

Towards a Gold Standard in Governance
Transparency and Anti-Corruption in Post-Communist
Societies
- Executive Report -

Bucharest, 2014

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On the occasion of the 25th anniversary of the fall of the Berlin Wall, representatives from several former communist countries, together with guests from the US state department, World Bank, EU Commission, OECD, GMF and civil society organizations, met in Bucharest to discuss anti-corruption measures and steps towards good governance. Discussions built on the work carried at the Global Governance Forum in Prague 2011, aiming to bring forward ways in which actors in the region can work together to fight corruption and elaborate policies for better governance.

The event was opened by Mircea Geoană, president of Aspen Institute Romania, who emphasized the idea that fighting corruption is a must in transforming the countries and societies in the region from transition regimes into consolidated democracies. Central and East European countries ought to take a common stance on issues such as transparency, rule of law, as well as other good governance elements, and contribute effectively to the security of the Euro-Atlantic space by offering a safe and predictable economic and political environment. Though Romania's progress in fighting high-level corruption has gained visible recognition, the quality of its institutions is yet to be improved. On the same note, Hoyt Yee of the US State Department denounced corruption as an illness which not only drains societies of their wealth, but makes its citizens lose faith in the state laws and institutions. The key to address corruption efficiently is to build strong and stable institutions, which can function independently. The role of the National Anticorruption Department (NAD) and National Integrity Agency (NIA) has been appreciated. Corruption has serious implications both on the political and economic environment of a country, as foreign direct investments are strongly affected by this phenomenon.

Justice Minister Robert Cazanciuc and Laura Kovesi, head of the National Anticorruption Department (NAD) spoke about the reforms that the Romanian justice system underwent and good practices in the public administrations. Both acknowledged that citizens' trust in bodies such as the NAD has increased steadily, which is indicative of the fact that people understand the gravity of corruption. Looking at the overall phenomenon, Kovesi explained that fighting corruption should be a two-tier endeavor, in which prevention and combating are backed by proper financial resources and assumed political will. Also, a common reference system for assessing the gravity of the phenomenon is needed. In support of the plea for investments and political commitment, for 2013 alone, the balance sheet of DNA showed that around 1000 people were convicted, while the value of assets confiscated rose to €350 million.

Considering corruption as an issue pertaining to national security, George Maior, head of the Romanian Intelligence Service (RIS), made reference to Ukraine to showcase how the accumulation of illicit practices

can lead to instability and a general erosion of state sovereignty. Romania's general performance placed it on a positive trajectory, supported by strengthened specialized institutions, which however need further political commitment and better legislation. A case in point is Romania's recent appointment as leading nation of a NATO cyber defense trust fund for Ukraine. The speaker drew attention to the recent decision of the Constitutional Court regarding the collection and storage regime of personal data, recommending that it should be revised, under the current circumstances.

Angela Filote, head of the EU Commission in Romania, believes that good governance derives from being able to choose the right people through a good election system.

Roundtable: A lasting and effective frame of reference for transparency and good governance

This session looked at concrete targets, cases and indicators in the fight against corruption in participants' countries. Speakers from Georgia addressed the challenges of the national institutional framework for combating corruption and strengthening communication with citizens. Particular focus was laid on the importance of the freedom of information and the use of electronic services, coupled with the involvement of all stakeholders in the drafting of a national strategy for corruption.

Counterparts from the Republic of Moldova pointed out that effort over the last years focused on identification and verification of illicit wealth, and on the elaboration of a national system on integrity. Vulnerabilities identified so far consist in setting up the right targets in anti-corruption efforts. Speakers underlined the necessity to focus on both prevention and combating corruption components. The exchange of ideas and expertise with similar bodies in Romania were highly appreciated.

Independent experts on the panel also analyzed how corruption could be tackled, by looking at the psychology behind it. Following the premise that corrupt practices are shaped by the environment, Ana Vasilache presented a model which first looked at how to build capacity on the supply side (in terms of knowledge, skills), and then raised interest on the demand side. Karel Janecek (Fund against Corruption) advocated the idea that selection of leaders is an important dimension of fighting corruption and building standards at middle level. Based on the assumption that leaders are crucial in perpetuating a particular system, Janecek proposed an algorithm by which any citizen can vote for more candidates, as an alternative to consider in the debate on majority vs. proportional voting. Valentina Dimulescu (Romanian Academic Society) made a case for cross-societal cooperation between NGOs and political actors. Examples discussed showcased how the mere practice of blacklisting and shaming corrupt individuals can make political actors and parties more accountable to the public. These good practices models extended to the Republic of Moldova in 2009 and to Ukraine in 2011. Nevertheless, it was highlighted that results and implementation depend highly on the commitment of political parties. As a conclusion, NGO's across the region have the capacity to contribute to anti-corruption strategies by conceptualizing corruption and integrity, and creating tools for measuring and assessing transparency.

Roundtable: Implementation of National Anti-Corruption Strategies

The second panel of the conference looked at the state of play in various countries in Central and Eastern Europe, focusing on case studies, best practices and obstacles encountered. The results and actual implementation vary from country to country, raising the question of whether standard guidelines for good governance can be effective in all countries.

Countries in the Western Balkans are reportedly speeding up institutional collaboration and operating changes in their anti-corruption legislations. States such as Montenegro are gradually developing their anti-corruption strategy, while seeking EU support for implementation stages. As highlighted by speakers, the capacity for reform is definitely there, but the political will required to change is still an issue to be addressed.

The representative from the Republic of Moldova showcased the positive impact of recent changes in the legislation on fighting corruption. The reform of the justice system, supported also by Romanian expertise from the specialized institutions, put Kishinev on the right track in addressing corruption, while future efforts focus on the recovery of illicit assets.

A general conclusion was that societies in the region have moved from acknowledging the existence of corruption to focusing on the efficiency of institutions designed to tackle it. Irrespective of the state of the economy, corruption is regarded as a perennial phenomenon, which can only change once administration and politics modify their modus operandi. Georgian representatives raised another issue in relation to specialized bodies in fighting corruption, arguing that such institutions may grow tempted to artificially increase their workload so as to justify their existence.

Roundtable: Ensuring a steady, predictable and transparent framework for business and investors

Discussants tackled ways in which corruption, as a phenomenon is as present in the private sector as much as in the public sphere. Speakers from a variety of backgrounds looked at how the private sector can participate in the fight against corruption, either independently or in partnership with state authorities. Panelists looked at practical ways in which e-services and e-governance can significantly increase transparency and improve policy-making. Though Romania is seen as lagging behind within this trend, those that position the country as one with a steady growth balance the figures.

Gretchen Jonker of the World Economic Forum addressed the issue of the approach gap between the private and public sector, proposing that anti-corruption measures look beyond borders and involve industries. Thus, a correct approach to stopping corruption on the supply side should focus on rewarding the do-gooders, rather than on punishments. Constructive measures in the private sector would also have to include assistance to companies of all sizes, for instance when dealing with procurement cases. In such situations, large companies with solid financial figures will have much more freedom to move away from

what they perceive as a corrupt deal, in comparison with a SME, which may not be able to pass on a business deal. Additionally, it is important to harmonize national legislation to world regulations.

An important component of the debate has to do with the practices and behavior of competing parties involved in public procurement processes. Rather than criminalizing the lack of transparency, discussants see it as a misallocation of resources, by which, for example, one company may prevent another one from winning a tender. Bogdan Chirițoiu (Competition Council) commented on the legislative process in Romania, which, in its parliamentary phase, allows for last-minute changes, as opposed to draft laws issued by the government. To be able to check this, Chirițoiu argued for ex-ante evaluation of policy-making.

Another issue raised by speakers with regard to the state of Romanian legislation has to do with its rather high degree of vagueness, which leaves room for multiple interpretations. Furthermore, emergency ordinances are to be used only when necessary, in order to increase transparency in law-making. As regards ways to improve governance through public-private interactions, another speaker proposed three dimensions to which stakeholders should strive to contribute: raising awareness and creating links between reform initiatives, pushing governments to create an overarching governance and transparency plan, and making use of the wealth of experience and information from the private sector. At the same time, local business representatives need to put more effort into addressing their common problems with one coherent voice, including when engaging with public authorities.

When discussing positive examples and good practices, panelists also made reference to countries in Central and Eastern Europe such as Poland, whose self-discipline and transparent governance helped it access and manage properly European funds, something Romania and other neighbors in the region could learn from. Romania's fight against corrupt politicians should mean not only sending them to jail, but actually restoring the undeserved wealth to the real owners. This is a major step towards increasing the trust of Romanian citizens in policy makers as well as the overall transparency of the governing process. Looking at domestic positive examples, the impact and role played by the Coalition for Romania's Development has been deemed as highly positive, as highlighted by H.E. Mr. Van Bonzel, the Dutch Ambassador to Bucharest.

Closing remarks

Mr. Mircea Geoană, President of Aspen Institute Romania, concluded the conference by asking participants to contribute to a list of best practices in fighting corruption across the region. As emphasized in the final intervention, Central and East European countries could benefit substantially from sharing positive experiences, be that in the form of more solid e-services, as in Estonia, or institutional consolidation in Romania. Input from all concerned parties is essential, particularly ahead of a larger regional event dedicated to the topic, envisaged to take place next year.

Conclusions:**Public - Intergovernmental – Private interaction on Anti-corruption, Good Governance and Transparency**

- One of the main reasons for the poor economic and institutional performance of Central and Eastern European countries is corruption and lack of transparency and predictability in government processes, which take a heavy toll on the public, private and business sectors alike
- Costs of corruption on the affected societies are measurable and visible in all sectors of political and economic life: in terms of jobs lost on the market, missed investment opportunities in places where most needed, uncompetitive products and businesses, unclear or loose legislation, poor physical infrastructure and institutional capacity, and deepening economic gaps between CEE countries and the West
- Anti-corruption efforts over the last years focused mainly on identification and verification of illicit wealth, condemnation of corrupt politicians and on the elaboration of a national system on integrity but there is increasing acknowledgement that corruption as a phenomenon covers a much wider scope of activities which need to be analyzed. This requires setting up a common reference system to measure and investigate corruption.
- Full transition to a stable government system, based on the rule of law, is also a component of the national security for Central and Eastern European states, which face increasing vulnerabilities presently
- Governmental representatives across the EU and OECD, business environment and civil society actors need to consult and work together more closely, in order to achieve and pursue convergent approaches in fighting corruption and promoting good governance. This will require harmonizing national legislations to wider regional or global regulations in targeted fields of activity.
- Interdependence between public, business and private sectors in fighting corruption should be reflected not only in terms of addressing public procurement issues or financing of political parties. Effective cooperation between these should target to include the following components: agreement on minimal standards of transparency and efficiency; avoidance of conflict of interest and ensuring competitive bases for added value for the private sector. Lobby and private sector advocacy mechanisms need to be the object of clear legal procedures when it comes to anti-trust, transparency and competition measures. Procedures should be conceived so as to maximize the private/public relationship as a whole instead of approaching each of the issues above separately
- Discussions focused on ways to create potential links between various reform initiatives, to stimulate governments to create overarching good governance and transparency standards, as well as on how to best make use of the expertise and information available in the private sector to facilitate better governance initiatives

- The public /private cooperation should seek to maximize the quality of services rendered by the state. The state must effectively size its institutions' capacities to provide technical services so that the rendered public services meet a certain level of quality. In cases where the state cannot provide certain services within the required standards, monopoly of public services should be removed and transferred to the private sector, so that the latter could be required to offer such services in the given circumstances, including by entirely transferring the incomes derived from those services (.e.g public health services). In such cases, public authorities in charge should only supervise the compliance of the private sector performing those services with the established standards.

Speakers and moderators:

Mircea Geoana, President of Aspen Institute Romania

Hoyt Yee, Deputy Assistant Secretary for European and Eurasian Affairs, US Department of State

Robert Cazanciuc, Romanian Minister of Justice

Hristo Ivanov, Deputy Prime Minister and Minister of Justice in the Caretaker Government, Ministry of Justice of Bulgaria

George Cristian Maior, Director, Romanian Intelligence Service

Angela Filote, Head of the European Commission Representation in Romania

Kimberly Johns, Governance Specialist World Bank

Aleksandre Baramidze, First Deputy Minister of Justice of Georgia

Anatolie Donciu, President of the National Integrity Commission, Republic of Moldova

Ana Vasilache, President of Partners for Local Development Foundation (FPDL)

Karel Janecek, Founder of the Fund Against Corruption, Czech Republic

Liviu-Bogdan Ciuca, President of the Judicial Commission Chamber of Deputies

Valentina-Andreea Dimulescu, Public Policy Researcher, Romanian Academic Society (SAR)

Madalin Niculeasa, Managing Partner at Niculeasa Litigators

Laura Codruta Kovesi, Head of National Anti-Corruption Directorate of Romania

Pawel Wojtunik, Head of the Central Anticorruption Bureau of Poland

Adriatik Llalla, General Prosecutor of the Republic of Albania

Sabina Cerbu, Deputy Minister of Justice, Ministry of Justice of Moldova

Catalin Boboc, Chairman of Judicial Commission of the Romanian Senate

Josip Kregar, Chairman of Judiciary Committee of the Parliament of Croatia

Vakhtang Khmaladze, Chairman of the Legal Issues Committee of the Parliament of Georgia

Koca Pavlovic, member of Anti-Corruption Committee of the Parliament of Montenegro

Madalina Mocan, Director for Development, Ratiu Foundation for Democracy