

## Information requested from States parties in relation to integrity in criminal justice institutions and education in schools and universities on anti-corruption efforts

Romania signed the United Nations Convention against Corruption (UNCAC) in 2003, and ratified it in 2004. The National Anti - corruption Strategy (NAS) is the strategic document that sets specific objectives regarding the fight against corruption during a certain period of time. The present NAS 2016-2020 sets as objectives some of the UNCAC provisions, such as: development of a culture of transparency, increasing integrity through conflict of interest legislation, improving legislative framework for ethic counsellors, whistleblowers protection, increasing the level of anticorruption education and information of the public of the impact of corruption.

Please find below the measures taken by the Romanian institutions concerning articles 7, 8, 11 and 13 of the Convention.

- I. Information requested from states parties in relation to integrity in criminal justice institutions
  - A. Measures concerning article 7 of the Convention
    - *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.

#### B. Measures concerning article 8 of the Convention

- *Establish or improve procedures, rules and regulations for the reporting, including by members of criminal justice institutions, of acts of corruption to appropriate authorities and the mechanisms for the protection of reporting persons;*

Our national legislation ensures legal protection of the persons who intent to report on corruption deeds (Criminal Code, Criminal Procedure Code, Law no. 682/2002 on witness protection, Law no. 571/2004 on protecting personnel within public authorities and institutions and from other units who report on breaches of the law), though there are indications that the lack of internal procedures affect the efficiency of whistleblower protection mechanisms.

In Romania, the law on protection of whistleblowers in the public interest was adopted in 2004 (Law no. 571/2004 on the protection of personnel in public authorities, public institutions and other units who report violations). The law applies to Parliament, the Presidential Administration and the Government, the central and local administration and autonomous administrative authorities, national companies, autonomous administrations of national and local and national companies with state capital. The law does not apply to the judiciary or private companies.

From a legal perspective, the law is built on the principles of the Constitution on freedom of conscience (art. 29), freedom of expression (art. 30) and the right to information (art. 31) and the European Charter of Fundamental Rights on freedom of thought, conscience and religion (art. 10 par 2), freedom of expression and information

(art. 11), the right to protection against unfair dismissal and termination of employment contract (art. 30) and the right to good administration (art. 41).

Whistleblowing is defined as a complaint made in good faith of any offense involving a violation of the law, professional ethics and principles of good administration, efficiency, effectiveness, economy and transparency.

At MoIA level, the legislation on protection of whistleblowers and the obligation of the public servants to report corruption deeds are an important objective of all training and informing activities conducted by AGD at MoIA level.

#### Publicity of the free-of-charge telephone line

AGD administrates a free-of-charge telephone line 0800.806.806 that can be reached 24/7 by citizens who want to report a corruption deed. MoIA represents an important part of the citizens who use this line.

The analysis of the most recent poll on the perception of MoIA personnel reveals that, in case they want to report a corruption deed, they prefer to report it to his direct head or call the anti-corruption line mentioned above.

- *Establish or strengthen existing disciplinary procedures and mechanisms to enforce codes of conduct or ethics, standards of professional conduct and conflict of interest legislation;*

Regarding magistrates, the disciplinary investigation is carried out by the Judicial Inspectorate. A disciplinary case can be referred to the SCM by a magistrate with managerial responsibility, by the minister of justice (which may receive complaints from citizens) as well as by any person who has a particular reason to complain about the conduct of a judge or a prosecutor (for instance a party to a court case). Where needed, the judicial inspectorate can conduct an enquiry or investigation. The disciplinary measures which can be applied are the following, in accordance with article 100 of Law 303/2004: a) warning; b) decrease of the salary by 20% for a period of up to 6 months; c) disciplinary removal for a period of up to one year to another court or another prosecutorial office, located in the jurisdiction of another district court of appeal; d) suspension for a period up to 6 months; e) revocation.

The Judicial Inspectorate also regularly carries out thematic controls and it may act *ex officio* or upon notification on specific cases concerning the integrity of a magistrate.

Regarding standards of professional conduct, a Code of Ethics for judges and prosecutors has been adopted by the Superior Council of Magistracy, through a decision in 2005. This document contains 7 chapters, referring to problems like:

- judicial independence (objectivity and impartiality, political neutrality, participation allowed to publications and academic activities);
- promoting the rule of law (avoidance of a discriminating behaviour and respect for the dignity of others, etc.);
- presenting impartiality, non-disclosure of confidential information or documents, the obligation for the judges with management functions to allocate resources in an efficient manner, good governance, etc.;
- the dignity and honor of the judge (correct relations with the rest of colleagues,

- incompatible activities (other functions in public or private sector, non-participation in pyramid-type games, etc.).

At the level of the National School of Clerks, a Code of Ethics for the staff within the National School of Clerks had been drawn up and adopted and then brought to the attention of the personnel.

The Code of Ethics is published also on the site of the National School of Clerks, <http://www.grefieri.ro/Docs/20150623Codul%20etic%20al%20personalului%20SNG.pdf>.

As a result of the Decision no. 1246/18.10.2016 of the Superior Council of the Magistracy, at the level of the National School of Clerks, through the Decision no. 135/09.12.2016 of the Director of the National School of Clerks 2 ethics advisers were appointed - 1 ethics adviser among the judges and prosecutors seconded at School and 1 ethics adviser among the clerks seconded to the School.

Also, through the Decision No 98/12.12.2011 of the Director of the National School of Clerks a civil servant has been designated pursuant to Law no. 7/2004 for ethics advice and monitoring of compliance with the rules of conduct by the civil servants within the National School of Clerks.

- *Detect and prevent possible conflicts of interest, such as systems requiring members of criminal justice institutions to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, income, assets and substantial gifts or benefits from which a conflict of interest may result, including as they take office and regularly during the performance of their public functions.*

Romania has set an ambitious system of declaration of assets, income and interests. The legal framework is established by Law no. 176/2010. It is applicable to a big number of public officials, including deputies and senators. The system is designed to ensure that the officials concerned do not get additional sources of illegitimate income and it is designed to evaluate possible variations in the patrimonial situation of the declarants. The system is also designed to ensure that declarants comply with certain obligations, for instance parliamentarians who can be in a situation of incompatibility by exerting other top responsibilities in the public sector, in the business sector, unions etc. There are thus two sets of declarations. These declarations are received and centralised by a specific agency created specifically for that purpose, the National Integrity Agency (hereinafter, the NIA).

The asset declaration form developed by the NIA contain information on 1) real estate; 2) movable assets; 3) assets and financial interests; 4) debts and liabilities; 5) gifts; 6) income and sources thereof.

The interest disclosure form includes information on 1) posts and functions or engaging in accessory activities; 2) business contracts with state authorities; 3) any other interest or relationship that may or does create a conflict of interest; 4) shares in companies, commercial/national companies, loan institutions, groups of economic interest, as well as member in associations, foundations or other non-governmental institutions; 5) membership in professional activities and/or unions, 6) involvement in management, administration and control within commercial companies, autonomous administrations commercial/national companies, loan institutions, groups of economic interest, as well as member in associations, foundations or other non-governmental

institutions; 7) certain categories of contracts signed directly or by an entity in which the declarant exerts responsibilities.

The duty to declare assets and income applies to family, spouse and dependent children of the respective public officials. The forms are available to public officials both on paper and electronically and guidelines on filling in the templates were elaborated by the ANI as well. According to Law 176/2010 each agency has to appoint a designated person responsible for implementation of legal provisions with regard to the asset and interests disclosures in that agency. Namely, the responsibility of the designated person includes collection and registering of declarations of assets and declarations of interests submitted by the officials required to file a report and they carry out a preliminary formal check on compliance with the format. The declaring official may then rectify and re-submit the form(s) concerned.

The declarations are submitted annually by the public officials concerned, no later than 15 June for the previous fiscal year, as well as at the beginning and/or termination of the office within 15 days. The various declarations are available publicly, on a continuous basis, on the website of the NIA which includes a searchable database, as well as on the website of the public institution to which the official concerned belongs.

The National Integrity Agency (NIA) is responsible for the implementation of the mechanism of declaration of assets and interests, and for monitoring compliance of parliamentarians in this area. This independent administrative body, comprising nearly 100 members of staff, is supervised by a committee composed of representatives from various political and public bodies of Romania.

The NIA also provides permanent assistance regarding the completion and submission of declarations of assets and declarations of interests as well as on the legal regime of incompatibilities and conflicts of interest (for instance in 2013, the NAI issued 1593 official clarifications). Additionally, ANI has available on its website a F.A.Q. section.

The magistrates (prosecutors and judges), as well as the clerks seconded within the National School of Clerks) have the legal obligation to submit within the time limits laid down by the law the following declarations: the assets declaration provided by Law no. 176/2010; the declaration of interests provided by Law no. 176/2010; the annually declaration on its own responsibility with regard to the relatives in the judicial system (Article 5 paragraph 3 of Law no. 303/2004); the authentic statement, on its own responsibility, whether it belongs or not as an agent or collaborator of the bodies of the security, as political police (Article 6 of the Law no 303/2004) and the annually authentic statement, on its own responsibility, on the quality of an operative worker, including covered, an informer or a collaborator of the information services (Article 7 of the Law no. 303/2004).

The civil servants within the National School of Clerks have the obligation, in accordance with the legal provisions, to submit annually declarations of wealth and declarations of interests provided by Law no. 176/2010, which are published on the site of the National School of the Clerks - <http://www.grefieri.ro/default.asp?nod=46>.

Also, the civil servants from NAP have the legal obligation to submit within the time limits laid down the assets declaration and the declaration of interests provided by Law no. 176/2010.

According to GRECO's fourth round evaluation report on Romania, the system of declarations of assets, income and interests may be viewed as an example of best practices, that could inspire other countries.

### C. Measures concerning article 11 of the Convention

- *Disseminate information and build awareness of existing national and international standards of judicial integrity, such as the Basic Principles on the Independence of the Judiciary, the Bangalore Principles on Judicial Conduct, the Guidelines on the Role of Prosecutors and the Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors*

In accordance with the education objectives set by National Anticorruption Strategy, the Institute committed to increase the efforts of training and public awareness in the matter of integrity and the preventive components of the anticorruption policies, by including, at the centralised and decentralised level, of specific training activities in the field of integrity, ethics and deontology, incompatibilities and conflict of interest.

In order to ensure professional and unitary training in the above-mentioned fields, NIM benefits of the expertise and competencies of two full time trainers in the field of ethics and deontology.

- *Implement or improve existing induction and ongoing training requirements and curricula for members of the judiciary and prosecution services, particularly in terms of codes of conduct, integrity and independence;*

➤ Training activities organised by NIM in the fields related to the fight against corruption

#### a) Initial training

The judicial trainees of the National Institute of Magistracy study on a regular basis the domain of ethics and judicial integrity. Nevertheless, in order to promote the independence, integrity and impartiality of the future judges and prosecutors, some of the criminal and criminal procedure sessions organized during the first and the second year of study analyse case law on corruption offences and the specific provisions stipulated in the special law setting up measures for preventing, discovering and sanctioning this type of offences. Consequently, the judicial trainees become aware that it is mandatory for the persons holding public positions to carry on the duties and tasks assigned by observing the rules of professional conduct and taking the appropriate measures to eliminate or manage the risks of corruption.

#### b) Continuous training

In the continuous training component, the annual programmes of in-service training for judges and prosecutors include, on a permanent basis since the establishment of the continuous training component of NIM in 2001, the organisation of training sessions related to the fight against corruption. The training sessions provide information on the legislation adopted in these matters and also present good practices in the field.

In the framework of various projects and partnerships as well as out of budgetary funds, NIM organised, together with its partners, a number of 136 sessions (seminars, debates and conferences) designed for the centralised continuous training of judges, prosecutors and trainers in the field of fight against the corruption.

At the decentralised level, NIM organised, together with the courts and prosecution offices, over 180 seminars for judges and prosecutors at the local level.

For 2017, NIM envisages the organisation of continuous training sessions in the framework of partnerships with the European Bank for Reconstruction and Development, with General Direction Antifraud in fiscal matters and the Department for Fight against Fraud.

Furthermore, a within the Romanian-Swiss Programme, the project developed by the NIM together with the National Anticorruption Directorate will be continued.

➤ Training activities organised by NIM in the field of Ethics and deontology

a) Initial training

During the 2 year initial training, the judicial trainees of the National Institute of Magistracy study on a regular basis the domain or ethics and judicial integrity. Thus, the curricula for the first year of initial training contains a number of dedicated sessions in ethics and deontology.

Also in the second year, the judicial trainees participate in debates on ethics centered on practical cases emphasizing the respect of the judiciary common values and principles and increasing the future judges and prosecutors' capacity to become more conscious of their role and influence on the image and society confidence in justice.

The major documents disseminated in ethics sessions are: The Bangalore Principles on Judicial Conduct, Judges and Prosecutors Code of Conduct, ENCJ London Declaration on Judicial Ethics, Basic Principles on the Independence of the Judiciary, Recommendation CM/Rec (2010)12 on judge's independence, efficiency and responsibilities.

For the academic year 2017, eleven sessions of two hours each are dedicated to ethics and professional conduct. The main themes that will be treated in these sessions are: judges and prosecutors' independence and impartiality, incompatibility and conflict of interests, judges and prosecutors' professional responsibility and the respect of law, the honour and dignity of the position, law supremacy and civil, criminal, disciplinary and deontological liability. The sessions have for purpose to increase awareness of future judges and prosecutors of national and international standards on judicial ethics and integrity. A video projection on ethical dilemmas encountered by magistrates was already offered to the judicial trainees in February and March 2017, with the support of Netherlands Embassy and a non-governmental organization.

b) Continuous training

In the continuous training component, the annual programmes of in-service training for judges and prosecutors include, on a permanent basis since the establishment of the continuous training component of NIM in 2001, the organisation of training sessions in the field of ethics and deontology. The training sessions provide information on the legislation adopted in this matter and also present good practices in the field. As in the initial training, the topics addressed in the continuous training sessions refer to The Bangalore Principles on Judicial Conduct, Judges and Prosecutors Code of Conduct, ENCJ London Declaration on Judicial Ethics, Basic Principles on the Independence of the Judiciary, Recommendation CM/Rec (2010)12 on judge's independence, efficiency and responsibilities.

In the framework of various projects and partnerships as well as out of budgetary funds, NIM organised, together with its partners, a number of 59 sessions (seminars, debates and conferences) designed for the centralised continuous training of judges, prosecutors and trainers in the field of ethics and deontology.

At the decentralised level, NIM organised, together with the courts and prosecution offices, over 55 seminars for judges and prosecutors at the local level.

NIM organises, on a yearly basis, a summer school for European judges and prosecutors, and since 2009 NIM decided that the main topic of the summer school should be the ethics and deontology for magistrates. This activity is included since 2013 in the EJTN Catalogue for European magistrates and it will also be organised in 2017.

The continuous training at the decentralised level will be organised also for 2017, in cooperation with the courts and prosecution offices.

- *Establish or improve existing mechanisms to evaluate performance of members of the judiciary and the prosecution services, including by promoting the transparency of evaluation reports, where appropriate;*

Regarding the evaluation of the judges and prosecutors, for compliance with the criteria of competence and performance, judges and prosecutors are subject to an assessment of the efficiency, quality of work and integrity, professional training and successful completion of training, and the judges and prosecutors appointed in leadership, also how to fulfil managerial duties. This assessment takes place every three years.

The evaluation is made by commissions established by decision of the Superior Council of Magistracy, separately for judges and prosecutors, composed of the presiding judge or, where appropriate, the head of the prosecutor's office, department or department of the Prosecutor's Office attached to the High Court of Cassation and Justice or the National Anticorruption Directorate and from 2 judges or prosecutors appointed by the board of Direction.

The evaluation report of the professional activity of the judge or prosecutor committees established may be given to one of the marks "very good", "good", "satisfactory" or "unsatisfactory". If the magistrate receives the unsatisfactory mark, he or she must follow courses organised by NIM on a period between 3 and 6 months.

The judge or prosecutor receiving after two consecutive evaluations "unsatisfactory" or has not passed the examination is dismissed for professional incapacity of the President of Romania, at the proposal of the Superior Council of Magistracy.

- *Procedures governing asset declarations by judges and how they are used to prevent conflicts of interest, including in relation to the assignment of cases;*

The judges have the legal obligation to submit within the time limits laid down by the law the declaration of wealth provided by Law no. 176/2010 and the declaration of interests provided by Law no. 176/2010, in order to prevent the conflict of interest. These declarations are public, so that everyone can read them and contact the authority if a conflict of interests seems to appear.

Also, all the declarations of wealth and the declarations of interest provided by Law no. 176/2010 are centralized on the National Agency of Integrity official website in order to ensure transparency (<https://www.integritate.eu/>).

Please see above paragraphs for further details on the Romanian system of asset and conflict declaration.

- *Improve transparency, accountability and efficiency in procedures for case assignment and distribution;*

#### Case assignment

Pursuant to Law no. 303/2004 on judicial organization, article 11, “*The judgment activity shall take place with the observance of the principles of random distribution of cases and of continuity, unless the judge is unable, for objective reasons, to participate in a trial.*” In practice, once a case is forwarded to the competent section of the court, cases are distributed randomly by a computer system, which takes into account a fair distribution of the workload and other criteria. Another tool used is provided in Art. 71 of the Code of Criminal Procedure which provides that a transfer of a case can be caused “when there is reasonable suspicion that impartiality of judges in that court is impaired due to circumstances of the case or specific of the parties or when there is danger of disturbing the general public order”. Relocating to another instance is decided by the High Court of Cassation and Justice regarding the courts of appeal, and by the courts of appeal in respect of a first instance court or tribunal.

#### Projects that improves transparency and accountability

Between 2013 and 2014, SCM participated as the coordinator of the project “Independence and Accountability of the Judiciary”, along with the Judiciary Councils from Netherlands and UK.

Between 2015 and 2016, SCM was the coordinator of the same project, along with the Judiciary Councils from Spain and France.

As mentioned above, between 2013 and 2014, the European Network for the Judiciary Councils conducted an important project regarding the independence and accountability, through it was established a working group which had two main objectives

- identification and assessment of indicators on the independence and accountability of the European judiciary systems
- the presentation of the European Network for the Judiciary Councils perspective regarding independence and accountability.

The project used an empirical evaluation of the judiciary independence, and it aimed to asses a set of independence indicators and the risks that may appear. After this, a pilot questionnaire was developed and implemented in the member states. After the first year from the implementation, the General Assembly of the European Network for the Judiciary Councils established a working group to analyse how to apply the indicators. This objective has been included in the Strategic Action Plan 2014 - 2018 of the European Network for the Judiciary Councils, as a part of a bigger objective that promotes the independent judiciary systems in Europe.

The results of these projects, synthesized in the final reports submitted annually by the General Assembly, were disseminated at a national level, serving, on the one hand, as recommendations or minimal standards regarding independence and the accountability of the prosecutors, and on the other hand, implied taking surveys regarding the perception of the national judges on their own independence.

- *Provide ethical guidance or advice to officials of criminal justice institutions in relation to the performance of their duties, their relationship with actors outside the judicial process, such as the media and non-governmental organizations, or with regard to their use of new technologies and social media;*
- *Assess the risks of corruption as well as the integrity and effectiveness of the judiciary, prosecution service and court system more broadly, including by soliciting inputs from court users, other stakeholders and the general public.*

SCM implemented, together with the Judiciary Council from Netherlands, the project “Strengthening judicial integrity”, approved through the SCM Plenary Decision no. 1347/2014. The project was envisaged to identify new concrete ways to strengthen the integrity of magistrates and assess the risks and situations that can prejudice the integrity.

The objective of the project was to create a set of indicators of integrity of the judiciary systems and the establishment of a Board of integrity and a network of advisors integrity at the level of the courts, in order to assure the homogenous and predictable implementation compared with the existing normative acts.

This project resulted in the proposals of experts to form the judges and the prosecutors in matters of integrity, including it as an efficient mechanism of preventing the situations of deviation from the code of conduct.

The conclusions and the recommendations of this project were summarized in a report that can be accessed at the following link: <http://emap.csm1909.ro/site/Pages.aspx?IdFolder=3479>

Also, as mentioned in the third specific objective of NAS 2016 - 2020 which provides for increasing integrity, reduction of vulnerabilities and corruption risks in the judiciary, SCM has the task to elaborate a multiannual action plan for promoting the integrity in judiciary system.

2. Please outline actions required to ensure or improve the implementation of the measures described above and any specific challenges you might be facing in this respect.

Following the adoption of the National Anticorruption Strategy, NIM has to implement a number of actions in order to ensure the application of this Strategy. The most important actions that have to be committed and implemented by NIM are:

- the increasing of the efforts of training and public awareness in the matter of integrity and the preventive components of the anticorruption policies, by including, at the centralised and decentralised level, of specific training activities in the field of integrity, ethics and deontology, incompatibilities and conflict of interest;
- the development by Ministry of Justice together with NIM and SCM, of an annual on-line programme on topics such as integrity of the public function, on a mandatory basis for all the public institutions;
- identification of risks and vulnerabilities specific to the Institute and measures to overcome them.

In its efforts to increase the judicial system awareness in the matters of integrity and ethics, NIM proposed, within the Operational Program Administrative Capacity, the project *“The improvement of the training process quality at NIM level, in order to increase the judicial system capacity to face the new legislative and institutional*

*challenges and to increase the level of transparency and integrity within the judicial system".* The Operational Programme will be developed between 2018 and 2021 and in this period NIM proposed the organisation of a minimum of 15 sessions of training in ethics and deontology and 111 training sessions that would ensure a unitary jurisprudence and the development of professional training in fight against corruption, organised crime and economic and financial crime.

#### Challenges encountered during the training of personnel vulnerable to corruption

Each year, following the analysis of the risks and vulnerabilities to corruption, AGD sets up priority areas where informing and training activities for MoIA personnel are to be organized.

In order to cope with challenges, these sessions are organized according to a theme that is adapted to each field of activity/structure, both at central and local level. AGD carries out other preventing corruption activities, both with other public institutions or civil society, based on the invitations/protocols of collaboration that were concluded.

MoIA leadership approved priority action areas for 2017, as follows:

- newly hired personnel within the ministry,
- personnel in leading positions within MoIA structures that have a direct contact with the public,
- logistics and public procurement.

Thus, AGD preventing corruption officers carry out preventing corruption activities at central and local level, as follows:

- training with students within MoIA educational system, as well as with personnel hired from external source;
- seminars for discussions with managers;
- informing sessions with chief credit officers.

These steps that were initiated by AGD were based on the analysis of anti-corruption activities carried out in 2016 and on the main vulnerabilities to corruption that were identified at the level of MoIA structures.

Please find below the priority areas established for the previous years:

- ✓ *In 2015:*
  - traffic police
  - border police
  - county medical centres
  - Prefect's institution
  - judicial record, statistics and operative record.
- ✓ *In 2016:*
  - public order
  - immigration
  - driving license and vehicle registration.

#### Challenges as regard the management of the risks to corruption

For a better monitoring of the measures of implementation of preventing/control of the risks to corruption by MoIA structures, AGD developed an IT application called MARC (Assisted Management of the Risks to Corruption) that enables a rapid analysis and reports of the entire range of current risks to corruption.

As regards the evaluation of the risks to corruption, AGD developed a specific procedure for the assessment of the integrity incidents. The procedure objective is to analyse each corruption case occurred within MoIA structures, in order to study the causes that favoured those integrity incidents. After the analysis of these incidents, immediate and general measures are established to limit the occurrence of similar events.

The results of the monitoring of the risks to corruption at MoIA level are revealed by the independent assessment of the Anti-corruption National Strategies and by the fact that this best practice was copied by other national public institutions (AGD offered the support in implementing the methodology for corruption risks assessment to 5 public institutions).

II. Information requested from states parties in relation to education in schools and universities on anti-corruption efforts (art. 13, para. 1 (c))

1. Please describe (cite and summarize) the measures your country has taken, if any, (or is planning to take, together with the related envisaged time frame) to ensure full compliance with article 13(1) (c) of the Convention and, in particular, its provision on undertaking anti-corruption education programmes in schools and universities.

The institutions that have taken the main measures in this field are the Ministry of National Education, AGD and the Supreme Council of Magistracy.

- *Description of educational courses or modules that have been introduced in primary and secondary schools that include aspects of corruption or related issues such as integrity, ethics, civic rights and duties, fiscal education or governance;*

➤ The week „Another kind of school”

Between 18-22.04.2016, in the framework of the National Education Ministry Program „Another kind of school”, AGD organized at its HQ a series of activities destined to the young high school pupils aiming at informing the young people on the correct attitude that is to be adopted in relation with MoIA personnel, general aspects about corruption crimes, methods to report corruption and case studies.

- The participation of various law practitioners in their capacity as invitees, during several classes, possibility offered through the Ministry of National Education

As regards the primary education cycle, these classes may carry out topics related to Human Rights, during the Civic Education classes for the 4<sup>th</sup> grade. As regards the lower-secondary education cycle, within the Civic Culture common-core subject, for the 7<sup>th</sup> and the 8<sup>th</sup> grades, there may be conducted lessons focusing on life in society and the political system in Romania, and on elements regarding the citizens’ rights and obligations, human rights, Constitution of Romania, the authorities of the Romanian state and particularly on the judicial authority, namely the topic of liberty and responsibility/the topic of justice and equality. As regards the upper-secondary education cycle, within the Philosophy classes, for the 12<sup>th</sup> grade, for the theoretical and vocational paths, within the Politics

theme, one may study elements pertaining equality and justice/democratic ideal and human rights, as well as within the Sociology classes, 11th grade, the Social problems theme (discrimination, criminality, social conflicts, corruption, poverty). To these social-humanistic subjects, one may add the Social Studies subject, for the 12th grade, for the theoretical path, Social Sciences specialization, whose Curriculum comprises the Principles of democracy and the citizenship theme.

For the pre-university education units, where optional classes are conducted, included within the national offer, the presentation/overviews of the persons who are practitioners of law may be realized within various classes such as Education for Society (primary cycle), Civic Culture, for the 5th and 6th grades, International Humanitarian Law, Human Rights, Civic Education, Education for Democracy, for the upper-secondary education. In the counselling and orientation/class management classes or in the extracurricular activities such as overviews / lectures / debates / round tables / visits / educational projects, as well as for competitions/contests for pupils, other persons having the capacity as practitioners of law are allowed to participate.

- *Description of educational courses or modules that have been introduced in universities that include aspects of corruption or related issues such as public administration, public procurement, integrity, ethics, criminal law, or corporate governance;*

➤ The project Leaders for Integrity

The project was organized by AGD in partnership with Pro-Democracy Association, Bucharest School Inspectorate and Bucharest School City Hall, aimed at educating young students (especially from political and administrative faculties) towards integrity, morality and intolerance to corruption. The main activities consisted in:

- workshops for trending the classroom leaders;
  - sessions for disseminating anti-corruption information by the leaders;
  - informing sessions held within universities.
- *Description of innovative teaching and learning tools and methodologies that have been used to foster and facilitate education programmes in schools and universities on anti-corruption;*

An initiative of the Ministry of National Education that enhance the level of education on anti-corruption among the beneficiaries of the education process by introducing and periodically organizing various anti-corruption topics within the extracurricular-activities/school curricula (promoting an optional subject within the SDC (School-Designed Curricula) pertaining to the “Human and society” along with “Counselling and orientation” curricular areas.

Subsequently to the signing of the Protocol of collaboration on legal education within the pre-university education units no. MNA 10576/30.10.2013, between the Ministry of National Education, the Ministry of Justice, the Public Ministry and the Superior Council of the Magistracy, having as general aim the cooperation between institutions for promoting various activities related to legal education within the pre-university education units, starting with the school year 2013-2014 to present, there have been organized several activities, either within pre-university education units or within institutions

pertaining to the judicial system, in which participated a large number of pupils and teaching staff, alongside various categories of law practitioners (judges, prosecutors, lawyer, attorneys, public notaries, representatives of the probation system, actuaries), respectively employees of the Ministry of Internal Affairs (policemen, proximity policemen, agents).

On the course of the school years 2013-2014, 2014-2015, 2015-2016, there have been accomplished 4 main categories of activities within pre-university education units, namely:

- Activities at curricular level for Civic Education/Civic Culture/other social-humanistic subjects for the grades III-XII.
- Extracurricular activities such as overviews/ lectures/ debates/round tables/ visits/ educational projects for the grades I-XII
- Activities during the counselling and orientation/class management classes for the grades I-XII.
- Other types of activities: completion/school contest for the grades III-XII.

There have been 3 meetings of the Inter-institutional Working Group in the field of legal education, which reunited representatives of the Ministry of National Education, the Ministry of Justice, along with representatives of the Superior Council of the Magistracy. During these meetings a series of analyses, proposals and recommendations focusing on the development of the activities and the partnership in the field of legal education have been carried out.

The Ministry of National Education accomplished a set of questionnaires and applied them in education units from 7 counties (Alba, Brăila, Cluj, Hunedoara, Olt, Prahova, Suceava) and also in Bucharest municipality, questionnaires which refer to legal education for the pupils of the primary, lower-secondary and upper-secondary school system, for their parents and for the teachers, respectively. Subsequently to applying the questionnaires there has been drafted a quantitative research report, with the support of the Romanian Centre for European Policies.

- *Training manuals, curricula, syllabi, course packets, websites and other materials related to anti-corruption education programmes in schools and universities;*

AGD had several initiatives regarding the curricula that were presented to the Romanian Academy - the highest scientific and cultural forum of Romania that reunites important personalities from our country and abroad from science, art and literature, namely the Institute for Legal Research „Academician Andrei Radulescu”.

The objective is to organize a debate on „Public Servant Integrity”, with the participation of AGD representatives and other public servants within MoIA structures, as well as from other relevant public institutions.

The Institute for Legal Research „Academician Andrei Rădulescu” within the Romanian Academy is the only scientific research unit in the field of law at national level, with the main aim to perform a thorough analysis of the judicial-legislative phenomenon.

Also, AGD had several working meetings with specialists within the Police Academy “Alexandru Ioan Cuza” with the aim of including a new subject of study - “Integrity and preventing corruption”, that is planned for the second semester, starting with March.

This new subject is to be organized as a course and several seminars, with the aim to contribute to the development of the capacity of the students of the sole MoIA University to use and combine theory, practice and specific attitude in the field of preventing corruption. The subject will be thought by the Police Academy professors, with support from the specialists within AGD and the National Agency for Integrity.

- *Statistics on number of students participating in anti-corruption education programmes in schools and universities.*
- „The project Young Persons against Corruption”. 25 young persons from the Republic of Moldova were trained in anti-corruption issues by AGD officers and officers from the National Anti-corruption Centre (CNA) from Moldova. The project developed by AGD and Pro-Democracy Association was adopted by the Moldavian partners as example of best practices and AGD officers shared their expertise in the field. The aim of the project was to induce the young generation certain values, such as legality, integrity and civic responsibility. The 25 young persons were presented relevant aspects on corruption by AGD and CNA officers in the HQ located in Vadul lui Vodă.

2. Please outline actions required to ensure or improve the implementation of article 13(1)(c) on undertaking anti-corruption education programmes in schools and universities and any specific challenges you might be facing in this respect.

- The implementation of the National Integrity Plan for the field of education, corresponding to the National Anti-Corruption Strategy for 2016-2020.

This action covers measures regarding both the higher-education sector, and the primary and secondary education one, such as: the reorganization of the National Council on Ethics and the Council for Ethics and University Management, the setting-up of university and post-university training programmes on ethics and integrity related topics organized by universities with expertise in the field of organizational ethics, the development of an early warning and detection mechanism of non-compliant behaviour - for the higher education sector and the adoption of a code of ethics and of a transparent framework based on performance criteria in order to ensure the integrity of exams/competitions - for the primary and secondary education sector, respectively. The action provides, also, the standardized publishing of information on incomes, expenditure, public procurement, sponsorships, the academic activity within the public educational establishment, as well as within the higher-education institutions.

3. Do you consider that any technical assistance is required in order to allow you to fully implement this provision? If so, what specific forms of technical assistance would you require?

Romania uses a financial mechanism which consists in using a percentage of the amounts from seized assets and making them funds for the legal education, so that our country can raise the awareness regarding various legal problems and teach law to the Romanian pupils and students. This mechanism is provided by Law no. 318/2015 on the

establishment, organization and functioning of the National Agency for the Management of Seized Assets, in art. 37 paragraph (1) let. a).

Further technical assistance services are needed in order to ensure the implementation and the sustainability of the results and measures provided for by the National Anti-Corruption Strategy, to increase the quality of projects and to complement the investments financed from Structural Funds as well as to disseminate the best practices within the European Union.

*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.

The standards of conduct in the profession, in relation with other authorities and with the public, are described in the Ethics Code for judges and prosecutors, approved by the Decision of the Plenary Council of Magistracy no. 328 from 24<sup>th</sup> of August 2005 (published in the Official Romanian Gazette, Part I, no. 815, on 8<sup>th</sup> of September 2005). The compliance with the rules contained in the code constitute a criteria to assess the effectiveness of the quality of the activity and integrity, and their infringement may result in disciplinary liability.

The regulation on the disciplinary liability (provisions related to omissions, the manner of the exercise of the action and the sanction) can be found in Law no. 303/2004 concerning the status of magistrates.

For the prevention of the infringement of the disciplinary rules, the Superior Council of Magistracy, in its Decision of the judges Section no. 434 from 17.05.2016 and the Decision of the prosecutors Section no. 364 from 30<sup>th</sup> of May, 2016, ordered the establishment of networks of ethics advisors, on Courts level, also on the level of Prosecutor's Office, to offer information and guidance to the magistrates. Subsequently, the Superior Council of Magistracy suspended the implementation of those two decisions, taking into account the action in cancellation inserted by an association of magistrates at the Court of Appeal in Bucharest, a process that is not yet finally resolved.

Additionally, the DIICOT's prosecutors have access to the annual programme of professional training at the National Institute of Magistracy, which includes numerous seminars in professional ethics.