

Case studies – Romania

November 2010

Proiectul: *Evaluarea eficienței Mecanismului de Cooperare și Verificare în domeniul Justiției. Recomandări pentru perioada post-2009*

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Benchmarks

BM1: Ensure a more transparent, and efficient judicial process notably by enhancing the capacity and accountability of the Superior Council of Magistracy. Report and monitor the impact of the new civil and penal procedures codes.

BM2: Establish, as foreseen, an integrity agency with responsibilities for verifying assets, incompatibilities and potential conflicts of interest, and for issuing mandatory decisions on the basis of which dissuasive sanctions can be taken.

Benchmarks

BM 3: Building on progress already made, continue to conduct professional, non-partisan investigations into allegations of high-level corruption.

BM 4: Take further measures to prevent and fight against corruption, in particular within the local government.

Case studies

- Stopping the changes to the Criminal Procedure Code – relevant for BM 1 and BM 3
- Preventing the dismantling of the National Integrity Agency – relevant for BM 2
- Eliminating the automatic suspension of trials when a constitutionality challenge was raised – relevant for BM 1 and BM 3

Stopping the changes to the Criminal Procedure Code

- Amendments adopted by Parliament in 2008:
 - Criminal investigations may not exceed 6 months
 - Special investigation techniques used only after the suspect was informed about the investigation
 - Limitations for temporary phone-tapping
- The international community and NGOs reacted sharply – including critical EC reports
- The President refused to promulgate the law
- The Parliament refused to eliminate the amendments
- The Constitutional Court declared the law unconstitutional

Preventing the dismantling of the National Integrity Agency

- April 2010 - the law was declared unconstitutional
- The President held consultations with political parties to advocate for a fast-track procedure for the adoption of new legal provisions
- The Senate eliminated the wealth control mechanism
- The President refused to promulgate the law
- The Senate refused to amend the draft
- Criticism from the international community and the NGOs
- The law was sent to the Constitutional Court which invalidated it on procedural grounds
- EC issued a harsh report on the issue
- The Parliament adopted an amended version of the law allowing for wealth control and transparency of statements

Eliminating the automatic suspension of trials when a constitutionality challenge was raised

- Constitutionality challenges – one of the methods used to delay trials so that the statute of limitation expires
- Only 2% of the challenges are found grounded by the Constitutional Court
- Since 2005 attempts were made to eliminate the automatic suspension of trials when such challenges were raised
- Several mentions in the EC reports on Romania
- In August 2010 the Parliament adopts the law eliminating the automatic suspension of cases when a constitutionality challenge is invoked