

**THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY  
ROMANIA**

**ARTICLE 7 UNCAC**

**PUBLIC SECTOR**

**ROMANIA (EIGHTH MEETING)**

- *Establish and strengthen systems to ensure transparency and accountability in the recruitment, hiring, retention, promotion and retirement of public officials in criminal justice institutions, including whether specific procedures exist for the recruitment and hiring of senior officials in criminal justice institutions, if they are different from other civil servants;*

Developing a culture of transparency is the first general objective of our National Anticorruption Strategy. Each of the institutions took their own measures to ensure public information regarding the vacant job positions and how they can be occupied, the retention, the promotion and the retirement.

One of the most useful measures to ensure transparency is to regulate the steps of the contests and the promotion or retirement possibilities.

For example, judges and prosecutors are part of a single body of so-called magistrates.

The career of magistrates is organised by Law 303/2004 on the Statute of judges and prosecutors. The admission to the position of magistrate can only be the result of an open competition organised by the National Institute of Magistracy (NIM). The candidates are examined in writing on specific legal matters, they undergo a test of logic and are interviewed, they also undergo a psychological examination. To participate in the examination, the following pre-conditions must be met: a) Romanian citizenship, permanent residence in the country and full legal capacity; b) law degree; c) no criminal and fiscal record and enjoying a good reputation; d) mastering the Romanian language; e) medically and psychologically fit to exercise the office (article 14 paragraph 2 of the above law).

Exceptionally, depending on the needs of the system, judges may be selected through an open competition directly for some positions in first level courts opened for competition for judicial practitioners such as specialised judicial personnel, lawyers, notaries, police officers with higher legal education, court clerks with higher legal education etc. They must have served for at least five years within the legal field concerned. The competitions follow the same pattern as the ones organised to enter the NIM, but once the exam passed, the candidates have to follow only a certain period of training and they are appointed by the President of Romania at the proposal of SCM at certain first level courts.

In Romania, there is a unique body of professional judges. In higher courts, once promoted, as a result of their activity, judges become more specialised in certain areas such as criminal, administrative, civil, or intellectual property matters.

After the initial training and graduation at the NIM, magistrates are appointed by

the Superior Council of Magistracy (SCM) as junior magistrates-trainees. After completion of another year of practical work, they must then take the capacity exam. Once the exam is passed, the SCM submits a proposal to the President of Romania to appoint them as magistrates. The President cannot reject a proposal more than once, with a reasoned decision. If the SCM maintains its proposal, it has to support the renewed proposal with explanations.

Any career advancement for a magistrate can only take place after a successful examination or competition organised by the SCM through the NIM, and under the conditions set forth by the law (articles 42 to 56 of Law 303/2004): evaluation of documentation, interview with the plenum of the SCM, written examination. These are organised annually at the national level following a public announcement of vacancies and the competition, or at any moment depending on the needs and the number of vacant posts to be filled. Further conditions include a "very good" mark in the last appraisal, and conditions of length of service in the current position - 5, 6, 8 or 12 years depending on the case. These conditions also apply for promotions to the positions of president and vice-president of the various courts and tribunals, including the court of appeal and the High Court of Cassation and Justice (HCCJ).

Regarding the dismissal of judges and prosecutors, it is governed by art. 65 of Law no. 303/2004 for the following cases: a) resignation; b) retirement law; c) transfer to another according to the law; d) professional incapacity; e) as a disciplinary sanction; f) sentencing and conditional sentence ordered by a final decision; f1) waiver of prosecution and penalty waiver ordered by final decision if it considered that it should be retained in office; g) breach of art. 7 on additional prohibitions express (e.g. the activity of his involvement in the business through an intermediary); h) failing the entrance exam in their careers; i) that the conditions laid down in art. 14 para. (2) a), c) and e) (see above conditions of recruitment).

Termination of service is regulated under article 65 of Law 303/2004, and foreseen in the following cases: a) resignation; b) retirement, according to the law; c) transfer to another office, according to the law; d) professional incapacity; e) as a disciplinary sanction; f) final conviction or the postponement of the application of the penalty of the judge or prosecutor for an offence; f 1 ) dropping of the criminal investigation or of the application of the penalty established by a final decision, when it was decided that remaining in office would not be appropriate; g) violation of the provisions of art.7 on the additional explicit exclusions (e.g. acting as an arbitrator, getting involved into a business through an intermediary); h) failure to succeed in the examination to enter the career of magistrate; i) failure to meet the requirements provided by art.14 paragraph (2) letters a), c) and e) (see recruitment requirements above).

The removal of a magistrate from his/her office is decided by the SCM, with the formal endorsement by decree of the President of Romania. The removal from office of junior judges and prosecutors is the sole responsibility of the SCM. A special regime is applicable to military judges and prosecutors.

The above decisions of the SCM must be motivated and can be appealed with the SCM on points of law, and subsequently with the High Court of Cassation and Justice.

The Anti-corruption General Directorate (AGD), structure responsible for preventing corruption within MoIA (Ministry of Internal Affairs), is focused on preventive training of the commission's members and the HR structures on the occasion of promotion

contests of the police agents, contests for recruitments from external source, for contracted personnel, and admission contests for Police Academy and schools for police agents.

The right to retirement and social security of police officers and gendarmes is regulated by Law no. 223/2015 on state military pensions, published in the Official Journal no. 556 of 27 July 2015 amended and supplemented. The primary legal standard describes the categories of pensions that compose the military retirement state system, respectively: service pension, disability pension and survivor's pension and the conditions required for the personnel in order to benefit from this right (for example, the standard retirement age, years in service, length of service, etc.).

The transparency principle is also assured through "social medial" outlets. For example, the National Administration of Prisons (NAP) has a Facebook page named "Admission NAP" through which interested parties may post any complaints regarding suspicions that might have resulted from their experience with the examination process. This allows NAP to take immediate action to correct any discrepancies.

With regard to the civil servants within the National School of Clerks, they exercise their duty in accordance with the Law no. 188/ 1999 regarding the Status of the civil servants, republished, as further amended. The recruitment and evaluation of the civil servants is made in accordance with the Law no. 188/1999.

At the level of the National School of Clerks, operational procedures relating to the recruitment and the evaluation of the individual professional performance of the civil servants are drawn up, in accordance with the legal provisions, thus:

- the procedure relating to the recruitment of civil servants approved by the Decision no. 30/2016 of the Director of the National School of Clerks.
- the procedure on the evaluation of the individual professional performance of the civil servants approved by Decision no. 29/2016 of the Director of the National School of Clerks.
- the promotion of civil servants is carried out in accordance with the provisions laid down in the Government Decision no. 611/2008 for the approval of the rules relating to the organization and career development of civil servants, with subsequent amendments and supplements and the Law no. 188/ 1999 regarding the Status of civil servants.

With regard to the contractual staff within the School, they carry out their duties under the provisions of the Labour Code.

The recruitment of the contractual staff within the School and the promotion of it is carried out according to the Government Decision no. 286/2011 approving the Framework Regulation of 23.03.2011 laying down the general principles of the employment of a vacant post or temporarily vacant post correspondent to the contractual functions and the criteria for promotion in degrees or in professional steps immediately above of the contractual staff within the budgetary sector paid from public funds.

- *Implement adequate procedures for the selection and training of individuals for positions considered vulnerable to corruption and the rotation of such individuals to other positions*

Each institution chooses what procedures it considers adequate.

For example, in the Ministry of Internal Affairs, the prevention activities are conducted, at the central level, by the Prevention Department within the AGD and at the territorial level by the designated officers within AGD's anti-corruption territorial structures (in each county and in Bucharest).

Anti-corruption informing activities last at least 30 minutes and are conducted in order to present the latest information regarding the prevention, countering corruption and the legislation in force in this field. AGD permanently conducts informing activities of the personnel on deontology and ethics:

- In 2015, at the national level, AGD officers organized in the ministry of internal affairs structures 1932 informing activities to which attended 40.637 employees, 6314 with leading positions and 34.323 with executive positions.
- In 2016, AGD conducted 1.893 preventive sessions to which 55.018 MoIA employees attended 10.707 with leading positions and 44.311 with executive positions.

The objective of these activities was to raise the interest, motivation and the involvement of the participants, having as a main objective the reduction of the corruption deeds committed by MoIA personnel.

Materials regarding the ethics and professional behaviour:

- Following the elaboration of the new Anti-corruption Guide on 9 December 2014, on the occasion of the International Anti-corruption Day, AGD conducted, at national level, anti-corruption campaigns in order to promote this guide. At the central of the MoIA structures/general inspectorates, 55 activities were conducted and attended by 1899 employees. The guide was printed in 5000 copies in Romanian and 500 copies in English.
- Every semester, AGD elaborated and disseminated, to MoIA structures, 500 copies of the Informing Bulletin entitled Integrity, which comprises information on preventing and countering corruption.
- Every 3 months, syntheses are drafted on preventing and countering corruption activities conducted by AGD, documents which are disseminated to MoIA units.
- With support from CENTRAS and with the consultation of MoIA, a publication was elaborated, entitled Informing Guide addressed to the citizens who relate to MoIA personnel. The Guide was printed in 7000 copies and was disseminated to MoIA units and AGD's territorial units which work with the citizens.
- Within a EU funded project entitled United against Corruption, a Best Practices Guide on preventing and Countering Corruption was elaborated, addressing this topics in Romania, Bulgaria and Latvia.
- 1000 copies of the National Anti-corruption Strategy 2016-2020, printed by the Ministry of Justice, were disseminated in 2017, to the leadership of MoIA and to the main MoIA institutions, as well as to AGD's territorial units.
- In 2017, 200 banners with preventive messages were placed (by AGD's prevention officers) on the buildings of MoIA's structures, at central and territorial level. The objective is to raise the citizens' awareness on issues afferent to corruption and to promote the green line 0800.806.806 and other means to report on corruption deeds. By the end of this year, all the counties will be covered.

The NAP grants a special importance to training its employees that may be exposed to corruption based vulnerabilities. In this regard, for the upcoming three years, the NAP

has planned a number of courses and activities revolving around anti-corruption for new employees (no matter their positions), personnel that interact directly with the inmates, personnel involved in procurement and in financially managing projects funded through European non-refundable finances.

All NAP employees have access to training through the internal e-learning platform. In the last years, the platform hosted a number of topics of interest on the subject of preventing corruption: the integrity counsellor, the mechanism behind employees signalling corruption acts, conflicts of interest and incompatibilities declarations of assets and interests, the deontological code for public functionaries with special status, corruption crimes and their consequences.

#### **Annex to the Romanian Note Verbale no. 1024**

The recruitment of the prosecutors of the Directorate for Investigating Organized Crime and Terrorism (DIICOT) follows the criteria and procedures expressly provided in art. 79 of the Emergency Ordinance of the Romanian Government no. 78/2016 for the organization and functioning of the DIICOT, as well as for the modification and completion of some legislative acts.

According to art. 10 of the same Emergency Ordinance, the function of the prosecutor within the Directorate (DIICOT) is incompatible with any other function, be it public or private, with the exception of the academic/teaching functions in the higher education system.

At the same time, the DIICOT prosecutors have the same incompatibilities and interdictions as for the magistrates, enshrined in the Romanian Constitution, Law no. 303/2004 of the status of judges and magistrates, Law no. 161/2003 on the measures to ensure transparency in the exercise of public functions/dignities, of public functions and in the business environment, the prevention and punishment of corruption, but also Law no. 62/2011 on the social dialogue.

# **THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY ROMANIA**

## **ARTICLE 7 UNCAC**

### **PUBLIC SECTOR**

#### **ROMANIA (SECOND MEETING)**

A Government Decision from 2003 improved the system of recruitment of the civil servants, introducing two forms of career advancement: promotion to higher public offices and progress in pay grades. The respective act provided for the evaluation criteria of the individual performances of the civil servants, amongst which their proper conduct while carrying out their duties. This Decision followed a similar normative act that had established, in 2001, the evaluation methodology of the civil servants' performances.

In addition, in 2004, a new form of promotion in the public office was introduced through the establishment of the position of public manager, which was meant to speed up the process of career advancement for the civil servants who had that position.

Considering the Act on the statute of civil servants itself, it was amended several times since its adoption in 1999. For instance, in 2006 and 2007 the recruiting system for the high civil servants was changed: recruitment would take place on the basis of a national competition and would fall in the responsibility of a permanent independent commission, composed of seven members appointed by the Prime Minister. In the current form (as of 2011), the Act provides for a system of recruiting of civil servants based on competition. The underlying principles are the free competition, transparency, professional merits and competency and the equal access to public office for every citizen who fulfils the legal requirements. As well, the Act contains a system of promotion and evaluation of civil servants' performances. A civil servant can develop his/her career in three ways: by being promoted to a higher class among the three existing classes of civil servants, by being advanced to a higher professional degree in the same class and by progressing on the pay scale.

The advancement to a higher professional degree is to be done following an annual exam of promotion. In order to advance in a superior category of civil servants, meaning from that of execution to the one of management, the candidate has to fulfill a determined number of conditions. There is also a fourth way of promotion provided for in the Act: the system of rapid promotion in a public office is based on competitive examination and is open to those who previously obtained the status of public manager.

As for the evaluation of civil servants' performances, this is undertaken on an annual basis and serves for the advancement in pay scale, for the promotion in a superior public office and for removal from office. The retirement of civil servants intervenes when

attaining the standard age of retirement and the minimal stage of contribution to the retirement fund (cumulatively).

In addition to the civil servants, other categories of non-elected public officials are provided under the Romanian legislation.

The rules on the recruitment and promotion of the magistrates (judges and prosecutors) are provided by a Law from 2004, on the statute of the judges and prosecutors, republished, with the subsequent amendments and completions.

The admission and promotion of *judges and prosecutors* shall take place through examination, with the observance of principles of equality and transparency. The law contains similar rules to the Law on civil servants in what concerns the necessary requirements for admission and the role of the assessment of activity in order to promote and also similar rules regarding disciplinary sanctions, suspension and cessation of office.

Admission of judges and prosecutors to the judicial career shall take place through a competitive examination, based on professional competence, aptitudes and good reputation. The admission to National Institute of Magistracy (NIM) is made exclusively on the basis of a competitive examination.

The admission to NIM is organized on an annual basis, upon the approval of the Superior Council of Magistracy (SCM). The date, the location and manner of holding the admission examination, as well as the number of vacancies shall be published in the Official Journal of Romania, part III, on the web page of SCM and of NIM and on three central daily newspapers, at least 60 days before the date of the examination. The initial professional training within the Institute is both theoretical and practical and lasts 2 years. After another 1 year of practice after graduating, a final exam is taken. The date, the location and the manner of holding the exam shall be published in the Official Journal of Romania, part III, on the website of SCM and NIM and it shall be communicated to the courts and prosecutor's offices, at least 90 days before the exam.

Judges and prosecutors shall be promoted only by means of a competitive examination held at a national level, within the limits of vacancies existing in tribunals and courts of appeal or, as the case may be, in prosecutor's offices attached to them. The competitive examination for the promotion of judges shall be held annually or any time is necessary, by SCM, through NIM.

The Law no. 360/2002 on the statute of the *police* stipulates that the police staff is mainly selected from the graduates of the training institutions of the Ministry of Administration and Interior (MAI). The admission to the training institutions shall be made through a contest or exam, if the requirements provided by the law are met, including the ones related to not having a criminal record, not being the subject of an ongoing criminal investigation or of an ongoing procedure before courts for an offence.

The police officers can also be police agents or graduates of educational institutions within MAI or from other higher education institutions with adequate profile for the necessary specializations for the police, established by order of the minister of Administration and Interior.

For some positions, specialists with adequate qualifications for the job description and who fulfill the legal conditions can be employed directly or transferred from defence public institutions. The employment of experts within police forces shall be made by means of a contest or exam.

For acquiring the next professional rank, the police officer has to fulfill certain conditions related to the probation period and to have exceptional or very good on the professional evaluation.