



Centre for
Legal
Resources

ANNUAL ACTIVITY REPORT

2009





INSTITUTIONAL BACKGROUND

The Centre for Legal Resources is a non-governmental organization founded in December 1998 whose mission is to promote the respect for human rights, minority rights, equal opportunities, diversity and plurality of opinions.

Goals:

In accordance with its mission, the Center's aims are to support the establishment of a legal and institutional framework safeguarding the enjoyment of the rights and the protection of the values mentioned above through effective rule of law, long lasting and efficient institutions, and free access to a fair trial for all individuals.



Program areas:

In line with these objectives, the Centre for Legal Resources carries out activities in two major areas:

Protecting Human Rights, in the broad sense of the concept, with an emphasis on:

- ❖ Fighting Discrimination
- ❖ "Advocate for Dignity" - Advocacy for the recognition and enforcement of the rights of people with mental disabilities

Fostering the Rule of Law and Viable Institutions:

- ❖ Justice Reform (access to justice)
- ❖ Public Integrity
- ❖ Strategic Litigation

RIGHT!

WRONG!

CLR is using a unified methodology based upon juridical expertise and strategic litigation in order to promote democratic development. We believe the rule of law and human rights is the platform upon which the edifice of democracy rests.





The rule of law is a safeguard against arbitrary governance. Access to justice and accountability are essential for the rule of law to be upheld in democratic societies. The rule of law is important for establishing equal rights for all citizens regardless of gender, race, color, creed, political belief or disability. None the less, rule of law provides no guarantee that rights will be taken seriously in practice. That is why a strong human rights agenda is complementary to a rule of law agenda for promoting democratic development.

The programs that CLR is undertaken are relevant for the challenges that Romania and the South-East Europe is facing on the road of democratic consolidation. The exercise of the human rights is guaranteed by fair institutions. Lack of institutions' accountability, transparency and integrity undermines the exercise of the rights diverting the roles of the institutions from providing public goods towards extracting rents.





PROGRAMS

1. Anti-discrimination Program

General Objectives:

- to advocate for the improvement of the legal and institutional framework for fighting discrimination
- to monitor, report and ensure the correct enforcement of existing national and international legislation and policies on Anti-discrimination
- to enhance the role and capacity of civil society organizations, social partners, the media, companies and other stakeholders to fight discrimination
- to put pressure on the authorities to issue firm public position against discriminatory policies, acts or statements



Main Action areas:

A. Monitoring the national legislative framework and the way Romania approximates the EU legislation in the field of discrimination.

The main activity of the CLR in the area of antidiscrimination focused in 2009 on research and monitoring on how its principles are applied and respected in the public life.

At the level of **general monitoring** and reporting, within RAXEN (beneficiary: EU Agency for Fundamental Rights - FRA), FRA-LEX (network of legal experts- beneficiary FRA), SEN (the establishment of a network of experts in the socio-economic field; beneficiary - EU Commission), ENAR (beneficiary - European Network against Racism) the following reports were drafted:

- Complementary Data Collection Report 2009
- Thematic legal study on the rights of irregular immigrants in voluntary and involuntary return procedures
- Thematic Legal Study of Mental Health and Fundamental Rights – Romanian Report
- Thematic Legal Study on impact of the Race Equality Directive”
- Thematic Legal Study on assessment of data protection measures and relevant institutions – Romania





- Thematic Legal Study on assessment of Access to Justice in Civil Cases in European Union – Romanian Report
- SEN Report 2 – analysis of the way anti-discrimination and equality of chances is reflected in the media and the general public debate, publications in the field; a presentation and analysis of non-discrimination indicators collected in Romania; an update of the data in SEN Report 1.
- Human rights issues and debates during the 2009 EU Parliament’s election campaign
- Quarterly Bulletin
- Flash Annual Report 2009
- ENAR Shadow Report 2008

Within the new contract signed with Human European Consultancy, CLR drafted reports in the socio-economic field for the EU Commission - one presenting the general anti-discrimination framework and policies in Romania and the other presenting the public debate on diversity, the way vulnerable groups are represented in the media, relevant publications and actors in the field and existing indicators.



CLR took **public positions** against the infringement of the human rights and gender equality principles by the politicians or public authorities:

- in February 2009, CLR issued a press release asking the Romanian Minister of Foreign Affairs, Cristian Diaconescu, to bring to the attention of the General Affairs and External Relations Council of the EU the serious breaches by Italy of EU legislation in the field of human rights, in what concerns Romanian citizens in Italy, of Roma ethnicity in particular.
- in July 2009, following sexist remarks of a Romanian politician towards one of his female colleagues, whom he called “Missy”, CLR issued a press release condemning the remarks and placing the incident in the wider context of sexist and discriminatory remarks made by Romanian politicians.
- CLR condemns the lack of reaction and even the complicity of the Romanian state in the violent events against the Roma from Sanmartin and Sanraieni villages, (ethnically mixed Hungarian and Roma communities) Harghita county, events which remind us of the principles of racial laws
- CLR condemns the inadequate reaction of the Romanian President to the appeal to non-discrimination addressed by the artist Madonna in her Bucharest concert.





- together with other NGOs from the anti-discrimination coalition CLR has signed a petition to the equality body, the National Council for Combating Discrimination, namely against the assertions of Ludovic Orban, prime-vice-president of the National Liberal Party, through which the politician was breaching the right to dignity of certain vulnerable groups, the Roma included.
- CLR promoted the adoption as a network, of a protest letter against the senator Iulian Urban, who managed to get adopted a protocol of “living together” written on racial principles. The protocol was meant to be applicable only to the Roma population - in the Balotesti community, close to the capital Bucharest. Mr Iulian Urban conducted his actions using the logo of the Romanian Senate.

B. Advocacy and lobbying in the field of combating discrimination:

- CLR participated in several meetings of the Anti-discrimination coalition, discussing various topics such as: the National Council for Combating Discrimination (NCCD)’s Annual Report, a lobbying strategy for the appointment of new members in the NCCD, the implementation of the ECHR decisions in the community of Hadareni, for which CLR edited the report and communicated with the Council of Europe Department for the execution of judgments of the ECHR.
- CLR also participated in the European Network Against Racism - ENAR Romania meetings. In May 2009, CLR was elected substitute member of ENAR Romania. As ENAR Romania National Coordination, CLR has the following objectives: to increase the visibility of ENAR Romania through adopting common public positions under the umbrella of ENAR RO and through creating a website for ENAR RO; to raise the competence of the ENAR RO members in the area of anti-racism and anti-discrimination through organizing side events on the margin of General Assemblies of ENAR RO.
- Making use of the experience accumulated through the drafting of reports (especially the SEN reports), CLR applied and was accepted to be part of a network of NGOs in the field of social inclusion. The purpose of the network is to create an NGO consultation platform, using the open method of coordination according to EC guidelines in the process of drafting and implementing the Romanian National Strategic Plan for Social Protection and Social Inclusion 2010-2012 .
- CLR has been invited and actively participated to some public events organized by other NGOs in the related field. Here there are some of meetings or debates to which CLR brought its contribution: debate on an “Online Ethic Code” initiated by the Media Monitoring Agency; debate organized by Accept Association in





partnership with the anti-discrimination coalition on the topic of private life vs. freedom of expression in the on-line; launching of the report “Social risks and inequities in Romania” by the Romanian Presidency; launching event for the report Housing Conditions for Roma and Travelers” organized by FRA in Brussels; International Seminar Organized by the Euro regional Center for Public Initiatives in the field of sexual and reproductive rights as faced with religious fundamentalism; FRA, Council of Europe, OSCE conference on Roma migration and freedom of movement; ENAR Board Meeting in Brussels as National Coordination of ENAR Romania; SEN Organizational Meeting - meeting with EU Commission Representatives and discussing the 2010 work- plan in Brussels.

C. Increasing the capacity of the vulnerable groups to defend themselves against acts of discrimination, the awareness of the public authorities in this respect and the level of preventing discrimination at this stage:

1. National anti-discrimination seminar



Within the SEN Project, CLR has organized on September 24th a national anti-discrimination seminar, with the view to present and discuss the SEN reports with the participants (NGOs and Government agencies in the field, the NCCD and the National Institute of Statistics). The seminar also included presentations on the evolution of the anti-discrimination field in Romania, the effects of the economic crisis in the field, the concept of policy “equality’s mainstreaming” with a concrete example of the field of “gender mainstreaming” in Romania.

2. “Multi-regional network of counseling services for the social inclusion of discriminated against persons” project

It is a new EU (European Social Fund) funded project through POS-DRU that Centre for Legal Resources started in September, together with the partners NCCD and Giacomo Brodolini Foundation (Italy). The project set as the main objectives to improve the equal access to the labor market for women and persons belonging to vulnerable groups (people with disabilities, roma population), to increase awareness of the principle of equal opportunities and gender and its application to the staff of local administration, social partners, NGOs, experts and media operators in 6 counties of five development regions, respectively Center (Alba, Sibiu), NW (Bistrita, Maramures), SW (Dolj), South Muntenia (Arges) and Bucharest Ilfov



(Bucharest).

We consider that proposed activities by the project will drive the trade unions to respond as appropriate to the needs and requirements of employees. They will play the role of multipliers of European information by promoting European values on equality of chances in the labor market between men and women among employees and employers and incorporating those values into national policies. Information will be more credible if it comes from the inside (from the unions' leaders) than from the outside and will create the premises of a social dialogue on issues of anti-discrimination and equal opportunities in employment relationships. Employers will receive information concerning discrimination at work and the benefits of diversity. The added value of the project is the training, specialization and activation of human resources in the public system, the union leaders and employers without the need to hiring a large number of human resources and only 6 local coordinators of the centers.

3. Strategic litigation

Within the strategic litigation component, an amicus curiae was drafted and a document assumed by Foundation Motivation was brought into court within a strategic case CLR is working on, in the field of disability.



4. Equality of chances on the labour market: training courses and legal measures

In order to create contacts in the business environment and to promote the concept of the business case for diversity, through the accredited courses in Diversity Management and Combating discrimination, CLR has entered a strategic partnership with the professional association HR-Club within a POS-DRU financed project and implemented by HR-Club.

Following project events which CLR has participated to, two business contacts have been established so far, with UniCredit Consumer Financing and Danone. Both of them showed interest in the trainings CLR offers. The goal of the project is to bring legislative changes in the labour field from the perspective of human resources management, by organizing a series of meetings with relevant actors in the field. The objectives of CLR in these meetings and connected to the final result of the project are:

- to introduce specific, clearer legal obligations for Romanian employers with regards to the non-discrimination field
- to introduce specific clear obligations for the labour inspection to monitor and sanction discrimination in the workplace (by mentioning the anti-discrimination law in the labour code)





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- to raise the awareness of the labour inspection that they have a specific obligation to monitor and sanction discriminatory incidents on all grounds foreseen in the Romanian anti-discrimination legislation

Due to other contacts established within the same project, CLR has mediated the connection between Foundation Motivation (fighting for the rights of persons with a disability) which has a specific employment programme and two potential employers.

Program's budget: 153,770 EUR

Sources of funding: European Union Agency for Fundamental Rights, European Commission - DG EMPL, European Network Against Racism (ENAR), Open Society Institute Sectorial Operational Programme for Human Resources Development (POSDRU)





2. Advocate for Dignity Program

General Objectives:

- To develop an independent monitoring mechanism of the detention and psycho-social centers.
- - To improve the legal and institutional framework in the field of protecting people with mental disabilities.
- - To build the community integration and acceptance capacity in regard to people with mental disabilities
- To work with users and NGOs representatives, local and central authorities in order to elaborate and implement a mechanism of protecting the rights of patients and beneficiaries of inpatients facilities (complaints and independent monitoring mechanism especially for institutions which are taking care of persons with severe mental disabilities).



A. Promotion of an efficient legal framework:

- Legislative proposal to set up an independent monitoring mechanism. CLR will promote Optional Protocol to the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment - OPCAT principles and will ensure that the legal document establishing the mechanism should observe the Paris Principles regarding the independence of the monitoring institution and mechanism members.

CLR program coordinator was invited at 3 meetings with the members of the parliamentarian (Senate) committee on Human Rights and asked to present writing comments regarding the implication of the ratification by Romania of the OPCAT document. CLR is well known by the Senate for its activity regarding the lobby for the ratification of the international document. At the end of March, the Senate's committee accepted to present to the members of the Romanian Parliament the proposal of the OPCAT ratification. The Romanian authority has deposited the signature for the ratification at the UN New York on July, 2nd.

CLR continued to advocate for further amendments to the law on mental health and the ratification of the UN Convention on the Rights of People with Disabilities. Unfortunately,





any decision has been taken, as a consequence of the on going arguments on the political arena.

Even so, the CLR has sent a letter to the general prosecutor office, asking for the improvements in the procedure on adoption the new rules in the area of involuntary admissions. By this petition, we showed that monitoring from the point of view of the rules governing the involuntary hospitalization (Law 487/2002, art. 44-59), on the one hand, and the enforcement of these rules, on the other hand, disclosed many drawbacks (for instance, the law does not clarify the judge's and prosecutor's duties, the decision on the forced admission is not motivated by the psychiatrist, who appreciates the relevance of the admission, the time provided by the law in this procedure is unreasonably high etc).



The law is nevertheless unclear as regards to the competent court, competent prosecutor office, respectively, to receive notifications related to involuntary admissions; there is a nonspecific text (for instance, art. 54: "his personal or legal representative can refer to the competent court, according to the law; the art 57: "if the competent court does not authorize..."), therefore creating confusions at the institutional level. The Ministry of Justice has decided that it is the tribunal's competency; on the contrary, the Public Ministry has stipulated that it is the competency of the court. The consequence in the law implementation plan is that the psychiatric units do not send notices to the prosecutor's offices, (although they are

requested by the law to do so) or if they do, the notices arrive to the prosecutor's office at the tribunal or at the court.

We ask the General Attorney to centralize the information related to the notices received from the prosecutors at the tribunals and courts, according to the art. 53 of the Law 487/2002.

In response to our claim, the General Attorney supports the need of a regulatory framework in the field, based on a legislative coherent assembly (she agreed with the CLR's policy to sustain the changing of the Law 487/2002) and establishes the expertise of the court/ prosecutor's office at the court, making reference to the principle of completeness of competence).

It is also specified the fact that there are 66 psychiatric hospitals (or related specialized units) throughout the country and that 15. 313 notices on the involuntary admissions were registered during 2007-2008 at the prosecutor's offices at the courts.



- Monitoring the operation/ implementation of the independent mechanism.

We consider that the ratification can “open the door” to the implementation of the national monitoring mechanism. The CLR has worked at a set of principles regarding a legal proposal for the national independent mechanism.

- Developing, disseminating and publishing certain instruments concerned with the implementation and increasing awareness of the institutionalized mentally-disabled persons, within the civil society and the authorities responsible with the provisions of the UN Convention on the Rights of Persons with Disabilities (UN CRPD) and advocacy activities relating to this.

During monitoring visits and meetings with the local and central authorities the CLR program coordinator and the CLR monitors discussed the implication of the UNCRPD at the level of institutions and the importance of the provision regarding the de-institutionalization and the monitoring activities.

The CLR has also prepared and distributed leaflets (at least 2.000) comprising information on the rights of mental health patients and the legal obligations of the institutions’ staff in relation with patients with mental health problems.



B. Transparency and visibility of the institutions

- Monitoring the way the human rights are observed (in the institutions) and access to public services for persons with mental disabilities; reporting.

At the beginning of the year CLR’s program manager organized a training seminar for the 10 monitors, including one legal and one medical expert. In addition, a representative of the Romanian Mental Health League was invited to the seminar, as a project’s partner. Following the training session, the monitoring visits within this PHARE project started in 16 selected institutions. The CLR visited psychiatric hospitals and wards and one social medical center with mental health beneficiaries and organized follow-up visits to the already seen institutions. The second follow-up visit was mainly aimed at finding which was the progress recorded by each institution during the few months elapsed between the visits. The answers which some of the institutions developed for the monitoring reports were deemed useful to objectively examine the situation at the visited establishments. They highlighted the open attitude of the institutions’ management towards the independent examination of the treatment applied to persons with mental disabilities.





The theme of the monitoring visits was mainly related to the following: openness of healthcare and social establishments towards independent examination of the rights and liberties of persons with mental disabilities; mechanisms and procedures to record and settle complaints and petitions submitted by the institutionalized persons; implementation of regulations concerning non-voluntary commitment and informed consent; implementation of regulations

concerning measures to restrict the freedom of movement of committed persons; treatment and healthcare; observance of other rights of committed persons.

The monitoring visits took place during March – September in the following 16 healthcare and social institutions for persons with mental disabilities:

Psychiatric Hospital in Cavnic, county Maramureş

Psychiatric Hospital in Drăgoeşti, county Vâlcea

Psychiatric Hospital in Dumbrăveni, county Vrancea

Healthcare and social ward in Găneşti, county Galaţi

Psychiatric Hospital in Mocrea, county Arad

Psychiatric and neurology Hospital in Oradea, county Bihor

Psychiatric Hospital in Vedea, county Argeş

Psychiatric Hospital in Zam

Children neuropsychiatric ward of the Children's Hospital in Bârlad, county Vaslui

Psychiatric ward of the Emergency Hospital in Bârlad, county Vaslui

Psychiatric ward in Gura Văii of the County Hospital in Drobeta-Turnu Severin, county Mehedinţi

Psychiatric ward of the Municipal Hospital in Sighetu Marmatiei, county Maramureş

Psychiatric ward of the Municipal Hospital in Târnăveni, county Mureş

Psychiatric ward of the City Hospital in Turceni, county Gorj

External ward of the Psychiatric Hospital in Brăila, county Brăila

Psychiatric Hospital "Voila" in Câmpina, county Prahova

In comparison with the previous years, the monitoring actions within this project highlighted a higher degree of openness and receptivity on behalf of the Public Health Ministry, the Public Health Departments and the management teams of the healthcare and social establishments for persons with mental disabilities. The open and cooperative attitude of some of the visited institutions was manifest in the attention of their management teams (and/ or of their superior authorities) towards the conclusions and recommendations included in the reports of the monitoring visits. In this respect, our acknowledgements go to Prahova Public Health Department, Voila Psychiatric Hospital,



Vaslui Public Health Department, the Municipal Emergency Hospital “Elena Beldiman” of Bârlad, Gorj Public Health Department, the City Hospital in Turceni, the Psychiatric Hospital “Sfântul Pantelimon” in Brăila. However, unjustified reluctance towards examination of the current situation in the institutions by independent bodies (non-governmental organizations active in the area of human rights protection) was obvious in many cases.

Some remaining concerns that we found during the monitoring visits were: disregarding the patients’ right to submit complaints by the healthcare and social institutions; deficiencies related to knowledge and implementation of specific legal provisions concerning the non-voluntary commitment of persons with mental disorders and their agreement (consent) related to confinement, diagnosis and treatment procedures; the lack of awareness between the patients regarding their rights, including the one to challenge their non-voluntary commitment in court; overcrowding of some institutions (such as Psychiatric Hospital in Mocrea, City Hospital in Turceni, Hospital in Drăgoești). The full report containing the findings of the monitoring visits can be downloaded from CLR’s website: www.crj.ro.

Furthermore, CLR received an invitation from the Social Inspection, a central authority within the Ministry of Labor, to organize, as independent observer, inspection missions for one month (August) in the center for recuperation and rehabilitation for person with mental disabilities, in partnership with their local inspectors and a psychiatrist from the county direction of public health. The CLR’ reports were then attached at the Social Inspection reports and analyzed at the central level.

- Informing and training the NGOs, institutions and local public authorities on the instruments provided in the national and international standards in the area of human rights;
- Maintaining cooperation with the international institutions and organizations for the protection of human rights.

On 22 October the CLR has organized an international conference in Bucharest with the aim to present the main findings and proposals for improvement for the 16 visited institutions and the conclusions of the 5 round tables organized with representatives of the local public administrations, hospitals and NGOs in Alba Iulia, Sibiu, Ramnicu Valcea, Timisoara and Bucuresti.

At the international conference held in Bucharest the CLR has invited the director and the human



rights officer of the Mental Health Europe and a representative of the Interights from London, UK.

The CLR has also developed cooperation with the Autism Speaks Foundation from UK in order to better advocate for the right to treatment and rehabilitation of children with autism.



C. Advocacy and lobbying to combat and prevent abuses of the fundamental human rights.

The CRJ continues to publish and disseminate the report regarding the situation of persons with mental disabilities. CLR was co-opted by the FDSC and the Romanian Angel Appeal to work at the proposal of a legislation regarding children with autism.

Since September we have been working on a project in partnership with 'Autism Romania' in order to identify the problems in relation with the educational system for children with autism and to propose new therapies for rehabilitation and inclusion of those kids with autism. CLR participated to a conference called "Diagnostic and scientifically validated interventions in autism", organized by the Department of Clinical Psychology, University of Cluj Napoca and Babes Bolyai Department of Clinical Psychology, Oxford University (November, 2009), where it showed the work conducted together with the Romanian Angel Appeal Foundation during 2009 in autism area. On this occasion, we have established contacts for future projects to be developed with European organization, such as - "Autism Speaks".

The CRJ has also started working to a proposal to identifying the psychiatric hospitals in which clinical studies on patients are conducted. We observed abusive practices in several hospitals and so far, we have asked and received from the National Authority of Medicines the list with hospitals in which are organized medical studies on patients.

Program's budget: 103,850 EUR

Sources of funding: Phare Civil Society Programme, Open Society Institute





3. Reform of the Judiciary

We set the following goals to be reached within the program “The Reform of the Judiciary”:

- The reform of the judiciary through legislation/draft laws monitoring
- Actions on the judicial reform

A. The Reform of the Judiciary by legislation/draft laws monitoring

➤ Comments on the legal codes’ draft

One of the necessary steps for the reform of the judiciary is the reform of the Civil Code, Criminal Code and the related procedural Codes. Even if the Civil Code was being successfully used for 150 years, it is quite outdated and the EU Romania’s accession required the revision of all the legal Codes. This process officially started in 2006, although the Ministry of Justice has been working on them for at least 12 years, with every new Minister in the field showing interest to bring additions and improvements to the Codes.



At the end of 2008 the Ministry of Justice decided that all the 4 drafts of the Codes are in fitted shape to be sent to the Parliament. After the general elections in the fall of 2008, the same Minister decided that some additional work is needed, so he withdrew the drafts, revised them in one month time and sent them back to the Parliament. Meanwhile, we noticed some legislative infringements during the procedure: the Transparency Law no.52/2003 which obliges the Ministry of Justice to publish on the website the final versions of the law drafts (actually, the Ministry of Justice posted many different versions of the drafts on its website during the year, so it was quite impossible for an outsider to make pertinent legal comments on them) and to organize public debates on these drafts; the Law governing the legislative technique no.24/2000, establishing that the impact studies for each piece of law and the existence of different advisory opinions of different bodies are compulsory.

Therefore, a number of 23 NGOs representing different areas - human rights, media, public policy bodies decided in March 2009 to build an ad-hoc coalition named “Stop the Codes!”. The Coalition’s legal work was undertaken by three NGOs: Centre for Legal Resources, APADOR - CH and TI-Romania.

The Coalition challenged to court the Ministry of Justice and the Government, met the Senate’ Chair, the President of Romania and some members of the Parliament and held 5 press conferences on this subject.





CRJ made comments on Criminal Code, Criminal Procedure Code, Civil Code and Civil Procedure Code and participated to several debates at the Parliament. All the legal comments we made can be found on CLR's website: www.crj.ro or on "Stop the Codes!"



Coalition's website: www.opriticodurile.ro.

In our comments regarding the Civil Code draft, we underlined, inter alia, the fact that the amendments made by the subcommittee on the Civil Code and Civil Procedure Code offer excessive and unjustified attributions to the public notaries. Our arguments were based on the premise that the law maker should establish rules to regulate the relations in the civil law in order to protect the interests of the citizens. We

countered in this regard the law maker claim to have the authenticated version of the documents for preventing the trials, by the fact that the authentication procedure is not the exclusive preserve of the notaries. According to the art. 44 of Law 36/1995 (on the public notaries) „The documents for which the law requires the authentic form will be issued only by the public notaries, the lawyer of the interested parties or by the legal adviser or legal representative of the juridical person. The persons having high legal background will be able to issue the documents in which they are party, themselves, their husbands/wives, as well as their ascendants or descendants.” As result, the exclusive right of the notaries to authenticate certain documents is an excessive one, proving therefore that the interest of the parliamentary subcommittee is not a general one, but one to protect a particular group of interests.

As regards to the Civil Procedure Code (CPC), we outlined that in its explanatory argumentation, the Government emphasized the deficiencies of the procedural system regulated by the current CPC (the lack of celerity, slow, formalist, costly and lengthily judicial procedures), explaining thus the necessity of a new system for the civil procedure. Yet, we consider that an explanatory argumentation is not a strong enough evidence, able to sustain the idea that the judicial system will be changed and will function according to the executive's expectations. The impact studies and public policies' issuing are nevertheless the supporting pillar in implementation of a new judicial system, because they permit a transparent highlighting of the positive and negative aspects of the presented project and identify the real needs of the society.

Finally the Civil and Criminal Codes bills were passed in the Parliament by liability-assumed procedure, a limit-solution, even if allowed by the Constitution, as the drafts had already been amended by the Parliament. The impact studies are not ready for the time being and have informed through a letter the European Commission about it.





- Reform of the National Institute of Magistracy
 - Study of the curriculum, year I and II (NIM)
 - Comparative study with the curriculum of l' Ecole Nationale de la Magistrature;
 - establishing contacts with the justice auditors

- Monitoring the enforcement of Law 52/2003 regarding the decision making transparency in the county councils in the counties of Cluj, Timis, Constanta, Neamt, Mures.



Making a general assessment of the observance of the Law 52/2003, we can say that following the submission of the petitions, relevant changes have been made in terms of decisional transparency. This monitoring was carried out within the project "Capacity building for local NGOs to monitor corruption and exercise the right of access to justice", financed by CEE Trust.

B. Participating to debates on the reform of the judiciary

- 1) Participating to the action to support the judges as judicial power in relation with the executive and legislative powers, alongside with the NGOs: AMR, UNJR, IPP, TI, under the "Alliance for an European Justice";
- 2) Training session in the field of public policies, coordinated by the Academy of Advocacy;
- 3) Participating to the debate on "Anticorruption policies in the justice system". On this occasion the book "Corruption and anticorruption in the judiciary" was launched, author Cristi Danilet

Program's budget: 37,000 EUR

Sources of Funding: Open Society Institute





4. Public Integrity Program

General objectives:

- to contribute to the development of sound and comprehensive Romanian anticorruption legislation, according to the E.U. standards;
- to monitor and report the enforcement of anticorruption legislation by the local and central public administration and to foster the anticorruption activities at national and local level;
- to develop a functional network of civil organizations active against corruption from all Romanian counties, in order to support the monitoring, reporting and issuing recommendations process.



The first half of 2009 has been a period of significant turmoil in the area of public integrity. The newly appointed government was very active in promoting reform but the initiatives lacked coordination and public consultation. The Government adopted too many Emergency Ordinances (93 such acts in six months) and failed to address the economic crises. The Civil and Criminal Code have been adopted without a public information and consultation campaign and without any impact assessment reports through an exceptional legislative procedure: assumption of responsibility by the Government before Parliament. The public concerns about corruption raised as several members of government had to respond to public allegations of corruption.

The National Integrity Agency (ANI) failed to have an impact on the local level conflicts of interests: most of their cases are simply files regarding alleged false declarations and these cases are submitted to General Prosecutor's Office for further investigations, as ANI has not the mandate to investigate false declarations. Several whistleblowers from ANI reported management misconduct within the agency and lack of impartiality in some ANI investigations. ANI still lacks an operational strategy: the agency is responding late to intimations.

National Anticorruption Directorate continued to investigate the same high-level cases identified in 2005 and 2006. There is no prevention corruption strategy.

The anticorruption strategy 2008-2010 has been left aside as no measures have been taken to curb corruption in the health and education sectors. Nevertheless, corruption perception is still high in health sector, education and public procurement.

In the second half of 2009, the Presidential elections captured much of the public attention. The political instability prior to the elections (the Government was dismissed by the Parliament) hindered the anticorruption measures.

The dispute between the National Integrity Agency (ANI) and the National Integrity Council (CNI) continued: ANI refused to declassify the investigation procedures as CNI





recommended; ANI operational strategy for 2009 was not discussed in the CNI; CNI did not finalize the incompatibility investigation on ANI's President (the investigation was opened in April 2009); CNI opened another investigation on ANI President in November 2009 as the recordings of several private conversations of ANI President were leaked to the media; CNI was unable to select a person for the position of vice-president of ANI. ANI lacks transparency: the investigation procedures are not public; the list of closed cases is not public; ANI's annual independent management audit for 2008 was contracted in late 2009 and it is expected to be publicly presented in the first half of 2010. This considerable delay makes the management audit a weak tool in fostering ANI's accountability.

The anticorruption strategy 2008-2010 was not functional in 2009: the Strategy monitoring committee held a single meeting. Based on requests of public information, CLR reported shortcomings in the implementation of the Strategy in health and education sectors.

CRJ main anticorruption areas:

A. First area: monitoring, reporting and official complaining about the integrity of central and local public administration and the effectiveness of the anticorruption bodies.

- Monitoring anticorruption legislative initiative and expressing opinions and recommendations regarding the anticorruption draft laws.

CLR initiated a close monitoring on the National Integrity Agency and National Integrity Council. CRJ expressed several concerns on how ANI is performing its mandate. In addition, CLR experts participated in various anticorruption public debates and constantly expressed their conclusions and concerns in the media.

- Integrity strategy and action plan

In 2008, CLR conceived a draft local integrity strategy and an action plan. 17 local bodies adopted the integrity strategy and an action plan. In 2009, CLR continued to improve the local public administration integrity capacity and build coalitions at local level. CLR began a research on ethic's counseling in the public administration. 500 local bodies are involved in this comprehensive research.



- Developing the network "Together against corruption"

Within the framework of the network "Together against corruption", CLR began in January 2009 a national - wide monitoring campaign of local public administration in 7 areas: public procurement, conflicts of interests, incompatibility, illicit enrichment,





whistleblower protection, access to information and transparency of decision-making process. CLR submitted more than 10 official complaints regarding conflicts of interests to the National Integrity Agency, 5 petitions to local bodies to remediate the integrity



failures, 11 court cases regarding access to information and illegal permits issued by local bodies. CLR began court cases against Romanian Government and the President of Romania for blocking the access to public information.

CLR began monitoring the interests of the members of Government and a report was issued on the second half of 2009.

CLR is working on a report regarding the asset declarations by the Romanian President, Parliament and Government for the period 2004-2008. The research for the report is finished and the conclusions are worrying as most of the public officials are not respecting all the provisions regarding the asset declarations. Also, the public servants responsible with the implementation of the asset declarations are poorly trained.

CLR organized the annual conference of the network “Together against corruption” in Bucharest on 23-26 April 2009. During the conference the website of the network has been launched www.guvernmaibun.ro and the network changed its name into “Integrity and Good Governance”, in order to cover a broader area: corruption, integrity but also good governance, better regulation and public policies.

CLR organized in May 2009 a working visit in Brussels for the leaders of the network “Integrity and Good Governance”. Several NGOs coalitions at European level have been contacted during the visit: Alter-EU platform, CEDAG and ECAS. An action plan has been established so that the network to become affiliated to a European Network active in the area of good governance.



Within the framework of the network, CLR developed 18 informal consultation bodies at the municipal level, named “Local integrity group” (GIL). The locations of these groups are: Timisoara, Sibiu (2 groups), Braila, Iasi, Olt, Targu-Neamt, Brasov, Craiova, Gorj (2 groups), Sighisoara, Bacau, Focsani, Cluj-Napoca, Targoviste, Drobeta Turnu Severin, Miercurea-Ciuc. These groups are formed by local NGOs, press, private sector and local public administration representatives. GIL will have the primary task of monitoring the implementation of the integrity strategy and the action plan in each municipality. During GIL meetings the principal topic was the results of the Local Integrity strategy and action plan. This strategy has been promoted by CRJ since 2008 and it has been adopted by several public authorities: Bacău County Council, Brăila County Council, Gorj County Council, Timiș County Council, Mureș County Council, Cluj County Council, Timișoara





Local Council, and Târgu-Jiu Local Council. Within the municipalities that did not adopt the strategy, GIL members conducted an advocacy campaign to promote it.

Three permanent working groups have been established within the „Integrity and good governance” network. The first working group, GLP1, monitored the activity of National Integrity Agency and National Integrity Council. The second working group, GLP2, monitored the implementation of National Anticorruption Strategy 2009-2010. The third working group, GLP3, monitored the implementation of Government Emergency Ordinance (GEO) no. 37/2009, whose effect was the dismissal of all the persons occupying management positions in the local public services in order to allow Government to appoint on that positions new persons selected on political criteria.



The coordinator of each GLP drafted a monitoring report: GLP1 - “Integrity, quo vadis?”; GLP2 - “The implementation of Anticorruption Strategy 2008-2010”; GLP3 - “Reform or Countereform within public services?” These reports have been published on www.guvernmaibun.ro and www.crj.ro. In order to debate the conclusions and the recommendation of the “Integrity, quo vadis?” report, CRJ organized on 15 October 2009 the conference “Integrity, quo vadis?” with the participation of ANI Secretary

General, CNI members, NGOs representatives and journalists.

CLR and Konrad Adenauer Foundation organized a follow-up conference with the same topic on 16 December 2009. During this second conference, a cooperation plan between NGOs has been put forward in order to support the transparency and accountability of ANI and CNI.

CLR published in October 2010 the study „The implementation of the legal framework on ethics counseling” (after monitoring the activities of ethics councilors from more than 500 public bodies). On the 29th October 2009, CLR organized the round table “Ethics Councilors and public administration integrity: facts and perspectives” and drafted a guide to help ethics councilors in conducting better their job.





B. Second area: monitoring and advancing proposals aiming at the integrity of the public health system.

CRJ completed a report regarding asset declaration within the health sector. The report concluded that most of the public health bureaus are not keeping the asset declarations on their websites and the managers of the hospitals are not submitting regularly the declarations.

3. Third area: developing anticorruption regional partnerships and dissemination of the Center's anticorruption know-how across the region (former Yugoslavia: Serbia, Montenegro, and Croatia).

CLR developed a database of contacts with possible regional partners.



Conclusion:

Several steps have been made by the CLR Public Integrity Program in the first strategic areas during 2009: the ethics councilors' role have been put on the agenda, ANI performance has been evaluated and debated, 3 key reports has been issued, 18 GIL began to work at local level, the civil society capacity has been strengthened. The activities generated positive impact at central and local level but efforts still have to be made to curb the culture of corruption that generalized both among citizens and the private sector.

The integrity and anticorruption subject is still prominent in the public and institutional agenda. The results Romania achieved in the anticorruption fight are still mixed and further corruption prevention activities are needed.

Program's budget: 169,525 EUR

Sources of Funding: Trust for Civil Society for CEE, Phare Civil Society 2006 Programme, ONG Fund 2008, Open Society Institute

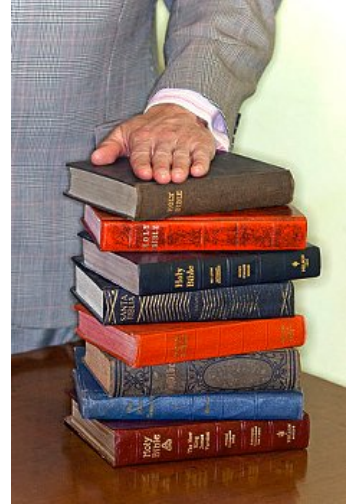




5. Strategic Litigation Program

General objectives:

- to promote test cases in the fields of human rights, access to justice and environmental protection in order to protect those rights, to show the lack of legislation or the public institutions misconduct;
- based on the test cases in front of the courts, to raise awareness for legal changing or about the lack of the legal enforcement;
- to encourage Romanian civil society to react when individuals or public / private entities' rights are threatened or infringe upon, and to promote the understanding that access to justice is a legitimate right of all individuals, that needs not only legal recognition but also effective enforcement.



A. Cases related to access to public information and to environmental information.

Within the **Antidiscrimination Program** we are assisting a mother with a disabled child whose entrance was denied in Vitan Mall Bucharest, because he was using the medical tricycle instead of a wheelchair. According to his doctor, the wheelchair is not a real help for the child to walk, as he is suffering from a specific disease. The doctor strongly recommended him to avoid using devices as the wheelchair or anything related and advised instead to use the medical tricycle. The case is still pending in court, after the appeal submitted by his mother, assisted by CLR, was admitted. The court is to decide whether the case should be retrial by the first instance court.

We started cases regarding transparency and public participation in environmental assessment procedures and access to public information, public integrity against the Romanian Government, various ministries, governmental agencies and public companies. Most of the cases were the result of monitoring activity or the result of FOIA violation by the public institutions (access to public information cases).

Among the finalized cases on access to public information we can mention the case against the Romanian Government and Ministry of Finance regarding the information related to IMF loan, against Ministry of Economy, regarding the copies of the assets declarations' register. Several cases, against the local or central authorities in a monitoring program related to ethic counselors' activity were all solved favorably when the defendants submitted the requested information with the court. Only two cases are still





ongoing, one against the Mayor of Constanta and the other against the Mayor of the District 5 of Bucharest. We started cases against the National Agency for Integrity, asking for the information related to the agency's investigation procedure. On environment issue, we brought to court "The Bats Cave" or Faget Case, on the annulment of environmental permits.

B. Monitoring all the environmental protection agencies in Romania within a Phare project.

We hired 8 monitors across the country in order to send us monthly reports on their monitoring. They are observing the compliance with the environmental legislation on



environmental impact assessment procedures and the accuracy of its implementation. They developed a number of case studies regarding procedures they were part in, or they have documented since February 2009. Access to environmental information in Romania is still a problem when we are talking about Environmental information that should be published without request, according to Aarhus Convention, 2003/4/CE Directive and Gov. Decision 878/2005. This information is in 90% of situation not

published on websites, and in 50% of cases we did not receive it upon request. We filed a few law suits in courts across Romania.

The monitoring activity of the environmental protection agencies was finalized with a guide for public participation in decision making process.

In addition, three training sessions were organized on the environmental legislation and access to justice in environmental procedure, with the participation of judges, civil servants and NGOs.

The judges' decisions up to now are proving the lack of knowledge of Environmental legislation in general and also the lack of judicial experts who would analyze the accuracy and the conformity with the law of environmental reports or environmental impact assessments. In one case, "Cheile Sugaului", an expertise has been waiting to be issued since 2007. "Cheile Sugaului" is a Nature 2000 site, where a private investor carried out an environmental impact assessment where the existence of the protected habitat 7220* - "petrifying springs with calcareous tuff/sinter formation" is denied. The Nature 2000 site is regulated by Ministerial Order, but the Order was issued after the environmental impact assessment has been enforced.



C. The Network of Human Rights Lawyers is developed, as one seminar was organized at the beginning of February. The lawyers were trained in environmental law and Legislation regarding transparency procedures in Environmental law.

D. Applications to European Court for Human Rights (EHCR) and complaints to European Commission.

We went on in taking legal actions on Poiana Mare Case, submitting a new complaint to



EHCR. In “Ofensiva Tinerilor” case we are expecting a final ruling after a change of documents and arguments with the Romanian Government. Together with Interights we filled two more complaints to ECHR regarding the death of 5 patients in Poiana Mare Hospital. A final complaint regarding the death in the same hospital of Campeanu Valentin, an AIDS infected person was also finalized.

We filed a complaint to European Commission regarding the abuse of authorities over the people that have been expropriated in Basarab Bridge Case. In this case for the third time, the Court of Appeal asked for a retrial of the case on the annulment of the land use plans of Basarab Bridge Project. In the same case, the court cancelled the decision of the General Council of Bucharest Municipality regarding the public utility of the Basarab Bridge. However, the Romanian Government issued an Emergency Governmental Ordinance and decided that the expropriations must continue.

E. International partnerships. We are partners with Justice and Environment in VROM project “Aarhus Convention - practical meaning for EU Citizens - Promoting and harmonizing access to environmental justice in Europe”. Within this partnership, the national report on the Aarhus Convention’ Implementation in Romania was carried out. We submitted one report regarding the price of justice in environmental litigation, and we are going to realize another report regarding the implementation of Aarhus Convention in Romania.

Program’s budget: 112,500 EUR

Sources of funding: Phare Civil Society 2006 Programme; Open Society Institute, Justice and Environment - European Network of Environmental Law Organizations





6. Training Program

The activities were conducted in line with directions of action set out in the training program strategy:

A. Identifying and establishing lines of action to initiate, develop and provide training programs, related and / or integrated in the strategic areas of action of the CLR:

The CLR owned pooling resources documentation was finalized. It can be used as support for training, including human resources database that can occur in training programs and common databases with institutional resources;

There has been carried out documentation activities with the view to identifying new directions of development of training programs authorized in the first half of the year (*Program Management* and *Program of Social and Civic competencies*), for the following modules:

- Strategic management;
- Change Management;
- Management and Leadership;
- Management of Public Relations;
- Quality Management;
- Management of Social Services;
- Public Service Management;
- Performance Management;

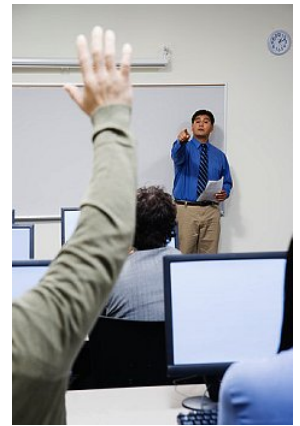
There has been completed the documentation for possible involvement of the CLR in mediation training activities, by allowing as provider of initial training or continuing education provider, depending on CRJ ability to comply with conditions stipulated by the regulatory ;

Analysis of the POSDRU and PODCA funded programs to shaping the image of certain market trends in terms of training were also concluded.

B. Positioning and promoting the CLR on the training providers market and strengthen the status of "approved training provider":

Activities:

- Initiating collaboration with the National Agency of Civil Servants for shaping joint programs that include training in areas of expertise of the CLR; Discussions have been implemented so far in establishing the partnership for a project that was submitted for finance with PODCA (Priority axis no.1, Areas of intervention 1.3. Improving organizational effectiveness).





- Participation in seminars and meetings where contacts have been established and made discussions on possible collaboration on training with various organizations / companies (Association for Women Entrepreneurship Development, Inner Look LLC, Center for International Private Enterprise CIPE Romania-Romania, Civil Society Development Foundation, Foundation Partners for Local Development, etc.);

C. Collaborations and partnerships:

We established an agreement of cooperation with the National Agency of Civil Servants (NACS) within the "Ethics adviser - balance and integrity in public administration"; NACS proposed us a joint implementation of a survey on the impact of the rules of conduct on the professional activity of civil servants;

Other activity consisted in setting up meetings with representatives of the Social Inspection and the Regional Social Inspectorate Ilfov, which showed openness and interest for the development of joint projects for training personnel. Talks can be resumed only after completion of the present process of reorganization of agencies and public authorities;

We initiated a cooperation with the Federation of Unions of Public Administration to find areas of common interest to realize the projects funded in POSDRU or PODCA, or to find other ways of cooperation of mutual interest; and held meetings with representatives of the Association of Family Physicians Bucharest with a view to shape a joint submission with the POS DRU

D. Project management of "Ethics adviser - balance and integrity in public administration"

Activities:

- Analysis of situation of ethics advisors nationwide: monitoring of 550 public authorities in terms of enforcement of the law on appointment of ethics advisers; compliance with their duties regarding the ethical counseling (we sent 550 requests of information on compliance with the legislation, filed complaints and petitions to ensure the legal compliance)
- Centralization and analysis of the monitoring data
- Producing a guide for ethics advisers to be used in training sessions and disseminated to the public authorities;

Program's budget: 33,590 EUR

Sources of funding: Operational Programme for Administrative Capacity Development (PODCA), Open Society Institute





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