

## COMPLIANCE MATRIX

(Romania)

Treaty	Treaty Requirement	Self assessment			Relevant legislation and institutional framework in place <sup>1</sup>	Difficulties in implementing specific requirements <sup>2</sup>
		Not implemented	Partially implemented	Fully in compliance		
CoE Criminal Law Convention on Corruption	<b>Criminalization of Offences/and Provision of:</b>	Yes/No	Yes/No	Yes/No		
	Active and passive bribery <sup>3</sup>			Yes	<ul style="list-style-type: none"> <li>The Criminal Code</li> <li>Law 78/2000 as amended, concerning prevention and sanctioning corruption deeds</li> </ul>	
	Money-laundering of proceeds from corruption			Yes	Law no. 656/2002 on the money laundering	
	Accounting corruption related offences			Yes	<ul style="list-style-type: none"> <li>Criminal Code</li> <li>Law 31/1990, republished on the commercial enterprises, Law no. 82/1991 on accounting</li> <li>Law 87/1994 republished on tax evasion</li> </ul>	
	Effective and dissuasive sanctions and measures		Yes		<ul style="list-style-type: none"> <li>Criminal Code,</li> <li>Law 87/1994 republished on tax evasion</li> <li>Law no. 656/2002 on the money laundering</li> <li>Law 78/2000 as amended, concerning prevention and sanctioning corruption deeds</li> <li>Law no. 299/2004 on the criminal responsibility of legal persons for the counterfeiting</li> </ul>	The amendments of the Criminal Code will also provide for the criminal liability of the legal persons (July 2005).
	Legal entities criminal and non-criminal liability		Yes		<ul style="list-style-type: none"> <li>Civil Code,</li> <li>Law no. 299/2004 on the criminal responsibility of legal persons for the counterfeiting</li> </ul>	The amendments of the Criminal Code will also provide for the criminal liability of the legal persons

<sup>1</sup> When applicable please only provide the Law/Act title, Nr. and date of entry into force

<sup>2</sup> Please list the specific areas/notions

<sup>3</sup> Please note that which subjects are covered by active and passive bribery (i.e., public officials, civil servants, international officials, private sector etc)

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						(July 2005).
	Liability of legal persons		Yes		Civil Code,	See above for the criminal liability
	Setting up of specialised anti-corruption bodies			Yes	<ul style="list-style-type: none"> <li>GEO no 43/2002 approved by Law no. 503/2002 regarding the National Anticorruption Prosecutor's Office (prosecuting only corruption offences)</li> <li>GD no 637/2004 on the organisation and functioning of the General Department of Protection and Anti-corruption subordinated to the Ministry of Justice</li> <li>By Law no. 161/2005 regarding certain measures on preventing and countering corruption within Ministry of Administration and Interior (MoAI), it was created the legal framework for the setting up of the Anticorruption and Professional Standards Division in the direct subordination of the Minister of Administration and Interior</li> </ul>	
	Protection of collaborators of justice			Yes	<ul style="list-style-type: none"> <li>Law no. 571/2004 on the protection of the personnel within public authorities, public institutions and other budgetary units who notify law's infringements</li> <li>Law no. 682/2002 on witness protection</li> <li>Article 74, 255 Criminal Code</li> <li>Law 78/2000 as amended, concerning prevention and sanctioning corruption deeds</li> <li>Law no. 39/2003 on the prevention and countering of the organized crime</li> </ul>	
	Investigating or prosecuting authorities, gathering of evidence and confiscation of proceeds			Yes	<ul style="list-style-type: none"> <li>Criminal Code,</li> <li>Criminal Procedure Code,</li> <li>Law 78/2000 as amended, concerning prevention and sanctioning corruption deeds</li> <li>Law no. 39/2003 on the prevention and countering of the organized crime</li> <li>GEO no 43/2002 approved by Law no. 503/2002 regarding the National Anticorruption Prosecutor's Office</li> </ul>	

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	International co-operation: mutual assistance, extradition & provision of information during proceedings re: corruption offences			Yes	Law 302/2004 on international cooperation	
CoE Civil Law Convention on Corruption	<b>Provision of:</b>	Yes/No	Yes/No	Yes/No		
	compensation for damage			Yes	Art 998, 999, 1084, Civil Code	
	liability (including State liability for acts of corruption committed by public officials);			Yes	<ul style="list-style-type: none"> <li>• Art 55, para. 3, Romanian Constitution,</li> <li>• Art 1000, para 3, Civil Code,</li> <li>• the jurisprudence</li> </ul>	
	contributory negligence: reduction or disallowance of compensation, depending on the circumstances			Yes	Art 998, 999 Civil Code, the jurisprudence	
	validity of contracts;			Yes	Art 948, 960, Civil Code, Law no. 161/2003 on	
	protection of employees who report corruption		Yes		<ul style="list-style-type: none"> <li>• Law no. 571/2004 on the protection of the personnel within public authorities, public institutions and other budgetary units who notify law's infringements,</li> <li>• Law no. 682/2002 on witness protection</li> </ul>	
	clarity and accuracy of accounts and audits			Yes	<ul style="list-style-type: none"> <li>• Law 31/1990, republished, on the commercial enterprises,</li> <li>• Law no. 82/1991 on accounting,</li> <li>• Law 87/1994 republished on tax evasion,</li> </ul>	
	acquisition of evidence			Yes	<ul style="list-style-type: none"> <li>• Art 167-241,</li> <li>• the Civil Procedure Code,</li> <li>• the Commercial Code</li> </ul>	
	court orders to preserve			Yes	Art 591-601, 720 <sup>1</sup> -720 <sup>10</sup> Civil Procedure Code,	

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	the assets necessary for the execution of the final judgment and maintenance of status quo pending resolution					
	international co-operation			Yes	Law 302/2004 on international cooperation	
<b>CoE Additional Protocol to the Criminal Law Convention on Corruption</b>	<b>Provision of:</b> measures to establish, as criminal offences, the active and passive bribery of domestic and foreign arbitrators and jurors	Yes/No	Yes/No	Yes/No	<ul style="list-style-type: none"> <li>Criminal Code,</li> <li>Art 8<sup>1</sup>, Law no. 78/2000 for the prevention, discovering and sanctioning of corruption deeds.</li> </ul>	<p>1. Not all the domestic arbitrators may be covered by the definition of <i>official</i> (in lato sensu), as provided in the Criminal code (art 162): by official it is understood any person who exercises a task in the service of a legal person of private sector. A person who exercises a service of public interest.</p> <p>2. As regards the foreign arbitrators, the issue is whether the art 8<sup>1</sup> of Law 78/2000</p>

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						(officials of a foreign state) covers the foreign arbitrators.
<b>UN Convention against Corruption</b>	<b>Provision of:</b>	Yes/No	Yes/No	Yes/No		
	Preventive measures			Yes	<ul style="list-style-type: none"> <li>• HG no. 231/2005 on the National Anticorruption Strategy 2005 - 2007 and the action plan for</li> <li>• The Council for the coordination of the implementation of National Anticorruption Strategy</li> <li>• Law no. 188/1999, republished, on the statute civil servants</li> <li>• Law no. 393/2004 on the statute of local elected</li> <li>• Law no. 43/2003 on the financing of political parties and electoral campaigns</li> <li>• Law no. 161/2003 on certain measures to ensure transparency in the exercise of public dignities, public offices and in the business environment, to prevent and sanction corruption</li> <li>• Law no.115/1996 on declaring and control of the assets of the dignitaries, magistrates, civil servants and of certain persons with management positions</li> <li>• Various codes of conduct (public servants, magistrates, contractual personnel, customs, police officers, etc)</li> <li>• Law no. 571/2004 on the protection of the personnel within public authorities, public institutions and other budgetary units who notify law's infringements</li> <li>• GEO no. 60/2001 as amended, on the public procurement</li> <li>• Law 52/2003 on the decisional transparency in the public administration ( especially Chapter II, Sections 1 and 2, article 6 - 12)</li> <li>• Law no. 544/2001 on public's access to information</li> <li>• Law no. 677/2004 for the protection of the persons on the processing of data with a personnel character and the free</li> </ul>	

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					<p>circulation of these data.</p> <ul style="list-style-type: none"> <li>• Law no. 102/2005 on the establishing, functioning and organizing of National Authority for the Surveillance of the processing of data with a personnel character</li> <li>• Law no. 303/2004 on the Statute of Magistrates</li> <li>• Law no. 304/2004 on judicial organization</li> <li>• Law no. 317/2004 on the Superior Council of Magistracy</li> <li>• Law no. 31/1990 on commercial enterprises</li> <li>• Law 87/1994 republished on tax evasion</li> <li>• Law no. 82/1991 on accounting</li> <li>• Law no. 571/2003 on fiscal code</li> </ul>	
	Criminalization and law enforcement		Yes		<ul style="list-style-type: none"> <li>• The Romanian Constitution,</li> <li>• The Criminal Code in force</li> <li>• The amendments to the new Criminal Code (July 2005)</li> <li>• Law 78/2000 as amended, concerning prevention and sanctioning corruption deeds</li> <li>• Law no. 656/2002 on the money laundering</li> <li>• Law no. 39/2003 on the prevention and countering of the organized crime</li> <li>• Law no. 299/2004 on the criminal responsibility of legal persons for the counterfeiting</li> <li>• The Civil Code</li> <li>• Law no. 161/2003 on certain measures to ensure transparency in the exercise of public dignities, public offices and in the business environment, to prevent and sanction corruption</li> <li>• GEO no 43/2002 approved by Law no. 503/2002 regarding the National Anticorruption Prosecutor's Office</li> </ul>	
	International cooperation			Yes	Law 302/2004 on international cooperation	
	Asset recovery			Yes	<ul style="list-style-type: none"> <li>• Civil Code</li> </ul>	

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					<ul style="list-style-type: none"> <li>• Law no. 656/2002 on prevention, discovering and sanctioning of money laundering,</li> <li>• Law 78/2000 as amended, concerning prevention and sanctioning corruption deeds</li> <li>• Law no. 39/2003 on the prevention and countering of the organized crime</li> <li>• GEO no 43/2002 approved by Law no. 503/2002 regarding the National Anticorruption Prosecutor's Office, Procedure Code, Law 302/2004 on international cooperation</li> </ul>	
	Technical assistance and information exchange			Yes	<ul style="list-style-type: none"> <li>• Ministry of Justice</li> <li>• Ministry of Administration and Interior</li> <li>• The National Institute of Criminology</li> <li>• The Public Ministry</li> <li>• Programmes operated through the cooperation with the EU, OECD, SPAI, CoE.</li> </ul>	