



## Comparative Study Regarding Combating and Preventing Corruption in Romania and the Republic of Moldova

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**Abstract:** The present paper wants to analyse the level of corruption in Romania and Moldova, the legal framework for civil liability, and the institutions responsible for preventing and combating corruption. Even if the respective countries differ in their form of government, international status, level of development, the fact that Romania is a member of UE, number of populations, and territory, it is known the fact that the Moldova legislation has changed in recent years, especially as concerning anti-corruption; many measures are inspired by Romanian and European legislation. Nobody has yet found a solution of guaranteed efficacy for the reduction and, ultimately, elimination of corruption in a society. With regards to the phenomenon of corruption, it is a truth accepted unanimously, according to which criminal prosecution, and disciplinary sanction against corrupted individuals can eliminate the offender, but cannot eradicate corruption. Consequently, corruption control can be implemented efficiently through society's economic, political and moral recovery. Thus, we follow the similarities and differences between the two countries using a case study, and research at different international and regional organizations, to reach the conclusion referring to anticorruption measures and the way of civil liability in the two mentioned states.

**Keywords:** corruption; act of corruption; corruption conduit; anti-corruption measures; anti-corruption legislation

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## 1. Introduction

**Motto:** *“Corruption has made our world a more dangerous place. As governments have collectively failed to make progress against it, they fuel the current rise in violence and conflict – and endanger people everywhere,” said Delia Ferreira Rubio, the chairperson of Transparency International.*

In the present work, we propose to analyse the concept of corruption scientifically and systematically, delimiting its manifestation in legal terms, liable to punishment, to public perception of the phenomenon.

Corruption is a complex phenomenon, representing a dangerous vice of society; it cannot be universally defined. In the Romanian language, the origin of the term comes from the Latin word *corruptions* which is in its first sense a deviation from morality, honesty, and duty: in the second sense it means depravation, fornication. In the great encyclopaedic dictionaries, the term is defined as “a serious violation of legal norms and attributions through the abusive use of public power for obtaining improper personal benefits.” The Oxford Dictionary of the English Language notes the following meaning which can be applied in the contexts referring to corruption: “perverting or destroying integrity in the form of privatization of public responsibilities and functions through bribes or favours offered; the use or existence of corrupt practices especially within state institutions or public agencies.”

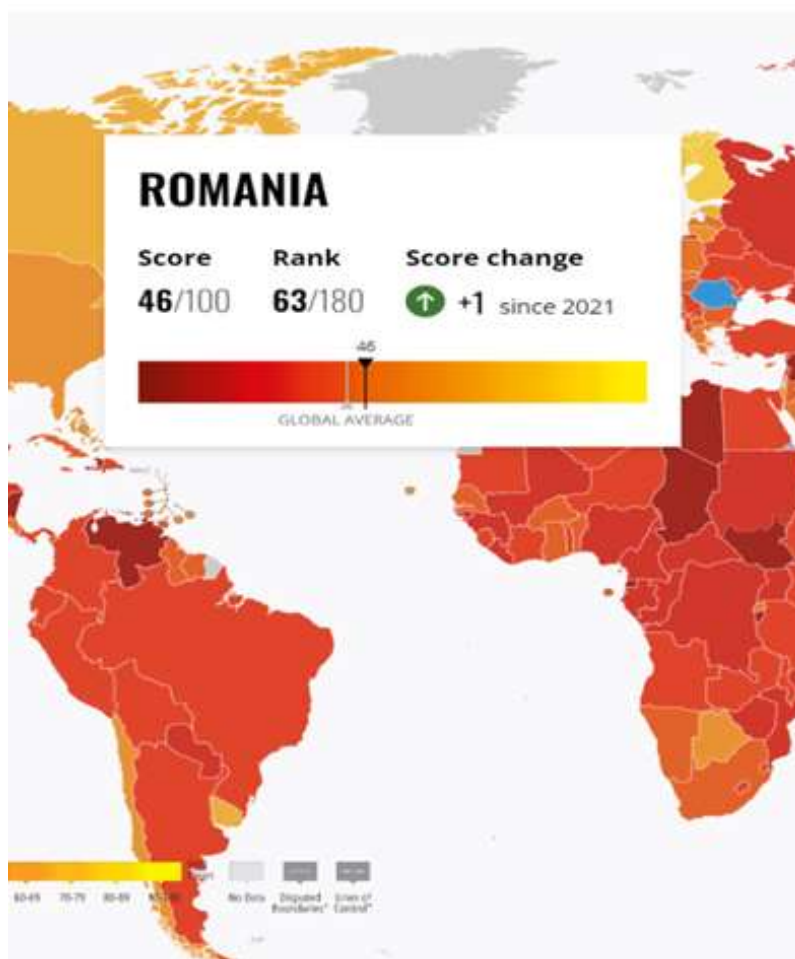
The civil liability for corruption is an important component in fighting it, as it alters the society and economy of a country. Within this paper, we explore the legal and procedural aspects of the civil liability for corruption in Romania and Moldova Republic, based on a case study which shows us the similarities and differences between the two countries. The civil liability for corruption refers to the obligation of the persons involved in corruption acts to bear the legal and financial consequences of their actions. This differs from criminal liability and refers mainly to the obligation to compensate for the damage caused by acts of corruption and to return illegally acquired assets.

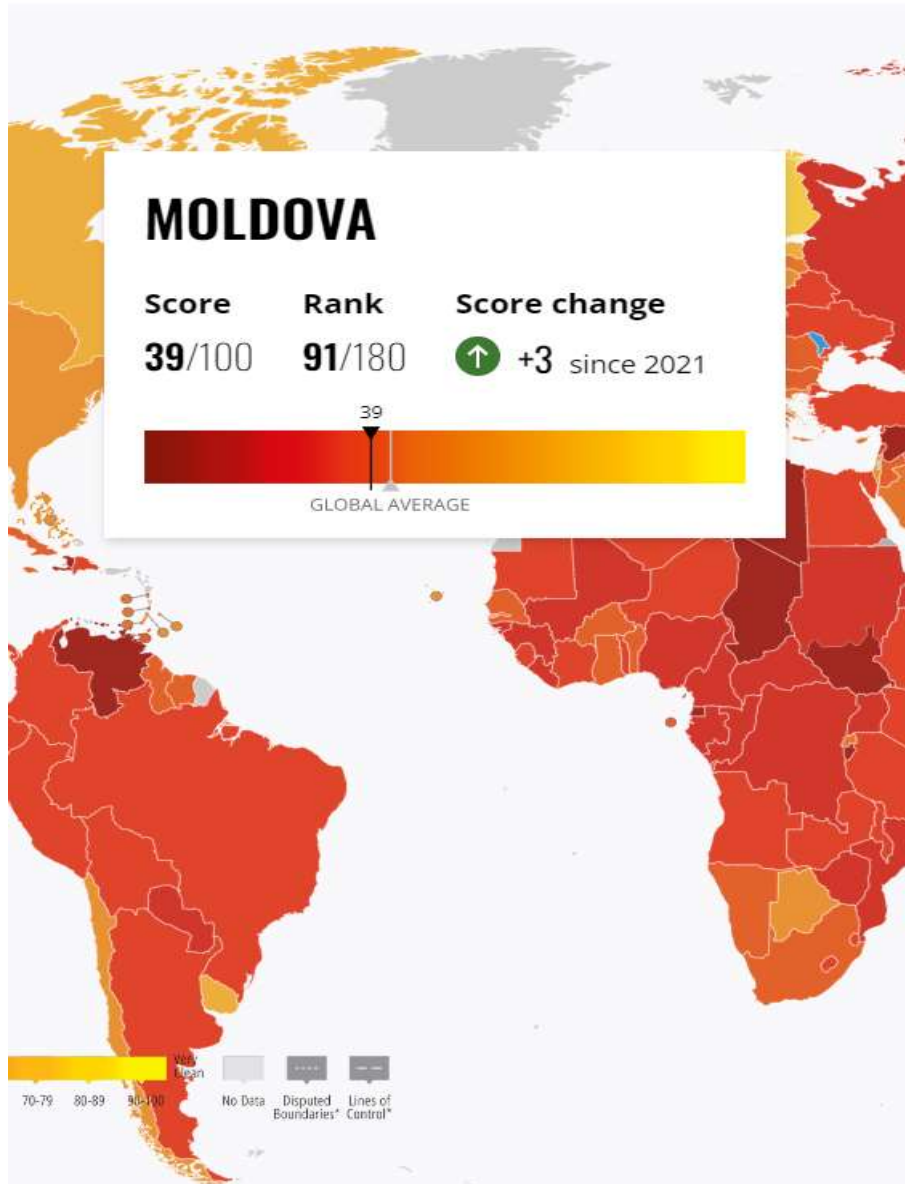
## 2. The Level of Corruption in Romania versus Moldova Republic

The figures on corruption are colossal and unimaginable to the uninitiated. Annually, in the world, due to corruption acts 2600 milliard of dollars are stolen, as one can see in the ONU report in 2017; also 1000 billion dollars are given as a bribe. To sum up, we have reached 3600 billion dollars. If we refer to UE, as the statistics show,

corruption ranges from 179 to 990 billion euro annually. As a confirmation, the World Bank states that one thousand billion dollars are paid annually as a bribe in the world and the total economic loss from corruption is estimated to be much higher than this figure. More than that, because of corruption, the total cost of the commercial contracts rises up to 20-25%. As it concerns Romania, corruption is estimated to be between 8 and 11 billion dollars, that is on average 7% of gross domestic product – GDP, more than the budget of any minister; so at the moment the greatest minister in Romania is considered to be corruption.

The index of corruption perception is annually measured and comprises 100 states; it offers a score from zero to 100 points, where 100 means a system without corruption.

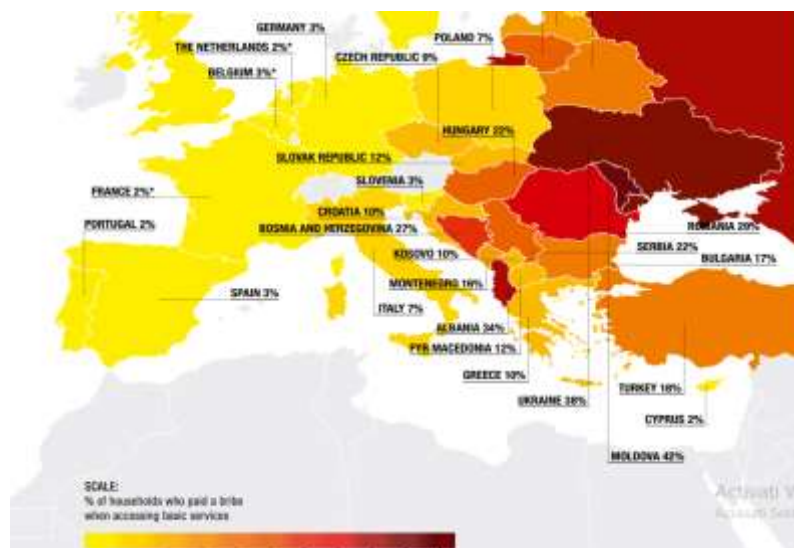




Source: [transparency.org](https://www.transparency.org)

Thus, in 2022 Romania has a rank of 46 points and increases one position as compared to 2021. The Republic of Moldova has a score of 39, that is 3 positions higher than the previous year. The Corruption Perception Index – CPI 2022 launched on the 31<sup>st</sup> of January at Berlin by Transparency International shows that most of the





Source: [images.transparencycdn.org](https://images.transparencycdn.org)

To sum up, we can say that both states have a high level of corruption which constantly affect people's lives. However, Romania as a UE member state implemented over the years a series of legislative and institutional reforms, which reduced the corruption level. During the last 10 years, as the index of corruption perception, from a level of 44 points in 2012, it evolved to 46 in 2022. Meantime, during the same period, Moldova got 10 years ago a level of 36 points and in 2022 there were 39. In 2022 Moldova received the status of UE candidate state: that imposes adopting some reforms fighting against corruption. So, they started the law reform, they made steps in transparency and a better communication between authorities and civil society.

## 2.1. The Corruption Level at the Global Level

The Peace Global Index shows that the world continues to become a less peaceful place to live. There is a tight connection between violence and corruption: states with low scores at this index, also get very low points in IPC. The Governments stuck in corruption do not have the capacity to protect their citizens, while the social discontent generally leads to violence. This vicious circle hit worldwide countries, from The South Sudan (13) to Brazil (38).

Corruption, conflict and safe are profoundly connected. The abuse, dilapidation or theft of public funds can deprive the essential institutions of the useful resources they

need to fulfil their mission, such as civil protection, the insurance of civil law, and maintaining peace. The groups of organized crime and terrorism and usually helped by the complicity of the corrupted civil servants, law enforcement authorities, judges, and politicians.

Thus:

a. the invasion of Russia into Ukraine in February 2022 was a strong reminder referring to the thread the corruption and the absence of governmental responsibility represent for the global peace and security: by promising loyalty to President Vladimir Putin, Russian kleptocrats (28) gathered great fortunes in exchange for winning lucrative public contracts and economic interests protection. The lack of control over President Putin's power allowed him to follow his geopolitical ambition. This attack destabilized the European continent, threatened democracy and killed tens of thousands of people.

b. after decades of conflicts, the South Sudan (13) find itself in a great humanity crisis, more than a half population face an acute food insecurity, while corruption exacerbates the situation. The Sentry report for last year revealed a scheme for massive fraud, applied by a network of corrupted politicians connected to the president family refused food, fuel and medicine help.

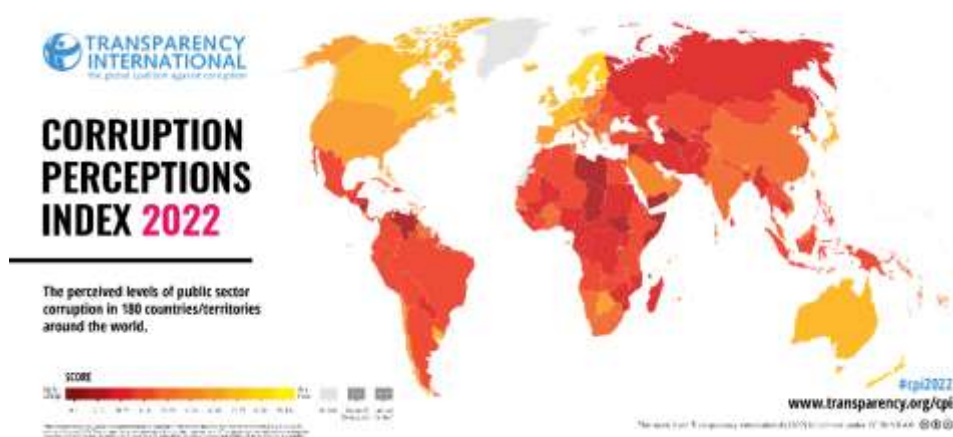
c. the combination of corruption, authoritarianism and economic recession proved very volatile in Brazil (38). Here, the mandate of the president Jair Bolsonaro was marked by the elimination of the anticorruption institutions, usage of the corrupted scheme to favour political allies and increase the political support in the legislature, to misinform, to attack the civil society. In January, after Bolsonaro lost the elections for a new presidential term, his supporters launched a virulent attack against the Parliament, The Supreme Court and the presidential palace; this put into danger the lives of the police officers and journalists, vandalized buildings to perturbate the peaceful transition of the power towards the new president, Luiz Inácio Lula da Silva.

d. drawing attention to corruption cases contributed to the civil war in Yemen (16) eight years ago. Now the state collapsed leaving two-thirds of the population in food shortage, that is one of the most significant humanitarian crises in the world.

e. even within the countries with relatively strong anticorruption measures, the defence sector remains often secret – permitting unjustified influence and other forms of corruption. After the *Government Defense Integrity Index*, only 9 of the 85

evaluated countries have a low or very low risk of corruption. This aspect is very alarming, as many Governments prepare to intensify their military expenses as a response to the emergent threats and as a response to the war in Ukraine. In Germany (79), for example, the Government established a new fund of 100 billion euros to modernize the army, but such a simplified acquisition permits significant risks for corruption. However, a new national security strategy which is under debate at present at the governmental level could consolidate the mechanisms for integrity and transparency, if adopted.

Transparency International requires governments to prioritize anticorruption commitments, consolidating the system *check and balance*, upholding the rights to information, to diminish worldwide corruption and reducing violence implied. [8]



Source: <https://www.transparency.org/ro/tironews/indicele-de-percep%C8%9Bie-corup%C8%9Biei-2022-arat%C4%83-progrese-minore-%C3%AEn- ceea-ce-prive%C8%99te-lupta> (accessed on Oktober, 23<sup>rd</sup>, 2023))

The global average of IPC remains unchanged – 43 points – for 11 consecutive years and more than two thirds of the countries have serious corruption issues, with scores under 50 points.

- (90) is at top this year, followed tightly by **Finland** and **New Zealand**, each of them with 87 points. Strong democratic institutions and the concern for human rights make these countries the most peaceful ones.
- **The South Sudan** (13), **Siria** (13) and **Somalia** (12), all of them implied into a prolonged conflict are found at the bottom of the IPC ranking.



- 26 countries, among them **Qatar** (58), **Guatemala** (24) and the **United Kingdom of Great Britain** (73) reached this year historic.

From 2017, ten countries registered significant decline as concern their IPC scores.

States with the most important decline are:

- **Luxembourg** (77), **Canada** (74), the **United Kingdom of Great Britain** (73), **Austria** (71), **Malaysia** (47), **Mongolia** (33), **Pakistan** (27), **Honduras** (23), **Nicaragua** (19) and **Haiti** (17).
- 8 countries managed to improve IPC scores during the same period: **Irlanda** (77), **South Korea** (63), **Armenia** (46), **Vietnam** (42), **Maldives Islands** (40), **Moldova** (39), **Angola** (33) and **Uzbekistan** (31).

### 3. Comparison between legislation in Romania versus Republic of Moldova as concern civil liability

	<b>Romania</b>	<b>Republic of Moldova</b>
Institutions specialized in fighting, preventing and sanctioning acts of corruption.	<ul style="list-style-type: none"> <li>- The National Anticorruption Direction (NAD) funded in 2002.</li> <li>- The National Integrity Agency (NIA) funded in 2007.</li> <li>- General Anticorruption Direction (GAD) within Internal Affairs Ministry, founded in 2005.</li> </ul>	<ul style="list-style-type: none"> <li>- The National Anticorruption Center (NAC) funded in 2002, with competence in fighting and preventing corruption, contains 3 directions: General Direction of Criminal Investigation, Anticorruption Prosecution (AP) as part of General Prosecution, the subdivision was created in 2003.</li> <li>- National Integrity Authority (NIA)</li> <li>- National Office for the Prevention and Combating of Money Laundering (Financial Information Unity (FIU) and The Agency for the Recovery of Undisclosed Assets (ARBI) – funded in 2017 by law</li> </ul>

Legislative framework	<ul style="list-style-type: none"> <li>-The Civil Code</li> <li>- Law no. 78 on the 8<sup>th</sup> of May 2000 for preventing, finding and sanctioning acts of corruption.</li> </ul>	<ul style="list-style-type: none"> <li>- The Civil Code</li> <li>- Law no. 90 on the 25<sup>th</sup> of April 2008 referring to prevention and fighting corruption.</li> </ul>
The procedure for establishing civil liability.	<p>Identification of corruption acts:</p> <ul style="list-style-type: none"> <li>- In the first phase, an investigation is carried out to identify and document the corruption acts committed by a person or a group of persons. This can be done by specialized institutions in fighting corruption, such as National Direction Anticorruption (DNA) or by the law enforcement agencies.</li> <li>- Initiation of court action.</li> <li>- Evaluating the prejudice.</li> <li>- Evidence and arguments.</li> <li>-Court decision.</li> </ul>	<p>Reporting and investigation:</p> <p>When there are suspicions of corruption or prejudice caused by corruption acts, one can make complaint to the National Anticorruption Center (CNA) or Anticorruption Prosecution (PA).</p> <p>These organisms will initiate an investigation to gather relevant proofs and evidence.</p> <ul style="list-style-type: none"> <li>-The process of prejudice identification.</li> <li>- Civil actions and the judicial process.</li> </ul>
Recovery of damage and confiscation of assets	<ul style="list-style-type: none"> <li>- Execution of the law decision. The court decision is the basis for the initiation of the asset confiscation process.</li> <li>- National Office for the Prevention and Combating of Money Laundering (ONPCSB) has to identify seize and recover assets obtained through crimes.</li> <li>- National Agency for Fiscal Administration (ANAF) has competence in evaluating, identifying and capitalizing on the seized or confiscated assets to recover the damage caused.</li> <li>- The National Agency for the Administration of Undisclosed Assets (ANABI) has the attribution to administrate and manage the undisclosed</li> </ul>	<ul style="list-style-type: none"> <li>- Sanctions and prejudice recovery actions.</li> <li>- Execution of the law decision.</li> <li>- The Court decision to confiscate assets.</li> <li>- Anticorruption Prosecution together with other competent institutions, such as National Anticorruption Direction (NAD), law court, Agency for Recovery Undisclosed Assets (ARBI) have responsibility to initiate and implement the confiscation procedures of the assets obtained through corruption. Agency for Recovery Undisclosed Assets (ARBI) tends to fulfil EUROPOL requirements to have full access to Network</li> </ul>

	assets in criminal and civil proceedings, including the one obtained through corruption acts and crimes assimilated to corruption.	Application for Secured Information Exchange (SIENA), so that it can dispose of efficient capacity for international information change.
Treaties and signed international documents.	<ul style="list-style-type: none"> <li>- United Nations Convention against Corruption (UNCAC), 2004</li> <li>- Civil/Criminal Convention on Corruption</li> <li>- United Nations Convention against Transnational Organized Crime</li> <li>- Convention of the Organization for Economic Cooperation and Development</li> </ul>	<ul style="list-style-type: none"> <li>- United Nations Convention against Corruption (UNCAC)</li> <li>- Civil/Criminal Convention on Corruption</li> <li>- United Nations Convention against Transnational Organized Crime</li> </ul>
International organizations on combating corruption	<ul style="list-style-type: none"> <li>- United Nations (ONU)</li> <li>- Council of Europe</li> <li>- European Union</li> <li>- The Group of States against Corruption (GRECO)</li> <li>- Network for Integrity</li> <li>- European Anti-Fraud Office (OLAF)</li> </ul>	<ul style="list-style-type: none"> <li>- United Nations (ONU)</li> <li>- Council of Europe</li> <li>- The Group of States against Corruption (GRECO)</li> <li>- Network for Integrity</li> </ul>

So, with all these legislation and institutions they set the basis of the national strategy for fighting against corruption and necessary priority measures were taken for corruption prevention and eradication.

#### 4. Conclusions

Both countries are confronted with significant challenges in fighting corruption and the enforcement of civil liability represents an important instrument of this fight. Both in Romania and Republic of Moldova there are legislative and institutional efforts to enforce civil liability and recover the corruption prejudice.

As concern Romania, legislation was consolidated through measures for prevention and fighting corruption; the responsible institutions increased their efforts of

investigation and accountability. In the Republic of Moldova, great efforts for consolidating the civil liability against corruption were made.

Nevertheless, there still is a need to consolidate institutional capacity and to improve cooperation between different entities. There is necessary a continuous monitorization in both countries and a periodic assessment of civil liability efficiency. It is also important that the authorities cooperate tightly with the civil society, international organisms and other interested parts to build a robust and transparent system of civil liability.

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