

## Annex I

### State Measures for Strengthening Business Integrity

The secretariat is seeking information from States parties to the United Nations Convention against corruption on good practices, practical examples and lessons learned from engaging the private sector and using sanctions and incentives to strengthen business integrity in the last decade. This is in line with relevant resolutions of the Conference of the States Parties to the United Nations Convention against Corruption, including, resolutions 5/6, 6/5, 9/6 and 9/8, as well as the commitments made by Member States in the political declaration entitled “Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation”, adopted by the General Assembly at its special session against corruption held in 2021. The answers provided by States parties will be used to update the 2013 UNODC publication “A Resource Guide on State Measures for Strengthening Corporate Integrity” ([English](#) - [Spanish](#) - [Russian](#)) with contributions from relevant international organizations and to develop an e-learning tool that will further support States parties’ efforts to strengthen business integrity.

The Resource Guide provides a catalogue of measures that States parties can adopt to promote business integrity and the reporting of corruption involving the private sector. The Resource Guide features three chapters: i) The United Nations Convention against Corruption and the private sector, which describes the articles of the Convention that frame State interaction with the private sector; ii) Engaging the private sector, which outlines the business case for countering corruption with emphasis on governance and other factors that can drive business integrity; and iii) Using sanctions and incentives, which describes the range of sanctions and incentives that have been developed to prevent and address corruption involving the private sector.

The secretariat invites States parties to disseminate this questionnaire among relevant stakeholders, with a view to identifying internal measures adopted by private sector entities to prevent and counter corruption. Respondents may choose to answer the whole questionnaire or only sections that are applicable and relevant to a State party. The secretariat would especially welcome the provision of illustrative examples.

Respondents’ contact details will be kept confidential. The secretariat may contact a respondent to seek additional information. Unless a State party requests otherwise when providing the relevant information, the secretariat may make the submissions publicly available, including through the [UNODC Business Integrity Portal](#).

The Government may wish to provide relevant information by completing the [online questionnaire](#) or by submitting its answers to the questionnaire (attached) to the secretariat by email to [uncac@un.org](mailto:uncac@un.org) at its earliest convenience but no later than **19 May 2023**.

## Questionnaire

### Chapter 1 – The United Nations Convention against Corruption (UNCAC) and the private sector

*Background: It is important that States' legislative and other measures contain sufficient detail to inform the private sector of their requirements and scope of application. In line with the principle of legal certainty, it is important to have clear provisions outlining prohibited conducts and consequences to the private sector.*

**Guidance on 1(a) and 1(b):** Measures could, for example, include policies and/or laws and regulations designed to achieve the following:

- Prevent bribery of national public officials, bribery of foreign public officials and officials of public international organizations, and bribery in the private sector
- Promote private sector transparency
- Promote cooperation between law enforcement agencies and private entities
- Promote cooperation between national authorities and private entities
- Prevent trading in influence
- Prevent conflicts of interest
- Prevent embezzlement of property in the private sector
- Promote the development of standards and procedures to safeguard the integrity of companies
- Ensure that companies have sufficient internal auditing and controls to assist in preventing and detecting acts of corruption
- Introduce or strengthen the liability of legal persons
- Promote public-private communication, cooperation and partnership (e.g., with business associations, networks, individual companies, small and medium-sized enterprises)

**1(a)** Please describe (cite or summarize) good practices and/or examples of measures taken by your country to promote business integrity and/or reporting of corruption in the private sector in line with the United Nations Convention against Corruption.

#### ***Promote private sector transparency: Whistleblowers Law***

In December 2022, Romania adopted **Law no. 361/2022 regarding the protection of public interest whistleblowers**, which transposes into the national legislation the EU Directive 2019/1937 on the protection of persons who report breaches of Union law.

The new normative act establishes the National Integrity Agency (ANI) as an external reporting channel - competent authority to receive reports on violations of the law, defined by art. 3 of the normative act as oral or written communications relating to facts that consist of an action or inaction that constitutes non-compliance with the legal provisions.

Moreover, the new normative act regulates the obligation for public and/or private entities to institute and establish internal reporting channels and to set up procedures for internal reporting, as follows:

- Legal entities of private law that have less than 50 employees do not have the obligation to institute internal reporting channels, being able to use external reporting channels. These provisions have entered into force as to the adoption of the new normative act.
- Legal entities of private law that have between 50 and 249 employees may be grouped and may use or share resources regarding the receipt of reports on violations of the law and regarding the follow-up

actions. The obligation to identify or establish internal reporting channels enters into force on December 17, 2023.

- Legal entities of private law that have over 249 employees have the obligation to institute and establish internal reporting channels. These provisions have entered into force as to the adoption of the new normative act.

In order to meet the needs of the interested persons and raise awareness amongst the entities that fall under the provisions of Law no. 361/2022, ANI issued on the 6<sup>th</sup> of February 2023<sup>1</sup> a press release announcing the launch on its website ([www.integritate.eu](http://www.integritate.eu)) of a new section (<https://avertizori.integritate.eu/>) dedicated to persons who report breaches of the law or request counselling. The platform provides the possibility to report both as a nominal person or anonymously. Additionally, within the dedicated section, the interested persons can also find useful information and a list of frequently asked questions.

Moreover, the reports or counselling requests can be submitted before ANI as follows: through dedicated e-mail addresses, through a dedicated phone line that records the conversation (with the whistleblower's consent), as well as through postal services or in person at ANI's headquarters.

### ***Prevent conflicts of interest: PREVENT System***

One of the most effective prevention tools implemented by is the PREVENT, the system launched at the end of June 2017 following the adoption of ***Law no. 184/2016 on the establishment of a mechanism to prevent conflicts of interest in the procedure for the award of public procurement contracts***, which prevents conflicts of interest in procurement procedures by setting up an ex-ante verification mechanism to identify situations that may generate conflicts of interest within the procedures initiated through the electronic public procurement system so that they are removed without affecting the procedures.

The objective of the PREVENT System is to prevent conflict of interest situations from occurring in public procurement procedures by automatically detecting family ties and close links between bidders or public procurement procedures and the management of contracting authorities. The System also aims at empowering people at the top of public institutions and holding them accountable for their actions, with a view to avoiding situations where projects involving European funds are blocked, leading to a higher absorption rate of structural and European funds.

Specifically, this prevention mechanism means that a responsible person within the contracting authority will analyse data and information that is mandatory in the integrity form (available in the Electronic Public Procurement System - SEAP) by interconnecting the PREVENT System with relevant databases (National Trade Register Office - ONRC, Directorate for Personal Evidence and Database Management - DEPABD, the Database of Asset and Interest Disclosures).

In the next stage, the PREVENT System can automatically carry out, following the information entered in the integrity form, the presumptive relationships that may exist between the persons responsible for the public procurement procedure within the contracting authority and the associates of bidders in

---

<sup>1</sup> According to Law no. 361/2022, ANI had the obligation to operationalize within 45 days from the adoption of the law, the newly established structure tasked with receiving and solving reports on breaches of the law and counselling requests

procurement procedures initiated by a contracting authority. In the event of a possible conflict of interest, ANI issues an integrity alert, after which the contracting authority must take all measures to remove the possible conflict of interest signalled by the PREVENT System.

The Agency subsequently monitors the consequences of the issued integrity alert until the situation that has generated it is removed, and in the event of failure to do so, ANI may start an investigation regarding the respective possible conflict of interest. The System is designed to detect possible conflicts of interest resulting from kinship relationships, as well as relationships with third parties - collaborators, consultants, subcontractors.

The PREVENT System is essentially an administrative tool that controls all procedures and contracts within its scope, as opposed to other existing systems that only verify on a sample basis.

Since 2017, the National Integrity Agency analysed approx. 100.000 public procurement procedures and issued through the PREVENT system, 176 integrity warnings for potential conflicts of interest in public procurement procedures amounting to approx. 440 million Euros.

ANI constantly carries out a series of awareness rising measures addressed to interested stakeholders. PREVENT's results have been quarterly disseminated in the public space and ANI also offers written and oral clarifications to interested persons.

Moreover, we note that PREVENT System was marked as a good practice within the 2023 European Commission's *Handbook of good practices in the fight against corruption* (<https://op.europa.eu/en/publication-detail/-/publication/df1a5278-ac18-11ed-b508-01aa75ed71a1>).

**1(b)** What challenges (if any) did you encounter in developing and/or enforcing such measures?

***Promote private sector transparency: Whistleblowers Law***

Following the entrusting with new prerogatives as an external reporting channel – competent authority to receive reports on breaches of law, ANI faced several hardships. Considering the new legislative framework that targets a significant amount of entities, a remarkably high number of reports have been received in the first months after the entry into force of the law, as well as clarifications on the legal provisions, which have been tackled, primarily, solely by two integrity inspectors appointed within the new structure.

***Prevent conflicts of interest: PREVENT System***

Together with the implementation of PREVENT System, ANI faced as well a large number of clarification requests from relevant stakeholders with regard to the ways of filling in the integrity form, as well as faulty or incomplete filled in integrity forms.

Additionally, PREVENT System needs to be further developed in order to increase the interoperability of the electronic systems of public institutions for the ex-ante verification of conflicts of interest in the process of awarding public procurement contracts.

**1(c)** Please describe the steps you took to overcome such challenges (if any).

To overcome these challenges, ANI has constantly carried out awareness rising actions and also offered clarifications to interested persons.

Moreover, to cover the staff shortage, ANI organized competitions for occupying the vacant positions. However, the unattractive salaries related to the increased workflow represents one of the reasons for which solely only one more position has been occupied within the Whistleblower Directorate.

In regards to PREVENT System, in order to increase the interoperability of the electronic systems of public institutions for the ex-ante verification of conflicts of interest in the process of awarding public procurement contracts, ANI has accessed external funds through the National Recovery and Resilience Plan.

## Chapter 2: Engaging the private sector

*Background: Anti-corruption programmes, commonly referred to as compliance programmes, are a primary tool used by companies to advance ethical business practices. They provide a framework for articulating the values, policies and procedures used by a company to educate its employees and to prevent, detect and counter corruption in its business operations.*

**Guidance on 2(a) and 2(b):** Measures and good practices could, for example, include those designed to:

- Raise awareness of business integrity
- Encourage the private sector to establish anti-corruption policies, procedures and/or programmes
- Promote training and education on anti-corruption in the private sector
- Provide trainings or guidance, or develop model anti-corruption programmes or policies for companies to use and adapt
- Provide appropriate reporting channels
- Encourage public reporting of efforts to prevent and counter corruption in the private sector

**2(a)** Please describe (cite or summarize) good practices and/or examples of measures taken by your country to promote integrity through anti-corruption programmes in the private sector.

Please see answer under question 1(a)

**2(b)** Please describe (cite or summarize) good practices and/or examples of measures you have used to encourage transparency, public reporting and/or public participation through your anti-corruption programmes (both for the public and private sectors).

The National Integrity Agency is the autonomous administrative authority with exclusive competence in managing asset and interest disclosures submitted by public officials and dignitaries and manages the public integrity policies in Romania. Moreover, ANI identifies situations of incompatibilities and conflicts of interest in which public officials and dignitaries can be found, as well as the unjustified assets they acquire during the exercise of their office.

Moreover, ANI's attributions also include:

- Providing public access to asset and interest disclosures;
- Controlling the submission within the legal term of asset and interest disclosures;
- Enforcing sanctions provided by the law;
- Providing clarifications for natural or legal persons regarding the legal integrity framework;
- Notifying prosecutors in cases of misconduct which may constitute criminal offenses.

Moreover, these attributions are complemented by the prevention and awareness-rising activities carried out, aimed to promote and increase the compliance with the integrity legal framework in the cases of public officials selected by law. Complementary to the awareness rising measures provided under question 1 (a), ANI also carried out the following:

### ***Press releases***

An activity of paramount importance carried out by ANI is represented by the issuance and the dissemination of press releases. These press releases serve as crucial means of conveying public information, but their significance extends beyond that. They also play a crucial role in discouraging misconduct and ensuring the preservation of integrity within the public space. Press releases actively discourage misconduct by acting as a deterrent for potential wrongdoers. When the Agency publicly highlights instances of unethical and illegal behaviour, it sends a powerful message to individuals contemplating engaging in such activities.

### ***Provide trainings guidance***

Moreover, The National Integrity Agency constantly organizes training sessions that target both deponents (i.e. persons that fall under the provisions of Law no. 176/2010, to submit asset and interest disclosures), as well as focal points within institutions (i.e. each public entity must designate one person to be responsible with ensuring the implementation of the legal provisions on the disclosure of asset and interest; this individual shall answer directly to the head of the public entity, and both are held responsible for the sound functioning of the system). To exemplify, solely in 2022 ANI has trained over 3.000 persons.

### ***Provide clarifications***

As one of its earliest prevention measures, at the request of any natural or legal person, the National Integrity Agency issues clarifications on the legal provisions of incompatibilities or conflicts of interest, with regard to the filling in and submitting asset and interest disclosures. These clarifications are requested by persons in the private sector prior to occupying a public office, or by public entities prior to appointing a person, or by public officials or dignitaries already holding their position and considering occupying an additional position in the public or private sector. Moreover, ANI shall multiply its prevention tools, by designing and developing a digital awareness and prevention platform through which relevant stakeholders shall be able to clarify, by themselves, certain obligations regarding the integrity framework

### ***Provide guidance and video tutorials***

Furthermore, the National Integrity Agency developed a series of guidelines aimed to complement its prevention activity regarding integrity incidents. Therefore, ANI made available to the interested persons on its website the *Guideline on incompatibilities and conflicts of interest* as well as the *Guideline for filling in assets and interest disclosures*. The *Guideline on incompatibilities and conflicts of interest* specifically targets the main categories of deponents, providing them with the legal provisions applicable to their office. ANI updates the guidelines whenever there are legislative changes that require this.

Moreover, in 2022, in the context of the transition from paper-based assets and interest disclosures to electronically submitted ones, ANI released a series of new guidelines and manuals, which accompany step by step the focal points and deponents in the process of enrolment and submitting disclosures in the platform specially designed in this regard – *e-DAI*. Considering the wide range of deponents, ANI also developed video tutorials, which are available on the Agency’s website and on YouTube.

#### **2(c) What was the impact of the measures described above (2a and 2b)?**

PREVENT System has made significant contributions to the minimization of conflicts of interest in the public procurement, resulting in a substantial financial impact of approx. 440 million Euros, and has also led to increased transparency and accountability among public bidders, thanks to the availability of publicly accessible statistics.

In regards to the Law 361/2022 that regulates the protection of whistleblowers in public interest, the National Integrity Agency has received numerous reports and counselling requests, reflecting the willingness of individuals to come forward and disclose information regarding wrongdoing or misconduct. The high volume of reports directed through the Agency demonstrates that the Law has successfully encouraged and empowered whistleblowers to speak up and report instances of concern without fear of reprisal.

With regards to the clarifications ANI has provided, the training sessions organized, as well as guidelines and video tutorials developed, situations of conflicts of interest, incompatibilities, and wrongful or lack of submitting asset and interest disclosures have been bypassed.

#### **2(d) What challenges (if any) did you encounter in implementing the measures above (2a and 2b)?**

In addition to the answers provided under question 1 (b), we note that among the issues ANI encounters in its activity is the outdated and fragmented legislative framework, which needs greater clarity, coherence and predictability. To meet these needs and to address the issue noted by the European Commission with regard to the “*continued challenges to the legal framework for integrity and the need for stability, clarity and a robust framework*” ANI started the implementation in February 2022 of the EU funded NIAct project, in partnership with the Ministry of Justice and Transparency International Romania. The general objective of the NIAct project consists in the inventory of all normative acts and the updating of the legal integrity framework, which targets incompatibilities, conflicts of interest and unjustified wealth, but also the system of disclosing assets and interest.



## Chapter 3: Using sanctions and incentives

*Background: While effective sanctions for corruption offences are required under the United Nations Convention against Corruption, the Convention also recognizes the essential role of incentives that encourage and reward corporate self-reporting and preventive efforts.*

### Part A - Sanctions

**Guidance on 3(a):** Sanctions could, for example, include any of the following:

- Monetary sanctions for legal persons (companies) liable for the participation in an offence of corruption
- Incarceration or other criminal sanction of natural persons (individuals) who have committed an offence of corruption acting on behalf of a company
- Confiscation of proceeds of corruption for both companies and individuals who acted on their behalf
- Contract remedies and other means to communicate and enforce anti-corruption contractual provisions
- Suspension and/or debarment of contractual partners from government processes
- Denial of government benefits (fiscal or otherwise)
- Liability for damages and compensation of victims of corruption
- Reputational damages to hold wrongdoers publicly accountable
- Any other type of sanctions not listed above

**3(a)** Please describe (cite or summarize) good practices and/or examples of sanctions used to strengthen business integrity and/or reduce corruption in the private sector in your country.

With regards to the two aforementioned normative acts, namely Law no. 361/2022 *on the protection of public interest whistleblowers* and Law no. 184/2016 *on the establishment of a mechanism to prevent conflicts of interest in the procedure for the award of public procurement contracts*, sanctions have been established to address violations of the relevant legal provisions, as follows:

#### ***Monetary sanctions***

Law no. 361/2022 aims to safeguard individuals who report breaches of Union law. However, in case of false reporting, the person making the report, knowing that it is false, constitutes contravention and shall be punishable by a fine between 2.500 RON and 30.000 RON, if the acts have not been under such conditions as to be considered a crime under the law and be punishable under the provisions of the Criminal Code.

#### ***Other types of sanctions***

In regards to the Law regulating the PREVENT System, according to Article 9 of Law No. 184/2016: *"Failure to take action following receipt of an integrity warning or failure to complete integrity form (...) shall automatically trigger the conflict of interest assessment procedure, after the award procedure is completed, only in respect of persons to whom the provisions of Law No 176/2010 apply, with subsequent amendments"*.



**3(b)** What were the main challenges (if any) your country faced in enforcing these sanctions?

N.A.

**3(c)** What steps did you take to overcome those challenges (if any)?

N.A.

## **Part B – Incentives**

**Guidance on 3(d):** Incentives could, for example, include any of the following:

- Penalty mitigation – encourages self-reporting of offences, credits companies' preventive efforts
- Procurement preference – rewards good practice through procurement preference
- Preferential access to benefits – rewards good practice with preferential access to government benefits and/or services
- Reputational benefits – encourages good practice through public recognition
- Whistle-blower protection and awards – encourages reporting of potential violations by individuals
- Any other types of incentives not listed above

**3(d)** Please describe (cite or summarize) good practices and/or examples of incentives used to strengthen business integrity and/or reduce corruption in the private sector in your country.

### ***Whistle-blower protection – encourages reporting of potential violations by individuals***

In regards to Law 361/2022, the legislator has provided, under article 22, the prohibition of reprisals for the whistleblowers. Consequently, employers cannot take any of the following reprisals against the persons making reports:

- a) any suspension of the individual employment contract or of the employment relationship;
- b) dismissal or dismissal from public office;
- c) modification of the employment contract or employment relationship;
- d) reduction of salary and change of working hours;
- e) demotion or prevention of promotion in employment or public service and professional development, including through negative evaluations of individual professional performance, including of public servants, or through negative recommendations for professional performance;
- f) the application of any other disciplinary sanction;
- g) coercion, intimidation, harassment;
- h) discrimination, creation of another disadvantage or unfair treatment;
- i) refusal to convert a fixed-term employment contract into an employment contract of indefinite duration where the worker had a legitimate expectation that he or she would be offered a permanent post;

- j) refusal to renew a fixed-term employment contract or early termination of such a contract;
- k) causing damage, including damage to the reputation of the person concerned, in particular on social media platforms, or financial loss, including in the form of lost business opportunities and loss of income;
- l) inclusion on a negative list or database, based on a formal or informal sectoral or industry-wide agreement, which may imply that the person concerned will not find a job in that sector or industry in the future;
- m) unilateral extra-judicial termination of a contract for goods or services without the conditions for such termination being met;
- n) cancellation of a licence or permit;
- o) a request for a psychiatric or medical assessment.

Additionally, at the request of the whistleblower under disciplinary investigation, in maximum 1 year from the date of the report, the bar association of the area where the whistleblower's activity in the public interest is carried out provides free legal assistance during the disciplinary proceedings.

### **3(e) What is the main impact of such incentives?**

By protecting the whistleblowers from any negative consequences that may arise due to their actions made in public interest, they will be prompted to file reports that they might not have without legal protection, hence making the choice to report violations of the law that have occurred or are likely to occur, in public or private organizations.

The availability of legal protection instils the assurance towards whistleblowers that their actions will not result in personal harm or negative outcomes. This assurance serves as a catalyst for individuals to make the choice to expose unlawful or unethical practices within organizations, promoting transparency and accountability.

## **Part C - Additional measures**

**Guidance on 3(f):** Additional measures could, for example, include any of the following:

- Integrity pacts – written agreements between government agencies and companies to strengthen integrity in public procurement, usually overseen by an independent monitor
- Collective action – collaborative initiatives that bring companies and other relevant stakeholders together to prevent and counter corruption and raise standards of business integrity
- Public sector reform – civil service and/or regulatory reforms that reduce the opportunities for corruption
- Public education – activities that raise public awareness of corruption and its harmful effects

**3(f)** Please describe (cite or summarize) good practices and/or examples of any other additional measures used to strengthen business integrity and/or reduce corruption in the private sector in your country.

Complementary to the measures provided under question 2(b), ANI has actively engaged in continuous dialogue with various stakeholders, including the Romanian Parliament, central authorities, institutions, and civil society. By establishing and maintaining open lines of communication with key actors in the legislative and executive branches, the Agency seeks to contribute to the development of robust policies and measures that promote integrity and combat corruption. Through constructive discussions and exchanges of ideas, the Agency endeavours to shape legislation and regulations that provide a solid foundation for preventing and addressing integrity breaches.

### **Additional information**

Is there any other information that you wish to share which has not been addressed by the previous questions?

For any other information, please do not hesitate to contact Mr. Silviu POPA, Secretary General of the National Integrity Agency, e-mail: [silviu.popa@integritate.eu](mailto:silviu.popa@integritate.eu).