



Integrity testing at sectoral level

UNDP Consultant, Cristina Ciubotaru

What is an integrity test (IT)?



- a) Exam on integrity rules?
- b) Undercover set-up?
- c) Pre-employment background check?
- d) Post-employment checking?
- e) Polygraph test?

**What is required to exist
between people for them to
engage in corruption?
(in one word)**

IT breaks the trust, enhances reporting

IT objectives



- Encourage officials to follow their obligation to report bribery (as any offer could be an integrity test);
- Increase the perceived risk of detection and thus prevent corruption;
- Identify public officials or agencies prone to corrupt practices;
- Collect evidence for disciplinary procedures;
- Identify public officials who are honest and trustworthy;
- Identify the training needs of public officials, i.e. patterns of misconduct which could go back on a lack of awareness for ethical challenges.

Explicit international conventions on IT



NONE!!!

UNCAC – Art.8 (Codes of conduct)



- calls on Member states *“to facilitate the reporting by public officials of acts of corruption”* and to take *“disciplinary or other measures against public officials who violate the codes or standards”*

UNCAC – Art.50 (special investigative techniques)



“Technical Guide to the UNCAC” lists (targeted) integrity testing as one of the tools available and describes it as:

*“a method that enhances both the prevention and prosecution of corruption and **has proved to be an extremely effective and efficient** deterrent to corruption.”*

“Managing Conflict of Interest in the Public Sector” manual (2005):

*“[T]he Integrity Test can be a **powerful specialised corruption detection tool**”.*

“Best practices in combating corruption” (2004):

*“Integrity testing has now emerged as a **particularly useful tool for cleaning up corrupt police forces** – and for keeping them clean.”*

“Handbook on Practical Anti-Corruption Measures for Prosecutors and Investigators” (2005):

*“It is now clear that it is not enough to ‘clean up’ an area of corruption when problems show. Rather, **systems must be developed which ensure that there will be no repetitions and no slide back into systemic corruption.** It is in the essential field of follow-up and monitoring that integrity testing really comes into its own.*”

“Anti-Corruption Tool Kit” (2004):

“It is one of the most effective tools for eradicating corrupt practices in Government services in an extremely short time. In particular, in cases of rampant corruption and low trust levels by the public, it is one of the few tools that can promise immediate results and help restore trust in public administration.”

“Preventing Corruption in Prosecution Offices: Understanding and Managing for Integrity” guidance (2011) refers to the testing as

“a powerful corruption detection tool”

Transparency International



TI Source Book (2000), *Confronting Corruption: The Elements of a National Integrity System*, chapter 20:

“integrity testing is a particular useful tool for fighting corruption”

Foreign experiences



- Targeted testing – common investigative practice
- Random testing, leading to consequences:
 - Criminal (Georgia)
 - Criminal and disciplinary (USA, UK, Australia, Romania)
 - Disciplinary (Moldova)
- Lacking of a special law on IT:
 - USA, UK, Australia, Georgia

Country	Introduced	Coverage	Consequences
United States	1994	Police	Disciplinary / criminal
Australia	1996	Police	Disciplinary / criminal
United Kingdom	1999	Mainly police	Disciplinary / criminal
Georgia	2003	Public administration	Criminal
Kenya	2006	Public administration	Disciplinary / criminal
Czech Republic	2009	Security forces	Disciplinary / criminal
Romania	2009	Ministry of Interior	Disciplinary / criminal
Hungary	2012	Public administration	Disciplinary / criminal
Moldova	2013	Public administration	Disciplinary

How did IT appear?



“In the 1970’s, ABC News conducted an integrity test in Miami, where 31 wallets containing money and identification were turned over by role players to 31 police officers. Nine of the officers kept the money and were subsequently fired and/or prosecuted. Thirty years later, ABC News replicated the integrity test in Los Angeles and in New York. Twenty wallets containing money and identification were turned in to officers of the LAPD and another twenty were turned in to officers of the NYPD. All forty wallets were recovered by the officers without a single penny missing. It is unclear if the officers have become more ethical over the past three decades, or if they suspected the wallets was simply bait being offered in some type of sting operation.”

Definition of IT in Moldovan Law

- Creating and applying by the testing agent of a virtual, simulated situation, similar to the job-related situation of the tested public agent, carried out through disguised operations, depending on the activity and behavior of the public agent, aiming to passively observe and establish the reaction and conduct of the tested public agent.

IT preconditions:



- Scenarios must be **realistic**
- Testing unit/agents must be of **highest integrity** themselves
- Proper **promotion** (of random testing) will secure the best prevention results ... **MD case**

Moldovan IT case study



- Applied in **2 different regimes**:
 - **2014-2015** – purely IT
 - **2016-ongoing** – IT integrated as part of a complex institutional integrity assessment
- **2014-2015** – proven as the most effective and fast working tool for prevention

Constitutionality



- **April 2015** – parts of the Law were declared unconstitutional, based on the Venice Commission *amicus curiae*
- **May 2015** – Monitoring Committee of the CoE Parliamentary Assembly acknowledged potential manipulation by the Constitutional Court on this:

“While the Venice Commission challenged some provisions of a law to be applied to judges, the Constitutional Court invalidated the law as it would be applied to any public civil servant. [...] Transparency International Moldova incriminated a bad translation of the amicus curiae brief and a ‘manipulation’ by the Constitutional Court to dismiss the law.”

Professional Integrity Testing Law 325/2013



- 23.12.2013 – Law was adopted
- 14.02.2014 – Law was published
 - ! 6 months of preparation
- 14.08.2014 – Law came into effect
 - ! 8 months of application on the field
- 16.04.2015 – Parts of law declared unconstitutional
 - ! 1 year + 1 month legal drafting and advocacy
- 26.05.2016 – Law was amended to remove unconstitutionality criticism

IT in Moldova in 2014-2015



- Forms:
 - Targeted (including requested)
 - Random

Institutions subjects of integrity testing



- Institutions applying integrity testing
 - National Anticorruption Center (NAC)
 - Intelligence and Security Service (ISS)
- Institutions to which integrity testing is applied
 - All public institutions (by the NAC, except for own employees)
 - NAC and ISS (by the ISS)

Obligations of the public agents:



- to refrain from corruption acts
- to report attempts to corrupt them
- to report undue influences
- to report gifts

Obligations of the heads of public institutions



- Inform the public agents in writing they can be subject of IT
 - Already working – within 10 days
 - Newly hired – upon employment
- Disciplining the public agents who failed the IT

Obligations of the NAC



- Help public institutions prepare for the IT (first 6 months)
- Carry out IT and inform the heads of the public institutions of the failed tests, providing evidence thereof to the disciplinary bodies
- Keep the record for set periods of time of the failed IT by public agents (1 year and 5 years)

Consequences for failing obligations



- Disciplinary liability
 - failing obligation to refrain from corruption – dismissal
 - failing other obligations – less severe disciplinary sanctions
- Professional Integrity Record (by NAC and ISS)
 - failing obligation to refrain from corruption – 5 years, corresponding to the 5 years ban from public sector
 - failing other obligations – 1 year

6 months preparation (Feb-Aug 2014)



- NAC carried out the most powerful prevention campaign in the country in history
- NAC checked whether the public institutions are ready for integrity testing:
 - Have informed the public agents in writing? (forms)
 - Have necessary corruption prevention procedures in place? (standard rules)
 - Need training or other guidance on professional integrity standards behavior?

Results during first 6 months

- 1140 institutions received letters (accompanied by notification forms)
- 85% replied
 - 100% of institutions did not have internal rules and record keeping also for undue influences' reporting, whistleblowing protection, conflicts of interest resolution, while 75% did not have gifts internal procedures
 - 100% complied with corruption prevention requirements and enforced appropriate rules
 - app. 500 institutions requested training and training was delivered to a total of 35.000 public agents
 - 100.000 public agents were notified in writing

IT enforcement in the next 8 months (August 2014-April 2015)



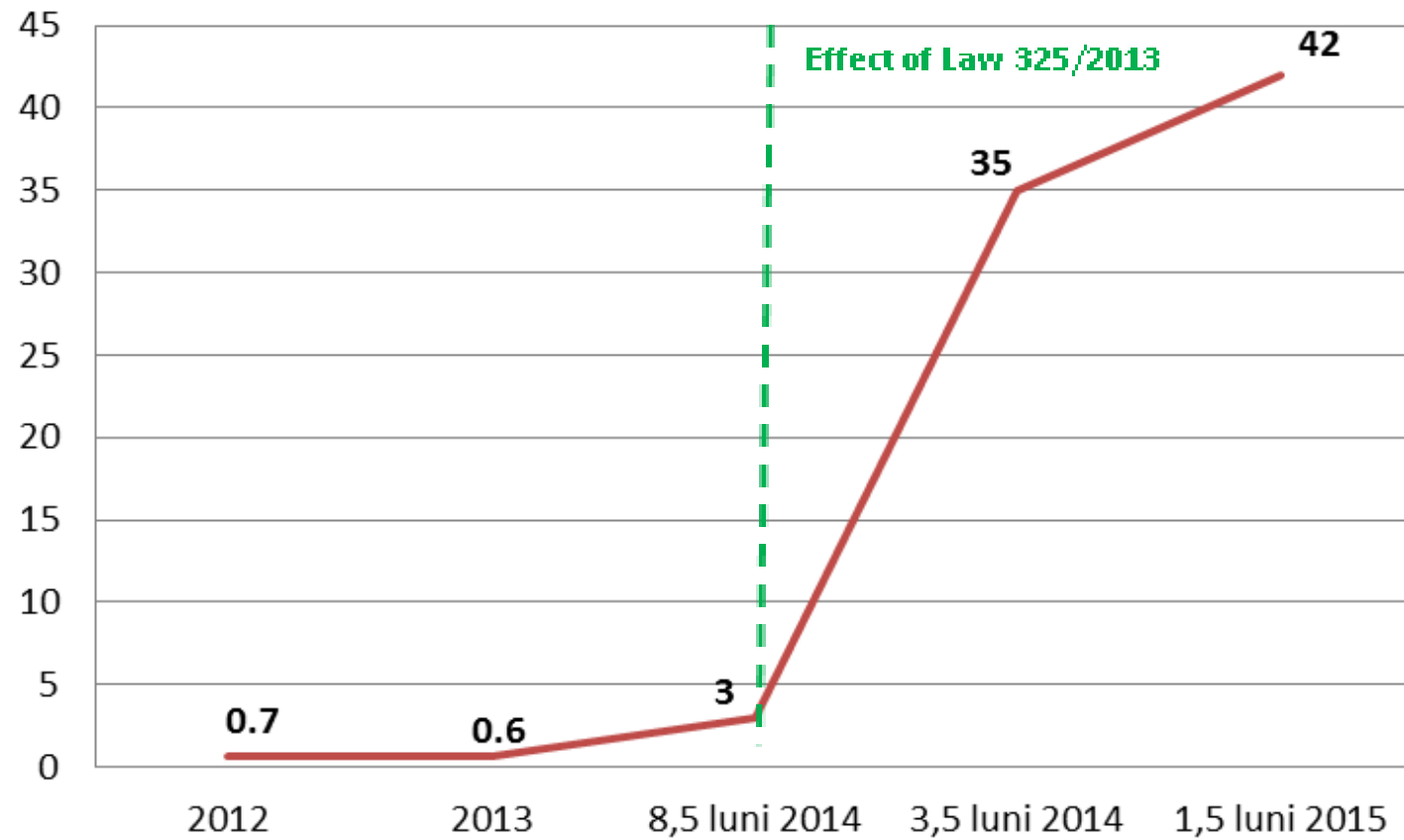
- Main type of testing – random
- Results:
 - 65% involve in corruption
 - 100% did not report corruption
 - 85% did not report gifts
 - Active corruption reporting increased by 70 times

Corruption reporting by public agents

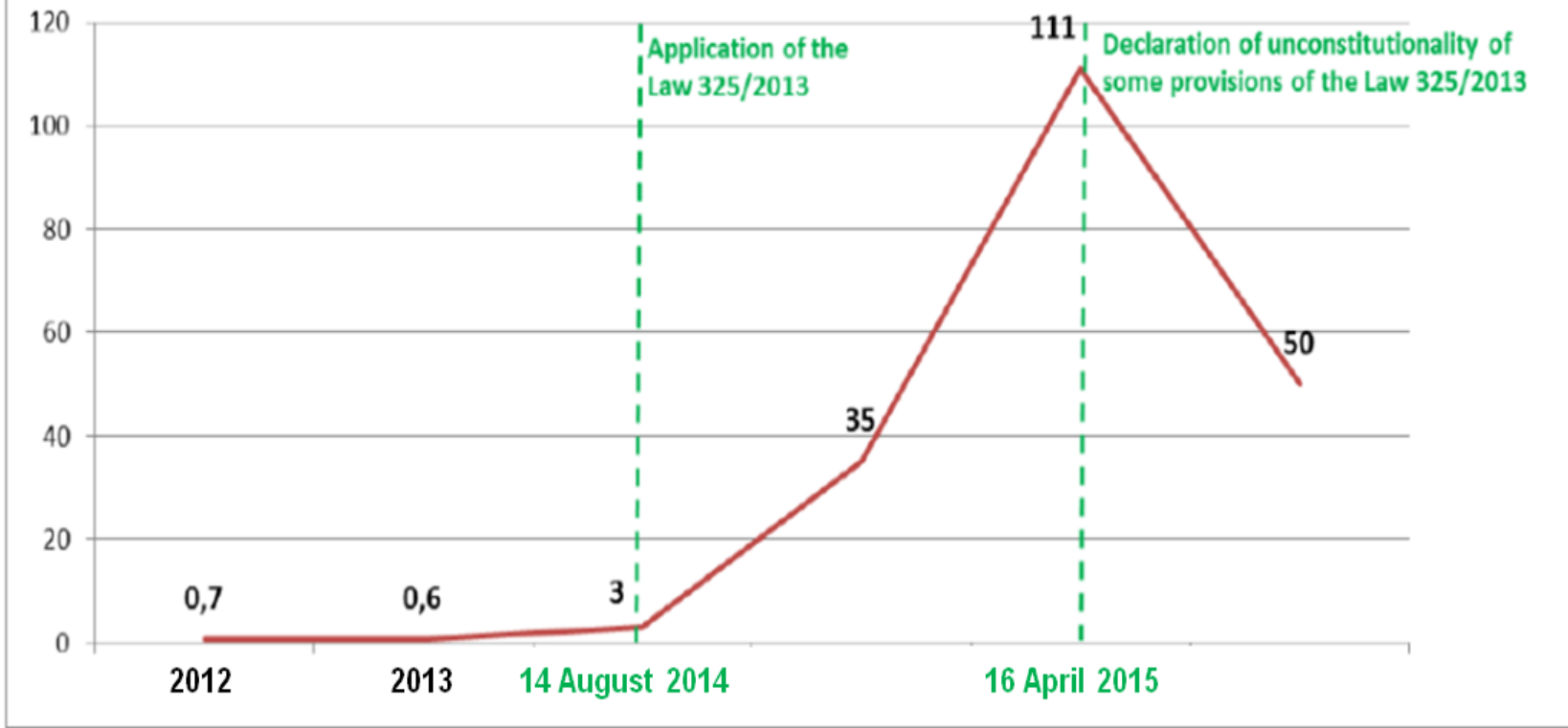
Year	2012	2013	2014		2015
			Before 14 August (first 7,5 months)	after 14 August (last 4,5 months)	Before 14 February (first 1,5 months)
Total reported cases	9	7	18	158	63
Average monthly rate	0.7	0.6	3	35	42

- in 2014, before the Law came into effect on 14 August 2014, the average monthly rate of reporting **rose 5-fold**
- in 2014, after the Law came into effect, the average monthly rate of reporting **rose by 58 times**,
- in 2015, as of February 2015, the average monthly rate of reporting **rose by as much as 70 times**

Cases of active corruption and undue influence reported during 2012-2015, monthly averages



Reporting of active corruption and undue influences between 2012-2015



Data by National Anti-Corruption Centre

Who reported?



In the year 2014:

- Customs Service – 59;
- Ministry of the Interior – 41;
- Ministry of Justice's Civil Registration Offices – 19;
- NAC – 17;
- Health care institutions – 6;
- **Courts of law** – 6;
- Mayor's offices – 5.
- Other entities – 23.

In the courts: in 2014 – 5 out of 6 denouncers from courts were judges. The courts involved were: the Supreme Court of Justice (chancellery clerk) and the district courts of Leova, Straseni, Anenii-Noi, Cahul, and Rezina.

In 2015 – 2 more judges (the district courts of Botanica and Rezina) reported acts of corruption.

Active corruption investigated



- 4-fold rise in the number of criminal cases conducted by the NAC under Art.325 of the Criminal Code (active corruption) compared to 2013.
- In 2014, the NAC investigated 44 such criminal cases, which represented roughly a quarter of all the reported cases.

Why so few investigated?



- **Inefficient reporting** – delayed reporting or without securing evidence.
- Of the 176 cases of active corruption reported in 2014, 100 were reported by customs and MoI officers. In most cases, the information was reported to the NAC several days or even weeks later.

Stages of IT



- 1. Choosing a PA entity to be tested**
- 2. Authorization to initiate an IT**
- 3. Planning the IT**
- 4. Preparing the IT**
- 5. Conducting the IT / adjusting the IT plan**
6. Reporting on the IT
7. Communicating the IT outcome
8. Consequences for the IT

1. Choosing a PA entity to be tested

- Corruption surveys
- Citizens' complaints
- Public agents' reports
- Investigative journalism materials
- Interviews by PA entity representative disclosing corruption
- Convictions for corruption in a PA entity

2. Authorization to initiate an IT

- Written justified proposal to the Head of IT Unit (ITU)
- Written decision by the Head of ITU, assigning the testing team, setting the time-frame and other needs
- Additional authorization, based on the legal system: prosecutor, judge etc.

3. Planning the IT



- Building the legend of the testing agents
 - a) Describe the **situation generated** by the IT
 - b) Predict all **scenarios of illegal behavior** of the public agent, including requesting/accepting bribes
 - c) Predict all **scenarios of legal behavior** of the public agent
 - d) Describe **all possible actions of the testing agent** accordingly to both legal and illegal scenarios of behavior
 - e) Describing the **risks for the public** and their management / refine situation
 - f) Describing the **risks for the testing agent** and their management / refine situation
 - g) List the **equipment and items** needed in the test
 - h) Transcribe the **applicable legal provisions** to the situation in the IT, from Law to internal regulations

4. Preparing the IT



- Preparing the:
 - equipment
 - cash
 - cars
 - undercover IDs (genuine IDs, faked copies etc.)
 - fake journalist IDs
 - registering / buying a company(ies)
 - creating a website / social networks' accounts
 - cloths and accessories
 - other items

5. Conducting the IT / Adjusting the IT plan



- Behaving naturally
- Protecting the identity of the testing agent
- Withdrawing in case of risks of being disclosed
- Going along the behavior of the public agent
- Avoiding excessive provocation
- Adjust the plan, in case of unforeseen situations, report immediately on the adjustment

6. Reporting of the IT

- Describing the outcome of the IT in writing
- Identification of the public agents
- Prepare the transcript of the video, keep original and make a copy with subtitles, protect the testing agent's identity (face, voice)
- **Report** contains information on:
 - decision to initiate de IT, what behavior was tested
 - tested public agents and their behavior
 - legal qualification of their actions in a real life situation
 - Indicate the appropriate legal consequences
 - List the vulnerabilities of the PA entity enabling corrupt behavior of its public agents

7. Communicating the IT outcome



- Report and video is presented to the ITU Head
- Depending on the legal system – presented to other authorizing entities (prosecutor, judge)
- Sending out the report with an accompanying letter to the head of the public institution, requesting to be informed when the disciplinary body convenes, to present the evidence
- Informing on the need to compensate the cash/items received during the test by the public agent
- Participate in the disciplinary board hearing
- Being informed on the applied legal consequence

8. Consequences for failing obligations

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Considerations on publicity



- The report on failing an IT – never published
- People who passed the IT should not be informed of it, just the head of the institution
- The report might be build as one document or separate documents on each of the tested public agents
- Reports on institutional integrity assessment
 - Partial or total publicity

THANK YOU!

