

**A critical Analysis of the
effectiveness of
Anticorruption Measures
in the Romanian Judicial System**

European Studies Master Program

University of Twente/Münster University

Master Student:

Edina Melánia Hadnagy

Münster University:

Supervisors:

University of Twente: Dr. Guus Meershoek

Dr.Prof. Norbert Kersting

Contents

Introduction..... 4

Chapter I..... 11

 Defining Corruption..... 12

 1.1: General Definition of corruption 13

 1.2 Measuring Corruption 16

Chapter 2 20

 2.1 An overview of the recent history of Romania 20

 2.2 An overview of the judicial system in Romania 22

 2.3 Level of Corruption in Romania in General 24

 2.4 Types of Corruption in the Romanian Judicial System 25

Chapter 3 29

 Theoretical explanation..... 29

 3.1 Causes of Corruption 29

 3.2 Effectiveness of policy implementing..... 33

Chapter 4 36

 A summary of EU anticorruption policies 36

 Anticorruption Measures introduced in Romania for the Fight of Corruption 38

Chapter 5 42

 Results of Anticorruption Measures in Romania 42

Chapter 6 53

 Explanation for the non-effectiveness of the anticorruption measures..... 53

Conclusion 60

Bibliography 65

Introduction

According to Transparency International Romania is among the most corrupt countries in Europe. After acceding to the European Union in 2007 , Romania was put under pressure regarding its anticorruption policies and was obliged to introduce several anticorruption measures. We would expect that pressed by the European Union Romania has made some progress in the fight against corruption. This seems not to be the case. Romania is still struggling with the issue of corruption and the international opinion questions the effectiveness of governmental policies in this matter.

The reason why I have chosen to investigate corruption in the judicial system is, because the Judicial System of a country is the institution which is the most responsible for combating corruption cases. Therefore the results of an investigation regarding the judicial system most probably will apply to other sectors as well.

In addition I have chosen this context with this structure, on the basis of this literature, because in my experience academics before did not try to give an explanation, with the help of these theories and with the help of the EU Reports. Transparency International articles, World Bank Reports and EU Reports are a good source regarding the investigation on corruption , but they do not take into account the socio economical background of the countries while drawing conclusions. Academics like Cyrille Fijnaut and Leo Huberts, Daniel Barbu, Liliana Popescu – Birlan, Milada Anna Vachudova do take into account socio economical developments of Romania or of countries in general, but they do not use EU reports in their analysis.

The main question of my thesis is : How effective are the anti-corruption policies of the Romanian government during the last five years regarding the judicial system and what explains their effectiveness or non effectiveness ?

My research questions are:

1. What kind of corruption can be found in the Romanian judicial system?

2. What kind of causes are attributed to these kinds of corruption in the social-scientific literature and what are the causes of effectiveness of anticorruption measures?
3. What kind of policies were enforced on the Romanian government by the EU?
4. What are the results of these policies?
5. What explains their limited results?

My research is founded on several social-scientific theories of corruption and on a variety of sources of empirical information and investigates developments in the last 5 years.

As a theoretical base I am going to apply the theories of Cyrille Fijnaut and Leo Huberts in their book entitled “Corruption Integrity and Law Enforcement “ (2002,Dordrecht).

The empirical base of my research will be several policy documents of the Romanian Government, Reports and Diagrams from Transparency International , policy reports from the European Commission of the European Union , newspaper articles and academic articles.

The methodology used in my paper is Qualitative. I am going to verify or falsify my explanations with the help of Desk Research. I will use literature such as EU Documentation , Documentations of the Romanian Government , EU Accession Progress Reports , Articles of Transparency International and Results of the Corruption Perception Index.

Chapter I is an introductory chapter.

In the first chapter of my thesis I will write about the characteristics of a good judicial system. I consider this step important , because in order to have a good research in analyzing corruption matters in the justice system first we should be clear about the characteristics of a justice system without corruption , in order to be able to be sure where the problem is.

In the second part of this chapter I am going to define corruption and standards of measuring corruption.

I have chosen to write about these aspects, because definitions of corruption and measuring corruption are controversial. It is not always clear, according to which criteria to define and measure corruption. Therefore in this chapter I will argue which definitions are the

most accurate and objective. On the basis of these definitions I will formulate the definition of corruption and the criteria regarding measuring corruption that will be used in this research.

In Chapter 2 I am going to answer research question 1 : What kind of corruption can be found in the Romanian judicial system? In order to answer this question, I am using reports from Transparency International , CPI (Corruption Perception Index). , National Level Reports and Documentation , Newspaper Articles and Articles from Academics from Romania. With the help of these reports, I will be able to investigate the level and types of corruption in Romania.

I have chosen these articles for answering of this research question , but also for answering of my other research questions, because Transparency International is the first organization worldwide dealing with the issue of corruption and it is the most recognized organization having the biggest area of covered country data and number of corruption investigations. Transparency International works together with other civil organizations and governments in order to develop tools for anticorruption strategies. Transparency International was the organization to bring the topic of corruption on the world agenda. Thanks to Transparency International such organizations as IMF and World Bank now conceive corruption a serious issue.

Transparency International says about it: *"Transparency International is the global civil society organization leading the fight against corruption. It brings people together in a powerful worldwide coalition to end the devastating impact of corruption on men, women and children around the world. TI's mission is to create change towards a world free of corruption."* (Global Corruption Report , 2007, p. 4.). Indeed it had a great role in creating the United Nations Convention against Corruption and the OECD Anti-Bribery Convention.

The main sources of the reports of Transparency International are the following internationally recognized organizations and Surveys : World Justice Project Rule of Law Index, World Economic Forum Executive Opinion Survey (EOS)., World Bank- Country Performance and Institutional Assessment, Political Risk Services International Country Risk Guide, IMD World Competitiveness Yearbook, Freedom House Nations in Transit, Bertelsmann Foundation Sustainable Governance Indicators, Global Insight Country Risk Ratings.

Therefore Transparency International and its CPI results are providing relevant data regarding the topics I am dealing with. I consider it important to use national level reports and articles, because in some cases they can provide a deep and detailed analysis of the issues I am dealing with and with their help I can find additional information which Transparency International did not cover. National level reports can give more detailed information in some cases, because their sole role is to concentrate on the case of a certain country, giving them more chance for an accurate analysis, as Transparency International focuses on cases all over the world which gives less space and time to deal with one special topic.

This research question will be answered empirically. First of all, I provide the reader with background information on Romania's recent history and an overview of its judicial system. Afterwards, I will write about the level of corruption and the types of corruption in Romania in general and will focus on the judicial system. I consider it important to approach the research question from this perspective, because this way the reader will be able to understand the historical and judicial organizational context in Romania.

In chapter 3 I am going to answer research question 2, namely: What kind of causes are attributed to these kinds of corruption in the social-scientific literature and what are the causes of effectiveness of anticorruption measures?

In order to answer this research question I will use theories mentioned in a book entitled "Corruption, Integrity and Law Enforcement" written by Cyrille Fijnaut and Leo Huberts. (2002, Dordrecht). An additional theoretical source as well, the book entitled Absent Democracy by the Romanian political scientist: Daniel Barbu. (2004, Bucharest).

I have chosen this literature for the theoretical basis of my research, because Fijnaut and Huberts give theoretical explanations for several aspects of corruption and provide case studies with all possible issues on the international field. Since my research is also dealing with several aspects of corruption, this book serves as a very good base.

The answer of this research question has a theoretical character.

In Chapter 4 I will answer research question 3, namely: What kind of policies were enforced on the Romanian government by the EU?

In order to answer this research question, I will use national level reports and documentation by the Romanian government regarding anticorruption measures. The reason why I have decided to use this kind of literature is because these national level reports provide a detailed description regarding anticorruption strategies. They usually have the goal of informing people or governments , at the request of the European Commission, in order to create awareness regarding the issue of corruption.

The national level reports on corruption in Romania belong to the national level branch of the Transparency International. These national level reports realize an analysis regarding the perception of corruption, the generating mechanisms of legislative and institutional corruption. In the same time they present the results in monitoring the implementing of anticorruption policies. These reports are made on an annual basis. They analyze each sector affecting corruption and they offer information about recent legislative and institutional developments relevant to the fight against corruption. These reports use as their research method focus groups, opinion polls, questionnaires , press monitoring, comparative analyses on legislation and public policies (Transparency International Romania, Studii).

Therefore they provide a good empirical basis for my thesis.

The answer of this research question will be purely descriptive , where I will write about different anticorruption strategies introduced in Romania.

Chapter 5 will answer research question 4 , namely : What are the results of these policies?

In order to answer this empirical research question, I will analyse EU Reports which are dealing with the results of anticorruption measures in Romania, communicated from the European Commission to the European Parliament in chronological order from year 2007 until 2010. My motive for using these EU reports as basis for answering this research question, is the fact that the EU is the organization which has the most interest in investigating in the most accurate way the issues of corruption in Romania. In order to achieve a good economical and political cooperation between member states , the solution of the issue of corruption and the issue of effective “ corruptless” judicial cooperation is one of the most important goals on their agenda.

The EU has several means to accomplish this goal.

One of these means are sanctions. For those countries who joined the EU from year 2004, several provisions were made in the Accession Treaty for transitional arrangements and safeguards (example: sanctions on the free movement of workers, on access to road transport networks). In the Accession Treaty was made clear that in case there are shortcomings in the judicial reforms and the fight against corruption the country has to face restrictions. Therefore a cooperation and verification mechanism was established. This mechanism was established in order to improve the functioning of the legislative and judicial system and in order to fight corruption.

The next tool of the EU is supervision. In this respect the purpose of the Cooperation and Verification Mechanism is to ensure that measures are taken to provide assurance to Romanians and to other Member States that administrative and judicial decisions, legislation and practices in Romania are in line with the rest of the EU. Progress on judicial reform and the fight against corruption will allow Romanian citizens and business to enjoy the rights they are due as EU citizens. Without irreversible progress in these areas, Romania risks being unable to apply EU law correctly (European Commission , 2007, p.2-4).

Diplomacy is also among the means of the EU The Romanian Government has been a primary source of information for the EU in this respect. Information and analyses were also received from the EC Representation Office and Member State diplomatic missions in Romania, civil society organizations, associations and expert reports. The European Commission organized missions to Romania during April 2007, under the Cooperation and Verification Mechanism. They are supported by individual experts from Member States and European Commission services. The purpose was to seek independent assessment of progress. Experts drew up reports which subsequently were transmitted to Romania for correction of any factual inaccuracies (European Commission , 2007, p.2-4).

Training is the last tool of the EU. Programs with consultancy work have started in Romania. These programs were financed by the EU itself and were lead by UK. The Basel Institute was also active in these training programs. Several workshops were held in 2008. The subject of these workshops were : EU best practices in anticorruption communications and communication policy in crisis situations, redrafting of the communication strategy of the Anticorruption Directorate , recovery techniques (Basel Institute, 2009).

Here we can conclude that EU Reports are an important source, because they have several means of doing research. On the other hand the EU is too much dependent on cooperation with national entities and it needs cooperation from national governments as well.

Therefore it is very difficult for the EU to accomplish its goal regarding the solution of the issue of corruption and the issue of effective “ corruptless” judicial cooperation.

Chapter 6 will give an answer to research question 5, namely: What explains the limited results of anticorruption policies in the judicial system?

In order to be able to answer this research question I will use my own conclusions regarding the empirical information read, but also the theoretical one.

This part of my thesis will give an explanation in the prism of theoretical implications of corruption combined with empirical research used in my thesis regarding the effectiveness or non -effectiveness of anticorruption measures in Romania in the judicial system. This last part of my thesis should give an answer to questions swirling around the issue of corruption in Romania and the effectiveness or non- effectiveness of anticorruption measures.

Chapter I

In the first chapter of my thesis I will write about the characteristics of a good justice system. I consider this step important, because in order to have a good research in analyzing corruption matters in the justice system first we should be clear about the characteristics of a justice system without corruption, in order to be able to be sure where the problem is.

In the second part of this chapter I am going to define corruption and standards of measuring corruption.

A Good Judicial System

The legal system was created by our ancestors to provide justice to everyone so that harmony could be achieved in a community. With the passage of time legal system changed to keep up with the advancement of the mankind. “ *Today legal systems all over the world have become huge due to growing number of cases that are being tried in the courts. A good legal system is the need of the hour to keep the society intact.* “ (Law News and Update, 2012).

A good justice system is one that provides fair justice without any partiality. “ *Impartial enforcement of laws requires an independent judiciary and an impartial and incorruptible police force.* “ (United Nations, ESCAP, 2012).

It should be transparent and proceedings must be made public to make the judgment unbiased. Corruption is the biggest enemy of the good judiciary system and government should ensure that it should be kept at bay. A good justice system does not have political influence. A good legal system must speed up proceedings instead of postponing hearing dates as it is rightly said that justice delayed is justice denied (Law News and Update, 2012).

Moreover *“Information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. It also means that enough information is provided and that it is provided in easily understandable forms and media.”* (United Nations, ESCAP , 2012).

Here we can draw the conclusion that a good judicial system is where justice is provided impartial and the judicial system is not dependent on political influence and any other interests.

A further criteria for a good judicial system is a good management setup. This means that citizens are well informed about admission procedures of employees, administrative matters of the judicial system and judicial decisions. In this way the transparency of the management is assured.

Moreover decision making is consistent and fast. Finally a good judicial system is that where is no corruption.

Defining Corruption

Defining Corruption is not as easy as the reader might think it is. It encounters several problems, complications and criteria which are difficult to standardize because of the ambiguity they face.

I have decided to deal with the defining of this notion and with its measurement because in order to be able to analyze the issues of corruption in an accurate way we have to be clear about the following criteria : What is corruption? What are the forms of corruption? What types of corruption are there? What aspects should be taken into account while defining and measuring corruption?

When we define corruption we should take into account what can go wrong with a good judicial system? And in which case do we talk about distortions in a judicial system.

We can talk about distortions in a legal system in a country, when justice is not provided impartial and the judicial system is dependent on political influence and other interests. The second distortion appears, when the judicial proceedings , the management of the judicial system are not transparent. The third distortion is , when the decision making is

incoherent and slow. Finally we can talk about a distortion ,when corruption appears in the judicial system.

1.1: General Definition of corruption

The theoretical literature gives several explanations and criteria in clarifying the notion. They serve with a good basis in understanding the notion. We can make a distinction in two categories. The first category classifies definitions which put a central role on financial gains and which put an emphasize on the deprivation of norms. The second category makes a distinction between high level corruption and petty corruption.

Definitions with a central role on financial gain are:

According to the Oxford Dictionary corruption is a dishonest or fraudulent conduct by those in power which typically involves bribery.

World Bank names corruption the abuse of public or private office for personal gain.

According to a further definition of World Bank corruption is : “ *the abuse of public funds and/or office for private or political gain. properly and unlawfully enrich themselves or those close to them (or both),, or induce others to do so, by misusing the position in which they are placed. Campaign finance corruption is the abuse of public funds or public office (or both). for political party financial gain.*”

A further definition which is used by Transparency International defines corruption as “ *the abuse of entrusted power for private gain*”. Moreover Transparency international defines corruption as “*behavior on the part of officials in the public sector, whether politician or civil servants, in which they improperly and unlawfully enrich themselves, or those close to them, by the misuse of the public power entrusted to them.*”

Definitions which emphasize the deprivation of roles are :

The Oxford dictionary defines corruption as the action or effect of making someone or something morally depraved.

A further definition provided by the World Bank is : “ *Behavior that breaks some rule, written or unwritten, about the proper purpose to which a public office/institution has been put.*” (World Bank , 2008 ,p.4).

A further definition is: “ *behavior which deviates from the formal duties of a public role (elective or appointive). because of private-regarding (personal, close family private, clique). wealth or status gains : or violates rules against the exercise or certain types of private –regarding influence.* “ (Scott, 1972 p.4).

Finally if we have to define corruption , we can say that corruption manifests through any kind of act throughout which the employees of the system are influenced in a negative way that affects the impartiality of legal proceedings for the purpose of obtaining an illegitimate benefit for themselves or other persons (Danilet , 2009, p.11).

The second category makes a distinction between high level corruption and petty corruption.

The High level corruption occurs in politics, policy formulation and in public sphere. “ *It refers not so much to the amount of money involved as to the level in which it takes place: grand corruption is at the top levels of the public sphere, where policies and rules are formulated in the first place. Usually (but not always). synonymous to political corruption.* “(Byrne, 2009).

Petty corruption manifests on small scale and it means the everyday corruption. „*Petty corruption refers to the modest sums of money usually involved, and has also been called “low level” and “street level” to name the kind of corruption that people can experience more or less daily, in their encounter with public administration and services like hospitals, schools, local licensing authorities, police, taxing authorities and so on.*“(Byrne, 2009).

In my thesis I am going to deal with kinds of corruption which mean a deviation from morals and norms. I chosen this path , because not all corruption cases have to do with financial gain, therefore the type of corruption definition which emphasizes the deviation from norms and morals covers better the different type of corruptions.

Therefore in my thesis in general the definition I am going to use is : Corruption is a behavior which deviates from the formal duties of a public role as it is embedded in an institution and serves non-institutional interests.

Since all definitions have their shortcomings, this definition has its deficiencies as well. One of its weaknesses is that it does not cover issues dealing with financial gains and bribes. The other problem of the definition is that it is difficult to realize when exactly deviation of formal rules begins, because public officials might keep appearances of following normal procedures. I will use this definition in my thesis because most of my sources deal with institutional features, which are good indicators for the issue of corruption. Another reason why I have chosen this definition is because of the fact that in the general belief corruption types that have a financial implication are the most dangerous ones. However I consider corrupt matters where financial aspects do not play a key role, but deviation of norms and standards in institutions, as severe as corruption types that involve financial gain. An example here is when a judge in his final verdict does not resist political pressure. He decides according to different political interests and not according to his official role according to which he has to provide independent and fair decisions.

Defining Corruption in general is not enough. We need to distinguish between different types of corruption. According to Fijnaut & Huberts (2002, p.15) corruption is an umbrella concept, where a number of integrity violations of forms of public misconduct can be distinguished: bribery, nepotism, cronyism, fraud and theft, patronage, conflicts of interest.

Among these types I am going to concentrate in my thesis on two types of corruption. Namely nepotism and conflicts of interest.

Nepotism is “ *the practice among those with power or influence who favor relatives or friends, especially by giving them jobs.* “ (Oxford Dictionaries).

We can define conflict of interests as a case where a person has a personal interest or outside pressure, which is sufficient for influencing the objectives of his official duties in his role of public official, employee or professional (Business Ethics).

“ *A conflict of interest is a situation in which financial or other personal considerations have the potential to compromise or bias professional judgment and objectivity. An apparent conflict of interest is one in which a reasonable person would think that the professionals judgment is likely to be compromised.* “ (Investopedia).

1.2 Measuring Corruption

The subject of Measuring Corruption is controversial one, because it is not always clear, according to which criteria we measure corruption. It bears a great importance to clarify the methods of measuring corruption and the aspects taken into account, because this way for the reader it will be clear in the later parts of my thesis where I talk about corruption in Romania what aspects did I take into account while talking about corruption.

Being clear about the measuring of corruption is not only important for the sake of better understanding but also in the results of fighting corruption (an aspect which I am going to analyze in a large part of my thesis). : *“Progress in fighting corruption on all fronts requires measurement of corruption itself, in order to diagnose problems and monitor results. This recognition has renewed interest in the World Bank, and among aid donors, aid recipients, investors, and civil society, in developing measures of corruption, both in aid-financed projects as well as more broadly in developing countries. This in turn has also sparked new debate on how best to measure corruption and monitor progress in reducing it.”* (Kaufmann, Kraay & Aart, 2006, p.1-2).

It is extremely difficult to measure corruption, and therefore it gives a lot of challenges for those who want to investigate in a deeper way. Because of the difficulties in defining corruption, for example corruption studies until 2000 were dealing with this subject from a descriptive approach, rather than empirical (Seligson, 2005, p.383).

Corruption can be measured in several general ways. The first method is by collecting information from important stakeholders, in the form of surveys from individuals, officials. Here counts the number and frequency of corrupt cases seen by the individuals themselves. An important example here is the CPI (Corruption Perception Index) of Transparency International which takes into account the public sector as the basis of measuring corruption, therefore it involves civil servants, politicians, public officials. Different data sources consist of questions regarding power abuse and concentrate on the bribery of public officials, fraud regarding public funds, and different causes which question the effectiveness of anticorruption measures (World Bank, 2006, p.3).

The second way is the investigation of institutional features of a given country. This method does not measure directly the corruption, but it can give us indicators, features which can afterwards lead to the measuring of corruption. Different features and characteristics of an

institution like its transparency in its organization , or budgetary organization can provide a lot of information about the situation of corruption in the relevant organization. (World Bank, p.2)

The third way of measuring corruption is by detailed audit of a concrete project. This cases can be usually solely financial audits, or detailed examination of expenditures of the specific project. This method takes into account the amount of money spent on fraud. Such kind of examination can serve with information regarding malfeasance of a certain project (World Bank 2006, p.3-4).

Regarding the method based on individual opinion, survey based questions it is important to mention that there is a skeptical conception existing in the general opinion. This opinion says that data based on subjective opinion can not be reliable. However the World Bank (2006). points out that no measure is 100 % accurate , even in cases where a specific case is investigated in a perfectly clear way , it can not be perfectly distinguishable. “ *Specific measures of corruption are imperfectly related to overall corruption – or to another manifestation of corruption. A survey question about corruption in the police need not be informative about corruption in public procurement. Even if an audit turns up evidence of corruption in a project, this need not signal corruption in other projects, or elsewhere in the public sector. ... Since corruption is clandestine, it is virtually impossible to come up with precise objective measures of it.* “ (World Bank, 2006, p.6).

Finally there is the incident measure. This method takes into account the number of corruption scandals appearing in the media (The Hungarian Gallope Institute , 1999,p.5).

We can conclude that there exist several methods for measuring corruption. First of all there is the survey based measurement on the basis of individual opinion. This method has shortcoming , because there is the risk that individuals will give a subjective opinion. The problem with a subjective opinion is that for example if a person is involved in corrupt matters, it is not sure he will be a help for a reliable questionnaire. The other method of measuring corruption is based on the financial aspects of a project. This method has its mistakes as well, since not all corrupt acts involve financial means and it is very difficult to discover the amount of profit public officials make. A further method is the estimation of experts and their opinion. This measurement has its shortcoming that it is hard to prove the opinion of an expert.

The method of measuring corruption which I consider the best is the method which measures the institutional features of an organization namely transparency, independency, managerial structure., checks and balances, employment structure, budgetary organization. In my thesis I will use mainly this way of measurement. I consider this way of measuring corruption the best one, because throughout institutional features, characteristics and the management of the judicial system we can see the damages on the judicial system and on the rule of law. Moreover to use a quantitative measurement is generally very difficult, measuring corruption on the base of numbers is problematic because of the dark figure of crime. This expression encounters the fact that statistics on crime are not always reliable, since not all crimes are reported, police reports can influence their recording, change in technologies, police manpower and legislation or social and economic changes. cases are reported. Therefore qualitative measurement is a better solution, since there is enough empirical and theoretical literature available on the subject. Finally in some parts of my thesis I am combining the above mentioned method in measuring corruption, with the CPI measurement which takes into account the amount of corrupt cases throughout individual questionnaires.

The methodology used by the Global Integrity Report is the peer review process. The Global Integrity Report mobilizes a high level network of in-country expertise and journalists. The goal of these researchers is to establish the results of the anticorruption measures of the country in question. The data generated in this respect is both qualitative and quantitative. *“An Integrity Indicators scorecard assesses the existence, effectiveness, and citizen access to key governance and anti-corruption mechanisms through more than 300 actionable indicators. It examines issues such as transparency of the public procurement process, media freedom, asset disclosure requirements, and conflicts of interest regulations. Scorecards take into account both existing legal measures on the books and de facto realities of practical implementation in each country”* Since 2004 more than 1000 local contributors took place in preparing the reports.

Chapter 2

In this chapter I will answer research question 1, namely: What kind of corruption can be found in the Romanian judicial system?

In this part of my thesis I will give an overview about the recent history of Romania. Furthermore I will give a description about the judicial system. The next parts will deal with the level of corruption in Romania in general and in the judicial system more specifically. In this part there is an overview of the different types of corruption in the judicial system.

2.1 An overview of the recent history of Romania

After 42 years of Communist oppression in Romania, on December 16, 1989, protests and a revolt broke out, initiated by Bishop Tőkés László in Timisoara, currently a member of the European Parliament. On December 26 after a hastily set up tribunal, the communist dictator Nicolae Ceausescu and his wife Elena were convicted and executed (Globe Aware, 2012).

Following the events around Christmas 1989 the FSN (National Salvation Front) takes over the lead during the Revolution in Romania. The leader of this movement is Ion Iliescu (Bertelsmann Transformation Index, 2012, p.4).

For the first time after 5 decades on 20 May 1990 free elections are taking place in Romania, and the FSN wins these elections. Ion Iliescu is elected President of Romania. However, these elections were marked by the phenomenon that Romanian intellectuals, especially students and professors, were protesting against the fact that the former communist politicians were allowed to take part in elections. According to them, former communist politicians should have been denied the right to be elected. These protests were not successful and stopped by the leaders of the old and new regime, in the same year. (Bertelsmann Transformation Index, 2012, p.4-5).

The new political situation caused the need of a complete rewriting of the constitution of the country. With the French constitution as an example, in 1991 the New Constitution of the Republic of Romania was ratified (Bertelsmann Transformation Index, p.4-5).

Because of the new constitution, new elections were set up and in 1992, and Ion Iliescu wins his second mandate. The newly elected government starts working on the privatization of the industry right away in the same year. In 1993 Romania applies for the European Union membership and in 1995 the Stock Exchange is reopened in Bucharest, the capital of the country. Dissatisfaction among the Romanian people with the slow reforms, cause Iliescu to lose the elections to Emil Constantinescu who promised faster reforms and more economic liberalization. During his presidency, Romania started to attract the first serious international investors. Because of the economic crisis of 1997 and subsequent harsh economic reforms, living standards fell and the disillusioned Constantinescu announced that he would not be running for a second term in office. In 2000 Ion Iliescu returns to the power once again, to be replaced by Traian Basescu 2004. In the same year, the country joins NATO and EU membership negotiations are in full progress. In January 2007 the country accedes the European Union (Human Rights Development , 1990).

The political playing field in the period between 2007 and present is marked by political conflicts and economic problems. In February 2008 the government overrules the court which said that investigating secret police in the communist era is illegal. In 2009 the IMF agrees to give the country a 20 billion rescue package. In April the Government crisis begins, however president Traian Basescu is reelected, even though numerous claims and rumors of election fraud were heard (Human Rights Development , 1990).

In the chronological historical overview described above the most important change was the downfall of the communist regime in 1989. However according to Daniel Barbu, a Romanian political scientist and historian, the generation of that period of the Romanian nation did not know any other system than the communism, therefore they were not prepared and did not know what measures to take for the sake of the revolution and democratic freedom. The political elite of the communist system took advantage of this situation. They have organized from the background , the uprisings , the propaganda and the elections. These developments therefore were not initiated by the people, but the communist politicians themselves, not for the sake of dismissing the old regime, but for the sake of power change , so that new politicians can enter the scene. This revolution is not a legitimate one, because it was actually a putsch (Barbu, 2004, p. 10-30).

Some countries of Central and Eastern Europe in this period of revolution, had the same situation, where the same politicians stayed in power after the fall of the communist

regime. Their mandate however was not a democratic one, but a political compromise, which was organized by the communist elite. Especially in Romania, no referendum, of any form of electoral consulting was ever used. It is important to mention here that the FSN in 1991 did achieve success in a very smooth way, having a perfectly prepared propaganda. The fact that this could happen in the first place in such turbulent times, is very suspicious and contradictory. It is not very logical that in an atmosphere marked by revolutionary acts and dominated by chaos a perfect propaganda could be set up. In a situation where sudden uprisings are happening and chaos is dominating, the situation is very uncertain. Therefore in this un-certainty it very difficult, we could say impossible, to create a perfect propaganda for clearly named politicians, who are already nominated for the next elections. (Barbu, 2004, p.10-30).

The ideas mentioned above, can lead to the conclusion that the recent history of Romania is marked by conflicts. From historical, political and intellectual hindsight and observed phenomenon, it is obvious that the communist elite in Romania was not transformed to its opposite, a democratic one. In spite of the fact that officially the communist got to an end after 1989 , it still remains somewhere in the shadows (Barbu, 2004, p.10-30). This phenomenon puts its signature on the development in many spheres in the economic, social and political life of the country.

2.2 An overview of the judicial system in Romania

Romania has a judicial system that closely resembles the French system and is based on the Napoleonic Civil Code, and was established in Romania in the second half of the 19th century, after Romania's independence (Overview Romanian Judicial System, n.d.).

The Romanian Judicial system has a Constitutional Court which assesses new laws towards the constitution and is monitoring the fairness of the elections. The judicial system, which consists of five different parts, each responsible for a certain theme in hierarchical level (Romanian Constitutional Court, 2012; Romanian Judicial system, n.d.):

1. High Court of Cassation and Justice
2. Courts of Appeal
3. Tribunals and specialized tribunals

4. Military courts

5. First instance courts.

The High Court of Cassation and Justice is the single Supreme Court that functions in Romania. It is located in Bucharest, and has 4 sections (civil and intellectual property, criminal, commercial, fiscal and administrative claims)., it consists of a panel of 9 judges and has several joint sections (Romanian Judicial system, n.d.).

The Courts of Appeal have in jurisdiction the different tribunals and specialized tribunals. At present, there are 15 courts of appeal in Romania. Within the Courts of Appeal, there are sections or, in some cases, specialized panels for civil cases, criminal, commercial, minors and family cases, fiscal and administrative claims, labor conflicts and social insurances, as well as maritime or fluvial cases or for other matters. The Tribunals are organized at every province level and in Bucharest and have the premises in the province capital city. In the jurisdiction of every Tribunal there are first instance courts. In the mentioned domains, specialized tribunals can be established at county level or in Bucharest. At present, there are 4 specialized tribunals: Brasov Tribunal for minors and family cases, Cluj Commercial Tribunal, Mures Commercial Tribunal and Arges Commercial Tribunal (Romanian Judicial System, n.d.; Romanian Constitutional Court, 2012).

The courts are conducted by a president who has managerial responsibilities. Within the courts there are leading colleges which decide upon general problems. In addition the military courts are structured in military tribunals “Bucharest Territorial Tribunal and Bucharest Military Court of Appeal”. The military tribunals function in 4 cities of Romania and in the “Territorial Tribunal and the Military Court of Appeal in Bucharest“ (Romanian Judicial System, n.d.).

Moreover, there is a prosecutor office dedicated to every court of appeal, family cases and tribunal for minors. In the same way there is a military prosecutor’s office attached to all military courts. The responsibilities of the prosecutor offices are attached to the localities where the courts themselves function. It is important to mention that the character of the prosecutor office is strictly judicial. General prosecutors lead the prosecutor offices, which are linked to the courts of appeal, and those attached to first instance courts and tribunals are lead by first prosecutors, those attached to courts by chief prosecutors. *“The activity of all the prosecutors’ offices is coordinated by the Prosecutors’ office attached to the High Court of*

Cassation and Justice, which has judicial personality and manages the budget of the Public Ministry“ (Romanian Judicial System, n.d.).

The general prosecutor leads the Prosecutor office dedicated to the cases of the High Court of Cassation and Justice. This department has its own structure, services, sections, offices lead by chief prosecutors, together with the criminal matters committed by military personnel. Within this department, there is a leading college, which decides upon the general problems in the Public Ministry (Romanian Judicial System, n.d.).

After the fall of communism several judges were dismissed. However the judges who were replacing the old ones were favored by the political elite in power after the period of communism. These new judges were subordinated to the interests of the political elite on power. *“A new Minister of Justice was appointed by the political party which won the elections in the autumn of 2000. The activity of the new minister, Rodica Stănoiu, who is now suspected of collaboration with the old structures of the communist regime, and who is accused by the National Council for the Study of the Archives of the Securitate of carrying out the activities of the secret police, froze any progress on the way towards building up a real independence in the legal system or, for that matter, a self-perception of independence among judges.“(Dumbravă & Dragoș).*

This dark period got to an end in 2004 , when the Minister of Justice Rodica Staionu was obliged to resign, and a new Minister of Justice was named , Monica Macovei. Under the functioning of the office of Minister Macovei, in the Judicial System the fight against corruption was taken seriously and the collaboration with the European Union could begin. (Dumbravă & Dragoș).

2.3 Level of Corruption in Romania in General

First of all in order to decide the level of corruption in Romania I will make use of the 2011 report of Transparency International, and from that report more precisely the CPI, Corruption Perception Index. This Report is investigating 182 countries, giving them scores based on perceptions of people from those countries regarding corruption in the public sector. The scores of the corruption perception are between 1 and 10, 10 being the best result (least perceived corruption). and 1 the lowest (widespread corruption). In this report, no single country was having the maximal score of 10; however, some countries do come close. Top

scorer on the list is New Zealand, and has 9.5 points. Next on the list are Scandinavian countries like Finland, Denmark, Sweden and Norway, with similar high scores. The lowest score of 1 was given to Somalia and North Korea.

Romania ranks 75 among the 182 countries, having the score of 3.6. This score is among the lowest results in the European Union. Behind Romania there are only 2 countries scoring a lower result: Greece with a score of 3.5 and Bulgaria with a score of 3.3.

Romania is not only scoring a low level compared to the European Union level, but is also scoring below average on the continental scale. When comparing the results of the whole Europe, only 6 countries score lower than Romania, Greece and Bulgaria: Bosnia (3.2). , Albania (3.1)., Moldova (2.9)., Belarus (2.4)., Russia (2.4)., Ukraine (2.3). The results of these countries are not significantly below the results of Romania, therefore the conclusion can be made that Romania is among the most corrupt countries in the entire European continent.

From these results, it seems obvious that Romania has to deal with a situation of high-level corruption, where the problems concerning corruption are serious.

Worse still, when comparing the results of the last 5 years in the Corruption Perceptions Index, the results do not show clear tendencies towards positive development. On the contrary: it seems as if the score is falling. In 2007 the score of Romania in the CPI was 3.7, in 2008, this score increased to 3.8, in 2009 , 3.8, and in 2010 the score fell to 3.7 and in 2011 according to the last report it went down further to 3.6.

2.4 Types of Corruption in the Romanian Judicial System

The European Commission is sure that a situation of high-level corruption exists, because in some high profile cases the high-level corruption has hindered the fight against corruption. The European Commission in 2012 talks about the level of corruption, which is, according to them, reaching intolerable levels

The first type of corruption is collusion. Here we can talk specifically about interest collusion regarding the employment and the appointment of judges in specific cases. (Danilet, 2009, p.11).

The council in the Romanian Judicial System is composed of nine judges and five prosecutors, elected by their peers, but also by law includes the Minister of Justice, the Supreme Court president, the general prosecutor and two civil society representatives elected by the senate. The legal structure ensures judicial independence, contingent on the application of subsequent reforms (Global Corruption Report, 2007, p.2).

However judges indicated that they felt pressure on their decisions from the media, members of parliament, government officials and economic interests while prosecutors said they experienced pressure from within the hierarchy, notably from chief prosecutors (Global Corruption Report, 2007 p.2-3).

While the newly educated judges and state attorneys try to bring about the change in judiciary, the executive branch continues to significantly influence the nomination procedures. Administratively they dominate the process. *“Due to the severe understaffing of the courts majority of newly appointed judges did not take part in the newly established educational activities; for example in Romania, according to the former director of the National Institute of Magistrates; only approximately twenty percent of the new judges and state attorneys are alumni of the NIM, the rest being “seconded” from other institution”* (Guasti & Dobovsek , 2011, p.15).

The Highest Council of Magistrates fought against the political control of the judiciary by the Ministry of Justice, which by controlling the budget and its allocation, effectively exercised control over the judiciary (Guasti & Dobovsek , 2011, p.14-15).

In addition the lack of objectivity of the judges is cut through in many cases by conflicts of interests, on top of which comes the phenomenon of corruption which is very hard to be proven. From this point of view some citizens think that disadvantageous solutions which they get is an outcome of the rude behavior of the employees of the judicial system. These situations represent conflicts of interests , incompatibilities in regulations regarding magistrates (Transparency International , 2006 , p.17-18).

Furthermore an article on which I would like to draw the attention is entitled “Rotten system: 11 supreme court judges charged with corruption.” in the Romania Libera, in 2011. România Libera (Free Romania) is a newspaper aimed at an intellectual and middle-class readership. It was founded in 1877. Faithful to its title, it has a liberal and independent approach on national issues. Therefore it is a reliable source. In this article of the Romania Libera is stated that a large scandal regarding the judicial system of Romania was made public. In October

2011, the National Anticorruption Directorate has issued an investigation concerning 11 Magistrates of the High Court of Justice and Cassation. These magistrates were suspected of accepting favors and gifts from a Romanian businessperson, who was implicated in criminal matters and therefore had different cases at the Romanian courts. Three further lower ranking judges were also subject to these investigations. (Romania Libera, 2011).

A second type of corruption appears in the Romanian judicial system. This type is called nepotism. Nepotism is the practice among those with power or influence who favor relatives or friends, especially by giving them jobs. The difference between nepotism and conflicts of interest is that nepotism has to do with corrupt acts only regarding personal relationships, the conflict of interest on the other hand has to do with other kind of outside pressure like political or financial considerations.

In many cases judges can decide upon cases which involve relatives to the fourth degree. *“Where conflicts of interest remain, visitors to the center cited instances of acts of a criminal nature, such as trafficking of influence, through which family or non-family relationships were used to twist rulings or motivate magistrates to make particular judgment. Of the 600 cases adopted by the counseling center, 190 were serious enough to pursue through legal channels. The two most frequent charges were ‘failure to consider evidence’ and ‘violation of court procedures’, and many clients attributed these actions to conflicts of interest”*(Global Corruption Report , 2007,p.3).

The promotion in executive or leading functions in the Romanian Judicial System does not correspond to the professional method of the magistrates, because most of them are based on personal relationships (CADI, 2009).

In Romania, political elites perceive the state and the bureaucratic system more as a property instead of a policy instrument. This resulted in the appearance of nepotism, already in the decade, after 1965. (Bertelsmann Transformation Index, 2012, p.3)

In addition the judges and attorneys appointed outside the official nomination procedures are more vulnerable to the political pressure as well as to conflicts of interests and nepotism. (Guasti & Dobovsek, 2011, p.16).

The Economist writes about a big scandal concerning corruption in the Romanian Judicial System. Prosecutors raided a villa belonging to Corneliu Birsan, Romania's envoy to

the European Court of Human Rights in Strasbourg. They were investigating his wife, Gabriela, who sits on Romania's supreme court. Ms Birsan stands accused of receiving ,gifts a trip to Indonesia and free housing for her son in Paris. *“Her supposed benefactor is Gabriel Chiriac, a businessman, who, say prosecutors, was seeking positive verdicts in several court cases, including one for tax evasion. Prosecutors say Ms Birsan did not act alone: one of her deputies is also being investigated. Mr Chiriac has been reported as saying the gifts were given out of "friendship" (The Economist, 2011).*

In a letter Ms Birsan accused her fellow magistrates of lacking "humanity" in approving the house search. She had invited women judges over for coffee, she said, and her husband had written recommendation letters for young magistrates. All this had been forgotten for the sake of a "media lynching". (The Economist, 2011).

Concerning the institutional features of the Judicial System, the Global Corruption Report revealed that courts, archives, registries, and clerks' offices suffer from poor integrity and bad administration in the quality and promptness of service (Global Corruption Report, TI, 2007).

Though judiciary management will pass to the supreme council, this development will be accompanied by continuing structural weaknesses, such as inadequate court staffing and magistrates' low professional standards. With regard to integrity, Romania has had a judicial code of ethics since 2001 and in 2005. It became one of the first countries in the region to adopt a code of ethics for court personnel. However training in this respect needs improvement, as do mechanisms for monitoring and enforcing them (Global Corruption Report, 2007).

We can conclude from this chapter that in Romania there is a high-level corruption type and this phenomenon applies to the judicial system as well. We can state that in the judicial system there is a serious issue of conflicts of interests and nepotism. A further issue is marked by the managerial problems of the judicial system.

Chapter 3

In this Chapter, I am going to answer research question 2: What kind of causes are attributed to these kinds of corruptions in the social-scientific literature and what are the causes of effectiveness in anticorruption policies?

In this part of my thesis, I am going to concentrate on theories of two specialists regarding the causes of corruption and the effectiveness of anticorruption measures. I will apply these theories to the case of Romania regarding the corruption in the judicial system. They name several causes like lack of sensitization to indicators of corruption, character weakness, financial causes and so on. About these aspects, I will write more deeply in my thesis. Fijnaut and Huberts name communism as one important cause, they state that the transition period from an authoritarian regime to a liberal one gives more opportunities for the flourishing of corrupt acts.

The second theory I am dealing with from the book of Fijnaut and Huberts is the theory that deals with the effectiveness of anticorruption policies. These criteria refer to the implementation of anticorruption policies to those types of corruption about which I wrote in the second chapter. In this part, I will talk about some causes and criteria for the sake of effective anticorruption measures: community structure, less gradual steps, and the adoption of a code of ethics and list of activities, which are specially prohibited.

Moreover, I will also talk about some criteria named by Fijnaut and Huberts regarding the freestanding agencies, which have a key role in the process of fighting corruption.

Theoretical explanation

3.1 Causes of Corruption

According to Fijnaut and Huberts, when investigating the causes of corruption it is important to take into account a combination of social, economic, political and individual causal aspects. (Fijnaut & Huberts , 2002, p.8).

While talking about corruption the content of social norms and values, the *commitments of civil servants and politicians* are important factors in the explanation of corruption in higher and lower income countries. The economical development of a country is an important factor because low income, poverty and corruption are interrelated. Given a

circumstance with a poor salary in the public service can be disastrous for a country for the keeping of ethical norms (Fijnaut & Huberts, 2002, p.8).

According to Fijnaut and Huberts there is no central cause of corruption. This phenomenon has to be acknowledged as one which has different factors as causes. The variables of a questionnaire made by the two specialists among civil servants made on the issue of corruption in public offices are the followings: *Financial aspects* which can evolve in the form of specific financial problems or in the situation of public offices, prosecutors and judges , who try to gain as much money as possible.

The other cause is *character weakness* .Here can be encountered thoughtlessness and naivety. These aspects are very important in the case of penal authorities, but also in the case of public officials (Fijnaut & Huberts , 2002, p.87).

Furthermore the cause for corruption in institutions according to Fijnaut and Huberts (2002, p.87) is the *lack of administrative and professional supervision*. The insufficient check is the biggest problem. This problem is an issue for all groups of authorities. “*Only the penal authorities assign a higher ranking to certain other factors related to the civil service culture.*”

The last cause of corruption is the *lack of sensitization to indicators of corruption*” This cause is the most relevant in the case of the criminal investigation departments and the penal authorities. The public prosecutors and the judges consider this problem less significant. (Fijnaut & Huberts , 2002 p.87)

It is clear that corruption is first reflected in the society as whole and then in the sphere of the individual and on top of that, the factors of the institutional level. “*Prime responsibility for corruption is attributed for social developments that are difficult to influence and to human weaknesses, in particular in connection to situations involving financial difficulties. Institutional factors i.e.: factors related to the organization of the authority and to the civil service culture, are mostly still viewed from a control perspective that is oriented to external controls like inadequate administrative and professional supervision and/or insufficient checks*” (Fijnaut & Huberts , 2002 p.87).

The corruption in the management of an institution is due to the lack of “internal checks“. Internal checks in this respect refer to the public officer and not the authority (Fijnaut & Huberts , 2002 p.88).

Fijnaut and Huberts (2002, p.9) say that for those countries which go through a process of democratization, privatization and liberalization, the period of transition gives

additional possibilities for growth of corruption. It costs time to realize a stronger economic and political system, which is able to fight corruption in an effective way.

The experience of the first period of the transition time, more precisely the first decade in fighting corruption has been ambiguous in Romania. *“Efforts to reform basic state institutions have generally had limited impact. Anticorruption campaigns have been hijacked for narrow political advantage. Governance reforms have frequently been blocked by powerful vested interests. The political will to implement and sustain structural reforms has often been lacking* (World Bank, 2000, p.1).

According to most of the investigations regarding corruption, the transition countries are among the most corrupt ones, having the highest corruption indicators. (World Bank, 2000)

Most of the countries from the former Soviet Block and among them Romania, did not make significant progress in their market economy or multiparty political system. The administration structure of most of these countries functions in a way quite similar to the previous regime, structural and behavioral change is hard to achieve. The share of Small and Medium Enterprises and employment in the market sector in these countries remains small and is subject to severe bureaucratic control, lack of credit and state order. Still price controls exist on a large scale, which consist of vast state subsidies. Industrial policies serve the interest of enterprises. Central command still plays an important role. *“Multiple exchange rates, with overvalued official rates and undervalued parallel rates, are distortions and lead to low trade flows and high current account deficits “* (World Bank, 2000, p.11-12).

Therefore the continued existence of authoritarian controls may tend to hinder measurable aspects of state capture and administrative corruption.

The collapse of communism has created big opportunities for corruption in the post communist regions. The system created a vacuum where the change of rules was necessary. Those who were in power before, could write these rules, and did in many instances so that they could benefit from it, as well as relying on political connections, corrupt judges and dysfunctional public offices. The consequence of this is that corruption could flourish in Romania. A highly corrupt, unreformed former communist party has captured the state and ruled unopposed until 1996. They did so while maintaining a pattern of concentrated rule and only partial economic reforms (Vachudova, 2009, p.44-45).

The GDP after the fall of communism in 1989 dropped significantly. The country was characterized by financial and economical instability. This instability manifested in a major crisis in the years 1998-1999. The country managed to recover from the economical crisis.

However, these developments have influenced the developments of other spheres, like that of corruption (World Bank, 2005).

Finally, Romania has faced one of the worst starting conditions of all the post communist economies: *“extremely distorted markets, all-encompassing state ownership, over-dependence on energy and heavy industry, and a badly eroded capital base, including a precarious physical infrastructure. Science, technology, and intellectual capital were crippled by long years of international isolation. In addition, the legacy of Ceaușescu’s highly personalized rule left a bureaucracy that was insecure, politicized, and prone to corruption”*(World Bank, 2000,p.13).

The juridical state establishment in the form how the Constitutional Council moderated it in 1990 can be considered as a myth. The judicial system has a single formal source, namely the Constitution from 1965 and the rights of a socialist state, to which some principles of juridical liberalism were added, from the motive of conforming to the international field (Barbu, 2004, p.120-140).

The structure of totalitarian state was not radically changed. This phenomenon applies also to the structure of the judicial system (Barbu, 2004, p.146).

Daniel Barbu is talking about legislative inflation in Romania, according to which the judicial system controls all spheres, but does not limit power in the provision of norms. The centralization of the administrative system is still going on and therefore the judicial system is not concentrating on the separation of power and the transparency of roles, but on the diffusion of roles, where those in power do not have to take responsibility (Barbu, 2004, p.147). In this way, it is not possible to identify the real role of the judicial system and the natural judicial capacity of agencies and the magistrates of the state. Legal responsibility becomes impossible. Those in power do not have a civil addressing and their acts are justified by the constitution. This way corruption in the judicial system can appear easily. Barbu, 2004, p.147).

According to Fijnaut and Huberts (2002, p. 101) the type of Community Structure is a decisive factor in the cause of corrupt matters. According to this view, there will be more corruption in cases where communities are more dysfunctional. Dysfunction means in this case the existence of cultural, historical and/or political conflicts. This dysfunction creates uncertainty, which will cause the people in charge to find alternative ways to create certainty, by forging alliances or changing rules to their personal interest. If there is less dysfunction,

there is a better chance that corruption disappears. In addition to this, the cultural conflicts within a community are also key components regarding corruption developments, because corrupt acts can pass unobserved and unrecognized. Communities in which the problems reach high levels, opportunities for corruption are multiplied.

From the theoretical explanations I drew the conclusion that possible cause for conflicts of interest in the Romanian judicial system can be that in the transition period the efforts to reform basic state institutions have generally had limited impact. Political interests were blocking the independence of the institutions in the judicial system. In this period, a vacuum was created, where corrupt judges and dysfunctional public offices could rely on different political connections. Another cause can be that the employees of the judicial system are not committed to their official roles.

The main cause for nepotism can be the dysfunction of the society. These dysfunctions were also influenced by the developments after the communist period.

Finally the possible causes for managerial problems are the lack of internal checks and the lack of professional supervision.

3.2 Effectiveness of policy implementing

Regarding the effectiveness of policy implementing, Fijnaut and Huberts (2002, p.255) are talking about free standing agencies, ICACs (*Independent European Commissions Against Corruption*) which have key roles in the fight against corruption. They catch the attention of citizens regarding corruption, they draw the attention of governments for the need of reforms and they issue reports in this respect.

Political culture underlines many of the “reformed” systems. “ *That while the approach to corruption control has been different there are signs that the old systems are reemerging in the developed world , emerging nations and in newly democratic Third and former communist nations.*” There are only a few examples of national governments who have succeeded and have managed to maintain the control over corruption in an effective and democratic way. Moreover, in many of the cases many anticorruption policies are not just inefficient in their role of preventing corruption, but also impose a burden of control on different operating agencies (Fijnaut and Huberts 2002, p.297).

There are several criteria, which these freestanding agencies have to fulfill. In case anticorruption measures are not effective, most probably these criteria were not fulfilled. Firstly they have to be *independent*. This task is very hard, because corruption is interrelated to political and economic questions and it is important that the ICACs are acting, according to the “standard of goodness”, how Susanne Rose Ackerman names it. Secondly, the action of these agencies must be *transparent* and *accessible by citizens*. However, in many cases it happens that these agencies themselves become involved in scandals and actually become defender of different political systems instead of staying independent (Fijnaut & Huberts , 2002 p.256). A third criterion in this respect is *permanence*. These anticorruption agencies will only be able to act in an effective way if their actions are based on long term initiatives. The fourth criterion is *coherence*. “*Anticorruption efforts that follow no overall design and are not based on a sound understanding of the origins of the problem, may be as bad as no reform at all*“. In case an agency does not plan carefully the implementation of its reform ideas and does not take in to account the political, economic and social settings, it will fail in the effectiveness of its anticorruption strategies (Fijnaut & Huberts , 2002 p.259).

The fifth and last criterion of the ICACs is *credibility*. These organizations have to fight for their public acceptance; they cannot take it for granted. The results that the agencies achieve are also important in this respect. Moreover, ICACs should be able to understand the will and wish of citizens in the process of fighting corruption (Fijnaut & Huberts , 2002 p.260).

According to Fijnaut and Huberts an independent judiciary system is one of the most important criteria for a legitimate and effective anticorruption strategy. The independence of the judicial system should be reflected in the Constitution, but also in the working conditions in the judiciary institutions. Moreover, the system has the responsibility to create a control network inside the system, which assures integrity (Fijnaut & Huberts , 2002 p.18).

Furthermore, confessions in revealing corruption are crucial, it is also very important that the arrest of the suspected person with corruption is made immediately, otherwise the evidence might fade and the proving of guiltiness becomes harder. Bugging of telecommunications might be also be an effective measure (Fijnaut & Huberts , 2002 p.54).

Fijnaut and Huberts say that all efforts to fight corruption fail because of politicking. “*The political elite, past and present, do not tackle the corruptors – on the contrary they even set a bad example by conducting the practice of corruption themselves.*” (Fijnaut & Huberts , 2002 p.68) Fijnaut and Huberts (2002, p.281) state that one of the greatest challenge of anticorruption measures is to find the optimal type and amount of anticorruption strategies

and this is a very hard task. It is important to mention that not all administrative “reforms” undertaken for the goal of fighting corruption will lead to a more effective government (Fijnaut & Huberts, p.288).

Again according to Fijnaut and Huberts (2002, p.291), not all anticorruption policies are equally effective in the process of fighting and preventing corruption. They are also not functioning in the same way in their impact on public administration. It is not possible to predict for sure how will certain personnel assignment strategies (for example the frequent rotation of the personnel in assignments), contracting rules and accounting procedures succeed in fighting corruption.

Finally, gradual steps of policy implementation are also a cause for the flourishing of corruption. Along gradual changes, public officers may slip down alongside the steps. With a more radical change, most probably they would not dare and would not have the opportunity for that (Fijnaut & Huberts, 2002, p.102).

A possibly successful anticorruption policy would combat interest conflicts, and done so by freestanding agencies which are independent and have no political influence. These anticorruption policies should be also long term, so that a clear development in the anticorruption policies can be made. When applying policies against nepotism it is also important to take into account that no political influence appears in the application of these. Finally, both in the case of conflicts of interests and nepotism it would help if changes in policies would not be made gradually, so that the public officers would not have the chance to slip down alongside these gradual steps.

Regarding managerial problems, a permanent and coherent implementation of the policies can be a possible solution.

Chapter 4

In this chapter, research question 3 will be answered: What kind of anticorruption policies did the EU enforce on the Romanian Government?

The first part of chapter 4 is a summary about the anticorruption policies introduced by the EU. The second part of this chapter is about measures existing in Romania for fighting corruption. There are several institutions that are responsible for fighting corruption: National Agency of Integration (ANI), Ministry of Justice, Ministry of Administration and Internal Affairs, General Secretary of Governments, several existing institutions for the application of the anticorruption measures (DNA, DGA), Audit Institutions and additional institutions that are partially involved in matters of fighting corruption. An example of these partially involved institutions: the Advocate of People. The Evaluation Report 2010 of the Anticorruption Strategy 2005-2007 and Anticorruption Strategy 2008-2010 realized by the United Nations in Romania has also an important role in this respect.

A summary of EU anticorruption policies

In order to combat corruption in all EU-member states, a judicial cooperation network, EUROJUST, was established in year 2002 with an agenda that covers fraud, corruption and money laundering. The European Commission has suggested appointing a European Financial Prosecutor to deal with corruption affecting the financial interests of the Community. The second Money Laundering Directive was adopted in 2001 and it classifies corruption as a serious offence and thus increases the obligations on the Member States to tackle it. (Summaries of EU Legislation, 2011).

The Council is currently examining proposals for two new legal acts on the mutual recognition of orders freezing the proceeds of corruption offences and facilitating the confiscation of such processes (Summaries of EU Legislation, 2011).

The European Union has produced several documents on fighting corruption. Article 29 of the Treaty on European Union mentions preventing and combating corruption as one of the ways of achieving the objective of creating and maintaining a European area of freedom, security and justice. The 1997 action program on organized crime calls for a comprehensive

anti-corruption policy based on preventive measures. The first communication on an EU anti-corruption policy suggested banning the tax deductibility of bribes and introducing rules on public procurement procedures, accounting and auditing standards, and measures relating to external aid and assistance. The Council's 1998 Vienna Action Plan identified corruption as a particularly important area where action was needed. The Millennium Strategy on the Prevention and Control of Organized Crime prompted the need for approximation of national legislation and the development of multidisciplinary EU policy. It also urged Member States to ratify the EU and Council of Europe anti-corruption instruments. Furthermore, the Communication on the fight against fraud sought to establish an overall strategic approach (European Commission, 2007, p.3).

Other European instruments in order to fight corruption are the two conventions on the protection of the European Communities' financial interests and the fight against corruption involving officials of the European Communities or officials of the EU Member States and the European Anti-Fraud Office (OLAF), set up in 1999, which has inter-institutional investigative powers (Summaries of EU Legislation, 2011).

“The European Commission is also in favor of accession to a number of instruments originating with other international bodies. The aim is to take account of the activities that already exist, in order to avoid duplication, and to ensure that measures already existing in the EU have the same mandatory character in other international organizations” (Summaries of EU Legislation, 2011).

Fijnaut and Huberts (2002, p.386) also deal with the effectiveness of EU policies. In their view, it is questionable whether the multitude of EU policies among which many not yet ratified on the national level, and thus not implemented yet, are effective in the fight against corruption.

It is clear that the EU has to protect its financial interests. However, it is also important to mention that the issue of corruption is not linked to the European Union in a direct way and it is not limited on the territorial borders of the European Union. *“Notwithstanding the well known competition between regional organizations, it might and probably would have been wise for the member states of the European Union to combine their efforts to fight corruption. In a follow up to the 19th conference of the Ministers of Justice of the Council of Europe held in Valetta in 1994 and dedicated to the issue of corruption including a permanent peer review mechanism”* (Fijnaut & Huberts , 2002, p.386).

Regarding the effectiveness of EU policies Fijnaut and Huberts (2002, p.386) state that having different policies against the fight of corruption on the same geographical territory, until now, did not encounter difficulties in their application. They contain the criminalization of certain behavior. Problems can only appear if they contradict each other. In order for the government efficiency to be achieved, the governments should be aware of the obligations when they accept these policies. However, the practical application of EU policies does encounter problems in their realization where they contain provisions regarding judicial systems and judicial cooperation in criminal matters. The practitioner most likely will have difficulties to identify which EU policy needs to be applied in a special case. Even if there is a case where the practitioner knows about the existence of the EU policy, most likely he will not be aware whether the EU policy applicable was ratified or not. Even if he succeeds in solving all these problems, he will enter difficulties because a number of protocols and conventions between the Council of Europe and the European Union still have to be resolved (Fijnaut & Huberts, 2002, p.387).

Anticorruption Measures introduced in Romania for the Fight of Corruption

Many reforms and measures regarding the prevention of anticorruption were introduced after the accession of Romania to the European Union, since one of the main criteria of the EU, was development in the process of fighting corruption (Evaluation Report, 2010, p.3.). The National Anticorruption Strategy (SNA) 2005-2007 is a classical type of anticorruption measure, which incorporates all the public services and includes measures regarding the prevention, education, application of different policies, monitoring and evaluation. Part of this strategy is to found new institutions, so that the anticorruption ambitions of the strategy can be realized in practice. The strategy had also foreseen the establishment of mechanisms for the prevention of interest of conflicts, as well as protection of integrity of those who are warning about corrupt cases (Evaluation Report, 2010, p.5.).

In contrast, the Romanian National Anticorruption Strategy regarding Vulnerable Sectors and Local Governance in 2008-2010 is only considering measures in some selected sectors. These policies are fighting in the first place for the transparency of public officials and the transparency of the managerial setup in the public officials. This strategy is based on an approach involving risk; however, it is also not clear according to which criteria the selected sectors have been chosen and according to which criteria were some sectors classified as vulnerable (Evaluation Report, 2010, p.7-8).

In Romania an entire institutional setup exists for the fight against corruption. The fight against corruption and the obligations assumed in the accession process of Romania had a direct consequence for the establishment of a series of institutions that play a role in the prompting of anticorruption policies (Evaluation Report, 2010, p. 4-5.).

These institutions are: *Ministry of Justice*, which is involved in the editing of the legislation regarding the anticorruption measures, exercising the prevention of corruption on a national but also sector level, identification of monitoring the anticorruption measures (Evaluation Report, 2010, p.15).

As one of the tools of fighting corruption, the High Court of Cassation and Justice has issued sentencing guidelines, concerning concrete corruption cases on the base of different final court decisions. These guidelines can be helpful for practitioners. There is a possibility to expand these guidelines and they can be involved in trainings as well. It is important to mention however, that the verdicts remain on a minimal level and over 60 percent of the cases is suspended (European Commission 2012, p. 4-6).

A further Anticorruption Institution is the (ANI), which was established in 2007 as an independent organ, with a juridical character, functioning on a national level. It was established for the correction of mistakes concerning the monitoring of conflicts of interests, nepotism and the properties of public functionaries. The goal of the National Integrity Agency consists in the controlling the monitoring of conflict interests. The National Integrity Agency does not have the responsibility of implementing the anticorruption measures, but it is functioning as an entity that is responsible more for controlling, with different responsibilities regarding administrative documentation. The ANI also has the power to initiate a judicial procedure in the intermediary role (Evaluation Report 2010, p.16.).

The third institution is the Ministry of Internal Affairs and Public Administration (MAI). This institution is involved in the anticorruption project of the Anticorruption Strategy 2008-2010, functioning as a secretary in the role of coordinating and monitoring. It plays a key part in the process of administrative reforms, and modernization. It helps in the process of consolidating administrative processes in the public sphere, this way giving less chance for the appearance of the distortions in the managerial setup of the institutions. The final institution in this respect is the General Secretary of Government, which plays the ultimate role of coordination of politicians on all levels; it is responsible for the consequent application of anticorruption measures by all public entities for the hindering of conflict interest problems (Evaluation Report, 2010, p.17).

The institution National Anticorruption Directive (ANI) is responsible for the investigation and following of serious corruption issues and cases together with the Court of Justice. The ANI functions in the framework of the judicial system. It consists in prosecutors, police officers and experts (Evaluation Report, 2010, p.16-18).

The other institution with the role of implementing anticorruption measures is the General Direction of Anticorruption (DNA), which has the responsibility of combating corruption inside the MAI. It represents an important application structure of anticorruption policies, which can be used also outside the framework of MAI. It also deals with corruption problems in the Judicial System (Evaluation Report, 2010, p.16).

The National Anticorruption Directorate (DNA) and the National Integrity Agency (ANI) have brought up a number of important issues regarding concrete cases of politicians and officials. *“The new laws on the reform of appointments to the High Court of Cassation and Justice and on the disciplinary responsibility of magistrates set out frameworks which aim at more clarity and rigor. A comprehensive National Anti-Corruption Strategy has been drafted”* (European Commission 2010). To increase its effectiveness, the DNA has also organized several seminars and trainings regarding corruption (European Commission 2012, p.3-5).

Both the DNA and ANI play an important role in regulating conflict of interest of public officials in the judicial system (Guasti & Dobovsek, 2012, p. 45).

In addition, the Court of Accounts is the institution that is responsible for the budgetary control of the public sector in respect of its administration and management. Another institution involved in the fight of corruption is the Council of Prime Minister, which controls the application of policies regarding conflicts of interest in public institutions (Evaluation Report, 2010).

The Advocate of the Citizens is a further institution involved in anticorruption matters and it is responsible for protecting the rights and the liberty of the citizens and their cases regarding public matters, so that the citizens can warn about corrupt cases (Evaluation Report, 2010, p.17).

The Corruption and Fraud Preventing and Investigation Direction institution has the role of an operator as a specialist in the framework of the Ministry of Defense. It has the responsibility of assuring the implementation of concrete measures in the process of fighting corruption, by investigating cases based on fraud, reporting frauds, and embezzlements from the financial sector. It also has a mission of regaining the perception of prejudice concerning the issue of corruption. Furthermore, the National Integrity Council (CNI) is the entity that is

subordinate to the Senate, which on the other hand controls the ANI. Finally, the Superior Council of Magistrates in the role of an administrative organism for justice is also representing the case of fighting corruption in Romania (Evaluation Report, 2010, p.20). Last, but not least, anticorruption matters in Romania are controlled throughout the law itself.

Romania has recently faced a number of legislation changes, has adapted a new legislation structure, reforming the one that existed. It contributes to the consolidation of legislation and the issuing of policies that correspond with the goal according to which the anticorruption measures have to be implemented all over Romania. The two Anticorruption Strategies in Romania (2005-2007 and 2008-2010) have foreseen legislative reforms and new fines for corrupt actions (Evaluation Report, 2010, p.20-21).

The new civil code in Romania has entered into force in October 2011 and it will be followed, according to the plans in June 2012, by the civil procedure code. Draft legislation on extended confiscation was also adopted by the Parliament (European Commission 2010, p.4).

As a conclusion, all in all there are 2 categories of institutions responsible for the fight against corruption: the anticorruption institutions which are responsible for the promotion of anti corruption measures and the category which is responsible for the implementation of anticorruption policies.

In the first category The National Anticorruption Strategy 2005 -2007, the Ministry of Justice and the National Integrity Agency are responsible for the fight against all types of corrupt matters. The National Anti-Corruption Strategy 2008-2101 is responsible for the fight against managerial problems of the Public Offices.

In the second category the National Anticorruption Directorate, Advocate of Citizens and Corruption and Fraud Preventing Agency has the responsibility for all corrupt matters. The Courts of Accounts and the Council of Prime Minister are controlling corrupt cases in the Managerial Structure. The Council of Prime Minister is responsible for the cases regarding the management structure of public administration. Concerning the specific types of corruption that exist in the Romanian judicial system, the National Anticorruption Strategy covers the problems of conflicts of interests. The National Integrity Agency covers corrupt matters related to nepotism and conflicts of interests. The DNA and the Courts of Accounts covers corrupt cases related to conflicts of interest.

Chapter 5

This Chapter is going to answer research question 4, namely: What are the results of these anticorruption policies?

The results and developments of the anticorruption measures in the judicial system are presented in this chapter, as well as a summary and analysis of the content of reports communicated by the European Commission to the European Parliament, in chronological order from 2007 until 2012. In addition, analyses of the Global Integrity Index are used to compare results.

In this chapter are the results of Romania according to the criteria for measuring corruption in chapter 1. These criteria are the following institutional features: transparency, managerial structure, checks and balances, employment structure, budgetary structure.

Results of Anticorruption Measures in Romania

As a starting point for analyzing the European Commission's Report in 2007, it is important to mention that the European Commission is analyzing the efficiency of anticorruption measures from a long-term perspective. However this first report from 2007 was made only half a year after the accession of Romania to the European Union, therefore in many fields significant results are not achieved and at the same time cannot be expected to be achieved.

Firstly according to the criteria of *transparency*, the admission of magistrates in the judicial courts in Romania is still not transparent (European Commission 2007, p. 4-5).

In 2008 there have been some positive outcomes of judicial measures. Access to jurisprudence has improved and courts are obliged to publish the important decisions on their websites (European Commission, 2008, p.3).

However, in spite of the fact that the ANI is reporting only good results, it is not convincing that their institutional framework has shown success: "*Inconsistent decisions delivered by the HCCJ in high profile cases work to diminish public trust in the fight against corruption. There appears to be insufficient awareness of the problem of high level corruption within parliament*" (European Commission, 2008, p.10).

In 2009 a Working Group dealing with penalties reported discrepancy in judicial decisions. Worse still, the transparency of the system had frozen on the level of measures taken in 2008.

In the year 2011 in the Judicial System the Small Reform Law has been adapted in order to speed up the decision process. This law allows simplifying decision-making procedures, shorter trial duration and easier admission of guilt. The number of judicial cases taken to the court has also increased (European Commission 2011, p.2). Several decisions were published online, but they are limited on different sectors (European Commission 2011, p.4).

Secondly, concerning the criteria of *independency*, the ANI (National Integrity Agency) in the fight against judicial corruption, the European Commission (2007, p.13) stated that it is too early to measure results regarding the activities of this institution. However the institution has made some achievements in its activities. What the EU considers here a large issue, is that it is not clear if the institution is acting impartially. Nobody pays attention to this aspect. Moreover, according to the European Commission the agenda of the institution is not always clear. This way the conflict of interest problems remain unsolved

On the basis of the 2008 Report of the European Commission the SCM did not take full responsibility on its accountability, and did not achieve successes in its integrity. It also did not issue any investigations for ex-officials.

In 2009 the DNA has achieved a good track result in its non-partisan role of investigating high level corruption cases. This is a good sign for the case of fighting corruption in general in the Romanian Justice System (European Commission, 2009, p.5).

The DNA was showing positive records, remaining impartial: *“This is beginning to be reflected at court level with an increase of the total of final convictions by one-third in 2009 compared to 2008. A conviction in first instance was achieved against a current Member of Parliament who is also a former State Secretary. A final conviction decision was reached against a mayor and a former deputy mayor for bribe-taking. They will serve their sentences in prison”*. However, in spite of this positive record, tendencies in the penalties show that several cases are somehow handled in an easy way and several penalties are suspended (European Commission, 2010, p.5).

According to Laura Stefan (anticorruption expert in the Romanian Academic Society, Former Executive in the Ministry of Justice) in many cases, appointments in the judicial system are not made according to official and professional criteria, but they are made according to party loyalties. Decisions concerning law enforcement are often made concerning the opinion of heads of parties who are governing the country. This means that law enforcement is politicized. (Global Integrity Index, Scorecard, 2010)

In 2012 a Judicial Reform has taken place. Romania adopted a new legislation seeking the strengthening of disciplinary in the judicial system: *“This law amends the scheme of disciplinary offences, increases sanctions, and strengthens the independence of the Judicial Inspection. It also eliminates the possibility of magistrates escaping disciplinary sanctions through retirement whilst a disciplinary process is ongoing”*(European Commission, 2012,p.3).

The next criterion is the *managerial structure*. According to the 2008 Report of the European Commission there are still problems with incoherence in the management of the judicial system. By 2008, according to the European Commission, the measures for the restructuring of Management of the Public Ministry were successfully implemented. The SCM has intensified its inspections for a more systematic unified and fair judicial decision. However further improvements are needed according to the European Commission. In managerial organization, there are still problems (European Commission, 2009, p.4).

The capacity of the National Institute of Magistracy was not increased. The introducing of administrative tasks is also pending (European Commission 2011, p.4). The European Commission also reports about the necessity of a more active engagement of the Romanian Judicial system regarding the uniformity of the system. The Judicial body has achieved some positive results in improving the circumstances of decisions, by administrative and managerial reorganizations, which helped to speed up the decision making. In 2011, 15 cases of high-level corruption were solved instead of merely two solved cases in 2010 (European Commission, 2012, p.4).

The next criterion is the *budgetary organization*. According to this criteria the budget of the ANI was reduced by the Parliament in 2011 and the European Commission (2008, p.6) is concerned that this step may reduce the effectiveness of the ANI.

The ANI has received an increase in its budget and EU funds were also used for its activities. The organization agreed on cooperation with additional institutions. In addition its track report has also developed. Since the year 2010 the ANI identified 18 corrupt cases (amounted in total in 5.7 million Euro of possible unjustified assets), 23 administrative corruption cases and 118 incompatible cases. These cases were taken to court where unjustified actions and wealth issues were confirmed, sanctions have been applied as well. However conflict of interest issues still form an unsolved problem and these cases are hanging before the court (European Commission 2012, p.5). Financing has been allocated for trainers in the Institute (European Commission, 2012, p.1-2).

On the next criterion of *checks and balances*, the result is that the CNI, the body which controls the ANI, did not fulfill its role (European Commission , 2010).

The last criterion is the *employment structure*. Problems in staffing of the judicial system were not solved, since the admission of magistrates in the judicial courts in Romania is still not transparent. Overall, the European Commission regarding Romania's progress in the judicial system has drawn the conclusion that Romania has made *some* progress (European Commission 2007, p. 4-5).

According to further reports of the European Commission, reforms in the administrative matters of the SCM (Superior Council of Magistrates) have achieved only partial results. The ethical values of the members of the Council remain a serious issue. The same situation exists regarding the members of the SCM, where conflict of interest is a serious issue. *“The law allows the present Council members to choose between being permanent and exercising the function of Council member and that of leadership in a court or prosecutor's office concurrently. Moreover, on matters such as ethical standards for individual members or the potential conflict of interests, the Council has consistently adopted a formalistic position whereby there cannot be a presumption of lack of integrity for SCM members and that allegations of unethical behavior would be treated on a case by case basis”* (European Commission, 2007, p.12).

There have been some developments in the issue of staffing .The number of interviews increased. The method of interviews for admissions to the judicial courts has also changed, although problems still exist regarding the admission of the staff. The ethical standards in this matter are still an issue.

In 2009 the Human Resource Strategy was adopted in the judicial system. However, the professionalism of the staff remains an issue. In the judicial system, there were no improvements since 2009 regarding human resource management.

In 2010 the SCM has taken initial steps in restructuring of the staff, although the recruitment of inspectors for several investigations has been challenged: *“The recruitment procedure for inspectors was however challenged in court by the General Prosecutor as insufficiently objective and therefore compromising the independence of the inspectorate.”* (European Commission, 2010, p.4).

The SCM has made some achievements in 2011 because the legality of the mandates of several council members has been put under investigation, and has been taken to court (European Commission 2011, p.4).

The appointments for the different positions in the High Court of Cassation and Justice were criticized by the European Commission, because they lacked transparency and objectivity. The lack of regular online informing of the public regarding decisions were also criticized (European Commission 2012, p.3).

At the SCM some of the jobs were reallocated, but discrepancies in executing the reforms still exist between the different prosecution offices and courts (European Commission, 2012, p.1-2).

Table 5.1 gives an overview about the results presented in this chapter. These results refer to fight against corruption in different fields of the judicial system and in the anticorruption institutions, reported by the European Commission to the European Parliament. This report was realized throughout the Verification Mechanism program of the European Commission. In the framework of this program expertise were sent in Romania, in order to check the efficiency of anticorruption policies. This program collects data throughout field work and not opinion polls. The methods for collecting data are: statements by informants who have been personally involved, direct observation of facts including photographs, track records, etc. and proxies, for example observation of cases from which a fact in issue can be inferred, indirect reporting on facts by informants who have not been personally involved. Among these methods the most often used method is that of direct observation of facts including documents, photographs etc. (Directorate General External Relations, 2006, p.34-35).

In the the table below the red color (underlined) illustrates the institutional sectors where anti corruption show no progress. The green color illustrates those sectors where some progress has been made, though still not enough.

Table 5.1: Progress of anti-corruption measures

	2007	2008	2009	2010	2011	2012
Transparency	<u>admission of magistrates</u>	access to jurisprudence <u>ANI institutional framework</u>	<u>transparency of judicial framework</u>		Decision process in judiciary	
Independency	<u>partiality of the ANI</u>	<u>SCM</u>	DNA	<u>DNA appointments in the judicial system</u>		disciplinary in the judicial system
Management Structure		<u>incoherence</u>	systematic judicial decision		<u>introducing new administrative tasks</u> <u>uniformity of the system</u>	managerial reorganization
Budgetary Organization					<u>-budget of ANI decreased</u>	budget of ANI increased
Checks and Balances				<u>CNI did not fulfill its role as a controller body</u>		
Employment Organization	<u>staffing in the judicial system</u> <u>problems in the staffing of SCM</u>	<u>number of interviews in the judicial system increased , method also changed</u>	Human Resource Strategy adapted	restructuring the stuff	legality of mandates in the SCM	<u>appointments of positions in the HCCJ</u>

From the results shown from the Reports of the European Commission, the conclusion can be drawn that several anticorruption measures were indeed introduced in Romania. The national level institutions responsible for the fight of corruption report good results. However the problems were not solved in the areas of management structure, transparency, independency, checks and balances, employment structure in the Judicial Body and in the Anticorruption Institutions. Moreover, it is obvious that the authorities were acting only on the pressure of the European Union. It is doubtful these anticorruption measures suggested

by the European Union would have ever taken place if Romania did not accede to the EU and the EU does not prompt the changes regarding the process of fight against corruption.

According to the European Commission (2012, p.6), long-term investment in processes is needed for reaching success in the fight against corruption. In the view of the European Commission, a 5-year time period is not enough for achieving enough sustainable results. More time is needed for success. Moreover, the strict separation of executive, legislative and judicial power should also be respected and stable political conditions and commitment should be assured, otherwise these anticorruption policies cannot be successful.

Overall Results in Law Enforcement

This subchapter will contain an interpretation of the data of the global Integrity Index concerning the anticorruption law enforcement. The investigation by the Global Integrity Index organization was made in year 2007, 2008 and 2010. The methodology used by the Global Integrity Report is the peer review process. The Global Integrity Report mobilizes a high-level network of in-country expertise and journalists. The goal of these researchers is to establish the results of the anticorruption measures of the country in question. The data generated in this respect is both qualitative and quantitative. *“An Integrity Indicators scorecard assesses the existence, effectiveness, and citizen access to key governance and anti-corruption mechanisms through more than 300 actionable indicators. It examines issues such as transparency of the public procurement process, media freedom, asset disclosure requirements, and conflicts of interest regulations. Scorecards take into account both existing legal measures on the books and de facto realities of practical implementation in each country”*. Since 2004, more than 1000 local contributors took place in preparing the reports.

Table 5.2: Integrity indicators of the Global Integrity index organization

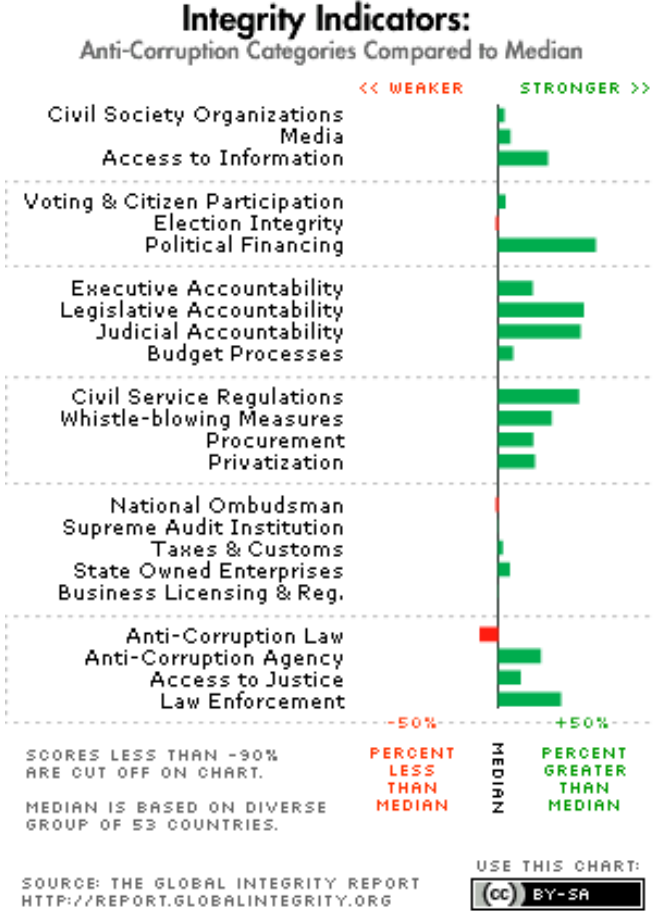


Table 5.2 shows that Anticorruption law enforcement in Romania is weak. Since the Global Integrity Index investigates almost all countries, the score of Romania seems to be not too bad on first sight, but when compared to other European countries, Romania’s score is very weak on the overall level.

According to the comments of the Global Integrity Report, the problem with the Romanian anti-corruption framework is that though there is a strong anticorruption framework, the practical implementation of these anticorruption laws is weak. In Bulgaria for example, the situation is very different. There are fewer laws, but better implementation. *“This contrast between written law and practical reality is troubling. However, Romania has a consistent moderate-to-good governance performance, with few obvious trouble spots. Regulation of political financing — an area many European nations struggle with — is a problem, with campaigns circumventing new, very low expenditure limits via “independent” nonprofit groups”* (Global Integrity Index, 2007).

Table 5.3: Global Integrity Report Romania in 2008

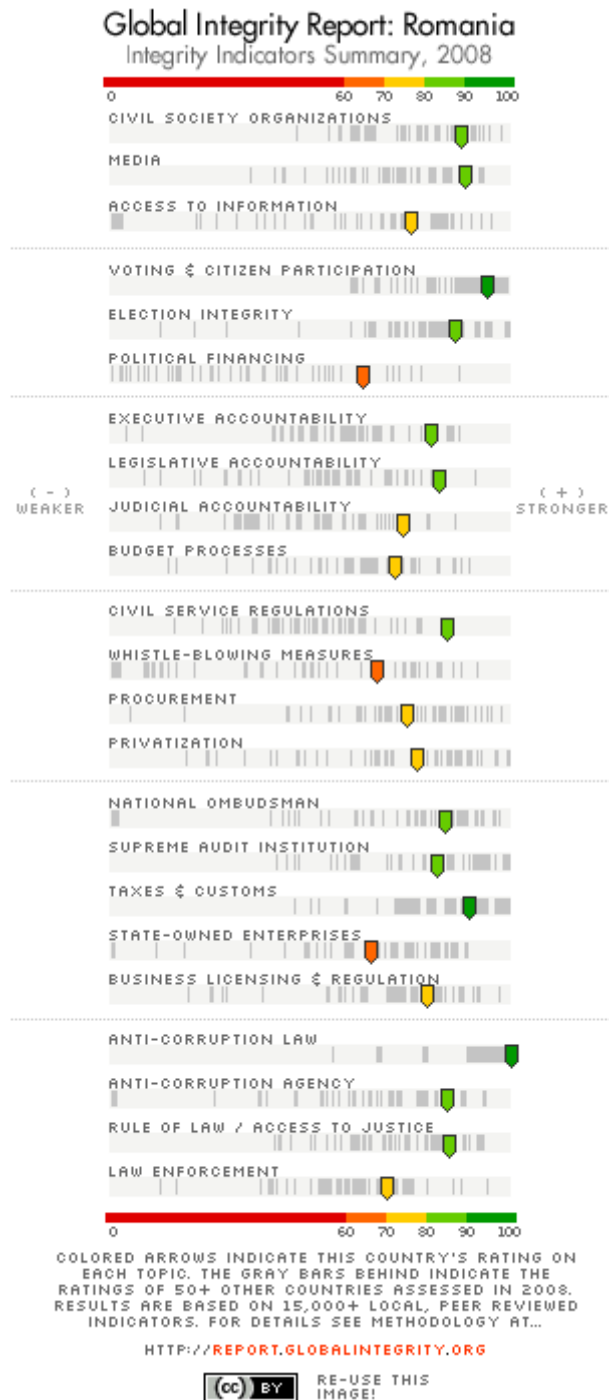


Table 5.3 indicates the anticorruption performance in Romania, in different categories, on a scale of 0 to 100. The colors indicated above correspond to the following rating: (60 <)-very weak, (60+)-weak (70+)-moderate, (80+)-strong, (90+)-very strong. In 2008 in general in Romania the setup of laws existing against corruption is strong. In contrast to this the law enforcement is weak.

Table 5.4: Integrity indicators in 2010

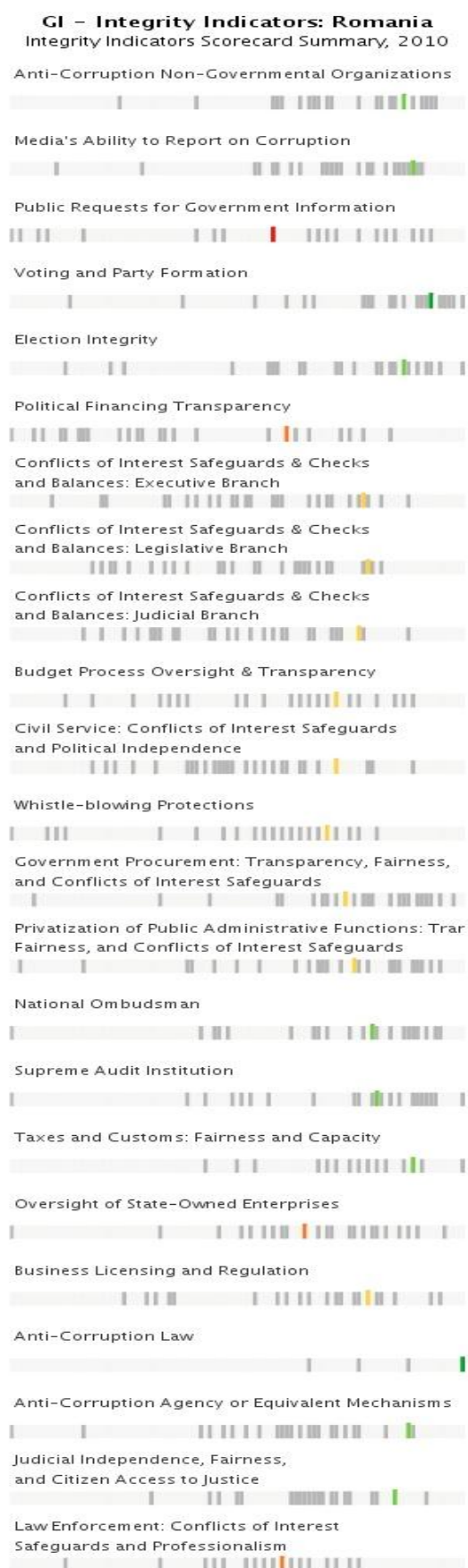


Table 5.4 indicates the anticorruption performance in Romania, in different categories, on a scale of 0 to 100. The colors indicated above correspond to the following rating: (60 <)-very weak, (60+)-weak (70+)-moderate, (80+)-strong, (90+)-very strong. Conflicts of interest issues in 2010 were moderate according to the reports of the Global Integrity Index. Law enforcement concerning the issue of conflicts of interest and professionalism is very weak in the Romanian Judicial System (Global Integrity Index, Scorecard, 2010). In practice, the law enforcement agencies are not protected from political influence.

According to the Global Integrity Report, Romania's results have changed little since the previous Global Integrity Report, which was made in 2008: *„Because of its compliance with EU accession mandates, Romania earns a sparkling rating for its overall legal framework in combating corruption. However, the implementation and enforcement of that legal framework leave much to be desired. Whistle-blowing measures in the public sector do exist, but they continue to be ineffective largely because of inadequate staffing and funding. The ombudsman office has very weak investigatory and prosecutorial powers“*. The agencies responsible with monitoring corruption control activities rely on voluntary self-reports, do not actively make investigations and do not impose penalties. In these issues is included the ongoing challenge of nepotism *„factoring into hiring and firing decisions“* (Global integrity index, Scorecard, 2010).

Overall, when comparing the results of the European Commission Reports and the results of the Global Integrity Index, it becomes clear that the European Commission deals with several institutional features. The Global Integrity Report on the other hand, analyses the results of policy implementation in general. From the European Commission results we can conclude that there are more institutional features which did not achieve good results in the fight against corruption, than institutional features which achieved some kind of progress. From the Global Integrity Index results, we can conclude that law enforcement against corruption is weak. Therefore, in spite of the fact that there is a difference between the focus point of the two tables, they show the same results, namely that anticorruption measures in Romania have been not successful enough until now.

Chapter 6

In this Chapter, research question 5 will have a central place, namely: What explains the limited results of anticorruption measures in Romania?

In this chapter is the explanation why these anticorruption measures introduced in Romania in order to fight corruption in the judicial system are not effective. The explanation is based on the theories of Fijnaut and Huberts about the causes of corruption and the effectiveness of anticorruption policies. The second part of this chapter is about some further reasons, provided by the empirical studies, why effectiveness of anticorruption policies falls behind.

Explanation for the non-effectiveness of the anticorruption measures

Table 6.1 Shows a summary of the findings of chapter 3, which are used as a base for further analysis in this chapter.

Table 6.1: Overview of causes of corruption in Romania

Causes		
<i>Conflicts of Interest</i>	<i>Nepotism</i>	<i>Managerial problems</i>
in the transition period the independency of state institutions was nor realized	Dysfunction of society	Lack of internal checks
Political influence blocking the independence of institutions		
Employees cot committed to their official roles		
Possibly efficient anticorruption policy		
<i>Conflicts of Interest</i>	<i>Nepotism</i>	<i>Managerial problems</i>
By independent free standing agencies	Anticorruption policies without political influence	Permanent implementation
Long term policies		Coherent Implementation
Radical change	Radical change	

According to the theory of Fijnaut and Huberts, countries, which have to undergo the developments of democratization, privatization and liberalization, have difficulties in the process of fighting corruption. From the theoretical explanations I drew the conclusion that

possible causes for conflicts of interest in the Romanian judicial system lie in the transition period and that efforts to reform basic state institutions have generally had limited impact. Political interests were blocking the independence of the institutions in the judicial system. In this period, a vacuum was created, where corrupt judges and dysfunctional public offices could rely on different political connections. Romania had great difficulties in its transition process. The same communist politicians stayed in power after the fall of the former regime. The judicial system was only an “updated version” of the older structure. The transition period brought in itself further difficulties in the economical field. Fijnaut and Huberts also take into account the risk that the older political influence reemerged in the new system and therefore it will create an obstacle for the effectiveness of anticorruption policies. This is exactly what happened in Romania. Under these circumstances it was very hard for the country to adapt measures against corruption in the judicial system.

Another cause can be that the employees of the public officials are not committed to their official roles. This observation might apply to the case of Romania as well. According to the World Bank (2005, p.9), the lack of government commitment meant major difficulties in Romania’s reform procedures, especially in the transition period. To this difficulty came in addition the complex institutional and social causes and the limited capability of the government sector to apply reforming policies (World Bank, 2005, p.9).

According to Fijnaut and Huberts (2002, p. 101) the type of Community Structure is a decisive factor in the cause of corrupt matters. According to this view, there will be more corruption in cases where communities are more dysfunctional. Dysfunction means in this case the existence of cultural, historical and/or political conflicts. This dysfunction creates uncertainty, which will cause the people in charge to find alternative ways to create certainty, by forging alliances or changing rules to their personal interest. If there is less dysfunction, there is a better chance that corruption disappears. In addition to this, the cultural conflicts within a community are also key components regarding corruption developments, because corrupt acts can pass unobserved and unrecognized. Communities in which the problems reach high levels, opportunities for corruption are multiplied. Cultural conflicts may hinder the effectiveness of anticorruption policies as well. This theory applies only partially to the case of Romania. Historical and political conflicts are there. They are a result of the communist period. However in my research I could not encounter any aspects of corruption in the Judicial System, which could be related to cultural conflicts. Therefore this theory is only partially valid for the case of the corruption in the Romanian judicial system.

Furthermore Fijnaut and Huberts name the lack of “checks and balances” as a cause for corruption in the management structure. This observation might well apply to the case of Romania; however, in my research material I could not see a solid enough proof for this aspect. Therefore, I assume that the judicial system and anticorruption policies do not specifically target this aspect.

Another explanation for the ineffectiveness of anticorruption measures can be that the freestanding agencies, such as DNA and ANI in Romania do not fulfill all the criteria Fijnaut and Huberts are talking about. The freestanding anticorruption agencies have to be independent, coherent, permanent and credible. According to the EU reports, the DNA and ANI have made some achievements in the fulfillment of independence.

However the national level and the EU level reports dealing with the results of the effectiveness of anticorruption policies do not deal so much with the criteria of *permanence and coherence* in case of the free standing agencies. Therefore, we can assume that it might be possible that these agencies can become a subject of corruption themselves and this might hinder the effectiveness of anticorruption policies.

Among the public opinion in Romania, freestanding anticorruption agencies are not seen as particularly *credible* organizations. The actions of freestanding agencies and government reforms for fighting corruption are often seen as ineffective.

About seven out of ten respondents in Romania, in the questionnaire made by Transparency International, judge the anticorruption policies of their government to be ineffective or extremely ineffective. It shows that not only the effectiveness of anticorruption policies is problematic, but there is also skepticism regarding the idea that somebody can ever stop the corruption in the country (Transparency International, 2010, p. 25).

However, these results do not hinder the people’s willingness to fight corruption. Almost seven out of ten responders think that the general public is capable of making a change in the issue of corruption. However it is essential to remark that when these people were asked about their individual willingness to be involved in the fight against corruption, the percentage of those who were keen to make a change was significantly lower (Transparency International, 2010, p.31).

The majority of the normative acts which were issued in Romania are a creation of the executive powers. Most of these laws were initiated by the Government and were edited in the framework of public administration institutions. From the state institutions a number of

normative documents are issued on a regular basis. All of these normative acts are applied and modified without the involvement of citizens (Transparency International, 2009, p.17).

This issue also causes the lack of credibility in the society regarding the effectiveness of policies. The fact that the citizens are not consulted and poorly informed lead to frequent modifications in different legislative acts, which in its turn leads to the instability of legislative procedures. This does not insure a solid basis for an effective normative regulation (Transparency International, 2009).

The application of the principle of transparency would lead to a bigger credibility in the laws and anticorruption policies. The idea that the citizens would have more faith in normative acts would lead to the more respect of the law. Under these circumstances anticorruption measures would be able to get a more solid base for the necessity of their effectiveness (Transparency International, 2009, 23-26).

Regarding the effectiveness of anticorruption policies, Fijnaut and Huberts are also talking about the problem of gradual steps in the application of anticorruption policies. In this view radical change would bring success in the effectiveness of anticorruption policies. According to the EU reports gradual steps indeed did not work out or brought only small results. However, this theory of Fijnaut and Huberts does not take into account that the European Commission applies a long-term policy implementation. Therefore this theory of Fijnaut and Huberts differs from the reality concerning anticorruption policies in the Romanian Judicial system. Therefore, it cannot be used for explaining the effectiveness of anticorruption policies in Romania's case.

Concerning the EU policies, we can say that according to Fijnaut and Huberts, EU policies have difficulties in their application, because of their uniform design. Transparency international also wrote about the EU policies: *“overly uniform approach to combating corruption that does not take into account important differences among countries in the capacity of the state, the power and concentration of economic interests, and the channels of accountability between the state and civil society—all of which are crucial determinants of the pattern and persistence of corruption across countries”* (Transparency International, 2008). This way we could assume that this hinders the efficiency of the anticorruption policies applied by the EU. This might be possible. Based on the research in my thesis, this could be only partially true. Most of the problems evolve not with the application of EU policies, but in the dysfunction of the national level institutions.

There is also a tendency visible in Romania, where a beginning enthusiasm regarding the will for change in corruption is taking place in the implementation procedure of the anticorruption policies. However on a longer term these plans for change do not take place and do not reach the roots of the problems. Therefore their result is not very positive, only slightly partial success is achieved in some parts, like in the informing of citizens and in anticorruption campaigns.

While we take into account the effectiveness of anticorruption policies, we have to mention another relevant perspective of Fijnaut and Huberts: Not all anticorruption policies can be effective. Therefore it is important in the case of Romania as well anticorruption policies to focus on the optimal amount and type of anticorruption measures. This might help the effectiveness of policies.

Fijnaut and Huberts name politicking as a great reason in the ineffectiveness of anticorruption policies in general and the independence of the judicial system as a great importance for the effectiveness. An illustrative example for politicking is the example of anticorruption institutions established in Romania. These institutions, manage to bring cases to courts, in spite of big political interference. However, in overall this political interference results in the ineffectiveness of anticorruption policies, because party political opinions and calculus take priority. *“The political elite has opted to withstand pressure from Brussels and continue rather unproductive politicking. The backbone of improved policy-making seems to be not so much the party-political leadership, but rather an increasingly well-trained and professional class of civil servants in the ministries, government agencies and counterparts in related think-tanks. Below the scrimmage of politicking, hot political issues and vested interests, these civil servants have achieved a process of consolidation and coherence in policy-making”* (BTI, Romania Country Report, 2012, p.21-22).

In my research, I have shown that many times politics puts pressure on the functioning of the judicial system. Here we can also name the problem that in the transition period the political interests blocked the independence of institutions. On the other hand the problems regarding the independence of the judicial system were many times contested by the European Commission. Therefore the politicking and the lack of independence in the judicial system might be a cause for the ineffectiveness of the anticorruption policies

Transparency International Romania has often expressed the importance of the mission of the High Council of Magistrates in reforming the judicial system in Romania. It

also expressed the importance of independence of the system, as an essential base for assuring a professional judicial public service which corresponds to the EU standards. *“The 23rd of July 2008 European Commission’s Report raises attention on a series of vulnerabilities within the judicial system per se, but also within the High Council of Magistrates, which is supposed to be the guardian of the independence of the justice”* (Transparency International, 2006, p.23).

Therefore, in the following part of this chapter I will write about factors, which are an obstacle for the effectiveness of anticorruption policies in the judicial system and more precisely in the key role of the High Council of Magistrates in reforming the judicial system.

One of the most important factors, which are an obstacle for the ineffectiveness in the judicial system, is the problems in the managerial system. Nepotism can help with preventing the magistrates in giving them too much responsibility in cases. This factor leads to the outcome that the magistrates do not always analyze very attentively corrupt cases and do not follow the compulsory procedural norms.

Another explanation why the anticorruption policies in general and in the judicial system in particular cannot be fully realized is because of the bad relationship between citizens and the judicial system. The citizens do not trust the jurisdiction in Romania. This fact is determined by the hardship of the procedures and solutions of different cases. The judicial system is perceived by the citizens in Romania as slow, in spite of the fact that efforts have been made in the reorganizing of the system (Transparency International, 2006, p.17).

From this chapter we can conclude that there are difficulties in the realization of an effective anticorruption policy implementation. An obstacle for the effectiveness of anticorruption policies concerning conflicts of interest can be that political interests in the transition period were blocking the independence of the institutions in the judicial system. The employees of the public officials are not committed to their official roles. The theory that dysfunction can be a cause of nepotism is only partially applicable to the case of Romania. There are political and historical causes for the defunct institutions. Cultural conflict as a cause for dysfunction cannot be found. The lack of “checks and balances” is also a cause for problems in the management setup.

Another problem evolves with the uniformity of EU policies, which causes a problem for the implementation of anticorruption measure. An explanation for the ineffectiveness of

anticorruption against conflicts of interest can be that the freestanding anticorruption agencies do not fulfill the criteria named by Fijnaut and Huberts. An explanation for the ineffectiveness of anticorruption against nepotism can be that the freestanding agencies are not independent and have political influence. An explanation for the ineffectiveness of anticorruption against managerial problems can be that the freestanding anticorruption agencies do not have a permanent planning. Since the realization of a successful anticorruption policy implementation requires a long term planning, work has to be done here. Moreover, magistrates get too much cases, because of the workload and therefore they handle these cases only superficially. Finally, another obstacle is that citizens do not trust the judicial system.

Conclusion

In chapter 1 I introduced my research with the presentation of a good judicial system where justice is provided impartial and the judicial system is not dependent on political influence and any other interests. Moreover the judicial proceedings , the management of the judicial system are transparent. Finally the decision making should be consistent and fast.

Therefore we can talk about distortions in a legal system in a country, when justice is not provided impartial and the judicial system is dependent on political influence and other interests. The second distortion appears, when the judicial proceedings , the management of the judicial system are not transparent. The third distortion is , when the decision making is incoherent and slow.

The general definition of corruption that I used in my thesis is : corruption is a behavior which deviates from the formal duties of a public role as it is embedded in an institution and serves non-institutional interests. Moreover in my definitions I made a distinction between high level and petty corruption . I also made a distinction between two types of corruption: conflicts of interest and nepotism.

The method of measuring corruption which I used in my thesis is the method which measures the institutional features of an organization namely transparency, independency , managerial structure , checks and balances, employment structure. In my thesis I will use mainly this way of measurement.

In chapter 2 I concluded that in Romania there is a high-level corruption type and this phenomenon applies to the judicial system as well. We can state that in the judicial system there is a serious issue of conflicts of interests and nepotism. A further issue is marked by the managerial problems of the judicial system.

From the theoretical explanations I drew the conclusion that possible cause for conflicts of interest in the Romanian judicial system can be that in the transition period the efforts to reform basic state institutions have generally had limited impact. Political interests were blocking the independence of the institutions in the judicial system. In this period, a vacuum was created, where corrupt judges and dysfunctional public offices could rely on different political connections. Another cause can be that the employees of the judicial system are not committed to their official roles.

The main cause for nepotism can be the dysfunction of the society. These dysfunctions were also influenced by the developments after the communist period.

Finally the possible causes for managerial problems are the lack of internal checks and the lack of professional supervision.

A possibly successful anticorruption policy would combat interest conflicts, and done so by freestanding agencies which are independent and have no political influence. These anticorruption policies should be also long term, so that a clear development in the anticorruption policies can be made. When applying policies against nepotism it is also important to take into account that no political influence appears in the application of these. Finally, both in the case of conflicts of interests and nepotism it would help if changes in policies would not be made gradually, so that the public officers would not have the chance to slip down alongside these gradual steps.

Regarding managerial problems, a permanent and coherent implementation of the policies can be a possible solution.

In chapter 4 I concluded that there are 2 categories of institutions responsible for the fight against corruption: the anticorruption institutions which are responsible for the promotion of anti corruption measures and the category which is responsible for the implementation of anticorruption policies.

In the first category The National Anticorruption Strategy 2005 -2007, the Ministry of Justice and the National Integrity Agency are responsible for the fight against all types of corrupt matters. The National Anti-Corruption Strategy 2008-2101 is responsible for the fight against managerial problems of the Public Offices.

In the second category the National Anticorruption Directorate, Advocate of Citizens and Corruption and Fraud Preventing Agency has the responsibility for all corrupt matters. The Courts of Accounts and the Council of Prime Minister are controlling corrupt cases in the Managerial Structure. The Council of Prime Minister is responsible for the cases regarding the management structure of public administration. Concerning the specific types of corruption that exist in the Romanian judicial system, the National Anticorruption Strategy covers the problems of conflicts of interests. The National Integrity Agency covers corrupt matters related to nepotism and conflicts of interests. The DNA and the Courts of Accounts covers corrupt cases related to conflicts of interest.

From the results shown in the Reports of the European Commission we can conclude that several anticorruption measures were introduced in Romania. The national level institutions responsible for the fight of corruption report good results. However the problems were not solved concerning the management structure , transparency , independency, checks and balances , employment structure in the Judicial Body and in the Anticorruption Institutions. Moreover, it is obvious that the authorities were acting only on the pressure of the European Union. It is doubtful these anticorruption measures suggested by the European Union would have ever taken place if Romania does not access the EU and the EU does not prompt the changes regarding the process of fight against corruption.

According to the European Commission long term process is needed for reaching success in the fight for corruption. In the view of the European Commission a 5 year time is not enough for achieving enough results on the field of anticorruption measures. More time is needed for success. Moreover, the strict separation of executive, legislative and judicial power should also be respected and stable political conditions and commitment should be assured, otherwise these anticorruption policies can not be successful.

From the overall results of law enforcement we can conclude that in Romania there exists a contrast between laws and the law enforcement. There exists several laws, but the law enforcement is weak. In over Romania did not make significant progress in law enforcement.

From the explanation of the effectiveness of the anticorruption measure results we can conclude that there are difficulties in the realization of an effective anticorruption policy implementation. An obstacle for the effectiveness of anticorruption policies concerning conflicts of interest can be that : Political interests in the transition period were blocking the independence of the institutions in the judicial system. Moreover the employees of the public officials are not committed to their official roles. The theory that dysfunction can be a cause of nepotism is only partially applicable to the case of Romania. There are political and historical conflicts which cause dysfunction. However cultural conflict causing dysfunction can not be found. Furthermore Fijnaut and Huberts name the lack of “checks and balances” also a cause for problems in the management setup.

Another problem evolves with the uniformity of EU policies, which causes a problem for the implementation of anticorruption measures.

An explanation for the ineffectiveness of anticorruption against nepotism can be that the freestanding agencies are not independent and have political influence. An explanation for the ineffectiveness of anticorruption against managerial problems can be that the freestanding anticorruption agencies do not have a permanent planning. Since the realization of a successful anticorruption policy implementation requires a long term planning, work has to be done here. Moreover, magistrates get too much cases, because of the workload and therefore they handle these cases only superficially. Finally, another obstacle is that citizens do not trust the judicial system.

The added value of this research is that it gives an analysis and explanation of anticorruption policy effectiveness in the judicial system with the help of theories which were not used until now for the explanation of anticorruption policy effectiveness in the judicial system. This way we can learn about what went wrong and where are the roots of the problems concerning the implementation of anticorruption policies. Another positive aspect of this thesis is that it focuses on precise corruption types.

However the research has its shortcomings as well. Namely in its creativity factor, since it is based on second hand information. Due to technical obstacles and scheduling issues the realization of an interview was not possible. This takes away from the added value of the thesis.

Overall from the research made in my thesis on the basis of the scientific and empirical literature I can conclude that the anticorruption policies of the Romanian government during the last five years regarding the judicial system show little progress or in many cases are not effective at all.

Their inefficiency can be explained on the base of the theories of Cyrille Fijnaut and Leo Huberts throughout the socio and economic background of the country. In the transition period the efforts to reform basic state institutions have generally had limited impact. Political interests were blocking the independence of the institutions in the judicial system. In this period, a vacuum was created, where corrupt judges and dysfunctional public offices could rely on different political connections. In a difficult situation where the transition period of Romania from a communist regime to a democratic one, where the old regime was reemerging in the new regime and the same old politicians stayed in power all means were guaranteed for the flourishing of corruption.

The Judicial System of the country was also not reformed. The same old judicial system entered into force which was also in force in the communist regime only with slight reformulations adapted to the international requirements.

Under these circumstances corruption could flourish in Romania and anticorruption policies had a very hard task in their application.

Furthermore the institutions responsible for the control of corruption matters and the implementation of anticorruption policies do not fulfill the criteria named by Fijnaut and Huberts regarding the free standing agencies.

Further reasons of the non-effectiveness of anticorruption policies are : politicking, lack of transparency in the judicial system, bad relationship between the citizens and the judicial system.

Finally we can say that in spite of the fact that several anticorruption measures were introduced in the Romanian Judicial System they were not successful. They were mainly introduced on the pressure of the EU. No political will for a change exists in this respect. The attitude towards corruption should be changed. A stronger political will for change should be prompted. There should be developed the right amount and right type of anticorruption policies which take into account the communist background of the country.

Bibliography

Books

- Barbu Daniel, 2004, Republica Absenta (2nd Edition), Nemira, Bucuresti
- Fijnaut Cyrille and Huberts Leo , 2002, Corruption , Integrity and Law Enforcement , Kluwer Law International, Dordrecht
- Scott James Campbell , 1972, Comparative political corruption, Prentice-Hall

Articles

- Basel Institute on Governance, 2009, Governance
[http://www.baselgovernance.org/gov/project-details/article/romania-anti-corruption-communications-strategy/?tx_ttnews\[backPid\]=293&cHash=7e64c05b57](http://www.baselgovernance.org/gov/project-details/article/romania-anti-corruption-communications-strategy/?tx_ttnews[backPid]=293&cHash=7e64c05b57)
- Business Ethics , Definition: "Conflict of Interest"
<http://www.businessethics.ca/definitions/conflict-of-interest.html>
- CADI (Center for Institutional Analyzing and Development), 2009, Analyzing the vulnerabilities in the Romanian Judicial System , Solutions and Recommendations for modernization
(romaniahttp://www.cadi.ro/docs/Analiza%20vulnerabilitatilor%20sistemului%20judiciar/analiza_vulnerabilitatilor.pdf)
- Danilet Cristi, 2009, Corruption and deficiencies in the Romanian justice system, Editura C.H. Beck, Bucharest (http://www.kas.de/wf/doc/kas_22459-1522-1-30.pdf?110411094618)
- Dumbravă Horațius and Dragoș Călin, The evaluation of the Justice System in Romania during the last 60 years , in Justice Forum Magazin
<http://www.forumuljudecatorilor.ro/index.php/2009/11/the-evolution-of-the-judicial-system-in-romania/>
- Economist. 2011, Corruption in Romania, Endless Graft
<http://www.economist.com/blogs/easternapproaches/2011/10/corruption-romania>
- Elaine Byrne , 2009 ,Definitions and types of corruptions
<http://elaine.ie/2009/07/31/definitions-and-types-of-corruption/>
- Guasti Petra and Dobovsek Bojan, 2011, Informal Institutions and EU Accession: Corruption and Clientelism in Central and Eastern Europe, Paper presented at ECPR General Conference in Reykjavik
<http://www.ecprnet.eu/MyECPR/proposals/reykjavik/uploads/papers/859.pdf>
- <http://www.transparency.org.ro/publicatii/publicatiiti/2006/IntegritateaJustitie.pdf>
- Investopedia, Conflict of Interest , <http://www.investopedia.com/terms/c/conflict-of-interest.asp#axzz1y3fc6IsH>
- Kaufmann Daniel , Kraay Aart and Mastruzzi Massimo, 2006, Measuring Corruption: Myths and Realities in World Bank
<http://www1.worldbank.org/publicsector/anticorrupt/corecourse2007/Myths.pdf>
- Law News and Update , Fair Justice System is Good for all in Justice Diary ,
<http://justicediary.com/fair-justice-is-good-for-all/>

- Popescu Birlan Liliana, 1994 – Privatization and Corruption in Romania , 1994, Kluwer Academic Publishers
- Romania Libera, 2011, Crooked Judges in Corruption Scandal , in Press Europe (<http://www.presseurop.eu/en/content/news-brief/1040781-crooked-judges-corruption-scandal>).
- Summaries of EU legislation , 2011, A comprehensive EU anticorruption policy, in Europa http://europa.eu/legislation_summaries/fight_against_fraud/fight_against_corruption/133301_en.htm
- Transparency International , 2010 ,Global Coalition Against Corruption ,http://timenewsfeed.files.wordpress.com/2010/12/ti_global-corruption-barometer-20102.pdf
- Transparency International ,Romania, Studii http://www.transparency.org.ro/politici_si_studii/studii/index.html
- Transparency International, 2006, Integration in Justice, Strategy Document
- Transparency International, 2008, Advocacy http://www.transparency.org.ro/politici_si_studii/advocacy/index_en.html
- United Nations, ESCAP (United Nations Economic and Social Commission for Asia and the Pacific) , 2012 , What is good governance ? <http://www.unescap.org/pdd/prs/ProjectActivities/Ongoing/gg/governance.asp>
- Vachudova Milada Anna, 2009 ,Corruption and Compliance in the EU’s Post-Communist Members and Candidates, in Journal of Common Market Studies (http://www.saisjhu.edu/sebin/w/y/Vachudova_EU_Compliance_and_Corruption_09.pdf).
- World Bank, 2000, The Level and Pattern of Corruption in the Transition Countries <http://siteresources.worldbank.org/ECAEXT/Resources/Anticorruption/chapter1.pdf>

Reports

- Bertelsmann Transformation Index (BTI), 2012, Romania Country Report <http://www.bti-project.de/fileadmin/Inhalte/reports/2012/pdf/BTI%202012%20Romania.pdf>
- Directorate General External Relations, 2006, Evaluation Method’s for the European Union’s External Assistance
- European Commission, 2007, Report From The European European Commission To the European Parliament and the Council on Romania's progress on accompanying measures following Accession, Brussels <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0378:FIN:EN:PDF>
- European Commission, 2008 , Report from the European Commission to the European Parliament and the Council On Progress in Romania under the Co-operation and Verification Mechanism, Brussels http://ec.europa.eu/cvm/docs/sec_2008_2349_en.pdf
- European Commission, 2009, Report from the European Commission to the European Parliament and the Council On Progress in Romania under the Co-operation and

Verification Mechanism, Brussels <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0401:FIN:EN:PDF>

- European commission, 2010 ,Interim Report From The European Commission To the European Parliament and the Council On Progress in Romania under the Co-operation and Verification Mechanism, Brussels http://ec.europa.eu/cvm/docs/com_2010_113_en.pdf
- European Commission, 2011 , Report from the European Commission to the European Parliament and the Council On Progress in Romania under the Co-operation and Verification Mechanism, Brussels http://ec.europa.eu/cvm/docs/com_2011_80_en.pdf
- European Commission, 2012 ,Report from the European Commission to the European Parliament and the Council, Interim Report On Progress in Romania under the Co-operation and Verification Mechanism, Brussels http://ec.europa.eu/cvm/docs/com_2012_56_en.pdf
- Evaluation Report , 2010 , Anticorruption Strategy 2005-2007 and Anticorruption Strategy 2008-2010 http://www.undp.ro/libraries/projects/DG_Section/Raport_de_evaluare_privind_implemентаrea_Strategiei_Nationale_Anticoruptie_2005-2007_si_a_Strategiei_privind_Combaterea_Coruptiei_din_Sectoarele_Vulnerabile_si_Administratia_Publica_Locala_2008-2010.pdf
- Global Corruption Report, 2007, Corruption and deficiencies in the Romanian justice system (http://www.transparency.org.ro/politici_si_studii/studii/global_coruptie/2007/Coruptie%20si%20deficiente%20in%20sistemul%20judiciar%20romanescen.pdf).
- Global Corruption Report, 2007, Corruption in the Judicial System , in Transparency International http://www.coe.int/t/dghl/monitoring/greco/evaluations/round4/TIglobalcorruptionreport07_complete_final_EN.pdf
- Global Integrity Index , Romania: 2007, 2007 <http://report.globalintegrity.org/Romania/2007>
- Global Integrity Index , Romania: 2008, 2008 <http://report.globalintegrity.org/Romania/2008>
- Global Integrity Index , Romania: 2010,2010 <http://www.globalintegrity.org/report/Romania/2010/>
- Global Integrity Index, Methodology, <http://www.globalintegrity.org/report/methodology>
- Human Rights Development , 1990 , in Human Rights Watch World Report <http://www.hrw.org/reports/1990/WR90/HELSINKI.BOU-02.htm>
- Philippine Development Plan, 2007, Good Governance and Rule of Law, <http://www.neda.gov.ph/PDP/2011-2016/governance.pdf>
- Transparency International , 2006, Decisional Transparency in Public Administration <http://www.transparency.org.ro/publicatii/publicatiiti/2006/TransparentaDecizionalaA PL.pdf>