



Center for  
European Policy  
Analysis

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# BEYOND THE “TIPPING POINT:”

Anti-corruption works.  
Governance works better.

U.S.-Romania Initiative  
Governance Working Group

# Table of Contents

**The Issue 1**

**The mid- to long-term approach 2**

**Building a strong anti-corruption infrastructure 5**

- Keeping good institutions at work 5
- Making corruption unprofitable 7

**Building a strong governance system 10**

- Enacting public office reform 10
- Building a predictable and sound regulatory framework 13
- Improving public contracting and procurement 16
- Improving the quality of governance through better oversight 19

**Conclusion 23**

**Endnotes 27**



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# CEPA U.S.-Romania Initiative Working Group Contributors

## **Chairperson**

**Corina Rebegea**

Center for European Policy Analysis

**Robert Benjamin**

National Democratic Institute

**Elena Calistru**

Funky Citizens Association

**Adrian Cighi**

Franklin Templeton

**Ruxandra Costache**

World Bank

**Valentina Dimulescu**

Romanian Academic Society

**Peter Doran**

Center for European Policy Analysis

**Cristian Ghinea**

Romanian Center for European Policies

**Mark Gitenstein**

Former Ambassador to Romania

**Larry Hirsch**

Center for European Policy Analysis

**Don Lothrop**

New Vista Partners

**Andrei Macsut**

Romanian Academic Society

**Wess Mitchell**

Center for European Policy Analysis

**Radu Moțoc**

TechSoup Romania

**Mădălina Mocan**

Babeș-Bolyai University

**Nadezhda Mouzykina**

National Democratic Institute

**Radu Nicolae**

Center for Legal Resources

**Septimius Pârvu**

Expert Forum

**Alice Pop**

National Democratic Institute Romania

**Jonas Rolett**

Open Society Foundations

**Romanian Embassy to the  
United States**

**Alexandru Stănescu**

World Bank Romania

**Steven Smith**

American Political Science Association

**Laura Ștefan**

Expert Forum

**Șerban Tanasa**

Latinum Network

**Bianca Toma**

Romanian Center for European Policies

**Codru Vrabie**

Funky Citizens

**Andrew Wilson**

Center for International Private Enterprise

In preparing this report, the authors consulted a wide array of experts, practitioners and policymakers. In addition to these consultations, the individuals above contributed to the report's preparation. Contributors support the thrust of the report, though not necessarily every recommendation. They are not responsible for the opinions expressed throughout this document. Institutional affiliations are for purposes of identification only. All opinions are those of the author and do not necessarily represent the position or views of the Center for European Policy Analysis.

# THE ISSUE

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The past two or so years will be remembered by Romanians as the years in which the fight for integrity in the public sector gained unprecedented impetus.<sup>1</sup> Against the broader context of the security crisis in Eastern Europe, the spike in anti-corruption investigations – and the earthquake it produced in many institutions – has the true potential to become a turning point for Romania’s system of governance. Fighting corruption remains crucial for Romania, and the penal side of it will probably become a textbook case for many other countries that are trying to implement anti-corruption reforms. However, criminal prosecutions will not be enough to bring a reset in public values regarding corruption. The administrative scaffolding that supports an efficient and corruption-free state has not kept up with citizens’ expectations regarding a system of governance that both prevents corruption and ensures effective public service delivery.<sup>2</sup>

# Introduction

What is clear for Romanian citizens and what also comes through various international reports (such as those from the European Union, World Economic Forum and the World Bank) is that, although it impedes the country's development and competitiveness as well as its credibility, corruption is probably not the biggest problem for Romania.<sup>3</sup> Rather, corruption is the symptom of a weak governance system and poor administrative capacity. That is not to say that integrity should not be of concern in Romania, but that there is a continuum between integrity, the quality of regulations, policies and laws, professionalism and competence, and political responsibility and accountability. Dealing with corruption only will not address the deeper problems that citizens and business people face in their daily interactions with public institutions.

As corruption feeds on the weaknesses of the Romanian governance system, the main challenges are to be found in the legal and institutional infrastructure as well as in the quality of human resources in the public sector. An unpredictable and inconsistent regulatory framework, low levels of professionalism, responsibility and accountability, and lack of transparency and participation are still major obstacles that create ample opportunities for various manifestations of corruption and sap the country's potential for development.

## The mid- to long-term approach

Continuing to monitor the key policy areas that Romania needs to focus on, the **CEPA Romanian Governance Working Group** has taken a more integrative, long-term approach. While rule of law and the fight against corruption need to remain a focal point for analysts and policymakers, institutions in this area continue to deliver results. However, more attention needs to be directed toward fixing the supporting institutions and governance mechanisms. As such, with the purpose of strengthening both the integrity and the capacity and quality of public institutions, the Working Group has separated the issues in two categories: (1) the short-term, anti-corruption approach that deals with maintaining and improving existing punitive mechanisms; and (2) the long-term, governance approach that looks toward the consolidation of an institutional infrastructure conducive to more integrity and efficient interactions between private actors and state institutions.

## **The former goal has to do with effectively addressing present-day efforts to root out existing corrupt networks by supporting the work of integrity institutions and the justice system.**

This requires continued focus on professional and independent appointments, stability of the legal framework, financial and organizational support for bodies that have a role in combatting corruption, and maintaining a good track record under the Cooperation and Verification Mechanism (CVM), among other issues. It also envisages the proper implementation of the National Anticorruption Strategy (SNA) and the Strategy for the Development of the Judiciary.

In the latter approach, the emphasis is on creating a predictable pattern of interacting with government bodies and representatives that prevents abuse or corruption from occurring. This points to a system that relies on a stable regulatory framework, well-functioning institutions, professional personnel in public offices, and effective oversight from administrative bodies. Such an approach that targets the underpinnings of integrity and efficiency in Romania's public sector is expected to increase the quality of governance in Romania and of its output to Romanian society. It will also strengthen the resilience of the country's democratic institutions in a geopolitical context that challenges the hard-won gains of democratic transitions in Central and Eastern Europe (CEE).<sup>4</sup>

CEPA's Romanian Governance Working Group therefore decided to propose a strategy that responds to both the symptoms of weak governance and the major vulnerabilities that hamper the effectiveness of Romania's government and create opportunities for corruption. Thus this report outlines policy options in five main areas where vulnerabilities persist and in which integrity and good public management are conditional upon each other: (1) deterring corruption, (2) public office reform, (3) regulatory quality, (4) public procurement and (5) oversight efforts. These should be considered immediate priorities for Romanian decision-makers but also as investments in the long-term project of institutionalizing a more efficient and corruption-free state administration.

Finally, the analysis and recommendations build on the transformative areas and pressure points that the CEPA Romania Working Group identified in their July 2014 report, Romania's Tipping Point. Some of those areas have received attention and progress is visible – as in the case of political party legislation reform – while others have not been treated with the sense of urgency and determination they require. The regional context, as well as an increased appetite for reform that the recent presidential elections elicited within Romanian society, give a strategic dimension to the discussion about integrity and democratic governance.

The policy proposals constitute various facets of a strategy to increase the quality of Romania's system of governance and are mainly directed toward policy practitioners and analysts dedicated to making the Romanian system of governance stronger.

Failure to address these long-standing problems will not only perpetuate reliance on the work of anti-corruption prosecutors for matters that are sourced in administrative procedures; it will also affect Romania's development in the long run. A weak governance system will make Romania a less credible place for investors, both domestic and foreign, thus diminishing opportunities for long-term growth. The country will continue to provide poor-quality public services, such as education and health. It will lead to greater deterioration of the legitimacy of public institutions and leaders and make Romanians trust their government even less. It will prevent Romania from exercising a stronger regional role as a model of successful democratic transition.

# Building a strong anti-corruption infrastructure

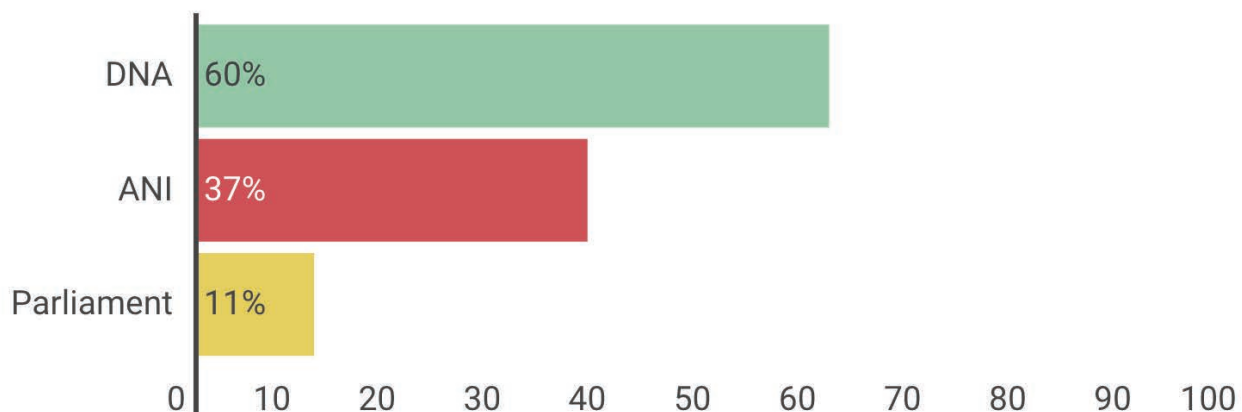
## Policy domain **Detering Corruption**

### *Keeping good institutions at work by:*

- Increasing the transparency of parliamentary procedures, public participation and effective consultations on legislative changes that would result in slowing down or diminishing the effectiveness and independence of anti-corruption investigations.
- Mainstreaming integrity in public management practices; this needs to remain a focus of the government through continuous implementation and evaluation of the effectiveness of the National Anti-corruption Strategy.

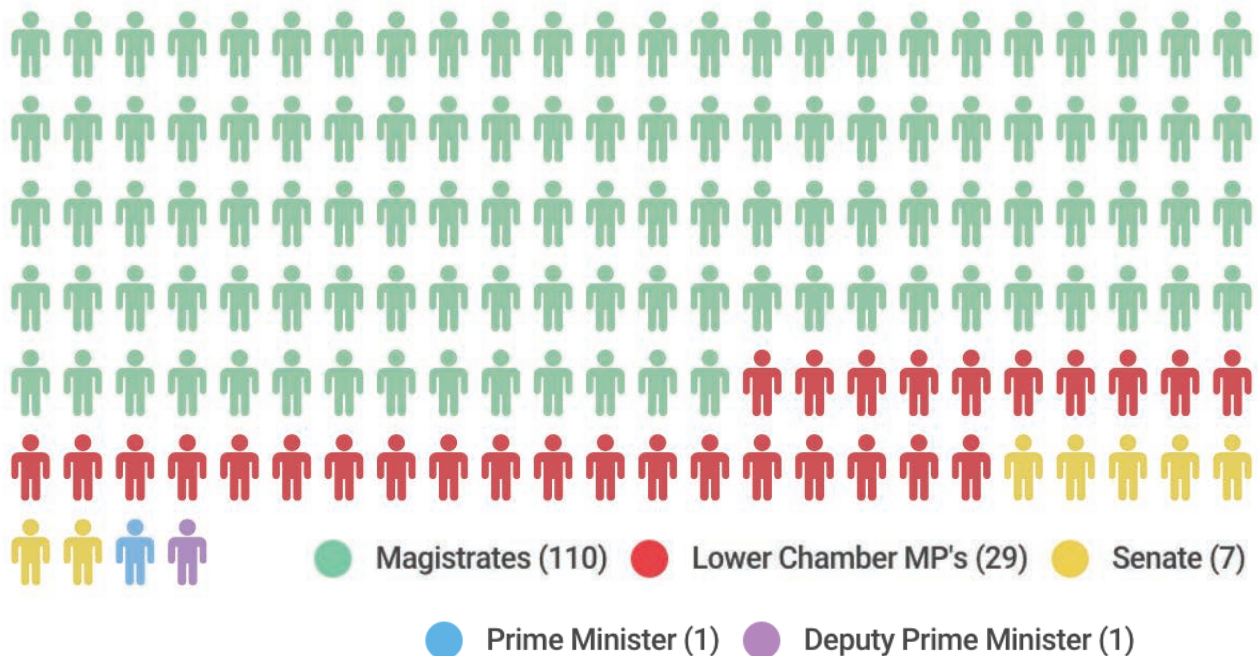
The two bodies that are most known for their strides in fighting corruption in Romania – the National Integrity Agency (ANI) and the National Anticorruption Directorate (DNA) – have proved their effectiveness. This has been recognized in the most recent European Commission report under the Cooperation and Verification Mechanism as well as by public opinion approval ratings for the two institutions.<sup>5</sup> The ANI and DNA have become two of the most respected public institutions in Romania, which is an important achievement for a society that has been battling the scourge of corruption for more than a decade and in which fundamental institutions are not generally held in high regard by the population.

### Trust in government institutions (2015)



In terms of effectiveness, the numbers are quite striking: according to the DNA head prosecutor, the DNA has indicted 48 politicians since 2007 (one prime minister, one deputy prime minister, eight ministers, 29 members of the lower Chamber of the Romanian parliament and seven members of the Senate).<sup>6</sup> Therefore it comes as no surprise that Parliament and political parties receive the lowest confidence ratings among Romanian citizens, while the DNA and the justice system are improving their scores. Citizens need to believe in the ability of their justice system to enforce the laws, and in the past few years the institutions of the justice system (from integrity bodies to courts of law) are beginning to deliver results.

## DNA prosecutions since 2007



Source: National Anticorruption Directorate

To maintain this record of accomplishment, however, more support is needed from the legislative and executive bodies. This support is merely manifested through ensuring a stable and predictable legislative framework that does not impede anti-corruption efforts and ensures that judges and prosecutors can perform their duties independently. During the past few years, the legal framework affecting in particular the application of criminal law in Romania has faced many challenges, including important provisions struck down by the Constitutional Court.

In the immediate term, continuing the implementation of the National Anticorruption Strategy is one key element in this approach. The current implementation cycle for the strategy runs out this year, but the work is far from completed. The strategy needs to be prolonged or renewed with updates and improvements as a result of a serious audit and impact analysis. However, this evaluation should not be used to stall implementation of the strategy, thus creating huge time gaps between strategies, as has happened in the past.

**The punitive law-enforcement mechanism is thus only one piece of the puzzle, and its relevance should, at least in theory, decrease as administrative mechanisms are set in place to prevent future deviant behaviors.**

One important benefit that implementing the strategy can bring is to use the assessments and conclusions to inform decisions and reforms in public management structures. This aspect of policy-learning (addressed later in this report) should constitute a goal for action to prevent corruption.

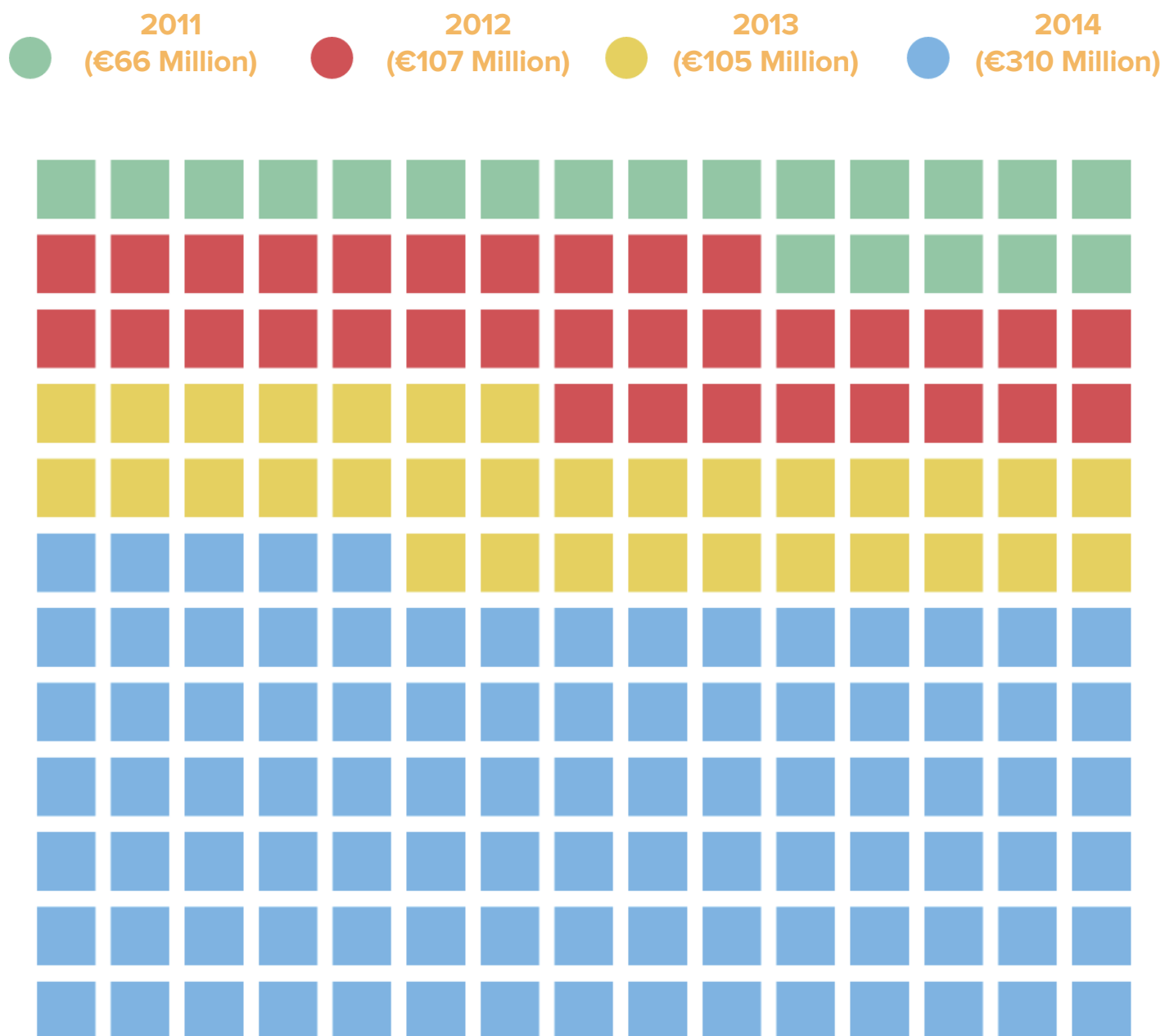
### ***Making corruption unprofitable by:***

- Ensuring proper implementation of pertinent legislation, including the new draft law on asset recovery, and creating streamlined procedures that allow various authorities to cooperate across all the steps of recovery, from identification to valuation and confiscation or restitution.
- Creating a compendium of good practices from existing court decisions and their corresponding administrative steps to documenting various aspects of asset recovery, their timing during civil or criminal proceedings and their impact.

The fight against corruption needs to become more costly for corrupt individuals and more profitable for the state and Romanian citizens. This requires strict implementation of existing legislation on asset recovery and better coordination between all state agencies that can contribute to the identification, seizure and valuation of ill-gotten goods that a court has ordered to be confiscated. An analysis by Global Financial Integrity estimates a total of \$6.4 trillion of illicit financial flows involving Romania from 2002 to 2011.<sup>7</sup> The National Agency for Fiscal Administration (ANAF), the main body in charge of recovering the proceeds of crime, has been accused of inefficiency and is now part of a complex World Bank program to restructure its organization and functioning.

However, ANAF itself is complaining about the lack of procedures, timeliness and efficacy and in general about the lack of cooperation from other bodies (from local tax administrations to courts and cadaster offices) in carrying out confiscations.<sup>8</sup> At the beginning of 2015, the head prosecutor of the DNA attested that only 10 percent of the total amount that should have been confiscated as a result of final court decisions in corruption cases had actually been collected. There are, however, encouraging signs on the recovery front: the amount requested for confiscation or reparations rose significantly in 2014 to 310 million euros, as compared with 105 million in 2013, 107 million in 2012 and almost 66 million in 2011.<sup>9</sup>

## Funds requested to be confiscated



Figures are to scale. Source: National Anticorruption Directorate

EU-wide, the asset recovery rates are rather small.<sup>10</sup> The Ministry of Justice has just created a new agency to be in charge of seized asset (including the creation of a comprehensive database to keep track of ill-gotten goods), and Romanian authorities are becoming more hopeful that the recovery rate will increase significantly. **Extended confiscations** have not become a common practice in Romania, despite existing legislation, including a European directive on this dating from 2014. As recent reports show, measures other than criminal confiscation – which is the more traditional understanding for asset recovery – have become more common in a variety of jurisdictions.<sup>11</sup> These include settlements, reparation and restitution and have not been sufficiently explored by Romanian policymakers as faster, alternative ways of using asset recovery to combat corruption and diminish its return on investment. Switzerland, the United Kingdom and the United States are considered role models for recovering stolen assets, a success that is due to solid policies, laws and institutional frameworks, which Romania does not have at the moment. Equally important is a high-level commitment to such policies, coordination between stakeholders and equipping implementing authorities with the resources necessary to carry out their tasks.

Not least, making data and statistical information available is crucial both for evaluation purposes and public information. Apart from the public opinion benefits, effective laws and institutions along with factual evidence about asset recovery can have a deterrent effect on criminals looking to exploit gaps and vulnerabilities to launder their corrupt proceeds.

The fight against corruption will not bear fruit in the long run unless a strong supportive structure – composed of professional public servants, effective administration and impartial implementation of laws and regulations – is in place. On the contrary, the absence of broader and deeper reforms will only perpetuate the culture of hesitancy and mismanagement driven by fear and many times by incompetence.

Analyzing the cases that anti-corruption prosecutors have worked on so far could provide extremely useful insights about where vulnerabilities lie. This information can help structure necessary governance reforms to prevent illegal behaviors and introduce preventative administrative mechanisms. What is immediately obvious is that the most problematic areas have to do with contracting and public procurement (many of which deal with road construction or rehabilitation) and with the lack of administrative mechanisms to ensure proper implementation, coordination and professionalism in dealing with such complex issues.<sup>12</sup>

# Building a strong governance system

## Policy domain **Enacting public office reform by:**

- Implementing a strategic approach to public office reform. This includes standardizing processes of recruiting, training and compensating human resources in the public sector, in correlation with the Strategy for the Consolidation of Public Administration 2014-2020 and plans for reorganizing territorial-administrative units.
- Creating a government strategy for addressing capacity and resource (budgetary and personnel) problems in small territorial-administrative units in order to eliminate inefficiencies and increase public management performance.

## **Few effective steps have been taken to reform public office at both the central and local government levels and thus improve the performance of public institutions.**

Fostering the professionalism and improving the performance of public employees – whether high officials, regular public servants or contractual personnel – is hindered by one major problem recognized in the expert literature: “runaway bureaucracy.” It means that when the parties in power change, new leaders seek to secure the most important administrative positions to make sure their agenda is implemented.<sup>13</sup> In Romania this phenomenon is very pervasive, leading to problems of organizational memory, unpredictability and lack of competence. The business community has often complained about this issue as an extra burden when dealing with state authorities. The problem also captures those situations in which integrity is sacrificed so that public offices are held by political cronies who can then perform or facilitate unethical or illegal actions. On the other hand, when it comes to smaller localities, limited financial and human resources take a heavy toll on the delivery of public services and maintaining proper standards of integrity.<sup>14</sup>

**Major challenges at the level of local government and governance include poor financial compensation and professional training for the human resources and lack of standardized administrative and budgetary procedures, *which would ease both day-to-day public management and servicing citizens.***

All of these challenges have been noted in the Romanian government's new Strategy for the Consolidation of Public Administration 2014-2020, approved in November 2014.<sup>15</sup> A working group for the implementation of the strategy was created at the beginning of 2015 and is currently active in addressing the above-mentioned problems.

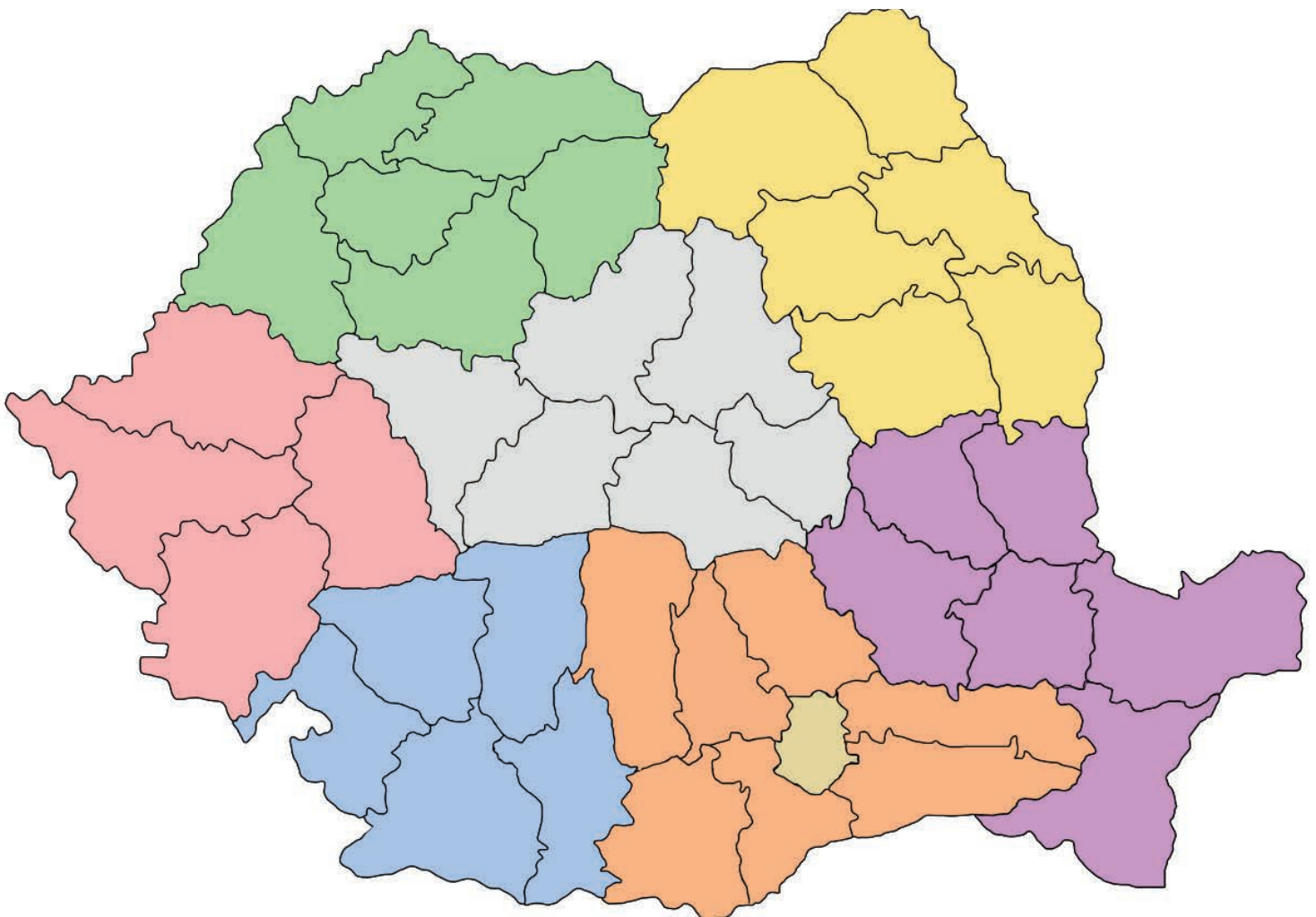
In implementing the new strategy, the government would benefit greatly from having an estimate of what it takes to improve administrative procedures and capacity, particularly when it comes to human resources. To accomplish this, first the National Agency for Public Servants (ANFP), in cooperation with the Ministry of Public Finance, would have to provide an analysis of human resources in the public sector, evaluating the needs, the various categories and their opportunity (where problems exist, for instance, with secondments or "execution public servants"), as well as their budgetary impact. A second important step to that end would be an impact evaluation of projects funded through EU programs for strengthening administrative capacity to show where and how success was achieved and at what cost.

Furthermore, the ANFP should be able to address a variety of issues and standardize processes for both career public servants and contractual personnel in areas like training, professionalism and career management (including selection and appointments); clear definition of the mandate; and integrity, transparency and accountability. Even if some steps have been taken mainly in central government institutions or agencies, the lack of administrative and financial capacity at the local level will remain a major liability in the absence of a systematized and strategic approach.<sup>16</sup>

Reforms of such breadth and scope will also have to be thought out in conjunction with the anticipated decentralization reform and a redrawing of Romania's territorial-administrative units. Organizational capacity, personnel management and financial sustainability are currently affected by the high degree of centralization and dependency on the central government. On the other hand, there is also a challenge of massive fragmentation at the level of smaller territorial-administrative units, which would benefit more from either merging or congregating in some areas of public services delivery. This should solve at least some of the problems in terms of personnel and budgetary execution.

One last aspect has to do with the nexus between political office and public management. Particularly at the local level, public management suffers from the lack of experience of elected officials combined with the shortage of personnel or their lack of professionalism. While the performance of elected officials is supposed to be judged through voting, local public management and integrity would be greatly improved if more attention were given to training for those new on the job.

### Romania's territorial-administrative units



## Policy domain **Building a predictable and sound regulatory framework by:**

- Increasing the quality – opportunity, efficiency, effectiveness – of laws and regulations by utilizing more evidence-based decision-making and impact assessments. This will introduce more rationality into decision-making and greater legal conformity and trust within society.
- Ensuring proper consultation, participation and transparency by engaging both stakeholders and public bodies that can anticipate and address problems as well as exercise accountability. In particular, parliamentary committees should avail themselves of this option to better inform and ground the lawmaking processes.

The regulatory framework remains an area where major vulnerabilities have not yet been properly addressed. Citizens and business actors alike are concerned with transparency and stability, which are crucial for legal certainty, predictability and risk calculations. Apart from government effectiveness, the quality of the regulatory framework is also strongly correlated with corruption.<sup>17</sup> Emergency ordinances, the lack of (rigorous) impact studies in policymaking and lawmaking, and the absence of institutional cooperation between various bodies with lawmaking and policymaking responsibilities are possibly the biggest challenges for Romania's regulatory framework at the moment. Fully 82 percent of Romanian entrepreneurs have identified instability of the regulatory framework as a negative influence on their company's business, while 58 percent think they are negatively affected by useless and expensive legal provisions.<sup>18</sup>



Palace of the Parliament, Bucharest

Regulatory quality is therefore an imperative for Romania's future economic development, not only by creating a more business-friendly environment but also by fixing market failures and responding to global trends and challenges.<sup>19</sup> Any immediate intervention should target and focus on three main areas: (1) ensuring ex-ante oversight and accountability for any piece of legislation or public policy; (2) implementing the Regulatory Impact Assessment (RIA) that the World Bank has started to pilot in some Romanian central government institutions by providing coaching on RIA methodology and strengthening; and (3) further applying evidence- and knowledge-based policymaking.

As far as accountability for passing laws is concerned, an important first step would be effectively using existing institutional checks and balances. In particular, with respect to emergency ordinances the role of the ombudsman is extremely important. Starting in 2012, Romania has seen an important debate regarding the role that a politically independent ombudsman should play, but there has been very little response from the executive and legislative bodies. The Constitutional Court also exercises important levers of control over both the legislative and executive branches of government, and the appointment of highly respected legal professionals for the position of Constitutional Justice is tantamount. Both of these institutions, however, have a post-factum role in fixing problematic legal provisions.

*A more anticipatory* effort would involve the regulatory bodies that can intervene before or during the decision-making processes (such as the Fiscal Council, the Legislative Council, the Economic and Social Council), as well as public policy units within various ministries and the center of government – a body that would supposedly act as a quality-control mechanism for regulatory production. No comprehensive study has been done on the administrative capacity of the public policy units so it remains unclear whether they exist only on paper or have real influence in their respective ministries. Strengthening their role as well as the capacity to coordinate their efforts before any proposal becomes law and to sign off on public policies is imperative. Ideally, the public policy units should form a community of practice to methodologically lead the evidence-based policymaking of line ministries. Even so, high-level political commitment is needed, as the bottom-up demand for rigorous policy analysis in the Romanian administration is hindered by short-term vision and prioritization, mostly influenced by political urgencies.

This in turn affects the way in which bills and policy proposals are prepared. Ensuring better communication and feedback from the institutions that apply the laws and regulations in their daily practice would also be beneficial for law- and policymakers, as they can signal dysfunctions. Also, proper consultations with various stakeholders and using evidence to support law and policies will ensure more integrity, impartiality and a more solid foundation for the regulatory framework in Romania. The lack of effective consultation and participation in law- or policymaking becomes striking when major

decisions are not even run by the rank and file of political parties, which have various positions in local public administration. These local members could become an important sounding board for decisions that will in the end impact the quality of the public services they have to deliver to citizens.

Citizen groups and business coalitions regularly complain about the lack of transparency, the hastiness with which certain decisions are made and the lack of adequate consultation. Even when these elements are met, it is difficult to track whether and in what way inputs and feedback have had an effect on the decision-making process. Extending the period for public consultations from 10 days to 30 days – which is the minimum standard and norm of good practice at the international level – to allow stakeholders to submit analyses and recommendations would address, at least in part, transparency and participation concerns.<sup>20</sup> There is also ample room for improvement concerning the need to have up-to-date, correct and open-access data on which to build when talking about policy options.

Thus the government of Romania should build on existing capacities and improve the Regulatory Impact Assessment system by, first, conducting RIA on government priorities, starting with the Government Work Annual Plan. The government should understand that a regulatory quality review filter must be created at the center of government. Primarily, the role should be to focus on big-ticket legislation with high economic and social impact. Second, decision-making processes, both in the development and final decision stages, need to be founded on strongly documented and clearly written substantiation notes that incorporate in their methodology a consultation process at the level of problem definition and policy options and solutions envisaged with the relevant stakeholders. It is at this level that evidence and studies and consultation mechanisms are required to substantiate various policy proposals

Since this issue was on Romania's creditors' agenda, the government did pass Government Emergency Ordinance 88/2013 and, later on, Law 25/2014 on adopting fiscal-budgetary measures that included "prioritizing important public investment projects" by adopting a set of criteria for the evaluation and selection of such projects (including pre-feasibility reports, substantiation notes and technical and economic memoirs). It also built a reporting system whereby the budgets and financial situations of local public authorities are to be verified, monitored, reported and controlled by the Finance Ministry in order to limit waste of public money and the degree of indebtedness of public bodies. An evaluation report for this initiative is not available, but as the Foreign Investors Council noted in December 2014, the legislative instruments exist although their actual implementation is "unclear."<sup>21</sup> The Romanian government has also started to apply some of these requirements under the First and, now, Second Action Plan on some measures of good governance in the economy.<sup>22</sup> Under the action plan the number of emergency ordinances, according to the Romanian government, decreased by 19 percent in 2014 in comparison with 2013. This is a good sign, but more time and

dedicated action need to be allocated to implementing the measures in the action plan to produce lasting effects in practice.

Evidence-based policymaking has hardly been an issue of debate in Romania. In other parts of the world, using evidence is believed to help policymakers achieve substantially better results by selecting, funding and operating programs more strategically.<sup>23</sup>

Evidence-based policymaking uses a variety of qualitative and quantitative instruments to gather information on government-run programs and their results at all levels. Unfortunately, such instruments are almost nonexistent in the thinking about policy in Romania, although they would help structure and justify policies and add legitimacy to decision-making at the technical and management levels.

This practice is not new. The World Bank has provided the government with technical assistance for the use of RIA in recent years, thus supporting the technical capacity-building of the central administration. However, these initiatives have not been complemented by adherence at the political level to increasing the use of RIA, at least for high-impact policies. More commitment on behalf of legislators and policymakers is required to ensure a shift in mentality in Romania concerning evidence-based policymaking.<sup>24</sup>

## **Policy domain** Improving public contracting and procurement by:

- Increasing efficiency and accountability by simplifying and clarifying procedures and increasing transparency in all stages of the procurement process. The first step is to streamline e-procurement systems (including e-invoicing and publication of all contracts and reports) and increase inter-institutional cooperation.
- Improving certainty at the level of administrative procedures by introducing clear, non-discriminatory criteria for dealing with private companies and by empowering public servants to give guidance/make decisions that are binding or that can be challenged in administrative procedures. Similarly, public actors in the procurement market need to apply uniform practices.
- Expanding the capacity and professionalism of personnel involved in evaluation, implementation and monitoring of procurement processes and contracts through better selection criteria, better training and improved integrity standards.
- Introducing centralized procurement for staple goods and services for groupings of smaller administrative-territorial units in order to eliminate possible conflicts of interest and make processes more efficient and uniform.

## **Public procurement** remains one of the most complex public policy domains in Romania.

Multiple vulnerabilities have been signaled since Romania sought to bring its legislation in line with that of the EU in preparation for and then upon accession. But the responses are still inadequate and have left room for inefficiency, political clientelism and fraud.<sup>25</sup> Most of the vulnerabilities are generated by the legislative framework, including lack of predictability and institutional capacity and thus the poor quality of competition.<sup>26</sup> A recent examination of particularistic links in the Romanian construction sector indicates that 19.4 percent (1 out of 5 contracts) of all public procurement transactions with a value above 1 million euros that occurred during 2007-2013 show signs of a biased distribution of public funds, i.e., the winning companies were either political party donors or enjoyed political connections. In addition, an agency-capture analysis of this sector indicated that corruption risks in public procurement are more frequent at the local level and in state-owned enterprises (SOEs). Essentially, this means that politically connected firms managed to “monopolize” one out of 10 contracting authorities active in the construction sector.<sup>27</sup> EU-funded contracts, in contrast to those funded via the state budget, are less prone to corruption because there is stricter oversight.<sup>28</sup>

On the one hand, the multitude of legislative or regulatory changes and the lack of transparency in decision-making have created high instability. On the other hand, the interpretation and implementation of legal provisions have often introduced unnecessary complexity and red tape. Preferential treatment of certain bidders, excessive or irrelevant requirements, manipulation of price offers or adding supplementary elements to signed contracts have all been noted as major vulnerabilities – including in the case law of the Romanian Council for Solving Petitions (CNSC), the administrative body that deals with complaints regarding procurement.<sup>29</sup> These vulnerabilities are reinforced by the weak technical capacity and lack of expertise of the bodies that organize the procurement processes and should be in charge of supervising the implementation of the projects. Not least, the current Electronic System of Public Procurement (SEAP) suffers from several technical shortcomings and does not provide for an open data platform, which further impedes transparency and analytical efforts. As a recent analysis pointed out, the instruments presently at the state’s disposal are not conducive toward extensive analyses of corruption risks or statistical evaluations.<sup>30</sup>

While many of these issues are regulatory and administrative, so far there has been an overreliance on the criminal law side of monitoring contracts between public institutions and private companies. The case law of anti-corruption agencies is illustrative in this regard. Furthermore, magistrates have a hard time assessing “criminal intent” in fraud or corruption cases, introducing a new layer of unpredictability and the possibility of dissipating responsibility (or diverting it from those who are truly in charge). This is due in part to legislative changes that have led to a “delegation of responsibility” by decision-makers to their subordinates.<sup>31</sup>

In practice, most problems start with administrative issues: regulations are interpreted differently by different agencies and for different companies; public servants do not have the authority to offer guidance in procurement/contracting; feedback from cases processed by courts or by oversight authorities is not incorporated into policy- or lawmaking; oversight bodies have limited capacities to spot and offer coherent solutions to problems. This makes business with the state riskier and far more litigious than it should be. The newly created body in charge of public procurement should offer some solutions but it is too soon to assess its expected impact.

The new procurement strategy and legislation should also reflect on the problem of administrative fragmentation noted above. Local administrations face various challenges in organizing fair and professional bidding processes. Increasing their capacity to do that might be more costly than designing a system that unifies certain procurement processes – mainly for staple goods and services – in one central point, most likely at the county level. But a better-designed centralized procurement system would reduce the pressure on local public authorities and would ensure better value for contracted services or goods.

The new EU directives on public procurement and contracting, which are supposed to be transposed by Romanian legislators by 2016, are expected to bring more order and predictability to the process. Similarly, an integrated data management system that would be connected with the SEAP – called PREVENT and implemented by the ANI – is in the works and promises to eliminate any potential conflict of interest even before participation in the bidding process. Romanian authorities will have to ensure the necessary financial and administrative resources for the adequate functioning of PREVENT, as well as the new electronic procurement system (SICAP), which will be managed by the Agency for Romania's Digital Agenda (AADR).

That will also require redefining some of the concepts of incompatibility and conflict of interest as well as increasing coordination between different authorities. With this, a clear and impartial legal procedure needs to be paired with a more streamlined and efficient procurement procedure. In the short run, three immediate and interlinked actions are required: (1) prevent the abusive challenges to contract awards that block the procurement processes by streamlining and clarifying procedures and rules; (2) ensure that selection criteria follow the principle of "best value," rather than simply lowest price, and introduce cost standardization; (3) establish an inter-institutional unit aimed at providing a uniform interpretation of not only the rules and procedures but also the case law.<sup>32</sup> To achieve these goals, various legal provisions (such as provisions on public finances) that have a bearing on different parts of the procurement processes should also be synchronized to avoid non-uniform application of rules and criteria and to close loopholes that could lead to fraud or corruption. Most recently, the Romanian government signed a memorandum of understanding with the U.S. Trade and Development Agency under the Global Procurement Initiative, which will support efforts to create a better procurement strategy and ensure the proper understanding and application of "best-value" procurement.<sup>33</sup>

Various other proposals to improve procurement and contracting have already been made, but a strategic approach should also correlate procurement with other administrative processes. To support transparency as well as a more competitive and open bidding process, a new web portal containing all annual procurement plans, easily searchable using CPV codes (CPV, or Common Procurement Vocabulary, is an EU single classification system for public procurement) and by geographic proximity, is necessary. Also necessary is ensuring its interconnectedness with various global and national databases so as to spot conflicts of interest before the contract award phase. In accordance with Law 25/2014 mentioned above, annual investment plans need to be correlated with budgetary planning so as to anticipate potential expenses or risks in project implementation and ensure predictability at all stages of the procurement and project execution processes. Reports about the implementation of procurement plans and spending should also be made available online for transparency and accountability purposes. Also, business associations, and in particular small and medium enterprises (SMEs), need to be more engaged in consultations with public authorities. In the end, the final beneficiaries of public contracts are Romania's citizens and they need to understand and trust these processes.<sup>34</sup> Effective consultations might require a constant monitoring mechanism that involves all stakeholders – contracting authorities, businesses, civil society – and is active throughout the implementation and contract completion phases, not only during the awarding procedure. A promising mechanism would be the so-called Integrity Pacts piloted by the Directorate-General for Regional and Urban Policy (DG REGIO) throughout the EU starting with 2015.

## **Policy domain** Improving the quality of governance through better oversight by:

- Strengthening the role, independence and capacity of oversight bodies in order to promote integrity and efficiency in delivering public service and to improve policy-learning.
- Creating a supervisory body to ensure the effective implementation of corporate governance principles and legal provisions in SOEs; establish performance indicators and criteria for the selection of board members; and monitor these enterprises' financial reports, their management plans and their performance.
- Enforcing cooperation protocols between various institutions and authorities in order to flag problems across a wider spectrum of policy domains and better address both administrative and criminal law issues. Capacity-building funds should be used to create a common curriculum for various agencies for cross-cutting themes, such as competition, public procurement, performance management and regulatory impact assessment methodologies.

Regulatory quality, including the capacity of regulatory bodies, still constitutes a problem in Romania, but policy implementation and compliance enforcement are in fact even bigger challenges. As mentioned above in the case of procurement and contracting procedures, administrative loopholes or implementation gaps tend to be interpreted as corruption, when administrative solutions would be better fitted. There are a number of institutions whose mandate is to ensure compliance and effective implementation of policies, but few of them have managed to become effective control bodies and only after far-reaching reforms – such as the Fiscal Supervisory Authority (FSA) and the Romanian Competition Council (RCC), the latter having undergone complete organization enhancement planning. The recommendations for such an audacious organizational reshaping were provided by a team of World Bank experts.<sup>35</sup>

These authorities have a tremendous role to play in enhancing public sector performance by promoting principles of good governance, transparency and accountability through their reports and messaging to decision-makers. Also, a well-performing management culture within these bodies can serve as an example for other organizations that come under their oversight. It is also true that given the relative autonomy of such agencies, salary scales encourage low staff turnover and the consolidation of needed staff skills within these institutions, thus creating the basis for professional inspection and regulatory functions for the markets.

Moreover, strengthening the oversight and control bodies could also provide for a feedback loop for law- and policymakers and regulators, by signaling loopholes and inconsistencies in rules. Their role should go beyond deterrence and include advocacy with various government bodies. This has happened in the case of the National Integrity Council (to some extent) and the RCC. As of July 2015, the role of the RCC as a champion for regulatory impact assessment of policies that might affect competition has increased. The RCC can now issue advisory opinions and approval not only for normative proposals but also for public policy proposals. The central and local authorities are now obliged to ask the RCC's opinions when they initiate normative proposals that might have a potential distortive effect on competition. The RCC can even impose measures to eliminate such distortions.<sup>36</sup>

Similarly, a body that has considerable potential from a *policy-learning* perspective is the supreme audit authority, the Romanian Court of Accounts (RCA), which is mainly in charge of checking public spending at the level of public administration bodies. Its reports have been widely cited to prove various problems confronting Romanian public administration, mainly when it comes to contracts and budgetary execution.

However, the RCA does not look into the opportunity of budget decisions, and its performance evaluations are not fully and properly implemented. Also, there is often lack of follow-up to the assessment or recommendations that the oversight authorities produce or no preventative aspect to them. The RCA could benefit greatly from

strengthening its audit function, which goes beyond mere compliance or financial statements control, and thus its corrective function and impact.

This points to the necessity of making the opinions or conclusions of such oversight authorities binding for public bodies. While the FSA and the RCC have the power to impose fines or take other administrative measures, the RCA is basically an information-gathering mechanism. With a more qualitative approach to the control and audit function, the findings of such institutions can also be utilized to provide adequate and reliable results and enhance the use of evidence and impact evaluation to inform laws and policy decisions. A model of a supervisory risk-based approach should be implemented in the RCA, and more auditing skills provided to the inspectors in the field. Anecdotal evidence shows that the RCA plays the role of coercion without understanding the opportunity of certain expenses or project costs, while its role of prevention and advocacy for good practices for efficient budgetary spending is often forgotten. A World Bank-led program similar to that implemented for the RCC would strengthen the capacity and credibility of the RCA.<sup>37</sup>

There is also opportunity for an educational mandate for these bodies that can be performed through advocacy and reaching out to various stakeholders. The most likely beneficiaries of the work of oversight and control bodies, besides institutions that come under their jurisdiction, would be members of government and Parliament. The important value added that effective control and oversight bodies can bring to decision-makers is thus policy-learning. In terms of strengthening not just efficiency but also integrity in the public sector, building on knowledge from past experiences in implementing various policies would replace party-political calculus with sober, professional assessments.

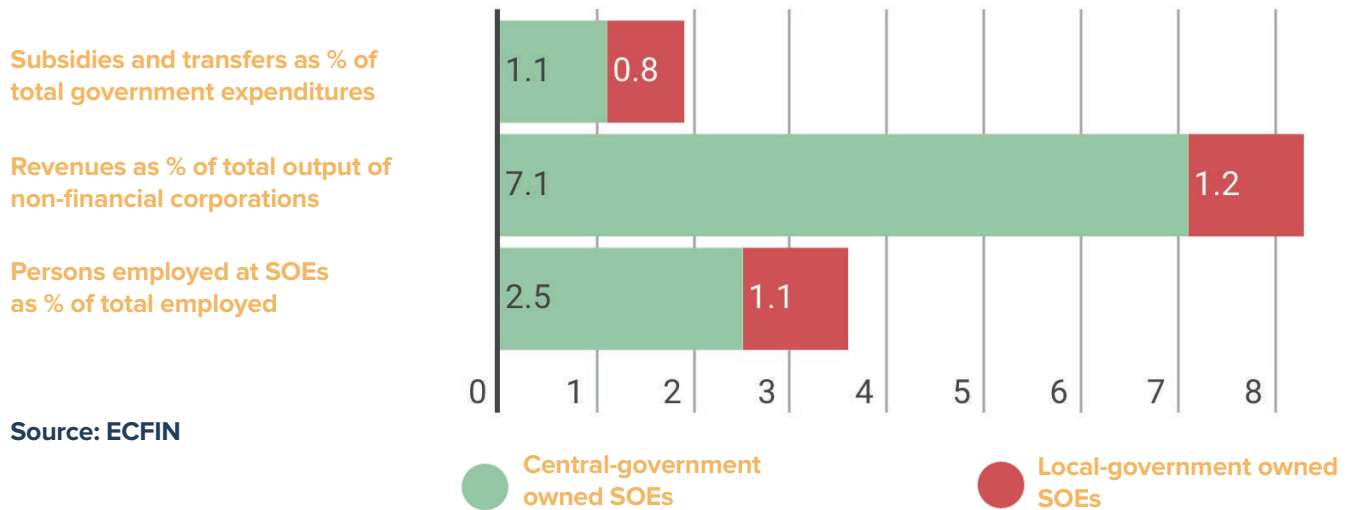
Cooperation and coordination between various authorities and bodies would make oversight and remedial actions more effective, but this remains an underdeveloped area. This points to the need for enhanced collaboration between agencies on specific topics and generally more streamlined procedures, as well as interoperable electronic databases. While protocols typically exist between agencies, they are largely not used.<sup>38</sup>

Last, while existing oversight and control bodies need to be made more effective, there are areas where new ones are needed. One particular area where better oversight would have an immediate impact is state-owned enterprises. In terms of integrity but also good governance principles, the SOE sector remains a liability for Romania's stride toward an efficient market economy. Romania has the largest number of SOEs within the EU, followed by Poland, as well as the largest SOE sector comprising GDP share, employment and role in the overall economy.

SOEs in general generate 8 percent of total output of non-financial corporations and employ close to 4 percent of the Romanian workforce. According to the Ministry of Public Finances, approximately 240 active SOEs are affiliated with central government

institutions and around 1,200 are affiliated with local governments. Energy and transportation are where SOEs play their dominant role. Despite a few success stories about how privatization through stock exchange listings has triggered economic profit as well as beneficial corporate governance reforms, the SOE sector remains largely inefficient and lacking in terms of vision and governance.<sup>39</sup>

## Importance of SOEs in the Romanian economy (2013)



Two main challenges confront the SOE sector: political interference and lack of accountability. In turn, these are the cumulative effect of a lack of definition of the SOE's role in the Romanian economy, assessment of their performance, a strategic view of their future and an adequate implementation of corporate governance principles. Moreover, legislation and policies affecting this sector, as in many other areas, are not properly implemented and lack adequate oversight. The recently established inter-ministerial committee that is supposed to oversee the monitoring, implementation and evaluation of the corporate governance Emergency Ordinance 109/2011 does not entirely respond to the need to separate regulatory and policy functions from ownership and day-to-day management operations. There is little information as to whether the committee has started working and what its impact is expected to be.

Other countries have managed to create more proficient, independent bodies to monitor corporate governance and thus improve performance of the SOE sector. According to World Bank and OECD guidelines, ownership arrangements vary from country to country, but a centralized model can be found to different extents in Finland, Turkey, Hungary and Poland.<sup>40</sup> Romania is trying to follow an advisory dual-ownership model (with a central unit located in the Ministry of Finance), but would benefit greatly from the creation of an independent agency that would be in charge of implementation of corporate governance principles, monitoring economic performance and achievement of goals, analyzing and publicizing annual reports, and ensuring the transparency of activities and public accountability. The agency would be an independent body, with its own budget, working under the authority of the Romanian government or Parliament. This oversight body would thus minimize political interference, create greater coherence in applying corporate governance standards and achieve greater responsibility and accountability.

# Conclusion

This report has focused on the interrelationship between integrity and effectiveness in public governance. As evidence from both practice and various international studies shows, poor governance makes room for corruption, while corruption reinforces poor governance. In Romania, the apparent success of the fight against corruption has the potential to make the country a role model for its regional peers.

The five policy domains of focus in the governance area for the medium and long term proposed in this document, together with continuation of efforts to deter corruption, draw attention not only to existing vulnerabilities. They show the main elements of a governance strategy that would help Romania move beyond the transitional phase, when considerable foreign assistance and oversight was needed to keep the country's leaders in check. In the regional and geopolitical context, effectively implementing Romania's governance agenda can no longer be an aspiration. Its citizens need to reap the benefits of 25 years of transition and efforts to consolidate a democratic, well-governed and prosperous state.

In 2011, Romania and the United States signed the Joint Declaration on Strategic Partnership for the 21st Century, which became a central vector in Romania's foreign policy, particularly after the country completed the major projects of NATO and EU accession.<sup>41</sup> One of the areas of "strengthened cooperation" is that of democracy, rule of law, human rights and good governance, mostly as far as cooperation in exporting these values to countries of the Eastern Partnership is concerned. This is the stage that Romania is now poised to enter as a mature member of the NATO and EU communities.

# Summary of policy recommendations

## 1. Deter corruption by:

### *Keeping good institutions at work*

- Increasing the transparency of parliamentary procedures, public participation and effective consultations on legislative changes that would result in slowing down or diminishing the effectiveness and independence of anti-corruption investigations.
- Mainstreaming integrity in public management practices; this needs to remain a focus of the government through continuous implementation and evaluation of the effectiveness of the National Anti-corruption Strategy.

### *Making corruption unprofitable*

- Ensuring proper implementation of pertinent legislation, including the new draft law on asset recovery, and creating streamlined procedures that allow various authorities to cooperate across all the steps of recovery, from identification to valuation and confiscation or restitution.
- Creating a compendium of good practices from existing court decisions and their corresponding administrative steps to document various aspects of asset recovery, their timing during civil or criminal proceedings and their impact.

## 2. Enact public office reform by:

- Strategically approaching public office reform by standardizing processes of recruiting, training and compensating human resources in the public sector, in correlation with the Strategy for the Consolidation of Public Administration 2014-2020 and plans for reorganizing territorial-administrative units.
- Creating a strategy for addressing capacity and resource (budgetary and personnel) problems in small territorial-administrative units in order to eliminate inefficiencies and increase public management performance.

### 3. Build a predictable and sound regulatory framework by:

- Increasing the quality – usefulness, efficiency, effectiveness – of laws and regulations by utilizing more evidence-based decision-making and impact assessments. This will introduce more rationality in decision-making and greater legal compliance and trust within society.
- Ensuring proper consultation, participation and transparency by engaging both stakeholders and public bodies that can anticipate and address problems as well as exercise accountability. In particular, parliamentary committees should avail themselves of this option to better inform and ground the lawmaking processes.

### 4. Improve public contracting and procurement by:

- Increasing efficiency and accountability by simplifying and clarifying procedures and increasing transparency in all stages of the procurement process. The first step is to streamline e-procurement systems (including e-invoicing and publication of all contracts and reports) and increase inter-institutional cooperation.
- Improving certainty at the level of administrative procedures by introducing clear, non-discriminatory criteria for dealing with private companies and by empowering public servants to give guidance/make decisions that are binding or that can be challenged in administrative procedures. Similarly, public actors in the procurement market need to apply uniform practices.
- Increasing the capacity and professionalism of personnel involved in evaluation, implementation and monitoring of procurement processes and contracts through better selection criteria, better training and improved integrity standards.
- Introducing centralized procurement for staple goods and services for groupings of smaller administrative-territorial units in order to eliminate possible conflicts of interest and make processes more efficient and uniform.

## 5. Improve the quality of governance through better oversight by:

- Strengthening the role, independence and capacity of oversight bodies in order to promote integrity and efficiency in delivering public service and to improve policy-learning.
- Creating a supervisory body to ensure the effective implementation of corporate governance principles and legal provisions in SOEs; establish performance indicators and criteria for the selection of board members; and monitor these enterprises' financial reports, their management plans and their performance.
- Enforcing cooperation protocols between various institutions and authorities in order to flag problems across a wider spectrum of policy domains and better address both administrative and criminal law issues. Capacity-building funds should be used to create a common curriculum for various agencies for cross-cutting themes, such as competition, public procurement, performance management and regulatory impact assessment methodologies.

# Endnotes

1. Integrity is understood as the opposite of corruption. It is widely used in literature to denote fairness or impartiality in the work of government institutions, as well as a tool to conceptualize corruption prevention mechanisms. Transparency International, for instance, regularly assesses “national integrity systems” (<https://www.transparency.org/whatwedo/nis>), while Global Integrity issues integrity reports (<https://www.globalintegrity.org/global/report-2011/>).
2. Governance is broadly defined as the institutions and processes by which authority is exercised in a country (<http://info.worldbank.org/governance/wgi/index.aspx#faq>). A frequently used term is “good governance,” which is an umbrella term for many different concepts, from citizen participation in decision-making and transparency, to rule of law and accountability.
3. One interesting example comes from the World Justice Project. Among all indicators of the World Justice Project Index, the lowest scores are given to categories like corruption, open government and enforcement of regulations. <http://data.worldjusticeproject.org/#/groups/ROM>
4. The direct relationship between citizens’ satisfaction with democracies and the functioning of the national system of governance has also been proven quantitatively. A study by Dahlberg and Holmberg from 2013 showed that the better the quality of governance – understood as impartial, professional, effective and based on the rule of law – the more citizens appreciate how their democracy is working. Stefan Dahlberg and Sören Holmberg, “Democracy and Bureaucracy: How their Quality Matters for Popular Satisfaction,” *West European Politics* 37, No. 3 (2014), pp. 515-537. <http://dx.doi.org/10.1080/01402382.2013.830468>
5. See the survey by the opinion research institute INSCOP, September 2015. <http://www.inscop.ro/wp-content/uploads/2015/09/INSCOP-09.2015-%C3%8ENCREDERE-INSTITU%C8%9AII.pdf>
6. Also, 110 magistrates have been indicted, out of which 56 have already been convicted. See the speech by Laura Codruta Kovesi, head prosecutor of the National Anticorruption Directorate, at the European Parliament hearing, April 14, 2015. <http://www.pna.ro/comunicat.xhtml?id=6205>
7. Dev Kar and Brian LeBlanc, “Illicit Financial Flows from Developing Countries: 2002-2011,” December 2013. [http://iff.gfintegrity.org/iff2013/Illicit\\_Financial\\_Flows\\_from\\_Developing\\_Countries\\_2002-2011-LowRes.pdf](http://iff.gfintegrity.org/iff2013/Illicit_Financial_Flows_from_Developing_Countries_2002-2011-LowRes.pdf)
8. See ANAF press release of April 8, 2015 regarding their activity and enforcement of court orders for confiscations in 2014.
9. The data were provided by the DNA.
10. European Commission Staff Working Paper, “Impact Assessment [on the freezing and confiscation of proceeds of crime in the European Union],” 2012, [http://ec.europa.eu/dgs/home-affairs/what-is-new/news/pdf/1\\_en\\_impact\\_assesment\\_part1\\_v4\\_en.pdf#zoom=100](http://ec.europa.eu/dgs/home-affairs/what-is-new/news/pdf/1_en_impact_assesment_part1_v4_en.pdf#zoom=100)

# Endnotes

11. See OECD, <http://www.oecd.org/dac/governance-peace/governance/docs/Hard%20Facts%20Stolen%20Asset%20Recovery.pdf>. The report covers only OECD member states and the issues of trans-border financial flows.
12. This vulnerability was also recently noted in a white paper on competitiveness published by the French Chamber of Commerce and Industry in Bucharest. [http://media.hotnews.ro/media\\_server1/document-2015-05-7-20086134-0-carte-a-alba-competitivitatii.pdf](http://media.hotnews.ro/media_server1/document-2015-05-7-20086134-0-carte-a-alba-competitivitatii.pdf)
13. See Carl Dahlström, Victor Lapuente and Jan Teorell, "The Merit of Meritocratization: Politics, Bureaucracy, and the Institutional Deterrents of Corruption," *Political Research Quarterly* 65, No. 3 (September 2012), pp. 656-668. [http://www.jstor.org/stable/41635262?seq=1#page\\_scan\\_tab\\_contents](http://www.jstor.org/stable/41635262?seq=1#page_scan_tab_contents). The authors also talk about a "separation of interests mechanism" that should seek to introduce different and separate lines of accountability so as to diminish the opportunity for collusion between politicians and bureaucrats.
14. For example, in small communities with very limited personnel in local administration, constituting public procurement commissions without breaching conflict of interest norms is almost impossible.
15. The 2014 Bertelsmann Stiftung Transformation Index notes that the dynamic between central and local government is characterized by attempts by the central government to prevent more policy flexibility at the local level, on the one hand, and by clientelistic and wasteful decisions at the local level, on the other hand. <http://www.bti-project.org/reports/country-reports/ecse/rou/index.nc>
16. In terms of integrity, a recent study shows that of the persons convicted for corruption, 23.8 percent were employed in local public administration and 19.4 percent in central administration; 37.1 percent came from the public sector. [http://media.hotnews.ro/media\\_server1/document-2015-04-20-19969676-0-studiul-experiente-directe-fenomenul-coruptiei-ale-persoanelor-condamnate.pdf](http://media.hotnews.ro/media_server1/document-2015-04-20-19969676-0-studiul-experiente-directe-fenomenul-coruptiei-ale-persoanelor-condamnate.pdf)
17. World Bank Institute, "Worldwide governance indicators." <http://info.worldbank.org/governance/wgi/index.aspx>
18. According to a study of 500 Romanian businesses commissioned by the Romanian Chamber of Commerce and Industry, March 2015. <http://ccir.ro/2015/04/21/ccir-launched-the-study-about-the-business-environments-perception-regarding-the-economy/>
19. A recent McKinsey analysis identifies regulation, together with incentives and information (in particular big data management) as a key factor in ensuring government efficiency and effectiveness in producing socially desirable outcomes. McKinsey & Company, "How do you govern a disrupted world?" May 2015. [http://www.mckinsey.com/insights/strategy/how\\_do\\_you\\_govern\\_a\\_disrupted\\_world?cid=other-eml-alt-mgi-mck-oth-1505](http://www.mckinsey.com/insights/strategy/how_do_you_govern_a_disrupted_world?cid=other-eml-alt-mgi-mck-oth-1505)

# Endnotes

20. Law no. 52/2003 for transparency in decision-making requires a 30-day notice for any new legislative proposal and “at least 10 days” for any interested party to submit suggestions or opinions before the proposal is voted into law.

21. The council’s main recommendations were to pay special attention to state-owned enterprises and to extend the “public investments’ delivery unit” model to other sectors (such as infrastructure) besides the initial four (fiscal management, public procurement, energy and jobs for youth). [http://cursdegovernare.ro/wp-content/uploads/2014/12/FIC\\_PIM-event-dec-2014.pdf](http://cursdegovernare.ro/wp-content/uploads/2014/12/FIC_PIM-event-dec-2014.pdf)

22. <http://gov.ro/en/government/cabinet-meeting/implementation-of-measures-of-good-governance-in-the-economy>

23. See Pew-MacArthur Result First Initiative, “Evidence-Based Policymaking. A Guide for Effective Government,” November 2014. Also, for the U.S. context see Jeffrey B. Libman, “Building on Recent Advances in Evidence-Based Policymaking,” Brookings Institution, April 2013.

24. The European Commission also notes the persistent weaknesses in public administration in Romania, in particular when it comes to implementing concrete measures to improve the regulatory framework to the benefit of economic actors and citizens. [http://ec.europa.eu/europe2020/pdf/csr2015/cr2015\\_romania\\_en.pdf](http://ec.europa.eu/europe2020/pdf/csr2015/cr2015_romania_en.pdf)

25. For instance, a recent report of the European Anti-fraud Office (OLAF) shows that Romania is the number one country in the EU in terms of how many investigations into the use of EU funds were conducted in 2014 (more than Hungary, Bulgaria and the Czech Republic combined). [http://ec.europa.eu/anti\\_fraud/documents/reports-olaf/2014/olaf\\_report\\_2014\\_en.pdf](http://ec.europa.eu/anti_fraud/documents/reports-olaf/2014/olaf_report_2014_en.pdf)

26. A similar assessment was made by the European Commission in the January 2015 technical report accompanying the Commission’s report to the European Parliament and Council on progress in Romania under the Cooperation and Verification Mechanism. [http://ec.europa.eu/cvm/docs/swd\\_2015\\_8\\_en.pdf](http://ec.europa.eu/cvm/docs/swd_2015_8_en.pdf)

27. Madalina Doroftei and Valentina Dimulescu, “Romanian public procurement in the construction sector. Corruption risks and particularistic links”, in Alina Mungiu Pippidi, ed., “Country policy reports on institutions in public procurement for the infrastructure sector,” ANTICORRP – Anti-corruption Policies Revisited: Global Trends and European Responses to the Challenge of Corruption, EU Grant agreement number 290529, June 2015, p. 49. <http://anticorpp.eu/wp-content/uploads/2015/06/D8.1.5-Romania.pdf>

28. In this sense, only 1 out of 7 EU-financed contracts, whereas 1 out of 4 nationally funded contracts were won via single bidding (a corruption risk indicator). Furthermore, the number of contracts won can be statistically explained in 44 percent of the cases via single bidding and the existence of a political connection. *Ibid*, p. 50.

# Endnotes

29. In 2014 alone, the CNSC registered 3,753 petitions, 65.52 percent of which had to do with the result of the award procedure, while the rest involved the documents for participating in the award procedure.

30. Doroftei and Dimulescu, "Romanian public procurement in the construction sector," p. 50.

31. Law 215/2001 regarding public administration was modified in early 2014 to allow mayors and county council presidents to delegate their attributions to various people in the organizations they are leading (not just their deputies) or to the heads of institutions that provide public services at local level.

32. In an analysis of the public procurement system from 2013, the Institute for Public Policies (IPP) found that in 2012 bidding taking place through SEAP accounted for 15 billion euro, while that outside of SEAP was around 5 to 10 billion. Of all contracts, 97 percent were attributed according to the "smallest price" principle. <http://www.ipp.ro/wp-content/uploads/2014/07/ipp-studiu-sustenabilitate-achizi355i1.pdf>

33. [http://www.ustda.gov/news/pressreleases/2015/MENAE/Romania/PR-USTDA-Expands-Global-Procurement-Initiative-to-Romania\\_061715/Press-Release-USTDA-Expands-Global-Procurement-Initiative-to-Romania\\_061715.asp](http://www.ustda.gov/news/pressreleases/2015/MENAE/Romania/PR-USTDA-Expands-Global-Procurement-Initiative-to-Romania_061715/Press-Release-USTDA-Expands-Global-Procurement-Initiative-to-Romania_061715.asp)

34. The same IPP study shows that 84 percent of people surveyed believe that public funds (including EU funds) are spent inefficiently, and that 88 percent believe that contracts are not won through fair proceedings.

35. "The RCC can be seen as an example of a Romanian public organization which is striving, within the constraints of an unduly rigid and outmoded general public administration, to improve its performance, focus on results, pilot various administrative initiatives, increase the value provided to taxpayers, and in general run its affairs in line with modern management principles." <https://openknowledge.worldbank.org/bitstream/handle/10986/12281/NonAsciiFileName0.pdf?sequence=1>

36. See Government Emergency Ordinance 31/2015. <http://www.universuljuridic.ro/oug-31-2015-pentru-modificarea-legii-concurentei-nr-21-1996-si-pentru-completarea-art-1-din-oug-83-2014-privind-salarizarea-personalului-platit-din-fonduri-publice-in-anul-2015/>

# Endnotes

37. The RCC was the beneficiary of a World Bank program targeting the institution's core functions – from the legal and policy framework to improving the daily operations and performance of the RCC. The program was also aimed at integrating competition principles into Romania's public administration (whole-of-government approach). The report outlining the program and its results is forthcoming (World Bank, "Transforming Romania's Competition Architecture to Make Markets Work," 2015.) and could be a source of inspiration for a similar effort regarding the Court of Accounts.
38. For example, bid-rigging cases involve actions from ANRMAP (National Authority for Public Procurement Regulation and Monitoring), the RCC and the Prosecutor's Office, so a system of flags should exist between them in order to deter and fight bid rigging. Most cases are also linked to corruption, and reciprocity should exist between prosecutors and the RCC. (Many prosecutors find out about competition problems while investigating economic and corruption crimes, but do not inform the RCC – and vice versa). In any case, this should not happen ad hoc but on the basis of established rules and protocols.
39. See Country Focus [http://ec.europa.eu/economy\\_finance/publications/country\\_focus/](http://ec.europa.eu/economy_finance/publications/country_focus/)
40. See World Bank Group, Corporate Governance for State-Owned Enterprises: A Toolkit, 2014. <https://openknowledge.worldbank.org/bitstream/handle/10986/20390/9781464802225.pdf?sequence=1>. See also OECD Guidelines on Corporate Governance of State-Owned Enterprises, 2005. <http://www.oecd.org/corporate/ca/corporategovernanceofstate-ownedenterprises/34803211.pdf>
41. <http://www.state.gov/p/eur/rls/or/172241.htm>

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Center for European Policy Analysis  
1225 19th Street NW, Suite 450  
Washington, DC 20036  
E-mail: [info@cepa.org](mailto:info@cepa.org)  
[www.cepa.org](http://www.cepa.org)



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