

## Contribution of Romania

### to the report on the challenges faced and best practices applied by States in integrating human rights into their national strategies and policies to fight against corruption

#### 1. Introduction

On August 10<sup>th</sup>, 2016, the Romanian Government adopted the National Anti-corruption Strategy (NAS) for 2016-2020 by Government Decision no. 583/2016\*. The document includes the sets of performance indicators, risks associated with objectives and measures of the strategy and verification sources, inventory of the institutional transparency and corruption prevention measures, evaluation indicators and standard publication of information of public interest.

The document was drafted following a complex consultation process of all relevant stakeholders, following the good practice established under the previous strategic cycle (2012-2015). Around 90 civil society organizations, public institutions, companies and business associations were consulted/attended the public debates and technical reunions organized by the Ministry of Justice during a 6-month period. The document is also based on the conclusions of an independent audit of the previous National Anticorruption Strategy 2012-2015.

This multidisciplinary document is addressed to all public entities that represent the executive, legislative and judiciary, local authorities, businesses environment and civil society.

The human rights dimension is integrated in the anticorruption strategy through the principles the strategic document is based on and through the cumulation of objectives and actions that envisage, among others, access to information, transparency in the political system and accountability.

Therefore, together with the above-mentioned elements, the rule of law principle, the principle of accountability at the highest level of commitment, the principle of public-private partnership and the principle of unrestricted access to public interest information and transparency of decision-making are essential for a successful anti-corruption strategy.

General and specific objectives are identified for each type of intervention. All these are developed by assuming transparency in decision-making and open governance as a corollary of this document, doubled by a three-pronged strategic intervention approach in the anticorruption field: *prevention, education and fighting*.

The purpose of NAS 2016-2020 is to promote integrity, by the rigorous enforcement of the regulatory and institutional framework, with a view to preventing corruption in Romania. The strategic priorities have been rethought and geared towards more prevention and more education, including legal.

The strategy envisages the development of a culture of transparency for open governance at central and local level. To this end, NAS 2016 – 2020 proposes the increase of the quality of implementation of the provisions concerning the access to information of public interest. This measure will be implemented both by monitoring the procedures for public consultation at central and local level and by technical solutions, like for example the development of an online platform, a solution for increasing the predictability and monitoring of the process of drafting legislation within the executive. The effect of the measures of institutional transparency will continue to be enhanced by the correlation of the NAS with the actions related with the Open Government Partnership (OGP). After Romania joined the OGP the focus was placed on the promotion by the Government of governmental transparency, encouraging the participation of the civil society to the public life, use of new technologies in administration and the fight against corruption.

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\* Government Decision no. 583/2016 approving the National Anti-corruption Strategy (NAS) for 2016-2020, the sets of performance indicators, strategic objectives and measures and verification sources, inventory of institutional transparency and corruption prevention measures, evaluation indicators and standards for publishing information of public interest.

In addition, the strategy envisages increasing the institutional integrity by including the corruption prevention measures as mandatory elements of the managerial plans and their periodical evaluation as integral part of administrative performance. It promotes the model of the institution manager who gets actively involved in the promotion of the institution's integrity, who offers his own example of integrity and sanctions or appropriately manages the breach of rules, starting with less serious ones, as administrative misbehaviours, up to the most serious ones, as offences. Furthermore, legislative changes are proposed concerning three of the preventive measures which have not proved their efficiency in practice (the ethics counsellor, revolving doors and the whistle-blower protection).

The strategy also provides the adoption of the legal framework needed for the introduction of a standard methodology for the corruption risks evaluation and its implementation at central level, as a prerequisite for updating the integrity plans once every two years.

The strategic document also aims at strengthening integrity, reduction of vulnerabilities and corruption risks in priority sectors and fields of activity. The NAS 2016 – 2020 will continue to give priority to preventive measures in corruption-prone sectors: education, health, activity of the members of Parliament, judiciary, financing of political parties and electoral campaigns, public procurement, business sector and local public administration.

Another important objective of the strategy is related to increasing the level of knowledge and understanding of the integrity standards by employees and the beneficiaries of the public services.

The insufficient knowledge of integrity norms, the incorrect assimilation of the concept of ethics or the peripheral approach of these issues in professional training activities have led over the last 20 years to the creation of a real collective reluctance towards anticorruption measures, other than the combating ones. The instruments for the evaluation of the public's perception, of the direct or indirect experiences with corruption or even the forensic study conducted by the Ministry of Justice in 2015 show an increased scepticism against any form of remedy through prevention measures or education.

The recent results of the anticorruption measures can generate only to a small extent a change of the approach. In order to change perceptions, attitudes and behaviours more is needed: it is necessary to adapt the instruments for the education of the employees, the consistency of the approach from part of the institution and stimulation of the correct, ethical conduct. The educational effort should not continue to be focused exclusively on the public institutions. The public, no matter if young or old, is affected by corruption and has to know its rights, to have access to clear and efficient mechanisms of reporting corruption cases or small misbehaviours and, last, but not least, to have access to information on the finality of the processes thus initiated.

The strategy proposes that the victims of corruption benefit of correct, transparent and useful information for the protection and exercise of their rights. Towards this target public the resources allocated to the strategy will be directed with priority, including in the form of the social re-utilization of assets or money confiscated by the state within criminal judicial proceedings.

Another objective provided by the strategy aims at strengthening the performance in the anticorruption field by criminal and administrative means. Over the last years Romania has made important steps in terms of the fight against corruption, starting from the stage of the adoption of the anticorruption legislation and policies up to ensuring an efficient implementation of the same. Currently, both the external independent evaluations and the internal evaluations reflect in an unprejudiced manner the consistent results in the fight against corruption in the public and private sector. The high level corruption cases independently, the case law of the courts, as well as the dissuasive character of the sentences given confirm the correct direction of the measures for the fighting of corruption.

The NAS 2016–2020 continues the approach of the previous strategy as regards the implementation at the level of public authorities and institutions of integrity plans. Thus, except for the measures with national impact which are to be found in the present strategic document, each institution which becomes part of the NAS will develop its own integrity plan.

The implementation of the NAS will be performed under the authority and coordination of the minister of justice who will report to the Government. The five cooperation platforms are convened biannually or any time necessary: platform of the independent authorities and anticorruption institutions; platform of the central public administration; platform of the local public administration; platform of the business environment and platform of the civil society.

The objectives of the monitoring methodology are: to identify the progress made in the implementation of the NAS; to identify and correct the practical problems encountered in the application of the anticorruption policies and norms and to increase the level of knowledge, understanding and implementation of the measures for corruption prevention, at the level of the public and private sector.

## **2. Best practices identified in the previous cycle of the NAS and incorporated in the present strategy:**

- The development of the National Anticorruption Strategy (NAS) 2016-2020 through a complex consultation process of all relevant stakeholders (including civil society and business sector), following the good practice established under the previous strategic cycle (2012-2015),
- Substantiating the current NAS on the conclusions of the independent audit of the NAS 2012-2015, as well as on other internal and international evaluations,
- Incorporating the human rights dimension in the NAS 2016-2020 through the principles the strategy and the objectives is based on, tackling various actions for their implementation,
- Extending the application of the Ministry of Internal Affairs methodology for corruption risks evaluation to all public institutions at central level, through the adoption of the Government Decision no. 599/2018; the methodology regulates the identification, analysis, assessment and monitoring of corruption risks and it establishes measures for their prevention and control,
- Introducing a methodology to assess integrity incidents within public central institutions and authorities, through the adoption of the Government Decision no. 599/2018; the methodology aims at assessing the integrity incidents within public institutions and authorities after they occurred, by obtaining and analysing relevant information and proposing preventive and control measures,
- Focusing on anticorruption education of both the employees and the beneficiaries of the public services; this is envisaged through training sessions for the staff of public authorities and institutions at central and local level and the design and organization of a public information campaign, meant to help increase the level of awareness and the level of education on corruption among citizens,
- Continuing the approach of the previous strategy as regards the implementation at the level of public authorities and institutions of integrity plans; thus, each institution becoming part of the NAS develops its own integrity plan,
- Including in NAS 2016-2020 the monitoring mechanism that proved its efficiency under NAS 2012-2015: coordination of the implementation process performed under the authority of the minister of justice, maintaining the five cooperation platforms that support the monitoring process (including the platform of the business environment and platform of the civil society),
- According to the conclusions of the independent audit of the NAS 2012-2015, the thematic assessment missions at the level of public institutions (peer reviews), carried out under the NAS 2012-2015, have been a pioneering tool and the Romanian experience is worth disseminating as best practice internationally; the thematic missions involved the performance of assessment visits by teams of experts made up of representatives of the five platforms of cooperation (including the

civil society) and allowed the evaluators to gain detailed insight into particular institutions that most monitoring mechanisms fail to achieve.

Interaction during the thematic missions permitted enhanced mutual understanding among different stakeholders and provided detailed insights into achievements and challenges of many institutions.

Between 2012 and 2015, 17 central institutions were assessed, as well as 66 entities from the local public administration through the thematic missions. In the current strategic cycle, 26 public institutions at central level and 80 public institutions at local level are being evaluated.

- Introducing the obligation for the public authorities to perform an internal audit, once every two years, of the corruption prevention system. To present, 3.546 audit reports were sent to the Ministry of Justice, the institution coordinating the implementation of the strategy.