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CAMERA DEPUTAŢILOR
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Dep. Secretariat tehnic B.P.

Doamnei Roberta Alma ANASTASE,

Preşedinte

CAMERA DEPUTAŢILOR

PARLAMENTUL ROMÂNIEI

Referitor: **Transmiterea, *spre informare*, a raportului anual privind progresele realizate de România în vederea atingerii obiectivelor de referinţă din cadrul Mecanismului de Cooperare şi Verificare (art. 12, alin. 3 din HG 79/2010)**

Stimată doamnă preşedinte,

În temeiul art. 1, alin. 1 din Decizia Comisiei Europene nr. 2006/928/CE din 13 decembrie 2006, România are obligaţia de a prezenta Comisiei Europene (CE), cel mai târziu la data de 31 martie a fiecărui an, un raport privind progresele realizate în vederea atingerii obiectivelor de referinţă din cadrul Mecanismului de Cooperare şi Verificare (MCV).

Raportul privind progresele înregistrate de România, în perioada iunie 2009 - martie 2010, a fost elaborat de Ministerul Justiţiei pe baza contribuţiilor transmise de instituţiile implicate în îndeplinirea obiectivelor MCV. Versiunea finală a raportului a fost aprobată de către Comisia de Monitorizare a progreselor înregistrate de România în domeniul reformei sistemului judiciar şi luptei împotriva corupţiei, în conformitate cu art. 12, alin. 2 din *Hotărârea Guvernului nr. 79/2010 privind înfiinţarea Comisiei MCV.*

În acest context, vă transmit spre informare, Raportul anual privind progresele realizate de România în vederea atingerii obiectivelor de referinţă MCV, transmis Comisiei Europene la data de 31 martie 2010.

Menţionez, totodată, că, în temeiul art. 12, alin. 3 din HG 79/2010, raportul a fost comunicat Preşedintelui României, Primului-ministru şi Preşedintelui Senatului.

Cu deosebită consideraţie,

Cătălin Marian PREDOIU

Ministrul Justiţiei

ROMÂNIA MINISTERUL JUSTIŢIEI

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ROMANIA

REPORT ON PROGRESS IN THE REFORM OF THE JUDICIARY AND FIGHT AGAINST CORRUPTION

Co-operation and Verification Mechanism

Reference period: June 2009 – March 2010

March 31st, 2010

CVM Secretariat within Ministry of Justice
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TABLE OF CONTENTS

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I. EXECUTIVE SUMMARY

Between July 2009 and March 2010, Ministry of Justice continued to play its pivotal role in ensuring a coordinated and coherent work of the institutions involved in the development of the judiciary and fight against corruption. This included an in depth analysis of the EC report issued in July 2009, formulation of specific proposals to address its main findings, as well as concrete actions to implement the overall CVM related action plan and EC Report recommendations.

The Superior Council of Magistrates, National Anticorruption Department, and National Integrity Agency approved, during October and November their Sectorial Action plans.

In order to strengthen the inter agency coordination capacities and ensure a prompt adoption of relevant CVM related measures, in February 2010, the Government adopted a Decision regarding the national monitoring mechanism in the field of the judicial reform and fight against corruption.

The current report presents the progress reached by Romanian authorities under all four benchmarks.

Benchmark 1 – Ensure more transparent and efficient judicial process notably by enhancing the capacity and accountability of the Superior Council of Magistracy. Report and monitor the impact of the new civil and criminal procedures codes.

- ☑ The new **Civil and Criminal Procedure Codes** are now under parliamentarian commissions **debates.**

- ☑ Significant institutional efforts are currently focused on the **impact assessment** (institutional, human resources, financial and economic analysis) and on **preparing the implementation of the new codes** (legislative analysis with a view to ensuring the coherency and consistency of the entire civil and criminal legal framework).

- ☑ **The human resources issues in courts and prosecutors' offices** are currently being **addressed by the relevant institutions: progressive filling in of the vacancies** (execution and management positions); the functioning of the **reserve fund** set up by GEO 100/2007; continuing the pilot project on the transfer of administrative tasks from judges to clerks.

- ☑ **Efforts towards strengthening the transparency and accountability of the Superior Council of Magistracy:** updating the SCM priorities for 2009-2010; consolidating the availability for dialogue and the responsibility of the SCM members (organizing meetings between the SCM members and representatives of several courts and prosecutor's offices, appointing the representative of the civil society in the SCM, active involvement in the ENCJ working groups).

- ☑ Increasing the efficiency of the **judicial inspection**: the **legal framework** concerning the judicial inspection and the disciplinary proceedings against magistrates has been improved; the guidelines concerning the **working techniques of the judicial inspectors** are currently updated; a **collection of jurisprudence** (2007 - 2009) on disciplinary matters and on defending magistrates' independence and professional reputation was published on March 24th 2010.

- ☑ **Case law unification: free and fast public access** to jurisprudence is ensured through the courts' portal, the JURINDEX project and the posting of HCCJ decisions on its website; **leaflets and collections of relevant decisions** are periodically published by the HCCJ and the courts of appeal; regular meetings between magistrates are organised by the SCM and the HCCJ with a view to discussing non-unitary case law.

- ☑ The **judicial management and infrastructure:** the implementation of the Phare program on **court management** was concluded in November 2009; the **IT dimension** of the judiciary is under **continuous development** in order to ensure efficiency and the reduction of unnecessary bureaucracy.

Benchmark 2 - Establish, as foreseen, an integrity agency with responsibilities for verifying assets, incompatibilities and potential conflicts of interest, and for issuing mandatory decisions on the basis of which dissuasive sanctions can be taken

- ☑ ANI continued to build a solid track record of its cases. By March 1st, 2010, 6 cases were pending in front of competent courts for **seizure of assets**; 161 files were sent to the competent prosecutor's office for **false statements** and 101 cases were submitted to the disciplinary commissions for **incompatibility cases or conflicts of interests.**

- ☑ The Agency received so far **1.736.032** declarations of assets and interests: 1.224.200 for the fiscal year of 2007, 482.101 for the fiscal year of 2008 and 29.731 for 2009 (including local, parliamentary and euro-parliamentary elections).

- ☑ The **Operational Procedure Manual** of the National Integrity Agency was approved.

- ☑ The contract for the "**IT system for the electronic management of documents, electronic archiving services, hosting, Portal and associated services**" was concluded. By March 1st, **426,166.000 declarations of assets and interests were uploaded in the Portal's database.**

- ☑ The Agency initiated, in cooperation with the Romanian Academic Society, the project "**Strengthening the capacity of the National Integrity Agency**". The project envisages drafting guides on the legislation concerning conflict of interests and incompatibilities, improving the guide for filling in statements of assets and interests and providing training for the integrity inspectors.

Benchmark 3 - Building on progress already made, continue to conduct professional, non-partisan investigations into allegations of high-level corruption

- ☑ The **stability of the legal and institutional anticorruption framework was ensured**;

- ☑ The **procedure for amending the Constitutional Court law is ongoing**;

- ☑ Between June 1st 2009 and March 1st 2010, DNA:
  - opened **233 investigations;**
  - sent to trial **126 files** regarding 414 defendants;

- ☑ Between June 1st 2009 and March 1st 2010, **53 final conviction** decisions regarding 89 defendants were issued;

- ☑ Between Between June 1st 2009 and March 1st 2010, the DNA prosecutors seized, in the cases under investigation, a total amount of **63.782.899 lei**;

Benchmark 4 - Take further measures to prevent and fight against corruption, in particular within the local government

- ☑ Two awareness raising campaigns were designed and implemented, addressing mainly the impact of corruption for the citizens;

- ☑ The **Monitoring Committee** of the National Anticorruption Strategy on vulnerable sectors and the local public administration 2008-2010 organized **2 meetings in second half of 2009 and 1 meeting in 2010.**

- ☑ GAD investigated 1960 persons (1056 from MAI), out of which 744 were accused (214 from MAI), 324 persons were sent to trial (157 from MAI). Following the specific judiciary police activities conducted by GAD officers, the prosecutor's offices issued 156 indictments, out of which 35 by the National Anticorruption Directorate. The Courts issued 27 non-final decisions and 26 final decisions.

- ☑ 41 Anticorruption Action Groups were organized at the level of each department, in the framework of the project developed by MAI and the National Integrity Centre.

- ☑ **The Public Ministry's budget project includes, for the first time, the creation** of a financial fund for the performance of flagrant actions (sting operations) at the level of prosecutor's offices attached to tribunals.

II. DETAILED PROGRES REPORT

Benchmark 1 – Ensure a more transparent and efficient judicial process notably by enhancing the capacity and accountability of the Superior Council of Magistracy. Report and monitor the impact of the new civil and criminal procedures codes.

1.1. The four new codes:

1.1.1. Current stage of parliamentary debates regarding the procedural codes:

The special Parliamentary Commission started the debates in mid February and analyzed **94 articles of 597 articles from the draft Criminal Procedure Code.**

The special Parliamentary Commission continued the debates and analyzed **684 articles of 1085 articles from the draft Civil Procedure Code.**

In the framework of these parliamentary debates, representatives of the relevant professions - main stakeholders in the application of the new codes – as well as civil society representatives have been invited to participate.

1.1.2. Impact assessment:

MoJ **compiled and reviewed** the answers submitted by 219 courts (Courts of Appeal, Tribunals and First Instance Courts) and General Prosecutor's Office with regard to the questionnaire[1] on the **expected impact of criminal and criminal procedural codes.**

The result of this review will feed into the overall assessment that is to be conducted within the *Judicial Reform Project* financed by the World Bank, on "*Preparation of the enforcement of the new civil code, criminal code, civil procedure code and criminal procedure code*".

This project is designed to assist MoJ in preparing for the enforcement of the four new codes by analyzing the impact from **institutional, human resources, financial and economic perspectives.**

The duration of the program is 8 months. The selection process is **ongoing.**

1.1.3. Drafting the implementing legislation:

The laws for the implementation of the new Civil and Criminal codes are currently developed by **Drafting Commissions. Following the selection procedures conducted by MoJ, these Commissions involve experts of the Ministry and external consultants. Their activity started up in the second half of February 2010.** MoJ drew up a comprehensive list of the **special criminal legislation** in force, to be repealed/modified following the entry into force of the new Criminal Code (CC). The list was established based on the analysis made by the Romanian Legislative Council and MoJ experts. A similar list was drawn up regarding the **special civil**

[1] The questionnaire was sent out in May 2009 as part of the work conducted by the *Inter-institutional working group for the impact assessment of the new codes* – co-ordinated by MoJ.

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legislation in force, in order to be repealed/modified following the entry into force of the new Civil Code (CC). **Altogether up to 600 normative acts are to be subject to amendments.**

The laws for the implementation of the **new Civil Procedure and Criminal Procedure codes** will be drafted after the adoption of the two codes.

1.2. Law for accelerating the judicial procedures:

The future new law aims at improving the quality and raising the efficiency of the judiciary, by accelerating the judicial procedures.

MoJ began the drafting process. In this context, the HCCJ and professional associations of the magistrates were consulted (the National Union of Judges from Romania, the Forum of Judges from Romania, the Prosecutors' Association from Romania).
The final version of the draft is to be published for public debates in the following period, both within the judiciary, as well as with the civil society.

1.3. Unification of jurisprudence:

1.3.1. The appeal in the interest of the law:

The appeal in the interest of the law continued to be used by the High Court of Cassation and Justice (HCCJ), as the main judicial mechanism for the unification of jurisprudence.

Starting October 2009, in order to improve this mechanism for the unification of jurisprudence, the measure of elaboration, by the specialized chamber, of the report on each appeal in the interest of the law lodged before the HCCJ was generalized.

The report on each appeal in the interest of the law is elaborated by the specialized chamber and is disseminated to all the judges of the High Court of Cassation and Justice at an appropriate interval of time before the session of the Joint Chambers. It improves the quality of the decisions in the interest of the law and facilitates the decision-making process, but also facilitates the elaboration and the publications of the decisions in the interest of the law in a shorter period of time.

We mention that, before October 2009, points of view were elaborated on some of the appeals in the interest of the law, especially at the level of the Administrative and Fiscal Contentious Chamber.

Relevant statistics:

✓ **Number of appeals in the interest of the law lodged in 2009: 26**
  - **19** lodged *only* by the general prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice (POHCCJ);
  - **4** lodged *both* by the general prosecutor of the POHCCJ and the leading boards of the courts of appeal and prosecutor's offices attached to the courts of appeal;
  - **3** lodged *only* by the leading boards of the courts of appeal and prosecutor's offices attached to the courts of appeal.

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Number of appeal in the interest of the law lodged January – June	Number of appeal in the interest of the law lodged July – December
14	12

✓ **Number of appeals in the interest of the law solved in 2009: 38** (12 lodged in 2008 and 26 lodged in 2009)

Number of appeal in the interest of the law solved January – June	Number of appeal in the interest of the law solved July – December
19 (12 lodged in 2008 and 7 lodged in 2009)	**19** (19 lodged in 2009)
Admitted: 12	**Admitted: 14**
Rejected: 7	**Rejected: 5**

✓ **Number of appeals in the interest of the law pending during 2009: 38**

N.B. The list of the appeals in the interest of the law lodged in 2009 and the list of the appeals in the interest of the law lodged in 2008 and solved in 2009, mentioning the date when each appeal was lodged, date when it was solved, the number of decision and date when the decision was published in the Official Journal, are provided in ***Annex 1.***

As results from the mentioned Annex, in 2009 HCCJ:
- solved all the 38 appeals in the interest of the law pending;
- solved all the 26 appeals in the interest of the law lodged in 2009.

Consequently, on 1st January 2010 there was no appeal in the interest of the law unsolved at the level of the HCCJ.

The minutes of the decisions in the interest of the law were published on the HCCJ website, immediately after the ruling of the appeals in the interest of the law, in order to be brought to the knowledge of the courts.

✓ **In January and February 2010 were lodged 2 appeals in the interest of the law by the general prosecutor of the POHCCJ, solved on 15 March 2010, as it is mentioned in the Annex.**

1.3.2. Ensuring proper access to jurisprudence:

1.3.2.1. The JURINDEX project – Extending the on-line publication of judgments:

The activities of posting all courts' decisions on a public web site have been properly carried out within the first stage of the project that referred to the decisions rendered in 2008.
The second stage of the project was postponed, but the SCM and the project partner, Vrancea Tribunal are committed to continue their collaboration. After discussions that took place on March, 30, it was decided to publish the courts of appeal 2009 jurisprudence and then to start the publication of the tribunals jurisprudence.

1.3.2.2. Publication of relevant jurisprudence on the court's web portal:

- ✓ The obligation of the courts to publish their relevant jurisprudence and permanently update the portal has been expressly stipulated through the **modification of the *Courts Regulation*[2].**
- ✓ **16640** decisions are published on the portal. 10007 decisions were published between January 2009 and March 2010.

1.3.2.3. Publication of jurisprudence:

Publication of HCCJ jurisprudence:
Publication of the relevant decisions of the HCCJ, in summary, in the Cassation Bulletin, the Jurisprudence Bulletin, and in other collections of jurisprudence, as well as of the Supreme Court web-site continued during the reference period.

- ✓ During 1st June 2009 – 1st March 2010, the HCCJ ensured the publication of:
  - **Cassation Bulletin** - the official review of the High Court of Cassation and Justice - **no. 2/2009, no. 3/2009** and **no. 4/2009** for the second, the third and the fourth trimesters of 2009. **Starting with 1 January 2010, Cassation Bulletin is published monthly. In January 2010 the HCCJ published Cassation Bulletin no. 1/2010 and in February the HCCJ published Cassation Bulletin no. 2/2010;**
  - **Jurisprudence Bulletin for 2008**, publication which includes the summaries of relevant decisions issued by the HCCJ during 2008;
  - **Collection *„Appeals in the interest of the law 2008"***, publication which includes all the decisions admitting the appeals in the interest of the law adopted by the Joint Chambers of the HCCJ in 2008;
  - **Collections of jurisprudence:**
    - o **Jurisprudence of the Civil and Intellectual Property Chamber for 2008**;
    - o **Jurisprudence of Commercial Chamber for 2008;**
    - o **Jurisprudence of the Penal Chamber for 2008, the second volume;**
    - o **Jurisprudence of the Administrative and Fiscal Contentious Chamber for 2008, the second semester.**

  All the relevant decisions published, in summary, in the Cassation Bulletin, in the Jurisprudence Bulletin and in other collections of jurisprudence were also published on the HCCJ website.

- ✓ The HCCJ decisions are published, on a permanent basis, on the website of the Supreme Court: www.scj.ro.

The evolution of the publication of the HCCJ decisions on the website reflects the increasing of the number of decisions published, as follows:

- 15 June 2009 -	**- 1st March 2010 -**
• **172** decisions in the interest of the law →	• **189** decisions in the interest of the law
• **2.850** summary decisions →	• **3.002** summary decisions
• **43.687** full text of the decisions →	• **48.606** full text of the decisions

[2] The amendment to the Courts Regulation was approved by Decision No. 1315 of the SCM Plenum of November, 27th 2008.

Other activities regarding the publication of relevant jurisprudence:

- ✓ The **leaflet** containing the relevant decisions of the courts of appeal rendered during the second, the third and the forth quarter of 2009 was also successfully published on the portal and sent to all the magistrates and the other courts.
- ✓ The activity of **yearly publishing the Collection of Jurisprudence of the courts of appeal** for 2008 has been accomplished for most of the courts and for those courts having problems caused by the lack of necessary founds, the content of the collection was send to magistrates on electronic form.

1.3.3. Projects concerning the unification of jurisprudence:

The activities within the ***Transition Facility Project "Unification of the jurisprudence of courts and prosecutor's offices in Romania",*** started in August 2009. The project will be carried out by SCM and IRZ (Germany) for a period of 12 months and aim to support the efforts for establishing a reliable, independent and predictable judicial system in Romania, in compliance with EU standards by improving the consistency of the jurisprudence, through an increased process of unitary interpretation and application of the law by judges and prosecutors.

Up to present the list of proposals was elaborated; it regards those fields of law that frequently generate non-unitary jurisprudence; two working groups will elaborate an *evaluation survey* on the current stage/state of the legislation and of the jurisprudence regarding the unitary interpretation and application of the law by the courts; these working groups, under the coordination of the German experts are involved in the *elaboration of the proposals for legislative measures and for other kinds of measures* that will contribute to the unitary interpretation and application of the law in courts, according to the best practices of the European Union; the *calendar for the seminars,* to be organized for 600 magistrates in the field of non-unitary jurisprudence starting with April 2010, was settled.

The HCCJ is involved in the Twinning Project PHARE RO/2007 – IB/JH/01 „Unification of the jurisprudence of the courts and prosecutor's offices in Romania", through the participation of the judges and assistant-magistrates of the Supreme Court to the actions organised within the framework of this project.

1.3.4. Meetings concerning the analysis of inconsistent jurisprudence:

1.3.4.1. Meetings at the level of the courts:
The courts organized **monthly meetings** to discuss non-unitary jurisprudence. The courts' reports are then submitted to the SCM in order to be included on the agenda of the Commission's quarterly meetings.

1.3.4.2. Monitoring of non-unitary case law by the SCM:

- ✓ **The Commission for Unifying the Jurisprudence functioning within the SCM** (with the representatives of the courts of appeal, HCCJ, PoHCCJ) continued to hold quarterly meetings for discussing law issues with non-unitary jurisprudence.
  - July 1st, 2009, 17 legal issues in the commercial and administrative contentious fields were discussed, out of which 1 was submitted to PoHCCJ, in order to analyze the opportunity to exercise appeal in interest of law.
  - September 16th, 2009,12 legal issues in the criminal field were discussed;

- September 23rd, 2009, 24 legal issues in the civil field were discussed, out of which 2 of the civil issues were submitted to PoHCCJ, in order to analyze the opportunity to exercise appeal in interest of law;
- November 18th, 2009, 28 criminal issues were discussed, out of which 1 was submitted to PoHCCJ, in order to analyze the opportunity to exercise appeal in interest of law;
- November 25th, 2009, 26 legal issues in the civil field were discussed, out of which 1 was submitted to PoHCCJ, in order to analyze the opportunity to exercise appeal in interest of law;
- March 3rd 2010, 40 criminal issues were discussed;
- March 10th 2010, 53 civil and labor conflicts issues were discussed.

1.3.4.3. Meetings organized by HCCJ:
The budgetary constraints during the second semester of 2009 had as a consequence the decrease in the number of meetings organised by the HCCJ with judges from the other courts, from **15** meetings during 1st January – 1st June 2009 to **9 meetings during 1st June 2009 – 1st March 2010.**

1.3.5. Training concerning non-unitary jurisprudence:
Within the **continuous training program of the National Institute of Magistracy the unification of the jurisprudence** is considered a main field of training of the *Continuous training program for 2010*, the number of the seminars within this field was increased up to **58 seminars** (representing 24% of the total number of seminars scheduled for 2010), including the seminars to be organized within the program "*Unifying the jurisprudence of the courts and the prosecutors' offices of Romania*", carried out according to the Twinning Convention RO/2007- IB/JH/01 for the Superior Council of Magistracy.

1.4. Strengthening the institutional capacity of SCM:

1.4.1. Updating the main directions of action of the Superior Council of Magistracy envisaged for 2009 - 2010, based on the European Commission's Report from 22 July 2009:

On September 10th 2009, the SCM Plenum adopted the main updated directions of action of the Superior Council of Magistracy envisaged for 2009-2010, considering the European Commission's Report from 22 July 2009. The activity towards accomplishing the measures are monitorized and periodically evaluated.

According to the up-dated document:
- the procedure of recruiting new magistrates will be accompanied by other measures designed to stop the exits from the judiciary, especially by submitting a legislative amendment for restraining the categories of magistrates who might request anticipated retirements;
- professional continuous training of magistrates will focus, during 2010, especially on getting acquainted with the new civil and criminal codes and with further procedural provisions; seminars for unifying the jurisprudence both on centralized and decentralized level within the courts and the prosecutors' offices will be organized, as well;
- a new direction of action provided by the Plenum decision no. 1421/2009 regards the first evaluation procedure for judges and prosecutors and the proposals for improving the legal framework on evaluation;

- another new aspect regulated by the Plenum decision no. 1421/2009 regards the measures for improving and unifying the activity of the judicial inspectors by updating the former guidelines of the Judicial Inspection within a Methodology; the decision provides also the meetings to be organized for the Judicial Inspection for analyzing the solutions rendered by the inspectors; a collection of jurisprudence on disciplinary matters for 2007 – 2009 will be elaborated for increasing the transparency of its activity; the calendar for inspections for 2010 was scheduled and published during December 2009.

1.4.2. Strengthening the availability for dialogue and the responsibility of the SCM members:

✓ During September – November 2009, the SCM members met the representatives of several courts and prosecutors' offices (Tribunal of Calarasi, Court of First Instance of Calarasi, Court of First Instance of Oltenita and Court of First Instance of Lehliu Gara, the prosecutors' offices attached to the courts within the jurisdiction of the Court of Appeal Bucharest, Tribunal of Teleorman, Court of First Instance of Videle, Court of First Instance of Rosiorii de Vede, Court of First Instance of Turnu Magurele, Court of First Instance of Zimnicea, Court of First Instance of Alexandria, the Military Court of Appeal, the Military Territorial Tribunal and the Military Tribunal of Bucharest, Iasi Court of Appeal, Galati Court of Appeal, Pitesti Court of Appeal and the tribunals and the courts of first instance within these 3 courts of appeal, Court of Appeal Tg. Mures, Court of First Instance of Tg. Mures, Tribunal of Mures, Tribunal of Harghita, Court of First Instance of Oradea, Court of First Instance of Sighisoara, Brasov Court of Appeal, tribunal of Brasov and the Court of First Instance of Brasov, the Court of First Instance of Fagaras and the Tribunal of Covasna).

✓ The prosecutors within the SCM Plenum participated to the quarterly meeting of the general prosecutors from the prosecutors' offices attached to the courts of appeal that was organized in Suceava and to the meetings organized at the prosecutors' office attached to the Court of Appeal Tulcea, Braila, Bacau, Galati, to the Territorial Office Botosani and to DNA Iasi and DIICOT Iasi and DIICOT Bacau.

✓ Due to the magistrates' protests regarding the issues raised by the law on unitary wages, the professional associations of magistrates were invited for discussions with the SCM representatives.

✓ During February 10th – 19th, 2010, the members of the SCM took part at the meetings yearly organized within the courts of appeal and the prosecutors' offices attached to the courts of appeal for the presentation of the activity reports of the courts/prosecutors, for the current period (2009), occasion for the participants to debate topics of common interest.

1.4.3. Enhancing the transparency of SCM activity:

✓ **Publishing the reasoned decisions of SCM on its own website.** Out of 4191 decisions adopted in 2009, 4125 were published, 20 cannot be published because those contain personal data and 46 are to be published. Out of 436 decisions adopted in 2010 (January 1st – March 1st), 420 were published and 16 are to be published.

✓ **Publishing the collection of jurisprudence on disciplinary matters.** The collection of jurisprudence on disciplinary matters of SCM was finalized and comprises the summary of the decisions for 2006 – 2009 (a previous collection was published for 2006 on the decisions adopted in 2004 – 2005). The collection was launched on March, 24th 2010. With this occasion, the SCM president publicly announced that starting with January 2010, all the disciplinary decisions rendered by the SCM sections will be published on its web-page, without any prejudice to the personal data contained.

- ✓ **Enhancing the transparency for the transfer procedure of magistrates.** Decision no.727/2009 of SCM Plenum substantially amended the *Regulation on the transfer and secondment of judges and prosecutors, delegation of judges, appointment of judges and prosecutors in other leading positions and appointment of judges in the position of prosecutors and of prosecutors in the position of judges*, initially adopted by Decision no. 193/2009 of SCM Plenum. The amendment *intended to ensure a transparent and predictable for solving the transfer applications, mainly by publishing the situation of vacant position, setting terms for submitting and solving the claims for transfer and inserting new relevant criteria for solving those claims.* Thus:
    - Article 2 of the current Regulation states that „List of vacant positions of all courts and prosecutors` offices shall be updated and published on the Superior Council of Magistracy webpage in the first working day of each month, in order to inform judges and prosecutors that intend to lodge transfer requests."
    - according to paragraph 2, 3 and 4 of the article 2 of the Regulation, the applications for transfer shall be submitted at Superior Council of Magistracy within 5 days since the publishing of the list with available positions, subsequently to the expiration of this term being necessary to request an opinion from the courts involved in the transfer and those opinions shall be send within 5 days since the requirement;
    - paragraph 5 article 2 of Regulation provides that, within 8 days, since the expiration of the deadline set for the communication of the opinions expressed by the courts involved in the transfer application, the *Directorate of Human Resources and Organization shall drawn up an opinion comprising*: data relevant for the career of judges and prosecutors of the applicant, reasons of the application, the situation of vacant and filled positions within courts and prosecutors offices involved in transfer procedure, number of previously lodged applications and the grounds of dismissals, statistical data of the previous year on the workload per judge or prosecutor at the courts or prosecutors offices involved, compared to the average of the country;
    - according to article 3 of the Regulation, when analyzing and solving the applications for transfer it shall be considered the following criteria:
        - o *the workload, number of vacant positions within courts and prosecutors offices involved and the difficulties met in the process of filling those positions*
        - o *effective expertise in the position of judge or prosecutor*
        - o *seniority within the court or prosecutors offices from where the transfer is required*
        - o *seniority in the level attached to the court, respectively to the prosecutors offices where the transfer is required*
        - o *applicant's residence*
        - o *working place of the spouse*
        - o *distance between the residence and the premises of court or prosecutors offices where the judge or prosecutors works and his/hers real possibilities for daily transport, including the time allotted for this activity.*
        - o *Health status and family situation.*
- ✓ **Increasing the transparency for the secondment procedure of magistrates.** The same Regulation decided that, when analyzing and solving the secondment applications, there shall be considered, according to article 6 of the above mentioned Regulation:
    - Relevant data on the career of the judge or prosecutors whose secondment is required;
    - The situation of vacant and filled positions, the workload for each judge and prosecutor, both for the court or prosecutors offices where the applicant works and

for the court or prosecutors office where the secondment is asked, when the secondment is asked for another court or prosecutors office.

1.4.4. Other relevant activities:

- ✓ **The annual Report on the activity of the Superior Council of Magistracy.** On January 11th 2010, the President of the Superior Council of Magistracy presented the Report on the activity of the Council for 2009. The report was approved by the Plenum.
- ✓ **The new leadership of the Superior Council of Magistracy.** On January, 11th 2010, the Plenum of the SCM elected the new President and the new Vice-President of the Council.
- ✓ **The new member of the SCM**. The Romanian Senate appointed Mrs. Elena Simina Tanasescu, deputy dean of the Bucharest Law Faculty, as member of the SCM Plenum representing the civil society, by the Senate Decision no.18/ September 23rd, 2009, published in the Official Monitor no. 330/ September 24th.
- ✓ **European Day of Civil Justice.** Yearly, on October 25th, 2009, SCM celebrates the European Day of Civil Justice by organizing the event within *opened-doors* activities. On this occasion SCM invited students within high schools, faculties, National Institute of Magistracy and National School of Clerks, journalists and representatives of the civil society to take part at the event, by offering, through an interactive presentation, information on the judiciary, on the recruitment procedure for becoming a judge or a prosecutor, information on the activity within the Council and on the role of the SCM. Similar activities are organized within courts and prosecutors offices, as well.
- ✓ **The activities within the ENCJ.** As member of the ENCJ, SCM participated within all the current 5 working groups of the ENCJ, organized after the General Assembly in May 2009: *Judicial Deontology, Mutual Trust, Public Trust, Quality and Access to Justice* and *Statute of Judges*. One of the topics on their agenda was discussions on the Stockholm program.

1.5. Human resources:

1.5.1. Progressive filling in of the vacancies (execution and management positions) within courts and prosecutors' offices:

- ✓ **For June 1st 2009 – March 11th , 2009, SCM conducted different recruitment procedures, as follows:**
    - 193 justice auditors selected through NIM exam;
    - 134 trainees selected through NSC exam;
    - 15 judges selected for the HCCJ;
    - 96 judges and 39 prosecutors in leading positions;
    - 94 judges and 80 prosecutors who passed the capacity exam;
    - 55 judges and 28 prosecutors recruited through the exam for admission into magistracy, from November 15th 2009.

- ✓ **The recruitment procedures carried out during this period consisted in the following examinations:**
    - **The exam for admission to NIM** (June 25th - September 25th 2009)
        - o 200 available positions;
        - o 2897 candidates;
        - o 193 admitted candidates.
    - **The exam for admission to National School of Clerks** (September 6th 2009)

- 90 available positions (74 positions of clerk within courts and the 16 positions of clerk within prosecutors' offices);
- 605 candidates;
- 59 admitted candidates.

- **High Court of Cassation and Justice.** The recruitment procedure for the High Court of Cassation and Justice consists in the following steps:
  - The candidates submit applications;
  - The Leading Board of the High Court of Cassation and Justice analyses the applications, give an advisory opinion and submit the applications to the Superior Council of Magistracy;
  - The Section for Judges within the Superior Council of Magistracy analyses the fulfilment of the legal conditions for each candidate, according to the provision of the art. 52 and art. 48 of the Law no. 303/2004 and to the Decision of the Constitutional Court no. 866/2006 (all the relevant documents for their career, requested seniority, professional experience, good performance and reputation, the statements of non-collaboration within the secret services, statements on non-having personal interests that might interfere with the professional duties) ;
  - The candidates are interviewed within the Plenum of the SCM, according to the procedure and the legal conditions set up in the SCM Decision no. 492/2005.

On **October 1st, 2009**, 5 judges were appointed by the Plenum after interviewing 26 candidates for promotion to the High Court of Cassation and Justice.

On **November 26th, 2009**, 3 judges were appointed by the Plenum after interviewing 12 candidates for promotion to the High Court of Cassation and Justice.

On **December 2nd, 2009**, 3 judges were appointed by the Plenum after interviewing 12 candidates for promotion to the High Court of Cassation and Justice.

On **December 9th, 2009**, 2 judges were appointed by the Plenum after interviewing 21 candidates for promotion to the High Court of Cassation and Justice.

On **March 11th, 2010**, 2 judges were appointed by the Plenum after interviewing 13 candidates for promotion to the High Court of Cassation and Justice.

On **February 25th, 2010** SCM carried out the procedure for selecting **the President of the High Court of Cassation and Justice**. The Section for judges of the SCM interviewed 5 candidates, out of which has selected Mrs. Livia Doina Stanciu, judge within HCCJ. According to Law no. 317/2004, SCM submitted this proposal to the President of Romania.

- **Exam for appointment into leading positions for judges and prosecutors (October 2 - December 15, 2009)**
  - 179 leading positions within the courts and 97 leading positions within the prosecutors offices were submitted for the exam
  - 162 candidates applied for judges' leading positions and 63 candidates for prosecutors' leading positions
  - 96 judges were admitted for leading positions and 39 prosecutors

- **The capacity exam for the probation judges and prosecutors** (August 7th - December 10th)
    - 96 probation judges, 80 probation prosecutors participated at the exam;
    - 94 judges and 80 prosecutors passed the capacity exam.

- **The exam for admission into magistracy** for candidates with at least 5 years of legal seniority (November 15th, 2009):
    - 120 positions (70 judge positions and 50 prosecutor positions);
    - 1379 candidates;
    - 83 admitted candidates (55 judges and 28 prosecutors)

- **Exam for admission to the National School of Clerks (28th of February 2010)**
    - 120 positions (80 at the courts and 40 at the prosecutors' offices)
    - 429 candidates applied, out of which 389 took part effectively in the examination
    - 75 candidates were admitted

✓ The SCM Plenum adopted by the Decision no. 2123/from December 3rd, 2009, the **estimated calendar of exams and competitions scheduled for 2010** as follows:
- exam for admission into magistracy - March 2010
- exam for promotion into executive positions for judges and prosecutors – May 2010
- competition/exam for leading positions for judges and prosecutors – May - June 2010
- exam for admission to National Institute of Magistracy – August – September 2010
- exam for admission to National School of Clerks – September 2010
- competition/exam for leading positions for judges and prosecutors – October – November 2010
- exam for admission into magistracy - October – November 2010
- capacity exam for the probation judges and prosecutors – October – December 2010

✓ **Competitions/exams in progress**

- **Exam for admission into magistracy.** During the session of the 28th of January 2010, the SCM Plenum approved to organize a new exam for admission into magistracy for the legal professionals with at least 5 years of service in the legal field, as prescribed by art. 33 of the Law no. 303/2004 on **the 21st of March 2009**, as follows:
    - 147 vacant positions (85 judges positions and 62 prosecutors positions)
    - 1616 candidates applied
    - preliminary results: all the positions were filled.

- **Exam for effective promotion of judges and prosecutors in executive positions.** During its session of the 4th of March 2010, the SCM Plenum approved the organization of a new exam for the effective promotion of judges and prosecutors into executive positions for **9th of May 2010**, as follows:
    - 185 vacant executive positions at courts, out of which 154 are at the tribunals and 31 at the courts of appeal
    - 196 vacant executive positions at prosecutors' offices, out of which 156 are the POs. attached to tribunals and 40 at the POs. attached to the courts of appeal.

1.5.2. Retirements:

During 2009, a total number of 607 judges and prosecutors retired.
During July 1st 2009 - March 1st, 2010, a number of 130 judges and 93 prosecutors retired.

Statistics on the number of magistrates fulfilling the retirement conditions on the 1st of March 2010 (including ex ante retirement):

- 422 judges
- 152 prosecutors.

1.5.3. Secondments:

Statistics on secondments:

	At January 1st, 2009	At July 1st, 2009	At March 1st, 2010
Judges	**84** (1,87% of the total number of judges)	**66** (1,47% of the total number of judges)	**68** (1,51% of the total number of judges)
Prosecutors	**73** (2,64% of the total number of prosecutors)	**63** (2,28% of the total number of prosecutors)	**52** (1,82% of the total number of prosecutors)

1.5.4. The reserve fund:

During July 1st – November 1st, 2009, according to the procedure provided by the Law no. 304/2004, SCM approved the filling in for 3 prosecutor positions within Prosecutors' Office attached to the Court of Appeal Bucharest and for 6 prosecutor positions within Prosecutors' Office attached to Bucharest Tribunal; these positions had been temporally vacant due to the secondment of prosecutors from these prosecutors' offices.
During November 1, 2009 – March 1, 2010, 4 judges positions from the reserve fund were frozen for the Constanta Tribunal and 1 judges position was frozen for the Targu Mures Court of Appeal.

1.5.5. Redistribution of vacant positions for judges and prosecutors:

On the basis of the SCM Decision no. 798/30.04.2009, until the 1st of March 2010 the following positions were redistributed:

- 42 positions at the courts
- 71 positions at the prosecutors' offices

Before March, 4, when the promotion exam was decided to be organised for May, 9, the commissions within SCM, comprising representatives from PoHCCJ as well, decided that no redistribution of vacant positions should be made at that time.

A new evaluation of the statistical data follows in the second part of 2010, on the basis of which the possibility for another distribution of vacancies from the courts/prosecutors offices with low workload to other courts/ prosecutors' offices with high workload will be analyzed.

1.5.6. Statistics regarding the positions within the judiciary are presented in the Annex 2.

1.5.7. Professional evaluation of judges and prosecutors:

According to the updated directions of action of the Superior Council of Magistracy envisaged for 2009-2010, the Council conducted between July - November 2009 an in depth analysis on the first evaluation process of magistrates, in order to improve the current legislative framework.
During September 2009, the trainers on evaluation organized meetings with the members of the evaluation commissions and with other evaluated magistrates; the discussions focused on discussions on the first evaluation process and proposals for its improvement.

Other 2 workshops were organized for analyzing the evaluation process: within the first workshop (October 19^{th} – 20^{th}, 2009), organized within a Phare project, the foreign experts presented different systems of evaluation (individual evaluation of magistrates or evaluation of the judicial system) in EU member countries, like: Netherlands, Italy, Spain, Germany, France, Sweden; the second workshop (November 2^{nd}, 2009) focused on initiating proposals to improve the current legislation.
At December 15^{th} 2009 **a project financed by EU funds (Transition Facility)** was concluded, being implemented for 6 months until June 15^{th} 2010. The project is implemented together with the Superior Council of Magistracy of Italy. Within the project are currently implemented several specific activities structured in the framework of 3 components, as follows:

Component 1: Developing a comparative law study on the systems of evaluations of magistrates' professional activities existing in Europe, highlighting the main systems of evaluation.

Component 2: Developing a work comprising concrete proposals on setting procedures and the necessary methodology in order to implement the evaluation of the judiciary in Romania.

Component 3: Organizing an international conference on the best practices of the evaluation systems in Europe.

As a result of the activities performed during January and February 2010 (visits to courts and prosecutors' offices from Bucharest, meetings with the evaluated magistrates, members of the evaluation commissions, evaluation trainers from the courts and prosecutors offices from various levels of jurisdiction, conference on the 24^{th} of February 2010 with SCM representatives, courts of appeal and prosecutors' offices representatives), the experts elaborated a series of proposals regarding the improvement/amendment of the actual system on the individual evaluation of magistrates as a preliminary report. These proposals were transmitted for analysis at the Legislation Department, at the Human Resources and Organization Department and at the Legal Commission and the Human Resources Commission of the SCM.

In order to improve the evaluation process, the project experts and the SCM representatives proposed a series of short term and medium term measures.

On a short term, measures are envisaged in order to *increase the efficiency of the evaluation process for 2008-2010,* which are as follows:
1. modification/ amendment of the *Regulation on the evaluation of the professional activity of judges and prosecutors - SCM Decision no. 676/2007 with all the subsequent amendments and modifications and of the Guide on the evaluation of the professional activity of judges and prosecutors* (within the limits set by the Law no. 303/2004) in order to clarify the issues that were subject to non unitary interpretation by the evaluation commissions, to simplify the activity of the evaluation commissions (respecting the evaluation principles) and to allow the use of the evaluation results in order to distribute magistrates to training programs, according to the skills/competencies they have to further develop;
2. strengthening the training of evaluation trainers, of the members of the evaluation commissions and of all the magistrates on the subject of professional evaluation.

On a medium term, measures are proposed to review the *actual system for the individual evaluation of the professional activity of magistrates, including amendments to the Law no. 303/2004 on the status of judges and prosecutors,* as regards the evaluation of magistrates and introduction of a mechanism to evaluate the judicial system as a whole.

1.5.8. Reducing the workload of magistrates:

1.5.8.1. The Pilot Project on the transfer of the administrative tasks from judges to clerks:
According to the updated Directions of action of the Superior Council of Magistracy envisaged for 2009-2010, adopted by the SCM Plenum, Decision no. 1421/September, 10th, 2009, the main stages and activities of the Pilot Project on the transfer of the administrative tasks from judges to clerks are the following:

- *Redesigning the statute of court clerk with higher legal education (introducing the concept of „assistant clerk")* – The Commission for organizing and functioning of the judicial system, within SCM, according to the comments and the proposals within the working group and those received from the courts of appeal decided upon the new concept of "assistant clerk" as a court clerk with higher juridical education, to be recruited by exam and to be trained within SNG for a period of 1 year or 3 months depending upon the recruitment procedure. On December 3rd, The Plenum approved this proposal.
- *Identifying the competences of the assistant court clerk, focusing on those competences currently performed by judges and which are to be transferred* - according to the Commission's proposals, the main duties transferred to the principal clerk will be the following:
  - the assistant clerk makes proposals regarding the preliminary measures and presents them to the president of the judicial panel,
  - the assistant clerk fills in the sessions' register with details regarding the court's decision,
  - elaborates the drafts decisions,
  - collects and makes available for judges the bibliographical documents needed for motivating the decisions,

On the basis of the working group proposals, the Legislation Department elaborated the texts for the amendment of the Law no. 567/2004 on the statute of the auxiliary personnel from the courts and prosecutors' offices, with the subsequent modifications and of the Annex VI/2 to the Framework Law no. 330/2009 on the uniform remuneration of the personnel paid from public funds, according to the CSM Decision of the 3rd of December 2009.

During its session of the 6th of January 2010, the Legal Commission decided to consult the courts, prosecutors' offices, the Ministry of Justice and the union organizations on the proposals set forward. The deadline for replies was set for the 3rd of February 2010. The project is drafted and has to be discussed in the Plenary session.

1.5.8.2. The project on setting the optimal volume of activity for judges:
The project is in the stage of appraising the time necessary to solve all types of cases within the national registries inserted in the ECRIS software.
Before starting the evaluations, the concrete steps for developing the projects were determined, and also the standard pattern of the files that will deposit the results of the measurements .

The stages for the development of the process are as follows:

1. Measuring the optimal duration of judicial activities of trials, according to the judicial level, matter and object (around 1000 types of cases);
2. Measuring the optimal duration of administrative activities of judges/clerks;
3. Setting a percent between the judicial activities and managerial activities, in order to establish the effective time for work available for the judge in order to administer cases also taking into consideration the current and future codes;
4. Identifying an algorithm for setting the optimal workload that shall include all the necessary variables (e.g. maximum work time, optimal time per categories of files, medium volume of cases in the last years, the percentage of a specific type of case in the entire matter of which belongs, cases` complexity levels, etc);
5. Making a software that allows auto-calculation of the optimal level of activity for each court;
6. Setting the neuropsychological load of the magistrates according to the current working conditions, and also confirming that load is appropriate compared to the optimal number of cases that shall be established.

Also, the working groups at the level of 6 courts were established in order to effectively measure those indicators (2 for each level of jurisdiction). Judges shall make a conciliation of the results, first at the level of the working group and then, if necessary, together with the similar group of the other court. Those 6 courts were selected in order to ensure a proper geographical representation of each type of cases.

1.5.8.3. Provisional optimal workload for courts in 2010:
Considering the end of those measurements may be prolonged up to the end of 2011, and because it was necessary to make a partial relief of the judges, especially within the courts with a high workload, the working group decided on a **Provisional optimal workload for courts in 2010**, by submitting a draft to the SCM Plenum that was also approved by Decision no.2119/03 December 2009.

Through the programme of provisional setting of the optimal volume of activity at the level of courts for judges, it was set to impose a maximal limit of new cases registered per the panel of each magistrate, so that those shall benefit from a relaxation of activity due to contribute mainly to increasing the quality of the act of justice.

Concrete, it was decided to limit the number of cases to be allotted for a judge by reaching a total of **3.960 points of workload**. According to the actual version of ECRIS software, each file newly registered within a court shall receive a level of complexity between 1 and 10. The levels of complexity are national and were set by SCM Decision no.830/2007.

Taking into consideration certain statistical measurements, but also the expertise of magistrates involved in the working group, it was appreciated as being reasonable for a judge to solve during **one week** between 10 and 15 cases, that setting a medium workload of circa **90 points** (at an average of 7 of the levels of complexity). Compared to the 44 active weeks in a judicial year it shall result a maximum roughly sum of 3.960 yearly points, irrespective of the level of jurisdiction or judicial stage.

Consequently, the ECRIS software shall be set so that judges will not overcome the allotted points of complexity according to the number of new registered cases.
The implementation of the project is in progress. At the end of March 2010, the SCM will analyze the first information regarding the functioning of the project.

1.5.8.4. Project on the rationalization of the territorial distribution of courts and prosecutors' offices:
Through the Order no. 535/C/2010 of the Minister of Justice, a working group was set up and it is composed by representatives of the Superior Council of Magistracy, the Ministry of Justice and the Prosecutors' Office attached to the High Court of Cassation and Justice with the aim to analyze the situation of the courts and prosecutors' offices with low workload and of the courts /prosecutors' offices currently not functioning, in order to reorganize them.

Within the meetings of the working group, the workload of the district courts and of the prosecutors' offices attached to these for 2005 -2009 was analyzed and it was concluded that within the reorganization process the district courts and prosecutors offices that do not actually function and the ones with a workload of less than 2000 cases, as an average will be considered.

Also, in order to elaborate a more objective analysis of the situation of the courts and prosecutors' offices involved in the reorganization process, a series of criteria were set up in order to effectively define the courts and POs that will continue to function and those that will be eliminated or redistributed, as follows:

- number of cases
- number of judges
- workload/ judge
- state of the premises (buildings)
- facilities
- legal status of the buildings that provide the premises of the courts/POs
- geographical distribution
- distance between the towns/other territorial unite within their jurisdiction and the courts, access ways
- population under the jurisdiction of the courts
- place of residence and the stability of the personnel
- court administration costs.

Up to the present, 41 district courts and corresponding prosecutors' offices were identified (out of which 9 do not function) to be included in the reorganization process.
The working group made some preliminary findings on March, 30, according which 6 functioning courts and the prosecutors' offices attached and 9 non-functioning courts and their prosecutors offices attached could be dissolved, for the other ones the proper way to reorganise is to modify the circumscriptions in order to balance the workload between those ones and the other ones with higher workload. These propositions have to be finalised after visits on the spot and then discussed with stakeholders.

1.5.8.5. Strengthening the management capacity of SCM on human resources of its own apparatus and of the judiciary in Romania:

15th of December 2009 and 15th of September 2010 is the implementing period for **Project „Technical assistance for strengthening the capacity of management of Superior Council of Magistracy on human resources of its own apparatus and of the judiciary in Romania", financed by European funds (Transition Facility).** The project is implemented in partnership with the consortium composed of *Lattanzio e Associati and Emme&Erre from Italy.*

The purpose of the project is to strengthen the management capacity of the Superior Council of Magistracy in the field of human resources within its own apparatus and within the judicial system in Romania.

The project focuses on 3 main components, as follows:

*Component 1: **Enhancing the efficiency of the management of the SCM human resources by reviewing the methods of recruitment and evaluation at the level of SCM and developing proposals and recommendations to this end.***

- On this backdrop, the methods of recruitment and evaluation are currently analyzed; sound and effective proposals for their improvement shall be developed.
- In addition to those mentioned above, in order to ensure the consistency and uniformity for enforcement of methods, within the project it shall be developed a guide on the standards and indicators to be used in the process of recruitment and evaluation of the activity of SCM personnel.

*Component 2: **Reviewing the Strategy of Superior Council of Magistracy on human resources for the judiciary.***

- Within this working area, SCM Strategy on human resources for judiciary will be evaluated and reviewed taking into consideration the amendments resulted from the competence changes provided for by the new codes. The team of experts shall develop a thorough comparative analysis of the policies of human resources in several member states of European Union and shall evaluate the legal framework on the dynamic of personnel (mainly on the topic of retirements).
- Subsequently to those activities it shall be developed proposals able to be adapted to the specific realities of the judiciary in Romanian and its human resources.

*Component 3: **Improving the efficiency of human resources management of judiciary by drafting proposals/recommendations to this end and by training the SCM personnel specialized in the management of human resources of the judiciary.***

- The Component 3 contains the assessment on the activity of the Superior Council of Magistracy in the field of human resources of the judicial system and the future preparation of a document with recommendations for improving the current framework in this field.
- Also, the team experts will begin a study for assessing the current needs for training for the SCM staff with duties in this field and will organize training sessions.

1.5.8.6. Reducing the workload of judges by diminishing/eliminating some of their ancillary tasks:

Amendments concerning the National Office of the Trade Register:

On 29.12.2009, the Romanian Government adopted the **Emergency Government Ordinance no. 116/2009 on setting up measures regarding the registration activities within the Trade Register** (published in the Romanian Official Gazette no. 926 on 30.12. 2009, Ist part), a normative act aiming at **replacing the judiciary control of the legality** of operations like the registration/entering various mentions within the Trade Register **with an administrative one,** carried by the managers of the Trade Register Offices and/or by persons appointed by the manager of the National Trade Register Office.

During the next period (6 months from the entering into force of the EGO no. 116/2009), a new legislative framework on the registration activity within the Trade Register will be drawn up, **maintaining the concept of the administrative control of the legality** at the level of the Trade Register Offices, but giving the competence of exercising this control **to a new professional body, namely the trade registrars.**

At the beginning of 2010, a team of specialists from the National Trade Register Office, the Bucharest Trade Register Office and from the Ministry of Justice **started working on the new regulation regarding the "trade registrars";** in order to identify the best legislative solutions, two working visits were organized so far, one in Spain and one in Moldova; also, the courts were invited to participate in creating the new procedure by sending to the team their input on the transitory provisions currently in force and their recommendations for improving them.

A draft of the regulation has been elaborated and **is currently under debate within the working group.**

*N.B. For further details regarding the amendments brought to the National Office of Trade Register, please see **Annex 3.***

1.6. Judicial Inspection:

1.6.1. Statistics:

✓ Statistics on notifications/complaints received by the Judicial Inspection 1st of July 2009 – 1st of March 2010:

Service of the Judicial Inspection for Judges	Service of the Judicial Inspection for Prosecutors	TOTAL
1884	843	2727

✓ Statistics on *ex officio* investigations 1st of July 2009 – 1st of March 2010:

Service of the Judicial Inspection for Judges	Service of the Judicial Inspection for Prosecutors	TOTAL
31	5	36

✓ Statistics on the number of cases submitted by the Judicial Inspection to the disciplinary commissions 1st of July 2009 – 1st of March 2010:

Disciplinary Commission for judges	Disciplinary Commission for prosecutors	TOTAL
213	40	253

✓ Statistics on disciplinary actions and sanctions are presented in the ***Annex 4***.

Thematic inspection on the random distribution of cases through the ECRIS system

By Decision no. 664/24.09.2009 the Section for Judges of the Superior Council of Magistracy decided that the Judicial Inspection will perform a thematic inspection, at the level of all courts of law, including the High Court of Cassation and Justice, with the objective to inspect the random distribution of cases trough the ECRIS system (Decision no. 664/24.09.2009).

5 IT specialists were part of the inspection team (4 from the level of courts, under the coordination of the IT Department of the Superior Council of Magistracy). Their support was the courts' data bases from the IT system.

The objective of the control was checking the methods signalled by the media as possible tools for avoiding the random distribution of cases, as well as checking the files distributed manually; inspection of the erased files and re - registered under the same registration number; checking the situations of modifying the type of term used within the random distribution of cases, inspection of the discrepancies between the date when a case was registered in the system, the date stipulated as registration date and the date of allocation; requests repeatedly filed by the same party.

The inspections showed that the legal provisions regarding the random distribution of cases were generally observed by all courts and that there were no cases in which the decision to allocate a file was based on non objective criteria, suggesting that the file was directed towards a certain panel.

The analysis of the existing data in the ECRIS system showed that the method of associating the allocation term generates non unitary practice at courts' level. 3 methods were used: the manual association of the allocation period, for each file; using the terms associated to objects; the joint system, a combination of both two methods previously described.

At the time when the analysis was performed, the IT tools used did not offered the opportunity to clearly identify certain situations when the requests were repeatedly introduced within the system, but this method does exists as a possibility. Given that the access to justice can not be limited and in order to avoid the possibility of evading the random distribution of cases by using such methods, it is necessary that the ECRIS system should be improved, by including certain functional requirements (this task is under the responsibility of the Ministry of Justice).

Also, after analyzing the existent data within the ECRIS system at the courts level, it was identified that, in courts, there are situations when the parties were introduced after the distribution of the case (the justification is the significant workload). This working modality could represent a possibility of avoiding the random distribution of cases system.

As a result, in order to unify the jurisprudence and for the elimination of the possibilities to avoid the system, by the method of subsequent associating the parties after the distribution of the file, it is mandatory to modify the ECRIS application in order to forbid distributing the case, unless certain condition have been fulfilled.

Thus, from the conclusions of the report, results that, in order to eliminate the possibilities of avoiding the system of random distribution of cases in the future, it is necessary to modify the ECRIS application, as well as the Internal Regulation of the courts.

The Section for judges of the Superior Council of Magistracy approved, by Decision no. 1176 of 16.12.2009, the Report regarding the thematic inspection of the system for random distribution of cases within the ECRIS system and has disposed to transmit the report to all the courts, in order to unify the practice in the random distribution of cases activity. Also, the Section for judges decided:

- to maintain the access control to the ECRIS application for the Judicial Inspection, in order to be able to access the application directly from its premises, in order to carry on efficient inspection;
- forwarding the control document to the Directorate for Legislation, Documentation and Disputed Claims within the Superior Council of Magistracy, in order to analyze it and to elaborate proposals for amending the dispositions of the Internal Regulation of courts, according to the conclusion of the report
- that it is necessary to insert certain dispositions in the Internal Regulation of courts for the IT personnel within the courts, which would regulate the authorized interventions in the ECRIS system;
- to notify the Ministry of Justice and Citizen Liberties with regard to the modifications of the ECRIS application.

1.6.2. Updating the guidelines of the Judicial Inspection:

The updating of **the guidelines of the Judicial Inspection** was accomplished during January 2010 by issuing a draft document that was forwarded to the courts and prosecutors' offices for observations and proposals. The guidelines will be discussed in the Plenum at the end of March 2010. Those guidelines will ensure the methodology for unifying the working methods of the judicial inspectors.

1.6.3. Collection of jurisprudence on disciplinary matters:

Elaboration of a **collection of jurisprudence on disciplinary matters and on defending magistrates' independence and professional reputation (2006 - 2009)** was accomplished during January 2010. The Collection contains 3 chapters as following: chapter I that presents the jurisprudence of the Sections of the Superior Council of Magistracy (it contains a number of 38 decisions of the sections - 27 rendered by the Section for Judges and 11 rendered by the Section for Prosecutors); chapter II presents the jurisprudence of the High Court of Cassation and Justice (it contains a number of 17 decisions) and chapter III presents the jurisprudence of the Disciplinary Commissions (it contains a number of 30 resolutions rendered by the Disciplinary Commission for Judges and 20 resolutions rendered by the Disciplinary Commission for Prosecutors. At the end of the Collection the annex presents the incidental legislation and relevant decisions rendered by the European Court of Human Rights, Recommendation no. 94(12) of the Ministers Committee for the Member States on Independence, Efficiency and the Role of Judges, the Regulation on the organization and operation of the Superior Council of Magistracy (the draft document is to be presented to the publishing entity).

The collection was launched on March 24th 2010.

1.6.4. Recruitment of judicial inspectors:

Legislative amendments on inspectors' statute. On 27th of May 2009, the Romanian Government adopted the ***Emergency Ordinance nr. 59, published in the Official Journal no. 439/ June 26th, 2009,*** *for modifying Law no. 303/2004 on the statute of judges and prosecutors and for modifying and completing Law no. 317/2004 on the Superior Council of Magistracy.* The amendments regard the reform of the statute of the judicial inspectors and also provide new instruments created for increasing the efficiency of the activity in this field, as follows:

- Providing the separation of the functions for the Disciplinary Commissions of those of the Judicial Inspection;
- Appointment and removal of the inspectors within the disciplinary commissions to be in the competence of the SCM Plenum;
- The limitation of the term of office of the members and the deputy members of the disciplinary commissions to a number of 2 terms of office;
- Establishing the statute of the judicial inspectors by instituting a 6 years term of office, by suspending the inspector of the function of judge or prosecutor within the court or the prosecutors' office, with the possibility of returning to this function at the end of the inspector term of office;
- Disciplinary sanctioning procedure of the SCM members who are judges or prosecutors, according to the sanctioning procedure provided for any judge or prosecutor, without the different system that is currently provided by the present legislation, that is not in accordance with the statute of the magistrate, common for everyone;
- Disciplinary sanctioning procedure of the judicial inspectors, according to the sanctioning procedure provided for any judge or prosecutor;
- The incompatibility of the member of the disciplinary commission with any other activities, excepting those which are specific to this duty;
- Providing the possibility for the Judicial Inspection to start *ex officio* proceedings regarding the disciplinary offences committed by judges and prosecutors and instituting more precise rules for carrying out the disciplinary investigation;
- Modifying the disciplinary procedure by providing the suspension of the procedure for the situation where the criminal proceedings have been instituted for the same case;
- Introducing the applicant's and the inspector's possibility to appeal the withdrawal solutions (*clasare*) rendered by the commissions before the SCM sections;
- Instituting the obligation for the prosecutors to notify the SCM about the commencement of the criminal proceedings (*începerea urmăririi penale*) against judges and prosecutors.

New recruitments. The stages of the selection procedure are the following:

✓ Publication of the notice on the website SCM.
✓ Establishment of the evaluation commission and assessment of candidates by this commission. The assessment report prepared by the committee includes feedback on:
   - professional carrier of candidates,
   - the outcome of the review on the quality work produced by candidates during their practice (professional activity), e.g. judgments, indictment, etc.,
   - the result of verifications carried out on the candidates' compliance to the condition of good reputation, other relevant aspects of their work and conduct.

- ✓ The interview of candidates before the SCM Plenum conducted in compliance with the **criteria** stipulated by the Plenum Decision 201/2006:
  - independent/critical thinking and professional knowledge
  - integrity / cognitive and moral consistency
  - predisposition for hard work and continuous professional learning
  - clear and logical communication
  - the ability of discernment and power to decide
  - cooperation
  - resistance to stress
  - availability to travel frequently
  - sensitivity to the independence of the judiciary/magistrates.

A new recruitment procedure was carried out during October 2009 for **22 positions of judicial inspector** as follows:

- 5 positions for Court of Appeal Cluj, Alba – Iulia, Tg. Mures, Brasov, Timisoara and Oradea;
- 3 positions for Court of Appeal Suceava, Iasi, Bacau and Galati;
- 5 positions for Court of Appeal Bucuresti, Ploiesti, Pitesti, Craiova, Constanta and the Military Court of Appeal;
- 3 positions for Prosecutors' Office attached to the Court of Appeal Cluj, Alba – Iulia, Tg. Mures, Brasov, Timisoara and Oradea;
- 2 positions for Prosecutors' Office attached to the Court of Appeal Suceava, Iasi, Bacau and Galati;
- 4 positions for Prosecutors' Office attached to the Court of Appeal Bucuresti, Ploiesti, Pitesti, Craiova, Constanta, HCCJ, Military Court of Appeal);

Following this procedure, 7 judicial inspectors were recruited, one for each of the following courts and prosecutors' offices:

- Court of First Instance of Moinesti,
- Court of First Instance of the 6th District of Bucharest,
- Olt Tribunal,
- Prosecutors' Office attached to the Court of First Instance of Beclean,
- Prosecutors' Office attached to the Court of First Instance of Satu Mare,
- Prosecutors' Office attached to the High Court of Cassation and Justice
- Prosecutors' Office attached to the Bucharest Tribunal.

Presently there are **17 vacant positions**, out of the total number of 53 positions in the personnel scheme of the Judicial Inspection.

The recruitment procedures for the two leading positions, chief inspector of the Judicial Inspection and chief inspector of the Service of the Judicial Inspection for judges have been accomplished; the two positions were filled in on 4th of March 2010.

The recruitment procedures for two judicial inspectors vacant positions are on going.

1.6.5. Other relevant activities:

- ✓ On December, 10th, 2009 **the calendar of verifications and inspections for 2010** was approved by the SCM Plenum.

- ✓ The Judicial Inspection organizes, on a monthly basis, **meetings for unifying the jurisprudence in disciplinary matters**. Within these meetings the issues on the agenda regard the solutions previously rendered by the two Disciplinary Commissions.

- ✓ **A project financed from European funds (The Transition Facility) „Increasing the efficiency of the Judicial Inspection in Romania" is implemented together with the Council of the Judicial Power of Spain during December 15th 2009 –May 15th 2010.** Within this project a series of specific activities are carried out; these activities are structured in two components as following:

  Component 1 – Analyzing in depth the legal and procedural framework that currently rules the organization and the operation of the Judicial Inspection in Romania

  - The legal provisions will be assessed so as the procedural aspects that regulates the activity of the Judicial Inspection (the experts will analyze the legal framework in this field and will draft a comparative law survey on the procedure of recruiting the inspectors, on the operation of the Judicial Inspection, the methodology that the verifications/inspections are based on and the system of disciplinary offences and of disciplinary sanctions that might been rendered).
  - A summary document containing concrete proposals to improve legislation and procedures in the field of Judicial Inspection will be issued;

  Component 2 - Organization of a two day international conference on the professional ethics of the magistrates, for about 80 participants.

  The first mission for documentation of the expert's team took place during ***22nd – 26th of February 2010***; the mission involved meetings and interviews with SCM' representatives with duties in the field of Judicial Inspection and with judges and prosecutors. In the same time, the ***missions' calendar***, for the future missions to be organized starting with April 2010, has been settled.

1.7. Training of magistrates and clerks:

1.7.1. Training on the new codes:

Magistrates

Within the continuous training program of NIM for 2010 a **research project** was included; its main objective is the *elaboration of the comprehensive strategy for magistrates training in the field of the four new codes,* by identifying the methods and the most proper measures for quick and solid training in this field for the over 6000 magistrates. Within this project the National Institute of Magistracy will elaborate, for the continuous training, a detailed evaluation of the impact of the new four codes on the functioning of the judiciary system and of the needs for training, that will be included into the training curricula for each code, by establishing in the same time the optimal types of training activities and will evaluate/calculate the budgetary means needed for implementing the strategy.

The results of the research project will be send to the other institutions of the judiciary system (Ministry of Justice and Public Ministry) to be taken into account for the impact survey regarding the necessary resources, including the perspective of the professional training for implementing the 4 new codes.

Clerks

The project with European financing (Transition Facility) "Continuing the technical assistance to strengthen the network of trainers of the National School of Clerks and to improve teaching skills in the perspective of the new Civil Code and the new Criminal Code" will be implemented during a period of 6 months starting in January 2010, together with the consultant *East West Consulting in consortium with ECO3* of Romania.

The project is structured in 2 components:

Component 1: Elaboration of 3 handbooks in specific areas for the use of the trainers within the NSC network. The project will provide assistance (in terms of form and content) in drafting the manuals for the use of the trainers within NSC network, with the following topics: the implementation of the civil provisions of the new Civil Code, the implementation of family law provisions of the new Civil Code, the implementation of the new Criminal Code. 3 handbooks will then be elaborated, one for each of the abovementioned fields of law.

Component 2: Training of trainers within NSC regarding the new Civil Code and the new Criminal Code. The project will help to improve the existing network of trainers in the preparation of a total number of 45 trainers from NSC network.

Up to present there were carried out the activities for selecting the experts; the seminars are to be organized starting with April 2010.

1.7.2. Developing e-Learning methods:

Within Phare Project 2006 "*Strengthening the capacity of the Superior Council of Magistracy for accomplishing its duties*" finalized on 30 of November 2009, the activity regarding **developing the methods for distance learning by electronic means *e-Learning*** represents an important step forward in the field of professional training for Romanian magistrates.

This program has not brought the replacement of the traditional methods of learning/professional training, but their improvement by electronic modern methods.

This new training method was demanded by the high need of the magistrates for professional training in different fields of interest, taking into account the limited human and financial resources, available for ensuring the professional training of magistrates. *E-courses regarded the following field*:

- *Introducing into European Law,*
- *The Jurisprudence of the European Court of Human Rights,*
- *Aspects of non-unitary jurisprudence regarding the field of restitution of the properties and the land fund.*

The courses were adjusted to the platform of the National Institute of Magistracy for elearning and will be available for magistrates within the continuous professional training programs of NIM, starting with January 2010.

Introducing *online* courses will continue through the implementation of a **project with European financing (Transition Facility), which will be implemented together with the Council of the Judicial Power of Spain** from January 2010 for a period of 6 months. Within the project a series of specific activities will be carried out, the activities being structured in 2 components as follows:

Component 1: Preparation of the trainers in the design and development of distance education courses (eLearning)

- training materials will be included in a practical guide The best practices used in different countries in the field of professional training on electronic / distance learning methods will be analyzed and presented in a detailed study;
- a curriculum for training of trainers NIM in e-learning methodology will be drafted, and there will be organized 2 workshops each of them being a 2 day workshop, in order to discuses the curricula;
- 4 training seminars for 20 trainers will be held for the auditors to acquire the skills needed for using the online education platform created within the project;
- the training materials will be included in a practical guideline addressed to trainers in e-learning. There will also be presented the best practices used in the Member States in the field of e-learning techniques and methodology.

Component 2: Elaboration of professional training modules by electronic means (e-learning) in the following areas: fight against corruption, fight against economic and financial crime and seizing assets as the result of offences

- an analysis of the functionality of e-learning methods used in the training of the magistrates will be carried out and there will be created new methods adapted to the needs of NIM;
- there will be made proposals to improve the technical platforms for online education by using the best e-learning techniques;
- 3 modules will be developed online professional training in the following areas: fight against corruption, fight against economic and financial crime and confiscation of property

Up to present the calendar of the future activities to be carried out for implementing the project was scheduled and the seminars will be organized starting with 20 of March 2010.

1.7.3. Consolidating the capacity for decentralized training:

Within the Program for **decentralized continuous training for 2009 in the field of unifying the jurisprudence and in the field of fighting against corruption** a number of 955 seminars and other activities were organized by courts and prosecutors' offices, as the following:
In the field of *unifying jurisprudence*

- within courts - 756 seminars and meetings;
- within prosecutors' offices - 111 seminars;

In the field of *fighting against corruption*

- within courts - 33 de seminars;
- within prosecutors' offices - 55 de seminars.

The decentralized continuous training is still considered a priority for 2010.
Thus, the meetings in the field of unifying the jurisprudence were provided as compulsory for the courts concomitantly with approaching the issues of non-unitary jurisprudence within the specialized training seminars; in the field of fighting against corruption at least one seminar will be organized for each court of appeal.
For the prosecutors' offices there was provided the obligation of organizing at least 2 seminars in the field of unifying the jurisprudence at the level of the prosecutors' offices attached to the court of appeal; in the field of fighting against corruption at least one seminar will be organized at the level of the prosecutors' offices attached to the court of appeal.

1.8. Budget:

Consequently, the budget for the courts, the HCCJ, and the Public Ministry have all increased in 2010 in comparison with 2009:

- The **budget for the courts** amounts to 1,518,011,000 Lei (359,718,246 EUR) in 2010, in comparison with 1,103,550,000 LEI (***261,504,739 EUR***) in 2009. The figures show an *increase by 37,56%* in 2010 in comparison with 2009.
- The **HCCJ budget** amounts to 83,701,000 LEI (***19,834,360 EUR***) in 2010, in comparison with ***69,269,000 LEI (16,414,455 EUR) in 2009. This evolution proves an increase by 20,83% in 2010 in comparison with 2009.***
- ***The** budget of the Public Ministry **amounts to 743,112,000 LEI (176,092,891 EUR) in 2010, in comparison with 560,266,000 LEI (132,764,455 EUR) in 2009. The figures show an increase by 32,64% in comparison with 2009.***

N.B. For further details regarding the budget of the MoJ, POHCCJ and the HCCJ, please see Annex 5.

1.9. Increasing the efficiency of the judiciary by improving various components (infrastructure, IT, court management, judicial expertise, statistics):

1.9.1. Court management (financed through Phare 2006 programme[3]):

Total budget: 1.000.000 Euro (Phare) + 100.000 Euro (Co-financing)

Overview of the project:

The objective of the project, namely providing the conceptual and legislative groundwork for implementing an improved court administration with a court manager at the centre, has been achieved by elaborating, presenting and disseminating:

- a ***draft legislative proposal for amending the Law on Judicial Organisation (304/2004)***, containing all relevant new provisions and changes for introducing the function of court manager at the level of the HCCJ, the Courts of Appeal, the tribunals and the lowest instance courts with a staff of more than 50 persons;
- the ***Job Profile*** for the court manager;
- a ***comprehensive curriculum*** for the ***training of (future) court managers***;
- a catalogue of specific proposals for ***simplifying and rationalizing court organisation/administration***, model organisational chart and work-distribution-plans for the court administration.

The project activities were ***completed in November 2009.***

The Joint Team of Experts formulated the following recommendations based on which further measures will be established with regard to the introduction of the court manager administration system in the Romanian judiciary:

- ***Continuation of the court manager piloting programme at the level of the courts*** according to the approved Piloting Guidelines;
- ***Setting up of a working group*** who will supervise the piloting and promote the new court manager administration system of the judiciary.

[3] This project was financed through PHARE RO2006/018-147.01.04.09.01, RO2006/IB/JH/10 (twinning project).

1.9.2. Improving the infrastructure of the courts

1.9.2.1. Works financed from MoJ budget:

Investments (constructions):

- for ***4 premises,*** the works are on going;
- for ***2* premises,** the technical-economic documentation was approved;
- for ***7* premises,** the technical-economic documentation is under approval.

Major **overhauling works:**

- for ***1 premises***, execution works were finalized;
- for ***4 premises***, execution works are ongoing;
- for ***4 premises***, the technical-economic documentation was approved;
- for **9** ***premise***, the technical-economic documentation is under approval.

Comfort improvement and emergency works:

- for ***30 premises***, the works are on going.

1.9.2.2. Investment (construction) and rehabilitation (overhauling) works for court premises financed from the World Bank loan[4]:

- ✓ For 13 objectives the **building permits** were obtained;
- ✓ The **works contracts** were signed for 8 objectives and works are in progress;
- ✓ The **bidding procedure** for works is ongoing for 5 objectives;
- ✓ The projects for obtaining the building permits are to be finalized for 2 objectives;
- ✓ The **design contracts** were signed for 5 court buildings and the design services are in progress;
- ✓ The contract for **monitoring review and independent technical audit services** for 12 objectives is in progress;
- ✓ The **contract for site supervision** for 12 objectives is in progress.

1.9.2.3. Improving the working conditions for judges (financed through Phare 2006 programme[5]):

Total Budget:

- **Lot 1: 260,459.96 EUR** (out of which 194,589.68 EUR - Phare and 65,870.32 EUR – national co-financing);
- **Lot 2: 118,147.48 EUR** (out of which 88,267.98 EUR - Phare and 29,879.50 EUR – national co-financing).

Overview of the projects:

- The project aimed at **improving the working conditions for judges by providing security filters**[6] for **62 courts** (tribunals and courts of appeal) in order to enhance the security in the courts' halls (Lot 1), as well by providing endowments with furniture for **24 courts** – 19 courts of first instance, 4 tribunals, 1 court of appeal (Lot 2).

[4] The program in co-operation with the World Bank envisages the construction, endowment and overhauling of 20 court premises, as well as developing uniform standards regarding space planning and design for court premises, on the basis of international practice, by offering counselling services.
[5] This project was financed through PHARE RO2006/018-147.01.04.09.02 (supply project).
[6] 87 security gates and 105 portable metal detectors.

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Current stage of the projects:

- **By 30th of July, 2009**, the contract expiry date, all the **62 beneficiary locations** have been endowed with 87 security gates and 105 portable metal detectors within Lot 1 and all **24 beneficiary locations** have been endowed with furniture within Lot 2.

1.9.3. Development of IT resources:

The new IT Strategy for 2010-2014 was elaborated with the involvement of all judiciary institutions which have a coordination role in the IT judiciary field. The IT Strategy will be approved by the Government, in accordance with the national legislation.

1.9.3.1. Creating an integrated IT system for resource management:

The following activities took place in the reference period:

- The IBRD formulated several comments to the first form of the First Stage bid evaluation report and asked for its revision. Consequently, a revised form of the bid evaluation report, including into the evaluation process a previously excluded bidder, which was submitted for approval on May, 14th 2009.
- In July 2009, after finishing negotiations with Siemens (http://go.worldbank.org/WXRNSDVI40), one of the companies participating to the RMS tender, the IBRD asked for a new, revised report, excluding the above mentioned bidder from the tender. As a result, a new, revised First Stage bid evaluation report was submitted for approval on July, 31st 2009.
- The IBRD approved the final version of the First Stage bid evaluation report on August, 20th 2009 and the second stage of the bidding procedure was launched, with final offers expected from the bidders on September, 30th 2009.
- Due to the requests from several bidders and the two amendments to the bidding documents which were issued following the clarification requests, the bid submission deadline was extended twice (until October, 28th 2009 and until November, 11th 2009).
- On November, 11th 2009, final bids were received from 3 out of 4 participating bidders. The evaluation process, currently underway, was started immediately.
- The bids were evaluated and the Bid Evaluation Report (BER) was sent to IBRD for approval on January, 26th 2010.
- Comments on BER were received from IBRD on March, 2nd 2010 and the revision of BER is underway.

1.9.3.2. Continuing the automation of the judiciary I and II (financed through two Phare 2006 programmes[7]):

Total Budget: 6.087.862,44 EUR – out of which 4.214.018,38 EUR (Phare) and 1.873.844,06 (national co-financing).

Overview of the projects:

- The **consolidation of the IT infrastructure** of the beneficiary institutions (608 beneficiary locations in the first project and 511 in the second project – MoJ, HCCJ, POHCCJ, prosecutor's offices, offices of the National Anticorruption Directorate, offices of the

[7] These projects were financed through PHARE RO2006/018-147.01.04.10.01 and PHARE RO2006/018-147.01.04.10.01.01 (supply projects).

Department for the Investigation of Terrorism and Organised Crimes - DIICOT, offices of the National Administration of Penitentiaries - NAP, probation services) in order to allow further sustainability of software development, and to overcome the technical and moral wear of the already used technical equipment;

- **Training of the IT staff within the judiciary system** in order to improve their professional skills (specialized Microsoft courses and onsite IT equipment training).

Current stage of the projects:

- all the IT equipments (130 servers, 77 racks, 74 SANs, 1002 UPSs, 3313 working stations and laptops, 1364 - printers, scanners and multifunctional machines, 13.092 memory upgrades, antivirus software and 1.437 SQL server 2008 licenses) have been delivered to all the beneficiary locations and the relevant staff was trained at the level of each beneficiary location (IT equipment training);
- all the specialized training courses (Microsoft courses) have been delivered and 370 IT specialists within the judiciary were trained.

1.9.3.3. Developing and expanding the ECRIS system (financed through a Phare 2004 programme[8]):

Budget: 1,650,500 EUR (Phare)

Overview of the project:

- The new version of the ECRIS application (the 4th) was the object of a Phare 2004 contract, which aimed at further developing the previous version of the ECRIS system already in place at courts and prosecutors offices, by improving its existing functionalities, and also by developing new ones (for example, a module for the probation services and penitentiaries[9], for statistics[10], for the National Anticorruption Directorate and DIICOT[11] a.s.o.). Training courses for ECRIS users from the personnel of the judiciary were also important objectives.

Current stage:

- The new ECRIS system is not fully functional, as the Consultant did not attain all the contractual objectives, until the end of the contract's execution period.
- At the demand of the parties, the European Commission has accepted to conciliate the dispute arisen under the contract. The conciliation procedure has been started since May, 15th 2009 and it is expected to end in March 2010.
- Since september 2009, a working group composed of IT experts of the beneficiary institutions started to remedy the technical deficiencies of the ECRIS source codes in order to make the application ready for roll out at the level of all beneficiary locations and compensate thus for the prejudices brought in the development of the 4th version of the ECRIS system, because of the consultant overall misperformance.

1.9.3.4. Ensuring video surveillance within the archives and registration offices of the courts (financed through a Phare 2006 programme[12]):

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[8] This project was financed through PHARE RO 2004/016-772.01.04.14 (technical assistance project).
[9] Envisaged to keep an electronic evidence and track of the victims, released offenders and detainees.
[10] The general statistics module will enable automatic issuing of various judiciary statistic reports.
[11] Enables the creation of the criminal investigation dossiers and the exchange of related documents with the prosecutors offices.
[12] This project was financed through PHARE RO 2006/018-147.01.04.10.03 (supply project).

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Budget: 2,246,287 EUR (1,557,350.78 EUR – Phare and 688,936.22 EUR – national co-financing)

Overview of the project:

- This measure aims at ensuring a **higher security level** at the level of approximately 240 beneficiary locations (the Ministry of Justice, courts of appeal, tribunals and courts of first instance), by ensuring the video surveillance of the beneficiary locations' areas frequented by the general public (such as: archives, registry offices and the passages destined to the detainees' access to court rooms).

Current stage:

- The implementation of the project is on-going. So far, the video surveillance systems were delivered and put in place **at the premises of 184 courts**; on-site training for using the video surveillance systems was delivered to the designated personnel within these locations.

1.9.3.5. Ensuring the recording of court sessions through a unitary and effective audio-video recording system (financed through the MoJ budget)

Current stage:

- In June 2008, following the solving of the contestations filed, the **procedure** was **annulled** by the National Council for Solving Contestations (NCSC). MoJ contested the NCSC decision. The court rejected the MoJ contestation.
- The **procurement procedure** could not be finalized in 2008. The necessary sums were included in **the 2009 MoJ budget.**
- The **technical specifications** necessary for the procurement procedure were approved on April, 6th 2009 by the Commission for the Monitoring and Implementation of the IT Strategy for the Judiciary.
- The procedure was lunched in May 2009 but it was contested at the National Council for Solving Contestations (NCSC), who decided that the offers must be reevaluated. After the reevaluation all offers have been rejected. This decision of the Evaluation Committee has been also contested to the National Council for Solving Contestations (NCSC). The NCSC decided in favor of the evaluation committee keeping its final decision – rejection of all the offers. This decision was again contested before the Bucharest Appeal Court. The court rejected the complaint.
- In January 2010 the technical specification for the procurement procedure were approved by the Commission for the Monitoring and Implementation of the IT Strategy for the Judiciary
- The public tender procedure was lunched in March but the technical specifications and eligibility conditions were contested at the Bucharest Tribunal by a company. The first hearing was established in September 2010. Meantime, the public tender procedure is on-going.

1.9.4. Improving the system of Romanian judicial statistics (financed through the Transition Facility programme[13]):

Overview of the project:

- This project aims at improving and modernising the Romanian system of judicial statistics in order to enhance the quality of statistical data.

Budget: 609.950 EUR (473.929 EUR – TF and 136.020 EUR – national co-financing)

[13] This project is financed through TF 2007/19343.01.05 (Technical Assistance Project).

Current stage:

- The Consultant has performed an analysis of the legislative and institutional framework and an assessment of the methodology and of the indicators used, that are currently under analysis at the level of MoJ.
- Work is ongoing for the elaboration of recommendations for the development of a modified set of indicators and for the improvement of the methodology for collecting, communicating, processing statistical data at local and central level.

1.9.5. Increasing the efficiency of the judicial expertise system in Romania (financed through the Transition Facility programme[14]):

Overview of the project:

- This project aims at increasing awareness of the practitioners on the new legal framework in the field of judicial expertise.

Budget: 257.998 EUR (242.998 EUR – TF and 15.000 EUR – national co-financing)

Current stage:

- A first workshop took place in Iaşi. Judges, judicial experts, representatives of local and central bureau of judicial expertise at the level of 8 tribunals attended this workshop.

1.9.6. Support for improving the draft law proposal on compensatory remedies for the long duration of the trials' procedures (financed through the Transition Facility programme[15]):

Overview of the project:

- This project aims at elaborating a suitable legal framework for ensuring effective remedies for the long duration of trials' procedures.

Budget: 232.000 EUR (216.000 EUR – TF and 16.000 EUR – national co-financing).

Current stage:

- A first consultation meeting with the purpose of identifying and discussing the causes of delay in civil and criminal cases was organised with the participation of representatives of the Superior Council of Magistracy, the Public Ministry, the Romanian governmental agent at the European Court of Human Rights and Ministry of Justice representatives.
- A consultation meeting was organised with the participation of Spanish experts, representatives of the Ministry of Justice and magistrates from the Bucharest courts (Bucharest Court of Appeal, Bucharest Tribunal, District 1 Court of first instance and High Court of Cassation and Justice).

[14] This project is financed through FT 2007/19343.07.01/IB/JH - 11 TL (Twinning light project).
[15] This project is financed through FT 2007/19343.07.01/IB/JH - 13 TL (Twinning light project).

Benchmark 2 - Establish, as foreseen, an integrity agency with responsibilities for verifying assets, incompatibilities and potential conflicts of interest, and for issuing mandatory decisions on the basis of which dissuasive sanctions can be taken

2.1. ANI operational activities

Until 1st of March, ANI received so far **a number of 1.736.032** declarations of assets and interests, as follows:

⇒ **1.224.200** in 2008correspondent to the tax year 2007
⇒ **482.101** in 2009, correspondent to the tax year 2008
⇒ between January 1st– March 1st 2010 a number of **29.731** declarations

Currently 4270 persons are under verifications (3282 are ex officio investigations, 988 complaints) – the see ***Annex 6***; 3.372 files are under investigation (2930 are ex officio investigations and 442 complaints). Up to the present, 4088 persons were fined (out of which 300 are magistrates and 2 are ministers) and 1277 cases were solved (761 ex officio and 516 complaints).

In 1146 cases, appeals on the official reports ascertaining misdemeanors to the regime of assets and interests were introduced (709 are in 2008 and 437 in 2009).

Up to present, the courts issued **final decisions in 573 files** [457 are won (79.8%) and 116 are lost (20.2%)].

The courts:

- fully confirmed the official report **(26 cases),**
- diminished the fines from 500 RON to 100 RON **(94 files)**, upon start of the asset checking procedure;
- admitted offence-related complaints with the sanction of warning **(337 files)**, upon start of the asset checking procedure;
- annulled the official report **(in 116 files only).**

By **March, 1st 2010**[33]:

- **6** cases were pending the competent courts (for the seizure of assets) – see ***Annex 7***;
- **161** files were sent to the competent prosecutor's office (for false statements). Out of these, in 27 cases, the prosecutor ordered the non-initiation of the criminal investigation and in 9 cases, removal from the criminal investigation was ordered, in 121 cases, the investigation is ongoing;
- **101** cases were sent to the disciplinary commissions (for incompatibility cases or conflicts of interests).

[33] **By 1st of March 2010, ANI submitted:**
161 files- to the prosecution (false statements - foreseen and punished by art. 292 Penal Code and conflicts of interest- foreseen and punished by art. 253[1] Criminal Code and other crimes – e.g. art. 23
Of the Law no. 656/2002 on prevention and sanctioning money laundering as well as for setting up some measures for prevention and combating terrorism financing);
101 files - to the Disciplinary Commissions(incompatibilities and conflicts of interest);
6 cases- to the courts (confiscation of amounts unduly obtained).

By **March, 1st 2010,** 39 finding acts concerning the incompatibility state remained final – the status of the persons checked is presented in the ***Annex 8***. Out of which, 13 acts are already solved by the Discipline Committee (see ***Annex 9***), 13 acts are pending to the Discipline Committee, 4 acts were appealed after the legal deadline expired and in 9 cases, the verified persons resigned.

2.2. Strengthening the administrative capacity of the Agency

2.2.1. Management

⇒ The audit on ANI`s management quality

The audit report on ANI`s management quality for 2008 was delivered on 17 December 2009 by S.C. DELOITTE AUDIT S.R.L[16] .

The evaluation consisted of:

⇒ Identification of audited areas;
⇒ Determination of the interview schedule;
⇒ Determination of the audit techniques used.

Following the evaluation, 41 recommendations were formulated, as follows:

Total recommendations with major impact	**18**
Total environmental with impact recommendations	**14**
Total recommendations with minor impact	**9**

MAJOR	A management plan of action and corrective measures are needed.
MEDIUM	A management plan of action and corrective measures should be taken after the submission of this report.
MINOR	The findings and recommendations should be considered as an increased value.

As conclusion, **no deficiencies were identified at the level of Agency's management.**

Following the tender procedure, the audit report contract for 2009 was concluded with S.C. DELOITTE AUDIT S.R.L. The audit mission was held between **5 February– 5 March 2010.** Curently the evaluators are drafting the audit report which will be submitted to the Agency by the end on March 2010.

⇒ Reports of the Evaluation Commission of the National Integrity Council

The Evaluation Commission within National Integrity Council, established under art. 26, par. (2) of Law no. 144/2007, republished, issued between October 2009 - February 2010, 3 reports on the accusations brought to the President of the National Integrity Agency, Mr. Alexandru Cătălin Macovei and to the Secretary General of National Integrity Agency, Mr. Horia Georgescu.

[16] The evaluation report is published on the ANI web page: http://www.integritate.eu/UserFiles/File/Audit/2009-11-17_RaportFinalDeloitte_AuditulExternAlManagANIPtrAnul2008.pdf

Following the investigations of public institutions notified, respecting the limits of competence provided by law, the administrative bodies infirmed the allegations appreciating them as unfounded and unrealistic. In the same time, the National Anticorruption Directorate disposed to not start criminal prosecution of the President of the National Integrity Agency, Mr. Alexandru Cătălin Macovei and also of the Secretary General of the Agency, Mr. Horia Georgescu.

From the analysis of documents, administration of evidence, hearing of the parties involved and of the Agency staff, and following the completion of the procedures carried out by competent institutions, the Evaluation Commission of the National Integrity Council found that none of the allegations made against the Agency's management is confirmed .

In accordance with the legal provisions, the conclusions of the Evaluation Commission were presented to the Plenum of the National Integrity Council (on October 7, 2009 respectively February 18, 2010).
The conclusions of the reports were unanimously assumed by the members of the Council and have been published on the website of the National Integrity Agency, in Romanian and English. (http://www.integritate.eu/135/section.aspx/1306;http://www.integritate.eu/135/section.aspx/1305 ; http://www.integritate.eu/135/section.aspx/1024).

2.2.2. Budget

⇒ 2009

✓ Initial budget: **18.176 thousands LEI;**
✓ Decrease by dismissing the Government reserve fund: **1.410 thousands LEI;**
✓ Total budget expenditure in 2009: **14.009 thousands LEI;**
✓ Budget execution 2009: **13.929.742 thousands LEI;**
✓ Unspent Budget 2009: **79.258 thousands LEI.**

⇒ 2010

For 2010 was allocated a budget of 15.702 thousands RON of which:

✓ **CURRENT EXPENDITURE: 14.782 thousands LEI**
⇒ TITLE I *"PERSONNEL COSTS"*: **8.895 thousands LEI**
⇒ TITLE II *"GOODS AND SERVICES"*: **5.887 thousands LEI**

✓ **CAPITAL EXPENDITURE: 920 thousands LEI**

Budget execution, at February 28, 2010:
✓ Staff expenses: **1.321 thousand LEI**
✓ Goods and services: **150 thousand LEI**

2.2.3. Human resources

On **March, 1st 2010**, ANI had **115 employees**. The structure of the Agency's staff was as follows:
- **1** high official – the ANI president;

- **1** high public servant;
- **6** seconded personnel;
- **22** contractual staff;
- **29** civil servants, transferred or directly appointed following contests;
- **56** integrity inspectors, civil servants with special statute.

Between June and December 2009, 11 persons terminated employment with the Agency, among whom 6 integrity inspectors, 2 civil servants and 3 contractual staff.

Currently, ANI has 126 budgeted positions, out of which 115 are occupied and 11 are vacant.

2.3. The operative IT system

ANI's Visual Identity Manual was drafted and approved (by note No. 164/23.07.2009). It was posted on the institution's webpage (www.integritate.eu).

The ***"IT system for the electronic management of documents, electronic archiving services, hosting, Portal and associated services"*** was purchased in 2009.

Currently, the system allows:
- integration and electronic archiving of statements of assets and interests in a database,
- automatic management and asset declarations of interests,
- automatic management of the data contained in the statements of assets and interests, according to the parameters of the database and specific indicators (from the risk analysis carried out, studies / statistics on the statements of assets and interests, own practice and the issues raised of the persons designated within the institutions, the parameters of the module will be developed as appropriate),
- ensures the portal component of the website.

Steps taken in order to implement the system :

✓ **Creating the data base:**
- taking the documents in paper format;
- scanning the documents;
- conversion / processing;

- **5.860.000 pages downloaded and processed (scanned, imported into the portal database)**
- **426.166 statements of assets and interests imported and published on the site.**

✓ **Until the half of this year, all declarations sent to ANI will be integrated into the new data base.**

The first step in realizing the electronic archive is the conversion of paper documents in electronic form, permanent operation, that through the scanning process takes the image of the document source. Through OCR program and/or the manually entering of the text, the information is stored in an editable format.

The e-information is stored in a database managed by a specialized software that allows to organise the documents, to search, to import and export, to print, to establish safety rules for accessing the electronic documents, etc.

On 30/11/2009, the Portal became operational.

From the date the portal of statements of assets and interests become functional (30.11.2009) and until 01.03.2010, it recorded a total of 14.500 accesses, from which 5.000 unique visitors.

The system has also a data analyze and data intelligent integration component. It deliver also a risk analyses related to other relevant data bases. Access to electronic archives is based on security rules established in advance, according to rights associated to each user.

In **February 2010** a training session of the inspectors of integrity, regarding the use of IT system took place at ANI's headquarters. In order to determine the weakness of the electronic system, queries have been filled in for the system improvement. Training sessions will continue throughout the entire duration of the contract (4 years).

2.4 Institutional cooperation on international level

2.4.1 The ethics committee of civil servants - Seoul

In order to develop a network of institutional and non-institutional partners responsible in the same area of the EU and other countries, a delegation from Seoul Metropolitan Government - Public Official Ethics Committee Ethics (Committee of Civil Servants) had an official meeting with the ANI´s representatives on August 31, 2009. The visit was focused on the Agency's activity, as well as sharing experience in providing exercise public office or dignity in conditions of impartiality, integrity and transparency.

2.4.2 Embassy of France in Romania

Between **19 to 20 October 2009**, following the invitation of the Embassy of the France Republique in Romania, an official delegation from the Agency, attended the regional seminar "Identification and prevention of illicit enrichment", held in Sofia (Bulgaria).

2.4.3 Integrity Commission of the Republic of Iraq

Between 23 to 26 November 2009, a delegation representing the Integrity Commission of the Republic of Iraq payd a visit in Romania. Considering the fact that the Agency has similar powers to those of the Integrity Commission-the main body of Iraq with attributions in the fight against corruption, the delegation members, conducted by the president of the institution, judge RAHEM HASEN JREW AL-IGEELI payd a working visit to the National Integrity Agency in order to become familiar with the institutional practices of Romania on the verification of assets, conflicts of interest and incompatibilities, as well as the efforts to combat and prevent corruption

2.4.4 Technical assistance exchange instrument(TAIEX)
Between **8 and 9 February 2010**, at TAIEX invitation, representatives of the Agency attended as experts at the seminar "Combating conflict of interest and asset declarations" in Skopje (Macedonia). Within the seminar ANI's representatives sustained a presentation with the theme *"The National Integrity Agency, Romanian system of verifying assets, incompatibilities and potential conflict of interest"* and also a study case regarding the conflict of interest.

Topics covered during the seminar:
- Legislative and institutional framework on the conflict of interests;
- Strategies and other documents for the prevention and reduction of the conflict of interests, tools for managing conflict of interests;
- Activities of the institutions in the prevention of conflict of interests;
- Cooperation with institutions, media and NGO's
- Legislation/provisions on assets declarations and reporting interests. Data basis of assets declarations and statements of interests.

2.4.5 OECD
In **September 2009**, the Agency replayed to OECD request on a study, in the form of a questionnaire focused on regulations, implementation, verification and sanction in the field, as well as information on relevant entities, on national systems for verifying assets, incompatibilities and conflicts of interests for occupying a public function or dignity.
The study aimed in identifying best practices in the field verification of the declaration of assets, incompatibilities and conflicts of interest and shall provide support assistance for countries that want reform and effective implementation of such a system.

2.4.6 MONEYVAL Questionnaire
In **January 2010**, A.N.I. participated, among other institutions, in the process of filling in the questionnaire, aiming to gather information on the legal instruments available to Member States for the seizure of property without conviction of the perpetrator and to facilitate the initiation of international cooperation in this matter.

2.5. Cooperation with other public institutions

On **September 3, 2009** – representatives of the Agency attended the seminar on "Detection and recovery of assets derived from committing the crimes" within the PHARE project "Improving investigative capacity of the National Anticorruption Directorate. The discussions focused on the Romanian authorities skills in the detection, recovery and confiscation of property came from committing crimes, and also an analysis of the draft Government Decision on the establishment in the Romanian Police General Inspectorate of the National Office for Debt collection.

On **February 2, 2010,** National Agency of Civil Servants and the National Integrity Agency signed an institutional cooperation protocol, protocol which will be developed on the basis of active partnership to identify, promote and achieve common objectives aiming the implementation of the objectives of the Plan Action for fulfilling the benchmarks of the Cooperation and Verification Mechanism of progress of Romania in the judicial reform and fight against corruption.

2.6. Seminars and Conferences

Between March 12, 2009 to June 25, 2009, the Association for Implementing Democracy, on the base of the Program "Young leaders with integrity in public institutions", ANI held several meetings with the students of the Police Academy "Alexandru Ioan CuzaUniversity of Bucharest in order for them to familiarize with the institutional frame of the National Integrity Agency.

On **17 November 2009,** representatives of the Agency participated in the debate on "anti-corruption policy in the justice system, organized in Bucharest by the Konrad-Adenauer-Stiftung.

Juridic Resource Center organized on **December 16, 2009**, in Bucharest, in the framework of program "State Law Southeastern Europe" the Conference "Integrity - ANI and C.N.I". Among the topics discussed were the Senate role for the proper functioning of the Agency, efficient methods for the relationship between A.N.I. and C.N.I., the criteria for nominating members within C.N.I. etc.

On **February 25, 2010,** at the invitation of the Institute for Public Policy (IPP), representatives of A.N.I. attended the International Conference on "Influencing decisional-making process through lobby. Legitimacy vs. current practices at national and European level".

On **February 19, 2010**, the Agency attended the seminar which launched the project "*Involvement and simplification. Online tools to support the fight against corruption*", conducted by the Association European actors, editor of EurActiv.ro, project financed by the EU PHARE, Transition Facility 2007/19343.01.11 -" *Strengthening support civil society in fighting corruption*".

2.7. International Projects

2.7.1 Twinning Light Program *"Consolidating the Romanian Practical and Legal Framework in the Field of confiscation and Assets Recovery"*:
Implementation period: 15 January - 15 June 2010
Partners: Public Ministry - The Public Prosecutors Office attached to the High Court of Cassation and Justice, National Agency for Integrity

Main objectives:
- Enhancing the efficiency of the judiciary system in the national and international cooperation in the field of asset recovery in connection with crimes of nature to generate substantial profits, mainly human trafficking, illicit drug trafficking, fraud, corruption and money laundering offenses;
- Strengthening the capacity of the Romanian authorities for the ensurance of recoverying of assets derived from crimes;
- Establishment of Romanian Asset Recovery Bureau operating in accordance with EU best practices and cooperates effectively with other EU member states countries.

Stage of implementation:
- **On February 8, 2010**, meeting was held to launch the project.
- On **12 February 2010,** Mr. Alan McQuillan (team leader) and Mr. David Mercier (expert) paid a visit at ANI's headquarters to get acquainted with the role of recipient in the context of project, for launching the analysis activities of the project.

- Between **18 to 23 April 2010** an expert of the Agency will participate in the study visit which will take place in London.

2.7.2 Project *"Strengthening the institutional and professional capacity of the National Integrity Agency"*
Implementation period: April 2009 - April 2011
Partners: Romanian Academic Society, National Agency for Integrity
Main objectives:

- The development of guidelines regarding the coverage application of the incompatibilities and conflicts of interest regime for civil servants and those who occupy high public functions in public administration, local and county;
- Upgrading the Guide for completing the declarations of assets and interests and publishing it on the website "www.integritate.eu";
- Improving the Working Procedures Manual regarding the control activity of the statements of assets and interests and that of identifying states of incompatibility / conflict of interest;
- Organization of seminars and workshops held by foreign experts, in order to improve knowledge of integrity inspectors in the field;

Stage of implementation:
Within the project a draft guide for filing the declarations of assets and interests was developed. Final form of the guide will be published on the website of the National Integrity Agency.

2.7.3 The project "Improving the checking mechanisms of the regime of incompatibilities and conflicts of interest in local council / county councils in Romania"

Implementation period: 20 January - 20 September 2010
Partners: Institute for Public Policy, National Agency for Integrity.

Main objectives of the project, which will pursue the overall goal:

- Identifying and disseminating European best practices in the field of prevention/combat/elimination of incompatibilities and conflicts of interest as potential sources of corruption within the local elected representatives.
- Emproving the current research activities / identify conflicts of interest and incompatibilities exercised by the National Integrity Agency, through a closer collaboration with civil society.
- Promotion of effective tools for verification of the regime of incompatibilities and conflicts of interest among local elected representatives.
- **Stage of implementation:**
- Within this project, two meetings took place on 02.02.2010 respectively 09/03/2010.
- **The following activities were conducted:**
- **Execution Activity 1** "Organization of the Project Working Group, division of responsibilities and the developing of an alternative methodology documentation of conflicts of interest/ incompatibilities at the established level of the county/local adviser".
- **Execution Activity 2** "Documentation of best practices relating the combating of conflicts of interests and identification and prevention of incompatibilities at European level".
- The first stage of **activity execution 3** "Collection by IPP and A.N.I. of all declarations of assets/ interests of county/ local advisers at the level of all counties/ county towns and Bucharest Municipality from when they were invested.

2.8. Communication and public relations actions

Communication activities were carried out on the following levels and categories of target groups:

LEVEL OF COMMUNICATION	TARGET GROUP
INTERNAL	Own staff
EXTERNAL	Public Institutions National Council of Integrity Mass-media Professional Associations Natural Persons
INTERNATIONAL	Bodies and international structures with attributions in the fight against corruption

Free access to information of public interest (the main directions of action):

I. For ensuring free access of any person to information of public interest related to its activity, the following info were published on ANI's website and/or on the notice board of the institution:

- normative acts which regulates the organization and functioning of public authority or institution;
- organizational structure, attributions of departments, working schedule, audience program of the public authority or institution;
- name and surname of the management from the authority or public institutions and of the officials responsible with the dissemination of public information;
- contact details of authority or public institution, respectively: name, address, telephone, fax, e-mail and address of the web page;
- financial sources (budget, balance sheet, etc.);
- own programs and strategies;
- the list of documents of public interest;
- the list of categories of documents produced and / or managed under the law;
- template forms.

***II.* Elaboration and transmission with regularity of public information materials (point of views, press releases, specifications, etc.). In the reference period, the Agency has issued a no. of 141 press releases (point of views / specifications / right of reply, etc.), with a frequency of at least once a week, to 2 press releases per day (starting with February 15, 2010).**

For an accurate and complete public information, the Agency has responded in the reference period, to a total of approximately 200 requests, formulated according with the provisions of Law no. 544/2001

The Site access *www.integritate.eu:*
⇒ 73.000 Visits
⇒ 38.000 Unique visitors
⇒ 03:35 minutes: average time spent on site

<u>The most visited sections of the site were:</u>

- ✓ Portal of statements of assets and interests: **14.500**
- ✓ Notifications: **8500**
- ✓ Archive June 2009: **6500**
- ✓ Inspectors of integrity: **6000**
- ✓ Legislation: **5600**
- ✓ Contact: **5400**
- ✓ Court files - **incompatibilities:2.200** visits
- ✓ Court files – **asset confiscation: 1.200** visits
- ✓ Court files – **conflict of interest: 86** visits
- ✓ Court files: **150** visits
- ✓ Forms: **60** visits

2.9 Mass media monitoring

One of the activities performed within the Agency, characterized by an increased level of responsibility is the insurance of mass media monitoring service (national / international, video, audio)

Media monitoring represents one of the modalities of accomplishing the attributions provided by Law no. 144/2007, republished, having in mind that mass media is an important source of extraction of articles / press materials that may become ex officio notifications.

To achieve this objective, and in order to optimize the time reaction on press materials related to A.N.I.' s activity, the monitoring is based on:

⇒ on-line, over **25 national dailies; 10 weekly, 100 regional newspapers;**
⇒ on-line, **90 of the most accessed blogs**;
⇒ permanent, on line, of **news flux**;
⇒ channels **audio – video;**
⇒ **recording and performing the transcripts of the radio, tv or on-line transmissions** discussing issues of interest;
⇒ **24h/day, 7 days a week.**

2.10 Visual identity

It was elaborated and approved on 23.07.2009, the **Visual Identity Manual of the National Integrity Agency**, which can be viewed on the website of the institution (www.integritate.eu).

Benchmark 3 - Building on progress already made, continue to conduct professional, non-partisan investigations into allegations of high-level corruption

3.1. Stability of the legal and institutional anticorruption framework

3.1.1 The anti-corruption legal framework

The new Criminal Code preserves the anticorruption legal framework – the **Law 78/2000 on preventing, discovering and sanctioning corruption acts is** in force as a special piece of criminal law.

3.1.2 Draft law to amend the Law on the Constitutional Court

A new draft law amending the Law on the Constitutional Court was submitted for the Government approval in July 2009[33]. It aims at speeding the procedures, by eliminating the de jure suspension of the case when the constitutionality of a legal text is being challenged during a trial, thus avoiding unreasonable delays and abuses of law in judging cases. In the same time, other two parliamentarian initiatives on the same topic were adopted by the Chamber of Deputies and currently are under debate within the Senate.

3.1.3 The confirmation of the DNA top management team

Since June 1st, 2009, the mandates for the leading positions within the National Anticorruption Directorate were extended to three more years, following the procedure provided by the law, as follows:

- the deputy chief prosecutor of DNA[34],
- the chief prosecutor of the Section for combating corruption offences[35],
- the chief prosecutor of the Section for combating corruption offences committed by military[36],

In addition, a new prosecutor was appointed in the second position of deputy chief prosecutor of DNA (this position remained vacant since the retirement of the previous deputy chief prosecutor)[37].

3.2. Results of the National Anticorruption Directorate activity

3.2.1 Number of notifications received

[33] On 4th of May 2009, the Senat rejected the project law on the modification of the Constitutional Court Law. For the purpose of shortening the duration of criminal trials the MoJ initiated a draft law which eliminates the de jure suspension of the trial until the Constitutional Court rules on an objection of unconstitutionality.

[34] The appointment decree of the President of Romania no. 1107 from 29.06.2009, published in the Official Journal no. 449 from 30.06.2009.

[35] The appointment decree of the President of Romania no. 1108 from 29.06.2009, published in the Official Journal no. 449 from 30.06.2009.

[36] The appointment decree of the President of Romania no. 1110 from 29.06.2009, published in the Official Journal no. 449 from 30.06.2009.

[37] The appointment decree of the President of Romania no. 1109 from 29.06.2009, published in the Official Journal no. 449 from 30.06.2009.

Between **June 1, 2009 and March 1, 2010**, DNA received **2109 notifications**, out of which **582** were received by the central structure and **1527** by the territorial services.

3.2.2 Number of investigations opened

Between **June 1, 2009 and March 1, 2010**, DNA **opened 233 investigations**, out of which **64** have been opened by the central structure and **169** have been opened by the territorial services.

3.2.3 Cases sent to trial

Between **June 1, 2009 and March 1, 2010**, DNA has sent to trial 126 cases regarding 414 defendants. Among them are:

- 1 minister, currently deputy in the Parliament
- 1 deputy in the Parliament
- 2 governmental inspectors
- 1 judge
- 2 prosecutors
- 7 mayors, 3 vice mayors
- 2 sub-prefects
- 7 local counsellors
- 3 managers, 15 inspectors, 5 chiefs of units in the Public Finances Administration
- 3 directors of public agencies and directorates
- 11 directors of national companies
- 1 director, 1 counsellor, 1 member of committee within the Romanian Intelligence Service
- 1 general major, commander of a regional Inspectorate for Emergency Situations
- 1 marine admiral, fleet commander
- 7 military colonels (retired or in activity)
- 20 military officers (different ranks)
- 1 military sub-officer
- 3 chief commissars and 5 commissars of the Financial Guard
- 9 lawyers
- 5 police officers and 19 sub-officers of police
- 1 manager, 4 commissars, 5 inspectors and 7 custom agents
- 4 inspectors of Communitarian Police of Mayor's House of Sect 1 Bucharest
- 1 president of the Central Commission of Football Referees
- 2 presidents of football clubs
- 5 football referees
- 1 observer from the Romanian Football Federation
- 89 administrators of different companies
- 27 directors of private or state companies
- 2 managers of private companies
- 10 share holders or associates in different companies
- 2 bookkeepers
- 7 representatives of different private companies
- 4 employees of different companies
- 5 civil servants
- 2 legal advisers

- 3 engineers
- 1 expert evaluator
- 1 architect
- 1 auto instructor
- 1 mechanic
- 1 employee of CEC (Economies Bank of the State)
- 6 Presidents of various associations
- 1 teacher
- 3 professors
- 1 student
- 4 pensioners
- 53 unemployed persons
- The difference - Other occupations

3.2.4 Court decisions

Non-final conviction decisions

- Between **June 1, 2009 and March 1, 2010, 74 non-final conviction decisions** against 144 defendants were issued by the courts.

Final conviction decisions

- Between **June 1, 2009 and March 1, 2010, 53 final conviction decisions** regarding 89 defendants were issued.
  Examples of **final decisions** are presented in the ***Annex 10***.

Final acquittal decisions

- Between **June 1, 2009 and March 1, 2010, 8 final acquittal decisions** regarding **27 defendants** were issued. Among these, **1 acquittal decision regarding 4 defendants** are the result of the decriminalization of the offence previously provided by art. 10 lett. b) and c) of the Law no. 78/2000.

  Positions of the **acquitted defendants are**:
  - 1 mayor
  - 2 bank officials
  - 2 police officers and sub-officers
  - 3 counsellor of a Public Finances General Directorate
  - 6 directors and administrators of private companies
  - 4 directors or the National Company ROMSILVA
  - 1 executive manager ROMSILVA
  - 1 legal counsellor ROMSILVA
  - 1 chief of service ROMSILVA
  - 1 chief of compartment ROMSILVA

3.2.5 Seizure and confiscation decisions

Seizures:

Between June 1st, 2009 and February 28th, 2010, the DNA prosecutors seized, in the cases under investigation, a total amount of 63.782.899 lei (in order to secure the subsequent courts' decisions of confiscation of the proceeds of crime or the compensation of the civil parties' claims)

Confiscation of the proceeds of crimes:

Between June 1st, 2009 and February 28th, 2010, in the DNA cases, in which the decisions of conviction remained final, the courts confiscated approximately the following amounts of money and objects:

- 278.312 lei
- 37.190 EUR
- 3.560 USD
- Various objects (fire arms, furniture etc.)

3.2.6 State of play of the cases in which DNA or the Prosecutor General notified the Parliament or the President in order to request the start of the criminal investigation against some former or current ministers and the preventive arrest for a Member of Parliament

- ✓ On **June the 6th 2009**, the Senate admitted the request of the General Prosecutor and asked for the start of the criminal investigation against a former minister, member of the Senate, in a file investigated by DNA. The case is under investigation.
- ✓ On **June the 23rd, 2009**, the Chamber of Deputies rejected the request of the General Prosecutor to vote again (in light of the Constitutional Court decision no. 989 and 999/1.10.2008) to request the start of the criminal investigation in the case against a former prime-minister, member of the Chamber of Deputies, in a case in which the Chamber of Deputies has decided on August 13th 2008 not to request the criminal investigation.
- ✓ On **August 11th, 2009**, the Chamber of Deputies admitted the request of the General Prosecutor and asked for the start of the criminal investigation against a minister, member of the Chamber of Deputies, in a file investigated by DNA. The case is under investigation.
- ✓ On **March 24th, 2010**, the Senate approved the request of the minister of justice for the preventive arrest of a Member of Parliament in a file investigated by DNA. Following the approval of the Senate, the DNA prosecutors notified the High Court of Cassation and Justice with the request for arrest.

3.3 Professional training for judges and prosecutors in the fight against corruption

3.3.1 The individualisation of penalties in corruption cases

The working group set up within the MJ elaborated a comprehensive report concerning the reasons for a non unitary jurisprudence in anticorruption cases. The main recommendations of the report were:

- To identify legal solutions to reduce the possibility for courts to apply conditional suspension or suspension under surveillance;
- The Criminal Section of the High Court of Cassation and Justice should pronounce a decision in a case that allows a detailed analysis of the elements for individualization of penalties, and this decision should be a guide to the prosecution offices and to the courts;

- The court meetings regarding non-unitary practice should discuss the issue of the individualization of penalties and of their execution regarding corruption offences, in order to achieve unitary practice;
- The efficiency of functioning of the specialised panels should be improved, possibly by amendments of the Internal Regulation of courts;
- Increasing the number of continuous training seminars for judges and public prosecutors held by the National Institute of the Magistracy in the field of "Fighting corruption" and concerning the individualization of penalties, and implicitly providing the funds needed for such activities;
- Amending the Law on Constitutional Court, in the sense of elimination of de jure suspension of cases in case of challenges of constitutionality
- Drafting a Guideline about the individualization of penalties applied by the courts on corruption offences.

The state of play regarding the recommendations′ accomplishment is presented in the ***Annex 11.***

3.3.2 Activities carried out in the framework of bilateral programme between MJ/NIM and the UK Embassy

Two seminars were conducted by two British judges in Cluj (9-10 November 2009) and Timisoara (11-12 November 2009). Each one was attended by about 25 judges and prosecutors, including Court of Appeal judges and Tribunal judges from those cities and adjacent regions. A meeting between the trainers and the representatives of the High Court Justice Court took place. Based on recommendations already made by the working group described at 3.3.1, participants advanced the proposal to assess the need for developing a set of guidelines for unifying the jurisprudence in corruption cases.

3.3.3 NIM trainings

During June 2009 – February 2010, the following seminars were organized:

- **1 workshop** on *Fighting against corruption* – (7 – 8 October) - 3 judges and 12 prosecutors, Phare Project
- **1 seminar** on *Financial – economic Criminality* – (5 – 6 October) - 3 judges and 11 prosecutors, Phare Project
- **1 workshop** in the filed of *fighting against corruption* – (25^{th} – 26^{th} of February 2010) – 19 judges, Phare project;

In the field **of fighting against corruption**, *the Training Program of the National Institute of Magistracy for 2010 includes* 16 training actions, out of which:

- **5 seminars** regarding the methodology of investigating corruption offence provided within a project carried out together with the Public Ministry, for 125 magistrates;
- **6 seminars** on the professional training of 60 judges and 30 prosecutors for enhancing and disseminating the guidelines of best practices for identifying and investigating corruption offences that will be elaborated within the Program of the National Anticorruption Directorate "*Strengthening the investigation capacities of the National Anticorruption Directorate*";
- **4 workshops** for 20 judges and a **conference** for 50 judges and prosecutors with specialization in the field of investigating and solving cases of serious corruption to

be organized within the Program "*Support for sharing best practices in the field of investigating and solving serious corruption cases*" for the Ministry of Justice and Citizenship Liberties and the Public Ministry, as main beneficiaries.

3.3.4 Twinning light project "Support for exchanging best practices in the field of investigating and solving cases of (high-level) corruption"

In December 2009, MJ signed the contract for the twinning light project "Support for exchanging best practices in the field of investigating and solving cases of (high-level) corruption". The duration of the implementation will be 6 months and he direct beneficiaries of the project are: MJ, the Superior Council of Magistracy, the Public Ministry, the National Anticorruption Directorate.

The overall objective of the project is **improving the investigation and solving of (high-level) corruption cases in Romania through improved methods and practices applied by more efficient magistrates**. The project purpose is the exchange of best practices in the field of investigating and solving cases of (high-level) corruption between Romanian magistrates and their counterparts from EU Member States.

4 workshops and 1 conference will be organized and a **report comprising conclusions, best practices and recommendations for future improvements** in the field will be drafted and disseminated to the legal practitioners dealing with cases of (high level) corruption.

The first two workshops, one in Bucharest (25-26 February 2010) and the other one in Cluj (11-12 March 2010) were organised.

Benchmark 4 - Take further measures to prevent and fight against corruption, in particular within the local government

4.1. Increasing awareness on the effects of corruption and informing the citizens on the anticorruption instruments – activities carried out by the General Anticorruption Directorate (GAD):

The campaign „Corruption convicts you"

In 2009, DGA launched the campaign **„Corruption convicts you"**. It was financed through PHARE 2005 project funds *"Developing the General Anticorruption Directorate within the Ministry of Administration and Interior"*, implemented in partnership with the German Federal Ministry of Interior.

7.000 posters, 10.000 flyers, 1.000 brochures, 100 notebooks, 100 pens and 120 banners were designed. An internet web page dedicated to the campaign was released in September 2009[38]. It also hosts a video game that tests the users' propensity for corruption deeds, as well as posters of other anticorruption campaigns developed by GAD.

Since January 2009, posters, flyers, brochures and other campaign materials were disseminated both at central and local level, through the Anticorruption County Services. Starting July 2009, 120 banners were located on MAI buildings throughout the country.

The campaign „Family has a future, corruption does not!"

The campaign was financed through the twinning light project "Aligning the MAI anticorruption capacities to the standards of the EU member states" funds, implemented in partnership with the Internal Investigations Department of the land of Hamburg, Germany.

It aims at diminishing the availability of the citizens/MAI personnel to take/give bribe. A video spot with the message "Family has a future, corruption does not!" was designed.

The campaign was broadcasted:
- at 5 central TV stations (on 10 channels) and on several local TV stations.
- in Hollywood Multiplex network, for 3 months, starting with August 21, 2009.
- within certain TV shows.

4.2 Prevention measures

4.2.1. Activities carried out by the General Anticorruption Directorate (GAD):

After the second meeting of the Monitoring Committee for the National Anticorruption Strategy, held in May 2009, concerning vulnerable sectors and public administration for 2008-2010, the General Anticorruption Directorate was assigned to coordinate the enforcement of the strategy within the Ministry of Administration and Interior (MAI).

[38] www.stopcoruptiei.ro. 150 users accessed the page in the first month.

The actions and measures provided by the Action Plan of MAI are monitored and discussed within the meetings of the Monitoring Committee, and after that the information related to them are sent to the Central Unit for Public Administration Reform, within MAI, every three months. For all ministry's central structures and for the general inspectorates, a leading officer was assigned to be responsible with the implementation of these actions and measures. So better coordination and monitoring of the actions and measures carried out was achieved.

Also, the police officers within the Prevention Service of GAD took part at the working groups and meetings of the Monitoring Committee. During the meetings, GAD recommended the revising of the Action Plan, through the introduction or elimination of various measures and actions.

In order to achieve a unitary legal framework on the preventive activities taken within the structures of MAI, the following documents were drafted and disseminated:

- The concept paper on preventing corruption deeds within the MAI structures 2009-2012 (entered into force on 15.09.2009 and was sent to all MAI structures).
- The Methodology for identification of corruption risks and vulnerabilities within the MAI's structures (entered into force on 15.10.2009 and sent to all MAI structures).
- The Methodology for case studies on corruption or on the disciplinary cases identified during the professional integrity testing, committed by the MAI's personnel (entered into force on 15.10.2009 and was sent to all MAI structures).
- The Methodology on organizing and conducting preventive activities within MAI (entered into force on 09.06.2009 and sent to all MAI structures).

In order to enforce the Methodology for identification of risks and vulnerabilities to corruption within the MAI's structures, GAD initiated the training of integrity advisers (the deadline being established on 30.05.2010). The advisers, accompanied by members of working groups within MAI, will identify, describe and assess the risks, in order to detect new measures of control (the deadline being established on 15.12.2010).

At the beginning of this year, the Prevention Service assessed the implementation stage of the measures within the "Assessment of risks and vulnerabilities to corruption, identified for 2007-2008, by the Anti-corruption General Directorate in the activity of MAI's structures".

For the information of the MAI personnel on preventing and combating corruption, conducted within the ministry, GAD is issuing and sending, to the MAI's units, quarterly reports regarding the investigated cases.

In addition, twice per year, the Prevention Service drafts the Documentary and Information Bulletin concerning the activity of preventing and combating corruption. This document is sent to the ministry's structures, in writing and in electronic version.

One of the most important activities, regarding the informing and awareness of the MAI's personnel, is the development of the cooperation with the Multi-media Service, within the Public Relations Direction, based on this, three footages were shot during developments within cases investigated by GAD. These footages have had an important impact and drew the attention of MAI's personnel.

7 audio anti-corruption spots were made in cooperation with the MAI Multimedia Service and broadcasted on local and central radio stations.

4000 bookmarks and 100 calendars bearing anti-corruption messages were printed and disseminated.

Considering the specific vulnerabilities to corruption in the fields of ***public procurement and human resources,*** preventing activities were organized with the relevant personnel.

The Preventing Service, in cooperation with the Police Academy scheduled training sessions in the field of preventing corruption for all first year students. In the first semester of 2009, all 1.975 students of the Police Academy were instructed during 2 training sessions.

GAD organized:

Preventive meetings for employees in leading positions:

- Between June 1 and December 31, 2009, ***887 meetings*** were held and attended by ***3.382 managers*** at central and local level (2 of these reunions were held with the leaders within the General Inspectorate for Border Police and General Inspectorate for Romanian Gendarmerie).
- During the first 2 months of 2010, ***293*** preventing activities were held and ***1.256*** managers also attended.

Preventive meetings for employees in executive positions:

- Between June 1 and December 31, 2009, training sessions were organized with all personnel in executive positions, including those from structures where corruption cases occurred or structures where preventive corruption activities were not held in the last 2 years, or upon request.
- ***2.675*** preventive activities were held and attended by ***28.767*** employees in executive positions at central and local level.
- During the first 2 months of 2010, ***293*** preventing activities were held and attended by ***5.922*** employees in executive positions.

Preventing corruption meetings for employees in highly prone to corruption positions:

- In 2009, the Preventing Service completed the training in prevention, for the personnel within MAI structures in rural areas, ***2.763*** meetings with ***9.393*** employees being held.
- **138 meetings** were held with traffic police officers attended by ***3.447*** MAI employees.

Groups of 26 police agents within Bucharest Municipal Police are weekly (on Wednesdays) trained in anticorruption issues.

10 case studies were drawn on criminal files involving MAI personnel, in which final solutions were issue, in order to detect causes and circumstances that favour the occurrence of corrupt behaviour.

Two opinion polls were conducted, one within MAI personnel and one among the citizens, aiming at establishing the most efficient guidelines in prevention and to make a quality assessment of previous preventive measures.

In addition, the first stage of a study regarding the occurrence of corruption within MAI educational centers was completed, from the perspective of the main actors involved (professors, military trainers, administrative personnel, pupils, students).

The *Analysis on MAI personnel investigated for corruption from 2005 to 2009* detected the typology of the employees prone to corruption and constitutes the base for future preventive measures, adapted to current situation.

Between September and November 2009, GAD organized, within the Institute for Studies and Public Order, a course on the theme "Preventing corruption", for middle managers (5 sessions for 20 participants from: the Romanian Police General Inspectorate, Border Police General Inspectorate, Civil Emergencies General Inspectorate, Romanian Gendarmerie General Inspectorate and MoAI Central Body).

A positive aspect was the MAI personnel noticing AGD on corruption deeds, by means of self denounce, in 39 cases between June 1 and December 31, 2009 and 15 cases between January 1 and February 28, 2010, and by means of denounce, in 79 cases between June 1 and December 31, 2009 and 22 cases between January 1 and February 28, 2010.

Since the 25th of January 2010, the anti-corruption Telverde green line 0800 806 806 may be accessed, free of charge, through mobile telephony.

Thus, citizens may call GAD using the mobile phone, through all mobile telephony networks, free of charge, in order to report on corrupt behaviour of the personnel within the MAI. GAD is making efforts to obtain support from private mobile telephony companies in promoting the telverde line.

Starting February 4, 2010, in order to have an interactive tool for a viable and swift communication and to achieve diversity in transmitting anticorruption messages, GAD invites citizens to have a dialogue on various topics, using Facebook, YouTube and Yahoo Messenger. This approach followed the need to accommodate to online communication, so as to ensure a better visibility of the institution.

Therefore, GAD will post on Facebook web site press releases and materials with anti-corruption message, providing users with interesting information on prevention measures and the fight against corruption conducted within MAI. Also, on the YouTube website, records will be posted, regarding operative actions, such as home search or flagrant actions.

"dga_interne" account on the Yahoo Messenger will be active, for the beginning, Mondays to Fridays, 3 hours/day, respectively between 11.00-14.00, the program is going to be modified/adapted according to the needs. The account will be constantly monitored by GAD officers, in order to promptly answer requests of the journalists / citizens.

4.2.2. Activities carried out by the National Integrity Centre (NIC)

In December 2008, an application for financing from structural funds was submitted, the project having the title "Development and strengthening of the National Integrity Centre". After one year from the submission of the financing application, the financing contract no. 75/16.12.2009 was signed for granting non reimbursable financing for the project "Development and strengthening of the National Integrity Centre " (SMIS code 3133), a contract which was concluded between the Association for Democracy Implementation, as a beneficiary, and the Ministry of Administration and Interior – through the Department for the Development of the Administrative Capacity – as the Management Authority.

The project „Development and strengthening of the National Integrity Centre " mainly aims at developing and strengthening the National Integrity Centre as a public independent mechanism for promoting the public integrity, efficiency and efficacy at the level of the public administration in Romania through :

- **Improving and speeding up the setting up and implementation process of the public policies from local level to the central one** (bringing the public policies and the proposals regarding such policies from local level to a central one through organizing debates of some Anticorruption Action Groups within the counties all over the country, as well as through selecting the proposals on public policies, examining and grounding the selected proposals by integrated working groups, transmitting, adopting and implementing these proposals by competent institutions);
- **Promoting the professional training based on necessity analysis and aiming at strengthening the public administration capacity** (achieving analyses on the professional training needs at the level of the public institutions, delivering free training for civil servants in fields they are interested in, disseminating guides and useful handbooks to the civil servants);
- **Stimulating mentoring activities for training the civil servants newly entered within the system** (training session for mentors, elaborating and distributing a guide for the mentors within the public institutions).

The conference „Integrity and Responsibility within the Public Administration" took place within this project, at this event participating the Ambassador of the UK at Bucharest, The Ambassador of Sweden at Bucharest, Charge d' Affaires of the Embassy of the Kingdom of Netherlands, representatives of other diplomatic missions, the Commission's representatives in Bucharest, representatives of the institutions within the Ministry of Administration and Interior, of the Ministry of Health, the Ministry of Education, Research, Youth and Sport, as well as of other public institutions.

Within this conference, the above mentioned project was launched, a project mainly aiming at developing and strengthening the National Integrity Centre as a public independent mechanism for promoting the public integrity, efficiency and efficacy at the level of the public administration in Romania

Also, the organization of the National Integrity Centre took place by the elaboration of an Organization and Functioning Regulation and a Working Methodology for deploying the activities within the NIC.

At the level of the Ministry of Administration and Interior, some persons were appointed at the level of each county for the collaboration with the National Integrity Centre, through the decision of the Secretary of State for the Relationship with Prefect institutions. Another activity was designating the members of the Anticorruption Action Groups for the 41 counties.

Main activities carried out between July 2009 – March 2010 by the NIC:

- ✓ Conducting a national survey AID – IMAS 2009 on corruption within the health system. The objective of the survey was to assess the opinion of the citizens regarding the corruption within the Romanian health system. The survey was made on a sample of 1249 persons, being representative for the people aged over 18 in Romania. The results of the survey are presented in ***Annex 12***;
- ✓ Organizing and holding a lecture entitled „Integrity Standards within the Public Administration „ for 70 students attending the master courses of the „Alexandru Ioan Cuza„ Police Academy;

- ✓ organizing and holding a lecture entitled "Ethics within the Public Service " for 70 people attending the courses of the National College of Defense;
- ✓ participating at the meetings of the Monitoring Committee for the National Anticorruption Strategy on the vulnerable sectors within the public local administration (2008 – 2010) and the meetings of the working group for monitoring the implementation of the measures within the sectorial action plans of the of the National Anticorruption Strategy on the vulnerable sectors within the public local administration (2008 – 2010);
- ✓ Organizing a meeting with the representatives of the Ministry of Administration and Interior for informing on the activities deployed within the National Integrity Centre. This meeting was attended by representatives of the Vice prime minister and of the Minister of the Administration and Interior, the General Anticorruption Directorate, the General Directorate for Information and Internal Protection, the Human Resources General Directorate, the European Affairs and International Relations Directorate;
- ✓ Organizing a working group which took place at Deva and which was attended by representatives of the Ministry of Administration and Interior. The aim of this working group was discussing the necessity of amending the Ordinance no. 75/ 2001, republished, on the organization and functioning of the fiscal record, and on consolidating the fiscal discipline as an element of the public order, approved by the MAI;
- ✓ Elaborating an informative material for the Bulleting drawn up by the General Anticorruption Directorate;
- ✓ Meetings with representatives of the diplomatic missions in Bucharest for informing on the activities deployed within the NATIONAL Integrity Centre

4.3 National Anticorruption Strategy

4.3.1 Work of the Monitoring Committee

The **Monitoring Committee** of the National Anticorruption Strategy on vulnerable sectors and the local public administration 2008-2010 organized 2 **meetings in second half of 2009**: September 3 and October 27 and **1 meeting in 2010**, on February 16.

Measures were taken in order to improve the monitoring mechanism. An **expert level working group** tasked to monitor the level of implementation of the measures assumed in sectorial action plans became operational on August 6, 2009. The group involves experts from each central public authority responsible for the implementation of the action plans, including local public administration. Since November 2009, the representatives of 12 town halls from local public administration joined the working group.

The reporting process of the enforcement level of the measures assumed in sectorial action plans develops accordingly to the monitoring and reporting methodology approved within technical working group meeting on August 6, 2009.
From the beginning the working group has organized 4 meetings on 06.08.2009, **08.10.2009, 14.12.2009** and **10.02.2010.**

The Ministry of Public Finance through the National Agency of Fiscal Administration (NAFA) that includes Customs National Authority and Romanian Financial Guard established a monitoring commission of the National Anticorruption Strategy at the level of the authorities with control attributions within NAFA. This commission is coordinated by the general secretary of NAFA and the members are the representatives of the National Agency of Fiscal Administration, Customs National Authority and Romanian Financial Guard.

The monitoring and reporting processes of the measures of sectorial plans will be thus improved for the next meetings of the Monitoring Committee.

In December 2009, the Central Unit for the Public Administration Reform filed at the Directorate for Administrative Capacity Development the financing requests with the title Diagnose study regarding the level of corruption in the local public administration and Developing the Standard Cost Model Methodology. These projects are measures in the National Anticorruption Strategy on vulnerable sectors and local public administration (2008-2010).

4.4 Phare project "Continuing the fight against corruption in public administration" -

4.4.1 Component 1

GAD

In July 2009, 2 seminars were organized, targeting the prevention officers. The conclusions and recommendations were included in the concept for preventing corruption and the methodology for analyzing corruption risks among the MoAI personnel.

In June and September 2009, other 2 seminars were organized in the field of strategic intelligence/information assessment and strategic assessment mechanisms. The events were attended by representatives of GAD, MoJ, Public Ministry, NAD. Certain measures for a more efficient implementation of the National Anticorruption Strategy at the level of the MAI were recommended.

Public administration

The elaborated evaluation report has focused on the legal framework regarding transparency within public administration and particularly, the enforcement of Law no. 52 / 2003 on decisional transparency in public administration and Law no. 544 / 2001 on free access to public information, at the selected institutions of public administration.

The pilot institutions were: Pitesti City Hall, Ploiesti City Hall, Predeal Town Hall and The National Agency for Cadastre and Land Registration.

Two risk matrices that comply with the above mentioned normative acts were elaborated and will support public administration for approaching the risk factors that may determine an increase of vulnerability level for corruption acts, regarding transparency. The most vulnerable corruption areas within the pilot institutions were identified with the support of these two documents.

Within this component a supporting course PROMOTING TRANSPARENCY IN PUBLIC ADMINISTRATION - A TOOL FOR FIGHTING AGAINST CORRUPTION was also drafted. It will help a correct implementation of law in this field. The document is based on the information provided by the project partners.

4.4.2 Component 2:

GAD

GAD's working procedures were assessed and recommendations for improved techniques and procedures were drafted, in September and October 2009.

In July 2009 a workshop was held, on best EU practiced in the anti-corruption field.

Also, a working group was set, with the aim to establish new, improved guiding lines for GAD's specific activity, which were included, as an annex, in the best practices manual on the investigation of corruption deeds. The manual was disseminated to the relevant institutions.

Public administration:

A series of questionnaires and detailed reports regarding the procedures that were to be simplify in selected public institutions were drafted. The evaluation of the procedures was completed by visits at the 6 selected institutions.

On May 7, 2009, the seminar on "Simplification of administrative procedures - way of fight against corruption" took place. It focused on the presentation of the prepared action plans. After this seminar, the action plans regarding the constructions authorizations were similar within the 3 municipalities.

Comprehensive and efficient principles were already analyzed and synthesized by CUPAR considering the European Union program of reducing administrative bureaucracy. A working group on cadastre problems was also established. During the meeting held in July, a series of useful observations were formulated in order to modify some decrees released by the the National Agency for Cadastre and Land Registration.

The methodological guide for simplifying the administrative procedures was improved and will represent a useful document for training activity.

The training sessions were held in October and November, on the basis of an accredited course of trainers of trainers for CUPAR personnel and selected institutions personnel.

4.4.3 Component 3:

GAD

A SWOT assessment was drafted, on the structure, duties and responsibilities of public institutions, such as GAD, MAI, CUPAR, the National Agency for Civil Servants (NACS) and the local public administration.

It was concluded that the main issue is the improvement of integrity standards. Within the numerous seminars and WGs, an integrity declaration and guide for the management of corruption risks were elaborated and disseminated to the central and local public administration, on the occasion of several seminars.

Public administration:

A working group within MAI, constituted by representatives of ministry structures, was established.

The working group decided the pilot institutions: the National Agency for Cadastre and Land Registration at central level and Pitesti City Hall, Ploiesti City Hall, Predeal Town Hall, at local level. The group also identified the areas of interest for the analysis accomplished by the European experts on the measures implemented by legal framework and the evaluation of success and failures of these measures.

In this context, an analysis of the measures already implemented by the legal framework was elaborated. The success and failures of these measures within public administration institutions was also assessed.

A report that contains the conclusions and the recommendations of the analysis was elaborated. 3 mechanisms of promoting the integrity in public institutions were identified: conduct codes, the risk management and whistleblowing.

On the basis of the conclusions and recommendations of the elaborated analysis, a seminar was organized. Examples of good practices in European Union were presented and a draft of Declaration of Integrity was elaborated on the identified pillars: conduct codes, the risk management and whistleblowing.

Within this activity, the Declaration of Integrity Model was finalized, as an instrument of promoting the integrity within public institutions in order to improve the quality of public services and to prevent corruption acts.

This instrument brings together and explains the relation among the 3 key elements that are the basis of Good Governance: conduct codes, whistleblowing and the risk management, offering in the same time a practical guide for their implementation. In this context, the model of intern policy regarding the warning for public interest within public institutions, as well as the practical guide regarding the implementation procedures of risk management in public institutions were elaborated.

The model of the Declaration of Integrity was transmitted to the 4 pilot institutions: Pitesti City Hall, Ploiesti City Hall, Predeal Town Hall and The National Agency for Cadastre and Land Registration. The implementation was monitoring by a team of Romanian and foreign experts and the monitoring results were presented within the conclusions and recommendations report.

Within this activity, a SWOT analysis was drafted, on the functions of the structures and the responsibilities of each beneficiary of the project with responsibilities in implementing the National Anticorruption Strategy, within MAI, as well as in local public administration.

A report containing recommendations on the improvement of the National Anticorruption Strategy on vulnerable sectors and local public administration for 2008-2010 and sectorial plan of MAI was drawn up, where the beneficiaries of the project have certain assignments.

4.4.4 Component 4:

GAD

Specialists from GAD and other MAI structures, from MoJ, the Public Ministry and NAD were trained, within 4 seminars, on the following issues: legal obstacles in criminal prosecution – September 2009, intelligence analysis – July 2009, investigating crimes in the field of public procurement – October 2009 and operating an integrate database – September 2009.

4.5 Fighting corruption within the Ministry of Administration and Interior personnel – activities of the General Anticorruption Directorate

4.5.1 Investigations

Between June 1 and December 31, 2009, 1321 persons were investigated (840 from MAI), 379 were accused (164 from MAI), 260 persons were sent to trial (127 from MAI). Following the specific judiciary police activities conducted by GAD officers, the prosecutor's offices issued 126 indictments, out of which 31 by the National Anticorruption Directorate. The Courts issued 21 non-final decisions and 21 final decisions.

Between January 1 and February 28, 2010, 639 persons were investigated (216 from MAI), 365 were accused (50 from MAI), 64 persons were sent to trial (30 from MAI). Following the specific judiciary police activities conducted by GAD officers, the prosecutor's offices issued 30 indictments, out of which 4 by the National Anticorruption Directorate. The courts issued 6 non-final decisions and 5 final decisions.

4.5.2 Testing the professional integrity

According to the Orders of the Minister of Administration and Interior, the testing of professional integrity, as a preventive measure, was conducted when there were no sufficient evidence for substantiating the allegations regarding the involvement of MAI employees in corruption deeds.

Within the reported period 21 integrity tests were conducted, 15 positive and 6 negative, as follows: 14 tests (3 negative) between June 1 and December 31, 2009 and 7 tests (3 negative) between January 1 and February 28, 2010.

GAD took the initiative to have all previsions regulating the testing of professional integrity adopted through a specific law, the draft of which being at present under debate within Romanian Parliament.

4.6. National Agency for Civil Servants (NACS)

4.6.1. Programs and trainings

In the reference period, within NACS, the process for creating a national integrity system and implementing it in the public office was initiated. To this en, the project fiche on "Creating an integrated and unitary integrity system for the public office" was filed and approved.

NACS developed a public policy "Ethics and integrity in the public position system in Romania". One of the measures envisaged by this document is the amendment of Law no. 7/2004 on the Code of conduct for the civil servant, republished, for a better define of the responsibilities of ethics adviser and Law no. 161/2003 on the measures of assuring transparency in the exercise of public dignities for the public position and in business environment, the prevention and punishment of corruption, with subsequent modifications and additions for reviewing the conflict of interest and the incompatibilities of the civil servant. The public policy document was sent to MAI for initiating the advisory-opinion process.

NACS fulfilled its responsibilities as a partner of GAD within the PHARE project "The fight of anti-corruption fighting in the public administration". Between September 30 and October 2, 2009 at Timisoara, NACS organized a seminary with the theme "Ethics, integrity and career in public position". Aspects on ethics and integrity in the public office were debated and the draft "Declaration of integrity" was presented.

NACS supported the Central Association of Law Resources in the project named "The ethics advisor: equilibrium and integrity in the public administration". The first stage of the project consisted in the analysis of ethics advisers at a national level and the development of a report incorporating the findings and recommendations of the association. In the second part of the project, the Central Association of Law Resources aims to present the content of the report in public events, to develop and disseminate a guide for ethics advisory based on the synthesis of international practice, to assure the training of ethics advisers and to launch a pilot program of working instruments for ethics advisers on two municipalities.

The NACS implemented, in partnership with the Assistance and Sustainable Development Programs Association -21 Agenda, with the "Corruption concerns everyone" project, for Transitional Facility 2007/19343.01.11- Strengthening the support of civil society in fighting against corruption. The project purpose is to create a model of public-private partnership between institution /local public authorities and civil society to prevent and combat corruption by establishing mechanisms for monitoring how the law and National Anti-Corruption Strategy is applied in practice in 16 institutions and local public authorities of Cluj, Dolj, Ilfov, Harghita, Neamt counties and Bucharest .

Also in the reporting period, within the central public administration , the National Institute of Administration (NIA)[17] organized specialized training programs to fill a public position appropriate category high-ranking civil servants. Under this program was developed the module of Modern and Efficient Administration where are broaching topics related to the fight against corruption, namely:

- The concepts of ethics and integrity in public institutions
- The conflict of interests - European practices
- The checklist for integrity in the public sector

The number of participants in this program was 54.

Also, the NIA sent periodically (quarterly) to the central public institutions the offer of training and improvement for 2009 which includes organizing programs on topics relating to the fight against

[17] NIA this time organized as directorate within NACS as a result of entry in force of *the Government Decision No. 1373/2009 for the regulation of some issues caused by application of the reorganization measures established by Law no. 329/2009, on the reorganization of some public authorities and institutions, streamlining public spending, business support and respect the framework agreements with the European Commission and the International Monetary Fund and amending and completing Government Decision no. 1000/2006 concerning the organization and operation of the NACS*

corruption. In the reference period of this offer, NIA organized 4 programs and 1 program was implemented on demand (beneficiary: Payment Agency for Rural Development and Fishing). At the request of the Payment Agency for Rural Development and Fishing, during the reporting period, was organized and implemented the program "Public acquisitions – regulations and implementing", which had a total of 46 participants.

Between June and December 2009, at local level, the Regional Centers of Continuing Training for the Local Public Administration, methodological coordinated by NIA, organized the following training programs, based on the fight against corruption:

Name Programs	No. of Organized Programs	No. of Participants
0	1	2
Civil service management and human resources	9	132
Public acquisitions	7	80
Communication, negotiation, conflict management	3	74
Rules of professional conduct in the public administration	1	11
0	1	2
Institutional communication and decision-making transparency	15	191
Public servant with control responsibilities	1	11
Elements of public administration for local elected and public entities leaders	7	80
Education and European Citizenship	2	7
Ethics and corruption combating in the public local administration	1	6
Training of community agents	3	54

A total of 8 Regional Centers for Continuous Education for the Local Public Administration organized 49 programs with a participation of 646 people from the local administration and deconcentrated civil services.

At the beginning of 2010, at the initiative and from NACS budget was held a seminary at Iaşi with the main theme of "Ethics, integrity and public position career". Most the participants were civil servants from the local level of administration, many of them occupying the position of commune secretaries. The thematic approached in the seminary was similar to that of the events held at Timişoara and Braşov (PHARE RO 2006/IB/JH/05).

4.6.2. Rules of conduct

In addition to those presented, NACS continued to monitor the compliance with rules of conduct by the civil servants from al levels of public administration, aiming to increase the awareness of civil servants at the importance of developing ethical standards.

Thus, was developed and published on the Agency's site *The semester report for compliance with the rules of conduct for civil servants, the ethics standards and the implementation of the disciplinary procedures for the 1st half of 2009.* The document is based on data transmitted from 1248 authorities and civil institutions having employed 85974 civil servants.

During the reporting period, the ethics advisers had an active approach, initiating discussions on conduct and values to be promoted to the public authorities and institutions.

In the 1st half of 2009 the discipline comities received 572 disciplinary observations directed against 616 civil servants; there were applied 260 disciplinary sanctions.

Most disciplinary complaints were made by hierarchical heads of the civil servant against whom these were directed or the leaders of the public institutions or authorities - 63% from total, and only 11% from the total of complaints were made by the beneficiaries of the civil service.

4.7 The Prosecutor's office attached to the High Court of Cassation and Justice (PoHCCJ)

4.7.1. Local strategies to combat corruption

In order to increase the effectiveness of local strategies developed by the prosecution offices, the measures previously adopted by the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice have been implemented.

The central coordination unit, comprised specially designated prosecutors from the Criminal Investigation and Forensic Section within PoHCCJ, has monitored all the decisions issued in corruption cases by prosecutor's offices around the country and has verified whether the adopted strategies have been observed. This analysis was included in a semestrial report, which was disseminated to all local offices, and its conclusions have been discussed in meetings attended by all first prosecutors of the prosecutor's offices attached to tribunals.

The analysis drawn for the second semester of 2009 concluded that the number of cases investigated has increased considerably. The number of indictments drafted in corruption cases has similarly increased (from 56 to 101). Also, in the 2nd semester of 2009, there were more cases registered following ex officio notifications (324 compared to 223).

Nine indictments in complex files were drafted, requiring the allocation of a significant portion of the prosecutor's office resources, which certainly exerted a greater dissuasive effect than a large number of indictments in less important cases. This is illustrated by the indictments drafted by the Prosecutor's Offices Attached to the Iaşi Appelate Court, the Bucharest Tribunal, and the Alba, Covasna, Dâmboviţa, Teleorman, and Timiş Tribunals in cases involving the use of all possible evidence and diverse investigation methods in order to prove an impressive number of crimes and the involvement of a large number of persons in the criminal activity.

The analysis only considered the indictments sent to the Criminal Investigation and Criminalistics Directorate, consequently there are some small discrepancies between the results shown in Appendices 1 and 2 and the statistic results, according to which the number of cases sent to court last year for small corruption crimes is 173 – higher than the number of indictments reported for the analysis.

The number of ex officio notifications is on the increase, almost equal to the number of denunciations, and that the Prosecutor's Offices Attached to the Caraş Severin, Constanţa, Maramureş, Olt, Prahova, Sălaj, and Sibiu Tribunals registered more cases based on ex officio notifications than on denunciations. In fact, the Prosecutor's Offices Attached to the Olt and Prahova Tribunals reported also in the first semester of last year a higher number of solutions adopted based on ex officio notifications than on denunciations.

The analysis of the solutions adopted has shown that the investigations were mainly focused on the priority sectors identified as vulnerable in the risk analysis.

It should be pointed out that the number of indictments drafted in cases of smaller significance is on the decrease, most of the individuals sent to trial being employees in the public administration, policemen, people employed in the health or education system. At the same time, the number of indictments drafted in complex cases is rising, from 3 in the first semester to 9 in the second semester.

Concerning the crimes for which cases were sent to court, it should be pointed out that the number of bribe taking cases is still higher than that of active bribe giving and that, during this semester, the prosecutors decided that more cases should be sent to court for crimes associated to corruption crimes and for crimes directly related to corruption crimes (9 such indictments were drafted).

New rounds of exchange of experience sessions between NAD prosecutors and the prosecutors from the national network designated to investigate corruption crimes were carried out each semester of 2009. The Public Ministry's budget project includes, for the first time, the creation of a financial fund for the performance of flagrant actions (sting operations) at the level of prosecutor's offices attached to tribunals.

The Public Ministry has set as a main objective to enhance its capacity in the area of asset recovery, which was considered an efficient tool in combating corruption crimes. The results in the area have been established as one of the main criteria in assessing a prosecutor's office activity and a program aiming for the evaluation of the system, the training of prosecutors and the publishing of a manual of good practices was started.

4.7.2 Cases investigated and prosecuted by local public prosecutor's offices

Detailed statistical data concerning cases solved by the local public prosecutor's offices are available in ***Annex 13***.

III. APPENDIX

ANNEX 1

Appeals in the interest of the law

Files lodged in 2009

No.	File	Subject of the appeal in the interest of the law	Date when the appeal was lodged	Date of decision	Decision	Date of publication/ other information
1.	1/2009	Interpretation of the provisions of art. 2 par. (1), art. 3 let. a^1), art. 13 and art. 14 from Law no. 146/1997 - Leading board of the Court of Appeal Craiova - Opinion of PHCCJ	16.02.2009	16.03.2009	12/2009	Rejected
2.	2/2009	Interpretation of the provisions of art. 129 par. (6) from the Code of Civil Procedure - PHCCJ	16.02.2009	16.03.2009	13/2009	Rejected
3.	3/2009	Interpretation of the provisions of art. 278 par. (3) and art. 278^1 par. (2) from the Code of Criminal Procedure - PHCCJ	18.02.2009	6.04.2009	15/2009	O. J. 735/ 29.10.2009
4.	4/2009	Application of the provisions of art. 397-399 from the Code of Criminal Procedure - PHCCJ	24.02.2009	6.04.2009	16/2009	Rejected
5.	5/2009	Interpretation of the provisions of art. 35 par. (2) and art. 114 from the Law no. 188/1999	13.04.2009	12.10.2009	28/2009	O. J. 44/

		corroborated with art. 1 par. (1) and art. 2 par. (5) from the same law and with art. 1 par. (2) from the Emergency Ordinance of the Government no. 146/2007 - PHCCJ				**20.01.2010**
6.	**6/2009**	Interpretation of the provisions of art. 278[1] from the Code of Criminal Procedure - PHCCJ	**14.04.2009**	**15.06.2009**	**17/2009**	**O. J. 875/ 15.12.2009**
7.	**7/2009**	Interpretation of the provisions of art. 63[1] from the Penal Code corroborated with art. 449[1] from the Code of Criminal Procedure - PHCCJ	**14.04.2009**	**15.06.2009**	**18/2009**	**Rejected**
8.	**8/2009**	Interpretation of the provisions of art. 454 par. (2) second thesis from the Code of Criminal Procedure - PHCCJ	**4.05.2009**	**15.06.2009**	**19/2009**	**Rejected**
9.	**9/2009**	Interpretation of the provisions of art. 31 par. (1) let. c) and d) from the Law no. 188/1999 - PHCCJ	**13.05.2009**	**21.09.2009**	**20/2009**	**O. J. 880/ 16.12.2009**
10.	**10/2009**	Admissibility of the appeal filed by a prosecutor from the Directorate for the Investigation of Organised Crime and Terrorism against a decision issued by the court in a case in which the Directorate is competent, if at the trial finalised with the appealed decision has participated a prosecutor from the regular prosecutors office - PHCCJ	**15.05.2009**	**12.10.2009**	**21/2009**	**Elaborated**
11.	**11/2009**	Interpretation of the provisions of art. 3 par. (1) and of let. A, point 28 from the Annex to the Emergency Ordinance of the Government no.	**27.05.2009**	**12.10.2009**	**27/2009**	**Rejected**

		27/2006 - Leading board of the Court of Appeal București - Opinion of PHCCJ				
12.	**12/2009**	Solution in case of the request for deduction of the home detention executed in a foreign state - PHCCJ	**28.05.2009**	**12.10.2009**	**22/2009**	**Elaborated**
13.	**13/2009**	Interpretation of the provisions of art. 146, concerning conversion of the conviction, from the Law no. 302/2004 - PHCCJ	**28.05.2009**	**12.10.2009**	**23/2009**	**O. J. 850/ 08.12.2009**
14.	**14/2009**	Admissibility of the appeal against the decision sending the case to the competent prosecutor, according to art. 397 par. (1) from the Code of Criminal Procedure, when the request for revision of the case was filed directly to the court - PHCCJ	**28.05.2009**	**12.10.2009**	**24/2009**	**Elaborated**
15.	**15/2009**	Determination of certain retirement rights - PHCCJ - Leading board of the Court of Appeal Craiova	**18.08.2009**	**16.11.2009**	**30/2009**	**Rejected**
16.	**16/2009**	Executory nature of the legal assistance contracts concluded before entering in force of the Law no. 255/2004 amending Law no. 51/1995 and interpretation of the provisions of art. 30 par. (3) from the Law no. 51/1995, as amended by Law no. 255/2004 - PHCCJ	**18.08.2009**	**16.11.2009**	**31/2009**	**J. O. 111/ 18.02.2010**
17.	**17/2009**	Interpretation of the provisions of art. 60 par. (1) from the Penal Code	**18.08.2009**	**12.10.2009**	**25/2009**	**Elaborated**

		- PHCCJ - Leading board of the Prosecutor's Office attached to the Court of Appeal București				
18.	**18/2009**	Interpretation of the provisions of art. 184 par. (4^1) from the Penal Code and art. 87 par. (1) from the Emergency Ordinance of the Government no. 195/2002 - PHCCJ	**20.08.2009**	**12.10.2009**	**26/2009**	**Elaborated**
19.	**19/2009**	Application of the provisions of art. 1 par. (1) let. a) from the Law-decree no. 118/1990 - PHCCJ	**21.07.2009**	**16.11.2009**	**32/2009**	**O. J. 137/ 2.03.2010**
20.	**20/2009**	Salary rights of the teaching personnel from the pre-universitary system - PHCCJ	**5.10.2009**	**16.11.2009**	**33/2009**	**Rejected**
21.	**21/2009**	Interpretation of the provisions of art. 146 par. (3) from the Law no. 302/2004 - PHCCJ - Leading board of the Prosecutor's Office attached to the Court of Appeal București	**7.10.2009**	**14.12.2009**	**34/2009**	
22.	**22/2009**	Civil liability of the insurance company in criminal proceedings - PHCCJ	**7.10.2009**	**16.11.2009**	**29/2009**	**Rejected**
23.	**23/2009**	Interpretation of the provisions of art. 47 from the Law no. 138/1999 - PHCCJ	**21.10.2009**	**14.12.2009**	**37/2009**	**Sent to the O. J. for publication**
24.	**24/2009**	Interpretation of the provisions of art. 17 par. (1) from Law no. 94/1992 and of the provisions of art. 1 and art. 2 par. (1) and (1^1) from Law no. 490/2004 - PHCCJ	**21.10.2009**	**14.12.2009**	**38/2009**	**Rejected**

25.	**25/2009**	Admissibility of the appeal in certain particular cases - Leading board of the Prosecutor's Office attached to the Court of Appeal Bucureşti - Opinion of PHCCJ	**5.11.2009**	**14.12.2009**	**35/2009**	**Elaborated**
26.	**26/2009**	Admissibility of the revision and of the contestation of enforcement in the case of *res judicata* - PHCCJ - Leading board of the Prosecutor's Office attached to the Court of Appeal Bucureşti	**5.11.2009**	**14.12.2009**	**36/2009**	

Files lodged in 2008 and solved in 2009

No.	File	Subject of the appeal in the interest of the law	Date when the appeal was lodged	Date of decision	Decision	Date of publication/ other information
1.	**24/2008**	Interpretation of the provisions of art. 374^1 from the Code of Civil Procedure and of the art. 61 from the Law no. 58/1934 and art. 53 from the Law no. 59/1934 - PHCCJ	**10.06.2008**	**19.01.2009**	**4/2009**	**O. J. 381/ 04.06.2009**
2.	**30/2008**	Application of the provisions of art. 11 par. (2) from the Law no. 85/2006 - Leading board of the Court of Appeal Cluj	**28.08.2008**	**19.01.2009**	**5/2009**	**Rejected**
3.	**31/2008**	Calculation of judicial rehabilitation term in the case of concurrent offences - PHCCJ	**3.09.2008**	**19.01.2009**	**3/2009**	**O. J. 393/ 10.06.2009**

4.	32/2008	Interpretation of the provisions of art. 728 and of art. 774, art. 775 and art. 896 from the Civil Code - PHCCJ	27.10.2008	19.01.2009	6/2009	O. J. 321/ 14.05.2009
5.	33/2008	Interpretation of the provisions of art. 278 par. (2) and (3) and art. 278^1 par. (1) and (2) from the Code of Criminal Procedure - PHCCJ	29.10.2008	19.01.2009	1/2009	O. J. 418/ 18.06.2009
6.	34/2008	Interpretation of the provisions of art. 290 par. (1) from the Code of Criminal Procedure - PHCCJ	29.10.2008	19.01.2009	2/2009	O. J. 469/ 07.07.2009
7.	35/2008	Interpretation of the provisions of art. 299 and art. 377 from the Code of Civil Procedure - PHCCJ	18.11.2008	16.03.2009	14/2009	Rejected
8.	36/2008	Application of the provisions of art. 160^2 par. (1) and art. 160^4 par. (1) from the Code of Criminal Procedure - PHCCJ	20.11.2008	9.02.2009	7/2009	O. J. 694/ 15.10.2009
9.	37/2008	Interpretation of the provisions of art. 385^9 par. (1) point 18 from the Code of Criminal Procedure - PHCCJ	20.11.2008	9.02.2009	8/2009	O. J. 694/ 15.10.2009
10.	38/2008	Interpretation of the provisions of art. 303 par. (6) from the Code of Criminal Procedure - PHCCJ	20.11.2008	9.02.2009	9/2009	O. J. 694/ 15.10.2009
11.	39/2008	Application of the provisions of art. 391 par. (1) from the Code of Criminal Procedure - PHCCJ	20.11.2008	9.02.2009	10/2009	O. J. 691/ 14.10.2009

12.	40/2008	Interpretation of the provisions of art. 49 par. (4) from the Code of Criminal Procedure - PHCCJ	27.11.2008	9.02.2009	11/2009	O. J. 691/ 14.10.2009

Files lodged in 2010

No.	File	Subject of the appeal in the interest of the law	Date when the appeal was lodged	Date of decision	Decision	Date of publication/ other information
1.	1/2010	Procedure applicable to the requests formulated on the basis of the art. 111 par. (6) from the Emergency Ordinance of the Government no. 195/2002 - PHCCJ	27.01.2010	15.03.2010	1/2010	
2.	2/2010	Quality of injured party or of civil party in the case of the offences provided by Law no. 46/2008 - PHCCJ	28.01.2010	15.03.2010	2/2010	

Statistics on vacant and occupied positions within the judiciary

ANNEX 2

Judges

	VACANT		OCUPIED	
January 1, 2009	leading positions	executive positions	leading positions	executive positions
High Court of Cassation and Justice	1	4	5	111
Courts of appeal	7	0	103	649
Tribunals	34	45	195	1163
District courts	87	166	217	1699
Total	**129**	**215**	**520**	**3622**
July 1, 2009	leading positions	executive positions	leading positions	executive positions
High Court of Cassation and Justice	0	7	6	108
Courts of appeal	12	21	95	631
Tribunals	55	104	173	1107
District courts	112	102	193	1760
Total	**179**	**234**	**467**	**3606**
March 1, 2010	leading positions	executive positions	leading positions	executive positions
High Court of Cassation and Justice	1	8	5	107
Courts of appeal	15	29	91	623
Tribunals	52	85	176	1126
District courts	104	264	205	1595
Total	**172**	**386**	477	3451

Prosecutors

	VACANT		OCUPIED	
January 1, 2009	leading positions	executive positions	leading positions	executive positions
PÎCCJ, DNA, DIICOT	19	36	132	349
Prosecutors' offices attached to courts of appeal	10	10	62	167
Prosecutors' offices attached to tribunals	41	71	129	393
Prosecutors' offices attached to district courts	73	173	156	922
Total	**143**	**290**	**479**	**1831**
July 1, 2009	leading positions	executive positions	leading positions	executive positions
PÎCCJ, DNA, DIICOT	25	72	126	313
Prosecutors' offices attached to courts of appeal	17	27	55	150
Prosecutors' offices attached to tribunals	63	97	107	367
Prosecutors' offices attached to district courts	109	77	120	1018
Total	**214**	**273**	**408**	**1848**
March 10, 2010	leading positions	executive positions	leading positions	executive positions
PÎCCJ, DNA, DIICOT	30	55	114	338
Prosecutors' offices attached to courts of appeal	13	19	59	158
Prosecutors' offices attached to tribunals	43	114	127	350
Prosecutors' offices attached to district courts	60	215	169	894
Total	**146**	**410**	469	1740

Clerks

31st of December 2009	VACANT	OCCUPIED	TOTAL
Courts	237	6624	6861
Prosecutors' offices	91	1541	1632

ANNEX 3

Modifications regarding theTrade Register

I. The context of setting up the administrative control on the legality of the requests for the registration within the Trade Register:

- On 29.12.2009, the Romanian Government adopted the **Emergency Government Ordinance no. 116/2009 on setting up measures regarding the registration activities within the Trade Register** (published in the Romanian Official Gazette no. 926 on 30.12. 2009, Ist part), a normative act aiming at **replacing the judiciary control of the legality** of operations like the registration/ entering various mentions within the Trade Register **with an administrative one**, carried by the managers of the Trade Register Offices and/or by persons appointed by the manager of the National Trade Register Office.
- This legislative act is intended to be **only a stage** within a wider process of modernizing and reforming the system for ensuring the publicity of the information on setting up and functioning of the commercial societies through the Trade Register;
- During the next period (6 months from the entering into force of the EGO no. 116/2009), a new legislative framework on the registration activity within the Trade Register will be drawn up, **maintaining the concept of the administrative control of the legality** at the level of the Trade Register Offices, but giving the competence of exercising this control **to a new professional body, namely the trade registrars;**
- The option for this type of control was imposed by reasons like **simplifying the procedures** due to a commercial activity and **making them more fluid**, as well as by the **necessity of reducing and making more efficient** the trying activity, which is overloaded in the actual socio- economic context;
- At the elaboration of this new legislative framework, the solutions identified by the states where the administrative control is already functioning (Belgium, France, Spain, Sweden, etc.) will be taken into consideration;
- At the beginning of 2010, a team of specialists from the National Trade Register Office, the Bucharest Trade Register Office and from the Ministry of Justice started working on the new regulation regarding the "trade registrars"; in order to identify the best legislative solutions, two working visits were organized so far, one in Spain and one in Moldova; also, the courts were invited to participate in creating the new procedure by sending to the team their input on the transitory provisions currently in force and their recommendations for improving them;
- Currently, a draft of the regulation has been elaborated and is under debate within the working group.

II. Procedure:

1. Jurisdiction:

- As a matter of principle, the jurisdiction for solving the requests for registration within the Trade Register and other types of requests which currently, taking into account the legislation in force, are under the jurisdiction of the delegated judge, will be under **the jurisdiction of the manager of the Trade Register Office attached to the tribunal under whose territorial jurisdiction is the headquarters of the commercial society;**
- Also, from the perspective of the registration activity within the Trade Register, the General Manager of the National Trade Register Office has the possibility to appoint

other persons to accomplish the same tasks as the managers of the Trade Register Offices;
- for certain type of requests/procedures (which currently are under the jurisdiction of the delegated judge, but which actually are jurisdictional attributions, going beyond the sense of the legality control concept) the jurisdiction of the **tribunal under whose territorial jurisdiction is the headquarters of the commercial society was expressly stipulated,** for example:
  - the action for the *ex lege* dissolution of a commercial society (dissolution due to the fact that the period established for the existence of the commercial society has expired; dissolution for the fact that the registration certificate and the fiscal registration certificate were note changed with the new certificate having the unique registration code);
  - the action regarding the appointment of a liquidator, for the situation of a liquidation resulting from the judiciary dissolution of a commercial society;
  - the action on checking up if the required conditions for companies' merging (internal and cross border mergers) are met.

2. Aspects regarding the solutioning procedure:
- the procedure at the Trade Register goes on according to the principles of **a non-contradictorial procedure** ;
- in exercising his/her competences stipulated by the E.G.O no. 116/ 2009, the manager of the Trade Register attached to the tribunal and/ or the appointed person / persons renders resolutions which are ***ex lege* enforceable titles**
- against these resolutions, one can file a complaint at the tribunal under whose territorial jurisdiction is the headquarters of the commercial society, the procedure for contesting the resolutions benefits of the **double jurisdiction degree principle**;
- For solutioning the request, the manager of the Trade Register attached to the tribunal and/ or the appointed person/persons can order an expertise, presenting any other piece of evidence, and parties may also be invited for certain clarifications at the headquarters of the Trade Register.

Observation (within the wider context of the attributions of the Ministry of Justice on ensuring a favorable legal framework for the development of the business environment.):
- For the next period, the elimination of the publicity through the Official Gazzete and the creation of the Trade Register's electronic bulletin are aimed at.

ANNEX 4

Statistics on disciplinary actions and sanctions

Disciplinary actions solved by the Section for Judges July 1st 2009 – March 1st 2010:

No	Disciplinary action (the situation shortly presented)	The decision of the disciplinary Section (the disciplinary sanction)
1.	**Art. 99 lt. H)** It was ascertained that 3 judges didn't enforced the Decision no. LXXVIII/5.11.2007 passed by the High Court of Cassation and Justice when they solved the appeal against the civil decision no. 616/13.02.2008, passed by the Galaţi Tribunal, infringing so the provisions of art.329 of the Civil procedural Code	***The action was dismissed as groundless***
2.	**Art. 99 lt. H)** It was ascertained that a judge carried out the verifications under art. 300^1 of the Criminal procedural code by infringing, due to serious negligence, the procedural provisions, when he solved the criminal cases no. 922/237/2009 and 851/237/2009 pending before the Gura Humorului first instance court. Thus, it was ascertained that the judge did not observed the procedural provisions governing the field of preventive custody/arrest, with respect to the enforcement of the provisions of art. 300^1 of the Criminal procedural Code which regulate the verification of the legality and grounding of the preventive custody/arrest measure imposed to the defendants presented before the court under arrest, in their absence and without summoning them, neglecting to enforce in their case the provisions of art. 159 paragraph 3 of the Criminal procedural Code, although the paragraph 3 of art. 300^1 imposes in a mandatory manner the observance of the guarantees regulated by the mentioned legal provision.	***The sanction rendered in case was the decrease with 15% of the monthly indemnity for a three months period***
3.	**Art. 99 lt. E), h)** It was ascertained that the judge decided recurrent unjustified postponements in cases no. 810 /194/2007, 806/194/2007, 807/194 /2007, administrated the evidence in stages, without ordering the procedural measures in order to enforce the legal provisions which allow the judgments on the merits of the case even if the conditions imposed by the courts were not observed. It was also ascertained that the judge infringed with bad faith the procedural norms in case no. 778/ 194/2008, after supplementing the testimonial evidence with 2 witnesses, the offender presented a list with the names of three witnesses but their addresses were incomplete. Later, the same party requested again the evidence with three witnesses, which was approved by the court without	***The sanction rendered in case was the decrease with 15% of the monthly indemnity for a three months period***

	clarifying if the evidence was additionally requested for the one already approved or it was the same evidence.	
4.	**Art. 99 lt. M)** It was ascertained that, on the 10th of April 2009, the judge considered that he's incompatible to solve the case no. 851/237/2009 and distributed the case manually to the only judge available at that time. The way of manually distributing the case had as consequence the fact that the case' solving was directed to a certain panel, without the observance of the cases' random distribution principle.	***The action was rejected***
5.	**Art. 99 lt. A), j)** It was ascertained that, starting with September 2007, the judge has been working as a judge within the Tribunal of Grand Instance of Paris, but didn't want to abdicate to the office of Romanian judge, reason for which he requested unpaid leave. On the 16th of July 2008, she requested the prolongation of the leave with another 2 years, request which, after several postponements, was declined by Decision no. 34/18.11.2008 of the Leading Board of the Bucharest Tribunal, Starting with the 1st of February 2009, it was ascertained that the judge is absent from the office without justification.	***The action was dismissed as having no object, due to resignation***
6.	**Art. 99 lt. e) and i)** It was also ascertained that, for the first 3 quarters of 2009, the judge has taken the measure of adjourning for a period longer than 28 days the decision's rendering in 73 of the 350 cases, even by exceeding the decision's rendering with 3 months within a significant number of cases. It was also ascertained that, in some cases, after adjourning the decision's rendering for a long period of time, the pending case was restored, grounded on the rejection of procedural exceptions or for supplementing the previous evidence. Thus, it was found that working method adopted by the judge consisting in unjustified and repeated delays in rendering the decision for a significant period of time, in many of the pending cases led to the timing of court proceedings.	***The sanction rendered in case was the decrease with 15% of the monthly indemnity for a three months period***
7.	**Art. 99 lt. g)** It was also ascertained that *the judge* drafted a draft decision opposite to the aspects settled on during the deliberations and that he refused to sign the decision that was edited and signed by the other members of the judicial panel.	***The sanction rendered in case was the decrease with 15% of the monthly indemnity for a three months period***
8.	**Art. 99 lt. h)** It was also ascertained that, for the period January 2008 – July 2009, a number of 48 decisions (37 decisions in civil cases and 11 decisions in criminal cases), of all the decisions rendered by the judge, were subject of appeal procedures and 22 of these decisions	***The sanction rendered in case was the decrease with 15% of the monthly indemnity for a three months period***

	(18 decisions in civil cases and 4 decisions in criminal cases) were annulled by the court of judicial control/review. 6 of the annulled decisions were submitted for being proceeded again as groundless; Regarding the aspect of how the judge has considered/edited the grounds of the decision it was ascertained his negligence and the lack of interest, for a significant number of decisions, at least for observing the rules of justifying a decision, fact that emphasized the obvious lack of interest in rendering the decisions followed by unjustified prolonging the judicial procedures.	
9	**art. 99 para. g), h), j), k)** It was ascertained that the judge has refused, without any reasonable reasons, to take part to the judgement in the cases no. 7653/325/2009, no. 6764/325/2009 and no. 13533/325/2009 form 1st of July 2009, although the judge was present at the court. The second disciplinary offence ascertained by the Commission regarded the fact that the judge has edited the decisions using elements that were not provided by the law and without observing the provisions of art. 305 of the Criminal Procedure Cod, regarding the cases were the judgment's object was the verification of the arrest situation and were the judgement was supposed to be hold within the council chamber. Thus, the judge obliged the clerk to modify the decisions from 24.06.2009, by inserting the following: „President: – Civil Specialization". It was also ascertained for the judge that on 12.06.2009 and on 15.06.2009, when the session in court was scheduled to be hold he was unjustified absent from work The last offence regards the un-collegial/ un-fair attitude of the judge to one of the clerks, an un-proper attitude for his obligation of respect and good-faith, of calm, patience, politeness that a judge should express in his relations with all the persons met will exercising his official duties.	Before the Section – on going
10	**Art. 99 para. i** It was ascertained for the judge that on 01.12.2009, he had a number of 62 decisions to be edited, as the following: a decision rendered in January 2009; 3 decisions rendered in February 2009, 4 decisions rendered in March 2009, 3 decisions rendered in April 2009, 14 decisions rendered in May 2009, 12 decisions rendered in June 2009, 2 decisions rendered in July 2009 and 24 rendered in September 2009	Before the Section – on going
11	**Art. 99 lit. e, i** It was ascertained for the judge that he had un-properly exercised his judiciary duties, that affected the procedural rights of the parties by timing the procedure for the cases assigned to be solved, by repeatedly delaying to render the decision and in some cases by	Before de Section – on going

	non observing the legal provisions regarding the principle of promptly rendering the decisions; concomitantly, it was ascertained that on 11.11.2009, he had a number of unedited decisions 35 out of which e were rendered in April 2009, one decisions was rendered in May 2009, 9 decisions were rendered in June 2009, 13 decisions were rendered in July 2009, 4 decisions were rendered in August 2009 and 5 decisions were rendered in September 2009.	

Disciplinary actions solved by the Section for Prosecutors July 1st 2009 – March 1st 2010:

No.	Disciplinary action (the situation shortly presented)	The decision of the disciplinary Section (the disciplinary sanction)
1.	***Art. 99 lit. a), h)*** It was ascertained that the prosecutor went to Nice- France together with the layer A.F.C. and accepted to have discussions with the defendant S.S. other than within the court's circumstances, without notifying to the leadership of the DIOCTO or to the Public Ministry, therefore creating the appearance of a lack of impartiality that has been generated by the interest of the case prosecutor and by neglecting the legal obligation to retain him/her self from any judicial step and by the manner of understanding to accept the deontological relationship magistrate - layer regulated by the judicial framework. It was also ascertained that the prosecutor, as chief-prosecutor of the Directorate for Investigating Organized Crime and Terrorism Offences – the Central Structure, has refused to apply for appeal against the closure decision of March 14th, 2008, by which the court had revoked the preventive measure rendered for the defendant S.S., although the hierarchical superior prosecutor explicitly requested that; the prosecutor manifested an improper attitude by assigning a prosecutor that did not know the case for motivating the appeal on a very short term, he/she did not consistently express the conclusions regarding the same request submitted by other two defendants, due to the persuasive actions of the defendant S.S. that have been allowed and accepted even within extra-procedural circumstances by the respondent prosecutor accused in this case.	***The sanction rendered in case was exclusion from the magistracy***

2.	***Art. 99 lit. e), h)*** It was ascertained that the prosecutor during the period when he activated as prosecutor within the Prosecutor' Office attached to Buftea Court of First Instance did not carry out in time the penal investigations for 7 cases that had been assigned fort his own activity during 2006 – 2008. It was also ascertained that he exercised his professional duties with gross negligence, meaning the fact that he did not send a number of 9 penal complaints that were assigned on his signature and the fact that these complaints could not be found.	***Warning***
3.	art. 99 lit. a) thesis II It was ascertained that a prosecutor while exercising his duties as first deputy prosecutor has solved a complaint by applying art. 278 of the Criminal Procedure Code Cod, against the ordinance for removal the criminal procedure no. 297/P/2008 of 20.05.2009, took by her husband.	Before the Section – on going

ANNEX 5

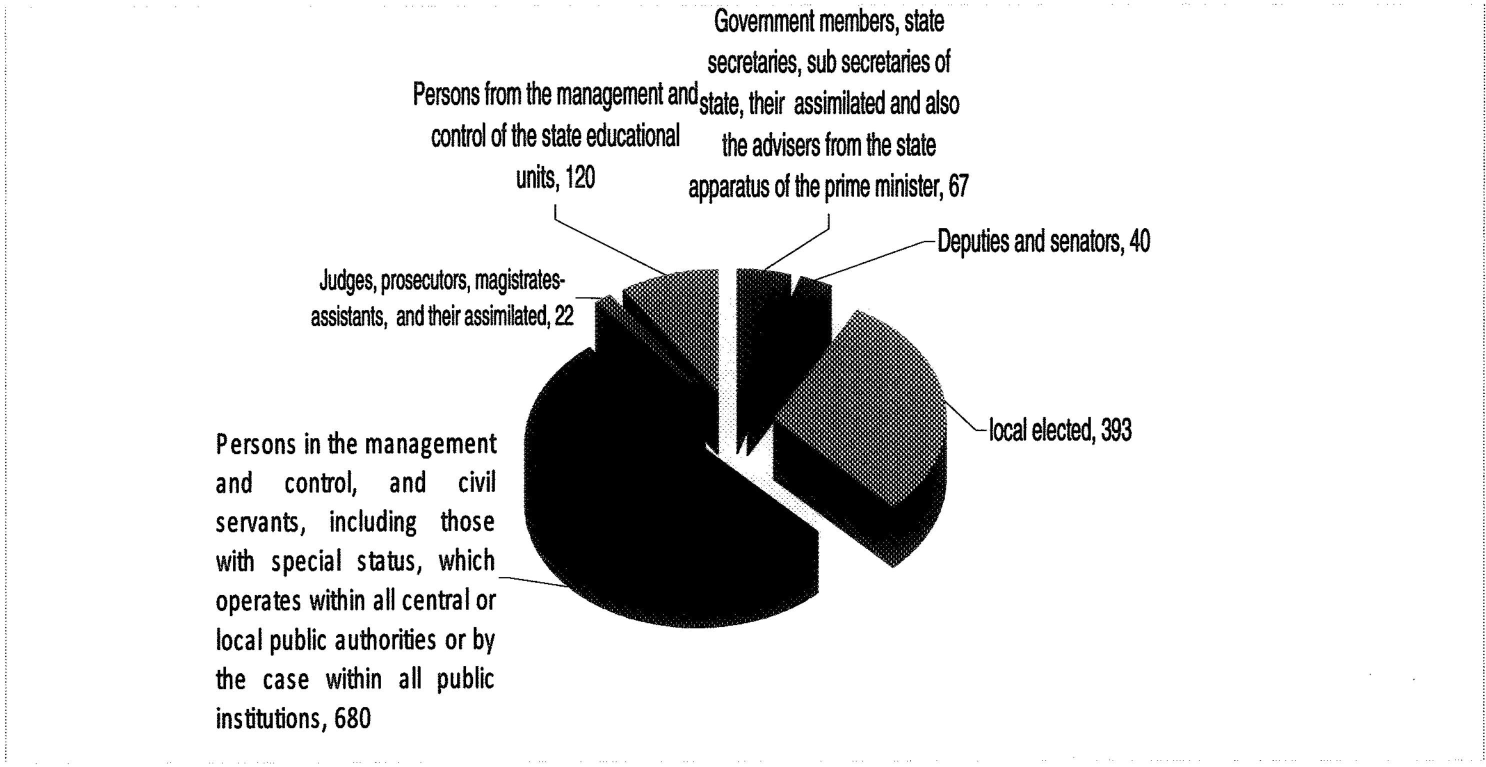
BUDGET

Budgetary components	2009	2010	Dynamic 2009/2010 Increase/decrease (in percentages)
Overall MoJ budget[1] (own administrative apparatus + courts)	1,173,480,000 RON (including the 2009 budgetary rectifications) 278,075,829 EUR[2]	1,620,552,000 RON 384,017,062 EUR	138,10%
Budget alloted to the MoJ administrative apparatus	69,930,000 RON 16,571,090 EUR	102,541,000 RON 24,298,815 EUR	146,63%
Courts' budget			
Overall budget for the courts	1,103,550,000 RON 261,504,739 EUR	1,518,011,000 RON 359,718,246 EUR	137,56%
Investment expenditures for courts	21,760,000 RON 5,156,398 EUR	13,697,000 RON 3,245,735 EUR	62.95%
Personnel expenditures for courts	889,357,000 RON 210,748,104 EUR	1,233,484,000 RON 292,294,787 EUR	138,69%
Budget of the Public Ministry			
Overall budget	560,266,000 RON 132,764,455 EUR	743,112,000 RON 176,092,891 EUR	132,64%
Investment expenditures for prosecutor's offices	27,375,000 RON 6,486,967 EUR	27,375,000 RON 6,486,967 EUR	100,00%
Personnel expenditures for prosecutor's offices	468,862,000 RON 111,104,739 EUR	652,777,000 RON 154,686,493 EUR	139,23%
HCCJ Budget			
Overall budget	69,269,000 RON 16,414,455 EUR	83,701,000 RON 19,834,360 EUR	120,83%
Investment expenditures	350,000 RON	3,000,000 RON	857,14%

[1] The figures referring to the total MoJ budget do not include the budgetary allocations for the National Office of the Trade Register, the National Administration of Penitentiaries, the National Institute of Forensic Expertise, Hospital Prof. Dr. Constantin Angelescu and the Medical Center for Out-of-hospital Diagnosis and Treatment. The overall MoJ budget (including the aforementioned components) amounted to 2,130,533,000 RON in 2009 (namely in December 2009, including the budgetary rectifications throughout the year), respectively to 2,483,458,000 RON in 2010.

[2] The figures have been calculated at a rate of 4,22 RON for 1 EURO.

	82,938 EUR	710,900 EUR	
Personnel expenditures	62,602,000 RON 14,834,597 EUR	71,484,000 RON 16,939,336 EUR	114,19%


Government members, state secretaries, sub secretaries of state, their assimilated and also the advisers from the state apparatus of the prime minister, 67
Persons from the management and control of the state educational units, 120
Deputies and senators, 40
Judges, prosecutors, magistrates-assistants, and their assimilated, 22
local elected, 393
Persons in the management and control, and civil servants, including those with special status, which operates within all central or local public authorities or by the case within all public institutions, 680

ANNEX 6

ANNEX 7

SEISURES

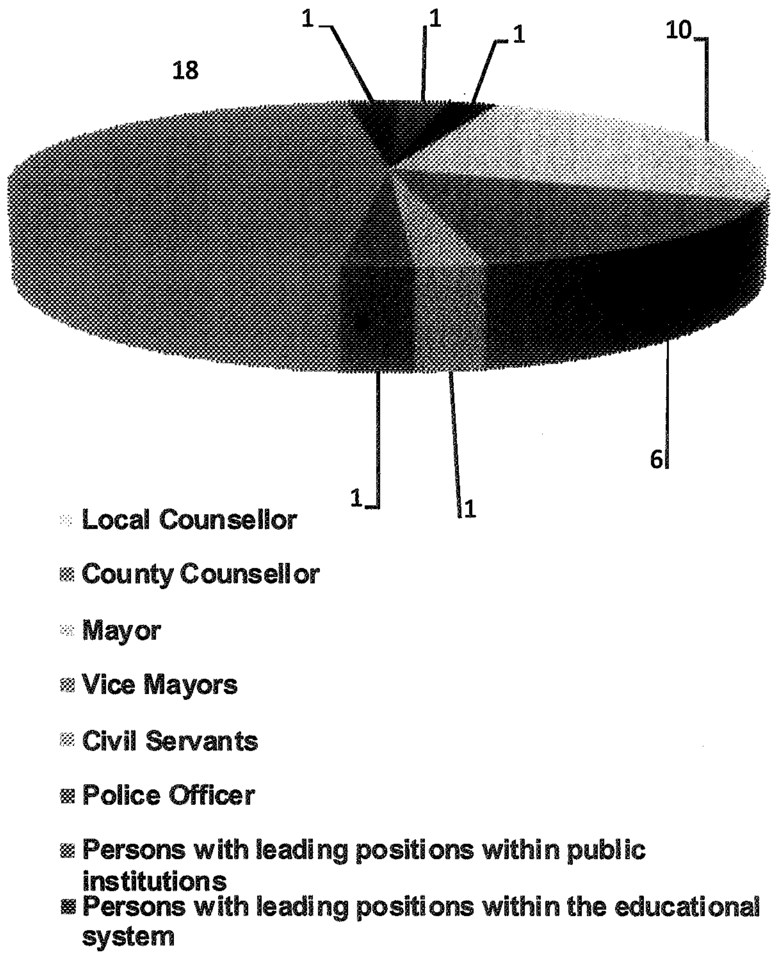
The National Agency of Integrity has requested to the competent trial courts:

- **The seizure of amounts:**
- **4.276.543 EURO**
- **321.417 LEI**
- **501.780 USD.**
- Setting a pro rata of the **wealth unjustly acquired** amounting to **3.049.300 LEI (approx. 745.000 EURO).**

BRADISTEANU SERBAN ALEXANDRU (Former senator)	• Confiscation: 3.595.333 EURO + 500.000 USD • Canceling the medical equipment acquisition contracts: 11.385.889, 58 EURO + economic benefits resulting from the concluding contracts
VLASCEANU GHEORGHE CODRUT (Chief Commissioner within Directorate of driving licenses and vehicle registration)	• Confiscation: 454.805 EURO + 1.580 USD + 145.420 LEI • Establishing a share of unjustified wealth, in the amount of 2.171.109 LEI
VOINEA VASILE (Chief Commissioner within Directorate of driving licenses and vehicle registration)	• Confiscation: 9.750 EURO + 35.400 LEI • Establishing a share of unjustified wealth, in the amount of 878.191 LEI
ZIDARU DANIEL (Deputy Commissioner within Directorate of driving licenses and vehicle registration).	• Confiscation: 61.650 EURO + 9.980 LEI
PROCA TRAIAN (Police officer within Local Community Public Service Person records of Campulung Muscel)	• Confiscation: 130.617 LEI, 65.005 EURO şi 200 USD
OPREA DUMITRU (senator, former Rector of "Alexandru Ioan Cuza" University from Iasi)	• Confiscation: 90.000 EURO
TOTAL:	• Confiscation: 4.276.543 EURO, 321.417 LEI, 501.780 USD • Establishing a share of unjustified wealth, in the amount of 3.049.300 LEI

ANNEX 8

Functions of persons to whom the incompatibility was ascertained



ANNEX 9

Solutions issued by the Discipline Committees

4	early termination of the county/local consellor term
3	the investigated person is sanctioned with a verbal warning
2	cases where revocation from public office was ordered
1	suspension of the investigations of the Disciplinary Board within the institution notified by ANI and notification of the criminal investigation bodies
1	reduction of salary rights for one month
1	enforcement of disciplinary sanctions with no communication to the Agency as to the enforced sanction
1	refusal to enforce the disciplinary sanctions

ANNEX 10

Final convictions
01.06.2009 – 01.03.2010

No.	Position of the defendant	Conviction	Duration of investigation (starting with the date when the notification was registered)	Duration of the trial at the courts
1	1 Fiscal inspector	3 years imprisonment with controlled suspension of execution	1 year 6 months 9 days	2 years 4 months
2	1 Customs employee	1 year and 6 months imprisonment with conditioned suspension of execution	5 months 5 days	1 year 2 months
3	1 Chief of service at the Ministry of Finance	2 years and 6 months imprisonment with conditioned suspension of execution	9 months and 2 days	9 months
4	1 Responsible with implementation EU Programs	2 years and 6 months imprisonment with controlled suspension of execution	1 year 10 months and 20 days	1 year and 6 months
5	1 Director of National Railway Company	3 years imprisonment with conditioned suspension of execution	3 months	1 year and 5 months
6	1 Officer of the Ministry of Interior	3 years imprisonment with conditioned suspension of execution	4 months and 12 days	1 year and 1 month
7	1 General of the Ministry of Defence and 1 director of a football club	3 years imprisonment with conditioned suspension of execution each of them	9 months and 9 days	2 years and 9 months
8	1 Officer of Ministry of Defence and 2 civilians	3 years imprisonment with conditioned suspension of execution each of them	2 years and 4 days	1 year and 5 months
9	1 prosecutor	10 months imprisonment	23 days	4 months and 13 days
10	1 Officer of Ministry of Interior and 1 civilian	The officer – 1 year and 10 months imprisonment The civilian - 1 year imprisonment with	16 days	7 months and 13 days

		conditioned suspension of execution		
11	1 Officer and 1 Sub-officer of the Ministry of Interior	The officer - 2 years and 6 months imprisonment The sub-officer – 2 years imprisonment	22 days	2 months
12	1 Officer of Ministry of Interior and 1 lawyer	The officer – 1 year imprisonment with conditioned suspension of execution The lawyer - 9 months imprisonment with conditioned suspension of execution	1 year 9 months and 21 days	1 year 10 months and 23 days
13	1 Administrator and 1 director of National Company	10 imprisonment each of them	2 month and 24 days	2 years and 8 months
14	1 customs employee and 1 employee of a customs errand company	1 year imprisonment with conditioned suspension of execution each of them	2 months and 3 days	2 years and 11 months
15	1 officer of the Ministry of Defence	3 years imprisonment with conditioned suspension of execution	3 months and 23 days	1 year and 3 months
16	Director National Company	3 years imprisonment	25 days	4 years
17	1 officer of the Ministry of Defence	1 year imprisonment with conditioned suspension of execution	8 months and 5 days	1 year and 7 months
18	1 judge and 1 administrator of a company	The judge – 2 years and 6 months imprisonment administrator- 1 year 1 month imprisonment	27 days	1 year and 2 months
19	1 administrator of a company	3 years imprisonment with controlled suspension of execution	4 months and 10 days	1 year and 4 months
20	1 Officer and 1 Sub-officer of the Ministry of Interior	The officer - 3 years and 6 months imprisonment with controlled suspension of execution each of them	19 days	7 months
21	Chief of Control Department of a County Prefecture	3 years imprisonment with conditioned suspension of execution	2 years 1 month	2 years
22	1 Officer of the Ministry of Interior and 1 unemployed	3 years imprisonment each of them	9 months and 1 day	4 months and 7 days
23	1 Director of a National Company and 1 Administrator of a company	2 years imprisonment with conditioned suspension of execution		
24	1 Officer of Ministry of Interior	3 years imprisonment	1 year 9 months 12	1 year

			days	
25	1 administrator of a company and 3 civilians	The administrator - 4 years imprisonment with controlled suspension of execution 2 civilians – 3 years imprisonment with controlled suspension of execution 1 civilian – 2 years imprisonment	1 year 5 months 4 days	2 years 7 months 14 days
26	1 Officer of the Ministry of Interior	3 years imprisonment	8 months 4 days	1 year 6 months
27	1 Officer of the Ministry of Interior	5 years imprisonment	3 months 26 days	1 year 4 months
28	1 administrator of a company	3 years imprisonment with conditioned suspension of execution	8 months 19 days	1 year 3 months 14 days
29	1 Mayor	1 year imprisonment with conditioned suspension of execution	1 month 17 days	2 years 10 months
30	Inspector of the State Inspectorate for Constructions	3 years imprisonment with conditioned suspension of execution	1 month 12 days	1 year 9 months
31	Officer of the Ministry of Defence	3 years imprisonment with controlled suspension of execution	6 months 15 days	9 months
32	1 administrator of a company	3 years imprisonment with controlled suspension of execution	1 year 9 months 28 days	5 months 14 days
33	1 judge	2 years imprisonment with conditioned suspension of execution	13 days	3 years
34	2 Sub-officers of the Ministry of Interior	3 and respectively 2 years imprisonment with conditioned suspension of execution	1 month 2 days	1 year 5 months
35	1 public finance inspector 1 economist 2 unemployed 4 administrators of company	All except the unemployed - 3 years imprisonment with controlled suspension of execution each of them The unemployed – 2 years imprisonment with controlled suspension of execution each	5 months 3 days	4 years 9 months 14 days
36	1 Officer Ministry of Interior 1 company administrator	The officer – 3 years imprisonment The administrator – 4 years imprisonment	1 year 3 months 23 days	2 years 5 months

37	2 inspectors of the Council of Mayor's House Bucharest	3 years imprisonment with controlled suspension of execution each of them	1 month 29 days	1 year 3 months
38	1 superior counsellor at Direction for Agriculture and Rural Development 1 administrator of company	The counsellor - 3 years imprisonment The administrator – 1 year 6 months imprisonment with conditioned suspension of execution	1 month 29 days	2 years 2 months
39	Customs employee	3 years imprisonment with controlled suspension of execution	2 months 3 days	1 year 3 months
40	1 Chief prosecutor 1 police sub-officer	3 years imprisonment with controlled suspension of execution each of them	8 months 5 days	1 year 9 months
41	1 unemployed	4 years 6 months imprisonment	2 months 27 days	2 years 5 months 14 days
42	1 mayor 1 company administrator	3 years imprisonment with controlled suspension of execution each of them	1 year 1 month 4 days	1 year 1 month
43	Commissar of the Financial Guard	2 years and 10 months imprisonment with controlled suspension of execution	8 months 10 days	3 years 4 months
44	Officer of Ministry of Interior	3 years and 6 months imprisonment	3 months 1 day	8 months
45	1 mayor 1 public functionary	The mayor – 5 years imprisonment The functionary – 3 years imprisonment	25 days	1 year 11 months
46	Commissar of the Financial Guard	2 years and 6 months imprisonment	4 months 16 days	1 year 9 months 14 days
47	2 administrators of companies	3 months imprisonment with conditioned suspension of execution	3 months 15 days	3 years 10 months
48	4 administrators of companies	4 months imprisonment with conditioned suspension of execution each of them	1 month 5 days	5 years 1 month 14 days
49	1 administrator of company	2 years imprisonment	1 month 14 days	4 months and 14 days
50	Director within the Mayor's House Bucharest	3 years imprisonment with conditioned suspension of execution	5 months 21 days	11 months
51	1 officer of the Ministry of Interior	4 years imprisonment with controlled suspension of execution	22 days	3 months 14 days
52	1 mayor	3 years 6 months imprisonment	28 days	2 years 14 days

	1 vice mayor			
53	President of the National Association of Rural Tourism	3 years imprisonment with controlled suspension of execution	5 months 21 days	2 years 6 months 20 days

ANNEX 11

Follow-up to the recommendations set forth by the Working Party for drafting the Study on the individualization of penalties applied by the courts for corruption offences

I. Detailed analysis concerning the follow-up to the recommendations:

R1 - A normative act should be promoted shortly in order to achieve significant reduction of the possibility for courts to apply conditional suspension or suspension under surveillance of the penalty execution

- *Not accomplished.*
- The MoJ re-evaluated the opportunity of promoting such a modification at this point in time, taking into consideration the fact that the new Criminal Code of Romania was adopted by the Parliament of Romania and published in the Official Journal, Part I no. 511 of 24 july 2009 - Law 286/2009.
- The new Criminal Code maintain the institution of suspension under surveillance of the penalty execution, which can be disposed if the penalty is maximum 3 years of prison. According to the actual regulation, the suspension under surveillance of the penalty execution, can be disposed if the penalty is maximum 4 years of prison. The decrease of the maximum for which can be disposed suspension under surveillance of the penalty execution lead to the limitation of the possibility to dispose suspension under surveillance of the penalty execution.

R2 - The Criminal Section of the High Court of Cassation and Justice should pronounce a judgement in a case that allows a detailed analysis of the elements for penalty individualization, based on the above criteria, and this judgement should be a guide to the prosecution offices and to the courts

- *Not accomplished.*
- The delivering of such guiding decisions by the High Court of Cassation and Justice depends on recourses referred to the Supreme Court.

R3 - The court meetings regarding non-unitary practice should discuss the issue of the individualization of penalties and of their execution regarding corruption offences, in order to achieve unitary practice

- *Accomplished.*
- The issue was discussed during the meetings of the Commission for the Unification of Jurisprudence within the CSM

R4 - The procedural provisions should be amended regarding the competence of courts, in order to remove the competence of first instance courts to hear cases regarding corruption offences or offences equated to them

- *Accomplished.*
- The relevant provisions of the draft new Criminal Procedure Code were modified in accordance with this recommendation.

R5 - The efficiency of administrative steps needs to be enhanced regarding the setting up of specialised panels and the random assignment of corruption cases, including the amendment of the Interior Regulation of courts

- An evaluation concerning this recommendation cannot be carried out at this moment, because the measure is envisaged to be included in the future Strategy for the Development of the Judiciary.

R6 - Increasing the number of in-service training courses for judges and public prosecutors held by the National Institute of the Judiciary in the field of "Fighting corruption" and concerning the individualization of penalties, and implicitly providing the funds needed for such activities

On going
The Training Program of the National Institute of Magistracy for 2010 includes 16 training actions, out of which:

- 5 seminars regarding the methodology of investigating corruption offence provided within a project carried out together with the Public Ministry, for 125 magistartes;
- 6 seminars on the professional training of 60 judges and 30 prosecutors for enhancing and disseminating the guidelines of best practices for identifying and investigating corruption offences that will be elaborated within the Program of the National Anticorruption Directorate "Strengthening the investigation capacities of the National Anticorruption Directorat ";
- 4 workshops for 20 judges and a conference for 50 judges and prosecutors with specialization in the field of investigating and solving cases of serious corruption to be organized within the Program "Support for sharing best practices in the field of investigating and solving serious corruption cases" for the Ministry of Justice and Citizenship Liberties and the Public Ministry, as main beneficiaries.

R7 - Legislative modification for removing the compulsory nature of the suspension case in the situation in which the Constitutional Court is notified with a non-constitutional exception

- *Ongoing*
- MoJ currently supports the "Urban initiative", which sets forth the same legal solution as the one envisaged in the MoJ draft (the latter was approved by the Government in July 2009, but it was not sent to the Parliament for adoption due to the two parliamentarian initiatives that emerged after the date of the approval of the MoJ draft by the Government).
- Current stage: both parliamentarian initiatives have been adopted by the Chamber of Deputies through tacit procedure.

R8 - The amendments brought to the Art. 44 of Criminal Procedure Code in order to allow the criminal panel to render decisions regarding any previous matters or illegality exceptions on which depends the solution of case even if by their nature they are under the jurisdiction of other courts. At the same time the dispositions of Art. 4 in Law 554/2004 of the administrative Contentious should be amended on the same direction

- *Not accomplished.*
- The MoJ re-evaluated the opportunity of promoting such a modification at this point in time, taking into consideration the fact that the procedure for adopting the new

Criminal Procedure Code is currently ongoing and is covering this topic. The dispositions of art.4 in Law 554/2004 could be amended in the Law of implementing the new criminal codes.

R9 - Drafting a guide on how to individualize the penalties applied by courts for corruption offences

- *Ongoing*
- The SCM Plenum took note of the content of the Draft Guide in its meeting of December, 17th 2009 (point 37642/1154/2009 of the agenda);
- The draft guide is available on the HCCJ official web page: http://209.85.129.132/search?q=cache:oZdTmrKCnKMJ:www.scj.ro/Individualizarea%2520judiciara%2520a%2520pedepselor%2520aplicate%2520pentru%2520infractiunile%2520de%2520coruptie.doc+ghid+individualizare+pedepse+inalta+curte&cd=1&hl=de&ct=clnk&gl=ro

  The Draft Guide was communicated to the presidents of all courts of appeal.

  The Twinning light project was envisaged to elaborate and launch for debates the Guide. Do to the fact that the project was not contracted, the Draft Guide was elaborated by the HCCJ.

II. Overall evaluation:

Out of the 9 recommendations set forth in the Study on the individualization of penalties applied by the courts for corruption offences:

- ✓ **2 recommendations** were ***accomplished*** (R3 + R4);
- ✓ **3 recommendation** is ***ongoing*** (R6 + R7 + R9);
- ✓ **3 recommendations** have ***not been accomplished*** (R1 + R2 + R8);
- ✓ **1 recommendation** ***cannot be evaluated at this point in time*** (R5).

ANNEX 12

Outcome of the AID – IMAS 2009 nation wide survey on corruption within the health system

The research aimed at finding out the opinion of the public on the corruption within the Romanian health sector. 1249 people took part to the interview. The representativeness is for people over 18 years old in Romania.

- Regarding the corruption within the health sector, 90% of the respondents perceive this phenomenon as a fundamental and severe issue of the health system. It affects directly the patients, while 10% of the respondents deem the issue as unimportant.
- Most of the interviewed people consider that both the patient and the doctor are responsible for offering, accepting respectively, bribe (64%). 26% of the respondents blame rather the doctor for accepting the bribe, while 9% of them blame the patient for giving bribe to the medical staff.
- With respect to the relation between the amount of money given for medical service and the way the patient is treated, most of the subjects (85%) consider that the money given to the medical staff influence to great and very great extent the medical services provided.
- From the total number of the respondents, 63% of them stated that they had offered money to the specialist in return to his medical services, as well as to the nurse (42%) and to the auxiliary medical staff (30%); only 22,5% state that they offer money to their family practitioner (the latter probably receives rather gifts from the patients, according to other sociological studies).
- Amongst the people stating that they had offered money to the medical staff (818 respondents out of 1249), 64% say that they did it without having been suggested to them by the medical personnel, while 36% of them say they have been suggested to do so. Also, more than half of the respondents think that the bribe should be replaced by a system of paying for the service or of a donation to the health centre.
- The annual bribe to the medical staff is less than 50 RON for 32% of the respondents, between 50 and 200 RON - 26%, between 200 and 500 RON – 11%, more than 500 RON - 8%, while 21% of the respondents say that they have never given money to the medical staff.
- With respect to the amount of money offered to the last medical examination, 19% respectively 21% of the respondents say that they had offered less than 20 RON to the auxiliary medical staff and to nurses, 14% of them say they had offered up to 60 RON to the family doctor, while 80% of them stated that they had not given him any money. As far as the specialist is concerned, 24% of the respondents say that they had given him money between 20 and 60 RON, and 23% of them say they had offered him more than 60 RON.
- 41% of the respondents say that they know cases when the medical staff conditioned their medical examination on money from the patient or from his family.
- Both the people that blame medical staff for accepting bribe and the people who think the patient is responsible for offering it (88%) think that there should be some ways of checking upon medical staff, so that they should be sanctioned and even dismissed from the health system when they condition the medical examination thereof in exchange for money.

Information referring to solved corruption cases - comparison between the semesters of the year 2009 ANNEX 13

County	SECOND SEMESTER OF 2009							FIRST SEMESTER OF 2009						
	The manner of notification			Solutions				The manner of notification			Solutions			
				Indictments								Indictments		
	Ex officio notification	Denunciation	Complaint	Total	Ex officio notification	Solutions of not sending to trial	Total number of solutions	Ex officio notification	Denunciation	Complaint	Total number of solutions	Total	Ex officio notification	Solutions of not sending to trial
Alba *	9	11	4	4	2	20	24	4	2	2	8	0	0	8
Arad	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Argeş	9	10	16	4	0	31	35	0	0	0	0	0	0	0
Bacău	4	8	1	1	0	12	13	3	0	0	3	0	0	3
Bihor	0	0	0	2	0	0	2	1	1	0	2	2	1	0
Bistriţa-Năsăud	4	3	4	0	0	11	11	3	6	4	14	1	0	13
Botoşani	3	2	2	0	0	7	7	1	2	1	6	1	0	5
Braşov *	9	14	12	2	0	33	35	12	7	4	23	0	0	23
Brăila	0	1	0	1	0	0	1	1	2	0	3	0	0	3
Bucureşti	25	50	14	15	3	74	89	18	37	11	66	1	0	65
Buzău	7	6	3	1	0	15	16	6	7	6	19	1	0	18
Caraş-Severin	32	22	12	4	0	62	66	0	0	1	1	0	0	1
Călăraşi	5	1	2	0	0	8	8	8	5	3	16	2	0	14
Cluj *	3	11	1	1	1	14	15	6	11	4	21	3	1	0
Constanţa	18	15	6	4	0	35	39	9	17	7	32	1	0	31
Covasna	4	1	0	2	1	3	5	3	5	2	10	4	0	6
Dâmboviţa	0	2	0	2	0	0	2	0	9	1	10	1	0	9
Dolj	11	11	2	2	1	22	24	15	21	5	41	0	0	41
Galaţi	8	21	1	2	2	28	30	16	19	2	37	2	0	35
Giurgiu	0	2	0	2	0	0	2	0	0	0	0	0	0	0
Gorj	4	24	5	4	0	29	33	31	13	8	52	4	0	48

Harghita	17	19	1	4	1	33	37	0	0	0	0	0	0	0
Hunedoara	8	9	6	4	2	19	23	7	4	2	13	8	5	5
Ialomița	0	2	2	0	0	4	4	2	1	0	3	2	1	1
Iași *	8	16	15	6	2	33	39	3	2	1	6	2	0	4
Maramureș	9	6	1	1	1	15	16	3	11	1	17	2	0	15
Mehedinți	8	11	0	2	0	17	19	7	16	0	21	2	0	19
Mureș	0	5	0	2	0	3	5	5	14	0	19	1	0	18
Neamț	6	8	1	0	0	15	15	2	7	0	9	1	0	8
Olt	17	11	5	1	0	32	33	18	8	0	26	1	0	25
Prahova	9	8	2	1	0	18	19	6	4	0	10	1	1	9
Satu Mare	10	21	8	5	2	34	39	0	0	0	0	0	0	0
Sălaj	10	5	13	3	2	25	28	4	5	0	9	3	3	6
Sibiu	15	14	7	3	0	33	36	0	0	0	0	0	0	0
Suceava	3	5	4	1	0	11	12	4	3	0	8	1	1	7
Teleorman	7	15	1	4	1	19	23	0	0	0	0	0	0	0
Timiș *	8	17	11	3	1	33		5	6	3	14	0	0	14
Tulcea	7	8	8	0	0	23	23	0	1	0	1	0	0	1
Vaslui	7	10	5	5	0	17	22	5	14	2	21	6	0	15
Vâlcea	9	10	1	2	0	18	20	4	15	0	19	2	0	17
Vrancea	11	10	2	1	0	22	23	11	15	2	28	1	0	27
Total	324	425	178	101	22	828	927	223	290	72	588	56	13	514