



Center for Legal Resources

organizație membră *son* member organization

Centrul de Resurse Juridice

Annual Report 2006

I. 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 Centre'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
- ❖ Public Integrity
- ❖ Strategic Litigation

These main areas and the subsequent programs were picked up after the relevant changing which occurred in the CLR's governance and staff in 2003. After a very deep analyze made both by the new board and staff, there were identified certain areas uncovered by other Romanian NGOs. In a country where are so many things to be dealt with, it has chosen to identify the existing niches on human rights protection and tackle subjects left aside by other NGOs.

Nevertheless, the legal perspective of each program makes the approach different from any other NGO. On the other hand it was also taken into account the legal expertise existing in the Center, among staff and members of the board.

What makes the Centre for Legal Resources unique within the Romanian NGO community is the main tools it employs for achieving its goals: legal expertise, access to public interest information and court cases. Therefore, although in some areas of interest for CLR there are projects carried out by a couple of other NGOs as well (i.e. on public integrity, combating discrimination, promoting the rights of mentally disabled) it must be stressed that the

approach used by CLR is the only one of its kind and in many cases CLR has been asked to provide assistance to these NGOs, which of course the organization has done.

II CLR GOVERNANCE AND STAFF

a) Governance

- Florin Buhuceanu - President (human rights activist)
- Dana Deac (journalist)
- Ivan Fiser (human rights activist)
- Eva Forika (lawyer)
- Valerian Stan (lawyer)

b) Permanent Staff

- Georgiana Iorgulescu - Executive Director, lawyer
- Iustina Ionescu (lawyer), Georgiana Pascu, Georgiana Fusu (lawyer), Radu Nicolae, Catalina Radulescu (lawyer) - Program Managers
- Manuela Weber - PR officer
- Valentina Nicolae - Executive Assistant
- Mihaela Stroe - Accountant
- Andreea Dina - HR officer
- Liliana Florea - Receptionist
- Victor Bota - Administrator
- Florentina Alexe - Housekeeper

c) Part Time Staff

Part time staff is employed based on specific projects, like monitors within the Mental Disabilities Advocacy Program, lawyers on specific cases within the RADO network, or monitors on Public Integrity Program. The number of part time colleagues reaches approximately 30 persons.

III. CLR'S PROGRAMS

1. ANTI-DISCRIMINATION PROGRAM

Background

Discrimination continues to be widely spread in the country therefore it is necessary to be addressed. Moreover, the timing will be appropriate since the topic is constantly highlighted by the European Commission. At the same time domestic activities have improved, the National Council for Combating Discrimination being more active and open on cooperation with civil society, including the Center for Legal Resources. A good thing is that people are more conscious than before about their rights not to be discriminated against. Nevertheless, the general public needs more to learn through information campaigns about the need to speak out against discrimination.

Due to a common effort of a group of NGOs and NCCD, a new draft law on anti-discrimination has been issued and is currently pending in the Parliament. It addresses sensitive issues such as the shift of the burden of proof, remedies and the independence of the NCCD. The draft law needs further effort of lobby and advocacy in order to pass through the Parliament in the form it was proposed. A special effort will be necessary to assist NCCD on preventing discrimination, adopting public policies to combat discrimination, and area which is absent from its activity. CLR is determined to play an important role on promoting the input from the civil society.

General objectives

The Centre for Legal Resources intends:

- to improve the legal framework according to international standards in the field of Anti-discrimination
- to ensure the correct enforcement of existing national and international legislation on Anti-discrimination
- to raise awareness on the general phenomenon of discrimination
- to put pressure on the authorities to issue firm public position against discriminatory policies, acts or statements

Main activities in 2006

1. EUMC - RAXEN National Focal Points

The Center for Legal Resources has been selected National Focal Point for Romania, for 2006

The European Monitoring Centre on Racism and Xenophobia (EUMC), based in Vienna, was established in 1997 as an independent body of the European Union. According to its founding regulation the EUMC is to set up and coordinate a European Information Network on Racism and Xenophobia (RAXEN).

The aim with RAXEN is to provide the European Union and its Member States with objective, reliable and comparable data at the European level on the phenomena of racism, xenophobia and anti-Semitism in order to help them take measures or formulate courses of action.

The EUMC on the basis of a comprehensive European consultation and tendering process in the context of the PHARE programme "Participation of Romania and Bulgaria in certain Community Agencies" selected us, the Center for Legal Resources, as its National Focal Point for Romania for 2006.

The National Focal Points are the entrance point of the EUMC at national level as regard the data and information collection foreseen in RAXEN; they are required to set up and maintain a national network and national information services in the field of racism, xenophobia and anti-Semitism. Their tasks include coordinating, structuring and analyzing the national data collection and providing these to the EUMC according to specific guidelines. Furthermore the National Focal Points have an important role as providers of input to the EUMC annual report.

The EUMC appreciates the cooperation of all national actors in the field of racism, xenophobia and anti-Semitism. To this end a network of governmental liaison officers has been established to facilitate the complex task of providing objective, reliable and comparable data. The EUMC encourages a close cooperation between the National Liaison Officers and the National Focal Points and their networks with the aim to build up links with all different actors including NGO's, research institutions, specialized bodies, social partners, governmental and semi-governmental bodies.

The partner organizations of the Center for Legal Resources in the National Focal Point are ACCEPT Association and the Ethnocultural Diversity Resource Center.

2. Advocacy for the improvement of the legal and institutional framework for fighting discrimination

Since 2000, Romania has had a law that punishes discrimination, and the National Council for Combating Discrimination has been operating since 2003. Discriminatory behaviors however persist within the Romanian society making discrimination a phenomenon that is perceived as natural by many Romanians. The Center for Legal Resources is currently involved in an advocacy campaign including complementary measures for fighting discrimination and promoting tolerance within the Romanian society.

3. Legal training on fighting discrimination

The Centre for Legal Resources is developing training projects targeting groups with specific roles in fighting discrimination. In collaboration with magistrates and lawyers professional associations we are organizing sessions for judges, prosecutors, lawyers and NGOs. Developed on the basis of European Court of Human Rights and European Court of Justice' jurisprudence, the seminars tackle specific notions such as direct and indirect discrimination, administration and interpretation of evidences, as well as enforcing sanctions/punishments.

4. Fostering the role and capacity of civil society organizations to fight discrimination

To raise the effectiveness of the common action to improve the legislative and institutional framework, the Center for Legal Resources has created and is currently leading a working

group composed of non-governmental organizations active in the fight against discrimination to which it is providing legal advice for cases of discrimination on the criterion of race, gender, sexual orientation, disability, age, etc.

Main events in the anti-discrimination program in 2006

1. Data Collection in Combating Discrimination - Practical measures to take at the national level in the field of education, racist violence and crimes and national equality bodies

International seminary organized on 20th of October 2006 by the European Monitoring Center on Racism and Xenophobia (EUMC) in partnership with the Center for Legal Resources, Ethno cultural Diversity Resource Center and ACCEPTS Association.

2. “ADVOCATE FOR DIGNITY” PROGRAM

Background

The subject of people with mental disabilities was never discussed in Romania from the perspective of human right approach, even some international institutions expressed their public concern about how these people are treated in mental health institutions (belonging to Ministry of Health, National Authority for Persons with Handicap or National Authority for Child Protection). Since major human rights abuses seemed to happen in these places, including the way persons are deprived of their liberty, the Centre for Legal Resources decided to tackle this issue.

General objectives:

- to contribute to the change of the legal framework, able to provide the human rights respect of people with mental disabilities;
- to advocate for community alternatives for people with mental disabilities;
- to contribute to the change of mental attitude towards the people with mental disabilities.

Main activities in 2006

1. Advocacy for the enforcement of fundamental rights of people with mental disabilities from psychiatric institutions

Within this program, the Center for Legal Resources is addressing the needs of people with mental disabilities from health care institutions – a social group systematically marginalized, discriminated, and subjected to inhuman treatments that reveal lack of respect for fundamental human rights.

In general, these persons do not benefit from the psychiatric treatment required by their health condition, nor do they benefit of the vocational rehabilitation training imperative to make them function at a full physical and mental capacity. Their needs are not at all met by the mental health system, they live in inhuman conditions and many of them are expected to remain in the facility for life.

To improve their situations, the Center for Legal Resources is currently conducting advocacy, information and education campaigns, while also contributing to the development of effective mental health public policies focused on the des-institutionalization and reintegration to community issues.

Starting 2003, Center for Legal Resources is monitoring the extent to which rights of persons with mental health problems or with intellectual disabilities held in psychiatric hospitals or in centers for recovery and rehabilitation for persons with handicap are observed. Monitoring reports reveal that people with mental disabilities belong to a constantly marginalized and discriminated group, undergoing treatments showing lack of respect for fundamental human rights

CLR considers that monitoring is playing an important role in preventing maltreatment in psychiatric facilities as well as in investigating the facts that lead to disrespecting the rights of people with mental disabilities. Due to the fact that in Romania, at this moment, there is no established, independent mechanism designed for investigating the extent to which fundamental rights of this group are observed, CLR, beginning with 2004, trained a number of ten professionals who are engaged in fact-finding visits and investigate the observance of rights of people with mental disabilities.

2. Promoting new legislation

Another component of the program involves the promotion of new legislative acts and reforming the existent legislation, as well as promoting the development of mechanisms that insure the respect of rights of persons with mental disabilities.

Main events in the Advocate for Dignity program in 2006

1. Failure in Closing Poiana Mare Psychiatric Hospital - press release

7th November 2006 - Following the deaths from the Poiana Mare psychiatric hospital during 2003 - 2005 and due to internal and international pressures regarding the patients' situations inside the hospital, apparently, both public health and justice minister decided to close down the hospital. Why both of them? Because the hospitals' patients were divided in two categories: patients who committed crimes and for whom the Court decided to put them in a profile institution (due to different psychical illnesses) and "civil" patients.

3. JUSTICE REFORM PROGRAM

Background

Although free access to justice and the right to legal defense are constitutional guarantees in Romania, a lot of work must be done in order to achieve the mechanisms ensuring every individual's real access to justice, including appropriate legal counsel in criminal, administrative or civil matters. The current legal framework and practice often result in not granting access to justice or a fair trial in cases where major interests and rights of citizens are at stake.

Meanwhile, 2003 has seen significant action taken by the Council of Europe on the issue of legal aid. And in 2005, this issue has finally been put on the public agenda of the Ministry for Justice (the 2005-2007 Strategy of the judiciary system). This agenda includes public information mechanisms (such as „orientation guides” for the public, or information campaigns); reforming the legal framework which refers to judicial taxes (as well as the possibility of obtaining exemptions or reductions); establishing objective criteria for granting legal aid in civil cases and measures to improve the quality of legal assistance; increasing the fees for legal aid lawyers. Recently, the Ministry for Justice and the National Bar Union have signed a new protocol increasing substantially the fees for legal aid lawyers, although it left out some other issues connected to payment deadline.

General objectives

- to contribute to the establishment of a legal framework able to assure full access to justice of all individuals;
- to monitor the implementation of the legal framework;
- to identify special needs of vulnerable categories of citizens in what the justice system is concerned, and devise means of intervention;
- to raise awareness among judiciary and general public about what access to justice means and furthermore about the opportunities given by the new legislation.

Main activities in 2006

1. Monitoring the justice system

The Centre for Legal Resources aims to contribute to the improvement of the legal framework, to foster the independence of the judiciary, and to strengthen the magistrates' professional organizations. Furthermore, another line of action will aim to develop programs contributing to an efficient management of the court and to reduce the courts' workload.

2. Access to Justice

The key-notions of “legal aid”, “legal assistance”, and “free of charge” cover different areas, depending on the law from the perspective of which they are analyzed. The lack of correlation among the different provisions which regulate the issue causes results in contradictory court orders, legal doctrine controversies and obstructions in the counsels/'solicitors' carrying out their activity in giving legal aid. Citizens' access to justice is limited, which contributes to making the civil circuit insecure, to discrimination among the plaintiffs/defendants according to their material circumstances, to maintaining a low level of confidence in the social distribution of justice among the individuals who find themselves under the jurisdiction of a court

The Centre for Legal Resources has engaged in this area of activity by analyzing the legal aid framework and methodology, and will continue by developing proposals to adequately reform the legal and institutional framework.

Main events in the Justice Reform program in 2006

1. Brief assessment on Romania's compliance with some critical EU requirements - report and press release

The purpose of this review about Romania's progress on its way toward the European Union was to encourage the country's membership by January 1 2007, mentioning, however, both the achievements and the shortcomings that need to be addressed in the near future. Consonant to the expertise of the NGOs issuing it, this review focuses merely on some aspects regarding the “political criteria” of the accession. Despite some objectives-related disappointments, still present within the country, and despite the criticism expressed by this evaluation, it was our strong conviction that Romania, its Government and its entire society will be able to deal more adequately, more effectively and in due time with still existing weaknesses once the country will become a EU member on January 1st 2007.

2. Amendments to the Penal Procedure Code: new threats against human rights - press release

The Centre for Legal Resources, the Open Society Foundation and Transparency International-Romania expressed their deep concern regarding the future of the rule of law in Romania. Upon the pretext of fighting corruption and bearing the flag of some alleged European Union requirements, the recent changes in the Penal Procedure Code were, in fact, severe infringements on human rights, especially on one's right to private life, right to defense, with serious implications upon the country's democratic evolution.

4. PUBLIC INTEGRITY PROGRAM

Background

After the general elections in 2004, Romania experienced a restart in the anticorruption work as institutional building programs supported by the former government failed to curb petty as well as grand scale corruption.

The Centre for Legal Resources initiated the Public Integrity Program, recognizing the negative effects of corruption on economic growth, democratic development, the rule of law and the social structure.

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.

Main activities in 2006

1. Fostering the role and capacity of the civil society to fight corruption

The Centre for Legal Resources is currently carrying out initiatives to foster the civil society's capacity to fight corruption. These activities encompass monitoring the implementation of the anti-corruption law, focusing on the “conflict of interests” issue, as well as keeping track of cases susceptible of “corruption”, since the moment the media release the information and up to holding responsible of those investigated upon and found guilty. Moreover, it advocates for amendments to turn the law into an efficient instrument to combat corruption.

CLR and its partners are developing points of view regarding the envisaged anticorruption legislation amendments and institutional changes through comparative legal studies between different countries.

CLR will document the defectiveness of the classifying and declassifying process established by the classified information law and recommend changes. CLR will also develop anticorruption prevention and education concepts and campaigns.

Main events in the Public Integrity program in 2006

1. The Performance of Anticorruption Institutions - press release

11th October 2006 - The Centre for Legal Resources and the Institute for Public Policy have lunched the report “The performance of anticorruption institutions”, The report synthesized the results of the monitoring activity of anticorruption institutions during the period March-August 2006, activity undertaken within the project: “The generation and implementation of the monitoring mechanisms of anticorruption institutions”, financed by the European Union through Phare Civil Society Consolidation 2003 Program.

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.

Main activities in 2006

1. Promoting strategic cases to court

The Centre for Legal Resources promotes test cases to protect human rights, punish discriminatory conducts and corruption, promote free access to information of public interest, and to protect the environment, etc.

Under this initiative known as „strategic litigation” we aim to identify and bring to courts and under public scrutiny strategic cases whose legal resolution would go beyond the narrow individual interest, having the potential to positively affect large groups of people.

As a result of promoting such cases we aim to change the jurisprudence and the interpretation of the legal norms which are not according to the Constitution and international legislation regarding human rights, as well as to modify the inappropriate local practices and public policies.

By initiating and winning such test cases the Center for Legal Resources wishes to bring about legislative change and to influence courts and lawyers' attitudes and behaviors in relations to these issues, thus leading the way for other people or non-governmental organizations to start similar litigations if they feel their rights were infringed upon.

The other objectives pursued include educating citizens about their legal rights, as well as identifying and correcting the shortcomings of the law that allow violations of fundamental freedoms of human beings.

2. Human Rights Lawyer's Network

The Human Rights Lawyer's Network is an open structure aiming to provide a suitable framework for legal debates and experience sharing for lawyers who wish to help protect and promote human rights by using the specific instruments of the legal profession. Through their involvement in the Network and through the promotion of strategic cases to court, the lawyers members of the Network play an active role in reforming the legal system by creating awareness among lawyers and members of the judiciary that human rights are integral to the development of an effective and sound legal and judicial system accessible to all individuals.

Main events in the Strategic Litigation program in 2006

1. The Rosia Montana mining project is suspended - Environmental Minister surprises NGO's with her decision - press release

11 April 2006 – During an NGO meeting with Stravros Dimas the EU Commissioner for the Environment, Sulfina Barbu, Romania's Minister for the Environment today officially confirmed that the Environmental Impact Assessment (EIA) procedure for the Rosia Montana cyanide-leach gold mining project has been suspended. This means that for now Gabriel Resources, the sponsor of the project cannot submit the EIA report to Romania's Ministry of Environment.