

# HOW DO WE FIGHT FOR THE RULE OF LAW IN THE REGION?

Bucharest, 2015

## About the project

Expert Forum together with three Romanian and one Norwegian partner will implement the *project Active citizenship – a powerful instrument for enforcing rule of law* with the purpose of increasing the degree of awareness on the importance of rule of law and to consolidate the capacity of essential groups for the stability of the democratic mechanisms (teachers, magistrates, journalists).

The main issues that we tackle are the lack of public interest on rule of law, the dysfunctional framework of teaching civic education, the openness towards extremism and the lack of the media capacity and autonomy to publicly report these derailments.

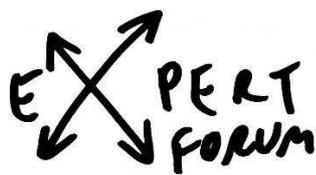
We will develop teaching skills for a community of teachers and support them to disseminate the information to the students, with the help of the Norwegian partner. We will organize training sessions in order to connect magistrates and journalists, aiming to consolidate on fighting corruption. A series of 5 training sessions on rule of law will also be held in the context of regional geopolitical instability with students.

## About the event

Rule of law and good governance are increasingly fragile in the region. States are fighting against populism, expansionism and administrations that hold authoritarian traits, while promoting the democratic principles. Indisputably, the countries in the region often face similar if not indistinguishable problems and the magistrates and civil society must stand firm against both internal and external pressures. The spoliation of public goods together with the perpetuation of corruption constitute the main democratic obstacles which characterize overall governance in the region.

Therefore, we organized a debate on 12<sup>th</sup> May 2015, starting with 17.30 about the real issues concerning rule of law in Ukraine, Georgia and the Republic of Moldova. Representatives from the Moldovan Centre for Juridical Resources, Transparency International Georgia and Ukrainian Centre for Anticorruption Action and Romanian NGOs and journalist have discussed about the issues in their countries and solutions to fight bad governance.

The conference was also the opening event for our new project, [Active Citizenship – a powerful instrument for the consolidation of the rule of law](#), which aims to train civic activists to become involved in the fight against abusive state behavior.



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## The background

As a constant supporter of actions aimed at combating and preventing corruption in Romania, but also in the neighbouring region, Expert Forum implemented in 2015 the project *Stronger judiciary in Eastern Europe*, supported by the Black Sea Trust for Regional Cooperation. The initiative brought together stakeholders from three partner countries: Ukraine, Georgia and the Republic of Moldova, in an attempt to exchange good practice regarding the fight against corruption. Thus, for a week, between the 11<sup>th</sup> and 15<sup>th</sup> May 2015, EFOR hosted an international conference and training in Bucharest for approx. 50 representatives of the justice systems in the partner countries (judges, prosecutors, Ministry of Justice representatives, MPs, NGOs etc.). The delegates had the chance to meet and discuss with representatives of key Romanian anticorruption institutions (such as DNA, High Court of Cassation, ANI, General Anticorruption Directorate, Ministry of Justice etc.).



In this context, EFOR had the opportunity to invite representatives of the partner NGOs in this project at the opening event of our new project, *Active citizenship – a powerful instrument to consolidate rule of law*. The event took place at the Institute Cafe, on the 12<sup>th</sup> May. Together with representatives of foreign (Transparency International Georgia, Anticorruption Action Center Ukraine and Legal Resources Center for Moldova) and Romanian NGOs as well as journalists, we discussed major corruption issues in the region and ways to tackle this state of facts.

## The speakers

Firstly, on behalf of the Legal Resources Centre from Moldova (LRCM) participated Ms. **Nadeja**



**Hriptievski** (project director) and Mr. **Ilie Chirtoacă** (legal assistant). LRCM is a Chişinău based NGO which has an extensive expertise in analysing the activity and reforming the justice sector, reporting on human rights and representation before the European Court of Human Rights (ECtHR). The organization focuses on ensuring equality and non-discrimination, as well as promoting reforms for an enabling environment for civil society organizations. LRCM operates in the Republic of Moldova.



LRCM's main current activities are focused on reforming the justice sector in the Republic of Moldova. They monitor the transparency and efficiency of the judiciary, strengthening legislative framework on the functioning of the civil society organizations and implementing the best human rights standards in the Republic of Moldova. LRCM is the only Moldovan think-tank in the field of justice.

Secondly, Mr. **Grigol Gvilava** joined on behalf of TI Georgia. TI Georgia is a national chapter of Transparency International (TI), the only international non-governmental organization devoted to combating corruption. It brings together the civil society, businesses and governments in a powerful global coalition. TI, through its International Secretariat and more than 90 independent national chapters around the world, strives to stem both the supply and demand of corruption at the local, national, and international levels.



In the international arena, TI (<http://www.transparency.ge>) raises awareness about the damaging effects of corruption, advocates for policy reform, works towards the implementation of multilateral conventions, and monitors compliance by governments, corporations, and banks. At the national level, chapters work to increase levels of accountability and transparency, monitoring the performance of key institutions and pressing for necessary reforms in a non-partisan manner.

Gia joined Transparency International Georgia as a senior lawyer in 2011. He was the head of the organization's Advocacy and Legal Advice Center from February 15, 2011. Starting with the 23<sup>rd</sup> of July 2012 Gia Gvilava became Project Manager. Currently, he manages TI Georgia's Judicial Monitoring and Legal Advice Program.

Thirdly, **Tetiana Shevchuk** and **Oleksandra Ustinova** joined the discussions on behalf of the Ukrainian Anti-Corruption Action Centre. AntAC is a Ukrainian civil society organization, which brings together experts from legal, media and civic-political sectors fighting corruption as a root cause of the key state-building problems in Ukraine.



**Oleksandra Ustinova** is leading communication expert of Anti-Corruption Action Centre. She is responsible for the overall media strategy of the organization and its implementation. She also works on media support for advocacy campaigns social Media Communications Her key areas of expertise are the health industry and overseeing media communications and direct actions.



**Tetiana Shevchuk** is legal counselor of Anti-Corruption Action Centre, supervising international projects of the organization. She is an expert in the field of corporate and financial law. Currently she works on anti-corruption, asset recovery and anti-money laundering initiatives. Prior to her engagement with Anti-corruption Action Centre she worked for leading multinational professional services companies.

AntAC's strategic goal for 2013-2015 is to create conditions under which it would be too risky and unprofitable for the authorities to engage in corruption. AntAC aims at reducing grand political corruption, which occurs when public policy decisions are taken by state officials. Political corruption within a captured state, such as Ukraine, becomes a root cause of governance problems. Political corruption significantly increases the level of administrative

corruption and gives rise for petty corruption, washes up billions of state budget funds and drains natural resources of the country depriving its people from fundamental human rights.

The event was opened by [Laura Ștefan](#), anti-corruption expert EFOR, and [Septimius Pârvu](#), project manager who presented the context of the project.

## The issues

If we look at the latest evolutions regarding rule of law in the region, we can observe that there is a need to better prepare active citizens who can understand why we need to enforce democratic mechanisms and an independent justice. Although not all the countries have identical issues, the backbone of the derailments is similar and, therefore, solutions and exchange of good practice can be identified for all the countries. In order to raise the level of knowledge, EFOR and its partners will work with the most important target groups within society: teachers, students, magistrates and journalists. This will be done by attempting to promote and disseminate civic mechanisms, as well as by monitoring the government and fighting against populism, extremism, clientelism and bad governance in general.

In Georgia, the main concerns of TI lie in the general lack of reform within the Georgian state institutions. Mr. Gvilava emphasized on the successful cut down of corruption at the lower levels of society. However, he acknowledged that the phenomenon is still heavily present amongst the elites. Moreover, we learned that TI Georgia does not only deal with corruption matters only, but also with media and judiciary issues.

Several specific concerns of TI Georgia were underlined: the first and most crucial one being the way high profile cases are judged in a selective manner. In other words, the Georgian NGO feels that the judiciary system is characterized by a lack of independence, with prosecutors abruptly dropping specific and violating the fair trial right (also shown by the OSCE negative report).

According to the TI Georgia representative, a second crucial problem in the country is the corruption within the Ministry of Internal Affairs. This institution controls a large part of the country's administration and often commits unjust acts such as the illegal dismissal of public servants. The many issues of the Ministry of Internal Affairs are seriously blamed by TI Georgia, a NGO which chooses to look at corruption in the broader sense and to criticize matters such as nepotism or impenetrable power centres.

Later on, Nadia Hriptievșchi from LRCM spoke about Moldova and its legal and geopolitical issues. The LRCM representative claims that these issues are characterized by an intersection of different personal interests, which unquestionably lead to corruption. Despite the European direction chosen by the country in the 2009, the 2014 general elections showed that still a great part of the Moldovan civil society is faced toward the Russian East and not the European West. Nonetheless, the country still managed to advance on the EU track and succeeded to sign both the Association Agreement and the Visa Facilitation Agreement.

Mrs. Hriptievșchi talked about Moldova's hottest corruption and legal issues, such as the famous billion dollar fraud and the authorities' choice of not making the report, the issue of

preventive arrest in Moldova - connected to the danger of suspects often fleeing the country through the breakaway state of Transnistria, such as in the case of the former Minister of Interior); the politically controlled media linked to heavy propaganda, and last but not least, the lack of an anticorruption body or institution that deals with corruption cases from start to end (inefficient Centre for Anticorruption due to its moving around from one state power to another).

Tetiana Shevchuk and Oleksandra Ustinova of AntAC spoke about the most crucial issues of present day Ukraine. They touched on the origins of the 2014 revolution, claiming that the kleptocracy that characterised Yanukovich administration was the main reason that led to the start of the crisis. In the last period, the anticorruption reform became the number one priority of the people. Several steps were taken into this direction, namely the foundation of the National Anticorruption Bureau, the National Prevention Agency and the implementation of a new anticorruption law.

Nonetheless, the National Anticorruption Bureau is not yet very efficient as it is still in the process of being built from within. Another important aspect presented by the AntAC representatives was the multi-levelled corruption in Ukraine, where the bigger the stake, the bigger the bribe has to be. It is thought that the fight against corruption is often a mere political facade. The ongoing conflict in Eastern Ukraine adds fuel to the corruption issue and slows down any anticorruption initiatives.

The EU sanctions against Ukrainian and Russian citizens aimed to act as a facilitator for the Ukrainian government in order for it to begin a proper investigation against the 22 sanctioned people. However, the Ukrainian government failed to take on the EU direction. Moreover, what adds to the lack of balance in the Ukrainian state is the people's lack of trust in the national institutions. The AntAC representatives suggest that a restoration of trust in the government will contribute to the better functioning of the country. All in all, Ukraine's biggest issue is the open conflict on its territory. This not only led to a day by day declining economy but also to great political turmoil.

The two representatives also noted the great help the country received from the IMF and World Bank in financing the anticorruption initiatives. In terms of procurement, AntAC advocated for a new procurement law and a law on beneficial owners.

Specific issues such as the high medicine prices were also raised, emphasizing once more on the high corruption levels, including bribes in the medical sector. AntAC delegates claim that the need for medical reform is common to all former soviet countries. Although the chances for real change are thought to be slim in the near future, the temporary solution is monitoring and pushing for change.

During the questions trial, several important points were made. The Ukrainian representatives pointed out how the war greatly diminished the standards of living and reduced the minimum salary to 50 Euros a month (due to the depreciation of the Ukrainian currency by 300%). Considering the last rounds of elections, the delegates concluded that vote manipulation and electoral fraud represent essential issues in both Georgia and Ukraine. The negative influence of a strong communist legacy in the region represents a common aspect of the countries, and

this prevents the anticorruption measures from making a noticeable difference and at the same time it keeps them from Europeanizing and modernizing.

## Conclusions and steps forward

It is safe for one to conclude that most issues and struggles in the region are related to a weak rule of law, state monopoly and lack of civic interest and involvement. Even though we can observe a common pattern in Georgia, Moldova and Ukraine regarding current problems (such as heavy corruption and prevalence of personal interests over public ones), there are also specific issues that affect each country. Firstly, according to TI, Georgia's *status quo* is characterized by a serious malfunctioning of the rule of law, which translates into a politically influenced and subordinate judiciary system, free trial right violations and heavy corruption at state level (especially within the Ministry of Internal Affairs). Moldova also experiences some severe situations which act as real obstacles on the country's path to further democratization and ultimately Europeanization. The most crucial ones are the population's segmentation regarding a Western or Eastern path, with many willing to go for the EuroAsian Union rather than for the EU. The Russian controlled autonomous region of Transnistria and a politically subservient media are other pressing issues of the Moldovan status quo. Last but not least, following the presentation and arguments of the AntAC representatives, one can argue that Ukraine's current state of affairs is also worryingly fragile. Most issues commenced as a consequence of the deeply corrupt Yanukovich administration, which led to the notorious territorial crisis. The open conflict on the Ukrainian land and very slow progress of any anticorruption movements have impaired the development of the rule of law in the country, and hence increased economic and political disequilibrium.

And if the issues are similar, then the solutions should also flow from the same spring. Firstly, all the organizations agree that the independence of justice and the development of strong institutions are priorities. Both Moldova and Ukraine are struggling to develop strong anticorruption departments and Romania represents, in this case, a very good example. However, the problem also comes from the lack of education and interest for good governance right from the citizens. Moldova and Romania are two such examples. Even if more than a billion USD has been stolen from the Moldovan public funds, the public reaction was quite pale; protests were limited to a few tens of thousands of citizens. Moreover, one of the main pawns in the affair has great chances to be elected as mayor in a major Moldovan city. In Romania, although many electors were blocked from voting in the 2014 Presidential elections, the repercussions are still reduced and the politicians continue to function in similar corrupted ways. Therefore, there is a need for a stronger degree of civic activism that can be reached through education and instruction of both citizens and decision makers.

Monitoring public finances and fighting arbitrary distribution of resources is also a priority. All countries face the issue of oligarchs that control the political parties and indirectly the public resources; therefore, there is a need for strong disclosure instruments that will reveal the negative impact of high level corruption activities.

All in all, there are useful examples coming from all the countries and the experience exchange may be the best instrument through which the organizations can consolidate their position and

work more efficiently. Therefore, in the next period we will intensify our collaboration in the area of anticorruption and civic education and will set-up a long term partnership.

Watch on-line the debate, on Youtube (English only)

<https://www.youtube.com/watch?v=MnBFK3-EjXA> &  
<https://www.youtube.com/watch?v=SNzD-Z8RIAk>

