

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

ARTICLE 8 UNCAC

CODES OF CONDUCT FOR PUBLIC OFFICIALS

ROMANIA (EIGHTH MEETING)

- *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.

Annex to the Romanian Note Verbale no. 1024

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 24th of August 2005 (published in the Official Romanian Gazette, Part I, no. 815, on 8th 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 30th 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.

THEMATIC COMPILATION OF RELEVANT INFORMATION SUBMITTED BY ROMANIA

ARTICLE 8 UNCAC

CODES OF CONDUCT FOR PUBLIC OFFICIALS

ROMANIA (SECOND SESSION)

Art. 8 Codes of Conduct for Public Officials

- Promote integrity, honesty and responsibility among public officials
- Apply codes or standards of conduct for the performance of public functions
- Take note of the relevant initiatives of regional, interregional and multilateral organizations (e.g. International Code of Conduct for Public Officials)
- Establish measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities
- Establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials
- Take disciplinary or measures other measures against public officials who violate the codes or standards.

Codes of conduct of civil servants and contractual staff

In Romania, the current general legal framework with regard to the conduct of public officials is represented by two laws adopted in 2004: Act on the Code of Conduct of public servants and the Act regarding the Code of Conduct of the contractual staff. Specific Codes of Conduct were introduced for the personnel of the Police, the Customs and the National Office for Preventing and Combating Money Laundering. According to the 2004 Acts, integrity, honesty and responsibility, as well as transparency are among the guiding and founding principles of the Codes. Moral integrity is defined as a principle according to which civil servants are forbidden to solicit or accept, directly or indirectly, for themselves or for others, any advantage or benefit in consideration of the public office they hold, or to abuse in any way of this office. The Code on the conduct of public servants contains a series of interdictions as for instance the involvement in political activities. As well, public servants are not allowed to ask for or accept presents, services, favors, invitations or any other advantages for

themselves, their families, parents, friends or people they have business or political relations with, which might influence their impartiality in exerting their public duties or which might stand for rewards related to their position. Furthermore, the public servants have to abide by a series of restrictions regarding the use of public resources (only for undertaking their official duties) and the participation to procurement, concessions and rentals of public property.

Codes of conduct of other categories of personnel employed in the public sector

In addition to the coded of conduct of civil servants and contractual staff, other categories of personnel employed in the public sector have their own codes of conduct:

- The Ethical code of the fiscal control inspector was approved by order of the minister of Public Finances from 2003,
- The Code on ethical conduct of the internal auditor was approved by order of the minister of Public Finances in 2004,
- The Deontological Code of the members of the National Commission for the Evaluation and Accreditation of Pre-university Education, of the county and Bucharest commissions for the evaluation and accreditation of pre-university education was approved by order of the minister of Education, Research and Youth in 2004,
- The Code of conduct of the military and civil personnel from the Ministry of Defence was approved by order of the minister of Defence in 2004,
- The Ethical code of the profession of delegated controller was approved by order of the minister of Public Finances in 2004,
- The Deontological code of physicians was adopted in 2005, by a decision of the Physicians College,
- The Code of conduct for clerks within courts and prosecutor's offices attached to the courts was approved by decision of the Plenum of the Superior Council of Magistracy in 2005,
- The Deontological code for judges and prosecutors was approved by decision of the Superior Council of Magistracy in 2005,
- The Code of ethics and deontology for the policemen was approved by Government Decision in 2005.