



Centre for  
Legal  
Resources

# ANNUAL ACTIVITY REPORT

2008





## 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

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

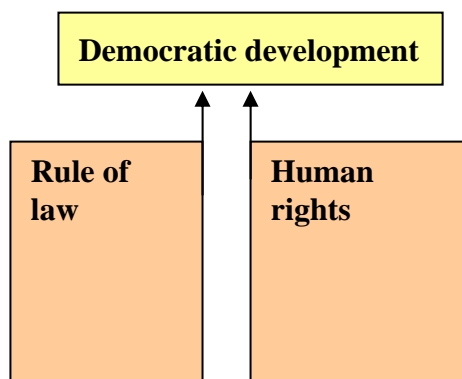




rights agenda is complementary to a rule of law agenda for promoting democratic development.

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.

When abuses and infringements of human rights are not resolved by public institutions, justice is called to bring fairness. But justice is not immune to corruption.



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 has been identified certain areas that were not sufficiently tackled 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.





## PROGRAMS

### 1. Anti-discrimination Program

#### General Objectives:

- to improve the legal framework according to international standards in the field of Anti-discrimination
- to monitor, report and ensure the correct enforcement of existing national and international legislation and policies 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:

##### 1. Monitoring and advocacy

Acting as national focal point for the European Union Agency for Fundamental Rights – FRA in the area of racism and xenophobia within the RAXEN network, and as support organization for FRA-LEX the FRA legal experts network in the field of human rights

#### RAXEN activities

The monitoring fields covered within RAXEN are: legislation, including the activity of the National Council for combating discrimination, racist violence and crime, education, employment, housing and health concerning the following target groups: national minorities, refugees, asylum seekers and immigrants.

The team of authors, together with the CLR staff and the two partner organizations (ACCEPT Association and the Ethno cultural Diversity Resource Center - EDRC) drafted several materials: three RAXEN Bulletins (in March, July and October) and the Complementary Data Collection Report on the fields mentioned above and issued in October 2008. The RAXEN bulletins mainly cover news and updates on the situation of Racism and Xenophobia in Romania, and they are drafted in cooperation with ACCEPT Association. The Complementary Data Collection Report is an update reports on the situation of racism and xenophobia in Romania following the 2007 more comprehensive Data Collection Report.





Also, in 2008, under the RAXEN project CLR started the research and conducted part of the interviews necessary to compile two other thematic reports for Romania requested by FRA under the framework contract agreed between CLR and FRA. These reports, submitted in March 2009, were: *Preventing racism, xenophobia and related intolerance in sport across the European Union* (period covered: 2003-2008) and *Thematic Study on Housing Conditions of Roma and Travelers* (period covered: 2000-2008).

#### FRA-LEX activities

The team of experts supported by CLR, drafted within the FRA-LEX project (subcontracted by the Human European Consultancy B.V) the following studies: *Homophobia and Discrimination on Grounds of Sexual Orientation, Romania, National Human Rights Institutions and Human Rights Organizations in Romania, Child Trafficking in Romania, Flash Report Romania, Quarterly Bulletins 1, 2 and 3*. The quarterly bulletins under FRA-LEX contain information on legal developments at national and international level

At the end of 2008, the team of authors also started drafting the *Thematic Legal Study on assessment of data protection measures and relevant institutions, Romania*, deliverable in January 2009 and the research work on the *Thematic Legal Study on impact of the Race Equality Directive, Romania*, deliverable in March 2009.

#### ➤ *Advocacy*

Under its Advocacy section, in October, the Center was involved in talks with the antidiscrimination coalition and participated in a meeting at the Romanian Government, advocating for the implementation of the European Court of Human Rights (ECHR) Decisions with regards to Hadareni (Mures county), Casinul Nou and Plaiesii de Sus (Harghita county). The ECHR decisions regarded cases filed against the Romanian state which inadequately dealt with the victims of violent ethnic conflicts involving Roma and non-Roma citizens in the 1990s. The Romanian state undertook to implement community development programs in the localities in question. Until October 2008, only one three year program existed, since 2006, for the community of Hadareni to be implemented under the supervision of the National Agency for the Roma. Because implementation was scarce since the Romanian Government repeatedly postponed funding transfers until close to the end of the year (while unspent money had to be returned to the state budget at the end of the year), Mr. Istvan Haller, former human rights activist and current member of the National Council for Combating Discrimination went on hunger strike. In this context, the antidiscrimination coalition obtained a Government meeting.

The Center called for the Government to take adequate action to implement the Governmental Strategy for the Improvement of the Situation of the Roma. The meeting provided some technical solutions for the ECHR decisions implementation and the promise of a round table to evaluate the Strategy implementation. The participating NGOs continued to monitor the actual fulfillment of the solutions agreed upon. Thus, the





same month, CLR participated in a meeting with the National Council for Combating Discrimination which, in October 2008 assumed both the financial and the operational implementation of programs fulfilling part of the requirements (educational program for combating discrimination) for the other two communities: Casinul Nou and Plaiesii de Sus.

In December, CLR participated in the follow-up reunion to the evaluation process of the human rights situation in Romania of the UN Human Rights Council, organized by the Romanian Ministry of Foreign Affairs.

CLR promoted the "Declaration of Principles on Equality", issued by the Equal Rights Trust, a London based think-tank, through a press release and through translating it in Romanian and publishing it on its website on December 10<sup>th</sup>, the International Human Rights Day.

#### ➤ *Networking*

Since October, the Center started to reactivate its presence in antidiscrimination networks such as the Romanian Antidiscrimination Network and the European Network against Racism - ENAR Romania. It participated in meetings, advocacy campaigns and general strategy drafting.

Within its networking activity the CLR participated in various conferences and round tables such as "*Affirmative action - from theory to practice*" a round table launching an ENAR Europe

wide campaign on affirmative action; or in the international conference *Grassroots Work in Roma Communities*, organized by the Soros Foundation Romania (October). CLR participated in the training seminar organized by the NCCD and the UK Embassy called "*Developing Institutional Capacity through exchange of good practices on combating discrimination*".



## **2: Raising awareness & Training on non-discrimination activities of recruitment**

CLR has continued the Anti-discrimination and Diversity training, contract VC/2006/0047, financed by European Commission, Employment and Equal Opportunities DG, subcontracted by CLR in Romania from Human European Consultancy B.V.







- *Anti-Discrimination and Diversity Training VT/2006/009 (subcontracted by Human European Consultancy)*

1. The Centre for Legal Resources organized **two Anti-discrimination (AD) Seminars** in Romania: one in **Sinaia (7-9 November 2007)** and the other one in **Predeal (5-7 March 2008)**.

The selection process for the participants in the first AD seminar started in the summer of 2007 and continued in September, when CLR organized a working session with the trainers, in order to make the final selection. The NGOs' and trade unions representatives have been invited to this seminar, as well as a representative of the Steering Board of the National Council for Combating Discrimination.



After the November Seminar, CLR started the selection procedure for **the second AD Seminar**. The former attendees in a similar event organized in Constanta city in 2005, as well as the participants in the AD seminar in Sinaia (7-9 November 2007) were invited to send their applications. The AD second seminar took place in Predeal, in a location which accommodated 44 participants and allowed the unfolding of parallel training sessions. The preparation for this second seminar was much easier, as most of the 2007 participants showed excitement to continue the training program.

2. The **Diversity Management (DM) Seminar** was organized by the Centre for Legal Resources in partnership with the Interact Company (experts in training and consultancy) in Bucharest, on the 24th of January 2008. The CRL selected a number of 50 applicants from private companies in Bucharest and invited them to attend the DM Seminar. The participation in the seminar was free of charge; letters of invitation having been previously sent to all the attendees.

The seminar had special guests invited to show their experience in the field: a foreign trainer and representatives of ABN AMRO Bank and Coca Cola HBC. All the participants had the occasion to ask questions and interact with each other during the plenary sessions or during the exercises in small groups.

The topics discussed comprised diversity management topics, European realities, Romanian realities, good practice and models of diversity management, case studies, understanding the competencies of diversity, the image of a company which succeeded in efficiently managing diversity and plans for the future.





Generally speaking, four categories of subjects could be identified:

- The corporate environment,
- Government,
- Non-governmental organizations,
- Society as a whole

Each of the groups seemed to perceive the concept of Diversity Management in a different way.

The **Corporate environment** is also split in several categories:

- 1) *Multinational companies*
- 2) *Large Romanian private companies and State owned companies*
- 3) *SMEs – Small and Medium Enterprises*

1) *Multinational companies:*

The employees are generally aware of the increased importance of diversity in their corporate agenda

2) *Large Romanian private companies and State owned companies*

There is a general lack of awareness regarding Diversity Management, amongst both managers and employees.

3) *SMEs – Small and Medium Enterprises*

Even if some individuals in the top management are aware of the DM, they are focused mostly on respecting the minimum standards and legal requirements.

### **The Government**

There are specific Governmental institutions in charge with antidiscrimination, such as the National Council for Combating Discrimination or the National Agency for Equality of Chances between Women and Men. Such governmental bodies were created in order to ensure the implementation of the Directives of the European Union regarding human rights and equality of chances. Apart from these specialized bodies, other authorities with a mandate in the field are not aware of diversity management.

### **Non-governmental organizations**

There is more and more awareness of the anti-discrimination concept. We noticed a common misunderstanding between anti-discrimination and diversity management among the members of civil society and a lack of communication between NGOs and corporations.

### **Society as a whole**

The majority of the employees have never heard about the concept of diversity management, while some of them have possibly heard about the anti-discrimination







concept. Some people are standing up for their rights, and only few people would complain about abuse or discrimination. There is a huge lack of awareness among people on how to identify such situations and what are the legal instruments to counter them. An enormous gap is to be filled with regards to education in the Romanian society.

The DM concept is rarely present on the discussions' agenda in the Romanian public sphere. However, the most common topic in the media is Roma integration. The general public opinion is usually opposed to the efforts of the government to allocate money and energy in integrating the Roma population ("they would never take advantage of these opportunities, and they will never be able to integrate into a normal society"). It seems that discrimination is commonly accepted by the majority of Romanians as the norm (it is normal for the young people to have more employment opportunities, it is normal for men to receive better payment, it is normal that the ethnic minorities struggle with the integration, with no effort on this path from the majority's side etc).

#### **Conclusions:**

The participants declared in their *evaluation questionnaire*, filed in at the end of the seminar that "lessons" taught are very useful for their future projects. More than half of the respondents mentioned that they will be more oriented towards the young segment of the population, towards the rights of patients, towards developing networking, recruiting and inviting persons with disabilities in their teams. However, some of them were mainly interested in getting information about how to address a case of discrimination (casework) – especially how to draft a complaint to the national equality body and how to draft a complaint to the civil court. Other participants considered the information about the antidiscrimination legislation as the most valuable thing learned during this seminar



Within its training section and in part based on previous activities within the antidiscrimination curricula were obtained official training Center. The three *Diversity management*, and *Human rights and democratic society*. The module is for the specific skills necessary developing abilities and



program, three training developed in order to authorization for the training modules are: *Combating discrimination media practice in a* objective of the first participants to acquire to adopt attitudes, to to modify behaviors. The second module aims at developing the capacity of the civil society, social partners and all interested stakeholders to fight discrimination, by using legal and/or other specific tools. The aim of the third module is to develop the capacity of journalists to understand and





apply human rights principles and to respect human dignity in the exercise of their profession. Since 2009 the Center has official authorization from the Romanian state to offer these courses both within its projects and independently.

**Plans for the future:**

In the near future, within the anti-discrimination program, the Center aims to continue its monitoring, research and advocacy work in the area of anti-discrimination. It will also continue to draft reports and updates for the FRA, within RAXEN and FRA-LEX. CLR will also draft the Romanian reports for the newly established network of socio-economic experts in the anti-discrimination field, established at EU level by OESB Consulting GmbH and Human European Consultancy. Taking advantage of its in-house accumulated expertise, CLR will probably draft an annual report on antidiscrimination. Furthermore, project proposals for financing will be drafted and submitted for financing from structural funds from the European Social Fund, specifically on the human resources development component, and to other donors in the field. Within its training modules CLR will be able to provide anti-discrimination training for specific groups, such as NGOs, trade-unions or journalists and diversity management for company representatives and other interested publics. The Center will continue to closely monitor the activity of the National Council for Combating Discrimination and the implementation of antidiscrimination laws, and to advocate for the maintaining of the guarantees of independence and competence of the NCCD.

Program's budget: 88.205 EUR

Funding: European Commission, DG Employment and Equal Opportunities  
EU Agency for Fundamental Rights





## 2. Advocate for Dignity Program

### General Objectives:

- To protect and advocate for the rights of persons with mental disabilities from the inpatients facilities, especially those admitted involuntarily, and patients or beneficiaries whose rights to complaint have been denied.
- 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).
- To organize media advocacy campaigns by publishing three monitoring reports (one with regard to fact finding missions organized during 2005-2006 and two after fact finding missions from the first semester of 2007).

- *Human rights and advocacy activities (monitoring and reporting)*



The main objective of the project is to propose a procedure of independent monitoring of the institutions with persons deprived of their liberty, as the psychiatric hospitals (especially for those admitted on involuntary basis), the penitentiaries and police wards arrests. All the project activities were organized with the support of mental health professionals and users and in cooperation with the representatives of the Ministry of Public Health, Ministry of Justice, National Authority of Penitentiaries, Ministry of Interiors, General Prosecutor's Office and the National College of Medicine. The project is organized in partnership with APADOR-CH and with the Dutch Embassy at Bucharest.

### Activities:

#### **1. Meetings**

The CLR project manager participated in several meetings with the representatives of the Ministry of Public Health, the Ministry of Justice, and General Prosecutor's Office and the professional body of medicine. The main meetings: Cluj Napoca - Cluj County, Sibiu - Sibiu County and Targu Mures - Mures County. The participants were representatives of the local public authorities and professional bodies, and the NGO's.





The CLR has established contacts with the representatives of the Ministry of Foreign Affairs and the Ministry of Justice regarding the ratification of the UN Optional Protocol against Torture (OPCAT). Being in contact with the Association of the Prevention of Torture, Geneva (APT) we were able also to present to the Romanian officials several models of implementation of OPCAT in other countries. In their winter report the APT has cited the CLR work and report regarding the OPCAT advocacy work in Romania.

The CLR has been informed that the Romanian Government will set the time for ratification during the autumn. In the Government meeting that took place on September 24, the Romanian Government has adopted a law proposal regarding the ratification of the OPCAT. The link to the law proposal is provided here:

[http://www.gov.ro/informatie-de-presa-privind-actele-normative-adoptate-in-sedinta-guvernului-romaniei-din-24-septembrie2008\\_11a101472.html](http://www.gov.ro/informatie-de-presa-privind-actele-normative-adoptate-in-sedinta-guvernului-romaniei-din-24-septembrie2008_11a101472.html)

The CLR has been informed that the Romanian Government have proposed a time for about 3 years to set the prevention mechanisms body after the ratification of the OPCAT, according with the OPCAT rules of procedure. In our opinion, it is a very long time, but even in these conditions Romania will have enough time to select members of the mechanism and revised the legislations, according to the OPCAT provisions.

## 2. Recruiting and training the members of the Mechanism

The main important aspects of selection, apart of professional background and experience in the field of fundamental human rights of persons deprived of their liberty, the selection procedure focused on future intentions of the applicants to continue their work in this special field and to have access to institutions.



A seminar on promoting and fighting for the human rights, organized during *the 30th March to April, 2<sup>nd</sup>*, on Cluj Napoca (Cluj County) proved a very good collaboration between the partners, experts and the participants. The seminar materials were very relevant and appreciated. Both experts and partners performed very well and they've managed to present different aspects and issues on documenting and monitoring the respect for the rights of people deprived of their liberty, as well as for the people in penitentiaries, police wards and psychiatric hospitals. This was very much valued by the other participants who have no previous experience in visiting psychiatric institutions and police wards. The discussions and working groups were very interactive and intense.

An aspect to be taken into account for the next similar events is time distribution. More time is needed for open talks, considering the sensitive issues on the agenda: personal



values, stereotypes, mentalities etc. We believe that the group did not have the time to exchange ideas freely about such topics. The information regarding the practical use of the legislation in the area of prevention of the ill treatments in institutions was most valued during the training. At the end, some of the participants were visibly enthusiastic about writing a report and being involved in documenting and prevention of ill treatments. As suggestions for future training, the participants expect to do more case studies and to focus more on the work with vulnerable groups (both substantial information about cases of inhuman and degrading treatments affecting the project target groups and methods of working for these groups).

The 2<sup>nd</sup> training was organized with two aims: transfer of knowledge from experts to monitors and getting feedback from the monitors about their reports carried out during the previous period. Most of the monitors have been working with the CLR from the beginning of the program but a few of them have been new recruited in the common team CRJ and APADOR-CH.

### **3. Four visits in places of detention with experts**

Both the experts and the partners have decided to organize one visit/institution after the training seminar. During these visits all of the participants have had the occasion to learn practical skills and methods on how to document an allegation of ill / inhumane treatment. During these visits the participants have the occasion to raise questions to staff members and to interview in private the people deprived of their liberty; to check data from the people's files and to check how the institutions look like in terms of living conditions, treatment and respect for private life.

Institutions visited by the group of participants with partners and experts were: Gherla penitentiary; Police wards at the County Police Station of Cluj in Cluj Napoca; Borsa psychiatric hospital

After this practical and theoretical training, the selected members of the mechanism have starts conducting ad-hoc preventive visits in other institutions then the three selected counties.

The CLR and APADOR-CH have released a "monitoring handbook", available in Romanian for NGO's representatives and other representatives of the professional bodies and civil society.

### **4. Raising awareness about the human rights of persons with mental disabilities in institutions**

The CLR and the APADOR-CH have organized in September a one day seminar with monitors and experts in the project and a national conference.

The aim of the one day seminar was to discuss the reports made by monitors during their period of implementing the mechanism of prevention of torture, the premises of continuing to monitor the penitentiaries, police wards and psychiatric hospitals. The







involvement of the monitors in discussions with the public authorities' representatives was analyzed during seminar.

**The national conference** took place in Bucharest on 25 September 2008. There have been invited directors of the penitentiaries, police lock-ups, psychiatric hospitals, public health authorities and related central authorities.

In the first part of the conference the APADOR-CH's expert in the project has stressed the main problems encountered during the monitoring visits in the penitentiaries and police wards: overcrowding ; problems in terms of food (e.g. there is no diet food); frequency of the stomach and respiratory diseases among people deprived of their liberty; insufficient medical care for the detainees; less training for the staff; few initiatives on socio-cultural activities in penitentiaries;

disrespect for the confidentiality of the detainees' discussions, either on the phone with their lawyers or during family visits; keeping the police lock-ups still in the basement, meaning lack of natural light for the inmates, contrary to the international norms proposed by the European Committee against Torture and Ill treatment; keeping the toilets outside the room of inmates and maintaining the bottles of night in the lock-ups



#### **Conclusions of the conference:**

There is a consensus from the authorities to create an independent mechanism;

- A guideline developed under this project represents a tool for NGOs and for monitors
- Proposal: setting up an institution (autonomous administrative authority) similar to the National Council on Combating Discrimination. This authority should be headed by a College whose members are appointed by the Senate. Financing this institution should be excluded from the state budget. Legislative proposals are to be made to regulate the recruitment of staff. Others participants at the conference have been stressed the importance of the independence of the mechanism. For instance, Mr. Al. Balanescu (sub-secretary of state and Ombudsman, lawyer by profession) referring to Law 35/1997 has explained that the institution of the Ombudsperson is removed from the list of institutions of control. He has added that although police lock-ups have been allocated sufficient funds, the Police still have not created conditions for normal persons there.
- An independent mechanism for the prevention of torture, inhuman treatment is needed
- The monitoring mechanism represents a factor of equidistance.







### Plans for the future

- Undertaking lobbying activity for the ratification and implementation of the OPCAT;
- Organizing at least 30 monitoring visits in the mental disabilities institutions during the 2009;
- Elaborating, publishing and translating in English a monitoring report with extensive recommendations regarding the mental health legislations;
- Organizing 2 training activities for the 10 human rights monitors
- Organizing an international conference in September/October 2009
- Working in partnership with "Autism Romania" (NGO) in order to prepare an advocacy campaign for the rights to treatment, social and educational inclusion of children with autism.

Program's budget: 51.857 EUR

Funding: Royal Netherlands Embassy, through MATRA KAP Grant

### 3. Reform of the Judiciary

The 'Reform of the Justice System' program has taken up the role of supporting the development of specific subject areas within the justice system, such as training of magistrates and strengthening the probation system.

Meanwhile we made all the necessary legal comments to different legal proposals issued by Government or Parliament concerning the criminal procedure code (there is an unprecedented trend coming from the prosecutor offices, part of media, Bruxelles and some Embassies according to which the respect for private life or the right to defense does not matter anymore in this fight against corruption), administrative law or comments on Constitutional Court decisions, but also in terms of private property (the State failed in assure the full respect of private property, so that Romania in still convicted in front of ECHR).

The main task of the CLR in the 2008's autumn was to comment the new Criminal Procedure Code issued by the Minister of Justice for debates. Unfortunately the new codes do not meet all the necessary legal guarantees for the defendants, it quite be told that those guarantees are even less then the actual code.





## Activities

**1. Supporting life-long training of judges in EC law**, through the project - 'Romanian Judge, European Judge', funded by the UK Embassy through Global Opportunities Fund. Romanian National Institute of Magistracy is a partner in the project.

70 commercial and administrative law judges have received training on issues such as direct enforcement of EU law, *acte clair*, conformity of national legislation, procedure and referral to the European Court of Justice, as well as on preliminary rulings; another output consists of that 10 National Institute for Magistracy's (NIM) trainers who are prepared and able to ensure lifelong education of judges on subjects above.

The first (test) training has taken place *on 6-8 February 2008* in Bucharest; as planned originally, 10 judges have attended the training. The test training has provided valuable information on the best training format, curricula and training methods.

11 prospective NIM trainers on EC law were selected at the end of February 2008, most of them being Court of Appeal judges, all with good knowledge of EC law and some teaching or training experience. They have attended a Training of Trainers session *the 30<sup>th</sup> of March - 5<sup>th</sup> of April 2008* in Sovata, during which they have had the opportunity of acquiring new training skills as well as debating EC law subjects relevant for the training curricula.

The remaining three training sessions on EC law took place in May (Iasi *14-16 May*, Timisoara *21-22 May*, Sinaia *28-30 May*). NIM trainees selected within the project have acted as trainers and all of them have obtained useful feed-back on their teaching methods and were able to offer input into the training manual, drafted at the end of the project.

On June 18<sup>th</sup>, the 11 trainers and CLR project coordinator have traveled to Luxembourg for a study visit to the Court of Justice of the European Communities. During the visit they have had the opportunity to meet Mrs Camelia Toader, the Romanian judge at the ECJ, to find out more about the insides of the Courts of Justice and to attend a court session.

The training materials are currently being finalized by the Romanian expert and the UK expert, with input from the trainers selected within the project. NIM will use the manual for its future trainings in EC law.





## **2. Supporting the development of the probation system.**

The 'Rehabilitation of juvenile offenders' project, which aimed to improve the justice system by creating alternatives to imprisonment through introducing effective community-based interventions for juvenile offenders, has been extended until the end of September 2008. The extension has been granted in order to ensure that the good practice standards, drafted in the summer of 2007, will be disseminated and implemented in all the probation services, with the Ministry of Justice's support on the dissemination of these standards.

CLR project coordinator has had several meetings with representatives of the Ministry of Justice and the Probation Department to discuss necessary changes in the legal framework, as well as best methods to disseminate the good practice standards.

## **3. Advocacy**

An important issue seen as a fundamental right was the right to property, which was constantly infringed over the last 19 years, especially in terms of restitution. The General Prosecutor asked the High Court of Cassation and Justice to issue a decision in order to unify the jurisprudence; meanwhile the Chamber of Deputies adopted another special law regarding the restitution of property confiscated under the communist regime. The Centre for Legal Resources was present in the media with legal comments and European Court of Human Rights jurisprudence about the both situations (decision and law) and finally we succeeded to convince some parliamentary groups to attack the law in front of the Constitutional Court. Unfortunately the Court ruled the law as constitutional. The Centre for Legal Resources issued other points of view regarding different decisions coming from the Constitutional Court regarding the power in state, property restitution, or criminal matters.

We established a new project with the Romanian Magistrates Association in terms of issuing a report which support to gather and comment all the European Court of Human Rights decisions against Romania: how many of them are translated in Romania, in how many cases the state respect the individual obligation and the general obligation drawn by the Court.

Program's budget: 160.960 EUR

Funding: British Embassy, Global Opportunities Funds

Ministry of Foreign Affairs in Netherlands, through MATRA program





#### 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.



##### Updated background

Integrity in the public sector continues to be a concern for most of the Romanians and for the European Commission (EC), as pointed out by the last report on Romania progress under the Co-operation and Verification Mechanism.

The EC report, issued on 23.07.2008, concluded that the fight against high level corruption has overall not shown convincing progress since June 2007 and that the problems in public administration persist. These conclusions are confirmed by the Center for Legal Resources reports and public statements.

The second part of the year 2008 has been dominated by local and general elections. Corruption tended to be just an electoral weapon and the National Integrity Agency (ANI) started to present the first cases solved. National Anticorruption Directorate continued to investigate the same high-level cases identified in 2005, 2006 and 2007 and some of them have been sent to court.

The new government seems to be more preoccupied with the economy and the corruption theme has been put aside.

Here it is the CLR views on corruption in Romania and the progress of the anticorruption bodies.

- The National Anticorruption Directorate (DNA) continued to open investigations against high-level politicians, but the cases are still in the preliminary phase because the assent of Parliament is required. No high-level corruption case has been settled by a final conviction court decision. Moreover, as a result of Constitutional Court's rulings, the High Court of Cassation and Justice (HCCJ) returned to the DNA several high-level corruption cases for procedural reasons.
- The DNA transparency improved after DNA agreed to publish on its website all the final court decisions in cases of corruption.





- The high-level corruption cases are generating intensive political debate and allegations of political prosecution by DNA. The mandate of the General Prosecutor of DNA expired in August 2008 in this conflicted environment.
- National Integrity Agency (ANI) initiated several investigations but it is not entirely functional. ANI is still lacking personnel, budget and a stable and coherent legislative framework. The Constitutional Court (CC) ruled that the unjustified wealth cannot be confiscated because, in the Romanian Constitution, the wealth is presumed to be legally obtained. CC decision stressed that hard evidences had to confirm that a wealth is illegally obtained (not just unjustified) in order to be able to confiscate it.
- The Anticorruption General Directorate (DGA) within the Ministry of Domestic Affairs and Administration Reform is continuing to tackle small-scale corruption by using integrity tests run by undercover police officers.
- The legislation bulk in several areas, like public services, remains a cause of widespread corruption. Several steps have been implemented by the government to simplify the legislation and the administrative procedures and to improve the quality of public policy process in order to reduce the corruption generated by poor regulatory acts.

### Activities

#### **1. Monitoring, reporting and official complaining about the integrity of central and local public administration and the effectiveness of the anticorruption bodies.**

##### *Involvement in public debates*

- a. CLR participated to the consultations organized by the **Ministry of Domestic Affairs and Administration Reform** (MIRA) on the new national strategy of preventing corruption in the local public administration (February 2008) and issued a set of proposals on the draft strategy.
- b. CLR monitored the amendments to the National Integrity Agency law, including the decisions that affected the competencies of ANI (ex. Constitutional Court decisions).
- c. CLR experts participated in various anticorruption public debates and constantly expressed their conclusions and concerns in the media.

##### *Strengthening the network "Together against corruption"*

- a. Workshop in February 2008 with the members from the network "Together against corruption" (NGOs and journalists) that concluded with the releasing of an integrity strategy and action plan for local public administration. We have recommended this strategy to be adopted







in 7 counties (Bacau, Cluj, Dambovita, Gorj, Mures, Timis, Vrancea) and by the following public bodies: prefect, county council and municipal council.

- b. Developing an advocacy plan to promote the strategy and the action plan. In cooperation with other related NGOs, CLR also issued booklets for public servants, NGOs and journalists to give in depth explanations on the implementation of the strategy and the action plan and disseminated flyers and posters. CLR organized a public debate in each county (May-June 2008) with decision-makers in local public administration, public servants, NGOs and press on the local strategy and action plan.
- c. Training session on integrity in local public administration for the public servants. They have been trained on the code of conduct, whistleblower protection, ethics counseling etc. Five sessions took place in Braila, Arad, Cluj-Napoca, Timisoara and Tirgu-Mures during June and July 2008, with approx 100 public servants attending the sessions
- d. Organizing other four sessions in August and September 2008: in Târgoviște (05 August 2008), Bacău (04 September 2008), Focșani (08 September 2008), Târgu-Jiu (15 September 2008). In every pilot county (7 pilot counties) the integrity strategy has been adopted by the county and municipal council or is currently under way to be adopted.
- e. Organizing 7 press conferences, one in each county to present the results of the advocacy campaign.
- f. Release of a report on the results of the advocacy campaign. The report has been distributed in all the Romanian counties. A final press conference has been organized in Bucharest to present the report.
- g. National campaign initiated to select 60 more NGOs and 60 more journalists and 10 lawyers for becoming members in the network "Together against corruption". When the selection is completed in January 2009, CLR will begin 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.

#### **Plans for the future:**

CLR will generate a report on the ethics counseling in the public administration and will organize a debate based on the report findings. CLR will work with the councilors of ethics to develop procedures for counseling and integrity data collection. CLR will organize trainings for the councilors of ethics. CLR will pilot in two municipalities the newly developed procedures of integrity data collection. CLR will organize 2 more training sessions for the newly selected members of the network "Together against corruption" (60 NGOs and 60 journalists) in order to raise the new members' abilities to work with the network's anticorruption monitoring methodology (the "Monitoring manual").







CLR will organize a conference of the network “Together against corruption”, with all the members. The network will change its name into “Integrity and good governance network” in order to cover a broader area: corruption, integrity but also good governance, better regulation and public policies.

CLR will organize several debates on integrity and good governance and will draft and publish an information booklet for citizens who are encountering corruption and abuses.

## **2. Monitoring and advancing proposals aiming the integrity of the public health system.**



The health sector has been included in the national - wide monitoring campaign initiated by CLR in January 2009. A report on the health sector will be issued at the end of the monitoring process.

Upcoming activity:

- Build an anticorruption website, where the citizens can post their experiences with bribe in the hospitals. An online questionnaire will generate statistics about the average bribe and the first hospitals considering the amount of bribe received.
- Organizing debates on corruption in the health sector.

## **3. 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 strategy and key activities to be implemented in the region and a database with possible regional partners.

A CLR representative has been present at the international conference “Cities without corruption – Cities with future”, organized by Partners Foundation for Local Development, Istanbul, on 14-16 November 2008.



### **Plans for the future:**

CLR will disseminate in 2009 the presentation of the CLR methodology to other NGO’s in the region along with an anticorruption training session.





**Conclusion:**

CLR undertook important progress in all three strategic areas. The activities generated positive impact at central and local level. The integrity and anticorruption subject is still prominent in the public and institutional agenda. The results Romania achieved in the anticorruption fight are mixed and further corruption prevention activities are needed.

Program's budget: 170.849 EUR

Funding: European Commission - Phare 2005 - "Strengthening Democracy in Romania"  
Trust for Civil Society in Central and Eastern Europe

## 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.

Activities- cases:

### 1. The Basarab' Overpass - protecting the national heritage

The Tribunal annulled in April the decision regarding the public utility statute of the building project. However, we lost the case regarding the annulment of the construction permit, as the courts appreciated that the international financing is more important than having the complete documentation, as stipulated by construction Law no. 50/2001, amended. We filed an appeal in the case regarding the land use documentation and we are waiting for the Court's decision.



**2. On Environmental law,** the case regarding Cheile Sugaului Natural Reservation is pending in court. There were no concrete measures on the implementation of the Aarhus Convention, taken by the Environment Ministry. The main obstacle for taking a decision is that in Romania there are no Judiciary experts specialized in environmental protection - geology and biology, so that finding a competent expert proved to be difficult. The court finally agreed to name





an expert of Environmental Minister instead of a judiciary expert, according to the civil procedural code.

**3. Poiana Mare and Campeanu Valentin case** (a young boy HIV infected that died in Poiana Mare in suspicious conditions) are prepared to be taken to European Court for Human Rights. The cases were lost in national courts. We have prepared the application with Interights assistance, considering the implication of the case and the level of difficulty (we have no mandate from victims, because they are dead). We submitted a complaint to ECHR and we are still working on the complaint for Poiana Mare together with Interights, after our appeal was rejected by The High Court of Justice and Cassation in November.

**4. Rosia Montana** - the case regarding the annulment of the urban certificate no 68/2006 is pending in court, after the administrative acts that supported it were annulled by court (the urban documentation). RMGC filed a request to the Supreme Court asking to move the case to another court, as the judges from Alba County are influenced by mass media that is presenting the mining project in negative colors. Their request was rejected by the court. We are monitoring the Strategic Impact Assessment Procedure regarding the Land Use Plans of Rosia Montana.



#### **5. Access to information vs. the Romanian Government**

We requested to the Government the report regarding disabled children drew up by The High Level Committee, as a response to the MDRI Report regarding the situation of disabled children in Romania. The Government refused to disclose the report, claiming that it will damage the image of the young children. The court ruled in our favor, deciding that the report must be public, due to the importance of the treatment of disabled children in public facilities. The decision is final and the Government executed the decision and disclosed the report.

#### **6. Access to information vs. a Psychiatric Hospital, related to Law no. 182/2002, regarding classified information**

We asked the psychiatric hospital from Iasi to disclose information related to the number of involuntary admissions and the following procedure described by law.

The hospital refused to disclose this information, arguing that it is secret, according to their internal regulation and the Law. No 182/2002. The court ruled in our favor, as the Hospital failed to submit any document that would prove the classification. The decision was final.





The same request was sent to the Public Health Authorities. The related public body in Hunedoara city refused to provide us with the data, arguing that they have no obligation to register them. According to the public health law, the mental health law and the regulation of functioning of the Public Health Authorities, they must obtain and analyze any important information regarding the public health. The court decided that the information regarding involuntary submission is important enough and it is also public and obliged the Public Health Authority to disclose the information.



### **7. Monitoring the implementation of access to information law and transparency law**

We have monitored the courts from all over the country on the implementation of the specified laws. We have lost some cases, as the Tribunals Timis and Arad considered that the Courts do not have to answer to requests on releasing public information.

We organized a meeting of the Network of Human Rights Lawyers in February at Sinaia, where were discussed the cases of the Network and further developments. We distributed a report regarding the results of the monitoring activity to all administrative authorities from Romania.

We have also organized in Sighisoara training for administrative authorities – public clerks that are involved in access to information and transparency process.

The program is finished for the time being, with the conclusion that most of the courts from Romania refused to provide information related to their jurisprudence, on the grounds they are personal data, or that they don't have the capacity to select and copy all the documentation we requested. The Courts have no evidence of the cases as regards to their basis of law.

We pursued the cases to court, against the court, but we lost all of them

### **8. The affiliation to a European network**

We participated to the Annual Meeting of Justice & Environment (J&E) Network, where we discussed the future collaboration of CLR / J&E. We won a Phare project where we have as partners Terra Milenium III Foundation and J&E. We are preparing now the application as full member to J&E.

### **9. Collaboration with Interights**

In March we participated to the workshop “Disability, Litigation and the European Convention on Human Rights” organized by Interights at London, UK. We presented Poiana Mare and Campeanu Valentin Cases and decided that we could work together for preparing the application to ECHR and, if admissible, we could further be assisted by Interights during the procedure to ECHR. In June we established the terms of our





collaboration and decided that we are going to file the complaints for Campeanu Valentin Case and for Poiana Mare.

### **Future plans**

Next year we are going to implement the project “Environmental Impact Assessment and Strategic Environmental Assessment - Process of transposition and implication at stakeholders’ level”

The main objectives of the project are:

- Improvement of legislation regarding access to environmental information, public participation to decision making process in environmental area (EIA, SEA) and access to justice in environmental legislation (EIA, SEA)
- Developing the capacity of Environmental NGO and the other implicated factors to participate in decision making process (EIA SEA) regarding European and national legislation and procedures
- Rising awareness of civil society regarding the importance of an active participation of the affected public to the EIA SEA procedures
- To monitor the transposition and implementation of the legislation regarding the EIA/SEA European provisions, underlining the discrepancies.

We are going to identify at least 5 cases of broken legislation on environmental matters and to bring them to court. Nevertheless, we intend to train judges, NGOs and public clerks about the Environmental Impact Assessment and Strategic Environmental Assessment legislation. The project aims at producing a guide regarding the transposition and implementation of environmental legislation, the steps to be taken by the public in order to participate in decision making process and the methods of complaining to international bodies in cases of breaching the environmental legislation.

We are going to organize and update a data base with decisions on access to information and to publish it.

We are going to start new strategic cases related to environmental legislation, to transparency procedures in environmental assessment procedure, access to environmental information, and Rosia Montana. We are going to monitor the procedure and if we will find out any breaking of legislation we will pursue the case into court.

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