

QUESTIONNAIRE “A”
STRUCTURAL ASPECTS AND THE FUNCTIONING OF JUDGES’ AND
PROSECUTORS’ TRAINING INSTITUTIONS

I. The National Institute of Magistracy (further on called the NIM) is the institution that, in compliance with the law, carries out the magistrates’ training.

The NIM provides training for both judges and prosecutors. The training provided by the NIM includes entry-level and in-service training.

The entry-level training of magistrates is exclusively provided by the NIM. According to the law, the in-service training is provided by the NIM, but it can also be carried out, in a decentralised manner, at the level of the Courts of Appeal. However, the NIM co-ordinates the in-service training of magistrates at the level of the Courts of Appeal.

II. We would like to specify the following:

a) the number of full-time trainers (in entry-level training): 3

b) the number of part – time trainers (in entry-level training): 110

c) the number of occasional trainers (in-service training): 98

d) administrative and management staff :

- the NIM is managed by the NIM Director and the two Deputy Directors (specialised in entry-level training, in-service training respectively), and by the NIM Scientific Council (comprising 13 members);

- the NIM organisation chart includes 30 posts for magistrates, of which 3 have managerial positions (a director and two deputy directors), 16 posts for training staff (trainers for entry-level training) of which 3 are occupied and 11 posts for experts, of which 9 are occupied. The NIM organisation chart also includes 8 posts for civil servants, one for an executive director and 7 execution posts, (all 8 posts are occupied) and 10 posts for staff employed by contract (all are occupied).

e) the NIM funding is partly from the state budget, partly from funds provided by international programmes or further to collaboration with a number of partners in Romania and abroad ;

f) since the changing of the law on judicial organisation in 2004 (Law no. 304 /2004), the NIM, has been no longer subordinated to the Ministry of Justice, but co-ordinated by the Superior Council of Magistracy (called, further on, SCM).

Thus, the SCM establishes, on the proposal of the NIM Scientific Council, the annual number of students, approves the date and place of the competitive examination for admission to the NIM, establishes the list of topics to be studied for the exam and approves the training programme for the auditors of justice. The SCM also organises and validates the magistrates’ capacity examination, approves the in-service training programme and the contents/topics of the in-service training organised by the Courts of Appeal and the prosecutor’s offices attached to them. The SCM decides upon the magistrates’ promotion exam organisation. The SCM appoints and dismisses the NIM Director and Deputy Directors on the proposal of the NIM Scientific Council and designates the judges and prosecutors who will be members of the NIM Scientific Council.

Moreover, the NIM budget is distinctly specified within the SCM budget.

g) Art. 93, paragraph (1) of Law no. 304/2004 concerning the judicial organisation stipulates that the NIM is the public institution with legal entity status, coordinated by the SCM, which provides the entry-level training of future judges and prosecutors, the in-service training of sitting magistrates (judges and prosecutors) and the training of the trainers. Thus the NIM is an autonomous institution in a coordination relationship with the SCM.

h) The NIM is the institution authorised, in compliance with the law, to provide training for the magistrates. Besides the NIM, there is a Prosecutors' Training Centre in Brasov, a centre coordinated by the NIM.

III. The NIM Director and Deputy Directors are appointed on the proposal of the NIM Scientific Council, from the ranks of the legally specialised magistrates' training staff or of teaching staff from the legal higher education accredited in compliance with the law.

The NIM Scientific Council is made up of 13 members: a judge from the High Court of Cassation and Justice, a prosecutor from the prosecutor's office attached to the High Court of Cassation and Justice, a judge from the Court of Appeal, a prosecutor from the prosecutor's office attached to the Bucharest Court of Appeal, all designated by the Superior Council of Magistracy, 3 professors from the academic education, representatives of the most prestigious universities in Romania, 4 representatives of the NIM training staff, a representative of the auditors of justice, as well as the NIM Director, who is a full member and chairman of the NIM Scientific Council. The members of the NIM Scientific Council are appointed by the SCM.

As a rule, the NIM trainers are appointed from the ranks of sitting magistrates (judges and prosecutors) having minimum 10 years seniority in magistracy and who can be seconded to the NIM with their agreement and favourable reference of the NIM Scientific Council. In the professional training process, the NIM may use teaching staff from higher legal education accredited in compliance with the law, other Romanian and foreign experts and legal experts assimilated to magistracy.

Therefore, a precondition for appointment to such a post is to meet the law requirements for each case.

The procedure for selecting full-time NIM trainers for entry-level training and of the trainers for in-service training is according to the following stages:

- public announcement of the Institute's intention to recruit trainers in central newspapers, on the NIM and SCM websites and notifications sent to the Courts of Appeal and the prosecutor's offices attached to the Courts of Appeal;

- creating, by decision of the NIM Scientific Council, of a candidate selection commission made up of:

- one NIM director;
- a NIM trainer;
- the NIM educational/pedagogy specialist

This also involves the following:

- creating a trainer's job description form;
- evaluation of the CVs that the candidates have submitted, together with their application letter, to the commission ;

- drawing up a list of candidates selected by the commission according to the criteria below and the score for each criterion :

- professional performance and experience in the field
- teaching activity
- works published
- good command of an internationally used language

The candidates selected will prepare a course material and make a presentation in front of a group of auditors of justice; they will also have an interview with the selection commission.

The list of selected candidates, in the order established by the commission based on the criteria and tests presented above, will be submitted to the NIM Scientific Council, which will propose the full-time trainers for appointment by the Superior Council of Magistracy.

The NIM entry-level part-time trainers' selection covers the following stages:

- public announcement of the Institute's intention to recruit trainers in central newspapers, on the NIM and SCM websites and notifications sent to the Courts of Appeal and the prosecutor's offices attached to the Courts of Appeal
- creating, by decision of the NIM Scientific Council, of a candidate selection commission made up of:

- one NIM director;
- a NIM trainer (a senior trainer/professor in charge of the subject);
- the NIM educational/pedagogy specialist

This also involves the following:

- creating a trainer's job description form;
- evaluation of the CVs that the candidates have submitted, together with their application letter, to the commission ;
- drawing up a list of candidates selected by the commission according to the criteria below :

- professional performance and experience in the field
- teaching activity
- works published
- good command of an internationally used language

The candidates selected will have an interview with the selection commission.

The list of selected candidates, in the order established by the commission based on the criteria and tests presented above, will be submitted to the NIM Scientific Council, which will propose the SCM to appoint the part-time trainers for entry-level training and for the in-service training network.

a) Unlike the full-time trainers' selection procedure, the selection for part-time trainers does not require the candidates to prepare a lecture/course material or to make a presentation for a group of auditors.

b) Hence, the criteria for selecting entry-level trainers and in-service trainers are identical: professional performance and experience in the field, teaching activity, works published and good command of an internationally used language.

IV. The proportion of the number of judges and prosecutors to the total number of the NIM trainers is as follows:

	Total number	Magistrates	Other professions
NIM Directors	3	2	1
Members of the NIM Scientific Council	13	7	6
Full-time entry-level trainers	3	1	2

Part-time entry-level trainers	110	72	38
In-service training	98	78	20

V. The NIM trainers from entry-level training who are not magistrates can be: professors or academic teaching staff (13), psychologists (1), doctors (6), engineers (2), experts (2), lawyers (2), counsellors with the Ministry of Justice (3), scientific researchers (1) etc.

VI. Of the total number of NIM trainers, two are retired: a former judge to the High Court of Cassation and Justice and a professor.

VII. The NIM organization chart comprises 48 de posts, of which 16 for teaching staff for magistrates' entry-level and in-service training.

Three of these posts have been occupied by senior full-time trainers.

As the training at the NIM could not be carried out by 13 teaching staff, a compromise solution has been found. The vacant posts have been shared so that the part-time trainers from entry-level training could be paid (110 staff), as well as the 98 staff from in-service training. Thus, due to financial reasons, the NIM has to give priority to hiring part-time trainers.

VIII. The magistrates who are trainers at the NIM – entry-level or in-service training – are not released from their usual professional duties. However, as a rule, work at the NIM does not require from the part-time trainers more than 4-6 hours/week.

IX. To complete the in-service trainers' network, the NIM has been carrying out a vast activity for trainers' training. Several programmes are under-way in order to achieve this objective.

The first programme – and a wide ranging one - to this effect is RO 02/IB/JH – 10 “*Continuation of assistance to the NIM and Training Centre for Clerks (TCC)*”. One of the main objectives of the programme is the training of 120 NIM trainers in fields such as: the European Convention on Human Rights - civil aspects, the European Convention on Human Rights – penal aspects, intellectual property, the role of the magistrate in a democratic society, labour law, judicial cooperation in criminal matters, competition law, consumer protection law, international cooperation in fighting organised crime, banking law, environmental law and court management.

Another trainers' training programme carried out by the NIM in cooperation with the Federal Department of Justice and Police of the Swiss Confederation aims to train the trainers in fields that are of utmost interest for the NIM. The training programme entails 3 stages: in the first, the future trainers acquire pedagogic knowledge from the foreign experts, in the second, they prepare a seminar plan and present it to their colleagues and foreign experts, and in the third they hold an in-service training seminar in the field in which they want to become trainers.

In 2004, the programme trained 18 trainers, selected based on their CVs, in the following fields: criminal law, ethics and deontology, justice for minors, courts management. The programme will continue in 2005. So far, the programme helped training about 50 trainers along several years.

Another programme including a component on trainers' training is Phare RO IB/JH/09 “*Assistance for the justice for minors' system*”, France being the partner state. One of the programme's objectives is the training of 10 trainers, 5 judges from tribunals, and 5 prosecutors from the prosecutor's offices attached to these courts.

The fourth programme offering training to trainers is Phare RO 2002/ 000 586 “*Technical assistance in the field of bankruptcy*”. One of its objectives is to train the practitioners in the field of bankruptcy in cooperation with the NIM. The training programme will cover two stages: the first, trainers’ training and the second, the practitioners’ training. We envisage that 15 trainers will be trained in the field of insolvency.

It is noteworthy that the NIM offers its trainers courses in foreign languages and IT training.

To make both uniform and modern the teaching methods used by the NIM trainers, 3 posts have been created for educational/pedagogy specialists. Their role will be to train the current trainers from entry-level and in-service training, and the future trainers, on drawing up syllabi and using up-to-date teaching methods and techniques. Training in this field is compulsory.

X. Regarding the means of developing communication between trainers and the auditors of justice, each trainer from entry-level training and each auditor of justice has his/her own e-mail box. Thus, materials can be sent directly by e-mail to the auditors, and the auditors can send their assignments to the trainers. Communication between the trainers and auditors of justice has thus become much easier.

To further improve communication, the auditors of justice/ representatives of the auditors of justice meet periodically the NIM management in order to prevent or solve the auditors’ problems related to the NIM activity.

As human and financial resources are limited, an important part of the communication with the magistrates has to be online. To this effect, the seminars’ programmes will be posted on the NIM web site so that the magistrates be able to confirm online (filling a form and sending it by e-mail, etc.) their participation in seminars. At the same time, the magistrates will be able to verify the data included in the NIM electronic records concerning their participation in various types of training. Some resources types created at the NIM will be available online: study materials (books, Romanian and foreign journals, legal databases on the Internet, etc.), discussions forums, etc. Moreover, the resources created at the NIM would be easier to distribute to the magistrates online via the Internet.

XI. One of the INM initiatives regarding international cooperation was to organise in November 8-19 2003, in Bucharest, the 6th Meeting of the Lisbon Network, dedicated to discussing the current issues concerning the training of magistrates in Europe. This event was organised by the Council of Europe in collaboration with the NIM.

The topic of the meeting in Bucharest was: “The place of magistracy schools in the judicial system and their role in the training of the magistrates”. The NIM is a member of the Lisbon Network.

Another initiative to this effect was the organisation between 4 and 10 July 2004, in Sovata, of the summer School for European Magistrates. The courses took place under the motto: “*The magistrate in Europe. The national magistrate – a European magistrate*”. The event was organised with the support of the German Foundation for International Legal Cooperation.

For a week, more than 40 magistrates from 15 countries participated in the courses of the Summer School for European Magistrates organised by the NIM in Sovata.

The Summer School was focused on creating a common space for European magistrates to enable a free exchange of ideas, opinions and experience, and to create the specific conviviality of an environment both informal and academic. This led to the creation of a real network of European magistrates.

The Summer School in Sovata has also been an opportunity for the magistrates in the EU member states, from the new EU member states and from candidate countries to have an open dialogue on very topical subjects both theoretically and practically. The experts of the Council of Europe and of the German Foundation for International Legal Cooperation, as well as the Romanian magistrates and specialists have created the proper framework for discussing numerous and important issues, some topical other concerning the future, concerning the main theme of this event: the magistrates in the European legal space. Thus they discussed: professional ethics and

deontology, money laundering, civil law and criminal law means of fighting corruption; application of ECHR by the Council of Europe member states; case law of the European Court of Human Rights; judicial cooperation on civil and criminal matters.

The NIM has proposed to organise the second edition of the Summer School for European Magistrates in the period 27 June – 1 July 2005, pursuing the same idea of international cooperation in the field of magistrates' training.

The NIM is a member of the *Judicial Authorities Exchange Programme*, which will carry out an exchange of magistrates between the European states. The programme has been approved by the European Commission and is coordinated by the School of Magistracy in France.

Between the NIM and the School of Magistracy in France there is an exchange programme – that has been working for some years – according to which, every year, two auditors of justice from France spend some weeks in Romania at the NIM, and two auditors of justice from Romania go to France for a similar training period.

Such visits or study tours/ training periods will be organised in other countries such as Germany and the United States of America, through international cooperation programmes promoted by the NIM.