

Romania's response concerning the role of good governance in the promotion and protection of human rights

With regard to the organization, training and education of the public service in the promotion and protection of and respect for human rights, including with regard to impartiality, accountability and transparency and the highest standards of efficiency, competence and integrity, as well as activities developed to assist and support the public service at the country level in this regard, two main aspects are to be stressed, namely the 2012 Governing program and the Strategy for the Development of Justice as a Public Service 2010 – 2014, the latter being elaborated by the Ministry of Justice.

I. The 2012 Governing Program dedicates its Chapter 8 to the Justice system.

Hence, the Ministry of Justice, as a specialized central public administration body has as main competence the good functioning of the judiciary. It also ensures the carrying out of justice as a public service and defends the law order and the citizens' rights and freedoms. Moreover, the Ministry of Justice shall promote fundamental principles, as follows:

- A modern justice system distributing fairness
- A justice close to the citizens – an essential factor of social cohesion
- Citizens' fundamental rights and freedoms - respected and equal for everyone

The progress within the Cooperation and Verification Mechanism (CVM) – it is an essential priority within the European course of the Romanian justice system. The following shall be pursued:

- A priority meeting of the CVM benchmarks. To this end, the implementation of the new codes remains a fundamental objective. An urgent initiation of a dialogue is required with the following actors: the leading boards of the courts, the Superior Council of Magistracy (SCM), judges and prosecutors professional associations, lawyers, notaries, legal counselors in order to adopt a correct and realistic calendar, with no syncope or unjustified delays of the entry into force of the new codes: the entry into force of the new Code of Civil procedure (estimated deadline: September 2012), as well as the proper preparation for the entry into force of the new Criminal code and of the new Code of Criminal procedure (estimated deadline: first semester of 2013);
- Initiating a substantive dialogue with the European officials in order to determine a more concrete way in which the Romanian judiciary should meet the CVM benchmarks;
- Monitoring the implementation of the National Anticorruption Strategy objectives and fundamentals principles – such a strategy is a component of the public policies on integrity and corruption fighting, based on the international and European best practices;

- An active involvement of the judiciary institutions, together with the competent ones in order to meet the Romanian commitments for the Schengen area accession.

Another measure proposed is to ensure the judiciary and the justice act independence, by using the financial, logistical and management means that the Ministry of Justice has for the benefit of the courts and the prosecutor's offices.

Specific measures are envisaged:

- A better organization of the courts and prosecutor's offices in managing the human and material resources, including the management of the case file, improving the professional specialization of the magistrates – being such fields the place where the dialogue and the good cooperation between the courts, the prosecutor's offices and the SCM are essential;
- Reinitializing the process of setting up specialized courts, based on relevant evaluations – such measure was continuously asked by magistrates and foreign investors (e.g. specialized courts for family and minors matters – juvenile justice, but also commercial and bankruptcy matters specialized courts);
- Generalization of the modern methods for the pre-trial dispute resolution which are swifter and inexpensive for the citizens (mediation). Introducing the mandatory mediation for certain civil cases;
- Extending and proper improvement of the ex officio legal assistance (free of charge), paying special attention to the rural areas but also to the disadvantaged communities;
- Measures for the simplification of the procedure for granting legal assistance to victims of crimes and facilitating the citizens' access to judicial expertise by finding legislative and management solutions;
- Accessing European (structural) funds by the Romanian judiciary, being the Ministry of Justice the coordinator and the main implementing institution. To this end, action will be taken to include the judiciary among the priorities which are eligible for the future accessing of the structural funds that will start in 2013;
- Continuation and finalizing in proper conditions the World Bank Loan Agreement, for the Program on the Reform of the Judiciary.

A further measure is the identification of the best solution to enforce the ECHR pilot judgment on property rights, after carrying out a substantive public debate.

- II. The Strategy for the Development of the Justice as a Public Service was considered as an institutional instrument in order to achieve the attainment of the public policy objectives in the justice system for the next years.

The main objectives of the aforementioned document are as follows:

1. Implementation of the new codes;
2. Improvement of the framework legislation applicable within the judiciary by adjusting the fundamental legislative framework (the justice laws);

3. Institutional strengthening of the judiciary, mainly by: strengthening the capacity and accountability of the Superior Council of Magistracy, reorganization of the courts/prosecutor's offices, reorganization of the Public Ministry, finalizing the reorganization process of the Ministry of Justice (MoJ), strengthening the constitutional role of the High Court of Cassation and Justice (HCCJ);

4. Unification of the judicial case law and the improvement of the magistrates' individual performances;

5. Strengthening of the integrity of the judiciary institutions by promoting anticorruption measures and standards of professional ethics;

6. Proper financing of the justice system;

7. Modernization of certain legal or other justice related professions;

8. Strengthening the Romania involvement in developing the European agenda and the justice international cooperation;

9. Increasing the level of law background of citizens;

10. Development and improvement of public communication and policies on judiciary transparency; improvement of the judiciary image within the society;

Although the abovementioned public policy document has not been approved yet by the Government some of the objectives have already been met:

1. Speeding up the judicial proceedings and improving the quality thereof by the entry into force of the Small Reform Law and of the measures for the implementation thereof;

2. Strengthening the role of the HCCJ as a case law unification and judicial review court;

3. Unification of case law by amending the legislative framework on the appeal on matters of law;

4. Strengthening the use of the mediation in order to build an efficient alternative dispute resolution mechanism;

As pending measures, the following can be mentioned:

1. Enactment of the laws for the implementation of the criminal code and of the criminal procedure code.

2. Ensuring the professional training of magistrates on the new codes.

3. The transfer of the administrative tasks from judges to ancillary staff and introducing the position of the manager of the court – the draft of law is now under parliamentary debate (Senate - Legal Affairs Committee).