



**SPEECH OF SCM PRESIDENT,  
JUDGE HORAȚIUS DUMBRAVĂ, DELIVERED ON THE OCCASION OF THE JUSTICE'S DAY,  
ORGANISED (extract)**

*Dear colleagues,*

My message for this year is one of solidarity between legal professions. We have to face an important challenge: entering into force of the new codes. We start with the New Civil Code, in October, and we will continue next year with the other three codes. I do believe those codes shall improve the judiciary and shall produce effects for the next 50, or maybe 100 years. Even though the necessary funds are not granted, even though human resources are scarce and we are threat with the appearance of certain regulations, rather populist, on the disciplinary or material liability, we, the professionals, must implement the new fundamental legislation, in a proper manner, right from the very beginning.

I would also like to speak about another type of solidarity. That kind which makes us summon the professional and honest colleagues. As a mark of respect toward our honest colleagues and as a sign for the real assuming of the public interest we serve, it is necessary to prove the highest accountability. For these reasons, I ask you to stand against those colleagues having shortcomings in their professional training or against those lacking integrity. We can not let those isolated cases to cast a shadow on the effort of the colleagues sacrificing their health and private life to the end of fulfilling their goal – a competent and effective act of justice.

Finally, I would like to speak about a third kind of solidarity – that compelling us to react on the not deserved, general and populist criticism against justice. Recently, the President of Romania accused in corpora the judges, prosecutors, the entire Justice, for being incompetent and developing political activities, carrying out illegal detentions and also made very serious remarks, comparing the magistrates with beggars. Those kinds of attacks are more and more launched by the political branch, with the probable intention to intimidate the legal professionals. To all those I reply: it is not acceptable to have this approach for discussing with the judicial power, the only one still able to support the rule of law and to ensure the balance within the Romanian society, so pressured nowadays. The state powers are not allowed to accuse each other.

All three powers must serve a sole interest – the Common Good – and this presumes cooperation between them and not segregation. Justice is legitimated if it based on the trust of the population and is supported by the other powers. But, the joint attacks registered lately can not result in the accountability that – we, SCM, as the only body able to manage the career of magistrates and the efficiency of justice, also wish. Those political speeches can only weaken the respect towards magistrates, the authority towards the court decisions and the trust we mentioned. If we talk about accountability, the disciplinary liability for magistrates, I think it is the moment to discuss also the responsibility of the other state powers that of the legislative and executive branch, regarded from the point of view of the guilt we are accused for. Therefore, I invite all the state powers to prove solidarity grounded on reasons, in order to have a performing justice. The war between the state's powers is not useful for anyone. Maturity should be our dominant feature not visceral action.

*Dear colleagues,*

I congratulate, once again, the professionals of law! An also, I ask the litigants to approach as with confidence in justice and not with fear, because irrespective of the workload, working conditions and the negative campaign we are subject of, the magistrates are competent and honest persons who contribute to defending the rights and fundamental liberties!

**I WISH HAPPY ANNIVERSARY TO THE ROMANIAN JUSTICE SYSTEM!**

July 1<sup>st</sup>, 2011

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## THE COMPOSITION OF THE COUNCIL

### President:

1. judge Nicolae Horațius DUMBRAVĂ

### Vice president:

2. prosecutor George BĂLAN

### Elected members, with permanent activity – Judges and prosecutors:

3. judge Bucurel Mircea ARON
4. judge Vasiliță Cristi DANILEȚ
5. prosecutor Grațiana Daniela ISAC
6. judge Ana Cristina LĂBUȘ
7. prosecutor Dimitrie Bogdan LICU
8. judge Adrian Toni NEACȘU
9. prosecutor Oana Andrea SCHMIDT HĂINEALĂ
10. judge Alexandru ȘERBAN
11. judge Marius BADEA TUDOSE
12. vacant position
13. vacant position
14. vacant position

### Elected members – Representatives of the civil society:

15. Mrs. Corina DUMITRESCU
16. Mrs. Georgiana IORGULESCU

### Ex officio members:

17. Livia Doina STANCIU – president of the High Court of Cassation and Justice
18. Cătălin Marian PREDOIU – Minister of Justice
19. Laura Codruța KOVEȘI – General Prosecutor of the Prosecutors' Office attached to HCCJ



## STRENGTHENING THE SCM CAPACITY

### ANNUAL REPORT OF THE EUROPEAN COMMISSION ON THE PROGRESSES OF ROMANIA UNDER THE MECHANISM FOR COOPERATION AND VERIFICATION (CVM)

*In considering the recommendations of the EC within the annual report published on July 2010, the former SCM adopted in September 2010 the Directions of Action for 2010 and 2011. They were revised by the Council in its new structure and the fields of activity were established on the 13<sup>th</sup> of January 2011. The new directions envisage the following main fields of interest: independence of justice and inter-institutional cooperation; strengthening and increasing the institutional efficiency of the Superior Council of Magistracy and the coordinated institutions; increasing the efficiency and the judicial performance of courts and prosecutor's offices; transparency and integrity; the relation with EU and international bodies; the partnership with the civil society; each area has a corresponding Commission, composed of SCM members.*

In the plenary meeting on 21<sup>st</sup> of July 2011, SCM Plenum discussed the annual Report of the EC on the progresses of Romania under the CVM and took note of the Commission's recommendations to be implemented by the Council and by the Council together with other public authorities (MoJ, HCCJ, NAI).

SCM Plenum decided also on an immediate consultation of the Judicial Inspection, the National Institute of Magistracy, the National School of Clerks, as well as the main SCM's staff departments with competences in achieving the CVM's measures, for drafting an Action Plan for the further period, pointing out the main activities in terms of objectives, resources and deadlines for implementation and key performance indicators for each of the EC recommendations.

### ELECTIONS

The general assemblies of the courts and prosecutors' offices took place on June 24<sup>th</sup> 2011. Three candidates representing the High Court of Cassation and Justice, the courts of appeal and the prosecutors' offices of the first instance courts have been elected.

By the decision no. 483/21<sup>st</sup> of July 2011, SCM Plenum validated the elections for the position of member of the Council, by observing the legality of the election procedure according to the provisions of the Regulation on elections for the position of SCM member; the final lists of the elected candidates shall be subject of validation before the Senate.

### Measures for entering into force of the new codes

#### **Entering into force of the new Civil Code – October 1<sup>st</sup>, 2011** **Project "The Codes' Countdown!"**

*Within the plenary session on May 26<sup>th</sup>, 2011, the members of the Council discussed the necessary measures to be taken in order to prepare the judicial system for entering into force of the new Civil Code on October 1<sup>st</sup>, 2011. Therefore an **inter-institutional Working Group** was established for implementing the new Code and the project "The Codes' Countdown!" has been launched. This Project is based on a Protocol concluded between the relevant institutions for the judicial system and the legal professions to facilitate the implementation of the new codes.*

The activity of the working group and the meeting of its representatives continued during the referred period.

The SCM, which was the initiator of the Project, is drafting several brochures for the awareness of the public on the most important provisions of the New Civil Code.

One of the important achievements consists of the creation of a website [www.iurispedia.ro](http://www.iurispedia.ro), where each articles from the new code will be commented and relevant case law shall be published.

### NOUL COD CIVIL

Legea nr. 287/2009

publicată în Monitorul Oficial nr. 511 din 24.07.2009



## HUMAN RESOURCES WITHIN THE JUDICIARY

### Promotion to the High Court of Cassation and Justice

*There is an important shortage of personnel at the level of the HCCJ, especially at the level of the Criminal Section. A project on modifying the current procedure is undergoing.*

*The draft law initiated by the GoR and endorsed by the SCM shall be adopted by the Parliament of Romania.*

In the plenary meeting on 21<sup>st</sup> of July 2011, SCM Plenum decided on continuing the procedure for promotion at HCCJ that was launched on March 18<sup>th</sup> 2011 and decided also on launching a new procedure for promotion at HCCJ for the judge positions that were about to become vacant.

#### *Vulnerabilities:*

- *The existing 15 vacant positions at HCCJ;*
- *The delays in amending the legislation for improving the procedure of promotion at HCCJ.*

### A new deputy director for the National School of Clerks

The procedure for appointment as deputy director of National School of Clerks responsible with the in-service training was launched according to the announcement published on May 31<sup>st</sup>, 2011, on the SCM website; the leading position became vacant on August 1<sup>st</sup> 2011; according to the legal provisions, the deputy director of the National School of Clerks shall be appointed, as result of an interview within the SCM Plenum, from among the judges or prosecutors activating as trainers within NSC, for a 3 years mandate.

By the decision no. 482/21<sup>st</sup> of July 2011, SCM Plenum appointed Mrs. judge Mihaela Angelica Iacuba as the new deputy director of National School of Clerks responsible with the in-service training.

### Reorganisation of the courts and of the prosecutors' offices

*A draft law on the reorganisation of several courts and prosecutor's offices was initiated by the Government and endorsed by the SCM. The draft law was adopted by the Parliament and on July 4<sup>th</sup> 2011, the law was promulgated by the President of Romania.*

Law no. 148/2011 entered into force on July 22<sup>nd</sup> 2011.

The main measures that shall be taken for implementing the new law are the following:

- issuing the normative act (Government's Decision) for reassigning the territorial jurisdictions – in 45 days since the entering into force of the Law no. 148/2011;
- redistributing the positions of judges, prosecutors and of other categories of personnel from the scheme of personnel of the courts and prosecutors' offices subject of closure - in 60 days since the entering into force of the Law no. 148/2011;
- carrying out the procedure of staff transfer - no later than November 1<sup>st</sup> 2011;
- carrying out the procedure of transferring the assets - no later than November 1<sup>st</sup> 2011;
- effectively closing the courts and the prosecutors' offices according to the legal provisions.



## JUDICIAL INSPECTION

*The Council intends to strengthen the functional independence of Judicial Inspection and to improve the efficiency of its activity.*

### Strengthening the role of the Judicial Inspection

*Enhancing the efficiency of the judicial inspection activity may be ensured by raising the level of autonomy of inspectors and ensuring the human resources necessary for the proper functioning of the Judicial Inspection. Currently, the Judicial Inspection operates with only 50% of the personnel scheme and is coordinated by the Plenum of the Council.*

### Disciplinary actions exercised by the disciplinary commissions

- **Disciplinary actions** exercised by the disciplinary commissions during July 2011.
  - Within the current period the Disciplinary Commission for Prosecutors exercised one disciplinary action as it follows: for exercising the office, including non-observing the procedural rules, with serious negligence (art. 99 h) Law no. 303/2004) and for delays in exercising the professional duties (art. 99 i) Law no. 303/2004).
- **Disciplinary sanctions.**
  - During the current period, *The Section for Judges* delivered one disciplinary action for one judge for exercising the office with serious negligence (art. 99 h) Law no. 303/2004); the sanction applied was "warning";

### Professional training of the judicial inspectors

Within the regular professional meetings, the session organized in July 2011 regarded the following topic: *timeliness for drafting the judicial decisions as provided by the Code of civil procedure and by the Code of criminal procedure*; judicial inspectors discussed on the opportunity for modifying the legal provisions for avoiding delays in drafting the judgements, even for non/imputable reasons.

### Recruitment of the judicial inspectors

*The public announcement on the new procedure for recruiting 11 new judicial inspectors was widely disseminated throughout the country; 32 candidates have applied for these positions.*

In the plenary meeting on 21<sup>st</sup> of July 2011, SCM Plenum decided that, according to the procedure for selection the candidates, the interview within the Plenum of the Council will take place on September 20<sup>th</sup> 2011 and that each of the versions of exam subjects shall contain two theoretical issues and one practical case.  
The selection procedure is ongoing.



## INTERNATIONAL COOPERATION AND EU AFFAIRS

### RELATION WITH THE EUROPEAN COMMISSION

On 6 July 2011, a delegation of the Superior Council of Magistracy from Romania, composed of judge Horațius Nicolae Dumbravă, president of the Council, prosecutor Oana Andrea Schmidt-Hăineală, member of the Council and judge Livia Doina Stanciu, president of the High Court of Cassation and Justice have met in Brussels with the Secretary General of the European Commission, Catherine Day.

### BILATERAL RELATIONS

From 25 to 28 June 2011, a delegation composed of judge Horațius Nicolae Dumbravă, president of the Council, prosecutor George Bălan, vice-president of the Council, judge Livia Doina Stanciu, president of the High Court of Cassation and Justice, prosecutor Grațiana Isac and judge Marius Badea Tudose, members of the Council, have paid a visit to the High Council of Justice from Belgium and on 28 and 29 June 2011 the same delegation has held meetings at the Judicial Council of the Netherlands.

On 15 July 2011, prosecutor George Bălan, vice-president of the Council met, at the SCM's headquarters, with a delegation of the Ministry of Justice from Egypt, composed of Ali El-Sadek Othman, First Deputy Minister of justice, Abdel Muezz Ahmad Ibrahim, President of the Court of Appeal from Cairo and Hazem Zaki, Second Secretary, Embassy of Egypt in Bucharest. Functioning of the Romanian judicial system of Romania, the role of the SCM, as well as the National Institute of Magistracy and the National School of Clerks have been presented. The measures to increase the quality of the justice and the efficiency of the judiciary were also topics of mutual interest.

### EUROPEAN NETWORK OF COUNCILS FOR THE JUDICIARY (ENCJ)

By the decision no. 507/ 21<sup>st</sup> of July 2011, SCM Plenum decided on the participation of the Council's representatives within the future projects of the ENCJ for 2011 / 2012.

The main projects of ENCJ are the following:

1. Justice Reform in Europe (The SCM's President, judge Nicolae Horațius Dumbravă, will act as coordinator of this Project);
2. Standards;
3. Justice, Society, Media;
4. Solicitations for assistance.
- 5.

Other projects to be carried out within small project teams are the following:

1. Standardized seminar on the topic of judicial councils;
2. A group for implementing the results of the project on Public Confidence;
3. A seminar on timeliness.



European Network of Councils  
for the Judiciary (ENCJ)

Réseau européen des Conseils  
de la Justice (RECJ)