The article outlines the main developments of the National Institute of Magistracy (NIM) in Romania. It discusses issues related to the future of magistrates’ training in Europe, the contribution of the main Romanian judicial institutions and the roles played by the Court of Justice of the European Union and the European Court of Human Rights in the training of European magistrates.
Mission

The National Institute of Magistracy (NIM) was established in 1992 to provide Romania with a professional body of highly qualified magistrates able to properly apply the law and, consequently, to improve the overall performance of the judiciary. The first class graduated in 1992, but attendance only became a condition for entering the magistracy in 1997. The entry-level training takes two years.

The NIM is a public, autonomous institution with legal personality coordinated by the Superior Council of Magistracy (SCM), that provides initial training for judges, prosecutors and justice auditors, in-service/continuous professional training of sitting magistrates and also the training of trainers, in compliance with legal provisions. It is organised and functions according to the following amended normative acts: Law no. 304/2004 regarding the judicial organisation, Law no. 303/2004 regarding the statute of judges and prosecutors, Law no. 317/2004 regarding the Superior Council of Magistracy, and the Regulation of the National Institute of Magistracy, adopted by SCM Decision no. 320/2005.

The NIM is coordinated by an independent body governing the judiciary – the Superior Council of Magistracy (SCM), the guarantor of the independence of the judiciary. Its headquarters are in Bucharest and there are also regional in-service centres in Timisoara and Sovata.
The Scientific Council decides upon all matters regarding the organisation and functioning of the Institute.

Structure and management

The Institute has the following structure:

- Director and Managing Board
- Entry-level Training department
- In-service/Continuous Training department
- Training of Trainers department
- Examinations and Public Policies department
- Financial and Administrative department.

Working out guidelines for the further development of the NIM plans and aspirations.

The management of the NIM is the responsibility of the Director, the two Deputy Directors, one Executive Director and the Scientific Council. The Pedagogical Council is an advisory body which, at the request of the Scientific Council, submits proposals concerning the NIM’s educational policies (mainly regarding curriculum, syllabus and programmes for the Training departments).

The Director and the Deputy Directors are appointed by the SCM from the legal training staff of magistrates or from the academic staff of officially recognised law schools. The Director and the two Deputy Directors coordinate the current activity of the Institute.

The Scientific Council comprises 13 members as follows:

- a judge from the High Court of Justice and Cassation
- one prosecutor from the Prosecutor’s Office attached to the High Court
- one judge from the Bucharest Court of Appeal
- one prosecutor from the Prosecutor’s Office attached to the Bucharest Court of Appeal
- three trainers from the Law Schools of the Bucharest University, University of Iasi and University of Cluj-Napoca
- three elected representatives of the NIM training staff
- one representative of the legally established Professional Association of Judges and Prosecutors
- one representative of the Judicial Trainees
- the Director of the Institute who chairs the Council.

The members of the Scientific Council are elected for a term of three years, which can be renewed, while the term of office of the Judicial Trainees’ Representatives is only one year. The Scientific Council decides upon all matters regarding the organisation and functioning of the Institute.

Entry-level Training department

Improving the selection of judicial trainees, as well as providing comprehensive entry-level training for future judges and prosecutors.

Objectives

Through the training it provides, the NIM aims to instill in magistrates:

- the necessary theoretical and practical legal knowledge
- a complete comprehension of European Court Law and the case law of the European Court of Human Rights
- ability to interpret and apply law in an unitary manner
- a logical and structural way of reasoning
- a sound command of foreign languages and information technology.

The target of the initial training curricula is to:

- provide a wider and more diverse perspective of life in contemporary society
- encourage the future magistrates to keep their minds open
- reflect the priorities that emerge from the social and political context in which the NIM works.
The study of law is mainly practical, reproducing, as much as possible, the real conditions in which a magistrate carries out his or her activity. Admission to the NIM is a complex process, divided into three stages, as follows.

- The first stage consists of an eliminatory 100 question multiple-choice test that covers the main branches of law: civil law, civil procedure law, criminal law and criminal procedure law. For each of these subjects there are 25 questions. In order to pass this first stage, candidates need to give 70 correct answers. The weight in the final mark average is 75 per cent.

- The second stage is a critical reasoning test – a 100 question multiple-choice assessing logical reasoning, analytical thinking and the capability to understand a complex written test. Its weight in the final mark average is 15 per cent.

- The third stage is an interview focused on assessing motivation, ethics and skills – mainly verbal and non-verbal communication. Its weight in the final mark average is 10 per cent.

Candidates pass and are admitted according to their ranking, and within the limit of available places — provided they have obtained an overall grade of at least 7/10.

Notaries, legal advisers, lawyers, judiciary assistants, legal staff assimilated to magistrates and other legal staff who have a minimum of five years experience in the field may be appointed after passing the entrance test and have to attend a six month compulsory training period.

According to the latest amendments, the theoretical examination will focus on the case law of the European Court of Human Rights (ECtHR) and principles of the rule of law, while the practical examination consists of resolving the given cases and writing up specific procedural documents.

One of the major objectives of the entry level training at the NIM is to provide future magistrates with comprehensive training and help them enrich their knowledge in as many branches of law as possible and extracurricular projects such as:

- multimedia law and language projects
- the Themis journal
- management of the law courts and prosecutors' offices attached to them
- study of the Romanian system
- the national case law collection on civil issues
- criminology
- developing information on criminal law issues.

Creating the pre-requisites for high quality performance in the field of justice by providing professional training for sitting magistrates, in order to promote confidence in the Romanian judicial system.

The main objectives of the In-service/ Continuous Training department are:

- training the magistrates in the spirit of European law, taking into account the case law of the ECtHR and of the European Court of Justice
- providing intensive training in a specific field of law
- improving the public image of the judiciary
- asking the judges and prosecutors to have a standpoint on public policy.
A key role in the training of the judicial trainees is played by the trainers, who are recruited from prestigious universities, from among judges and prosecutors having a solid background of knowledge.

Developing the non-judicial skills specific to the magistrates’ career

Training them in accordance with ethical and deontological norms

Creating an effective tie between magistrates and society.

The in-service training for the sitting magistrates is government-funded at the Institute and decentralised at the level of the Courts of Appeal and the Prosecutor’s Offices attached to the Courts of Appeal.

The In-service/Continuous Training modules are developed throughout the country in the regional centres of Amara, Bârlad, Giroc, Soveata and Timişoara, and at the headquarters in Bucharest in order to ensure a uniform training for the magistrates of all Courts of Appeal.

Sitting judges and prosecutors

The NIM draws up the annual training programme according to a public and transparent procedure. In compliance with legal provisions, sitting magistrates are required to participate at least once every three years in in-service/continuous training programmes organised by NIM, by higher education institutions in Romania or abroad or in other types of professional development.

The continuous training provided is both a duty and a right for magistrates, being a guarantee of their independence and impartiality.

In Romania magistrates are entitled to up to 10 days a year of paid leave to participate in training sessions. Magistrates can submit their applications for training, via the internet, and the Institute will process them and plan the next year’s schedule.

Besides the general duty of the magistrates to participate in training the law states the circumstances under which training is mandatory: for magistrates who get a performance rating of “unsatisfactory”; or for those who get “satisfactory” twice consecutively in evaluations; and for those who are going to work for a specialised court.

Methods of training

The in-service training is carried out by combining several methods – seminars, conferences and workshops in which there is a direct interaction between NIM trainers and the participating magistrates.

On the other hand, due to financial reasons, the NIM has conceived other types of training to replace or complete the classic formats, responding to magistrates’ needs for professional development. New solutions have been found and applied, such as: distance learning; posting training materials on the NIM web site; and setting up discussion forums.

Training of Trainers department

Recruiting highly qualified teaching staff able to provide a high standard of training in all branches of law and in non-judicial areas.

The National Institute of Magistracy is guided by the following objectives:

- recruiting NIM trainers following a transparent and objective procedure
- increasing the number of full-time trainers
- training the trainers in specifically chosen fields and in teaching
- developing a network of trainers to cover all fields of training
- responding to the training needs of all the Appeal Courts and Prosecutors’ Offices attached to the Appeal Courts.

A key role in the training of the judicial trainees is played by the trainers, who are recruited from prestigious universities, from among judges and prosecutors having a solid background of knowledge. Trainers should have professional and educational experience, seniority in magistracy, published works and a good command of foreign languages. The candidates are selected by a board and appointed by the Scientific Council, based on a public and transparent procedure consisting of objective criteria decided upon as a part of the trainers’ recruiting strategy approved by the Superior Council of Magistracy.

The Institute’s teaching staff provides entry-level training programmes, in-service/continuous training programmes for judges
The National Institute of Magistracy also started the process of including non-legal experts in the network of trainers, especially in the commercial field (accountants) and in the field of justice for minors (psychologists, sociologists and social assistants).

Methods of training
NIM regulations stipulate the obligation of trainers to attend training activities which the Institute shall provide for and be included in certain programmes to improve their teaching activities and skills. The NIM also started the process of including non-legal experts in the network of trainers, especially in the commercial field (accountants) and in the field of justice for minors (psychologists, sociologists and social assistants).

Examinations and Public Policies department
A specialised department in charge of designing public policies and organising all the contests and exams held within the NIM.

All competitive examinations for entering the magistracy — the entrance examination to the NIM, the exam to directly enter the magistrates’ body, the graduation exam, the qualification exam and the exams held for promotion to executive positions — are organised by the SCM, through the NIM.

The Examinations and Public Policies department ensures that there is a well-structured methodology concerning the organisation of the exams and well-trained experts in this field are involved in drawing up the tests. In addition, it focuses on the development of the current testing system, trying to configure the most accurate assessment of analysis and synthesis skills and knowledge of the law. The department is setting up a complex database (which will observe maximum security standards), continuously enriched with a great number of tests, from which, at the time of the examination, the Board of Examiners will select the ones that must be solved by the competitors.

The NIM’s Managerial Plan 2007–10

Contributing to the creation and implementation of public policies, so as to adapt the judiciary to the needs of its beneficiaries.

The Managerial Plan for 2007–10 refers to the organisation of the activities available to the courts, the prosecutor’s offices attached to courts, the judicial trainees, and the trainers and experts’ body, within the training programmes carried out by the Institute. The strategic objectives are implemented by operational planning, which is meant to clarify what the Institute aims to achieve. The key objectives contained in the Plan are set out below.

1. The improvement of the selection and career of judges and prosecutors:
   - improving the NIM’s communication and public relation activities
   - developing a national and European communication policy, so as to strengthen the part played by the Institute in the judicial system: international partnerships, including the funding of an annual contest for judicial trainees in the field of the European Convention on Human Rights and European Court law.

2. The improvement of the selection and career of judges and prosecutors:
   - managing the quality of the training programme
   - producing a plan that analyses training needs – including drawing up the status of the trainers and an appropriate assessment system
   - laying down the initial training programme, to be adapted to the needs of the judicial system
   - providing trainers in company law, human rights, ethics and professional deontology of magistrates ensuring the necessary human resources and guaranteeing staff are well-trained
   - improving the infrastructure related to the training process (acquisitions proposals, investment plans and so on).

3. Creating the pre-requisites for a high quality professional performance in the field of justice:
   - improving the quality of in-service/continuous training programmes by developing the
Strengthening the institutional capacity to effectively apply European norms has led to the increase of hours dedicated to studying human rights. Equally, the study of European Community/Union law has been extended to a period of time covering a year and the NIM in-service/continuous training programme includes compulsory foreign language and IT classes. Another initiative related to the training of magistrates, from a European perspective, was to write a handbook containing basic information about EC/EU Law that is distributed electronically to all magistrates.

The Institute aims to be a highly professional authority, providing training that entails an extensive understanding of different subjects, reflecting the complexity of life. Through its experience it will contribute significantly to the enhancement of justice, promoting the confidence of its beneficiaries in the judiciary.

Together with the Portuguese Centro de Estudos Judiciares (CEJ), the NIM set up the Themis Competition in 2006. The name Themis was chosen for this competition as a reference to the goddess Themis from Greek mythology, who is the embodiment of divine order, law and custom. She was able to predict the future and became the goddess of divine justice. The EJTN, the Council of Europe and its Lisbon Network support this successful project.

The fifth edition of Themis was organised by the EJTN within the framework of its Exchange Programme. In 2010 it was absorbed into the main EJTN Programme and steps were taken to adapt and enlarge its format in order to recognise its importance in cross-border training in European law.

Themis is aimed at trainees of all institutions responsible for training the European magistracy, whether as judges or prosecutors (where the prosecutorial system forms a complement to the training sessions that focus on EC Law. Future magistrates are also scheduled to go on a number of study tours to visit judicial trainees who work for the European Court of Justice in Luxembourg and the ECHR.

4. Implementation of public policies, so as to adjust the judiciary to the needs of its beneficiaries:

- elaborating a communication framework with active participation from civil society
- harmonising society’s and magistrates' expectations from the judiciary, through an interactive and dynamic dialogue between the magistrates and the Institute
- guaranteeing the exchange of information between SCM, the Ministry of Justice, NIM and the legally established associations of magistrates, by means of a newsletter.

The European dimension

Strengthening the institutional capacity to effectively apply European norms has led to the increase of hours dedicated to studying human rights. Equally, the study of European Community/Union law has been extended to a period of time covering a year and the NIM in-service/continuous training programme includes compulsory foreign language and IT classes. Another initiative related to the training of magistrates, from a European perspective, was to write a handbook containing basic information about EC/EU Law that is distributed electronically to all magistrates.

The Institute organises a number of extracurricular conferences for first- and second-year judicial trainees serving, as a complement to the training sessions that focus on EC Law. Future magistrates are also scheduled to go on a number of study tours to visit judicial trainees who work for the European Court of Justice in Luxembourg and the ECHR.

From 2007 the NIM has been a full member of the European Judicial Training Network (EJTN), allowing Romanian magistrates to take part in training programmes funded by the European Commission. NIM is a very active member in the Steering Committee of this Network and its working groups.

The NIM is also a member of the Permanent Bureau of Lisbon Network and has developed training and extracurricular programmes with NGOs such as: the IRZ; Konrad-Adenauer-Stiftung; the Association for the Defence of Human Rights in Romania – The Helsinki Committee (APADOR CH); the Netherlands Helsinki Committee Centre for Legal Resources; UNICEF; and the Social Alternatives Foundation.
Focus section: Building judicial capacity in transition countries

National Institutions of Magistracy must have European law in their training curriculum, continuously extending and updating its scope and intensifying the training of national magistrates in the field. It is designed to give participants an opportunity not only to enter into stimulating and competitive debate with members of similar schools, but also to meet others in training in different countries and to learn about the various systems that exist within Europe. The competition is based on the following four categories:

- international cooperation in criminal matters
- international judicial cooperation in civil matters
- interpretation and application of Articles 5 or 6 of the ECHR
- magistrates’ ethics and deontology.

The last four years have seen an exponential growth of numbers participating, rising from four countries in 2006, to 11 in 2007, 15 in 2008 and 17 in 2009. The 2010 final was hosted by Romania’s NIM, Bucharest (22–26 November).

Between 22–23 November 2010, the NIM organised one of the most important events of the year, a conference on the “Professional Training of the Judiciary in the European Space: Standards, Strategies, Programmes, Trainers”. The conference was included in the EJTN Catalogue for 2010 and benefited from the presence of Victor Hall, Secretary General of the EJTN. It brought together major representatives of the main Romanian judicial institutions; directors and representatives of the European schools of judicial training in Belgium, Croatia, Finland, France, Germany, Latvia, Moldova, the Netherlands, Poland, Portugal and Spain; representatives of the European judicial training institutions ERA (Academy of European Law) and AEAJ (Association of European Administrative Judges); magistrates from Belgium, Denmark, France, Italy, the Netherlands, Poland and Spain as well as Romanian judges and prosecutors; and NIM trainers interested in the development of public policies in the field of justice.

The representatives of the European judicial training institutions, reunited to unify the training of European magistrates, took the first steps to drawing up a common strategy by adopting a range of principles, including the following:

- the training, by 2014, of a significant number of magistrates in the field of European law through the actual involvement of the national magistrates’ training institutions having the experience and institutional capacity required
- National Institutions of Magistracy must have European law in their training curriculum, continuously extending and updating its scope and intensifying the training of national magistrates in the field
- national experience will be enriched by the added value brought about by the instruments provided by the EJTN, in an attempt to harmonise the different training programs carried out at national level
- the EJTN initiative to draw up common curricula in the field of European law is the first step towards a possible universal training culture in this field
- the EJTN’s role in drawing up common training instruments, in designing and implementing training programs at a European level, considering that, through its position and mandate, the EJTN should remain the only European institution with such a harmonising mission
- the national institutions and the EJTN can play an essential role in this process, as the training provided at national level can be successfully combined with the training provided at the EJTN level
- continuing to organise visits and internships to ECHR and to the Court of Justice of the EU
- organisation of training among different categories of law professionals – judges, prosecutors, court clerks, interpreters and lawyers – in order for these professionals to be able to dialogue freely and to enjoy the benefit of unitary information in this field
- online training seminars organised either by the national authorities, or by international bodies such as the EJTN, can also constitute efficient training methods, both from the point of view of the results, and, especially, from the point of view of the costs.
For mutual trust to exist between magistrates from different European states, there have to be minimum standards and a profound understanding of the different juridical traditions and methods. The training institutes, therefore, have to identify certain standards in their activity, regarding the training content and quality, the trainers and the training methods used. In this way training at European level would be provided by national trainers who have benefited from common training standards. The training assessment process remains essential in the definition of these standards; the EJTN will have the role of identifying the common training standards, which will contribute to harmonising the training process at European level.

The participants expressed their confidence in the identification of those solutions which will successfully combine diversity and the need for a common judicial training culture, protecting national peculiarities, while constituting a step towards a real, profound union.

Conclusion

The NIM will continue its important work to develop and maintain an efficient judiciary in Romania, and to work with its European and international partners. It is hoped that the explanation of the NIM’s activities above will be of both interest and practical use to other judicial training bodies in transition countries in Europe and the Commonwealth of Independent states.
Notes

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Abbreviations

ABA American Bar Association
ABA ROLI ABA Rule of Law Initiative
AEAJ Association of European Administrative Judges
ERA Academy of European Law
BIH Bosnia and Herzegovina
BMZ German Federal Ministry for Economic Cooperation and Development
CARDs Community Assistance for Reconstruction, Development and Stabilization
CAF Common Assessment Framework
CCJE Consultative Council of European Judges
CEPEJ European Commission for the Efficiency of Justice
CIDA Canadian International Development Agency
CIS Commonwealth of Independent States
CMP Court Modernization Project
COE Council of Europe
CPC Civil Procedure Code
EBRD, the Bank European Bank for Reconstruction and Development
EC European Commission
ECHR European Court of Human Rights
EFQM European Foundation on Quality Management
EJTN European Judicial Training Network
ENCJ European Network of Councils for the Judiciary
EU European Union
EURALIUS European Assistance Mission to the Justice System in Albania
FYR Macedonia Former Yugoslav Republic of Macedonia
GDP Gross domestic product
GIZ Deutsche Gesellschaft für Internationale Zusammenarbeit
ICCPR International Covenant on Civil and Political Rights
IBRD International Bank for Reconstruction and Development
IDLO International Development Law Organization
IJTP Initial Judicial Training Program
ISO International Organization for Standardization
IT Information technology
JRID Judicial Reform Implementation Project
JRSP Judicial Reform Support Project
JRI Judicial Reform Index
JTC Judicial Training Centre
LMS List of Minimum Standards
LTP Legal Transition Programme
LTT Legal Transition team
LTV Loan to value
MCC Millennium Challenge Corporation
NCLI National Centre of Legal Information
NIM National Institute of Magistracy in Romania
OECD Organisation for Economic Co-operation and Development
OSCE Organization for Security and Co-operation in Europe
PTI Payment to income ratio
SCM Superior Council of Magistracy
SPV special purpose vehicle
UNDP United Nations Development Program
USAID United States Agency for International Development
WAN wide-area networks