

PRESS RELEASE

“Ethics advisers – less efficient in ensuring the integrity in public administration”

Bucharest, the 29th October 2009

Ethics advisers have a limited contribution in ensuring the integrity of the civil servants and the public authorities faces important deficiencies in implementing the rules on the free access to information of public interest, according to the „Report regarding the enforcement of the ethics advisers law”, conducted by Centre for Legal Resources in partnership with Pro Democratia Association (PDA).

The Report is based on a study where the Centre for Legal Resources and Pro Democratia Association monitored 500 public authorities in Bucharest and throughout the country, in order to identify to which extent the legislation on ethics advisers have been enforced.

The research was conducted during May-September 2009 and aimed at assessing the activity of the ethics advisers in ministries, governmental agencies, institutions of the Prefect, decentralized public services, county councils, and town halls.

The study reflects a reduced contribution of the ethics advisers regarding the compliance with the code of conduct and to ensuring the integrity in the public administration, their mode of action being more reactive rather than a proactive one.

Another point raised by the Report is the existence of two pieces of legislation with similar object: the Law 7/ 2004 on the Code of Conduct of the civil servants and Law 477/2004 on the Code of conduct of the contractual staff of the public authorities and institutions.

The Report shows that the persons appointed to perform the tasks required by the job undertake it by overlapping with other functions, operate activities in addition, are often overloaded or have a poor preparation for the field.

There are also situations where, for reasons such as those mentioned, it appears a purely formal application of the laws, or even their failure. CLR and PDA propose the immediate solving of this legislative shortage, by bringing in a single law the tasks of the integrity counselor.

The study shows that the provisions of the law on the Code of Conduct of the civil servants (Law 7/2004) are little known to the public institutions and authorities. In addition, there are no extra human financial and logistics resources allocated to the properly fulfillment of the ethics advisers’ tasks.

In CLR and PDA’s opinion, the ethics’ advisers should disseminate amongst the employees and managers of the public institutions, the provisions of the Law 571/2004 on the protection of the whistleblowers who point out any infringements. But the staff of the public institutions and authorities is reluctant in formulating such complaints; for fear that the protection offered by the law to the whistleblowers is not enough.

The non governmental organizations, the Report authors’, also propose the reorganization of the personnel scheme of the public institutions and authorities in such a way that at least one integrity counselor position, with judicial studies, is created and the overlapping of functions, overloading and parallel tasks are avoided. The tasks of these integrity counselors should comprise:

- control and assistance in the correct application of the Code of Conduct of the civil servants and of the Code of Conduct of the contract staff
- assistance in the filling in and submitting of the assets declarations and declarations of interest, in solving the incompatibilities and the conflicts of interests

- assistance in ensuring the access to the information of the public interest, including those regarding the procurement
- ensuring the public participation to the decision making process
- dissemination of the regulations on the whistleblowers protection

The research shows that 60% out of 500 public authorities, monitored for this study, didn't give a complete answer and in due time or didn't answer at all to the requests of information, made by the Centre for Legal Resources.

As regards to the existence of the ethics adviser's position in the public administration, the county's agencies for the employment have it completed 100% in the personnel scheme. The public authorities that have not completed the ethics adviser's position within their personnel scheme are the town halls: - 70,2%.

The study was conducted within the project "The Ethic Adviser – Balance and Integrity in Public Administration", by the Centre for Legal Resources in partnership with Pro Democratia Association and funded by the Iceland's Governments, Liechtenstein Principality and Norway, through the Financial Mechanism of the European Economic Area.

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