



Evaluation of the Romanian National Anti-corruption Strategy 2016-2020



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Foreword

To ensure the sustainability and resilience of its institutions, Romania is addressing historic and structural challenges in its public governance system, including corruption. To this end, it developed the 2016-2020 National Anticorruption Strategy (NAS) to help curb corruption and enable the public administration to deliver inclusive policies and effective public services whilst mitigating risks of corruption.

This report, which is part of the OECD work on measuring and evaluating public sector integrity strategies, applies a wide-ranging methodology that considers the process and impact achieved of the 2016-2020 NAS. In particular, it takes stock of progress made in fighting corruption, considers how influential the NAS has been and notes the political context Romanian authorities were required to navigate to achieve success.

The NAS has allowed Romania to take significant steps towards strengthening its anti-corruption and integrity policies, including by providing an integrity risk analysis of existing structures, instruments and processes within the public and private sectors. It also sought to build on the internationally recognised achievements carried over from the previous strategic period 2012-2015. However, the lack of support to implement important legislative reforms and significant implementation gaps at the subnational level remain important challenges.

This report, delves into the minutia of the NAS to understand how, when and why the NAS 2016-2020 was able to make headway in curbing corruption and maps out insights and recommendations for Romania's upcoming NAS. In particular, the report reflects on how the country could build a coherent and comprehensive public integrity system, cultivate a culture of integrity across government and enable effective accountability in future strategies. For this, it provides concrete recommendations in line with the standards set forth in the OECD Recommendation on Public Integrity. By learning from own and peer experiences, Romania can lay a strong foundation for future strategies and the consolidation of a resilient integrity framework.

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The members of the five co-operation platforms to support the Romanian National Anti-corruption Strategy 2016-2020 also significantly contributed to the report through a survey and in interviews. In particular, the OECD wishes to thank public officials from the National Anti-Corruption Directorate (DNA), the National Integrity Agency (ANI), the General Anti-Corruption Directorate (GAD) and the National Agency for the Management of Seized Assets (ANABI). Other members of the Romanian Government who contributed to the evaluation were the Ministry of Interior, the Ministry of Education, the Ministry of Agriculture and Rural Development, the Ministry of Development, the Public Works and Administration, the Ministry of Environment, Water and Forests, the Ministry of National Defense, the Ministry of Health, the Ministry of Transport and Infrastructure and the National Public Procurement Agency. Private sector representatives included, AMCHAM Romania, the Romanian Association of Banks, and the Romanian Chamber of Commerce. Furthermore, the OECD would like to thank the anti-corruption NGO's as well as local public administration, in particular the City of Giurgiu.

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Table of contents

Foreword	3
Acknowledgements	4
Executive summary	7
1 An evolving approach to evaluating integrity strategies	9
Evaluating integrity and anti-corruption strategies	10
Evaluating the Romanian National Anti-corruption Strategy (NAS) 2016-2020	11
2 The context of the Romanian National Anti-corruption Strategy 2016-2020: Main achievements and remaining challenges	16
The NAS 2016-2020 has built on the 2016 anti-corruption momentum, but continued high levels of corruption remain a cause for concern	17
Challenges in governance and implementation risk the NAS and its platforms becoming a “toothless tiger”	20
Despite turmoil and political hurdles, recent progress at the technical level is encouraging	22
Overcoming the causality link between the efficiency of the local authorities and the level of corruption	23
Note	24
3 The NAS 2016-2020 against international good practice	25
An enhanced drafting process that incorporates a theory of change and reflects the overarching desired results	26
Towards a coherent theory of change	30
Towards ensuring an effective implementation	34
Improving monitoring and institutional support	38
Notes	40
4 Findings of the NAS 2016-2020 evaluation and recommendations	41
General objective 1 – Development of a culture of transparency for open governance at central and local level	43
General objective 2 – Increasing institutional integrity by including corruption prevention measures as mandatory elements in managerial plans	47
General objective 3 – Strengthening integrity, reduction of vulnerabilities and corruption risks in priority sectors and fields of activity	51
General objective 4 – Increasing the level of knowledge and understanding of the integrity standards by employees and the beneficiaries of the public services	60

General objective 5 – Strengthening the performance in the anti-corruption field by criminal and administrative means	62
General objective 6 – Increasing the level of implementation of anti-corruption measures by approving the integrity plan and the periodic self-assessment at the level of all central and local public institutions, including the subordinated and co-ordinated institutions, as well as of public enterprises	66
Notes	67
5 Recommendations	68
Improving process: Towards best international practices to build and implement an integrity and anti-corruption strategy	69
Improving policy: Setting priorities and strengthening integrity policies	70
References	72
FIGURES	
Figure 1.1. The general objectives of the National Anti-corruption Strategy of Romania 2016-2020	13
Figure 2.1. Perceptions of corruption in Romania (by institution)	20
Figure 3.1. OECD Integrity Indicator of Romania – Comparative with Top 10 average amongst OECD countries	29
Figure 3.2. Summary of the 2021 OECD survey of co-operation platforms responses on the work of the MOJ	34
Figure 3.3. Level of agreement with the following statements concerning the five cooperation platforms of the NAS 2016-2020	36
Figure 3.4. Indicator 1.3.7-Financial Sustainability for the 2016-2020 NAS	37
TABLES	
Table 4.1. Summary of Stakeholder Platforms Participants Survey Responses on progress towards achieving specific objectives (N=39)	42
Table 4.2. Romania 2016-2021 Global Corruption Barometer Comparison	52

Executive summary

Romania has made important progress in strengthening its public integrity system over the past decades. Nonetheless, there is a need to reinforce institutions, improve integrity and anti-corruption legislation, and mitigate corruption risks in order to promote a culture of integrity in the whole of government and society.

In this context, the OECD assessed the Romanian National Anti-corruption Strategy (NAS) 2016-2020 to help identify good practices and distil lessons for upcoming strategies.

Key findings

The NAS 2016-2020 was drafted following a public consultation process, involving entities from civil society, public institutions, private companies and business associations. All relevant stakeholders also participated in the monitoring of the implementation of the NAS. The NAS 2016-2020 identified integrity risks in vulnerable areas and provided a roadmap for integrity risk management in the Romanian public administration. In addition, despite challenges, the NAS 2016-2020 served as an anchor and an important reference point for anti-corruption work at a technical level, providing continuity.

The OECD assessment showed that there are still challenges and opportunities for future strategies:

- The NAS lacked support to implement some important reforms, particularly from Parliament. At the subnational level, many local public institutions did not assume full ownership of corruption prevention, but rather treated the strategy as a box ticking exercise.
- Although the NAS stresses that institutional integrity plans should be “based on risk analysis,” these plans do not provide an assessment of public integrity risks, nor do they identify specific types of relevant integrity breaches, the actors likely to be involved, or the expected likelihood or impact should the risks materialise.
- The NAS broke down broader objectives into specific measures. However, there was no roadmap for achieving each objective. Furthermore, the lack of a consistent approach to reform sequencing undermined the ability of Romanian institutions to match intentions to outcomes. Tellingly there was no “theory of change” for the whole NAS and objectives were not explicitly linked to expected outcomes.
- The NAS did not prioritise activities or reflect on their sequencing. Prioritisation would have been particularly crucial during more challenging times when political support was lacking, and would have helped focus efforts on the most pressing and promising activities and objectives. In turn, clarity in sequencing would have ensured that activities that have positive multiplier effects could have been conducted first.
- Whilst involving stakeholders in the monitoring process (co-operation platforms) was considered a success, there was very little detail about how the platforms were expected to support implementation of the NAS in practice. Monitoring reports produced by the platforms only included contributions submitted by the co-operation platform of independent authorities and anti-corruption

institutions. Furthermore, there is no document outlining their mandate, responsibilities or co-ordination function.

- Reforms of various regulatory frameworks are still pending, endangering the full implementation of future strategies. For example, whistle-blower protection is an enduring weakness and the lack of systematic monitoring of the implementation of the rules on conflict of interest remains a challenge.

Key Recommendations

To address the challenges identified, the report provides a series of concrete recommendations to strengthen future strategies:

- Involve, on a permanent basis, a high-level political figure or body in the process of implementing the NAS, who is both accountable for progress and has the authority to push for the implementation of the strategy even in the face of potential political instability.
- Consider involving senior officials at the subnational level in the progress of the NAS and create incentives for the implementation of commitments.
- Provide an assessment of public integrity risks to identify specific types of relevant integrity breaches, the actors likely to be involved, as well as the expected likelihood and the impact should the risks materialise.
- Enhance the impact of the co-operation platforms by inviting members of other branches. Promote exchange among the different stakeholder platforms to ensure that business representatives and civil society players exchange with government officials and oversight bodies on a regular basis. The platforms could also be used to adapt activities to changing circumstances, such as using the evidence gathered by the monitoring reports to revise, update or reformulate objectives and indicators.
- Work with the relevant institutions to produce a comprehensive action plan for the next NAS, building on a more robust diagnostic phase and an explicit theory of change with a clear results chain from activities to overall objectives. For this, consider introducing a more tangible, specific and publicly available action plan in which deadlines and level of implementation for the various actions are registered.
- Move forward towards the consolidation of the anti-corruption legal framework in accordance with recommendations from GRECO and the European Commission, including forging ahead with preventative laws on integrity, incompatibilities and conflicts of interest.

1 An evolving approach to evaluating integrity strategies

The first chapter presents the evaluation methodology used to develop this report and considers a list of key stakeholders relevant to the implementation of the NAS. Furthermore, policy evaluation contributes to promoting public accountability, learning and increased public sector effectiveness through improved decision-making. Promoting both better quality and use of anti-corruption and integrity policies can have a greater impact in ensuring that evaluation fully achieves its purpose. This chapter delves into the process of evaluating the National Anti-corruption Strategy (NAS) 2016-2020, identifies the different dimensions considered and provides the Romanian institutional framework where the NAS was envisaged.

Evaluating integrity and anti-corruption strategies

Policy evaluation is a critical element of sound public governance. Policy evaluation can help ensure public sector effectiveness and improve the quality, responsiveness and efficiency of public policies and services. Evaluation is essential to draw lessons and to provide an understanding of what works, why, for whom, and under what circumstances. It connects policies, policy makers and citizens, helping ensure that decisions are rooted in trustworthy evidence and deliver desired outcomes (OECD, 2020^[1]).

Though interconnected, it is important to distinguish between monitoring and evaluation. Monitoring corresponds to a routine process of evidence gathering and reporting to ensure that resources are adequately spent, outputs are successfully delivered and milestones and targets are met. Policy evaluation, in turn, is a structured and objective assessment of an ongoing or completed initiative, its design, implementation and results. The goal of policy evaluation is to determine the relevance and fulfilment of objectives, its coherence, efficiency, effectiveness, impact and sustainability, as well as the worth or significance of a policy (OECD, 2020^[1]).

This systemic perspective allows for a full discussion of how evaluation can contribute to the policy cycle, as well as an overview of the policy tools that rely upon evaluation, such as budgeting and regulation. A sound institutional set-up can help align isolated and unplanned evaluation efforts into more formal and systematic approaches. Promoting both better quality and use can have a greater impact in ensuring that evaluation fully achieves its purpose. A recent OECD study demonstrated that generally, countries show strong commitment to policy evaluation. Some countries have embedded policy evaluations in their constitutions, and around two-thirds of responding countries have developed some kind of legal framework for policy evaluation. Similarly, most countries have adopted guidelines on policy evaluation applicable across government (OECD, 2020^[1]).

The objective of an evaluation is therefore to draw lessons learnt by evidencing key achievements and weaknesses. In addition, an evaluation provides specific recommendations to inform the choices of policy makers in establishing future strategic steps. As a policy evaluation, the goal is not to assess whether every single activity has been implemented and to what degree, but rather to look whether the strategy or policy has been able to contribute to improving a country's efforts in preventing and fighting corruption.

In the area of public integrity and anti-corruption, where continued and coherent efforts are needed to achieve sustainable change, developing a strategic approach for the public sector that is based on evidence and aimed at mitigating public integrity risks is key. Such a strategic approach requires setting strategic objectives and priorities for the public integrity system based on a risk-based approach to violations of public integrity standards, as well as developing benchmarks and indicators and gathering credible and relevant data on the level of implementation, performance and overall effectiveness of the public integrity system (OECD, 2017^[2]). To assess such strategic efforts, the OECD has developed a methodology that draws on extensive experience in supporting countries in their efforts to promote public integrity and anti-corruption strategies through Integrity Reviews and implementation support. In addition, the methodology is informed by international recommendations, research and experiences on anti-corruption strategies as well as countries context, including the economic and human resources available to put in action an strategy (Pyman, Eastwood and Elliott, 2017^[3]; Hussmann, 2007^[4]; UNODC, 2015^[5]; Schütte, 2017^[6]; Doig, 1995^[7]; G20, 2021^[8]).

To increase the validity of the findings, the evaluation methodology combines quantitative and qualitative methods, and relies on different information sources and an iterative process (Johnsøn and Søreide, 2013^[9]; Mathisen et al., 2011^[10]):

- **Applying mixed methods:** OECD evaluations draw on a combination of quantitative and qualitative methods. Where quantitative data is available and of reliable quality, it is considered and analysed.
- **Triangulation:** Relying on a single data source or analytical technique in a complex field such as integrity reduces the confidence in the findings of the evaluation. As such, OECD evaluations make use of information stemming from different sources to triangulate and increase the validity of the findings.
- **Iterative process:** OECD evaluations take place in steps to ensure iterative feedback between the collection and analysis of data. A first step includes reviewing background documents, which is complemented by gathering information from questionnaires, interviews and focus group discussions with key stakeholders. In some cases, additional tools such as surveys, indicators and the contrasting of raw data from multiple sources can be used.

Evaluating the Romanian National Anti-corruption Strategy (NAS) 2016-2020

According to Romanian authorities, the National Anti-corruption Strategy (NAS) 2016-2020 was drafted following a complex public consultation process, where approximately 90 entities from civil society, public institutions, private companies and business association were involved. The Ministry of Justice (MoJ) led this process which took approximately 6 months (European Commission, 2016^[11]). The Strategy was approved by a normative act and published in the Official Gazette of Romania. The NAS 2016-2020 has an ongoing commitment to Europeanism and to modernising institutions and overall administrative procedures (Enache Pirtea & Associates, 2020^[12]). A number of stakeholders in the country braced this process, including institutions tasked with preventive roles as well as with a law-enforcement approach. Box 1.1 provides an overview of the main stakeholders of the current Romanian integrity system.

Box 1.1. Relevant stakeholders of the Integrity System in Romania

Main stakeholders of the Romanian Integrity System are:

- **The Technical Secretariat for the NAS 2016-2020 at the Ministry of Justice.** The Technical Secretariat, embedded in the Department for Crime Prevention, assumes responsibility for central co-ordination of the National Anti-Corruption Strategy. It is charged with driving forward the implementation, monitoring, reporting and evaluation of the Strategy. Its responsibilities include producing annual monitoring reports, organising on-site evaluation missions and integrity training for both central institutions and local public administrations, convening the stakeholder platforms, providing methodological support for corruption risk assessments and integrity plans, and commissioning surveys and background research.
- **The National Anti-Corruption Directorate (DNA).** Established in 2002, the DNA is a prosecutor's office structure that focuses on tackling medium and high-level corruption cases. An independent entity operates at arm's length from courts and other public authorities.
- **The National Integrity Agency (ANI).** The National Integrity Agency was set up in 2007 with the primary goal of conducting administrative verification of asset and interest declarations. It is responsible for collecting, monitoring and verifying these declarations to identify conflicts of interest, unjustified wealth and incompatibilities. ANI is operationally autonomous and refers irregularities to the competent authorities to impose sanctions.
- **The General Anti-Corruption Directorate (DGA).** The DGA is a judicial policy unit in the Ministry of Interior is charged with investigating suspected corruption perpetrated by staff subordinated to the Ministry of Interior, including police, gendarmerie and border units. It sometimes supports the DNA in investigating complex criminal cases. It also conducts preventive activities, including training and risk assessments for Ministry of Interior bodies.
- **Superior Council of Magistracy (CSM).** The Superior Council of Magistracy is responsible for guaranteeing judicial independence. It is divided into two parts, one section dealing with judges, and another with prosecutors. It has exclusive competence to recruit and manage the careers of judges and prosecutors, and can act as a disciplinary court.
- **National Agency for the Management of Seized Assets (ANABI).** Established in 2016, ANABI is charged with tracing and identifying the proceeds of crime, as well as managing the seizure and confiscation of criminal assets. It works to ensure a high execution rate of confiscation orders issued by prosecutors and judges.

Source: [Strategia Națională Anticorupție \(just.ro\)](https://www.just.ro/Strategia_Nationala_Anticoruptie)

As a result, the NAS 2016-2020 envisaged the achievement of at six core results:

- Reaching the EU average in terms of perception and domestic public mentality on the dimensions of corruption in Romania.
- Significant reduction, by at least 50%, of the cases of fraud and corruption of public procurement procedures and of integrity incidents in the identified vulnerable sectors.
- Implementation of anti-corruption preventive measures in more than 80% of the public institutions and public enterprises as part of an integrity plan based on risk analysis and standards of internal management control.
- Fulfilment of the Co-operation and Verification Mechanism (CVM) objectives and national institutional assimilation of evaluation procedures, as a guarantee of the irreversibility of the measures for strengthening integrity in the exercise of public functions.
- Acceding to the OECD Anti-Bribery Convention.

- Regional and international promotion of Romania’s anti-corruption experience.

To achieve these results, the NAS proposed to follow six general objectives, which in turn are each divided into a series of specific objectives, activities, responsibilities and timelines (Figure 1.1).

Figure 1.1. The general objectives of the National Anti-corruption Strategy of Romania 2016-2020

General Objective 1: Development of a culture of transparency for open governance at central and local level

General Objective 2: 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

General Objective 3: Strengthening integrity, reduction of vulnerabilities and corruption risks in priority sectors and fields of activity

General Objective 4: Increasing the level of knowledge and understanding of the integrity standards by employees and the beneficiaries of the public services

General Objective 5: Strengthening the performance in the anticorruption field by criminal and administrative means

General Objective 6: Increasing the level of implementation of anticorruption measures by approving the integrity plan and the periodic self-assessment at the level of all central and local public institutions, including the subordinated and co-ordinated institutions, as well as of public enterprises

Source: [Strategia Națională Anticorupție \(just.ro\)](http://Strategia_Națională_Anticorupție_(just.ro))

Monitoring of the NAS took place through on-site visits by the Ministry of Justice (“thematic missions”, see also Chapter 0) and by involving all relevant shareholders, grouped into five co-operation platforms:

- Platform of independent authorities and anti-corruption institutions
- Platform of central public administration
- Platform of the local public administration – co-ordinated in partnership with the Ministry of Development, Public Works and Administration
- Platform of the business sector
- Platform of civil society

This report evaluates the NAS in Romania. While the level of implementation of the strategy is a relevant dimension to look at, the evaluation of the Romanian NAS goes beyond the implementation and achievement of outputs to investigate the change the NAS has contributed to create and to what extent the desired results have been achieved and how (OECD, 2017^[13]).

As such, the evaluation was carried out having in mind the following guiding questions along the evaluation dimensions described above:

- **Relevance:** Was the strategy and the strategic objectives designed to respond to country needs and priorities? To what extent are the objectives still valid? Do the stakeholders feel a sense of ownership?
- **Coherence:** Was it coherent with other governance reforms and policies in relevant key areas (external coherence)? Were the different General Objectives designed in a way to reinforce one

another and create synergies and were the specific objectives and activities relevant to contribute to the achievement of the results and the specific objectives (internal coherence)?

- **Effectiveness:** To what degree has it achieved the envisaged impacts and a proper level of implementation? What were the major factors influencing the achievement or non-achievement of the objectives?
- **Efficiency:** How well were the available resources used to achieve the objectives? Were the objectives achieved on time? However, given scarce information on budget data, it has been difficult to assess the efficiency of the NAS.
- **Impact:** What differences did the Strategy make? What were the positive changes and were there some unintended consequences?
- **Sustainability:** How did it build on earlier efforts to prevent and combat corruption and how likely are the implemented changes to last over time?

Following the mixed method, triangulation and iterative approach, information for this evaluation has been obtained through different channels. First, the OECD conducted an initial assessment based on the review of relevant information gathered through desk research and provided by the Romanian authorities, such as, for example, the monitoring reports of the NAS as well as reports from other organisations. Second, the NAS 2016-2020 was assessed against the OECD Public Integrity Indicator (PII) on Principle 3 of the OECD Recommendation on Public Integrity (Quality of Strategic Framework) to benchmark the NAS against OECD country practice (OECD, 2017^[2]). Box 1.2 provides a brief summary of the OECD Public Integrity Indicators. Third, virtual interviews and focus group discussions with key stakeholders from the public sector, civil society and the private sector complemented the desk research.

Finally, the OECD carried out an online survey among stakeholders of the NAS 2016-2020 (the 2021 OECD survey of co-operation platforms) to inform the assessment of progress made and identify areas for improvement.

Box 1.2. The OECD Public Integrity Indicators

The OECD Recommendation on Public Integrity provides policy makers with a vision for a public integrity strategy. It shifts the focus from ad hoc integrity policies to a context dependent, behavioural, risk-based approach with an emphasis on cultivating a culture of integrity across the whole of society.

Since the adoption of the OECD Recommendation, a Task Force consisting of seven members of the OECD Working Party of Senior Public Integrity Officials (SPIO) has been developing a framework for a set of indicators (Public Integrity Indicators, PII) to measure the successful implementation of the OECD Recommendation on Public Integrity. The framework establishes standard indicators for the preparedness and resilience of the public integrity system at the national level to prevent corruption, mismanagement and waste of public funds, and to assess the likelihood of detecting and mitigating various corruption risks by different actors in the system.

The PII combine sub-indicators establishing minimum legal, procedural and institutional safeguards for the independence, mandate and operational capability of essential actors in the integrity system with outcome-oriented sub-indicators drawing on administrative data and surveys. The PII apply a mixed methods approach, drawing on both administrative data and big data provided directly by governments and surveys.

As such, these new OECD Public Integrity Indicators:

- provide objective and credible measures of different elements of a public integrity system;
- are meaningful for governments because they are co-created by the OECD with governments and do not rely on subjective expert assessments. The aim is not to provide country rankings, but a tool for learning and informing better policies;
- are the first-ever comprehensive set of indicators based on an agreed international legal instrument from the OECD and beyond, adhering to the same high statistical standards as other OECD indicators and are validated by OECD member countries;
- provide a better alternative to existing measures, enabling an analysis of the impacts of anti-corruption efforts, linking the disaggregated data to a range of economic and social outcomes. The PII could also provide the basis for establishing cost-effectiveness and cost-benefit ratios.

To date, the OECD developed the indicators and sub-indicators for six principles of the OECD Recommendation, and a first measurement has taken place for Principle 3 covering the strategic framework for integrity policies. Selected sub-indicators of the data have been published in the most recent OECD Government at a Glance 2021 (OECD, 2021^[14]).

Source: OECD Public Sector Integrity Division

2 The context of the Romanian National Anti-corruption Strategy 2016-2020: Main achievements and remaining challenges

The chapter considers the Romanian political landscape at two distinct though interrelated levels – longer term, underlying trends and short-term political wrangles. Both of these aspects are crucial to understand how, when and why the National Anti-corruption Strategy 2016-2020 was able to make headway in curbing corruption in Romania. It also recognizes Romania’s formidable record of enforcement activity; whilst identifying the muddled framework in which it was developed. The chapter provides an interpretive framework for analyzing integrity policies across a wide range of issues, including threats to the rule of law, social unrest and the role of anti-corruption reforms at the subnational level.

To assess the relative strengths and weaknesses of the 2016-2020 Romanian National Anti-Corruption Strategy, it is necessary to consider the Romanian political landscape at two distinct though interrelated levels: longer term, underlying trends as well as short term political wrangles.

First, this evaluation provides an overview of the 2016 context in Romania, particularly when the NAS was being discussed and approved. Second, it provides a picture of the challenges of governance in the country, particularly considering the background level of corruption. Overarching these, the evaluation situates the NAS into the context in which it was implemented: the domestic political arena of Romanian politics over the past five years. Both of these aspects are crucial to understand how, when and why the strategy was able to make headway in curbing corruption in Romania. All of these variables taken together pose a serious question about the ownership of the anti-corruption agenda by political leadership in Romania, as well as challenges that remain to ensure the irreversibility of progress made towards good governance since EU accession. Interviews conducted for this evaluation made clear that at the end of the implementation period of the 2016-2020 NAS, it remains unclear the extent to which the anti-corruption is an agenda imposed by external players (e.g. international organisations) and whether those policies really address local problems and priorities (Lacatus and Sedelmeier, 2020^[15]).

The NAS 2016-2020 has built on the 2016 anti-corruption momentum, but continued high levels of corruption remain a cause for concern

The NAS 2016-2020 was drafted around the time of the 2016 London Anti-Corruption Summit, a period in which there was sincere – albeit fleeting – momentum around anti-corruption efforts, both nationally and internationally. Romania made a number of commitments at the Summit, some of which are reflected in the 2016-2020 NAS itself (Government of Romania, 2016^[16]).

Perhaps the country's engagement with the 2016 Summit is unsurprising, given that it came shortly after Prime Minister Victor Ponta resigned in the face of massive anti-corruption protests in late 2015. These protests came in the aftermath of a lethal fire at the Colectiv nightclub and represented an outpouring of popular fury at the lax enforcement of safety regulations and the poor state of the public health sector, hollowed out by years of corruption (Crețan and O'Brien, 2019^[17]).

At the same time, Romania's anti-corruption enforcement efforts were being lauded internationally, with the performance of the DNA and its chief prosecutor Laura Codruța Kövesi being especially feted. From 2008 until 2015, the ambitious anti-corruption agenda supported by the European accession and post-accession requirements had resulted in numerous "convictions of high-level public officials, businesspeople and media moguls (Bertelsmann, 2020^[18]). The NAS 2016-2020 clearly sought to build on this momentum, taking advantage of the legislative and institutional stability of the existing anti-corruption framework (Ministry of Justice of Romania, 2018-2020^[19]).

The events of the past five years, namely the lack of political support for the anti-corruption agenda and the constant political turmoil, have illustrated that this assumption was unfortunately misplaced. Furthermore, a World Bank report states that the NAS, designed with the participation of relevant social actors and institutions lacked commitment from politicians from the beginning. Despite public support and political declarations on zero tolerance on corruption, the report highlights that Parliament did not exhibit a strong commitment to reducing corruption nor to the implementation of said Strategy (World Bank, 2017^[20]).

Nonetheless, by the time the NAS 2016-2020 was approved, it is true that Romania had made progress on the institutional and legislative framework for fighting corruption. The Romanian National Anti-Corruption Directorate (DNA), created in 2002, manages medium and high-level corruption cases and is one of the most trusted institutions in Romania. In 2016, 60% of Romanians said they have confidence or

great confidence in the DNA compared to less than 11 percent for Parliament. Equally, in 2016, 403 cases of corruption were sent to trial, including 161 high profile cases and more than 1 000 individuals.

A similar situation occurred with the National Integrity Agency (ANI). Administrative verifications of declarations of assets and interests put in place by the ANI have led to confiscations of unjustified wealth and dismissals of public officials, including at high-level, for conflicts of interests and incompatibilities. These sanctions, together with the transparency component of the assets and interest disclosures contributed to reducing the incentive for corruption. In 2016, ANI published almost 7 million asset declarations (World Bank, 2017^[20]).

However, interviews conducted for this evaluation evidenced that the challenges identified in 2017 are still outstanding despite the success in prosecuting anti-corruption cases. Furthermore, they evidenced that more work is still needed especially on the prevention side, where progress has been piecemeal and identified with individuals rather than institutions.

Four years later, the situation regarding citizen's trust in their institutions and overall perception of corruption remains similar.

- A recent study by the Bertelsmann Foundation describes corruption as “the most important theme in [national] politics” (Bertelsmann, 2020^[18]).
- Romania scores 44 out of 100 in the Corruption Perceptions Index 2020, ranking 69th in the world and last in the European Union, tied with Bulgaria and Hungary (Transparency International, 2020^[21]).
- A nationally representative survey of 1 050 adults conducted in 2019 by INSCOP Research found that the most common popular concern was the level of corruption in the country, with 84.2% of citizens reporting that they were fairly or very concerned by corruption (INSCOP, 2019^[22]).
- A poll of businesspeople published by the European Commission in the same year revealed that a staggering 97% of those questioned believed that corruption is “widespread” in the country. Similarly, 83% of Romanian citizens surveyed for the European Commission felt corruption to be widespread (European Commission, 2019^[23]).
- Transparency International's Global Corruption Barometer, conducted in 2020, found that 4 in 5 people think that corruption is a big problem – this is nearly 20 percentage points higher than the EU average. Furthermore, 44% of Romanians think that corruption has increased in the 12 months since their interview, the fourth highest number in the EU and 12 percentage points above the EU average (Transparency International, 2021^[24]).
- Another survey of Romanian public officials produced by the Ministry of Justice in 2020 found that 64% of respondents considered corruption to be “quite” or “very” widespread, although interestingly only 33% felt this applied to the central public administration (Ministry of Justice of Romania, 2020^[25]).

The widespread perception of high levels of corruption is perhaps unsurprising given the high salience narratives around corruption have had in national political discourse in recent years. The tempestuous political climate, characterised by corruption scandals, anti-corruption protests and frequent media reporting, has presumably left an impression on respondents to the surveys mentioned above.

While not downplaying the severity of the issue, questions related to direct experience of corruption on the part of citizens and business point to more sober figures. While 97% of the 300 Romanian businesspeople questioned for the European Commission survey thought that corruption is widespread, only 4% reported encountering requests for gifts, favours or bribes in exchange for permits and services (Bąkowski and Voronova, 2017^[26]). Likewise, only 9% of citizens surveyed in 2019 for the European Commission study stated that they had experienced or witnessed corruption in the previous 12 months (European Commission, 2019^[23]).

Despite this apparent discrepancy between perceptions and first-hand experience, the most recent data available from the 2021 edition of the Global Corruption Barometer indicates that Romanians do experience the highest bribery rates in the European Union. The Global Corruption Barometer found that 1 in 5 Romanians who came into contact with key public services such as healthcare or official document offices paid a bribe to access the service they needed (Transparency International, 2021^[24]). This is almost 3 times higher than the EU average. Public clinics and health centres are particularly problematic, with 22% of patients having to pay a bribe.

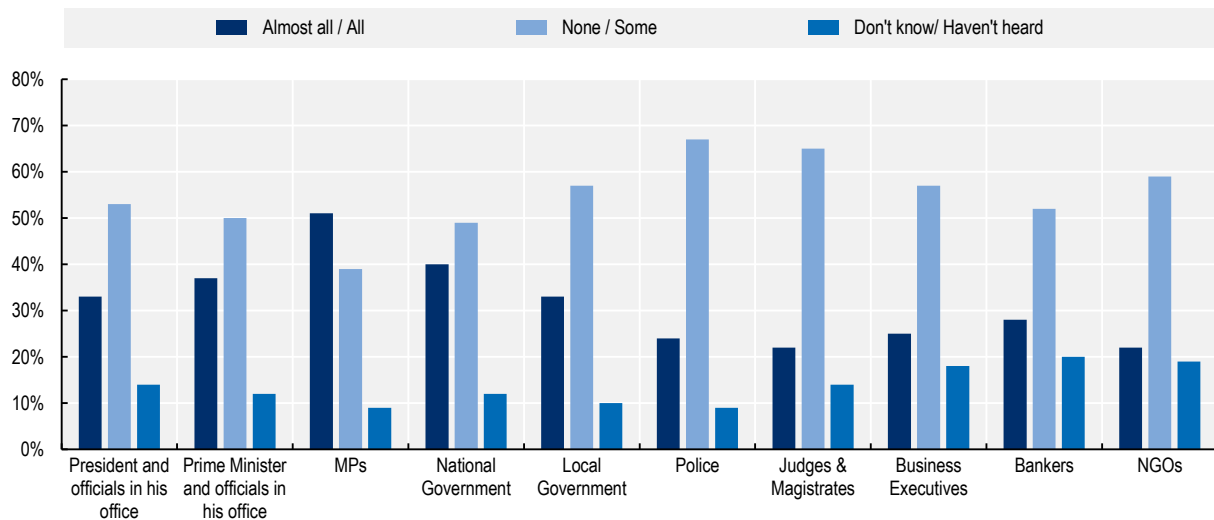
Similarly, any anti-corruption strategy should account for the wider governance context and broader challenges within national public administration. A *Public Governance Review* conducted by the OECD in 2016 pointed to three core cross-governmental issues with a clear bearing on the NAS 2016-2020 (OECD, 2016^[27]):

- First, the “gradual evolution towards evidence-based policy-making.” In other words, the fact that problem diagnoses and the use of data to inform public policy were – and generally still are – underdeveloped. The NAS 2016-2020 did not include evidence-based policies, but based mainly on international anti-corruption commitments, as well as issues not implemented in the previous NAS.
- Second, the lack of a consistent and “logical approach to reform sequencing”, which undermines the ability of Romanian institutions to match intentions to outcomes. This is clearly evidenced by a missing “theory of change”, as explained in detail in Chapter 3 (Towards a coherent theory of change Section) as well as the lack of a clearly defined and sequenced action plan to implement the NAS 2016-2020.
- Finally, a need for more “proactive engagement of Parliament to stimulate (political) ownership of the reform agenda and foster accountability” (OECD, 2016^[27]). The ownership of the anti-corruption agenda by political leadership in Romania is seriously lacking, evidence of this is the fact that Parliament did not discuss or consider key reforms for the fulfilment of the NAS 2016-2020 commitments.

A recent study by the Ministry of Justice pointed to a fourth and even more serious problem, namely undue political interference in the operation of the public administration, which many public officials surveyed by the MoJ point to as a key driver of corruption. Interestingly, interviews with people convicted for corruption in Romania conducted by the MoJ corroborate this view, as many of the perpetrators explained their decision to engage in corruption as a result of political decisions and pressures (Ministry of Justice of Romania, 2020^[25]).

Likewise, the Bertelsmann Foundation emphasises a growth in political clienteles in the upper echelons of the civil services as those with poor qualifications but good party ties have been appointed to senior posts, which has undermined the integrity of the public administration. This point is underscored by the continued high turnover of top officials according to their political affiliations in the aftermath of changes in government. This led the Bertelsmann Foundation to conclude, that “Romania continues to be characterised by a deeply ingrained tradition of simulated reforms and state capture” (Bertelsmann, 2020^[18]).

In terms of the areas most affected by corruption, the Ministry of Justice study found that 50% of public officials questioned felt there is high level of corruption among political parties and politicians, with 43% expressing the same opinion about the parliament (Figure 2.1). Transparency International’s Global Corruption Barometer survey, conducted among 4 000 Romanian citizens, shows that Members of Parliament are seen as involved in corruption by more than half of Romanians (51%) followed by national government officials with 40% (Transparency International, 2021^[24])

Figure 2.1. Perceptions of corruption in Romania (by institution)

Source: (Transparency International, 2021^[24])

The processes most affected were felt by public officials to be fraud in selection and hiring processes, nepotism and petty bribery in service delivery. The 2020 MoJ study concluded that among public officials (Ministry of Justice of Romania, 2020^[25]):

“there is a high tolerance to corruption... Bribing and influence peddling are crimes subsumed to social practices such as giving, reciprocity, support and information exchange within families, social networks, and communities.”

Of particular concern is the fact that only 14% of the 1 365 officials questioned replied that employees in public administration were sanctioned “often” or “very often” for committing acts of corruption; a full 59% responded, “do not know” (Ministry of Justice of Romania, 2020^[25]).

Challenges in governance and implementation risk the NAS and its platforms becoming a “toothless tiger”

The NAS 2016-2020 was drafted under an interim technocratic government and continued under the 2017 democratically elected government. In its summary of the NAS 2016-2020, the European Commission has spoken, of a “lack of uniform political will / attitudes at the top” as well as a “lack of legislative stability and continuous support of Parliament” as challenges encountered during implementation (European Commission, 2016^[11]). Starting in January 2017, massive street protests emerged in response to the new administration’s attempts to reverse or stall the anti-corruption agenda and to rein in judicial independence. The following period up to 2020 has been marked by political turmoil, with four prime ministers and multiple cabinet ministers being replaced during the same legislative period.

The political contestation of the anti-corruption agenda from 2016 onwards was not altogether new. The OECD evaluation of the previous NAS 2012-2015, for instance, pointed to a “notorious attempt in 2013 to shield political office holders from liability” by exempting members of parliament from prosecution (OECD, 2015^[28]). Furthermore, in 2017, a series of proposals were introduced that initiated an effort to unpick many of the anti-corruption gains that Romania had made in the previous decade. While it is not the intention here to provide a comprehensive history of the political developments of the period 2016-2020, it is necessary to highlight a number of issues that undermined anti-corruption efforts and the rule of law more broadly.

Reforms relating to the Criminal Code and Criminal Procedure Code

In 2017, the government attempted to make changes to the Criminal Code by adopting Ordinance 13 of 2017. This ordinance intended to address poor conditions in detention facilities and to incorporate into law outstanding Constitutional Court decisions and the EU Directive 2016/343/UE (on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings). However, Ordinance 13 included several provisions regarding amnesties for corruption offences, lowering prison sentences and decriminalising abuse of public offices in certain cases (Reuters, 2019^[29]).

At the same time, a draft law was adopted and sent to Parliament regarding a general pardon for individuals convicted of serious crimes. These governmental actions spurred public fury and led to immediate street protests. Finally, the government adopted Ordinance 14 of 2017, which abolished the problematic amendments to the Criminal Code. The Constitutional Court also rejected as inadmissible the constitutional challenge filed by the Ombudsman and confirmed that the amendments to the Criminal and Criminal Procedure Code remain abolished. However, these ideas were not completely abandoned and were resurrected in the Parliament. The initiators argued that the criminal and criminal procedure legislation needed to be amended to incorporate the findings of the Constitutional Court and to ensure the full transposition of the European Directive 2016/343/EU that addressed the presumption of innocence (Romanian Parliament, 2017^[30]). More than 300 amendments were adopted by the Parliament (Venice Commission, 2018^[31]).

Among these amendments were:

- Prohibition of preventive arrest for money laundering and other related offences;
- Limitation of the timeframe in which complaints can be made;
- Limitations and lowering of sentences for abuse of power;
- Increases in the onus of proof for the use of various investigative measures and techniques.

In 2018-2019, further developments evince the discontent by several stakeholders with this reform. First, the Constitutional Court ruled unconstitutional the majority of the amendments in 2018. Second, the Venice Commission issued an opinion regarding the amendments and conveyed some recommendations, including that “*authorities conduct an overall re-assessment of the amendments to the criminal and criminal procedure codes, through a comprehensive and effective consultation process*” (Venice Commission, 2018^[31]). In May 2019, such consultation was conducted with a national referendum that asked voters to decide whether they agreed with the prohibition of amnesty and pardon for corruption offences. 85% of voters were in favour of the prohibition and though the referendum. Finally, in July 2019, the Constitutional Court declared the amendments to the criminal code and the criminal procedure code unconstitutional in their entirety.

Reform of laws pertaining to the Judiciary

In addition to the proposed changes to the Criminal and Criminal Procedure Codes, in 2018 and 2019 amendments were introduced to laws pertaining to the judiciary that could potentially reduce the independence of judges and prosecutors (Bertelsmann, 2020^[18]). Most notable was the establishment of a special prosecution body, the Department for Investigating Judicial Offences (the SIJ), to investigate alleged offences and malpractice by magistrates. The amendments also introduced new restrictions on freedom of expression for magistrates and provisions for enforced early retirement for judges (European Commission, 2021^[32]). Perhaps most alarmingly for the fight against corruption, these changes together with Decision 358/2018 of the Constitutional Court opened up the appointment and dismissal of senior prosecutors to interference by the executive (GRECO, 2019^[33]).

Furthermore, there was an attempt – later overturned by the Constitutional Court – to “extend the material responsibility of the magistrates for their decisions”. This raft of measures created huge political pressures on magistrates and were widely condemned by the Venice Commission, GRECO, the European Commission and some voices within the judiciary itself. Despite the European Commission’s 2018 and 2019 Co-operation and Verification Mechanism reports expressing grave concern that “the SIIJ has been used to create pressure on judges and prosecutors and change the course of some high-level corruption cases”, Romanian legislators pressed ahead (European Commission, 2021^[32]). Tensions reached a maximum high with the ousting of the DNA’s chief prosecutor in July 2018.

Further concerns have arisen in the last few years and whilst the NAS 2016-2020 was implemented. The European Commission has expressed concern over the independence and resources allocated to the DNA, including restrictions on temporary staff secondments to DNA, as well as an increase of seniority requirements for prosecutors working in the DNA, which left the Directorate under-resourced. Moreover, the parliament has refused to lift immunity in cases where parliamentarians were suspected of corruption, as well as neglecting to provide reasoning for their decision, which thwarted several DNA investigations. The Commission’s 2018 and 2019 Co-operation and Verification Mechanism reports found evidence of “disregard of judicial independence in the parliamentary process”. Although many of these issues remain unresolved, the Government has taken steps to address the situation. In particular, by enacting an updated Ministerial Code of Conduct to explicitly refer to the need to respect the independence of the judiciary (European Commission, 2021^[32]). Even though being an issue highly related to the objectives of the NAS, the role of the NAS and the platforms in the enacting (including by providing proposals or being consulted) of the Ministerial Code of Conduct remains unknown.

Finally, in 2020, the Constitutional Court ruled unconstitutional the competence of SIIJ to appeal or refuse to appeal decisions in cases that were sent to court by other prosecution offices for criminal behaviour. While the 2021 CVM report observes that the SIIJ has become “less active in interfering in ongoing high-level corruption cases” it continues to disrupt casework, not least due to its low efficiency. Its backlog of 7 000 cases (of which only around 500 were closed in 2020) delays justice and increases the risk of “impunity in high-level corruption cases” (European Commission, 2021^[32]).

Role of the NAS 2016-2020 in the reforms distressing the fight against corruption

Even though these changes deeply affected the fight against corruption in Romania and could potentially erode the implementation and success of the NAS, in interviews conducted for this evaluation it became clear that none of the actors involved in the monitoring process of the NAS (platforms or experts) were consulted or involved in the legal reforms regarding the judiciary. This is indicative of a NAS monitoring process that was perhaps disengaged from outstanding issues affecting institutions and policies in the country. It is also clear that these platforms were not involved in the consultation process proposed by the Venice Commission, and that the NAS did not include actions to address these issues, as evidenced in the NAS Monitoring Reports produced by the Ministry of Justice. As it was pointed by various members of the platform during the interviews conducted for this evaluation, this may be indicative of a strategy that lacks flexibility to address emerging issues.

Despite turmoil and political hurdles, recent progress at the technical level is encouraging

Despite the political turmoil, it appears that, at least at the technical level, there was some progress towards the objectives of the NAS 2016-2020 during the implementation period. In 2018, the OECD noted that in spite of the lack of political support, there had been some “significant activity of line ministries, state agencies and local administrations and municipalities in anti-corruption policy”, with 535 municipalities in Romania having adopted anti-corruption plans by that point (OECD, 2018^[34]). More encouragingly, new

heads of prosecution services were appointed in 2020 – although not for the SIIJ - and the current government has presented a proposal to ensure adequate checks and balances in the appointment and dismissal of prosecutors (European Commission, 2021^[32]).

This chimes with the input received during the virtual fact-finding sessions conducted for this evaluation, during which several participants noted that the NAS 2016-2020 had served as a kind of anchor, a key reference point for anti-corruption work that provided some continuity and allowed work to proceed in less controversial areas that did not rely on high-level political support. Similarly, since the nadir of the period 2017 to 2019, there have been some more positive signs in terms of adherence to the rule of law by the administrations that have come in power after 2019, including a recently adopted political commitment to address all outstanding governance issues raised by the European Commission. As mentioned by several stakeholders during the virtual visit, the role of the technical level has been key to nudge these changes. This includes a pledge to abolish the SIIJ and revise the problematic provisions in the justice laws that were introduced in 2018 and 2019, such as the early retirement scheme for magistrates, appointment and dismissal procedures for senior prosecutors and restrictions on magistrates' freedom of expression.

The new government's attempts to reverse course and comply with recommendations from GRECO and the European Commission have run into resistance from both the Supreme Council of Magistracy (SCM) and the Chamber of Deputies. While the SCM issued a negative opinion on the government's new legislative proposal, the Chamber of Deputies inserted problematic amendments, which the Venice Commission has recommended removing (Venice Commission, 2021^[35]). Similarly, the fight against corruption has yet to be re-launched, particularly following a frenzy of acquittals since 2019 and which have continued also throughout 2020, doubled by a much more reduced rhythm of investigations, even if public resources remained the same or increased. The general opinion and leadership expect more visible results, especially in the context of a multitude of accusations regarding public funds having been misused in relation to infrastructure projects (in the last few years) or the COVID pandemic measures (Enache Pirtea & Associates, 2020^[12]).

Overcoming the causality link between the efficiency of the local authorities and the level of corruption

Even if the national context and political turmoil are the key drivers to understanding the success and challenges of the NAS, the local context helps provides meaning and clarity of its intended consequences and challenges. Particularly, because it gives a deeper understanding of the intent and direction of many of its objectives. Several reports have concluded that in Romania, as in other states, there is a causality link between the efficiency of the local authorities and the level of corruption (Bostan et al., 2018^[36]). In interviews conducted for this evaluation, the challenges and predicaments of local administrations in the face of the NAS became evident. Particularly, when it relates to the ownership of these policies as well as their accountability in the implementation (Chapter 4).

At any rate, it is important to consider several issues of the context and challenges of local administrations in implementing integrity policies. Romania, as many others countries, is characterised by an excessive fragmentation of the territorial-administrative structure. In other words, there is a series of county councils established for very small populations (under 300 000 inhabitants), the activity of which implies relatively high operational costs. Political corruption and small corruption (small bribes in the public institutions) remain a significant problem in Romania, even if positive results were achieved with respect to cases of highlevel corruption (Bostan et al., 2018^[36]).

The literature identifies different causes that favour the corruption phenomenon: the state's institutional capacity to impose its rules; the state's degree of involvement in society; cultural and traditional aspects and type of political regime or system. A recent study found that all four causes listed above explain Romania's situation and can constitute a starting point for addressing the problems of public institutions

efficiency (Navot and Beerli, 2017^[37]). In this sense, many challenges remain for the people of Romania, far too many of which are exacerbated by corruption. To give a sense of how prevalent corruption is in Romania, certain studies have looked at the impact on women trying to access health care. A recent report states that if you are a mother-to-be in Romania, you will likely pay a bribe for maternity care. Sometimes, it is more cost effective to choose private health care, only because, as the bribes accrue in the public health care system, the costs become comparable.¹

Moreover, the study showed that the efficiency of the local public institutions is also influenced by the “local barons”. Not only that they can influence decision making a local level, but by bringing votes to the central powers, they can have a very big influence on the decisions at the central level, as well (Bostan et al., 2018^[36]).

Unfortunately, the NAS 2016-2020 remains shy of identifying these problematic issues at the local level or of addressing them in the strategies objectives. These deeply ingrained and deep-roted governance issues are clearly not easy to tackle, but also not impossible to overcome if addressed properly in instruments such as the National Anti-corruption Strategy.

Note

¹ “Romania: Where corruption begins before birth. Recent gains are only the beginning”, Euronews, <https://www.euronews.com/2019/06/03/in-romania-corruption-begins-before-birth-recent-victories-show-change-is-coming-view>.

3

The NAS 2016-2020 against international good practice

The third section assesses the process of developing and implementing the Romanian 2016-2020 National Anti-Corruption Strategy against key international benchmarks. Furthermore, it creates key aspirations for the process of developing an anti-corruption and integrity policy in furtherance of the mighty preventive effects of having such policy in place. The chapter delves into the minutia of well-know international benchmarks, definitions and standards and applies them to a large range of situations to produce new insights and recommendations for Romania's future strategies.

The following section assesses the process of developing and implementing the Romanian 2016-2020 National Anti-Corruption Strategy against key international benchmarks, including in particular:

- OECD's Public Integrity Handbook (OECD, 2020^[38]) and the assessment according to the OECD Public Integrity Indicator on Principle 3 of the OECD Recommendation on Public Integrity (OECD, 2017^[2])
- UNODC's National Anti-Corruption Strategies: A Practical Guide for Development and Implementation (UN, 2015^[39])
- UNDP's Anti-Corruption Strategies: understanding what works, what does not and why (UNDP, 2017^[40]).
- The G20 High-Level Principles for the Development and Implementation of National Anti-Corruption Strategies (G20, 2020^[41]).

Together, these materials cover the major considerations for anti-corruption strategies, from securing high-level political support, to an inclusive drafting process, an evidence and risk-based approach to prioritising objectives, ensuring adequate budget allocations and a robust monitoring strategy.

An enhanced drafting process that incorporates a theory of change and reflects the overarching desired results

The process of drafting a national anti-corruption strategy is widely seen to be equally important as the resulting strategy itself. An inclusive and rigorous strategy development process can help select relevant strategic objectives that are meaningful to citizens and businesses; prioritise and sequence actions in an open manner to address the most crucial integrity risks; and provide the necessary evidence for the interventions that are most cost-effective and likely to have the greatest impact (OECD, 2020^[38]).

Overall responsibility and political support

When drafting a strategy that involves several bodies, one option is to assign to a small committee the primary responsibility for drafting the strategy document and granting it a reasonable degree of autonomy in developing the draft; the committee would be composed of representatives from the relevant public bodies (OECD, 2020^[38]) (UN, 2015^[39]). This is, because the drafting body should have sufficient stature and legitimacy to act as an effective "champion" for the drafting body, and ultimately for the strategy itself. In Romania, responsibility for central co-ordination was clearly allocated to the Technical Secretariat at the Ministry of Justice, which was charged with driving forward the implementation, monitoring, reporting and evaluation of the Strategy.

Furthermore, a strategic approach requires high-level commitment during the strategy design process, as well as ensuring that the approach avoids overly rigid compliance objectives and places emphasis on promoting cultural change within organisations (OECD, 2020^[38]). It is also key to ensure the continued support and involvement of senior political leaders as well as diagnostic analysis, appropriate governance, and political support (UN, 2015^[39]; G20, 2021^[8]). This is, because a successful anti-corruption strategy and action plan must not only lay out a comprehensive set of substantive reforms but also indicate the means for ensuring co-ordinated implementation.

As discussed in Chapter 0, there seems to have been sincere political momentum behind the Strategy while it was being developed. Romania had been seeing encouraging and internationally lauded results when it came to prosecuting high-level corruption and the ousting of a Prime Minister in the face of corruption protests. While the London Summit brought an additional external impetus to the agenda, Romania was also keen to leverage the NAS as a means of acceding to full membership of the OECD,

with a key stepping stone being signing up to the OECD Convention on Combating Bribing of Foreign Public Officials in International Business Transactions.

The NAS was also seen as an opportunity to provide an overarching strategic roadmap that would pull together into a coherent whole the various international anti-corruption obligations the country had made in various fora, including the EU's CVM and Anti-Corruption Report, UNCAC, GRECO, the Regional Anti-Corruption Initiative, and the South East European Co-operation Process.

All this resulted in corruption being recognised by the government at the time as being a serious threat to national prosperity and security, as was acknowledged in the 2015-2019 National Defence Policy. The NAS 2016-2020 itself states that it would assume “an important role within the architecture of national public policies” (Ministry of Justice of Romania, 2018-2020^[19])

Yet while the NAS was clearly seen as a priority, it nonetheless had to compete for attention with a range of other strategies, including the Strategy for the Reform of the Public Function, the Strategy for the Strengthening of the Public Administration, Strategy for the Development of Justice as Public Service, amongst others. Whereas the NAS mentioned in passing that “correlated” with these other strategies, the exact prioritisation, sequencing and synergies remained unclear. As noted by the OECD in a Public Governance Review at the time, “the Romanian public sector currently deals with a multitude of strategies, which are not clearly connected through a hierarchical system”. In total, the Romanian government counted 365 separate strategies, and the OECD pointed out that the majority of these had severe weaknesses, including the “failure to make any connection with the budget process” (OECD, 2016^[27]).

Thus, while high-level political support does appear to have been in evidence during the process of drafting the strategy, the exact architecture for meaningful implementation was somewhat unclear. Moreover, according to information gathered during some of the key informant interviews, the caretaker technocratic government at the helm while the NAS was being drafted failed to secure much buy-in from the politicians who would inherit responsibility for implementing it after the December 2016 elections. This was to prove an enduring weakness once the Strategy got underway and the change of government led to a rapid dissipation of political support for the anti-corruption agenda.

Moreover, as evidenced in the interviews conducted for this study, the Technical Secretariat at the MoJ did not have sufficient resources or adequate power to compel other departments and agencies to follow its direction nor was there a senior figure in government accountable for its success (e.g. the Minister of Justice). In some countries, a commission chaired by senior officials and comprising representatives from key sectoral ministries is key to co-ordinate implementation. This was not the case of the NAS 2016-2020, where co-ordination was mainly provided by the MoJ, without sufficient authority or leverage to implement key reforms.

Therefore, Romania could enhance the co-ordination process for the next strategy by establishing a co-ordinating entity with a clear mandate, in the form of a regulation or decree setting out its responsibilities and powers. This mandate could make explicit support the support of senior officials to this mandate and all other government departments and sectoral agencies co-operation.

Broad consultation

International good practice emphasises that a strategy development process should ensure the appropriate inclusion and participation of actors responsible for carrying out any part of the strategy (OECD, 2020^[38]; G20, 2021^[8]) (UN, 2015^[39]). This offers transparency to the process as it allows a multi-stakeholder approach to the strategy. In particular, consultations should extend not only to the political leadership of the various implementing agencies but also to the technical staff or career civil servants who will play a key role in implementing the strategy's recommendations. High levels of transparency and public participation benefit from input of stakeholders. A good example is that of Latvia (Box 3.1), which established by Law a minimum 2-week public consultation period and no less than 30 days in length.

Box 3.1. The public consultation procedure in Latvia (Regulation No. 970 of 2009)

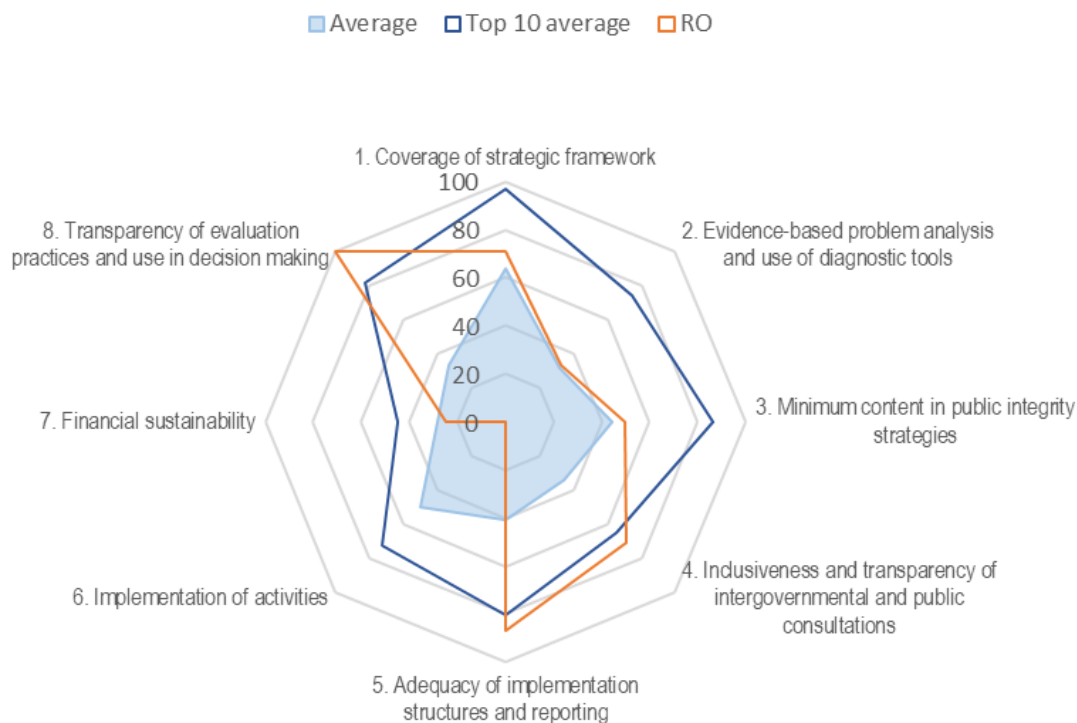
Regulation 970 of 2009 foresees notifications regarding the participation process on the website of the Corruption Prevention and Combating Bureau (KNAB) no later than 14 days before submitting the planning document to the decision-making body (this means before start of inter-governmental consultation or before announcement at the State Secretaries meeting).

The public consultation procedure starts with the submission of a draft strategy to the State Secretary's meetings, where it is announced and made public. Then, the inter-governmental consultation takes place (it is called "Harmonisation of Announced Drafts"). According to point 88 of the Rules of Procedure, there are two weeks for comments to be submitted. If there are objections, further meetings are organised, and inter-governmental consultation continues until there are no objections or until the strategy goes to the Cabinet of Ministers with some objections left.

Source: [Sabiedrības līdzdalības kārtība attīstības plānošanas procesā \(likumi.lv\)](#)

In fact, for the NAS 2016-2020, Romania got a total score of 71% in the OECD Public Integrity Indicator (PII) 1.3.4 "inclusiveness and transparency of intergovernmental and public consultations", a score above OECD average and the top 10 average performers (Figure 3.1). Indeed, the process of drafting the NAS rested on an extended public consultation process that heard from around 90 organisations representing central and local public administrations, private companies, business associations and civil society (European Commission, 2016^[11]). There was also a dedicated public consultation portal established (<https://www.just.ro/despre-noi/programe-si-strategii/strategii-nationale/>). However, this consultation portal does not contain summaries with responses to all comments submitted during the consultation process. Furthermore, while the PII benchmark requires consultation through public debates to be mandatory, in Romania this consultation was only carried out upon request, as stated in Law 52 of 2003.

Figure 3.1. OECD Integrity Indicator of Romania – Comparative with Top 10 average amongst OECD countries



Source: OECD (2021), Public Integrity Indicators: Quality of Strategic Framework

In general, the degree of inclusivity has been widely praised, especially as it appears to be the exception rather than the rule in Romania, where the Bertelsmann Foundation observes that the “administration has never welcomed a broad policy dialogue with NGOs, despite many legal provisions mandating such consultations” (Bertelsmann, 2020^[18]). However, a key weakness of the design phase appears to have been the limited engagement of members of parliament. While individual legislators reportedly provided input, there is little evidence that parliamentary bodies were deeply and systematically involved in the development of the NAS 2016-2020, which appears to have been largely the work of the executive branch. This was to prove an Achilles’ heel; as the lack of involvement by legislators may have exacerbated a lack of ownership and buy-in on the part of members of parliament, who had not themselves signed up to these commitments. Moreover, it also meant that key elements of the strategy relied on untested assumptions about feasible and realistic goals for legislative reform. Equally significant is the lack of consultation with the members of the judicial branch, especially considering their role in the fight against corruption as well as the context mentioned in Chapter 0.

As it became evident during the virtual fact-finding mission for this evaluation, and a review of literature, the quality of consultation dropped off sharply once implementation got underway. Partly, this was explained with reference to increased political pressure from a new government from 2017 onwards, which put the Ministry of Justice on the back foot.

Towards a coherent theory of change

Strategies should articulate a clear vision, explaining why action against corruption is needed and how planned activities will contribute to the achievement of that vision. A coherent and overarching theory of change is increasingly recognised as pivotal to anti-corruption interventions (OECD, 2020^[38]; G20, 2021^[8]). A good theory of change also requires a clear vision and goals, a strong problem identification, the interventions and the outcomes that are needed to effect change and the underlying assumptions that are necessary for these outcomes to materialise (UNDG, 2017^[42]). This is because the goal and objectives reflect the change the strategy wants to induce. The Romanian NAS 2016-2020 contains many of the necessary elements for a robust theory of change but falls short of connecting all the parts coherently.

Strength of problem analysis

International standards emphasise that a key to the success of any anti-corruption strategy is a robust diagnostic stage, which can involve political economy analysis, stakeholder mapping, corruption risk assessments and other evidence gathering. Establishing a solid understanding of corruption's drivers and enabling factors, as well as core vulnerabilities, is indispensable (OECD, 2020^[38]; G20, 2021^[8]) (UN, 2015^[39]). The OECD Public Integrity Indicator 1.3.2 reflects this international good practice and asks countries to develop an evidence-based problem analysis and use diagnostic tools to build upon such diagnosis.

The NAS 2016-2020 acknowledged the need to “re-think the strategic priorities of the NAS” and pay greater attention to “the deep causes and not only on the easily identifiable effects.” In fact, the NAS refers to various data points, including reports by the European Commission, GRECO, OECD, Freedom House and others, as well as a range of indices including the following (European Commission, 2016^[11]):

- Corruption Perceptions Index
- Global Corruption Barometer
- Index of Economic Freedom
- Eurobarometer
- Index of Public Integrity
- Index of Corruption Risk

In addition, the experience of assessment visits to 17 central institutions and 66 local public administrations during the period 2012-2015 was considered, as was administrative data from the DNA and ANI. Finally, the MoJ commissioned a study on corruption by the Law Faculties of Amsterdam and Bucharest universities, which questioned convicted perpetrators to identify the causes of corrupt behaviour. The MoJ's assessment of this study led them to conclude that previous strategies had placed excessive emphasis on legal instruments rather than “personal moral norms” and ethical values. The OECD evaluation of the NAS 2012-2015 likewise concluded that the previous strategy had focused too heavily on enforcement, to the detriment of preventive measures, an assessment that was ultimately echoed in the NAS 2016-2020 (European Commission, 2016^[11]) (OECD, 2016^[43]).

More specifically, there was a brief stocktake of shortcomings of the previous strategy, which included internal control and audit structures, political corruption, and low awareness of legal integrity standards and preventive strategies, especially at local level.

However, despite this, the diagnostic phase at the outset appears to have been rather light. In fact, Romania has achieved only 33.3% of the Public Integrity Indicator. The core findings and lessons learned from the range of sources cited in the NAS 2016-2020 are not distilled and presented. The significance of the international indices, household and business surveys are not dissected or meaningfully analysed in terms of identifying systemic weaknesses. Furthermore, although the NAS stresses that institutional

integrity plans should be “based on risk analysis,” it does not provide an assessment of public integrity risks, nor does it identify specific types of relevant integrity breaches, the actors likely to be involved, or the expected likelihood or impact should the risks materialise. Similarly, no inter-institutional body has prepared and published an analytical report on public integrity risks that formulates recommendations and sets priorities for the whole public integrity system, as requested by the OECD Public Integrity Indicator. Key decisions to prioritise certain sectors, such as education, are also not explained in much detail in the NAS itself. Having said that, the Technical Secretariat informed that sectors were selected through a process of expert consultation and based on recommendations from the evaluation of the previous NAS 2012-2015 (OECD, 2016^[43]).

Formulation of interventions and underlying assumptions

The NAS 2016-2020 follows a coherent architecture of general objectives, with at least one specific objective for each general objective and activities listed under each specific objective. The general objectives, specific objectives and activities are well connected with one another in a logical framework. However little rationale is provided for the choice of objectives and activities, or how they were devised based on the available evidence. Moreover, there is no attempt to explain how the general objectives would contribute to the accomplishment of the six envisioned results, let alone to account for attribution gaps and policy lag. Furthermore, according to Romania authorities, the six results have not been follow-up on nor is there any evidence that indicates the objectives contributed to them.

Therefore, it appears from the key informant interviews that there were two decisive factors shaping the priorities and activities set out in the NAS. First, existing and outstanding international commitments, such as those from GRECO evaluations or the OGP, were identified and included. Second, the existing work plans and activities of key integrity agencies, such as the DNA and ANI, which appear to have been largely incorporated as they were. This resulted in the NAS becoming an agglomeration of existing commitments and work plans submitted by different bodies. Indeed, the link between the background empirical evidence presented in the introduction on one hand and the final strategy commitments of the NAS 2016-2020 on the other hand is not clearly articulated.

Having said that, the 2021 OECD survey of co-operation platforms shows that more than 4 in 5 respondents agree that the NAS expected results and objectives were relevant and reflected national priorities. Furthermore, interviews with key informants corroborate the survey findings and suggest that most parties feel that the sectors, themes and activities included in the NAS 2016-2020 were well chosen, although some of the key integrity institutions seem to have successfully pushed for the inclusion of their existing organisational priorities. Furthermore, the question of organised crime and its links to corruption seem not to have been adequately considered when formulating the Strategy’s problem identification and objectives. A more rounded and considered diagnostic phase might have pointed to the role of organised criminal groups as a key challenge and influenced the development of objectives.

When it comes to the number of objectives – and by extension the breadth of the Strategy - it appears that the authors of the NAS 2016-2020 took a different view to those presented in the OECD evaluation of the previous NAS 2012-2015. More than half (53%) of those surveyed during the previous evaluation thought the 2012-2015 Strategy had too many objectives, which led the 2016 OECD evaluation to recommend, “Selecting a few priorities for the next anti-corruption strategy in order to channel scarce resources into areas where the maximum effect is possible” (OECD, 2015^[28]). Nonetheless, the NAS 2016-2020 appears, if anything, to have broadened the number of areas of intervention. Again, a small majority (56%) of respondents from the 2021 OECD survey of co-operation platforms participants were of the opinion that the NAS 2016-2020 had too many objectives.

Similarly, the strategy document sets out a number of “minimum conditions” that would be required for the implementation of the NAS 2016-2020. These included “legislative and institutional stability”, “operational autonomy” of anti-corruption bodies, and “allocation of appropriate resources.” These minimum conditions

can be seen as valid assumptions in the theory of change framework. However there does not seem to be an assessment of their plausibility or mitigation strategies should these materialise. Furthermore, many assumptions on the causal mechanisms expected to lead from interventions to outcomes are not articulated in the document itself.

Overall, it is clear that many of the elements of a good theory of change were present in the NAS 2016-2020. However, more emphasis could have been placed on connecting the different parts, linking together the problem analysis, objectives, assumptions and risks and articulating how change is expected to happen.

Formulation of an action plan: a systematic, inclusive approach

A strategy development process benefits from taking a systematic, inclusive approach to identifying and prioritising objectives and co-ordinating among relevant stakeholders and agencies. This strategy must materialise on an action plan that distils actions and priorities, outlines how the intended outcomes will be met; and defines tasks, targets, responsible individuals, resource allocation, and time frames/dates for completion. Indeed, the action plan must also encourage accountability and fruitful competition among agencies (OECD, 2020^[38]; G20, 2021^[8]). This action plan could also encourage better integration in the government's reform agendas, the general action plan of an organisation, private sector's business models and raise public awareness on anti-corruption efforts.

Fine tuning of measures and activities, prioritisation, sequencing and distribution of responsibilities

The NAS 2016-2020 did go some way to break down broader objectives into specific measures. At least one institution was made responsible for the achievement of each foreseen activity, and general implementation timelines were assigned. The key question is whether these steps present a logical roadmap to achieving the respective objective, or whether they are rather just a list of diverse pledges from relevant bodies. The NAS would have benefitted from a tangible, specific and publicly available action plan in which deadlines and level of implementation for the various actions were registered. However, such action plan does not exist. Therefore, the NAS 2016-2020 scores 0% in the OECD Public Integrity Indicator 1.3.6 on the implementation rate of activities related to strategic objectives for public integrity.

A key missing component seems to be the prioritisation and sequencing of activities. Prioritisation would have been crucial, particularly during the more turbulent times, to focus efforts on the most pressing and promising activities and objectives. At the same time, sequencing of the action would have ensured that activities, which have positive multiplier effects, would have been conducted first.

Developing indicators with baselines, milestones and targets

The NAS 2016-2020 includes a set of indicators for each objective, detailed in its Annex 2. This includes associated risks as well as verification sources. The risks, however, are not evaluated in terms of impact and probability. Furthermore, there is no clear mitigation strategy for the presented risks.

The indicators do not fulfil all the SMART criteria. While they are usually very specific and measurable, it is not clear if they are achievable, since there are no baseline values or targets identified. They appear to be relevant to the specific objectives to which they pertain, but are not time-bound. Furthermore, dedicated outcome-level indicators are not included.

Costing and feasibility analysis

Strategies should dedicate sufficient resources to ensure successful implementation whilst considering the costs, benefits, burdens, opposition and support for each element (OECD, 2020^[38]; G20, 2021^[8]) (UN, 2015^[39]). Therefore, the budget is the key instrument that any sector has for planning the scope and structure of its service delivery.

The lack of financial resources was mentioned most often as the main disadvantage of the 2012-2015 NAS, with 63% of those surveyed for the OECD evaluation of the previous strategy stating that the level of funding was insufficient, and that implementation was overly reliant on foreign sources of funding (OECD, 2016^[43]). In terms of resources, it was estimated that implementation of the 2016-2020 NAS would require ROL 379 million (USD 90 million approx.). Whether this represented an increase in real terms of the budget compared to the previous strategic period, 2012-2015, is yet to be determined as no such estimate was conducted for the previous NAS.

Information provided by the NAS Technical Secretariat indicates that the implementation of the 2016-2020 Strategy by the relevant public institutions continued to rely to a large extent on external sources of funding, most notably the EU's Operational Programme Administrative Capacity 2014-2020 (POCA) (European Commission, 2021^[44]). It does appear that the NAS provided an overarching programmatic framework that was able to direct funding from outside actors towards strategic objectives and areas of limited capacity.

For example, according to the NAS 2016-2020 (Ministry of Justice of Romania, 2018-2020^[19]):

- The Technical Secretariat received POCA funding to improve its capacity to co-ordinate the NAS as a whole.
- The General Secretariat of the Government received POCA resources to improve mechanisms of administrative control and management standards as a means to realise NAS special objective 5.3.
- The Ministry of Economy, Energy and Business Environment was awarded POCA money to conduct a project to strengthen integrity in the business sector, to contribute towards NAS special objective 5.7.

Overall, the Technical Secretariat reported that POCA financed 82 projects related to integrity, ethics, anti-corruption and transparency in the period 2014-2020, amounting to approximately EUR 70.9 million.¹ This equates to about 84% of the anticipated budget need of the NAS 2016-2020.

While the NAS set out budget allocations at the level of specific objectives, each specific objective was comprised of multiple distinct actions – often the responsibility of different agencies – and activity costing does not appear in the NAS document. This is because it appears that every institution was responsible for budgeting for each activity via its own Integrity Plan. Although it seems that the Ministry of Justice itself established its own activity-based budget, the lack of a centralised budget breakdown makes it difficult to ascertain the quality and rigour of budget planning conducted by other institutions. As covered below in the section on resourcing, this made it difficult to track at a central level the disbursement of funds related to NAS implementation. It may be that some institutions failed to adequately plan for, let alone allocate funds to, the activities they were expected to implement under the NAS.

The NAS also makes no link to medium-term expenditure planning nor provides an annual breakdown of expected disbursement. This opens questions about the quality and depth of the budgetary analysis, and the correlation between resources allocated and the extent of the apparent need. For instance, it was noted by all parties that financial control units had been under resourced in the period 2012-2015 to the extent that they were unable to provide meaningful ex-ante controls (Ministry of Justice of Romania, 2018-2020^[19]), yet they were only allocated ROL 8 000 000 over four years in the NAS 2016-2020.

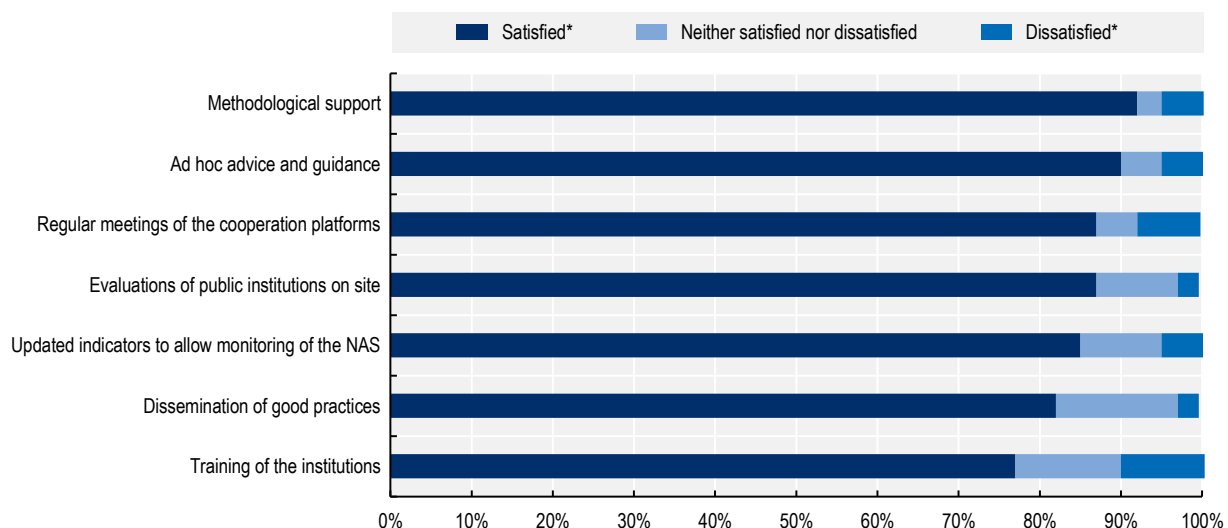
Towards ensuring an effective implementation

Leadership from Technical Secretariat

The Technical Secretariat, embedded in the Department for Crime Prevention within the MoJ, was charged with driving forward the implementation of the NAS 2016-2020. Its responsibilities include producing annual monitoring reports, conducting on-site evaluation missions and integrity training for both central institutions and local public administrations, convening the stakeholder platforms, providing methodological support for corruption risk assessments and integrity plans, and commissioning surveys and background research. The Technical Secretariat is staffed by about 15 full-time employees (European Commission, 2016^[11]).

The 2021 OECD survey of co-operation platforms showed overwhelming approval of the leadership and role of the Technical Secretariat (Figure 3.2). Respondents were particularly satisfied with the provision of methodological support (92% satisfied) and provision of ad-hoc advice and guidance for those involved in implementing the NAS (90%). The lowest level of satisfaction relative to others, although still very high at 77%, was “ensuring the training of the institutions involved in the implementation of the NAS”.

Figure 3.2. Summary of the 2021 OECD survey of co-operation platforms responses on the work of the MOJ



*Percentages shown combine responses completely, mostly and somewhat satisfied/dissatisfied

Source: OECD NAS 2016-2020 Stakeholders Survey, 2021

Governmental stakeholders interviewed for this evaluation praised the leadership of the Technical Secretariat in its co-ordination role. Non-state actors consulted were more reserved in their judgement, and noted that the overall drive and leadership of the Ministry of Justice had fluctuated according to political pressures, being strong in the period up to 2017, after which the profile of anti-corruption efforts declined, before recovering somewhat in the last year or so of the 2016-2020 Strategy. At any rate, most of those interviewed also agreed that the Ministry lacks the political weight to carry some of these reforms by itself and that it would greatly benefit from having more standing within the Government.

Co-operation platforms

The existence of co-operation platforms for distinct groups of stakeholders was seen as another area of success during the NAS2012-2015. This is to be especially welcomed, as it appears to be rather unusual in the Romanian context.

Indeed, the Bertelsmann Foundation (Bertelsmann, 2020^[18]) reports that:

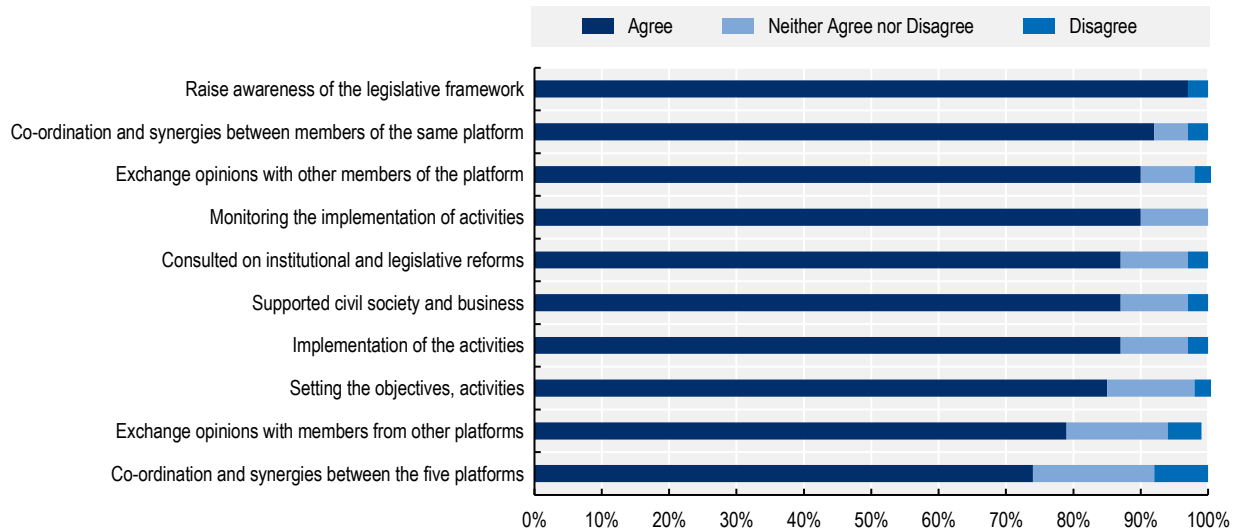
“In general, the Romanian administration has never welcomed a broad policy dialog with NGOs, despite many legal provisions mandating such consultations. Considerations of expediency often prevail over broader consultation with organizations such as trade unions, business associations or churches. At best, politicians co-operate with an elite circle of think tanks and NGOs that are not necessarily representative, and only to the extent that these organizations further their political interests.”

Despite this, there is very little detail in the NAS 2016-2020 document about how the platforms are expected to support implementation of the Strategy in practice, let alone their mandate, responsibilities or co-ordination between platforms. In practice, looking at the acknowledgements section of the annual monitoring reports, it seems that these reports only included contributions submitted by the co-operation platform of independent authorities and anti-corruption institutions and the central public administration co-operation platform.²

This corroborates information gleaned during the fact-finding missions and in follow-up key informant interviews, which suggests that non-state actors that participated in these platforms viewed these platforms to be primarily consultative rather than hands-on in nature. During the period of implementation, there was a sense that the platform meetings became primarily a communication tool for the MoJ, a means to update participants on progress and disseminate information. While participants welcomed the opportunity to engage with the MoJ, several lamented the lack of flexibility when they perceived a change in approach was necessary to adapt the NAS to the changing political scene. Interestingly, while public institutions stated that there was regular communication and collaboration between the distinct stakeholder groups, non-state actors reported little meaningful exchange between the platforms.

Nonetheless, the platforms made a generally positive contribution to the development and implementation of the NAS 2016-2020. This is also apparent by the results of the survey responses taken by 39 participants of the platforms. While all dimensions are evaluated exceedingly well by the participants, there was almost unanimous agreement (97%) that the platforms contributed to raising awareness of the legislative framework in the field of integrity and corruption risks. The lowest rated question (74% agreement) relates to the overall co-ordination and synergies between the five platforms (Figure 3.3).

Figure 3.3. Level of agreement with the following statements concerning the five cooperation platforms of the NAS 2016-2020



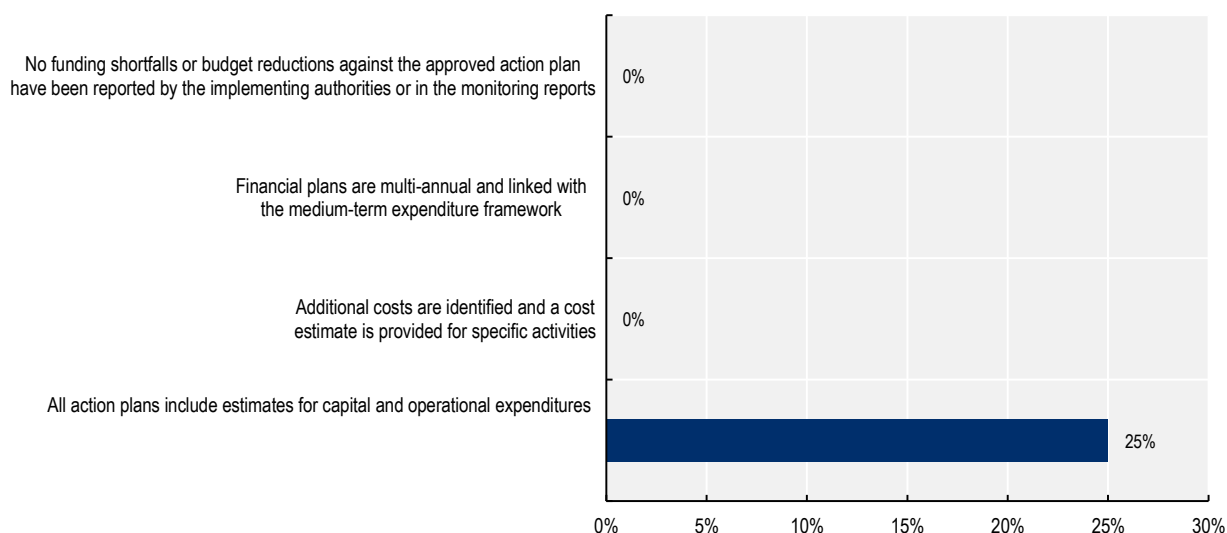
Source: 2021 OECD survey of cooperation platforms

Given all this evidence, the question is not whether to retain the platforms, but how to strengthen their contribution. The platforms could be made more effective by appointing official liaison points for every objective within each platform, and convening multi-platform meetings at least annually. The Platforms could also consider inviting to its session high-level officials and decision makers that can use their political leverage in these forums to advance actions and recommendations by the platforms. In addition, the Secretariat needs to improve communication between the platforms and these high-level officials, in an effort to bring concerned voices to the hierarchy.

Resourcing

The insufficiency of financial resources to fulfil planned activities was noted at various points throughout the implementation period as a key challenge (Ministry of Justice of Romania, 2018-2020^[19]). For instance, the 2018 NAS monitoring report noted that insufficient budget was provided to cover the 90 positions foreseen in the NAS.

In fact, the OECD Public Integrity Indicator 1.3.7 on financial sustainability assigns a score of only 25% to Romania (Figure 3.4) mainly because of the four sub-indicators; Romania has only fully implemented one. Unfortunately, additional costs are not identified and a cost estimate is not provided for specific activities nor are financial plans multi-annual and linked with the medium-term expenditure framework.

Figure 3.4. Indicator 1.3.7-Financial Sustainability for the 2016-2020 NAS

Source: OECD (2021), Public Integrity Indicators: Quality of Strategic Framework

The 2021 OECD survey of cooperation platforms included an open question on the main weaknesses of the NAS, with the most common response relating to a lack of resources, human and financial. Therefore, any strategy against corruption is dependent on the allocation of resources to fulfil the set plan. In Lithuania, the activities of the action plan are included in the General Appropriations Plan and to each of the institutions implementing the Lithuania Anti-Corruption Programme (Box 3.2).

Box 3.2. Resourcing in Lithuania for Integrity Strategies

General Appropriations Plan includes budget allocations for each of the institutions in charge of implementing the anti-corruption strategy. Furthermore, the bodies responsible for the implementation of the Programme are, within their remit, held responsible for the planning of the necessary financial resources and must:

- include estimates for capital and operational expenditures in its action plans;
- identify additional costs and costs estimates for specific activities; and
- elaborate a multi-annual financial plan linked with a medium-term expenditure framework.

Source: [Lithuania.pdf \(unodc.org\)](#)

While each public institution with 50 or more employees was expected to budget LEI 900 000 (USD 200 000 approx.) per year for NAS activities, no information is available on actual spending data under the aegis of the NAS 2016-2020. This is because, according to the Ministry of Justice, the multitude of different institutions responsible for implementing NAS activities did not report their relevant spending to the Technical Secretariat.

As a result, the Technical Secretariat is not aware of whether public institutions with obligations under the NAS 2016-2020 actually allocated the funding required to meet their obligations. This makes it difficult to assess whether the envisaged budget was accurate or sufficient, and, in the view of the evaluators, somewhat negates the utility of budget projections in the first place. A recommendation for the next strategic period is therefore to maintain better centralised records of spending. This should allow for better

tracking of and accountability for implementation by the various institutions responsible for elements of the NAS, as spending data can be a useful proxy of implementation. It would also allow for more evidence-based budgeting that ties individual activities to more specific funding commitments.

In terms of human resources, the picture that emerges from the virtual fact-finding missions is that during the period 2016-2020 many public institutions, especially those at the local level, failed to allocate sufficient staff to key posts, such as integrity and ethics advisors and those tasked with managing asset and income declarations. The Technical Secretariat notes in many of the annual monitoring reports that these responsibilities equate to a full-time job, but that there was a lack of willingness on the part of managers to assign the necessary human resources (Ministry of Justice of Romania, 2018-2020_[19]).³

Improving monitoring and institutional support

Monitoring mechanisms and independent progress validation

Strategies should ideally establish processes or mechanisms to monitor and evaluate implementation and ideally, a concrete action plan. As mentioned above, Romania does not have an action plan, making monitoring an onerous task. In monitoring, a good practice will involve selecting one or more indicators of progress; choose a baseline for each indicator; and establish realistic targets for each implementation indicator element. This allows also a more in-depth evaluation of progress vis-à-vis results. Evidence from monitoring or evaluation can enhance targeting and steering of current and future policies (OECD, 2017_[13]). This would allow for the detection of challenges and problems in a policy's implementation process. For example, output indicators (process) show that proposed activities or measures such as the drafting of laws, training of staff are being carried out efficiently. Intermediate indicators (results) allow for monitoring and evaluation of the effectiveness of the action in the short to medium term, in line with the intended long-term outcome (purpose) of the action. Without indicators, action plans are only declarations of intent (OECD, 2020_[38]; G20, 2021_[8]) (UN, 2015_[39]).

The NAS 2016-2020 sets out a monitoring strategy that was intended to encompass self-assessment reports from public institutions, thematic missions, background surveys and studies, systematic evaluation of integrity incidents and period reports issued by international observers, especially by GRECO and the EU. The objective was for the Technical Secretariat to compile all available information and report progress via annual monitoring reports that identified successes and the rate of implementation as well as challenges that had been encountered.

While the monitoring reports draw conclusions and present recommendations, they do not record progress against pre-defined indicators and targets, due to the absence of an action plan. In fact, participants of the fact-finding missions observed that more could have been done to adapt activities to changing circumstances, such as using the evidence gathered by the monitoring reports to revise, update or reformulate objectives and indicators to achieve results that are more tangible. This indicates that while monitoring reports were published, they had little to no incidence as a tool to guide implementation and allow the NAS to adapt to changing circumstances, challenges or opportunities.

Thematic missions

Romania scores an impressive 86.6 % on the OECD Public Integrity Indicator 1.3.5 “adequacy of implementation structures and reporting”. This may be partly explained by the fact that it has developed a tool that allows monitoring by external stakeholders on a case-by-case basis and on pick out activities of the NAS 2016-2020. Indeed, this is not a systematic approach to monitoring, as only a detailed action plan, would allow this. It does, however, provide valuable insight into the implementation of some key objectives and activities. This use of novel and “out of the box” strategies for reporting and the involvement of civil society in this exercise compensates for the lack of recorded progress against pre-defined indicators and

targets and the absence of a detailed action plan. Key to these very novel tools are the thematic missions, carried over from the previous strategic period, and that allow monitoring within multiple stakeholders.

As a result, the Technical Secretariat has continued to organise evaluations of public institutions to verify how these bodies identify and mitigate corruption risks. These missions took the form of multi-stakeholder visits, with the findings then discussed by the co-operation platforms and usually published on the website of the institution in question, as well as its publication on the NAS portal. The Technical Secretariat also conducted reviews of thematic missions and based on these reviews developed guidance materials, including on topics such as conflict of interest, revolving doors, and access to information requirements (Ministry of Justice of Romania, 2018-2020^[19]). Overall, the follow-up processes established during the implementation period was found to be useful in assisting entities assess and improve their compliance with integrity standards.

These thematic missions continue to be a good practice that could potentially be replicated by other countries when conducting monitoring of integrity strategies. Several stakeholders, including representatives from civil society, who had participated in the mission, were adamant about its value and in particular, the possibility it gave to multiple actors to be involve in the implementation of the policy.

Recommendations: Towards good international practices to build and implement an integrity and anti-corruption strategy

Based on the analysis of the previous section, Romania may take into consideration the following recommendations (Box 3.3):

Box 3.3. Recommendations for improving the process of NAS

- Involving on a permanent basis, a high-level political figure or body in the process of implementing the NAS, who is both accountable for progress and enjoys the authority to push for the implementation of the strategy even in the face of potential political instability.
- Invite decision-makers, at the local and national level, to attend meetings of the co-operation platforms and specially those who are mandated with implementing activities of the Action Plan.
- Make senior officials in each county partakers in the progress of the NAS at the subnational level, to ensure that local governments do not treat anti-corruption efforts and integrity plans as a tick-box, technocratic exercise and create incentives for a significant implementation of commitments.
- Participation during the co-operation platforms' meetings of the representatives of the judicial and legislative branches, who should also be heavily involved in planning the Strategy's objectives and implementation. Proactive engagement of parliament in particular is key to engendering political ownership of the reform agenda and enhance accountability.
- The cooperation platforms have incredible potential and to increase its impact, should move forward to become a genuine forum for meaningful consultation and co-creation.
- Promote exchange between the different stakeholder platforms to ensure that business representatives and civil society players are exchanging with government officials and oversight bodies on a regular basis.
- Consult and involve different stakeholders not only in the consultation phase, but also in the drafting process to ensure ownership of the actions proposed by different stakeholders.
- Work with the most relevant implementing institutions to produce a comprehensive action plan for the NAS. Building on a more robust diagnostic phase and an explicit theory of change with a clear results chain from activities to overall objectives, the action plan should include:

- Roles, responsibilities and deadlines for all implementing institutions, and embed Integrity Plans within those institutions.
- Clear prioritisation and sequencing to ensure those foundational activities or those that need longer implementation time can begin early.
- Detailed budget lines for all activities as well as centralised records of all NAS-aligned spending to be used for tracking, monitoring and evaluation.
- Work with the Ministry of Finance to ask for necessary allocation related to the NAS in the next financial cycle.
- Indicators with baselines and targets for activities and outcomes, prioritisation as well as sequencing of activities.
- Assure that quality of consultation remains active, once implementation is underway. In particular, as it relates to on-going legal reforms.
- Graft an enhanced policy coherence between the National Anti-Corruption Strategy and other governance initiatives and reforms, including digitisation, reforms to public administration, public procurement and combatting organised crime. This includes explicitly identifying synergies, prioritisation and sequencing between various governments strategies.
- Increase flexibility to the process of amending the NAS's Action Plans, when needed. In particular, as a way to address new issues and challenges that may arise over the 4-year implementation.

Notes

¹ According to the interpretation of data provided at <http://www.poca.ro/monitorizare-program/lista-operatiunilor-selectate-si-finantate/>.

² Assessment of MoJ's Progress Reports on Implementation of the National Anti-Corruption Strategy 2016-2020, specifically the list of contributions on p.5.

³ Progress Report on Implementation of the National Anti-Corruption Strategy 2016-2020 in 2018; Progress Report on Implementation of the National Anti-Corruption Strategy 2016-2020 in 2020.

4 Findings of the NAS 2016-2020 evaluation and recommendations

The chapter appraises the results achieved by the NAS towards the six General Objectives it set out to accomplish. Moreover, this chapter guides observations of policy interventions in certain areas and can be used to fathom problems in a longer time perspective and understand the challenges of implementing certain anti-corruption and integrity interventions. It is useful for understanding current difficulties in the implementation process and reflects on how to best approach issues by assessing contending intentions and strategies.

As previously stated, the interventions put forward by the NAS 2016-2020 were organised in 6 General Objectives and 19 Specific Objectives. The following chapter will analyse all six General Objectives to ascertain whether progress has been made in their achievement. The Specific Objectives are used as reference points, but the evaluation does not assess the progress in implementing every single planned activity. The findings are based on external and independent reports and surveys on corruption and governance in Romania, as well as from the monitoring reports compiled by the NAS Technical Secretariat and a survey taken by 39 participants of the cooperation platforms.

The 2021 OECD survey of cooperation platforms shows that at least among platform members there is agreement (80% of respondents) that the objectives of the NAS 2016-2020 led to the achievement of the expected results. Key informant interviews were more reserved in this general assessment. While there was not necessarily agreement and consensus among all key informants, they all stated that some of the expected results of the NAS did not materialise.

The same survey shows that, when asked to rank the general objectives based on the degree of achievement, the highest number of votes went to General Objective 1 on developing a culture of transparency for open government, followed by General Objective 6 on increasing the implementation of anti-corruption measures through integrity plans and self-assessments in all relevant institutions. In fact, the specific objectives falling under these general objectives, (1.1) transparency of decision-making, (1.2) transparency in the use of public funds and (6.1) Developing risk-based institutional integrity plans in public entities, were also rated among the highest, as shown in Table 4.1, below.

Table 4.1. Summary of Stakeholder Platforms Participants Survey Responses on progress towards achieving specific objectives (N=39)

Policy Area	Average Score	Specific Objective Equivalent
Awareness of public officials with respect to corruption	5.13	SO 4.1
Transparency in the use of public funds	5.00	SO 1.2
Transparency in public decision making processes	4.95	SO 1.1
Managing public ethics (values, shared principles)	4.92	SO 1.1
Developing risk-based institutional integrity plans in public entities	4.90	SO 6.1
Strengthening internal audit within public entities	4.87	SO 2.1
Strengthening corruption and fraud risk management within public entities	4.72	SO 2.1
Efficiency of internal control systems	4.33	SO 5.3
Awareness of the general public with respect to corruption	4.21	SO 4.2
Impartial investigations of high-level corruption	4.03	SO 5.1
Protecting whistle-blowers	3.90	SO 2.2
Managing conflict of interest and revolving doors	3.90	SO 2.2
Detecting and sanctioning illicit enrichment	3.26	SO 5.2
Recovering assets from corruption	3.10	SO 5.4

Source: 2021 OECD survey of co-operation platforms

General objective 1 – Development of a culture of transparency for open governance at central and local level

- Specific objective 1.1 – Increasing the institutional and decision making process transparency
- Specific objective 1.2 – Increasing the transparency of the processes of administration of public resources

The NAS 2016-2020 noted that the open government agenda did not make sufficient progress in the NAS 2012-2015 due to lack of a co-ordinator, insufficient resources and a “predominantly formalist approach” in applying the legal framework. In the period under consideration, from 2016 to 2020, there appear to have been some notable gains in terms of transparency and open governance. Indeed, in the 2021 OECD survey of co-operation platforms, this General Objective was ranked as first by the highest number of survey respondents (40%) in terms of having achieved most relevant and positive change. Furthermore, the two specific objectives under this objective rank as second in terms of progress made since 2016.

The Public Accountability Mechanism, a data collection effort by the European Public Accountability Mechanism (EuroPAM) provides assessments of in-law and in-practice efforts to enhance government accountability, registers no significant changes, since 2012 in its Freedom of Information dimension. While Romania gets full points for the scope and coverage of the legislation and very high points on information access and release, lower ratings are given in terms of sanctions for non-compliance as well as monitoring and oversight. When it comes to sanctions for non-compliance, Romania only loses points for not introducing fines or criminal liability for non-compliance, which does not necessarily constitute a weakness in the system as long as administrative sanctions are enforced well in practice. On Monitoring and Oversight, Romania loses points for not having an independent oversight body in charge of the freedom of information regime, such as an independent information commissioner (EUROPAM, 2021^[45]).

Co-ordination of the open government agenda

The OECD’s recent work on open government has fleshed out the conceptual and methodological underpinnings of open government strategies and how these can contribute to a broader notion of an “Open State”. In particular, it emphasises the need to co-ordinate, through the necessary institutional mechanisms, open government strategies and initiatives - horizontally and vertically - across all levels of government to ensure that they are aligned with and contribute to all relevant socio-economic objectives (OECD, 2017^[46]). The NAS 2016-2020 sought to address the issue of inadequate co-ordination of open government efforts by assigning chief responsibility for many of the activities under general objective 1 to the newly formed Ministry for Public Consultation and Civic Dialogue (MPCCD), which had been established in 2015 to ensure a coherent and systematic approach to public consultation. (Ministry of Justice of Romania, 2018-2020^[19]) (OECD, 2016^[27]). The Ministry was expected to align relevant activities under the NAS with the country’s commitments as part of the Open Government Partnership and those made at the London Anti-Corruption Summit.

The MPCCD was also intended to strengthen the government’s open data portal (data.gov.ro), which had been launched in 2013 (SGI, 2020^[47]). Yet progress towards the outputs foreseen under Objective 1 has been uneven, hindered by the decision to disband the MPCCD in 2018, with its mandate being transferred to a directorate in the General Secretariat of the Government (Council of Europe, 2019^[48]). As the Bertelsmann Foundation notes, this “marked a step backward in the formalisation of public and expert consultation processes within the country” (Bertelsmann, 2020^[18]).

Participation in the decision-making process

Romanian law 52 of 2003 provides for prior publication of draft national or local legislation, a 30-day consultation period, the organisation of public hearings, as well as for public participation in sessions of

public administration bodies with due notice given about the date of the meeting and the envisaged agenda. In 2016, a central platform was launched to host drafts of legal instruments to which anyone could provide input. This website was overhauled and replaced in 2019 with an improved e-consultation platform (e-consultare.gov.ro). According to information collected during key informant interviews, these platforms are not widely known, and draft legislation is typically hosted on the website of the respective ministry.

In general, however, the opportunity for non-state actors to contribute effectively is restricted by the fact that consultations typically take place online and the relatively short window for input. This has meant that meaningful consultations across government remain somewhat irregular, with a fact finding mission from the Council of Europe noting that Romanian NGOs perceive the standard of public consultations to have declined in the period 2016-2020 (SGI, 2020^[47]) (Council of Europe, 2019^[48]).

Indeed, various stakeholders including CSOs, trade unions and professional associations have complained that consulting mechanisms seem to be primarily used as a channel of government communication and not as an effective feedback mechanism to ensure that inputs from non-state actors are taken seriously by officials (SGI, 2020^[47]). While the General Secretariat made proposals to improve the consistency and quality of public consultations across the public administration, a recent OGP assessment concluded that these plans have yet to be approved by the government (OGP IRM, 2020^[49]).

Furthermore, a report produced by the General Secretariat monitoring the application of Law 52 of 2003 (decisional transparency in public administration) concluded that there remain significant differences between national and local administrations (OGP IRM, 2020^[49]). The Council of Europe report also concluded that at the subnational level, there remains “a low degree of transparency and of the opening of access to information of public interest” (OGP IRM, 2020^[49]).

Access to information

During the period 2018-2020, experts from the Ministry of Development, Public Works and Administration reportedly trained 111 local public authorities (out of a total of 3 228 such authorities in the country), instructing them how to comply with the provision of Law 554 of 2001 on access to information, as well as how to use the Unique Transparency of Interests Register (RUTI) platform. This resulted in a modest improvement in terms of local administrations’ compliance with government memorandums on transparency, however. Only an increase from 44% in 2018 to 53% in 2020 was accounted for (OGP IRM, 2020^[49]).

However, the same semi-annual monitoring carried out by the General Secretariat found that the compliance rate among ministries with the legal standards related to access to information fell from 87% in 2017 to 77% in 2020 (Ministry of Justice of Romania, 2018-2020^[19]). Perhaps unsurprisingly, a recent assessment by the Bertelsmann Foundation concluded that problems remain, as authorities are known to “withhold information or to restrict access through cumbersome or obstructive administrative mechanisms” (SGI, 2020^[47]).

Despite limitations in the implementation, progress has been made in several areas

Other foreseen outputs under objective 1 did not take place. While the 2016-2020 NAS proposed conducting mandatory integrity trainings for civil servants via an e-learning platform as well as raising public awareness on the impact of corruption, both of these initiatives had not got off the ground by 2020, at which point they were reportedly cancelled due to COVID-19 (OGP IRM, 2020^[49]). Another activity, the development of a National Integrated Information System (SIIN) by the National Agency for the Management of Seized Assets (ANABI) had to be postponed to 2020-2022 as neither of ANABI’s tender offers were accepted during the implementation period. More generally, there seems to have been a deterioration in relations between CSOs and government officials in the period 2017-2019, during which time the Council of Europe observed, “The general rhetoric ... was unfavourable and hostile towards CSOs,

portraying them, especially, watchdog NGOs, as foreign agents working against national interests” (Council of Europe, 2019^[48]).

A legislative proposal of particular concern in this area was related to the amendment of the Government Ordinance no. 26/2000 on the associations and foundations. The Romanian draft law, initiated by two MPs would have compelled civil society groups to publish detailed financial reports twice a year identifying individual sources of income regardless of the amount. In addition, the association or foundation would have been *ex officio* dissolved in the event of non-compliance, for a period of 30 days. The Venice Commission’s evaluation of the draft law concluded that these “stringent disclosure requirements... are likely to have a chilling effect on civil society” (Venice Commission, 2018^[50]). The initial formulation of the draft law would have clearly undermined the spirit of General Objective 1 (Council of Europe, 2019^[48]).

There have been some positive developments, however. A government memorandum on increasing transparency and standardising the publication of information of public interest was developed in 2016 as part of an inclusive process. Its guidance and templates reportedly helped increase the compliance of line ministries with their proactive disclosure obligations (OECD, 2016^[27]). Parliamentary plenary and some commission sessions are now broadcast live on the Parliament’s website (Council of Europe, 2019^[48]). Starting in 2016, the monthly revenues and expenditures of each public institution have been published online¹ alongside the approved budget. Some progress was made in bringing the Electronic System of Public Procurement (SEAP / SICAP) into line with the Open Contracting Data Standard, although this has not yet been fully achieved. Nonetheless, procurement data from the SEAP / SICAP platform is published quarterly on the data portal.

In addition, the Sole Register of Interest Transparency (RUTI) became operational in September 2016. The platform displays information on legal persons who interact with the authorities and institutions of the central public administration. According to the 2016 Memorandum establishing RUTI, senior officials were encouraged to create an account and publish a record of their meeting with representatives of interest groups (Ministry of Justice of Romania, 2018-2020^[19]).

After the dissolution of the MPCCD, the upkeep of RUTI was taken over by the General Secretariat of the Government. Interviewees generally spoke favourably of the platform itself, though noted the accuracy of the data could be substantially improved as not all public officials enter the required information, especially at local level. This is a shortcoming that has been recognised, and dedicated training sessions for municipal officials were held between 2018 and 2020 as part of Romania’s OGP action plan (OGP IRM, 2020^[49]). Indeed, although RUTI represented a positive step taken at the beginning of the implementation period, it appears to have been somewhat neglected subsequently, and its impact remains modest.

Overall, while the quality of the information provided on ministerial websites remains somewhat patchy or outdated, the government open data portal now hosts more than 2 000 datasets from more than 100 different agencies, and use by citizens is reportedly growing (OGP IRM, 2020^[49]). The datasets published include information regarding procurement, financing of political parties, health and education. The General Secretariat reports an acceleration of the addition of new datasets in the period 2018-2020, although an April 2021 evaluation of the portal by the Directorate of Information Technology and Digitisation found that some datasets are not updated regularly enough, other key datasets are partial and certain public institutions holding important datasets still do not publish this on the portal. An external evaluation of the system pointed to the need to further develop the portal and increase the quality of the published datasets, and simultaneously increase the awareness of the importance of reliable data for policy design, implementation and evaluation (Voicu and Voicu, 2021^[51]).

Similarly, the 2016-2018 OGP Action Plan had pledged that the NAS platform would be “developed to facilitate centralisation of data, uploaded by public institutions, in an open format. The institutions will include subordinate agencies, state-owned companies, municipalities; county councils, hospitals etc. and the resulted data will be made available to the public”. The Technical Secretariat has published the results of annual self-assessments by 4 000 central and local public institutions, each of which includes 122

indicators of corruption prevention measures. However, due to technical problems, the data has not been exported to data.gov.ro.

At any rate, the OGP notes that in recent years Romania has made “significant progress” in terms of open data, access to public officials’ asset declaration and budget transparency (OGP IRM, 2020^[49]). Despite this, a number of the tangible steps intended to drive forward the open government agenda in the period 2016-2020 were not accomplished. While COVID-19 posed a constraint in 2020, a number of activities, including the integrity e-learning training platform, appear not to have been meaningfully launched before 2020. Overall, achievement of Objective 1 was hindered by political developments, notably the abolition of the foreseen co-ordination body, the MPCCD, which was an attempt to overcome the inertia around the OGP agenda noted during the period 2012-2015 and attributed to the lack of a co-ordinating body.

Looking forward, a recent assessment by the OGP recommended that in the next period, Romania should focus on improving the transparency of large public spending and the publication of all government contracts in an open data format (OGP IRM, 2020^[49]), especially in light of the perceived rise in political clienteles in the period 2016-2020 (Bertelsmann, 2020^[18]).

While the development of transparency portals is to be welcomed, the proliferation of multiple different websites could potentially confuse users. As the OECD noted back in 2016, “coherence is needed throughout the different websites of the public sector so as to not burden citizens with adapting to diverse user experiences and alternative online tools” (OECD, 2016^[27]), consolidation of the various platforms into a one-stop shop may be worth considering in the next strategic period.

Based on the analysis of the previous section, Romania may take into consideration the following recommendations (Box 4.1):

Box 4.1. Recommendations - General Objective 1

- Ensure that key anti-corruption datasets such as asset and interest declarations of public officials, political party finance, government spending, government budgets, company ownership are published following International Open Data Charter (IODC) standards by:
 - Ensuring the relevant institutions have the resources to maintain and verify these datasets.
 - Ensuring these datasets are all functional, compliant with IODC Standards and published in a centralised platform by the end of the upcoming strategy cycle. This would help to consolidate the various transparency platforms that have proliferated in recent years into a one-stop shop to help oversight bodies, journalists and citizens cross-reference different datasets.

General objective 2 – Increasing institutional integrity by including corruption prevention measures as mandatory elements in managerial plans

- Specific objective 2.1 – Improving the capacity of dealing with management failure by correlating the instruments with impact on the early identification of institutional risks and vulnerabilities
- Specific objective 2.2 – Increasing the efficiency of anti-corruption preventive measures by addressing legislative gaps and inconsistencies concerning the ethics counsellor, whistle-blower protection and revolving doors

The NAS 2016-2020 stated that while it had the necessary legal framework by 2016, efforts to strengthen institutional integrity were not fully effective due to limited knowledge of these measures on the part of management in public bodies, as well as both insufficient resourcing, both in terms of funding and staff.

Overall, this General Objective was ranked third in the 2021 OECD survey of cooperation platforms, cooperation platforms survey in terms of having achieved most relevant and positive change. Furthermore, the specific objective to strengthen internal systems audits under this objective ranked relatively well among survey respondents with an average score of 4.9 out of 7 whereas the specific objective aimed at better prevention measures fared worse, ranking towards the end of the table with 3.9 out of 7.

Addressing legal gaps as a tool to increase institutional integrity

The NAS 2016-2020 identified three primary deficits in the legal framework pertaining to internal integrity management: inadequate legal provision for ethics counsellors, weak measures related to the revolving door and a need to strengthen whistle-blower protection. Furthermore, in interviews conducted for this evaluation it became clear that ethics councillors do not have enough leverage and independence in the institutions, nor are there provisions regarding mechanisms to ensure confidentiality of advice. An increasing number of OECD countries require integrity officers or units in all ministries. However, the models may differ significantly. As an example, Brazil recently promoted the implementation of Integrity Management Units in all entities of the federal public administration (Box 4.2).

Box 4.2. The Integrity Management Units in the new Public Integrity System of the Federal Executive Branch in Brazil

The Office of the Comptroller General of the Union (Controladoria-Geral da União, or CGU) of Brazil is, amongst others, responsible for leading the mandatory Integrity Programmes to prevent, detect, punish and remediate corruption, fraud, illicit acts and violations of the standards of ethics and conduct in all public entities of the Federal Executive. Decree 9203/2017 introduced the Integrity Programmes that were subsequently regulated through Ordinance 1089/2018 and Ordinance 57/2019.

Integrity Programmes have to be developed along the following axes:

- Commitment and support from senior management;
- Existence of a unit responsible for implementation in the organ or entity;
- Analysis, evaluation and management of risks associated with integrity; and
- Monitoring of the elements of the Integrity Programme.

Integrity Programmes aim to ensure that internal units responsible for integrity-related activities and areas such as corruption prevention, internal audit, disciplinary enforcement and transparency work together in co-ordination to ensure integrity and minimise integrity risks. As such, the Integrity Programmes focus on prevention and aim at reducing integrity risks in public entities. The CGU established procedures for developing, implementing and monitoring these Integrity Programmes, such as the 2017 Manual for the Implementation of Integrity Programmes or the 2018 Practical Guide for Implementing a Programme of Integrity.

The first mandatory step of an Integrity Programme is establishing an Integrity Management Unit (Unidade de Gestão da Integridade, UGI) within the public entity. The UGI co-ordinates the development of the internal Integrity Plan of the public entity, as well as its subsequent implementation, monitoring and evaluation. These Integrity Plans need to be approved by senior management and set out the integrity measures and an action plan for their implementation. Since 2017, the CGU has supported the establishment of UGIs and the creation of integrity plans in all 186 entities of the Federal Executive government. The recent creation of the Public Integrity System of the Federal Executive Branch (SIPEF) in July 2021 further formalises and strengthens the normative basis for the Integrity Programmes and the UGI and therefore for promoting integrity throughout the Brazilian Federal Executive. The SIPEF establishes the UGI as the systems' responsible sectorial units, expanding their functions and responsibilities (Box 1.4). These responsibilities could be summarised as articulating different integrity efforts within the entity, but also include providing guidance, training and support on matters related to public integrity and integrity risk management.

Source: OECD, 2021, forthcoming

However, it appears that little headway has been made to address these issues. Whistle-blowers protection in particular was deemed an enduring weakness by participants of the fact-finding missions, with little tangible progress made. While a whistle-blower protection requirement has existed since 2004, its implementation is underwhelming. The Ministry of Justice did not manage to strengthen the whistleblowing legal framework during the implementation period in question, but some progress appears to have been made in early 2021 to draft a law that would transpose the EU directive on whistle-blower protection and invite comments from civil society and the private sector (Ministry of Justice of Romania, 2018-2020^[19]). Some criticism was voiced by NGOs with regard to the draft, especially related to the need to transpose the Directive while ensuring at least the same level of protection for whistle-blowers as they currently enjoy (APADOR, 2021^[52]). Another encouraging step was that in 2020, the Ministry of Justice joined the

European Network of Integrity and Whistle-blower Authorities, and signed up to that group's Rome Declaration shortly afterwards.

Similarly, while there are limited provisions on the revolving door, such as a three-year cooling off period for public officials who have been in an oversight role of state-owned enterprises, there are no such regulations related to other key decision makers (European Commission, 2021^[53]). According to the OECD guidelines for the management of conflict of interest, over time, organisations should ensure that the policy remains effective and relevant in dealing with current and anticipated conflicts in a continuously evolving environment, and change or redevelop the policy as necessary (OECD, 2004^[54]) (OECD, 2021^[55]). As seen in current legislation (Box 4.3), the lack of systematic monitoring of the implementation of the existing rules of conflict of interest remains a challenge in Romania.

Box 4.3. Conflict of Interest regulations in Romania

Law 176 of 2010 regulates conflict of interest in Romania, including the establishment, organisation, operation of the ANI (National Integrity Agency) as well rules, and regulations related to asset declarations.

Amongst others, the Law states that both the ANI and the institution where the person submitted the declaration shall ensure and maintain the disclosures on their website no later than 30 days after receipt. In accordance with the Law, assets and interest declarations are kept on the website of the institution and of the Agency, for the entire duration or term in office and 3 years after their termination. Assets declarations for candidates and elected officials are published on the website of the ANI within 10 days of receipt.

Furthermore, Decision 77 on the Code of Conduct for Deputies and Senators of 2017 states the principles of conflict of interest for members of Parliament.

Source: (Parliament of Romania, 2010^[56])

Beyond the specific issue of revolving doors, other legal gaps remain concerning conflict of interest regulations. Appropriate reporting for independent oversight institutions and the publication of regular reports on the implementation of integrity management arrangements and on the progress of any investigation, can play an important role in encouraging compliance with policy and discouraging abuse of the integrity-management process (OECD, 2021^[55]). The European Public Accountability Mechanism shows that the quality of the conflict of interest legislation in Romania has been fluctuating since the start of the NAS 2016-2020. Overall, the score has dropped from 54 to 44 out of 100, with the main dimension responsible for this drop being monitoring and oversight. The PAM finds that as of 2020 there were no institutions in charge of monitoring and enforcing conflict of interest rules for ministers and the head of state. For public officials the monitoring and oversight is up to the superior of each official and for parliamentarians it is up to the Permanent Bureau of the MPs Chamber of Parliament. However, despite having an internal parliamentary bureau, MPs do not face any sanctions, administrative, civil or penal, for breaching conflict of interest laws. A model procedure to govern revolving doors has recently been developed and uploaded to the NAS portal, however. The model is intended to be adopted by public bodies, and its uptake is due to be assessed in 2022. It remains to be seen whether this model will address recent criticism on the conflict of interest regime.

In any case, despite the 2016-2020 NAS focus on the issues of whistleblowing, ethics counsellor and revolving doors, a survey of public officials conducted by the Ministry of Justice in 2020 found that these areas were still perceived to be some of the least effective of all preventive measures.

Leveraging the NAS on existing corruption risk assessment tools

Public agencies in Romania have long-standing experience with risk assessment tools. The NAS 2016-2020 intended to strengthen internal integrity management systems in Romanian public administration. Chiefly, it intended to do this by using regular risk assessments, systems audits and robust analysis of the causes behind each integrity violation identified. The General Anti-Corruption Directorate in the Ministry of Internal Affairs, for instance, developed its own methodology, which has been used since 2010 to assess corruption risks in all units under the control of the Ministry, including the police, the gendarmerie and the border police (OECD, 2018^[34]). Nonetheless, the NAS 2016-2020 identified a need for a more standardised risk management approach across government, and committed to revising the legal framework in order to introduce a common methodology.

This was accomplished with Government Decision 599 of 2018. This measure requires all central public institutions to establish a specific anti-corruption strategy using the approved methodology. This entails adhering to the prescribed format of the corruption risk register, and using indicators to estimate the likelihood and impact of each identified risk. It also sets out a standardised approach to assessing integrity incidents, as well as the reporting format for these incidents. The list of integrity incidents was reviewed annually by the Ministry of Justice and the five co-operation platforms, before being uploaded as an annex to the yearly monitoring reports.

Strengthening internal integrity management systems

The ambition to match every new case that came to the attention of the DNA or the ANI with a “management failure” in a specific institution was, in principle, a good idea. Each institution was made responsible for taking countermeasures in the aftermath of integrity incidents and reporting statistics on the number of cases and action taken to the Technical Secretariat for inclusion in the annual monitoring reports. As yet, however, no systematic analysis has been conducted of the effectiveness of this approach, as the ex-post assessments of integrity risks that were due to be the subject of a peer review mission in 2020 were postponed due to COVID-19.

It is therefore too early to tell if this system has translated into a robust means of analysing trends, diagnosing systemic vulnerabilities and prescribing improvements to preventive systems. In the view of the evaluators, a systematic analysis of integrity incidents and corresponding management failures is important to ensure that any common failings and good practices identified by individual institutions can be recognised and disseminated more broadly across the public sector.

More generally, systems audits were conducted by thousands of public authorities throughout the implementation period on different aspects of their corruption prevention infrastructure. In 2019, for instance, 4 007 (837 central and 3 170 local) institutions assessed their codes of conduct and ethics advisor function. The reports from 534 central and 317 local of these public bodies were then analysed to ascertain their strengths of their internal integrity controls. The resulting report was presented in all co-operation platforms and discussed with the Central Unit for the Harmonisation of Internal Public Audit. The main recommendations related to the need for improved training and resourcing of staff working on integrity and ethics systems, including the need to enhance the work of ethics/integrity counsellors, which proved somewhat evasive. In practice, participants at the virtual fact-finding missions conducted for this evaluation pointed to the lack of consistency by public bodies when it came to reporting integrity incidents, as well as the inadequate energy dedicated to identifying root causes and devising mitigation measures.

Based on the analysis of the previous section, Romania may take into consideration the following recommendations (Box 4.4):

Box 4.4. Recommendations – General Objective 2

- Consolidate the anti-corruption legal framework in accordance with recommendations from GRECO and the European Commission:
 - The preventative laws on integrity, incompatibilities and conflicts of interest are current somewhat fragmented, which hinders the work of oversight bodies.
 - While further legislative changes may cause some additional upheaval in the short-term, unifying the scattered legal framework has been identified by both external evaluators and key informants interviewed for this evaluation as key to buttressing anti-corruption efforts in the longer term, especially concerning the work of the ANI.

General objective 3 – Strengthening integrity, reduction of vulnerabilities and corruption risks in priority sectors and fields of activity

- Specific objective 3.1 – Increasing integrity, reduction of vulnerabilities and corruption risks in the healthcare system
- Specific objective 3.2 – Increasing integrity, reduction of vulnerabilities and corruption risks in the national education system
- Specific objective 3.3 – Increasing integrity, reduction of vulnerabilities and corruption risks in the activity of the members of Parliament
- Specific objective 3.4 – Increasing integrity, reduction of vulnerabilities and corruption risks in the judiciary
- Specific objective 3.5 – Increasing integrity, reduction of vulnerabilities and corruption risks in the financing of political parties and electoral campaigns
- Specific objective 3.6 – Increasing integrity, reduction of vulnerabilities and corruption risks in public procurement
- Specific objective 3.7 – Increasing integrity, reduction of vulnerabilities and corruption risks in the business environment
- Specific objective 3.8 – Increasing integrity, reduction of vulnerabilities and corruption risks in the local public administration

Objective 3 of the NAS 2016-2020 is dedicated to strengthening preventive measures in six “corruption-prone” sectors carried over from the previous strategy, noting that “limited progress” had been made in these areas during the period 2012-2015. In addition, the NAS 2016-2020 included two sectors, the healthcare and education systems based on expert consultation and the recommendations of the OECD evaluation of the previous strategy. Overall, there seems to be some improvement in some of these sectors, particularly education and healthcare (Table 4.2).

Table 4.2. Romania 2016-2021 Global Corruption Barometer Comparison

	ROMANIA 2016	ROMANIA 2021	EU 2021
Bribery rate in education	23%	11%	6%
Bribery rate in healthcare	33%	22%	3%
Citizens who think most or all MPs are involved in corruption	54%	51%	28%
Citizens who think most or all judges and magistrates are involved in corruption	32%	22%	14%
Citizens who think most or all Business Executives are involved in corruption	29%	25%	25%
Citizens who think most or all local government representatives are involved in corruption	38%	33%	19%

Source: (Transparency International, 2021^[24])

Healthcare system

There seems to be a consensus that corruption in the Romanian health system is extensive. The 2019 Special Eurobarometer on corruption found 19% of Romanian respondents had to pay unofficial fees to access healthcare. (EU Institutions Data, 2019^[57]). Similarly, 39% of public officials questioned for a Ministry of Justice study on corruption in 2020 felt that corruption was widespread in the health system (Ministry of Justice of Romania, 2020^[25]). The Global Corruption Barometer shows that bribery in public health centres declined substantially from 33% of public health care users in 2016 to 22% in 2021. However, this is still the highest healthcare bribery rate in the EU and more than 3 times the EU average of 6%. Healthcare also remains the sector most vulnerable to bribery in Romania, even in 2021 (Transparency International, 2021^[24]). Within Romania, the region with the lowest bribery rate is Centru (Transylvania) with 14% of those who used public health centres stating that they paid a bribe. The region with the highest bribery rate in healthcare is Bucharest-Ilfov, where more than 1 in 4 people who accessed public hospitals had to pay a bribe (Transparency International, 2021^[24]).

Progress towards improved integrity in the healthcare system presents a mixed picture. The Ministry of Health's internal control function was strengthened through the creation of a dedicated Integrity Service with seven members of staff. Together with GAD, the Integrity Service has delivered training sessions on corruption risks in the health sector to all integrity officers in the public health network at county level. One achievement seems to be the patient feedback mechanism, operational since 2016. This tool enables patients to record their satisfaction with the quality of care they have received, and allows them to report integrity incidents, such as requests for informal payments, they might have encountered. During the implementation period, the feedback mechanism has collected 915 625 responses via the internet and 253 237 via SMS. This data is published monthly on the open data portal. While there is some indication that the overall number of feedback forms is monitored by the Integrity Service of the Ministry of Health, it is less clear where deeper analysis is conducted to identify trends and potential mitigation measures. Moreover, according to information provided in key informant interviews, the Integrity Service has been reticent to investigate alleged misconduct, as they are not convinced they have the legal competency to do so (Ministry of Justice of Romania, 2018-2020^[19]).

On the other hand, the Ministry of Health has seen some success in improving the transparency of its operations, publishing nearly 70 datasets since 2016. Also encouraging is the progress in improving the traceability of medical supplies through the Romanian market because of a real time tracking tool

developed by the Ministry of Health. This tool relies on daily updates, which wholesale distributors, importers, manufacturers and pharmacies have been obliged to conduct, and which are published on the Ministry's website to allow the public to monitor stock levels and intended beneficiaries for each medical product (Ministry of Justice of Romania, 2018-2020_[19]). However, no progress has been made towards evaluating the Ministry's centralised procurement system. Similarly, little headway has been made concerning introducing financial support for medical staff to reduce their reliance on sponsorships by pharmaceutical and medical supply firms, which had raised suspicion of undue influence. Overall, while the Bertelsmann Foundation acknowledges the steps taken to improve transparency in the sector, it notes that cost efficiency in healthcare remains poor, and argues that wage increases have not managed to eliminate the common practice of petty bribery of medical staff (SGI, 2020_[47]).

Education system

In the education sector, some progress was made in several areas related to integrity education. A good example of this was the introduction of the civic and ethics education into school curricula, as well as establishing graduate programmes on ethics and integrity, including a Master's Degree in Public Integrity and Anti-Corruption Policies. A Framework Code of Ethics was also adopted for secondary education, which clearly prohibits teachers from offering private tuition to their own pupils. Similarly, audio-visual monitoring systems were introduced to ensure the probity of national and baccalaureate examinations, while a protocol for exams to be assessed in different, randomly selected school districts was established (Ministry of Justice of Romania, 2018-2020_[19]).

The Global Corruption Barometer shows that bribery in education declined by more than half from 23% of those who had contact with public schools in 2016 to 11% in 2021. However, as with healthcare, the bribery rate for education in Romania is the highest in the EU (tied with Bulgaria) and nearly 4 times the EU average of 3%. Similarly, to bribery rates for healthcare, in education the region of Centru (Transylvania) has the lowest bribery rate in Romania (6%). On the other hand, the regions of Southeast, West and Northeast (as per the EU NUTS classification for Romania) are tied at 13% with the highest bribery rate in education. As yet, the publication of standardised data on education institutions' revenue, expenditure, procurement processes and sponsorships is incomplete and not fully compliant with the standard on the publication of information of public interest set out in Annex 4 of the 2016-2020 NAS (Transparency International, 2021_[24]).

Parliament

The NAS 2016-2020 set out an ambitious programme of activities to enhance integrity on the part of parliamentarians. Many of the foreseen activities explicitly referred to recommendations issued in 2015 by GRECO during the Fourth Evaluation Round, which focused on corruption prevention in respect of members of parliament, judges and prosecutors. The themes covered in the assessment included codes of conduct, conflicts of interest, prohibitions on certain activities, as well as asset and interest declaration. Several other commitments were carried over from the previous NAS 2012-2015 as they had not been achieved. These included developing and enforcing a code of conduct for MPs, and amending parliamentary regulations related to the lifting of immunities.

The work plan encountered a number of setbacks due to the fraught political situation throughout most of the implementation period and a lack of support from legislators. Indeed, GRECO issued a number of reports from 2017 and 2019, concluding that Romania had made "very little progress" to strengthen corruption prevention among MPs, judges and prosecutors, or to address GRECO's concerns about the country's judicial reforms (GRECO, 2019_[33]). The most recent GRECO report, from May 2021 found that despite some signs of improvement since 2019, Romania's performance remains "globally unsatisfactory" (GRECO, 2021_[58]).

In the period up to 2019, areas of particular concern included the continued use of emergency legislative procedures in parliament despite GRECO's appeal to restrict their use. The use of government emergency ordinances has tailed off since a consultative referendum in 2019 in which a majority of citizens voted to ban their use in the justice sector, although the current government has also used the emergency procedures on a number of occasions. During the implementation period, a Code of Conduct for Deputies and Senators was adopted by Decision 77 of 2017 to regulate the rules and principles of parliamentary conduct, including independence, objectivity, probity, openness and asset and interest declaration. However, GRECO pointed to the lack of progress in developing a means of enforcing the code of conduct for parliamentarians, as well as the limited scope of conflict of interest measures. Even where MPs were ruled to be occupying incompatible positions or to be in a situation of conflict of interest, the application of sanctions remained inconsistent. Moreover, the introduction of more robust restrictions on gifts and hospitality had not taken place, and rules regulating lobbying had not been implemented satisfactorily (GRECO, 2021^[58]).

Some progress was made in the area of immunities, when in June 2019 the Chamber of Deputies altered its rules of procedure to refer to specific criteria to lift parliamentary immunity recommended by the Venice Commission (Venice Commission, 2021^[35]). However, yet comparable provisions have not been established for the Senate. On the other hand, the NAS commitment to broadcast legislative sessions live has been largely realised, as some of these are streamed on the Parliament's website (Council of Europe, 2019^[48]).

The Global Corruption Barometer shows no real improvement in people's perceptions of corruption among Romanian parliamentarians. In 2016, 54% of Romanians thought that most or all MPs were involved in corruption. That number had fallen by just 3 percentage points to 51% of Romanians in 2021. This is the second highest percentage in the EU (after Bulgaria at 67%), whereas the EU average stands at 28%. Regardless of the reform agenda, a majority of people in Romania still see most or all of their MPs as being corrupt (Transparency International, 2021^[24]).

Judiciary

As was the case for members of parliament, the intended outputs related to enhancing judicial integrity were largely stalled by political developments during the period – in some areas, there was even backsliding. Most notably, the controversial reforms to the Justice Laws mentioned in the background section consumed most of the energy and drew attention away from the intended reforms, which were based chiefly on GRECO recommendations from 2015. GRECO was so concerned by the proposed changes to the operation of the judiciary that it produced an ad-hoc report on Romania in March 2018. This was an exceptional procedure initiated due to concerns that the measures would result in “serious violation of a Council of Europe anti-corruption standard”. It found that the proposed amendments to the three justice laws had the potential to undermine the capacity of the judiciary “to deal with corruption and other offences involving senior officials.” Moreover, the changes could constitute a “threat to the independence of the judiciary and the operational independence of prosecutorial bodies”, while increasing “political influences in [magistrates'] career decisions” (GRECO, 2021^[58]).

The Venice Commission also issued a very critical opinion on the amendments of the three justice laws in October 2018 recommending Romanian authorities to remove the proposed restriction on judges and prosecutors freedom of expression, supplement the provisions on magistrates' material liability (and as such, magistrates are not liable for a solution, which could be disputed by another court). They also requested to reconsider the proposed establishment of a separate prosecutor's office structure for the investigation of offences committed by judges and prosecutors; and re-examine the grounds for the revocation of SCM members (Venice Commission, 2018^[31]).

A follow up report by GRECO in 2019 found that the adoption of a judicial integrity plan by the SCM had established some basic anti-corruption awareness-raising measures, but pointed to a need to prioritise the performance of managers at courts and prosecution services. It identified that some progress had been

made in tackling incompatibilities for judges and prosecutors. Yet the 2019 report expressed continued concern at proposals to reduce the statute of limitation for offences related to corruption. Another failing was the lack of progress in developing objective criteria for selecting and dismissing prosecutors and strengthening the role of the SCM in this. GRECO was highly critical of legislative amendments that lent the executive significant influence in the appointment of senior prosecutors, especially since these amendments had been adopted via “urgent procedures falling short of rule of law standards” (GRECO, 2019^[33]).

Some activities were implemented during this period to address these concerns. This included the adoption of a multi-annual integrity plan for the judiciary, as well as the publication by the SCM of guidance material for magistrates on appropriate relations with lawyers, journalists and conduct on social media. In addition, the SCM reports providing guidance to magistrates on potential incompatibilities for judges and prosecutors, as well as delivering training on ethics to 194 magistrates (Ministry of Justice of Romania, 2018-2020^[19]).

A 2021 update by GRECO found that the government has largely moved away from the proposed judicial reform package. GRECO noted the measures taken as part of the 2016-2020 Integrity Plan for the Judiciary, including training events for managers at courts and prosecution offices, as well as checks on 70 potential integrity incidents in courts. GRECO also appreciated the strengthening of supervisory powers of the SCM and the Judicial Inspectorate and the apparent intention to dissolve the SIIJ. Nonetheless, the GRECO Report expressed a desire to see more specific measures to mitigate integrity risks in courts and prosecutor’s offices. Similarly, while they welcomed the proposed Law on the Status of Romanian Magistrates that foresees more transparent and objective criteria to appoint and dismiss senior prosecutors, they criticised the fact that the Ministry of Justice continues to play the key role in the appointment and dismissal procedure, which in their view “bears a risk of undue political influence.” Overall, the final compliance report for Romania of GRECO’s Fourth Evaluation Round is cautiously optimistic, but finds that at present Romania remains “globally unsatisfactory” (GRECO, 2021^[58]).

Perhaps these measures taken in the context of then NAS 2016-2020 have shaped public opinion. Evidence of this is the Global Corruption Barometer, which shows substantive improvement in people’s perceptions of corruption in the judiciary. In 2016, 32% of Romanians thought that most or all judges and magistrates were involved in corruption. That number had fallen by 11 percentage points to 22% of Romanians in 2021. The EU average stands at 14% (Transparency International, 2021^[24]).

Political finance

The NAS 2016-2020 sought to address deficits related to political finance identified during the third GRECO evaluation round that had still not been addressed by 2016. Specific commitments were made to toughen the sanctions for breaches of law 334 of 2006 on the financing of political parties and electoral campaigns, to ensure that these were sufficiently dissuasive, as well as introducing a legal obligation that all donations above a certain threshold be made through the banking system. On the legislative front, party and campaign finance laws were updated in 2016 to require political parties to declare all donations and identify donors, as well as increasing the obligation to document their use of public resources. Further revisions to law 334 of 2006 were proposed in 2020 to standardise the manner in which political parties are expected to account for their use of public subsidies, although the legislative proposal was rejected by the Romanian Senate (GRECO, 2019^[33]).

During the implementation period under review, the Permanent Electoral Authority (AEP) delivered training to representatives of political parties and electoral candidates. To support this work, the AEP developed and disseminated multiple pieces of guidance, including for local public administration authorities in 2016, for presidents of electoral bureaus of polling stations in 2018, instructions on postal ballots for the President in 2019, as well as a guidebook for non-resident Romanians on how to vote in 2019, among other materials (Ministry of Justice of Romania, 2018-2020^[19]).

With the launch of the portal, the AEP made good progress in implementing the commitment to disclose political party financing in an open data format, including information on parties' income, expenditure, debts, suppliers, subsidies and sanctions. The number of reports submitted by political parties to AEP rose steadily over the period, from 33 in 2016 to 44 in 2019 and 68 in 2020. The OGP notes, however, that this data was often not presented in editable or machine-readable format (OGP IRM, 2020^[49]).

Despite the fulfilment of many of the planned activities, independent assessments continue to highlight serious concerns related to political finance in Romania. In general, implementation of the legal framework is inadequate and political parties are reported to frequently flout campaign finance laws, while sanctions are relatively uncommon. The Bertelsmann Foundation reports that parties employ a range of tactics to circumvent regulations, such as establishing fake positions and party structures to allow them to obscure additional sources of income, and in practice, political spending often exceeds stated income and expenditure (SGI, 2020^[47]).

Public procurement

Despite some signs of progress, public procurement remains a problematic area in terms of corruption risks. In the European Single Market Scoreboard, which assesses procurement macro-indicators for EU public procurement, Romania only gets a satisfactory performance assessment for 2 out of 12 indicators (speed of decision and dividing procedures into lots) and an average performance for the publication rate. All other nine indicators, including single bidding or negotiated procedures, receive an unsatisfactory performance assessment for Romania. While the percentage of contracts that received only 1 bid have steadily declined from 39% in 2016 to 31% in 2019, this is still 11 points above the EU threshold of 20%. Similarly, the percentage of negotiated procedures where no public call was available have dropped from 17% in 2016 to 14% in 2019, 4 points above the EU threshold of 10% (European Commission, 2020^[59]).

The OECD evaluation of the previous 2012-2015 NAS highlighted public procurement as a priority area, and several relevant pledges were made at the London Summit in 2016. A number of commitments in the 2016-2020 NAS reflected this concern, including a proposed aware system for bidders with a good record of accomplishment of integrity, integrity pacts, and establishing a database of convicted companies (Ministry of Justice of Romania, 2018-2020^[19]). Nevertheless, a majority of citizens in Romania (54%) think that companies often use money or connections to secure profitable government contracts. While this percentage is very high, it is near the EU average of 52%, and puts Romania ahead of many other EU countries (Transparency International, 2021^[24]).

An area of progress to highlight in this area is the PREVENT system, which has been operational since 2017 and is managed by the ANI. According to independent observers, this has become a successful deterrent to corruption and conflicts of interest in public procurement (Network For Integrity, 2017^[60]). The volume of data processed since the launch of the system is remarkable. More than 33 000 procurement procedures have been analysed and many integrity warnings issued that amount to hundreds of millions of euros worth of contracts (SGI, 2020^[47]). According to interviews conducted for this evaluation, the system has been the subject of thematic evaluation missions, which have reportedly helped broaden understanding of how the tool can help prevent conflicts of interest in procurement. Encouragingly, the ANI has noted a decrease in the number of conflicts of interest identified by the system, which they attribute to the growing awareness within public institutions.

Less successful was the initiative to develop a reward mechanism for bidders. After consultations between the Ministry of Justice, National Agency for Public Procurement (ANAP) and the European Commission, the project was shelved in 2019. Instead, the Ministry of Justice produced a guide to help contracting authorities assess the integrity of bidders. ANAP reports that information on bidders who have been blacklisted due to prior convictions is available on the electronic procurement system. Moreover, since 2018 any changes in the duration, price or scope of an ongoing public procurement contract are likewise published on the system.

After a pilot project between Transparency International Romania and three central ministries, ANAP also signed up to an Integrity Pact in 2020. The online guide to public procurement was also developed during the implementation period to provide operational support to all actors involved in the national public procurement system, while 3 490 people involved in procurement also received training, including 100 people responsible for internal verification (Ministry of Justice of Romania, 2018-2020^[19]).

The most recent EU Rule of Law report notes that during the state of emergency in response to the COVID-19 pandemic, public bodies were allowed to conduct emergency procurement procedures that bypassed the Public Procurement Electronic System, which meant that these procedures were not scrutinised by the PREVENT system. ANI therefore reportedly developed a special mechanism to assess these direct procurements to try and manually identify potential conflicts of interest that may have arisen. Early indications are that around 11% of direct procurement procedures assessed by ANI point to potential integrity incidents (European Commission, 2021^[53]).

Business environment

In terms of the business environment, the 2016-2020 NAS prioritised measures to enhance the integrity of state-owned enterprises. This appears to have been partly the result of previous assessments, including one by the European Commission that found that “inefficient SOEs are a burden on public finances”, as well as an ongoing political tussle about privatisation. The Bertelsmann Foundation has also pointed to the low quality of management of many state-owned enterprises, particularly in the energy and extractive sectors, where politicisation is rife and rent seeking is common (European Commission, 2015^[61]) (World Bank, 2017^[62]) (Bertelsmann, 2020^[18]).

NAS monitoring reports point to some positive developments related to SOEs, including an improvement in the quality of integrity plans since 2016, and more frequent exchanges of integrity management best practices with private firms. This resulted in SEOs outsourcing some services, including whistleblowers complaints mechanisms and the acquisition of international certificates such as ISO 37001 on anti-corruption. In addition, the Ministry of Public Finance publishes economic indicators related to the performance of SEOs online. However, plans to establish more robust regulations related to corporate management were abandoned during the implementation period, while in 2017 and 2018 the government slashed funds allocated to investment by SOEs in order to increase funding in other areas including social spending (Bertelsmann, 2020^[18]).

In terms of activities, the Ministry of Justice collaborated with the American Chamber of Commerce to advance integrity in SEOs. This included hosting workshops on implementing whistleblowing channels and presenting the OECD Anti-Corruption and Integrity Guide for Public Enterprises (OECD, 2018^[63]) as well as the American Chamber of Commerce’s own guide on corruption risk management. The Competition Council initiated thirteen investigations into possible violations of Competition Law in 2020, a notable uptick from 2019. The majority of these were related to cartels. Outreach to regulatory authorities in key sectors saw mixed success, with the National Energy Regulatory Authority attending two meetings of the business co-operation platform, while the National Agency for Mineral Resources did not respond to the invitation (Ministry of Justice of Romania, 2018-2020^[19]).

Interviews with key informants and information gleaned from the fact-finding missions suggested that improvements in the business environment have been patchy and isolated. Participants did suggest that the NAS had provided a useful framework to encourage some private sector firms to implement internal integrity management and anti-bribery systems, mostly SOE. Not much was said about more general anti-corruption and integrity strategies in other parts of the private sector. However, in general, Romanian businesses have been slow to adopt international standards and principles relevant to anti-corruption, and integrity is rarely a priority for private sector managers. This was reinforced by the Bertelsmann Foundation who confirms that although policy capture continues to be a risk in Romania, business associations themselves play a comparatively small role in the development and assessment of public policies (SGI,

2020^[47]). Nonetheless, the Global Corruption Barometer shows a small improvement in people's perceptions of corruption among business executives. In 2016, 29% of Romanians thought that most or all business executives were involved in corruption. That number had fallen to exactly the EU average of 25% in 2021 (Transparency International, 2021^[24]).

Local public administration

Information gathered during the fact-finding missions and key informant interviews indicated that during the implementation period under review, many local public institutions did not assume full ownership of corruption prevention, but rather treated it as somewhat of an onerous box ticking exercise. There were even reports of local administrations simply copying and pasting provisions from the NAS into their local integrity plans.

That being said, there were a number of leaders in the field, and several local administrations stand out for their progress in developing internal procedures and policies, particularly in the area of policies on conflict of interest, whistleblowing and gifts and hospitality. Giurgiu County Council, for instance, organised the "Integrity Café" and the Integrity Gala (Ministry of Justice of Romania, 2018-2020^[19]).

Awareness on restrictions around the revolving door and lobbying nonetheless remain very low across local public administrations. A further issue identified during key information interviews was that officials charged with ethics and integrity duties at local level are often occupying multiple roles, including HR functions, which undermines their capacity and ability to implement the provisions of the NAS. Equally, little progress was recorded in reviewing and simplifying administrative procedures at local government level in order to reduce opportunities for corruption, although the Ministry of Development, Public Works and Administration (MDLPA) did produce a report on those procedures most vulnerable to corruption.

The MDLPA also produced a manual on constructing an integrity index in order to rank local public administrations. The original intention was to contrast the formal reports local governments periodically sent to the MDLPA and the real level of compliance with integrity standards. The 2019 edition was based on 847 self-assessment reports submitted by local administrations, as well as an appraisal of the proactive transparency of these institutions as determined by the level of information provided to citizens on their website. While the initial ambition was to stimulate competition for improvement between local governments, only around 25% of the total number of local administrations have been included in the exercise so far. The MDLPA reports that a lack of public communication about the rankings has meant that local government representatives have expressed limited interest in improving their position in the index. The MDLPA also conveyed that they are currently considering tying a local administrations' ranking to material incentives to enhance engagement with the index, such as making the receipt of public funds dependent on the achievement of a minimum score in the index. The original idea to include citizen appraisals of the quality of service delivery as a component of the index was dropped due to limited human and financial resources, but could also be reconsidered in future.

Moreover, an awareness raising campaign for local government officials on corruption prevention was launched in March 2020, only to be aborted due to COVID-19 shortly afterwards. A virtual campaign resumed in October, with informational materials distributed to all 3 228 local government units. According to the 2020 monitoring report, the campaign reached 380 of these units. All local public institutions were contacted by phone and email by the MDLPA to offer support and technical assistance with the update and adoption of codes of conduct.

These efforts seem to be paying off, as the Global Corruption Barometer shows a small improvement in people's perceptions of corruption among local government representatives. In 2016, 38% of Romanians thought that local government representatives were involved in corruption. That number had fallen to 33% in 2021. The EU average is 19%. The North-Western region, where cities such as Cluj and Oradea are located, have the lowest rate of citizens who think that local government officials are involved in corruption

and the highest levels of trust (60%) in local government – more than 12 percentage points higher than the second place, Centru with 48% (Transparency International, 2021^[24]).

More dedicated outreach and support to local public administration would be advisable in future, including capacity building in how to tailor national level provisions and objectives to local circumstances. Prioritising enhanced co-operation between the local government platform and the other platforms was suggested by some participants of the fact-finding missions as a good starting point.

Based on the analysis of the previous section, Romania may take into consideration the following recommendations (Box 4.5):

Box 4.5. Recommendations - General Objective 3

- Prioritise the update of parliamentary integrity legislation and create pressure for implementation and enforcement. Amongst those, the following can be considered:
 - Instead of treating political integrity and political corruption as simply one priority area among many others at the specific objective level, elevate parliamentary integrity reform within the NAS and works towards ensuring constructive engagement with parliament and bring the necessary emphasis on this issue.
 - In particular, Codes of Ethics for Parliamentarians including on conflicts of interest and incompatibilities should be updated and sanctions for non-compliance introduced and enforced by the Permanent Bureau of MPs.
 - Engage in proactive data disclosure to monitor and report on breaches of parliamentary integrity.
- Set up cross-departmental working groups to determine the drivers of high levels of bribery in education and healthcare and adopt action-plans that are sensitive to the root causes of the problem, such as supply shortages, discretion and lack of complaint and accountability mechanisms.
- Plan for a more differentiated approach to local government, based on new data illustrating greater problems with corruption in certain sub-national regions. Different geographical locations face different challenges and a focus on providing technical support in response to local needs rather than imposing standardised tools and approaches would be advantageous. In particular, by:
 - Revitalising the local integrity index that could help to identify stronger and weaker performers, as could more systematic analysis of patterns of integrity failings in different localities.
 - Rolling out the local integrity index to all local administrations and link anti-corruption performance to material incentives to enhance engagement and compliance, such as making the level of public funds dependent on the fulfilment of certain minimum standards.
- State owned enterprises should step up their efforts to improve transparency and accountability, particularly given the increasingly important role they play in the Romanian economy. SOEs should:
 - Publish all financial data annually in open data formats,
 - Publish annually registers of interest of their board members,
 - Report publicly on their anti-corruption programme.

- Consider including a broader approach to increase anti-corruption measures in the private sector, by considering activities that cover not only SOEs but also companies in corruption prone sectors such as infrastructure, energy and health industry.
- Ensure that NAS policies and activities are gender sensitive and that marginalised communities do not suffer unintended consequences, including by:
 - Making sure that marginalised groups are represented in the planning, implementation and monitoring of the NAS.
 - Considering how corruption affects different population groups, including communities at risk of discrimination, in line with the G20 High Level Principles for the Development and Implementation of National Anti-Corruption Strategies.
 - During the implementation phase, collect gender-disaggregated data for all activities.

General objective 4 – Increasing the level of knowledge and understanding of the integrity standards by employees and the beneficiaries of the public services

- Specific objective 4.1 – Increasing the level of anti-corruption education of the staff within public authorities and institutions at central and local level
- Specific objective 4.2 – Increasing the level of information of the public on the impact of corruption

The 2016-2020 NAS allocated ROL 55 million (USD 13 million approx.) to educative measures, and stressed the need for a redoubled focus on anti-corruption education to address a perceived “insufficient knowledge of integrity norms” among public officials and citizens. Perhaps because of the prioritisation of educational measures in the Strategy, it appears that some progress was made in this area.

Anti-corruption training for public officials

The NAS 2016-2020 planned to develop mandatory integrity training for civil servants and publish related e-learning materials online. However, this initiative was not completed by 2020, at which point it was postponed until February 2021 due to the COVID-19 pandemic. The MoJ states that this activity was completed in February 2021. While the e-learning platform was not completed by the end of 2020, there seems to have been a concerted effort to deliver in-person integrity trainings to public officials throughout the period. The GAD, for instance, reported that in 2020 alone it carried out 3 354 educational activities to promote integrity, in which 32 414 people participated (Ministry of Justice of Romania, 2018-2020_[19]). A 2020 survey of 1 365 officials emphasised that those who had received training felt this to have been a “very effective” preventive measure (Ministry of Justice of Romania, 2020_[25]).

The same survey found that most officials felt anti-corruption and integrity rules were “clear and easy to follow.” Indeed, only 6% of those questioned stated that they were unfamiliar with these provisions, while 77% knew the appointed ethics / integrity counsellor in their institution. Only 29% said that they needed further information on “rules of conduct, conflicts of interest and incompatibilities that apply to them” (Ministry of Justice of Romania, 2020_[25]). This could be interpreted as a success of the training programme foreseen in successive National Anti-Corruption Strategies, which has placed heavy emphasis on ethics and integrity training. While it would be important to maintain the current level of familiarity with the integrity framework through “top-up training”, future strategies could seek to prioritise other areas.

Public information campaign

The Ministry of Justice had pledged to conduct a public information campaign in several phases; an initial corruption perception survey, followed by a dedicated series of tailored anti-corruption messaging disseminated through various mediums, television, radio, press releases, and posters. It appears that the public information campaign was postponed due to COVID-19 (OGP IRM, 2020^[49]). According to information provided by the MoJ, the campaign was ultimately conducted in March 2021 and consisted of printing and disseminating information and infographics to target groups. There is no evidence at this stage about the impact of the campaign. They observe that the original intention to conduct a public survey on corruption perceptions seems to have been dropped, which makes sense given the limited added value of an expensive household survey given that existing data is available from the Eurobarometer and the Global Corruption Barometer.

Public awareness raising measures could continue be an area to focus on in the next strategic period, especially given the shortcomings of specific objective 4.2. It is worth noting, however, that the problem is broader than public awareness about anti-corruption, and anti-corruption is just one policy area among many competing for citizens' attention. A recent assessment by the Bertelsmann Foundation conclude that in general, "public knowledge of government policy remains low. Most of the population, especially in rural areas and small towns, have no clue as to what government policies are being proposed or implemented" (SGI, 2020^[47]).

If there were to be a renewed focus on public information campaigns, it would be important to think carefully how to integrate awareness-raising activities with tangible anti-corruption outputs in other areas and to ensure a positive framing. Given the large expense of public information campaigns, moralising campaigns with little substance are unlikely to be effective. Citizens are generally aware that corruption is unethical, they need to be made aware of opportunities for them to take concrete steps to tackle it, and these should be clearly linked to measures to change incentive structures that lead to corruption. In the worst case, awareness raising campaigns on corruption can backfire as they could be contributing to "normalising" corruption in the mind-set of citizens and public officials, facilitating the rationalisation of unethical practices (Corbacho et al., 2016^[64]; OECD, 2018^[65]). In addition, research has evidenced that anti-corruption campaigns may risk triggering or building upon a growing sense of resignation in the population, which could further undermine trust in government and support by citizens to reforms (Peiffer, 2018^[66]; Bauhr and Grimes, 2014^[67]). As such, future public awareness raising measures should consider such potential undesired consequences. Awareness raising could focus, for instance, on communicating tangible steps that citizens can take, such as how to request information or report corruption, that build on reforms underway in other areas. At the same time, it is key to report how these actions from citizens are translating into actions taken by the government or the judiciary in order to reduce the risk of the potential negative effects mentioned previously.

Based on the analysis of the previous section, Romania may take into consideration the following recommendations (Box 4.6):

Box 4.6. Recommendations - General Objective 4

- While periodic top-up trainings may be advisable to maintain the current level of familiarity with the integrity framework, institutions organising educational and awareness raising activities must in future clearly articulate the expected impact and sustainability, to avoid sporadic and piecemeal interventions that are unlikely to result in significant impact.
- Future public information and awareness campaigns should not be generic in nature. Instead, it would be important to link them to tangible anti-corruption measures that can change incentive structures conducive to corruption, such as safe opportunities for reporting abuse.

General objective 5 – Strengthening the performance in the anti-corruption field by criminal and administrative means

- Specific objective 5.1 – Continuing the progress already made in the process of impartially investigation and the adjudication by the courts of high level corruption, and local level (Benchmark 3 and 4 of the CVM)
- Specific objective 5.2 – Improving the activity of identification, sanctioning and prevention of incompatibilities, conflicts of interest and unjustified assets cases (Benchmark 2 of CVM)
- Specific objective 5.3 – Strengthening the administrative control mechanisms
- Specific objective 5.4 – Increasing the level of recovery of proceeds of crime following the best practices of other EU Member States and strengthening of the judicial practice

The NAS 2016-2020 sought to build on the internationally recognised achievements of the DNA and the ANI during the previous strategic period from 2012 to 2015. Nonetheless, enforcement efforts in those years also had their shortcomings, most notably a lack of co-operation among control agencies and a consequent overreliance on criminal law instruments. It was also recognised that control agencies – particularly audit institutions – lacked human resources, which led to a virtual absence of ex-ante financial controls in sectors like healthcare, education and the operations of state-owned enterprises (Ministry of Justice of Romania, 2018-2020^[19]).

Improving the DNA's ability to conduct impartial investigations and prosecute high level corruption

Political events during the implementation period severely compromised the DNA's ability to conduct effective and impartial investigations that had won the agency such plaudits in previous years (World Bank, 2017^[20]). In particular, the problematic amendments to the justice laws in 2018 and 2019, which remain in force, have severely affected the DNA's operations. While some of the most problematic proposals to revise to the Criminal and the Criminal Procedure Codes have been rolled back, by the Constitutional Court, the flurry of proposed changes has led to "obstacles and legal uncertainty regarding the investigation, prosecution and sanctioning of high-level corruption cases." As a result, the DNA has seen some of its prosecutions collapse among heated disagreements about the admissibility of evidence. The SIJ's continued intervention in high-level corruption cases is judged by the European Commission to have undermined the DNA and led to troubling delays in important cases (European Commission, 2021^[32]).

This was compounded by a shortfall in human resources. The 2018 NAS monitoring report noted that in 2018, no positions of judicial police officers were allocated and insufficient budget was provided to cover the 90 positions foreseen in the NAS (Ministry of Justice of Romania, 2018-2020^[19]). As of March 2021, the DNA was still understaffed, with only 75% of positions filled, though a recruitment drive has reportedly been launched recently (European Commission, 2021^[53]). The human resources deficit was particularly evident at the top, where after the dismissal of the chief prosecutor Laura Kövesi no permanent replacement was appointed for a long period, which in the view of some observers "added uncertainty and vulnerability" to the DNA and exposed it to continued political interference (SGI, 2020^[47]). During the same period, there were "a number of high-profile acquittals and several mismanaged DNA investigations", due to weak evidence and limited substantiation of the alleged crime (Enache Pirtea & Associates, 2020^[12]).

Under these challenging circumstances, the DNA continued a number of investigations against high-profile officials, though progressively fewer cases were initiated and resolved from 2016 to 2019. While not per se a marker of worsening performance as fewer, solid investigations is preferable to many weak ones, according to the DNA's own figures. During this period, the number of complaints submitted by citizens to the DNA dropped off notably in 2018 (SGI, 2020^[47]) (DNA, 2016^[68]).

Despite these declining numbers, the consensus seems to be that the DNA acted competently and professionally in the face of intense political pressure. It recorded some success in recovering damages and prosecuting criminal cases related to senior officials, magistrates, and public employees in the education and health sectors. Since the appointment of a new government in 2020, the situation seems to have improved somewhat, with key management positions including the chief prosecutor being filled, which has brought renewed momentum and stability. This is reflected in the results achieved in 2020, which represented an improvement on 2019 in terms of the number of indictments, a reduction of the backlog and an increased number of complaints from officials and citizens, which the agency views as an indication of restored trust in its operations (European Commission, 2021^[53]).

Strengthen the ability of the ANI to prevent, identify and sanction conflicts of interest and unjustified wealth

The work of the ANI was likewise affected by the political instability of 2017-2019, though seemingly not to the same degree as the DNA. Two legislative proposals that came into force in 2019 nonetheless exacerbated legal uncertainty for the ANI's work. First, a new deadline was introduced that created ambiguity about whether the ANI could investigate conflicts of interests that lay more than three years in the past. The High Court of Cassation and Justice ultimately clarified that the three years deadline related to the need for the ANI to complete an investigation within three years after its launch, rather than sanctions not applying after three years. Nonetheless, in the meantime the uncertainty had led to multiple ongoing investigations being prematurely halted. Second, the sanctions for local elected officials with unresolved conflicts of interests were watered down to the extent that the ANI no longer considered the penalties as sufficiently dissuasive (European Commission, 2021^[53]).

Moreover, on several occasions where courts upheld ANI's judgement that certain MPs held incompatible functions or had unresolved conflicts of interest, parliament failed to impose sanctions in a coherent and timely manner as required (Ministry of Justice of Romania, 2020^[25]). In a similar vein, in the period 2017-2019 parliament failed to reject a number of legislative amendments on which the ANI had issued a negative opinion. The most recent CVM report notes that five pending amendments that had concerned the ANI have now been rejected by the new legislature in 2020, though as of June 2021 at least one further proposal with a negative opinion from the ANI remains pending in the Chamber of Deputies (European Commission, 2021^[32]). Limited progress seems to have been made towards GRECO's fourth evaluation round recommendation to clarify conflict of interest provisions for members of parliament, broaden the definition beyond personal financial interests and introduce a mechanism for ad-hoc disclosure of conflicts of interest (GRECO, 2021^[58]). The MoJ 2020 monitoring report notes that a proposal was developed and discussed in 2019, but little seems to have been done since then to implement the recommendation.

During this difficult period, the ANI has continued to investigate conflicts of interest, incompatibilities and suspicions of unjustified wealth. In 2020, for instance, the agency finalised 1 143 cases and applied 204 administrative fines to those who did not submit their income and asset declarations in an accurate and timely manner (Ministry of Justice of Romania, 2018-2020^[19]). The launch in May 2021 of a new electronic system to submit asset and interest disclosures should further strengthen the efficiency of ANI's operations as should the sufficient budget allocated to the agency. As of 2022, electronic submissions for public officials will become compulsory. The ANI has also established dedicated channels to support individuals looking for guidance on how to complete declarations of assets and interests, as well as clarifications on conflict of interest and incompatibilities. In 2020 alone, the agency provided such guidance to 1 538 individuals and legal entities (Ministry of Justice of Romania, 2020^[25]) (European Commission, 2021^[32]).

Finally, ANI played a proactive role during the electoral periods in 2020 to educate candidates on integrity rules and disseminating information to relevant bodies where candidates were ineligible for public office. The agency processed more 505 000 asset and income statements from candidates for local election and 13 000 statements from candidates in the parliamentary elections. These declarations were published on

its website within 48 hours of submission alongside a dedicated contact form for reporting any irregularities. Yet, although the ANI notified the courts that over 100 candidates in the local elections were under interdiction, in multiple cases the courts nonetheless validated the mandates of ineligible candidates (European Commission, 2021_[32]) (European Commission, 2021_[53]). Overall, however, information gathered during the virtual fact-finding missions pointed to the work of the ANI on prevention as being one of the major successes of the 2016-2020 NAS.

Strengthening financial control mechanisms

The NAS 2016-2020 identified a need to address the low capacity of control agencies. Early on in the implementation period, the Ministry of Public Finances established a national system to verify, monitor, report and control the financial health of Romanian public bodies. The system allows for real-time monitoring of the allocation and use of public funds. While this represented a good first step, the implementation period witnessed some concerning developments with regard to the Court of Accounts, a key financial control body tasked with conducting external audits on public institutions. Investigations by the Court of Accounts can reportedly take years and are debated by Parliament with significant delays. Moreover, there is no data available on compliance in implementing the Court's recommendations. Already seen by independent observers as a "largely ineffective" body, its functional independence was strained by the appointment of the Court President in October 2017 (SGI, 2020_[47]) (TI Romania, 2020_[69]). Furthermore, and as stated in the OECD Public Integrity Indicator, more could have been done to go beyond budget transparency and mitigate public integrity risks in public financial management, including by reducing fraud and financial mismanagement.

In 2020, the Prime Minister's Control Body and MoJ met its NAS pledge to publish a study on the system of administrative sanctions, which was based on data collected from 106 public institutions. Also in 2020, measures were taken to regulate the organisation and functions of the Prime Minister's Control Body and to provide for a more consistent approach to regulate the administrative control function in central public authorities under Government Emergency Ordinance 87 of 2020 and Government Decision 603 of 2020. (Ministry of Justice of Romania, 2020_[25]). Despite this, independent observers report that the Prime Minister's Control Body remains "more or less dependent on ministers" and its reports are not made public.

Ultimately, while control bodies such as the Prime Minister's Control Body, the National Health Insurance House, the General Anti-Corruption Directorate and the Permanent Electoral Body all report conducting control activities, fact-finding missions conducted for this evaluation pointed to ongoing weaknesses in financial audits. The reporting on the website of each control entity the entire list of fines and administrative penalties applied also seems patchy, though the AEP regularly does so.

According to the Order of the Ministry of Finance 3781/2019, the annual financial statements of medium and large enterprises, as well as state-owned enterprises must be audited by statutory auditors or audit firms. There are however some apparent shortcomings concerning oversight over private sector accounting and auditing standards. Notably, administrative penalties for fraudulent accounting can be applied to individual accountants and auditors by professional associations but only by the National Agency for Fiscal Administration as it refers to companies, as no liability of legal person exist for violations of auditing and accounting standards by companies (TI Romania, 2020_[69]).

Finally, it appears that the NAS 2016-2020 did not meaningfully consider how to bolster collaboration with European anti-fraud bodies, such as OLAF, the EPPO and the European Court of Auditors.² This is somewhat surprising given that Romania accounts for more than 10% of the total number of cases referred to OLAF, as well as the role of OLAF investigations into complex fraud networks in the country (Enache Pirtea & Associates, 2020_[12]). Although there was some collaboration between OLAF and the DNA, future iterations of the NAS could explore how to more systematically bolster co-operation and exchange between domestic agencies such as the Department for Anti-Fraud (DLAF) and DNA on one hand, and relevant international bodies on the other.

Asset recovery

The NAS 2016-2020 argued that the National Agency for the Management of Seized Assets (ANABI), established in December 2016 would “generate a significant increase of the money recovered from crime and... an increased rate of loss compensation.” Some progress seems to have been made in this respect, as courts has been transmitting an increasing number of decisions ordering the confiscation of the proceeds of crime during the implementation period (Ministry of Justice of Romania, 2018-2020^[19]).

ANABI has seen some success in seizing and capitalising property, including moveable property and virtual currencies, during the NAS implementation period. To auction off seized assets, ANABI launched an online platform. As of 2020, ANABI had filled 42 of the envisaged 50 staff positions. ANABI seems to be co-operating with foreign authorities in a competent fashion. In 2020, ANABI sent 81 mutual legal assistance requests to foreign authorities and received 161 requests. Of these 161, 90% were reportedly responded to within the deadline set by the requesting state (Ministry of Justice of Romania, 2020^[25]). During the implementation period, ANABI has been working on an integrated system called ROARMIS (Romanian Assets Recovery and Management Integrated System). This platform is intended to provide case data in order to track the progress of a file from identification and tracking of assets, through seizure to confiscation, damages and compensation, and was intended to allow users to monitor the steps taken by authorities. It is hoped that the tool will also allow analysis to identify patterns and increase the efficiency of asset recovery. While ROARMIS was supposed to be in place by October 2019, there appear to have been delays (OECD, 2018^[34]). The 2020 NAS Monitoring Report notes that the project got underway in in October 2020.

Some important steps were taken to bring Romania’s legal framework into line with EU standards. This included the introduction of a new anti-money laundering law in July 2019 to transpose the EU’s Fourth Anti-Money Laundering Directive 2015 of 849. This established a requirement for legal entities to register their ultimate beneficial owner with the Romanian Trade Register, and update this regularly. According to the 2020 NAS Monitoring Report, the register of beneficial owners is functional and competent institutions can access the data, although the information stored is not available to the public (OECD, 2018^[34]). At present, only administrative rather than criminal penalties have been established for the misrepresentation of beneficial ownership information. Particular attention is needed to ensure that oversight authorities are equipped to effectively verify beneficial ownership declarations so that the system acts as a deterrent to corrupt practices (TI Romania, 2020^[69]). On the other hand, in February 2020, Romania was issued a warning by the European Commission due to delays in transposing the EU’s Fifth Anti-Money Laundering Directive 2018/843 (European Commission, 2020^[70]).

Furthermore, in 2020, Romania’s Financial Intelligence Unit, the National Office for the Prevention and Combating of Money Laundering initiated the process of assessing national money laundering and terrorist financing risks. In 2020, law 228 of 2020 was passed to ensure the transposition of EU Directive 2014/42 on the freezing and confiscation of the proceeds of crime (Ministry of Justice of Romania, 2020^[25]).

Based on the analysis of the previous section, Romania may take into consideration the following recommendations (Box 4.7):

Box 4.7. Recommendations - General Objective 5

- Improve coordination between institutions in charge of the NAS and other relevant agencies including those in charge of combatting organised crime and money laundering, notably the Department for Anti-Fraud and the Directorate for Investigating Organised Crime and Terrorism. Including better co-ordination between Romanian and international agencies such as OLAF, EPPO, Europol, Interpol.

General objective 6 – Increasing the level of implementation of anti-corruption measures by approving the integrity plan and the periodic self-assessment at the level of all central and local public institutions, including the subordinated and co-ordinated institutions, as well as of public enterprises

- Specific objective: Strengthening the institutional integrity by plans developed based on the risk analysis and on the standards for internal managerial control

The NAS 2016-2020 document was insistent that each institution subject to the provisions of the Strategy should develop its own integrity plan as part of Objective 6. The emphasis on annual evaluation of the plans and adaptation to “newly occurred risks and vulnerabilities” clearly has merit, not least given the political turbulence of the implementation period. The 2020 NAS Monitoring Report (Ministry of Justice of Romania, 2018-2020^[19]) notes that during the period 2016 to 2020, the Ministry of Justice received and centralised a total of 780 integrity plans, of which:

- 10 came from independent authorities and anti-corruption institutions,
- 74 came from central public administration,
- 623 came from local public administration, and
- 74 came from state owned enterprises.

In accordance with the plans reviewed for this evaluation, the process runs in a very similar way for most institutions. It starts with a self-assessment, followed by the documents being send to Ministry of Justice.

These reports usually include:

- A narrative report on the status of the implementation of measures foreseen by the National Anti-corruption Strategy 2016-2020 within the institutions;
- An inventory of the measures of institutional transparency and corruption prevention, as well as evaluation indicators;
- The list of integrity incidents and of the measures taken to remediate the situation that allowed the integrity incidents to occur;
- An update on the development and implementation of the process;
- A further analysis of the status of measures that are being implemented or partially implemented, for the updating every two years of the integrity plans;
- A thematic mission of internal public audit.

Although Objective 6 shares similar goals to Objective 2, its focus is put on the self-assessment process within institutions, rather than the capacity of dealing with management failure or addressing legislative gaps (Objective 2). During interviews conducted for this evaluation, it became clear that this process is seen as rather useful within some institutions (e.g. the Ministry of Interior) anode of the most treasured tools of the NAS. Some stakeholders considered that the thematic assessments in particular was a very valuable part pf the feedback process to identify and address integrity incidents. Furthermore, several stakeholders would like this methodology to roll over the next NAS with some improvements. In particular, increasing the number of sessions dedicate to discussing these plans at the co-operation platforms, as well as producing a compilation of best practices over the experiences encounter by stakeholders when conducting these self-assessments.

Based on the analysis of the previous section, Romania may take into consideration the following recommendation (Box 4.8):

Box 4.8. Recommendations – General Objective 6

- Follow-up in a more systematic way integrity self-assessment plans, including adding it more often in the agenda of the co-operation platforms and compiling a list of best practices on the issue.

Notes

¹ MIFINANTE (Ministry of Public Finances of Romania), <https://mfinante.gov.ro/ro/web/site>

² Information provided by the Ministry of Justice on 9th September 2021.

5 Recommendations

The following recommendations are based on the previous analysis and could inform future National Anti-Corruption Strategies. In particular, they aim at providing a systemic focus oriented to cultivating a culture of public integrity in Romania along the OECD Recommendation on Public Integrity.

The evaluation provided an analysis of the process of the NAS 2016-2020 and provides some recommendation for the effective planning and implementation of future policies. The review also signals the path for establishing an interlinked system within other objectives and areas of work.

Improving process: Towards best international practices to build and implement an integrity and anti-corruption strategy

- Involving on a permanent basis, a high-level political figure or body in the process of implementing the NAS, who is both accountable for progress and enjoys the authority to push for the implementation of the strategy even in the face of potential political instability.
- Invite decision-makers, at the local and national level, to attend meetings of the co-operation platforms and specially those who are mandated with implementing activities of the Action Plan.
- Make senior officials in each county partakers in the progress of the NAS at the subnational level, to ensure that local governments do not treat anti-corruption efforts and integrity plans as a tick-box, technocratic exercise and create incentives for a significant implementation of commitments.
- Participation during the co-operation platforms' meetings of the representatives of the judicial and legislative branches, who should also be heavily involved in planning the Strategy's objectives and implementation. Proactive engagement of parliament in particular is key to engendering political ownership of the reform agenda and enhance accountability.
- The co-operation platforms have incredible potential and to increase its impact, should move forward to become a genuine forum for meaningful consultation and co-creation.
- Promote exchange between the different stakeholder platforms to ensure that business representatives and civil society players are exchanging with government officials and oversight bodies on a regular basis.
- Consult and involve different stakeholders not only in the consultation phase, but also in the drafting process to ensure ownership of the actions proposed by different stakeholders.
- Work with the most relevant implementing institutions to produce comprehensive action plans for the NAS. Building on a more robust diagnostic phase and an explicit theory of change with a clear results chain from activities to overall objectives, the action plan should include:
 - Roles, responsibilities and deadlines for all implementing institutions, and embed Integrity Plans within those institutions.
 - Clear prioritisation and sequencing to ensure those foundational activities or those that need longer implementation time can begin early.
 - Detailed budget lines for all activities as well as centralised records of all NAS-aligned spending to be used for tracking, monitoring and evaluation.
 - Work with the Ministry of Finance to ask for necessary allocation related to the NAS in the next financial cycle.
 - Indicators with baselines and targets for activities and outcomes, prioritisation as well as sequencing of activities.
 - Assure that quality of consultation remains active, once implementation is underway. In particular, as it relates to on-going legal reforms.
- Graft an enhanced policy coherence between the National Anti-Corruption Strategy and other governance initiatives and reforms, including digitisation, reforms to public administration, public procurement and combatting organised crime. This includes explicitly identifying synergies, prioritisation and sequencing between various governments strategies.

- Increase flexibility to the process of amending the NAS's Action Plans, when needed. In particular, as a way to address new issues and challenges that may arise over the 4-year implementation.

Improving policy: Setting priorities and strengthening integrity policies

- Prioritise the update of parliamentary integrity legislation and create pressure for implementation and enforcement. Amongst those, the following can be considered:
 - Instead of treating political integrity and political corruption as simply one priority area among many others at the specific objective level, elevate parliamentary integrity reform within the NAS and works towards ensuring constructive engagement with parliament and bring the necessary emphasis on this issue.
 - In particular, Codes of Ethics for Parliamentarians including on conflicts of interest and incompatibilities should be updated and sanctions for non-compliance introduced and enforced by the Permanent Bureau of MPs.
 - Engage in proactive data disclosure to monitor and report on breaches of parliamentary integrity.
- Consolidate the anti-corruption legal framework in accordance with recommendations from GRECO and the European Commission:
 - The preventative laws on integrity, incompatibilities and conflicts of interest are current somewhat fragmented, which hinders the work of oversight bodies.
 - While further legislative changes may cause some additional upheaval in the short-term, unifying the scattered legal framework has been identified by both external evaluators and key informants interviewed for this evaluation as key to buttressing anti-corruption efforts in the longer term, especially concerning the work of the ANI.
- Ensure that key anti-corruption datasets such as asset and interest declarations of public officials, political party finance, government spending, government budgets, company ownership are published following International Open Data Charter (IODC) standards by:
 - Ensuring the relevant institutions have the resources to maintain and verify these datasets.
 - Ensuring these datasets are all functional, compliant with IODC Standards and published in a centralised platform by the end of the upcoming strategy cycle. This would help to consolidate the various transparency platforms that have proliferated in recent years into a one-stop shop to help oversight bodies, journalists and citizens cross-reference different datasets.
- Improve co-ordination between institutions in charge of the NAS and other relevant agencies including those in charge of combatting organised crime and money laundering, notably the Department for Anti-Fraud and the Directorate for Investigating Organised Crime and Terrorism. Including better co-ordination between Romanian and international agencies such as OLAF, EPPO, Europol, Interpol.
- Plan for a more differentiated approach to local government, based on new data illustrating greater problems with corruption in certain sub-national regions. Different geographical locations face different challenges and a focus on providing technical support in response to local needs rather than imposing standardised tools and approaches would be advantageous. In particular, by:
 - Revitalising the local integrity index that could help to identify stronger and weaker performers, as could more systematic analysis of patterns of integrity failings in different localities.
 - Rolling out the local integrity index to all local administrations and link anti-corruption performance to material incentives to enhance engagement and compliance, such as making the level of public funds dependent on the fulfilment of certain minimum standards.

- Set up cross-departmental working groups to determine the drivers of high levels of bribery in education and healthcare and adopt action-plans that are sensitive to the root causes of the problem, such as supply shortages, discretion and lack of complaint and accountability mechanisms.
- While periodic top-up trainings may be advisable to maintain the current level of familiarity with the integrity framework, institutions organising educational and awareness raising activities must in future clearly articulate the expected impact and sustainability, to avoid sporadic and piecemeal interventions that are unlikely to result in significant impact.
- Future public information and awareness campaigns should not be generic in nature. Instead, it would be important to link them to tangible anti-corruption measures that can change incentive structures conducive to corruption, such as safe opportunities for reporting abuse.
- State owned enterprises should step up their efforts to improve transparency and accountability, particularly given the increasingly important role they play in the Romanian economy. SOEs should:
 - Publish all financial data annually in open data formats,
 - Publish annually registers of interest of their board members,
 - Report publicly on their anti-corruption programme.
- Consider including a broader approach to increase anti-corruption measures in the private sector, by considering activities that cover not only SOEs but also companies in corruption prone sectors such as infrastructure, energy and health industry.
- Ensure that NAS policies and activities are gender sensitive and that marginalised communities do not suffer unintended consequences, including by:
 - Making sure that marginalised groups are represented in the planning, implementation and monitoring of the NAS.
 - Considering how corruption affects different population groups, including communities at risk of discrimination, in line with the G20 High Level Principles for the Development and Implementation of National Anti-Corruption Strategies.
 - During the implementation phase, collect gender-disaggregated data for all activities.
- Follow-up in a more systematic way integrity self-assessment plans, including adding it more often in the agenda of the co-operation platforms and compiling a list of best practices on the issue.

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Evaluation of the Romanian National Anti-corruption Strategy 2016-2020