



THE COMPOSITION OF THE COUNCIL 2011-2016

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 Vasilică 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. vacant position
16. vacant position

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



THE MESSAGE OF THE NEW PRESIDENT OF THE SUPERIOR COUNCIL OF MAGISTRACY

Starting with 7th of January 2011, the structure of the Superior Council of Magistracy has changed, following the elections held in 2010. The composition of the Council will be completed once the Romanian Senate will appoint two representatives of the civil society and will validate another three magistrates, to be elected in the near future.

Magistrates of the current SCM are the first elected on grounds of candidacy projects by which they have proposed objectives and concrete measures for achieving reforms within judiciary. Now, the electors and the citizens should monitor the implementation of proposals.

We all wish to have a performing justice and for this we are aware at the same time of the huge responsibility belonging to decision-makers at the level of Judiciary, Government and Legislative. The SCM shall have the role to guarantee the independence of justice in its entirety, not as a privilege of the magistrates, but as a right of the citizen. To this end, we need not only qualified and ethical personnel, but also a coherent and stable legislative framework, a proper financing of the system and respect on the part of authorities, institutions and citizens.

This INFOLETTER will reflect the activity of SCM at the level of all the structures of this constitutional authority.

***Horațius Dumbravă – judge
President of SCM, 2011***

Content

1. STRENGTHENING THE SCM
CAPACITY
2. TRANSPARENCY AND
ACCOUNTABILITY
3. HUMAN RESOURCES WITHIN
THE JUDICIARY
4. MAGISTRATES' TRAINING
5. JUDICIAL INSPECTION
6. INTERNATIONAL COOPERATION

SCM MEMBERS' STATUTE

Superior Council of Magistracy operates as a body with permanent activity. Its decisions are adopted in Plenum and sections, according to their legal competencies.

The members of Superior Council of Magistracy carry out their term of office as a permanent activity.

Judges and prosecutors elected as members of Superior Council of Magistracy shall suspend their activity as a judge, respectively as a prosecutor.



STRENGTHENING THE SCM CAPACITY

ELECTIONS

Election of SCM members, representatives of magistrates

For filling three vacant positions of SCM members, elected by magistrates, on the 10th of March 2011 the SCM Plenum decided to start the election proceedings. The general assemblies meetings at the level of HCCJ, courts of appeal and prosecutors offices attached to the first instance courts for electing the members of the Council were set for the **17th of June 2011**.

The deadline for submitting the candidacies expired on the 24th of March 2011.

Three candidacies were submitted for one vacant position at the level of judges from the High Court of Cassation and Justice, four candidacies for one vacant position at the level of judges from the courts of appeal and nine candidacies for one vacant position at the level of prosecutors from the prosecutors' office attached to the first instance courts.

On the 29th of April 2011, the general assemblies from courts of appeal and prosecutors' offices attached to the first instance courts met for the appointment of candidates.

On the 5th of May 2011, the elections held within Prosecutors' Office attached to Brasov Court of first instance were annulled by the SCM Plenum, for procedural shortcomings, and will be reorganized on the 11th of May, 2011.

The transparency of the electoral process is ensured by publishing the details of the Central Electoral Committee's activity and other useful information regarding the elections (candidates CVs and project application) on the SCM website.

Election of SCM members, representatives of civil society

As regards the representatives of civil society, SCM criticized the postponing by Senate of the proceedings for filling the two positions allocated for civil society.

The Senate postponed several times the adoption of a decision concerning the candidate for the position of SCM member representing civil society who was not invalidated according to the Decision of Constitutional Court no. 53/2011.

The Senate started the election proceedings for the second position of SCM member representing civil society, vacant according to Constitutional Court Decision no. 53/2011. On the 5th April 2011 the Legal Committee of the Senate endorsed 5 of the 6 candidacies submitted for filling this position.

A decision of Senate is pending.

COMMISSIONS

The Plenum and the sections (Section for judges and Section for prosecutors) are supported in their work by six working commissions and the technical staff.

On the 13th and 20th of January 2011, the activity fields and the corresponding working commissions were settled for 2011, namely:

- Commission no. 1 ***"Independence of justice and inter-institutional cooperation"***;
- Commission no. 2 ***"Consolidation and institutional efficiency of the SCM and coordinated institutions"***;
- Commission no. 3 ***"Increase the efficiency of activity and judicial performance of courts and prosecutors offices"***;
- Commission no. 4 ***"Transparency and integrity"***;
- Commission no. 5 ***"Relations with the European Union and international bodies"***;
- Commission no. 6 ***"Civil society partnership"***.

On the 10th of March 2011, the proposals of the working commissions with regard to their agenda for 2011 were approved and the coordinators of the commissions were appointed.

The commissions have regularly meetings, usually once a week and they give consultative endorsements to the most important works of the Council.



TRANSPARENCY AND ACCOUNTABILITY

Ensuring the transparency of courts activity by publishing the case-law on JURINDEX portal

In order to continue the development of this project, *Commission no. 4 of SCM "Transparency and integrity"* decided on the 24th March 2011 the following measures:

- to synthesize the ECHR and CEJ case-law in order to create a section in the portal called *International Case-law*;
- to analyze the legal possibilities for setting up a foundation for promoting the free access to case-law;
- to determine the steps for adhering to the global movement for the free access to law.

To date, 233921 court decisions are already published. The software was improved by inserting new search engines for facilitating the access.

The publishing activity of court decision was delayed due to upgrading at the end of 2010 of the ECRIS software (case management system). Court decisions are integrated within the JURINDEX by using ECRIS, and subsequently specific instruments for protection of personal data are operated.



Concluding the Collaboration Agreement between the Council, the European Institute of Romania and the Governmental Agent for ECHR, Bucharest, 6th of April 2011

Measures regarding the integrity of judiciary

On the 10th March 2011, SCM Plenum decided to draft a Strategy for Integrity within the Judiciary. SCM initiative is a follow-up of the national level audit on the Strategy for fighting against corruption.

In the same time the ***Code of Ethics for judges and prosecutors*** will be updated.

Measures regarding the SCM members' integrity

Several members of the Council had issued statements of integrity; the aim is to avoid any conflict of interests. On the session of the 18th January 2011, the Plenum of the Council decided to elaborate a ***Code of Ethics for the members of Superior Council of Magistracy***. The code is currently in a drafting phase.

Ensuring the transparency of SCM activity, in Plenum and Sections

Starting with January 2011, Council sessions are broadcasted live on its own website. Also, the documents discussed in the Plenum sessions are provided to those interested by publishing the entire documents on the website of SCM with the observance of personal data protection requirements.

Magistrates associations have full access to all these information.

All the decisions adopted by SCM are published on the Council's website.

Ensuring the transparency of SCM activity, in working commissions

The minutes of the working commissions meetings are published on its own website.

The agenda of the working commissions, the documents that are discussed during the meetings of the commissions and the solved agenda (minutes) are published also in an intranet software, called *EMAP*.

Other measures for increasing the transparency of SCM activity

- In order to better inform the courts, the prosecutors' offices and the public opinion about the SCM's activity, a bi-monthly newsletter called *Infoletter CSM* shall be issued and published, starting with the end of April 2011.
- In March 2011, no. 4/2010 (Year IV) of the SCM review „*Justiția în actualitate*” was published and distributed.
- In April 2011, the new Guideline for litigants was published on the SCM website. Brochures for public information will be elaborated soon.



HUMAN RESOURCES WITHIN THE JUDICIARY (1)

Promotion to the High Court of Cassation and Justice

The current procedure for promoting to HCCJ is criticized as regards transparency and objectivity, both from inside and outside the system. At the level of HCCJ there is an important shortage of judges, especially within the criminal section.

In order to set up the guarantees of objectivity, transparency and predictability in the procedure for promotion to the High Court of Cassation and Justice, within the session of the 3rd of March 2011, the SCM Plenum initiated and debated the **project on amending the laws no. 303/2004 and 304/2004 as regards the promotion to HCCJ**. Consequently, the draft law was submitted to the Ministry of Justice.

On the 31st of March 2011, based on the Council's proposal, the Ministry of Justice forwarded to the Superior Council of Magistracy the draft law on amending and supplementing the Law 304/2004 on judicial organization. The main difference from the SCM version regards the increasing of the required minimum experience in magistracy from 12 to 20 years. SCM asked the courts and prosecutors' offices to formulate observations and proposals.

On the 19th of April 2011, the **Council issued a favorable endorsement on the draft law**, but with the proposal to reduce the required experience in magistracy from 20 to 15 years. Currently, the draft law was submitted by the Government to the Parliament.

The main amendments of the law are as follows:

- to set up an evaluation committee composed of 3 judges at the level of each section of HCCJ; the committee is appointed by the SCM Plenum, on the proposal of HCCJ ;
- the commission of the HCCJ section for which the candidate apply shall evaluate the candidate, on the grounds of the compulsory criteria (specialization, professional activity, promoting the values of justice) and facultative criteria (continuous professional training, teaching/research activity);
- the commission shall draft a consultative report on promotion that shall be subject to the approval of leading board of HCCJ;
- the leading board of HCCJ shall issue a grounded recommendation for each candidate, based on the reasoning of the approved consultative report;
- the approved consultative report and the grounded recommendation shall be forwarded to the Plenum of SCM;
- the SCM Plenum will decide on the basis of the HCCJ recommendation and report, the supporting documents and the interview.

Meanwhile, giving the high number of vacancies at the HCCJ, the Council tried to amend the guidelines for promotion to HCCJ in order to speed up the proceedings for filling in the 15 vacant positions. Within the session of the 17th March 2011, Plenum approved, through a decision, the **new Guidelines on the selection procedure of candidates for promoting to HCCJ**, according to the amendments proposed by SCM within the content of the draft law for amending laws 303 and 304/2004.

An appeal was lodged against the new guidelines, by the High Court of Cassation and Justice. On the 14th of April 2011, the Court of Appeal Bucharest admitted the request of the HCCJ to suspend the enforcement of the Council decision.

On the 14th of April 2011, **the SCM Plenum repealed** the Decision no. 160/2011 for the approval of the Guidelines. This was the expression on how the Council chose to give up a measure vehemently disputed by the High Court, for the benefit of balance and reason.





HUMAN RESOURCES WITHIN THE JUDICIARY (2)

Exams for regular and leading positions for magistrates

An additional exam for the **National Institute of Magistracy** took place on **21st of January 2011**, due to the unsuccessful exam organized in September 2010, when there was a low admittance rate. 50 auditors of justice for future judge positions and 50 auditors of justice for future prosecutor positions were filled in. Training at NIM started on the 1st of March 2011.

A new contest for appointment into leading positions to courts and prosecutors' offices is scheduled to take place **between 8 April and 5 July 2011**, in order to fill in 122 leading positions at courts and 129 leading positions at the prosecutors' offices, as decided by the SCM Plenum on the 7th of April 2011. In order to ensure an efficient management, all vacant leading positions which, according to the law, must be occupied by means of a contest, have been open for contest.

A new contest for promotion into regular judge and prosecutor positions will be held on the **8th of May 2011** for 88 positions of judge at tribunals (73) and courts of appeal (15) and 105 positions of prosecutor at the prosecutors' offices attached to tribunals (100) and to the PoHCCJ (5), as decided by the SCM Plenum on the 3rd of March 2011. The new contest for promotion is required for filling the vacant positions at the tribunals and prosecutors attached to tribunals and at the courts of appeal, which will take over a high workload after entering into force of the new codes.

Optimum workload for judges

At the beginning of March 2011, the procedure for selecting the offers for the **project on "Establishing and implementing the optimum workload for judges and clerks and ensuring the quality of the activity in courts"** was launched. The project is founded within the program of the **World Bank** on the Reform of the Judicial System (loan IBRD RO-4811). According to the estimated time schedule, the implementation of the project would start no later than the end of October 2011, for a period of 18 months.

The project will take into consideration the existing pilot project in place since 2010 within all the courts. The main criticized aspect of the existing project regard the unreasonable terms for the first hearing.

On the 5th of May 2011, in order to face the personnel vacancies within the Bucharest Court of Appeal and Tribunal, the Council endorsed the MoJ proposal for 28 additional positions in their personnel schemes.





MAGISTRATES' TRAINING

A new management of the National Institute of Magistracy (NIM)

On 30th of March 2011, none of the three candidates for the positions of director and deputy director of NIM didn't achieved the majority of votes in the plenary session of the Council. Thus, a new proceeding has started on 13th of April 2011. ***The deadline for submitting the applications is the 13th of May 2011.***

According to Law no. 304/2004, the candidates for the appointment as director and deputy directors of NIM shall be among the judicial training personnel of the Institute, the judges and prosecutors or the law professors within the superior educational institutions accredited by law. The SCM Plenum shall appoint the directors, after analyzing the candidates' CV-s and management plans and after holding an interview before the Plenum.

In-Service Training Programmes

On 3rd of March 2011, the SCM Plenum approved ***The In-Service Training Programme of the National Institute of Magistracy for 2011*** and ***The Decentralized In-Service Training Programme of Judges and Prosecutors for 2011***. The priorities for magistrates' training in 2011 are in the following order of importance:

1. *Training on the major legislative changes within the Romanian legal system generated by the enforcement of the new Codes – Civil, Criminal, Civil Procedure and Criminal Procedure;*
2. Training on unification of case-law;
3. Training in the field of European Law: EU Law, ECHR, international judicial cooperation in civil and criminal matters, strengthening European and regional cooperation;
4. Training of judges and prosecutors who entered into magistracy after passing the exam for minimum 5 years experience in legal professions;
5. Developing non-judicial skills specific to the profession of magistrate, by establishing an efficient communication bridge between magistrates and society; involving judges and prosecutors in developing public policies in the field of justice.



Professional training in the field of the new Codes

The project „***Assistance to strengthen the institutional capacity in the field of training judges and prosecutors to enforce the new laws***”, which will be carried out following the Bilateral Framework Agreement, concluded between the Romanian Government and the Federal Council of Switzerland; the following activities have been proposed within the project:

- organizing a training of trainers session for the NIM trainers;
- drafting 4 e-learning modules in the field of the new provisions of the Civil Code, the Civil Procedure Code, Criminal Code and the Criminal Procedure Code;
- establishing an e-learning training system for Romanian judges and prosecutors;
- organizing seminars at decentralized level, under the coordination of NIM, for all Romanian judges and prosecutors in the system;
- preparing and distributing an interactive CD with the 4 new annotated Codes.

Two projects, namely “***The New Civil Code. The New Civil Procedure Code***” and “***The New Criminal Code. The New Criminal Procedure Code***”, were designed by NIM in cooperation with the courts of appeal and the prosecutors' offices attached to them. The purpose of the projects is to improve the professional knowledge of the Romanian judges concerning the enforcement of the new regulations in the field of civil law, civil procedural law, criminal law and criminal procedural law.



JUDICIAL INSPECTION

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

Filling the personnel schemes

Currently, 20 inspector positions out of 53 are vacant within the Judicial Inspection.

The positions couldn't be filled in 2009 and 2010 as OUG no. 34/2009 blocked the vacant positions from filling in due to the economical crisis. On the 30th March 2011, OUG no. 35/2011 was passed providing derogation from article 22 of OUG no. 34/2009.

On the 5th of May 2011, the procedure for selecting the judicial inspectors was improved by the Council. On the same date, two new judicial inspectors were recruited. All vacant positions will be open for a transparent and competitive examination.

Report of the activity for 2010



On the 4th of March 2011, Judicial Inspection presented, for the first time in an extended audience, the **Report of the activity for 2010**. On the same occasion, its **own website** www.inspectiajudiciara.ro was launched, that shall comprise the following categories of information: attributions and competencies of Inspection, decisions adopted for defending the magistrates' reputation, independence and impartiality, quashed resolutions (*clasări*), useful information and news from the activity of Inspection, including a map with relevant data from all over the country on: disciplinary actions lodged by the disciplinary commissions, notifications on the breaching of the code of ethics and verifications on the approval of search, retain and preventive arrest of judges and prosecutors.

Disciplinary sanctions against magistrates

In the first quarter of 2011, the SCM Section for Judges applied one disciplinary sanction of „exclusion from magistracy”.

In the first quarter of 2011, the SCM Section for prosecutors applied: one sanction of „warning”; one sanction of „reducing the monthly gross salary with 15% for 3 months”; one sanction of „disciplinary relocation to another prosecutors' office for three months”.

Verification on management of courts and prosecutors offices

- On 14th of April 2011, the verification conducted by the Judicial Inspection at **Bucharest Court of Appeal and the courts within its jurisdiction**, on the managerial efficiency and the fulfillment of the leading attributions provided by laws and regulations, in order to assure the good functioning of the court and a proper quality of service, by the judges having leading positions was concluded. The SCM Section for Judges decided the necessary measures to eliminate some deficiencies in court operations, including regular monitoring. There were no gross deficiencies requiring other sanctions.

- On the 10th of March 2011, the verification conducted by the Judicial Inspection at **Prosecutors' Office attached to Bucharest Court of Appeal and the prosecutors' offices within its jurisdiction**, on the managerial efficiency and the fulfillment of the leading attributions provided by laws and regulations by the prosecutors having leading positions was concluded. The SCM Section for Prosecutors decided the necessary measures to eliminate some deficiencies in prosecutors' office operations and decide to remove from office of the chief prosecutor of Prosecutors' Office attached to Giurgiu First instance court.

On the 7th of April 2011, the verification conducted by the Judicial Inspection at **Prosecutors' Office attached to Galați Court of Appeal and the prosecutors' offices within its jurisdiction**, on the managerial efficiency and the fulfillment of the leading attributions provided by laws and regulations by the judges having leading positions was concluded. The SCM Section for Prosecutors decided the necessary measures to eliminate some deficiencies in prosecutors' office operations, including regular monitoring.

On the 5th of May 2011, a new **arrest, retain and search procedure** for magistrates was regulated



INTERNATIONAL RELATIONS

Activity within the European Network of the Councils for Judiciary

On the 11th of February 2011, the president of the Superior Council of Magistracy was elected as **member in the Executive Board** of the European Network of Councils for the Judiciary, whose composition includes representatives of the Judicial Councils of Ireland and Belgium and the ENCJ President.

On 11-12 of April 2011, The Romanian Council hosted the fifth meeting of the **ENCJ project called "Quality and Timeliness"**.

The members of the Council participated at the meetings held within all four ENCJ projects:

- **"Quality and Timeliness";**
- **"Councils for the Judiciary";**
- **"Measurement of National and Transnational Public Confidence";**
- **"Standards and Evaluation".**

The Council will be represented within the **General Assembly of ENCJ** from Vilnius, 8-10 June 2011.



*The meeting of the ENCJ project "Quality and Timeliness",
Bucharest, 11-12 April 2011*

Bilateral relations

The president and members of the Council had several meetings with high officials of the foreign diplomatic missions in Romania, in order to discuss about the reforms within the Council and judiciary and priorities of future collaboration.

On 12-13 of May 2011, the Council will host a meeting between representatives of the **Italian Superior Council for Magistracy** and the Romanian Council's representatives within a bilateral project for settling methods in evaluating judiciary as a whole.

On 27-29 of June 2011, members of the Romanian Council will visit the **Belgium and the Netherlands Councils for Judiciary**, in order to strengthen their collaboration.

Relation with the European Commission

The Council elaborates **progress reports** within the Cooperation and Verification Mechanism on monthly and half-yearly basis.

The Council will host a meeting with EC officials on 10th of May 2011, within a **peer-review mission** framework.

Annex: Brief presentation of the members of the Romanian Superior Council of Magistracy

ELECTED MEMBERS - MAGISTRACY

Mr. Nicolae – Horațius DUMBRAVĂ: president of the Council for a term of office of one year (January 7th, 2011 – January 6th, 2012), representing the judges from the courts of appeal.



Mr. George BĂLAN: vice-president of the Council for a term of office of one year (January 7th, 2011 – January 6th, 2012), representing the prosecutors from the prosecutors' offices attached to the courts of appeal.



Mr. Bucurel Mircea ARON: member of the SCM, elected as representative of judges from the High Court of Cassation and Justice in 2010.



Mr. Vasiliță Cristi DANILEȚ: member of the SCM, elected as representative of judges from first instance courts in 2010.



Mrs. Grațiana Daniela ISAC: member of the SCM, elected as representative of prosecutors from the Prosecutors' Office attached to the High Court of Cassation and Justice in 2006.



Mrs. Ana Cristina LĂBUȘ: member of the SCM, elected as representative of judges from tribunals in 2006.



Mr. Bogdan Dimitrie LICU: member of the SCM, elected as representative of prosecutors from the Prosecutors' Offices attached to tribunals in 2006.



Mr. Adrian Toni NEACȘU: member of the SCM, elected as representative of judges from tribunals in 2010.



Mrs. Oana Andrea SCHMIDT-HĂINEALĂ: member of the SCM, elected as representative of prosecutors from the Prosecutors' Offices attached to tribunals in 2010.



Mr. Marius TUDOSE: member of the SCM, elected as representative of judges from first instance courts in 2010.



Mr. Alexandru ȘERBAN: member of the SCM, elected as representative of judges from the courts of appeal in 2010.



Representative of judges from the High Court of Cassation and Justice – vacant position

Representative of judges from the courts of appeal – vacant position

Representative of prosecutors from the prosecutors' offices attached to the first instance courts – vacant position

ELECTED MEMBERS – CIVIL SOCIETY

Representative of civil society – vacant position

Representative of civil society – vacant position

EX OFFICIO MEMBERS

Mrs. Livia Doina STANCIU: president of the High Court of Cassation and Justice (from 2010 onwards)



Mr. Cătălin Marian PREDOIU: Minister of Justice (from 2008 onwards)



Mrs. Laura Codruța KOVESI: General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice (2006-onwards)

